FEDERAL REGISTER

VOLUME 34 • NUMBER 221

Tuesday, November 18, 1969 • Washington, D.C.

Pages 18349–18412

Agencies in this issue—

Detailed list of Contents appears inside.

FEDERAL REGISTER

Area Code 202 Phone 962-8626

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

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Contents

List of CFR Parts Affected

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

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

Rules and Regulations

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Origin of Imported Brush for Hair Roller

§ 15.386 Origin of imported brush for hair roller.

(a) The Commission issued an advisory opinion with regard to the question of whether it is necessary to disclose the origin of the imported brush which is assembled with American made components to form a brush hair roller.

(b) It is proposed to produce a hair roller in the United States. The roller consists of three components: spiral spring, netting, and brush insert. The brush insert is manufactured in a foreign country. The spiral spring and netting are manufactured in the United States. All assembling is done in the United States. The cost of the brush accounts for less than 25 percent of the total cost of the hair roller as marketed. The question involved is whether the foreign origin of the brush must be marked on the printed card which will be used in packaging the roller.

(c) The Commission expressed the opinion that, in the absence of any affirmative representation that the product is made in the United States, or any other representation that might mislead the public as to the country of origin, and in the absence of other facts indicating actual deception, the failure to mark the origin of the imported component would not be regarded by the Commission as deceptive.

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

Issued: November 17, 1969.

By direction of the Commission.

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

[F.R. Doc. 69–13623; Filed, Nov. 17, 1969; 8:45 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Tripartite Promotional Plan in Grocery Field

§ 15.387 Tripartite promotional plan in the grocery field.

(a) The Commission issued an advisory opinion with respect to a proposed tripartite promotional plan which proposed to secure advertising from packagers of food and grocery products and place ads in retail stores. The display ad will measure 22" x 21" and can be located in the middle of the store with or without aisle directory information or it can be divided in half and placed on the wall of the store. Payments to stores would be calculated in terms of the number of ads installed, the rate per ad to vary with the monthly traffic in the store, the minimum payment to be $4.25 per month per ad, and the smaller grocery stores will be paid more proportionally than larger stores. Competing retailers would be informed of the opportunity to participate in the plant through personal solicitations, advertisements in trade journals, and direct mailings to every grocery retailer in the country which has been in business for a period of at least 6 months.

(b) The Commission stated that the proposed method of calculating payments to stores, if implemented as stated, would not violate the requirements of proportionally equal terms in Guide 7 of the Commission's Guides for Advertising Allowances and Other Merchandising Payments and Services (May 29, 1969). The proposed method of informing competing retailers of the opportunity to participate in the plan, if implemented in good faith, seems to satisfy the requirements of Guide 13(a)(1). As long as nonfood items and food items likely to be sold in stores other than supermarkets are not advertised a plan to provide availability to all grocery stores of all sizes would meet the requirements of availability to all competing customers as required by Guide 9. The proposed ad which can be used in an aisle or on the wall of a store would appear to be "usable in a practical business sense" in a store of any size. Thus the plan satisfies the requirements of Guide 9 that the plan "* * * should in its terms be usable in a practical business sense by all competing customers." Therefore, no alternative plan seems to be required in the absence of proof that some customers cannot in fact make use of the proposed ads.

(c) The Commission advised that were the plan implemented as proposed, the Commission would have no objection to it. The Commission pointed out that were the plan implemented in a different manner, the promoter, the supplier, and the retailer might be acting in violation of section 2(d) or (e) of the Clayton Act, as amended, and/or section 5 of the Federal Trade Commission Act.

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

Issued: November 17, 1969.

By direction of the Commission.

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

[F.R. Doc. 69–13624; Filed, Nov. 17, 1969; 8:45 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

"Bonus" Portable Typewriter Offer

§ 15.388 "Bonus" portable typewriter offer.

(a) The Commission issued an advisory opinion relative to proposed advertising of "bonus" typewriters. The proposed advertisement would offer a portable typewriter as a "bonus" to any one accepted for enrollment in a correspondence course. Readers were invited "to write for information," but the prerequisites to the receipt of the "bonus" typewriter were not disclosed.

(b) The Commission advised that it "* * * is of the view that the advertisement in the circumstances described would be misleading and deceptive and in possible violation of section 5 of the Federal Trade Commission Act in several respects. For one thing, the "bonus" offer is to be a continuing offer, which means that the regular price for the training course of $595 includes the typewriter; the typewriter would not, therefore, be a "bonus". Also, the proposed advertisement does not make clear that what is being sold for a fee is a training course in motel management and that the so-called "bonus" typewriter is offered only in connection with such course.

(c) "Moreover, even were the typewriter to be given as a true bonus, as, for example, if a time-limited offer was made without a change in tuition, the proposed advertisement would still be deceptive and misleading because the terms and conditions for the receipt of the typewriter are not disclosed, including, it appears, an advance payment of $595 tuition for a motel training course.

(d) "Furthermore, the proposed advertisement is deceptive because, taken as a whole, it tends to convey the impression that service is not being sold but, rather, that a gift is to be given to specially qualified persons who are willing to consider a career in motel management."

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

Issued: November 17, 1969.

By direction of the Commission.

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

[F.R. Doc. 69–13625; Filed, Nov. 17, 1969; 8:45 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Disclosure of Foreign Assembly Operations on Ladies' Blouses

§ 15.389 Disclosure of foreign assembly operations on ladies' blouses.

(a) The Commission advised that it would not be necessary to disclose the foreign country of origin where certain

assembly operations are performed on ladies' blouses.

(b) Under the factual situation involved in the ruling, the synthetic fabric, buttons and thread will all be of domestic origin. The fabric will be cut in the United States and thereafter shipped to Trinidad where it will be assembled. Assembly operations in Trinidad will consist of sewing, pressing and trimming. Approximately 26.4 percent of total production costs will be of foreign origin, with the remaining 73.6 percent representing domestic costs.

(c) Concluding that a disclosure would not be required under section 4(b)(4) of the Textile Fiber Products Identification Act or section 5 of the FTC Act, the Commission said: "In the absence of any affirmative representation that the finished product is made entirely in the United States, the Commission has concluded that it will not be necessary to disclose the nature and extent of the foreign operations performed on the ladies' blouses."

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

Issued: November 17, 1969.

By direction of the Commission.

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

[F.R. Doc. 69–13626; Filed, Nov. 17, 1969; 8:45 a.m.]

Title 7—AGRICULTURE

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

[Tangelo Reg. 38]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905, 34 F.R. 12426), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangelos, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendation by the committees, as to the minimum grade and sizes of tangelos in fresh shipments, reflects their appraisal of current crop and market conditions. More restrictive size regulation should be made effective no later than November 17, 1969, because fresh tangelo shipments have increased substantially during the past week and market prices are weakening. The size of tangelos in the developing crop has increased since the inception of seasonal regulation, hence, a larger minimum size together with continuation of the current minimum grade, as hereinafter specified, is needed to maintain or increase returns to producers through a reduction in the marketable supply for fresh shipment while providing consumers with more desirable tangelos of larger sizes. The recommendation by the committees also reflects their appraisal of the potential marketing situation during the week in which Thanksgiving Day occurs and for the period immediately following. Historically, there has been heavy purchasing of fresh tangelos in the terminal markets prior to Thanksgiving Day followed by a period of slow movement immediately following the holiday. Inordinate shipments in the period of slow movement tend to depress market prices and returns to growers. Hence, the curtailment of tangelo shipments, as hereinafter specified, is necessary to prevent a buildup of tangelo supplies in the markets during and immediately following the Thanksgiving Day week in order to prevent unduly depressed market prices and returns to growers.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than November 17, 1969. Domestic shipments of Florida tangelos are currently regulated by grade and size pursuant to Tangelo Regulation 37 (34 F.R. 14379), and, unless sooner terminated or modified, will continue to be so regulated through September 13, 1970; determinations as to need for, and extent of, regulation under § 905.52(a)(3) of the order must await the development of the crop and the availability of information about the demand for such fruit; the recommendation and supporting information for regulation of tangelo shipments subsequent to November 17, 1969, and for limiting the total quantity of fresh tangelos by prohibiting the shipment thereof pursuant to § 905.52(a)(3) during the period November 25, through November 27, 1969, as herein provided, were promptly submitted to the Department after an open meeting on November 11, 1969, to consider recommendations for such regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; information regarding the provisions of the regulation recommended by the committee has been disseminated among shippers of tangelos, grown in the production area, and this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 905.518 Tangelo Regulation 38.

(a) Order: (1) Tangelo Regulation 37 (34 F.R. 14379) is hereby terminated November 17, 1969.

(2) During the periods from November 17, to November 25, 1969, and from November 28, 1969, through September 13, 1970, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any tangelos, grown in the production area, which do not grade at least U.S. No. 1; or

(ii) Any tangelos, grown in the production area, which are smaller than $2^9/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangelos smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the U.S. Standards for Florida Oranges and Tangelos: *Provided,* That during any week of the periods specified in this subparagraph (2), any handler may ship a quantity of tangelos which are smaller than the size prescribed in this subdivision (ii) if (*a*) the number of standard packed boxes of such smaller tangelos does not exceed 25 percent of the total shipments of tangelos by such handler during the last previous week, within the current fiscal period, in which he shipped tangelos; and (*b*) such smaller tangelos are of a size not smaller than $2^5/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangelos smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Florida Oranges and Tangelos.

(3) During the period from November 25, through November 27, 1969, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any tangelos, grown in the production area.

(b) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective term in the U.S. Standards for Florida Oranges and Tangelos (§§ 51.1140–51.1178 of this title); the term "week" shall mean the 7-day period beginning at 12:01 a.m., local time, on Monday of 1 calendar week and ending at 12:01 a.m., local time, on Monday of the following calendar week.

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

Dated: November 14, 1969.

FLOYD F. HEDLUND, *Director, Fruit and Vegetable Division, Consumer and Marketing Service.*

[F.R. Doc. 69–13705; Filed, Nov. 14, 1969; 11:26 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 9337; Amdt. 21-27]

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

PART 36—NOISE STANDARDS: AIRCRAFT TYPE CERTIFICATION

Adoption of Noise Type Certification Standards and Procedures

This amendment adds new Part 36 to the Federal Aviation Regulations. The purpose of this amendment is to implement 49 U.S.C. 1431 (Public Law 85-726, Title IV, § 611, as added Public Law 90-411, § 1, July 21, 1968, 82 Stat. 395), by prescribing noise standards for the type certification of subsonic transport category airplanes and for the type certification of subsonic turbojet powered airplanes regardless of category. This amendment also contains procedural changes to Part 21 of the Federal Aviation Regulations made necessary by the addition of new Part 36. This amendment initiates the noise abatement regulatory program of the Federal Aviation Administration under the new statutory authority.

This amendment is based on a notice of proposed rule making (Notice 69-1) issued on January 3, 1969, and published in the FEDERAL REGISTER on January 11, 1969 (34 F.R. 453).

I. *Relation to responsibility of airport proprietors.* Compliance with Part 36 is not to be construed as a Federal determination that the aircraft is "acceptable," from a noise standpoint, in particular airport environments. Responsibility for determining the permissible noise levels for aircraft using an airport remains with the proprietor of that airport. The noise limits specified in Part 36 are the technologically practicable and economically reasonable limits of aircraft noise reduction technology at the time of type certification and are not intended to substitute federally determined noise levels for those more restrictive limits determined to be necessary by individual airport proprietors in response to the locally determined desire for quiet and the locally determined need for the benefits of air commerce. This limitation on the scope of Part 36 is required for consistency with the responsibilities placed upon the airport proprietor by the U.S. Supreme Court in Griggs v. Allegheny County, 369 U.S. 84 (1962). Consistent with this limited scope, this amendment specifies that the Federal Aviation Administration makes no determination, under Part 36, on the acceptability of the prescribed noise levels in any specific airport environment (see §§ 36.5 and 36.1581(a)).

II. *Summary of public comments.* A total of 1,428 public comments were received. These comments generally fell into two major groups. One major group contained approximately 1,000 comments from private citizens, citizen associations or committees, and local airport authorities, of which approximately 960 comments were identical form letters submitted from the Los Angeles, Calif., area. The other major group included comments from aviation trade associations, aircraft manufacturers, and aircraft operators. With few exceptions, both major groups of commentators generally concluded that the standards in the notice should be changed, but for directly opposite reasons, the first group contending that Congress intended greater reductions in noise levels than those proposed, and the second group contending that the statutory requirement to prescribe technologically practicable and economically reasonable noise standards could only be met with noise levels higher than those proposed.

III. *Comments from individual citizens.* The above-mentioned 960 form letters stated that the noise standards should be "based on the technology available instead of that which would be the most advantageous to the airlines." The FAA agrees that available technology must be applied in the reduction of aircraft noise. The noise standards in this amendment are intended to accomplish this result consistent with the requirement in section 611(b)(4) that the Administrator must consider whether the standards are economically reasonable and technically practicable.

One person stated that proposed Part 36 "does not adequately reflect the will of Congress in enacting Public Law 90-411, especially in the area of takeoff noise. In 1966-67, certain realistic standards for noise limits were set. These limits have undergone various changes so that in the new Part 36 the prescribed limits represent a regression rather than progress in noise control." While noise values discussed in 1966 and 1967 were the best prediction then available concerning noise limits that might be reasonably achievable after the passage of a public law authorizing noise standards in type certification, the subsequent studies and research accomplished during and after the period of the promulgation of Public Law 90-411, and particularly the FAA's review of the greatly expanded economic studies conducted in response to Notice 69-1 have indicated that the noise levels in Appendix C of this amendment represent appropriate noise reductions under the statutory requirement that the Administrator must consider the economic reasonableness and technological practicability of the rule. For this same reason, it would not be appropriate, at this time, to require compliance with the prescribed noise levels at the takeoff measuring point suggested by this commentator, namely 3 statute miles. However, as technology makes further reasonable noise reductions possible, the FAA will act to insure that the lowest reasonable noise levels are achieved at the noise measurement points in this amendment. The commentator stated that the terms of the notice would not "bring about a reduction of aircraft noise in established communities, as was the intent of Congress." In fact, the noise levels for new type designs in this amendment are substantially lower than those associated with the current fleet of jet aircraft.

The commentator further stated that the takeoff test conditions in the notice prohibit the operators of new aircraft from using operating procedures that have heretofore been successful in minimizing noise over established residential areas. The FAA has not determined whether a minimum takeoff profile should be proposed in the form of operating regulations. However, pending the issuance of such operating regulations, the takeoff test conditions in this amendment, being type certification conditions only, do not in any way affect the operation of aircraft at airports.

One commentator stated that he assumed that the notice was intended to protect the public from adverse physiological and psychological effects, and that a noise envelope accomplishing this must be placed within airport boundaries. The FAA agrees that protection of the public from the adverse effects of aircraft noise, by controlling the noise source, must be achieved by regulation consistent with the statutory obligation, on the part of the Administrator, to consider whether the regulations are economically reasonable, technologically practicable, and appropriate for the type of aircraft to which they apply. The FAA noise abatement regulatory program is intended to accomplish this objective with respect to the current state of the art. Further noise reductions will be required as the technology of noise abatement progresses.

One commentator stated that the noise levels should be expressed as "1-pound pressure." The FAA believes that its chosen unit of noise measurement (effective perceived noise level in decibels) is far superior to the measurement of sound pressures alone. The commentator requested that the rule be extended to other classes of aircraft. The FAA agrees that a more complete solution of the aircraft noise problem requires that other classes of aircraft be considered for future rulemaking, and intends to do so as more fully discussed below.

Several comments requested that sonic boom protection be assured. While not a part of this rulemaking action, study of the sonic boom problem is continuing so that appropriate action can be taken specifically in that area.

One comment expressed concern that these noise standards may be a "two-edged sword" that may conflict with safety in operation at airports. The question of compatibility between noise and airworthiness standards has been of primary concern to the FAA throughout its noise abatement activities, and particularly in the development of the standards in this amendment. This amendment is drafted (see section 36.3) to ensure that the airplane meets the applicable airworthiness requirements under all conditions in which noise compliance is

shown, and that all procedures for showing noise compliance and all noise abatement information developed for the flight crew are consistent with the applicable airworthiness regulations. This amendment is thus drafted to ensure that the noise standards do not amend any airworthiness standard but, rather, provide an entirely separate source of type certification standards that must, in all cases, be compatible with the applicable airworthiness standards.

One comment stated that the FAA should limit the noise levels to those that do not exceed industrial health standards, vehicle emission standards, construction welfare standards, or commercial activities standards, and the FAA should permit local standards to prevail if they are more stringent than FAA standards. It is agreed that the ultimate objective of aircraft noise abatement is the achievement of aircraft noise levels similar to, or lower than, those of other industrial operations. The FAA believes that this objective is to a significant degree achieved by this amendment at the measuring points prescribed in Appendix C (see, for example, U.S. Department of Labor occupational noise exposure standards prescribed at 34 F.R. 7948 on May 20, 1969). However, it is recognized that certain locally desired noise levels may not be achievable within the constraints of 49 U.S.C. 1431 which requires that economic reasonableness and technological practicability be considered in the issuance of noise standards by the FAA. This being the case, the FAA, in response to the Griggs decision (see above), recognizes the right of State or local public agencies, as the proprietors of airports, to issue nondiscriminatory restrictions with respect to the permissible level of noise that can be created by aircraft using their airports. However, the FAA does not recognize any right of any State or local government agency that is not an airport proprietor to issue any regulation controlling the flight of aircraft for noise purposes. The relationship between Public Law 90-411 (49 U.S.C. 1431) and local government initiatives was specifically discussed as follows in Senate Report 1353:

> The courts have held that the Federal Government presently preempts the field of noise regulation insofar as it involves controlling the flight of aircraft. Local noise control legislation limiting the permissible noise level of all overflying aircraft has recently been struck down because it conflicted with Federal regulation of air traffic. American Airlines v. Town of Hempstead, 272 F. Supp. 226 (U.S.D.C., E.D., N.Y., 1966). The court said, at 231, "The legislation operates in an area committed to Federal care, and noise limiting rules operating as do those of the ordinance must come from a Federal source." H.R. 3400 would merely expand the Federal Government's role in a field already preempted. It would not change this preemption. State and local governments will remain unable to use their police powers to control aircraft noise by regulating the flight of aircraft.
>
> However, the proposed legislation will not affect the rights of a State or local public agency, as the proprietor of an airport, from issuing regulations or establishing requirements as to the permissible level of noise which can be created by aircraft using the airport. Airport owners acting as proprietors can presently deny the use of their airports to aircraft on the basis of noise considerations so long as such exclusion is nondiscriminatory.
>
> Just as an airport owner is responsible for deciding how long the runways will be, so is the owner responsible for obtaining noise easements necessary to permit the landing and takeoff of the aircraft. The Federal Government is in no position to require an airport to accept service by larger aircraft and, for that purpose, to obtain longer runways. Likewise, the Federal Government is in no position to require an airport to accept service by noiser aircraft, and for that purpose to obtain additional noise easements. The issue is the service desired by the airport owner and the steps it is willing to take to obtain the service. In dealing with this issue, the Federal Government should not substitute its judgment for that of the States or elements of local government who, for the most part, own and operate our Nation's airports. The proposed legislation is not designed to do this and will not prevent airport proprietors from excluding any aircraft on the basis of noise considerations.

One comment suggested that the FAA consider the use of certain sound-suppressing materials for buildings. While the use of such materials is encouraged, the FAA does not have authority to regulate building construction practices around airports, and this amendment does not involve such regulation.

Other comments from individual citizens presented views similar to those discussed above.

IV. *Comments from citizens associations and committees.* One citizens committee submitted comments identical to the 960 form letters from individuals requesting that the use of available noise reduction technology should be required by the rule. As stated above, this amendment initiates a regulatory program that is intended to insure the maximum noise reduction that is consistent with the statutory requirement to consider economic reasonableness and technological practicability.

One citizens association submitted the results of a noise study indicating that the introduction of commercial passenger traffic to their local airport would have large costs in their community and that the noise limits in the notice would not be acceptable in their community. Noise limits of 90 to 95 EPNdB were requested. The FAA is convinced after thorough study that the current state of the art in the field of aircraft noise reduction simply does not allow the attainment of the requested noise levels, for the larger aircraft, consistent with the statutory requirement that economic reasonableness and technological practicability be considered by the Administrator in issuing noise abatement regulations. Further, the judicial decisions and the legislative history of Public Law 90-411 have made it clear that the Federal Government should not substitute its judgment for that of the airport operator in determining the service desired by the airport operator or the steps that the responsible airport operator is willing to take to obtain the service, and that the Federal Government should recognize the airport operator's right to issue regulations or establish requirements as to the permissible level of noise which can be created by aircraft using the airport (see Senate Report 1353). However, it should be pointed out that this amendment requires that takeoff noise levels may not exceed 93 EPNdB before trade-off, for aircraft with maximum weights of 75,000 pounds or less. The commentator also stated that the proposed rules do not account for tones such as high pitched whines. To the contrary, as stated in the notice, the means of measurement, using the concept of effective perceived noise level (EPNL) in units of EPNdB, was developed to specifically account for the effects of tones, among other factors, in order to evaluate the qualities of aircraft noise that are particularly offensive to persons on the ground. One comment consisted of an agenda for a meeting of a sound abatement coordinating committee that illustrated the extent of community concern with respect to ameliorating the effects of aircraft noise in the community. The FAA encourages affected airport communities to make their needs known to the responsible airport authorities, and is committed to insuring that the aircraft that will use the airports incorporate all noise abatement design features that technology makes available and economically reasonable.

V. *Comments from State and local authorities (including airport authorities).* A comment from one airport commission recognized that the notice represents "no more than first steps toward an ambitious goal," and concluded that, in issuing noise standards, the FAA should take full cognizance of the views of the airport neighbors, as well as the views of the aviation industry. The FAA agrees and has fully reviewed each of the many comments received from those members of the public that are directly affected by aircraft noise. The public docket has been extremely valuable in defining the magnitude of the airport noise problem that remains to be solved. These public comments have greatly assisted the FAA in determining, after analysis of all comments, that the many and substantial costs to be imposed on the air transportation industry by this amendment are reasonable and appropriate.

The commentator also submitted comments and analyses of the proposed rules prepared by a university professor. These comments make the following points: The commentator states that the views of airport neighbors were not taken into account. As stated above, the FAA has reviewed all comments from this segment of the public and has found them useful and informative. The commentator stated that the proposed levels are not adequate because they are not socially acceptable. Under the above-mentioned statutory constraints, socially acceptable noise levels can only be required insofar as they involve economically reasonable burdens on the aircraft industry and are technologically practicable. The commentator stated that

the proposed regulations would allow aircraft to be noisier than present aircraft. To the contrary, the FAA believes that the noise values in Appendix C of this amendment represent actual noise levels significantly lower than those now generated by transport category or turbojet powered airplanes. The commentator stated that present airplanes should also be regulated. The FAA agrees, is now studying retrofit standards, and will issue such standards as proposals for public comment at the earliest possible time. Pending the development of retrofit standards, § 21.93 (b) provides that, for transport category or turbojet powered airplanes already type certificated (i.e., the entire current U.S. jet fleet) all changes that may increase the noise levels created by those airplanes are "acoustical changes" in type design. As such, these changes would require the airplane to be substantiated under, and meet, Part 36 as applicable to "acoustical changes" in type design (see § 36.1(c)). This feature will ensure that no further escalation of noise can occur in the current U.S. fleet of jet aircraft pending the issuance of retrofit requirements. The commentator stated that the noise values in the proposal, if issued as final rules, "will be hardened for all time and will never be improved." To the contrary, the FAA is firmly committed to lowering the prescribed noise limits as fast as technology reasonably permits. This will not only be done during type certification, but also after certification in the form of retrofit requirements applying to aircraft operators, where appropriate and economically reasonable.

The commentator stated that noise limits should not be related to airplane weights, since "it is the volume of noise produced that is critical, not the machine that makes it." The FAA agrees that weight is not related to the social or subjective acceptability of noise. However, weight is directly related to the amount of power or thrust needed by the airplane, and this factor is directly related to the amount of noise reduction that can be required consistent with economic reasonableness. This amendment must reflect this fact. The commentator stated that the takeoff, sideline, and approach measuring points are inadequate since the airplane generates noise during most of the takeoff and landing paths. The FAA believes that the prescribed measuring points in fact measure the capability of the aircraft to achieve maximum reasonable noise reductions at points representative of frequently occurring distances between the aircraft and the airport neighborhoods. This comment appears to be related to the commentator's statement that the airplane should not exceed certain noise limits at any point along the takeoff and approach paths "where there are inhabited residences." As stated above, the actual noise generated at a given airport in operation is not a question for type certification, but involves the right of airport proprietors to limit the permissible levels of noise that can be created by aircraft using the airport. If further noise reduction must be achieved at a given airport, the judicial decisions and the legislative history of Public Law 90-411 have made it clear that this is a matter for the airport proprietor.

The commentator objected to the noise prediction allowance and the trade-off provisions of proposed Appendix C. For reasons discussed in connection with the comments from the aircraft manufacturers, the noise prediction allowance is eliminated under this amendment. However, the trade-off feature is maintained since the total noise exposure created by an airplane is related to the noise transmitted to all three measuring points (sideline, approach, and takeoff). It would, therefore, not be rational to deny a type certificate to an aircraft that only slightly exceeds the required noise levels at one or two points if the exceedances can, in fact, be made up or offset at the remaining measuring point(s), so that the net result is an aircraft whose total noise exposure is no worse than that of an aircraft that barely met the requirements at all three measuring points. The commentator stated that the proposed rules do not insure that a noise approved airplane will be operated in the same manner as it was operated to obtain the approval. This comment is correct. Further, as stated above, the FAA has not determined whether a minimum takeoff profile should be proposed in the form of an operating rule. The commentator stated that any aircraft, pilots, or airlines that continually violate the standards met by the prototype aircraft should lose their certificates.

With respect to aircraft that no longer conform to the noise approved type design, the FAA would consider action against the airworthiness certificate as in the case of any nonconformity with the type design. With respect to pilots and air carriers, the FAA has not ruled out the possibility of certificate sanctions related to noise abatement regulations. However, such action is not contemplated based on the type certification test procedures since they do not, by themselves, regulate aircraft operators. The commentator stated that the proposals did not apply to takeoff and landing noise associated with supersonic aircraft (apart from sonic boom). The FAA agrees that civil supersonic airplanes should be regulated for takeoff and landing noise purposes (in addition to sonic boom) and is in the process of determining what standards will allow the maximum use of available noise reduction technology for such aircraft consistent with the statutory requirement that economic reasonableness be considered. This is more fully discussed below.

One comment from a city manager stated, in addition to comments similar to those treated above, that the FAA should "take a more militant stand in favor of the general public and opposed to the private monetary interests of airlines and aircraft manufacturers." It should be emphasized that the FAA does not intend to "favor" or "oppose" any segment of the public in its noise abatement activities. Rather, the FAA intends to impartially administer the language of 49 U.S.C. 1431 in the light of the pertinent statements of congressional intent concerning the public law, such as the statement in Senate Report 1353 that "a completely quiet airplane will not be developed within the foreseeable future. However, with the technological and regulatory means now at hand, it is possible to reduce both the level and the impact of aircraft noise. Within the limits of technology and economic feasibility, it is the view of the committee that the Federal Government must assure that the potential reductions are in fact realized." The FAA intends to insure that its noise abatement regulatory program requires aircraft manufacturers to achieve the greatest noise reductions that are consistent with the economically reasonable limits of noise reduction technology.

Other State and local authorities submitted comments similar to those discussed above, and made the following additional points: One comment stated that the proposed regulation "should be in terms of noise exposure to residential uses with grants withheld if an airport has not made all residential areas with greater exposure compatible with the airport." While the FAA agrees that the airport proprietor is responsible for assuring compatibility of the airport with neighboring land uses, this amendment does not involve the grant or withholding of any funds, but rather is limited to prescribing design standards that must be met by aircraft manufacturers, for noise abatement purposes, as a condition to FAA approval of their products. The commentator also stated that the proposed regulation should not permit noncompliance by manufacturers for economic reasons. Under 49 U.S.C. 1431, economic reasonableness and technological practicability must be considered by the Administrator in determining the noise limits that must be complied with.

One comment recommended that the FAA should "avoid the current practice" under which pilots fly at full power up to the measuring device, reduce power over the measuring device, and then reapply full power when out of range of the measuring device. While these amendments do not regulate the operation of airplanes, it should be noted that the conditions of noise measurement under this amendment are intended to be sufficiently conservative to ensure that the noise values demonstrated during certification can be duplicated in operation under relatively high power or thrust conditions, so that noise levels demonstrated during type certification can be safely achieved by flight crews without the need for further power reductions over the measuring devices. Thus, these amendments require that no power or thrust reductions may go below that power or thrust that will provide level flight with one engine inoperative, or below that power or thrust that will maintain a climb gradient of at least 4 percent, whichever power or thrust is

greater. In addition, takeoff power or thrust is required, during the type certification tests, from the start of the takeoff to the point at which a substantial altitude above the runway is reached. These features of the type certification noise test should minimize the future incentive for flight crews to make large power reductions to satisfy airport noise limitations. This should insure that the noise levels obtained during type certification can be used as dependable guides to airport planning at the local level.

One comment from a State aeronautics department stated that no compromise with 100 percent control of aircraft noise should be made except compromises made in the interest of safety. While the FAA agrees that safety must not be adversely affected by noise abatement actions, it should be noted that 49 U.S.C. 1431 directs the FAA to consider economic reasonableness and technological practicability, in addition to safety, in the issuance of noise abatement regulations.

One comment from the department of airports of a major city stated that more severe standards are necessary and particularly that the lateral noise values allowed by the proposed standards would eventually force the acquisition of an additional block of homes paralleling one runway. FAA studies indicate that the lateral noise levels allowed by this amendment represent a substantial improvement when compared with existing airplanes of the same weight. Further noise reductions will be required by the FAA as noise reduction technology progresses. In any case, responsibility for assuring compatibility with land uses around the airport, such as by acquiring additional land, rests with the airport proprietor.

One comment representing the airport operators contained several of the points discussed above, and also made the following suggestions for improving the regulation: The commentator stated that a noise limited weight should be established that is different from the airworthiness limited weight and that the FAA should permit the use of either weight depending on the noise sensitivity of the particular airport. While the FAA has considered such an approach as a possibility, it is now believed that the noise limited weights should be general operating limitations since: (1) A requirement for compliance with noise limits at low weights only would reduce industry incentive to achieve maximum reasonable noise reductions at the higher weights; and (2) the primary responsibility for ensuring that airport operation is compatible with surrounding neighborhoods rests with the airport operator.

However, the FAA realizes that an unjust situation could result if an aircraft, for which a noise limited weight less than the airworthiness maximum weight is established under § 36.1581(b), were required to operate at the lower weight from a particular airport or runway at which there is no noise problem whatsoever. In order to accommodate these infrequent situations and at the same time prohibit a general erosion of the noise protection provided by Part 36, the FAA will handle these situations on a case-by-case basis, under the exemption authority of section 601(c) of the Federal Aviation Act of 1958. Under that section, the Administrator would require proof that, in fact, there is no noise sensitivity associated with the particular airport or runway and that an exemption from the requirement to comply with operating limitations (see § 91.31 (a)) is in the public interest. When such proof is made, appropriate limitations would be placed in the exemption to ensure that the resulting operation does not affect any noise sensitive areas. The concurrence of the affected airport operator would, of course, be required as a condition to the granting of such an exemption. All of this would be accomplished under Part 11 of the Federal Aviation Regulations.

The commentator suggested that certification should be denied until additional noise reduction features have been incorporated in the airplane to permit additional noise reduction at the source. The FAA agrees with this concept and, as more fully discussed below, will not rely solely on the noise limits currently prescribed in Appendix C of Part 36 but will issue further regulations, during the type certification process, where necessary to insure that the maximum reasonable use of noise reduction technology is applied to the airplane. The commentator finally suggested that certification could be predicated on the use of higher thrust engines with no increase in maximum takeoff weight, so that lower noise levels would result. The FAA intends to insure that the noise limits applied to aircraft insure that all economically reasonable and technologically practicable design provisions are employed to reduce noise, including the use of power plants that provide the greatest noise reduction.

One comment from a State port authority stated that the standards in Part 36 should be at least as stringent as those informally proposed by the FAA in 1966, namely, 106 EPNdB for very large aircraft. Information submitted under the FAA's public rule making procedures indicates that the noise values being considered in 1966 could not be prescribed, for those same airplane weights, consistent with the statutory requirement that economic reasonableness be considered. After thorough review of comments submitted, the FAA believes that this amendment contains the lowest noise levels that are currently economically reasonable and technologically practicable for the very large aircraft mentioned by the commentator. However, as noise reduction technology develops, the FAA intends to ensure that the noise levels mentioned by the commentator, and lower noise levels, are achieved when the impact of such lower noise levels will be economically reasonable.

The commentator also stated that the noise measurement distances should be reduced in order to protect more residents. The objective of the noise limits specified at the measurement points in this amendment is to achieve all noise reduction that is economically reasonable and technologically practicable. Therefore, the measurement distances could not be shortened, consistent with the statutory requirement to consider technological practicability and economic reasonableness, unless the noise levels were correspondingly raised over those contained in this amendment. Further, while no single set of measuring points can represent all airport/community situations, it is believed that the measurement points in this amendment are no less typical than those suggested by the commentator.

The commentator cited Department of Transportation and NASA studies concerning the progress that can and must be made in the field of aircraft noise reduction, and stated that "only by reducing to a minimum the geographic areas affected by maximum aircraft noise levels can a compatible land use program be manageable." The FAA recognizes that much remains to be done. This amendment is but the first step, under 49 U.S.C. 1431, in a noise abatement regulatory program whose primary objective is that cited by the commentator, namely, the greatest protection of the greatest number of airport neighbors from aircraft noise by reducing affected noise sensitive areas to the absolute minimum consistent with the statutory requirement that the FAA must consider economic reasonableness and technological practicability relative to the affected aircraft.

The port authorities of two major metropolitan areas submitted comments containing many of the points discussed above, and in addition submitted the following comments: One commentator stated that a reasonable portion of the increased efficiency of new engine designs should be required to be absorbed in noise abatement. The FAA agrees. It is the intent of the FAA noise abatement regulatory program to insure that each new technological advance contributes its reasonable share to the ultimate solution of the noise problem. Both commentators mentioned that airport operators may have difficulty in monitoring and enforcing noise standards determined as prescribed in this amendment, and one comment stated that the FAA should monitor and enforce, in operation, the noise levels prescribed in this amendment. It should be emphasized that nothing in this amendment is intended to substitute Federal judgment for that of the airport proprietor in the determination of the noise levels, noise measurement, or noise evaluation techniques that are most responsive to the particular and unique noise problems facing each airport proprietor.

VI. *Comments from aviation trade associations (other than aircraft manufacturers and operators).* One comment stated that airline pilots are concerned about disparities between certification

performance and actual operational performance "under line conditions." The commentator stated that while the certification procedures are acceptable for the purposes of noise certification testing, it should be made clear that the flight procedures in the NPRM are not necessarily representative of airline operating techniques nor will they necessarily produce the minimum amount of total noise exposure on the ground. As stated above, the FAA has not determined whether a minimum takeoff profile should be proposed in the form of an operating rule. Consistent with safety, however, the FAA agrees that the airport proprietor should be permitted to issue any nondiscriminatory restrictions on the use of his airport for noise abatement purposes. Nothing in this amendment, or in any later promulgated operating rule, will affect in any way the airport proprietor's authority to determine the noise sensitivity of his neighbors and restrict the use of his airport accordingly. Consistent with safety, and with this recognized authority in the airport proprietor, the procedures in Part 36 serve the following necessary purposes: First, by prescribing full power or thrust to a substantial altitude and substantial power or thrust after cutback of power or thrust, together with a speed of at least V_2+10 knots, the type certification procedures should insure that the resulting demonstrated noise levels are conservative so that the public will not be misled and so that flight crews can achieve these values with safe reserves of power and speed. Secondly, by standardizing the measurement conditions, the type certification procedures insure that the resulting noise values have the same meaning for all aircraft of the same class so that valid comparisons between those aircraft can be made.

The commentator stated that noise measurements made for aircraft following an approach angle of 3° with a tolerance of ±0.5° must be corrected for the actual position in respect to the glide slope at the time the measurement was taken. The FAA believes that the intent of this comment is accounted for since section A36.3(c)(2) of Appendix A provides that the EPNL values obtained from the measured approach path must be corrected to the reference flight path (i.e., approach path of 3° and aircraft height of 370 feet vertically above the approach measurement location).

The commentator stated that the rule should provide that all engines must be operating at the appropriate approach power or thrust settings for the specific procedure. The FAA agrees and has furnished specific approach test conditions, including power or thrust settings, in § C36.9.

The commentator stated that the minimum altitude for power cutback in § C36.7(a) should be raised to 1,500 feet. This comment is not accepted since the altitudes prescribed in this part are believed to be adequate for safety, and will allow a reasonable flexibility in the use of power in meeting the prescribed noise levels.

The commentator stated that the minimum speed for compliance with the takeoff test should be no less than "V_2+20 knots or the maneuvering speed, whichever is greater." The FAA believes that the speed V_2+10 knots is an appropriate and safe minimum speed for the takeoff noise test and that no higher speed, such as V_2+20 knots or the maneuvering speed, is necessary for a valid and conservative demonstration of takeoff noise.

The commentator stated that § C36.7 should provide that flap settings must be consistent with those used during normal operations. The FAA believes that a constant airplane configuration is necessary throughout the takeoff noise test (C36.7(d)), as more fully discussed below. The applicant may select this configuration so that it is not inconsistent with normal operations.

One comment from an association representing the flight engineers stated that the notice of proposed rule making was acceptable as published.

One comment from a technical society made several editorial suggestions for improving Appendix B as proposed. Those comments are adopted. The comment also stated that the concept of Effective Perceived Noise Level (EPNL) is an imperfect one and therefore suggested that the regulations should provide for an appeal to a panel or jury of listeners for comparison with known noise references. The FAA agrees that the concept of EPNL is imperfect and should be continuously refined to more adequately measure the qualities of aircraft noise that cause subjective annoyance. However, this comment is not accepted since (1) no jury concept has been shown to be compatible with equal regulation of all applicants according to predictable well defined guidelines, and (2) it is believed that the concept of EPNL, as used in this amendment, is sufficiently precise, and responsive to the annoyance factors in aircraft noise, to provide a fair basis for insuring that all noise reduction technology that is currently economically reasonable and technologically practicable is applied to the airplane, and to provide that all similar type designs are similarly regulated.

VII. *Comments from aircraft manufacturers and air carriers.* Comments were received from an individual air carrier and from associations representing aircraft manufacturers and air carriers.

The comment from the individual air carrier made the following suggestions: The commentator stated that the flap position used for takeoff and initial climb should be the largest deflection approved for takeoff at maximum weight, and that flap deflection should not be reduced before reaching the takeoff measuring point. The commentator also stated that the initial climb speed should not be less than V_2+10 knots or stall speed plus 40 knots, whichever is greater, and that no deceleration should be permitted in the initial climb speed from liftoff to the takeoff measuring point. The FAA agrees that a takeoff test airspeed of V_2+10 knots is adequate for safety and will not preclude a valid noise test. This comment is therefore accepted with respect to the speed V_2+10 knots. However, the FAA also believes that by requiring a constant takeoff configuration and takeoff power or thrust from the start of the takeoff to the point at which a substantial altitude is reached, Part 36 insures that the takeoff noise test is fully compatible with safe operating procedures. The commentator also stated that the approach speed should not be less than 130 percent of the stall speed plus 10 knots and should be essentially constant during the approach. The FAA agrees. As more fully discussed below, this was the intent of the term "reference airspeed" as used in the notice. Part 36 insures that the approach noise test is fully compatible with safe operating procedures by providing that the test must be conducted with the aircraft stabilized and following the prescribed glide angle at proper approach power or thrust for maximum allowable landing flap settings, with an approach speed of 1.30 V_s+10 knots over the approach noise measuring point (see § C36.9). The commentator stated that the noise type certification procedures should be "compatible with good and practicable operating practices." The FAA agrees, and believes that Part 36 contains procedures that can be duplicated practicably and safely in normal operations. The commentator further stated that all references to operating procedures should be deleted from the rule, and that the flight manual should contain performance data instead. Apparently, the commentator, like several other persons who commented, assumed that operating procedures established during noise type certification and placed in the airplane flight manual were intended to be mandatory procedures for operators. This is not the case. The data and procedures developed under Part 36 are placed in the airplane flight manual as operating procedures and performance information only. In order to prevent further confusion, § 36.1581(a) provides that no operating limitations may be furnished under that section (except as provided in § 36.1581(b)). However, as stated above, operating rules may later be proposed. Such rules would be operating regulations amending Part 91 or 121 rather than airplane flight manual operating limitations for noise abatement purposes.

The comments representing the aircraft manufacturers and air carriers contained analyses of the economic impact of the proposed rules, together with detailed recommendations for changing the regulations. Both commentators concluded that the proposed standards were so severe in their effects that the proposals violated the statutory requirement that economic reasonableness be considered. In addition, the comment representing the aircraft manufacturers stated that the notice of proposed rule

making was unacceptable, should be discarded, and should be replaced in its entirety with an alternative noise type certification regulation prepared by the association representing the manufacturers. Numerous changes were requested. However, in view of the large volume of detailed comments, only the most significant comments can be discussed herein.

The most significant changes requested by the aircraft manufacturers and air carriers are as follows: (1) It was requested that the noise prediction allowance be eliminated; (2) it was requested that the minimum altitude for reduction of power or thrust be lowered from 1,000 feet (as proposed) to 700 feet; (3) it was requested that the prescribed noise levels be relaxed, the air carrier comment requesting that the sliding scale of the noise levels with respect to aircraft weights be changed, and the manufacturer's comment stating that an increase of 2 EPNdB should be granted, across the board, particularly to allow a more relaxed requirement for airplanes with high maximum weights; (4) it was requested that growth airplanes be allowed to increase noise levels above the "parent" airplane, and at least 2 EPNdB higher than the originally applied levels of Appendix C, provided that the growth airplane meets the applicable higher noise ceiling criteria; (5) it was requested that the power or thrust level required, after reduction of power or thrust during the takeoff test, be the power or thrust necessary to provide level flight in the event of engine failure, but not less than a climb equivalent of 4 percent (as opposed to 6 percent as proposed in the notice); (6) it was requested that the tradeoff provision be relaxed to provide for a maximum of 3 EPNdB at any one measuring point, with a total of 5 EPNdB to be offset at the remaining measuring points (as compared with the proposed values of 3 EPNdB and 2 EPNdB, respectively); (7) it was requested that the distance for measuring sideline noise be extended from 0.25 nautical mile to 0.35 nautical mile; (8) it was requested that the FAA issue all of the proposed regulatory material concerning the measurement and evaluation of noise (proposed as Appendices A and B respectively) in the form of nonregulatory Advisory Circulars; (9) it was requested that the FAA eliminate its intention to require each aircraft to be designed to be as quiet as practical during type certification, eliminate the announced intent to achieve a low noise level or "floor" of 80 EPNdB and replace this approach with the concept of periodic reviews with industry "aimed at future noise reductions"; and finally, (10) it was stated that the initial application to type designs for which application was received prior to the effective date of Part 36 is not acceptable in principle.

A large volume of detailed economic data was submitted by the aircraft manufacturers and operators. This information was submitted in order to permit the FAA to establish the best possible understanding of the economic implications of the proposed rule, in accordance with the requirement in section 611(b)(4) of Public Law 90-411 that the Administrator "shall * * * consider whether any proposed standard, rule, or regulation is economically reasonable, technologically practicable, and appropriate for the particular type of aircraft * * * to which it will apply." The submitted data represented in detail the economic requirements of the air carriers in the 1972 to 1975 time period, and covered a broad spectrum of airplane designs. For these aircraft, the data described the economic impact of the proposed rules with respect to aircraft design selection and performance, propulsion requirements, the complex interrelations between aerodynamics, acoustics, and weight, and the resultant economic effects on payload, fuel requirements, runway requirements, and in particular the impact of these factors on route structures used by the air carriers, from the shortest domestic routes to the longest intercontinental routes. The analysis included airplane operating costs and the impact of these costs on airline system economics.

A thorough review of all data submitted has convinced the FAA that the current state of the art of noise reduction, as related to the impact of noise reduction on the economic life of affected aircraft, requires that certain modifications in the proposed rules be granted at this time for airplanes with more than three turbojet engines, because of the weight and design mission requirements of those airplanes. These modifications could not be withheld by the FAA consistent with the statutory requirement to consider the economic reasonableness and technological practicability of the rules. In addition, certain changes are made, for all airplanes, that should not adversely effect the noise levels created by those airplanes.

First, it is believed that no adverse effect on the validity of the takeoff noise test will result if the requested change in power required after cutback is granted. This is true since the power necessary for a 4 percent climb gradient without failure of one engine, or a zero climb gradient after such failure, is still a high enough power setting so that the resulting noise levels are conservative and can be duplicated easily and safely in operation. This change is, therefore, made in § C36.7 of Appendix C. This change is an economically necessary relaxation for airplanes having more than three turbojet engines. For other airplanes, the requirement to maintain at least a zero climb gradient is sufficiently severe so that no real relaxation results.

Secondly, since it is not a relaxation, it is believed that the requested elimination of the proposed noise prediction allowance can be accomplished with no adverse effect on noise levels. It is not understood why the industry regarded the noise prediction allowance as a restriction since the allowance provided for exceedance privileges, above the normal noise limits, if certain conditions were met. This amendment eliminates the allowance for noise prediction. Under this amendment, no provision is permitted for exceeding the values obtained after applying the trade-off exceedance values. Thirdly, a limited relaxation is made in the definition of "major change" in type design in order to provide a clear noise limit within which growth of the airplane may proceed without the need for meeting amendments to Part 36 that are issued after the airplane is first type certificated. The notice of proposed rule making stated that any change that may increase the noise of the airplane would be classified as a "major change." The FAA believes that this approach is still valid for airplanes that have not fully complied with Appendix C of Part 36, including all aircraft not type certificated under Part 36, in order to insure that the escalation of aircraft noise has been stopped by this amendment. For these aircraft, no change from the notice is appropriate. However, the FAA recognizes that the aircraft manufacturer requires a firm noise limit within which growth can occur under the rules applicable to the original type certification under Part 36. The FAA believes that this degree of certainty can be given the manufacturer, consistent with the public interest, for aircraft for which compliance was shown with the noise limits of Appendix C as applicable to the date of application for the original type certification under Part 36. However, in no case should aircraft growth, that may make the aircraft noisier than the original limits prescribed in Appendix C, be permitted.

This amendment permits aircraft that are quieter than Appendix C requirements to grow up to the limits of Appendix C with respect to noise. This relaxation does not satisfy the aircraft manufacturer's request that room for growth be added above the proposed Appendix C values. However, the FAA believes that the approach discussed above provides a reasonable balance between the manufacturer's legitimate need for a certain and defined growth potential, and the public need for an orderly and progressive deescalation of aircraft noise. In short, §§ 21.93(b) and 36.1(c) will ensure that noise reduction technology sufficient to achieve Appendix C limits must be applied before further aircraft growth can occur. This applies to the entire fleet of transport and jet airplanes now extant. The FAA believes that this priority of values is necessary in order to prevent a continual erosion in aircraft noise. It should be pointed out that this aspect of the rule merely limits future noise escalation and is no substitute for supplementary retrofit requirements that will later be adopted to effect a positive reduction in the noise of the current fleet. Finally, while the notice designated these changes as noise related "major changes," this amendment redesignates them as "acoustical changes." This editorial change, plus the statement in § 21.93(b) that "acoustical changes" are so designated for the purpose of complying with Part 36 only, insure that no acoustical judgments will, in any way, alter the previously established criteria for determining whether

a change in type design is "minor" or "major" for airworthiness purposes. Nothing in this amendment affects the distinction between minor and major changes for airworthiness purposes or affects the procedural or substantive requirements applicable to either kind of change. The proposed amendment to § 21.115 is withdrawn in connection with this change.

With respect to the comment concerning application of Part 36 to aircraft for which type certification application was made prior to the effective date of the part, the FAA is in partial agreement. This amendment contains three departures from the notice with respect to type certification applications now pending. First, since there are not such applications pending with application dates between the date of publication of the notice and the publication date of Part 36, the proposal to require only the development of procedures and information to achieve the lowest reasonable noise level (in addition to compliance with the remaining applicable sections of Part 36) for aircraft not having high bypass ratio engines, is extended to cover all applications prior to the effective date of Part 36 (rather than only those applications prior to the publication date of the notice, as proposed). No actual regulatory change results and the effectivity of Part 36 is simplified by this change. If an application is filed between the publication and effective dates of Part 36 for such aircraft, further regulatory action will be considered. Secondly, it is believed that the requested increase in the trade-off provision, to allow a sum of exceedance of 5 EPNdB (rather than 3 EPNdB as proposed), and a greatest single exceedance of 3 EPNdB (rather than 2 EPNdB as proposed), is necessary to provide flexibility for aircraft with more than three engines that are already undergoing type certification, but will minimize the resultant noise increase by requiring, as the notice did, that all exceedances must be offset by reductions at other measuring points. This change appears in § C36.5(c). The remaining, and most significant, departure from the notice concerning the standards to be applied to aircraft currently undergoing type certification is as follows:

In § 36.201(b) of this amendment, consideration of acoustic requirements placed on aircraft for which application for the type certificate was made prior to January 1, 1967, is addressed. These aircraft, for example the Boeing 747, were in advanced phases of their design cycle prior to the establishment of definitive indications of probable certification noise levels. Regardless of the lack of definite acoustic design goals, the manufacturers of these aircraft have developed designs which represented the application of the most advanced acoustic technology available to them. As a consequence, these aircraft will produce noise levels considerably below those of present day aircraft even though the levels may not, in every way, comply with the requirements of Appendix C of this amendment. In recognition of the advances in the state of aircraft acoustic art demonstrated by these aircraft, the initial compliance with this amendment is to be considered on the basis of the use of acoustic techniques which will insure that these aircraft are as quiet as is technologically practical. However, the type certificate will contain an expiration period after which the manufacturer will be required to show compliance with the requirements of Appendix C. In this connection, § 36.201(d) provides that, for aircraft to which paragraph (b)(1) of that section applies, and that do not meet Appendix C, a duration period will be placed in the type certificate, upon the expiration of which the type certificate will be subject to suspension or modification (with full notice and appeal rights as contained in 49 U.S.C. 1429) unless the type design of later aircraft is modified to show compliance with Appendix C.

The request that nonregulatory Advisory Circulars be used for the procedures for measuring and evaluating noise cannot be accepted. Proper noise measurement and evaluation is necessary for a valid acoustical analysis of the airplane. Flexibility can be provided in the regulatory form by permitting the applicant to submit alternative procedures and show that those procedures are equivalent to those in Appendix A or B. As in the notice, Part 36 therefore contains noise measurement and evaluation standards in regulatory form (Appendices A and B).

It would also be inappropriate for the FAA to accept the request to eliminate the intent to achieve all reasonable noise reductions in each type certification program. The net result of this request, if adopted by the FAA, is that the noise limits prescribed in Appendix C would become guaranteed values that could be generated as a matter of right even if the FAA could reasonably determine, during the type certification process, that lower noise levels were economically reasonable. This result would be inconsistent with the FAA's commitment to achieve the greatest reasonable noise reductions as soon as technology permits. As stated in the notice, "the FAA cannot responsibly accept (the noise limits specified in Appendix C) as satisfactory where further noise reductions are available and reasonable. Where those further reductions are available, are economically reasonable, technologically practical, and appropriate to the particular type design, the FAA cannot ignore them by waiting until all type designs are expected to be quiet enough to permit lowering the noise ceiling for the entire class. By then, of course, any type designs that could have been substantially quieter would have been approved, and aircraft produced under them, without the realization of the actually available noise reductions. It is not believed that such a result is consistent with Public Law 90-411." However, the FAA recognizes that, since the technology of noise abatement is relatively new, the standards applied to the manufacturers should be precise and definite. In this connection, several comments requested that the general language in the notice ("economically reasonable * * *" (etc.)) should be replaced with specific regulatory language. In order to accept this reasonable request and also preserve the intent of the notice to achieve all reasonable noise reductions in each type certification program, the following approach will be adopted (for airplanes to which Appendix C applies):

Appendix C of Part 36, being the FAA's best estimate of the maximum reasonable noise reduction possible for given aircraft weights, will apply, for each aircraft weight, unless the FAA determines in a given type certification program that either Appendix C was originally unduly lenient, or developments in noise reduction technology render Appendix C unduly lenient for the particular type of aircraft. When this determination is made, the FAA will administer § 21.17(a)(1)(i) of the Federal Aviation Regulations (which in effect provides that the applicable type certification standards are not those in effect on the date of application for the type certificate where "otherwise prescribed by the Administrator") to issue precise and definite standards, with notice and public procedure, that will accomplish the intent of the general language proposed in the Notice to prevent the issuance of a type certificate for any aircraft for which available and reasonable noise reduction design practices have not been incorporated.

The FAA has determined that the request to remove the noise "floor" of 80 EPNdB from the regulatory language is reasonable and should be granted. This noise floor, not being currently achievable, could have no immediate legal effect. Further, it has become evident that the number 80 EPNdB might be misconstrued as being a value that is federally determined to be "acceptable" in a given local airport environment. In order to prevent this result, the reference to the noise "floor" is deleted from the final rule.

With respect to the requested increase in sideline measuring distance, the FAA concludes that, in combination with the prescribed noise limits, the proposed distance of 0.25 nautical mile would result in economic penalties that are unduly severe for airplanes having more than three turbojet engines. This defect could be cured by raising the noise limits at the proposed measurement point or by extending the measurement distance to a point at which the proposed noise limits become economically reasonable. While the effect of either approach would be the same with respect to the increase in sideline noise that would be permitted, the FAA believes that since the noise level numbers prescribed in the notice have been widely publicized for land planning purposes, any actions that may now be underway to achieve land use compatibility with those noise levels should be less affected by altering the measurement distance than by introducing new and unfamiliar noise levels.

Therefore, this amendment extends the required measuring distance from 0.25 nautical mile to 0.35 nautical mile for airplanes with more than three turbojet engines instead of raising the noise limits at the proposed sideline measuring distance. This distinction between the sideline measuring requirement for two- and three-engine turbojet airplanes and that for larger turbojet airplanes also reflects the fact that the larger airplanes will generally be operated out of larger airports only, while the smaller airplanes will be operated out of smaller airports as well as larger airports.

With respect to the requested lowering of the proposed takeoff noise test minimum altitude for power reduction to 700 feet, the FAA believes that a responsible assessment of the economic impact of the proposed altitude of 1,000 feet requires that this modification be granted for airplanes with more than three turbojet engines. This relaxation can be accomplished consistent with safe operating practices and will permit a valid and conservative takeoff noise test since a substantial power setting is required after power cutback.

With respect to the further requested raising of noise limits and the remaining requested relaxations, the FAA has evaluated the economic data submitted by the aircraft manufacturers and air carriers, and concludes that the requested relaxations in the regulation are not justified and that the claim of unreasonable economic impact cannot be responsibly accepted.

In particular, the submitted information does not justify any relaxation in the tradeoff, sideline, or takeoff power cutback altitude requirements for two- and three-engine turbojet airplanes. To the contrary, the submitted information clearly showed the economic effect of the proposed rules on the two- and three-engine airplanes to be far less than the impact on four-engine airplanes. In fact, certain industry comments indicated that further noise reductions may be economically reasonable and appropriate in the near future for the smaller turbojet engine powered airplanes. The FAA is undertaking study of the advisability of such additional rulemaking.

The commentator stated that the proposed rules were defective in that they will impose more economic burden on the largest, noisiest aircraft than on the smallest, less noisy aircraft. This result is, to some extent, inevitable. There is simply no way in which the escalation of noise can be effectively arrested without increasing the severity of noise suppression regulations as the noise generated by the aircraft increases.

The commentator states that it could not accept the basic measurement concept of Effective Perceived Noise Level (EPNL) unless all specific requested relaxations from the proposed rules (i.e., overall increase of .2 EPNdB, etc.) are granted. This amendment nevertheless adopts the concept of EPNL, with refinements, since (1) the basic validity of this unit of measurement does not depend on whether all requested relaxations are adopted; (2) the commentator's submitted data and analyses indicate that EPNL provides a sufficiently precise basis for predicting economic impact (although the FAA disagrees with certain of the data submitted); and (3) as discussed above, EPNL provides the best known basis for objectively measuring the qualities of aircraft noise that are most offensive to persons on the ground.

The notice proposed to permit the applicant to select a weight for takeoff noise compliance that is less than the maximum weight: *Provided*, That the lesser weight is furnished as an operating limitation. This allowance was not proposed for the landing weight used in complying with the approach noise requirements. This difference is not intended. Section 36.1581(b), therefore, permits any weights to be selected by the applicant for showing compliance with the takeoff and approach noise requirements provided that any selected weights that are less than the maximum weight or design landing weight must be furnished as operating limitations in the Airplane Flight Manual. This amendment also moves the approach test condition requirement from Appendix A to Appendix C, so that the conditions for approach and for takeoff would be specified together in the same appendix. This is done in new Section C36.9 of Appendix C. The notice proposed that the approach airspeed must be the "reference airspeed." The intent of this proposal was to require an airspeed that is highly typical of normal approach airspeeds, so that a realistic approach noise is generated. The speed 1.30V S+10 knots is such an airspeed and is therefore specified in Section C36.9(d). The following additional changes from the notice are made in the takeoff and approach test conditions. For the takeoff test, the reference to "takeoff flap" is changed to "takeoff configuration," since lift control devices other than flaps may be included. One comment stated that the applicant should be permitted to use any configuration schedule consistent with the airworthiness requirements and stated that some configuration change may be appropriate for minimizing community noise. The FAA does not know of any takeoff configuration schedule that will result in less total community noise than that resulting from maintaining a constant takeoff configuration throughout the takeoff noise test. The objective of the takeoff noise test is to determine the noise generated by the airplane under conditions representative of those actually necessary in operations if minimum total community noise exposure is to be achieved.

The commentators suggested several editorial changes which are adopted in whole or in part.

One comment stated that the word "turbojet" should be broadened to specify also "turbofan" engines. This change is not accepted since the word "turbojet" has been used without confusion, throughout the type certification regulations, to include "turbofan" engines.

The notice proposed that a statement of noise compliance be placed on the airworthiness certificate of aircraft type certificated under Part 36 for international recognition purposes. This proposal may have merit but final rulemaking thereon is withheld pending international agreement concerning the manner in which noise type certification is to be recorded for international recognition.

The proposed listing of specified noise sources and means of noise reduction is withdrawn since developments in noise reduction technology could rapidly obsolete such a listing. As stated above, however, the FAA will prescribe all additional regulations deemed necessary to ensure that all available and reasonable noise reduction technology is applied during type certification.

Since the general language proposed in the notice ("economically reasonable * * *" (etc.)) is deleted from this amendment (except for airplanes with high bypass ratio engines for which application was made prior to Jan. 1, 1967), a formal basis for providing more detailed regulations, at the applicant's request, will not be needed to a sufficient degree to justify retaining proposed § 21.16(c), which proposed special conditions for noise purposes if requested by the applicant. That proposal is therefore withdrawn.

With respect to foreign aircraft, the notice proposed to amend § 21.29 to provide that compliance with applicable aircraft noise regulations is to be certified by the foreign country as well as compliance with airworthiness regulations. This proposal is changed in this amendment to be consistent with § 21.29 as amended by Amendment 21-25 (published at 34 F.R. 14067 on Sept. 5, 1969). As pertinent here, these changes (1) limit the products to those that are to be imported into the United States, and (2) provide that all submitted listings must be presented in the English language. Other changes are made for consistency with the airworthiness procedures affecting import aircraft. There is no basis for distinguishing between airworthiness and aircraft noise standards in the acceptance by the FAA of statements of compliance by competent foreign authorities.

This rule, which is appropriate for the conventional subsonic aircraft, contains many concepts which are inappropriate for aircraft that are designed to operate vertically (VTOL), that have short takeoff and landing capabilities (STOL), and for aircraft that cruise at supersonic speeds (SST). Specifically, the vertically operating aircraft exhibit a unique acoustic characteristic since their propulsive thrust is generally obtained from large rotors, the short takeoff and landing aircraft will have acoustic characteristics related to the use of thrust to obtain lift, and the supersonic aircraft necessarily has a propulsive system which is sized for the high thrust requirements necessary to obtain supersonic speeds. Accordingly, the noise certification of the VTOL aircraft may require consideration of acoustic qualities which will need special psychoacoustic evaluation and the STOL aircraft may

require consideration of the unconventional thrust mode and operational environment. On the other hand, the extraordinarily high acceleration required by the SST in the transonic operation will necessarily produce performance capabilities at ground levels which have important implications concerning its noise characteristics. For instance, unusually high takeoff thrust will produce higher sideline noise levels in the vicinity of the airport; however, the resulting high gradient of climb will produce significantly lower noise levels over the communities underlying the takeoff flight path. Accordingly, the responsibility of local airport authorities to insure land use compatibility, as discussed in Senate Report 1353, must be exercised with particular care in the case of the SST because of the above mentioned unique acoustic characteristics. As a consequence of these considerations, this amendment excludes SST aircraft and does not contain specific additional regulations for VTOL and STOL aircraft since the acoustic technology associated with these classes of aircraft requires further study before the FAA can comply with the statutory requirement to consider whether the related noise standards are appropriate to the particular type of aircraft, are technologically practicable, and are economically reasonable. Separate rulemaking for these classes of aircraft is necessary to assure that all available and reasonable sources of noise reduction are realized as a basis for acoustically responsive land use planning by the responsible local airport proprietor. This rulemaking will be proposed for public comment at the earliest possible time.

In §§ A36.2 (c) and (d) and A36.5(a) of Appendix A of this amendment, the text and specifications contained in certain technical publications are incorporated by reference pursuant to 5 U.S.C 552(a)(1) and 1 CFR Part 20. Approval for those incorporations by reference was granted on September 25, 1969, by the Director of the Federal Register.

Pursuant to 49 U.S.C. 1431, the Federal Aviation Administration has consulted with the Secretary of Transportation, concerning all matters contained herein, prior to the adoption of this amendment.

Interested persons have been afforded an opportunity to participate in the making of these amendments. Due consideration has been given to all matter presented. In other respects, for the reasons stated in the preamble to the notice, the rule is adopted as prescribed herein.

This rule is intended to apply to airplanes now nearing the completion of the type certification process. However, a complex document of this type may require an unusually long processing time between the date it is filed with the FEDERAL REGISTER and its publication therein. For this reason, a copy of the rule is being provided by certified mail to each manufacturer of transport category and turbojet engine powered airplanes. Since it is the purpose of this rule to prevent, at the earliest possible date, any escalation of aircraft noise, I find that good cause exists for making the rule effective on December 1, 1969, even though that date may be less than 30 days after its date of publication in the FEDERAL REGISTER.

In consideration of the foregoing, Subchapter C of Chapter I of Title 14 of the Code of Federal Regulations is amended, effective December 1, 1969, as follows:

A. Part 21 of the Federal Aviation Regulations is amended as follows:

§ 21.17 [Amended]

1. Section 21.17(a) is amended by changing the word "§ 25.2" appearing in the introductory clause to the words "§§ 25.2 and 36.2."

2. Sections 21.21 (b) and (b)(1) are amended to read as follows:

§ 21.21 Issue of type certificate: Normal, utility, acrobatic, and transport category aircraft; aircraft engines; propellers.

* * * * *

(b) The applicant submits the type design, test reports, and computations necessary to show that the product to be certificated meets the applicable airworthiness and aircraft noise requirements of the Federal Aviation Regulations and any special conditions prescribed by the Administrator, and the Administrator finds—

(1) Upon examination of the type design, and after completing all tests and inspections, that the type design and the product meet the applicable aircraft noise requirements of the Federal Aviation Regulations, and further finds that they meet the applicable airworthiness requirements of the Federal Aviation Regulations or that any airworthiness provisions not complied with are compensated for by factors that provide an equivalent level of safety; and

* * * * *

3. Section 21.29 is amended to read as follows:

§ 21.29 Issue of type certificate: import products.

(a) A type certificate may be issued for a product that is manufactured in a foreign country with which the United States has an agreement for the acceptance of these products for export and import and that is to be imported into the United States if—

(1) The country in which the product was manufactured certifies that the product has been examined, tested, and found to meet—

(i) The applicable aircraft noise requirements of this subchapter as designated in § 21.17 or the applicable aircraft noise requirements of the country in which the product was manufactured and any other requirements the Administrator may prescribe to provide noise levels no greater than those provided by the applicable aircraft noise requirements of this subchapter as designated in § 21.17; and

(ii) The applicable airworthiness requirements of this subchapter as designated in § 21.17, or the applicable airworthiness requirements of the country in which the product was manuafctured and any other requirements the Administrator may prescribe to provide a level of safety equivalent to that provided by the applicable airworthiness requirements of this subchapter as designated in § 21.17;

(2) The applicant has submitted the technical data, concerning aircraft noise and airworthiness, respecting the product required by the Administrator; and

(3) The manuals, placards, listings, and instrument markings required by the applicable airworthiness (and noise, where applicable) requirements are presented in the English language.

(b) A product type certificated under this section is considered to be type certificated under the noise standards of Part 36 of the Federal Aviation Regulations where compliance therewith is certified under paragraph (a)(1)(i) of this section, and under the airworthiness standards of that part of the Federal Aviation Regulations with which compliance is certified under paragraph (a)(1)(ii) of this section or to which an equivalent level of safety is certified under paragraph (a)(1)(ii) of this section.

§ 21.31 [Amended]

4. Section 21.31(c) is amended by inserting the words "and noise characteristics (where applicable)" between the words "the airworthiness" and the words "of later products."

§ 21.33 [Amended]

5. Section 21.33(b)(1) is amended by adding the words "and aircraft noise" between the word "airworthiness" and the word "requirements."

6. Section 21.93 is amended to read as follows:

§ 21.93 Classification of changes in type design.

(a) In addition to changes in type design specified in paragraph (b) of this section, changes in type design are classified as minor and major. A "minor change" is one that has no appreciable effect on the weight, balance, structural strength, reliability, operational characteristics, or other characteristics affecting the airworthiness of the product. All other changes are "major changes" (except as provided in paragraph (b) of this section).

(b) For the purpose of complying with Part 36 of this chapter only, any voluntary change in the type design of a transport category or turbojet engine powered airplane that may increase the noise levels created by the airplane is an "acoustical change" in addition to being a minor or major change as classified in paragraph (a) of this section.

§ 21.101 [Amended]

7. Section 21.101(a) is amended by changing the word "§ 25.2" appearing in the introductory clause to the words "§§ 25.2 and 36.2".

B. The following new Part 36 is added to the Federal Aviation Regulations:

PART 36—NOISE STANDARDS: AIRCRAFT TYPE CERTIFICATION

Subpart A—General

Subpart B—Noise Measurement and Evaluation

Subpart C—Noise Limits

Subpart D [Reserved]

Subpart E [Reserved]

Subpart F [Reserved]

Subpart G—Operating Information and Airplane Flight Manual

AUTHORITY: The provisions of this Part 36 issued under secs. 313(a), 601, 603, and 611 of the Federal Aviation Act of 1958; 49 U.S.C. 1354, 1421, 1423, and 1431 and sec. 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c).

Subpart A—General

§ 36.1 Applicability.

(a) This part prescribes noise standards for the issue of type certificates, and changes to those certificates, for subsonic transport category airplanes, and for subsonic turbojet powered airplanes regardless of category.

(b) Each person who applies under Part 21 of this chapter for a type certificate must show compliance with the applicable requirements of this part, in addition to the applicable airworthiness requirements of this chapter.

(c) Each person who applies under Part 21 of this chapter for approval of an acoustical change described in § 21.93 (b) of this chapter must show that the airplane meets the following requirements in addition to the applicable airworthiness requirements of this chapter:

(1) The noise limits prescribed in Appendix C of this part, for airplanes that can achieve those noise levels, or lower noise levels, prior to the change in type design.

(2) The noise levels created by the airplane prior to the change in type design, measured and evaluated as prescribed in Appendixes A and B of this part, for airplanes that cannot achieve the noise limits prescribed in Appendix C of this part prior to the change in type design.

§ 36.2 Special retroactive requirements.

(a) Notwithstanding § 21.17 of this chapter, and irrespective of the date of application, each applicant covered by § 36.201 (b)(1) and (c)(1), and § C36.5 (c) of this part who applies for a new type certificate, must show compliance with the applicable provisions of this part.

(b) Notwithstanding § 21.101(a) of this chapter, each person who applies for an acoustical change to a type design specified in § 21.93(b) of this chapter must show compliance with the applicable provisions of this part.

§ 36.3 Compatibility with airworthiness requirements.

It must be shown that the airplane meets the airworthiness regulations constituting the type certification basis of the airplane under all conditions in which compliance with this part is shown, and that all procedures used in complying with this part, and all procedures and information for the flight crew developed under this part, are consistent with the airworthiness regulations constituting the type certification basis of the airplane.

§ 36.5 Limitation of part.

Pursuant to 49 U.S.C. 1431(b)(4), the noise levels in this part have been determined to be as low as is economically reasonable, technologically practicable, and appropriate to the type of aircraft to which they apply. No determination is made, under this part, that these noise levels are or should be acceptable or unacceptable for operation at, into, or out of, any airport.

Subpart B—Noise Measurement and Evaluation

§ 36.101 Noise measurement.

The noise generated by the airplane must be measured under Appendix A of this part or under an approved equivalent procedure.

§ 36.103 Noise evaluation.

Noise measurement information obtained under § 36.101 must be evaluated under Appendix B of this part or under an approved equivalent procedure.

Subpart C—Noise Limits

§ 36.201 Noise limits.

(a) Compliance with this section must be shown with noise levels measured and evaluated as prescribed in Subpart B of this part, and demonstrated at the measuring points prescribed in Appendix C of this part.

(b) For airplanes that have turbojet engines with bypass ratios of 2 or more and for which—

(1) Application was made before January 1, 1967, it must be shown that the noise levels of the airplane are no greater than those prescribed in Appendix C of this part, or are reduced to the lowest levels that are economically reasonable, technologically practicable, and appropriate to the particular type design; and

(2) Application was or is made on or after January 1, 1967, it must be shown that the noise levels of the airplane are no greater than those prescribed in Appendix C of this part.

(c) For airplanes that do not have turbojet engines with bypass ratios of 2 or more and for which—

(1) Application was made before December 1, 1969, it must be shown that the lowest noise levels, reasonably obtainable through the use of procedures and information developed for the flight crew under § 36.1501 are determined; and

(2) Application was or is made on or after December 1, 1969, it must be shown that the noise levels of the airplane are no greater than those prescribed in Appendix C of this part.

(d) For aircraft to which paragraph (b)(1) of this section applies and that do not meet Appendix C of this part, a time period will be placed on the type certificate. The type certificate will specify that, upon the expiration of this time period, the type certificate will be subject to suspension or modification under section 611 of the Federal Aviation Act of 1958 (49 U.S.C. 1431) unless the type design of aircraft produced under that type certificate on and after the expiration date is modified to show compliance with Appendix C. With respect to any possible suspensions or modifications under this paragraph, the certificate holder shall have the same notice and appeal rights as are contained in section 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1429).

Subpart G—Operating Information and Airplane Flight Manual

§ 36.1501 Procedures and other information.

All procedures, any other information for the flight crew, that are employed for obtaining the noise reductions prescribed in this part must be developed. This must include noise levels achieved during type certification.

§ 36.1581 Airplane flight manual.

(a) The approved portion of the Airplane Flight Manual must contain procedures and other information approved under § 36.1501. Except as provided in paragraph (b) of this section, no operating limitations may be furnished under this section. The following statement must be furnished near the listed noise levels:

> No determination has been made by the Federal Aviation Administration that the noise levels in this manual are or should be acceptable or unacceptable for operation at, into, or out of, any airport.

(b) If the weight used in meeting the takeoff or landing noise requirements of this part is less than the maximum weight or design landing weight, respectively, established under the applicable airworthiness requirements, those lesser weights must be furnished, as operating limitations, in the operating limitations section of the Airplane Flight Manual.

(Secs. 313(a), 601, 603, and 611 of the Federal Aviation Act of 1958, 49 U.S.C. 1354, 1421, 1423, and 1431, and sec. 6(c) of the Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 3, 1969.

J. H. SHAFFER,
Administrator.

APPENDIX A—AIRCRAFT NOISE MEASUREMENT UNDER § 36.101

Section A36.1 *Noise certification test and measurement conditions*—(a) *General.* This section prescribes the conditions under which noise type certification tests must be conducted and the measurement procedures that must be used to measure the noise made by the aircraft for which the test is conducted.

(b) *General test conditions.* (1) Tests to show compliance with established noise type certification levels must consist of a series of takeoffs and landings during which measurements must be taken at the measuring points defined in Appendix C of this part. The sideline noise measurements must also be made at symmetrical locations on each side of the runway. On each test takeoff, simultaneous measurements must be made at the sideline measuring points on both sides of the runway and also at the takeoff flyover measuring point. If the height of the ground at each measuring point differs from that of the nearest point on the runway by more than 20 feet, corrections must be made as defined in § A36.3(d) of this appendix.

(2) Locations for measuring noise from an aircraft in flight must be surrounded by relatively flat terrain having no excessive sound absorption characteristics such as might be caused by thick, matted, or tall grass, shrubs, or wooded areas. No obstructions which significantly influence the sound field from the aircraft may exist within a conical space above the measurement position, the cone being defined by an axis normal to the ground and by a half-angle 75° from this axis.

(3) The tests must be carried out under the following weather conditions:

(i) No rain or other precipitation.

(ii) Relative humidity not higher than 90 percent or lower than 30 percent.

(iii) Ambient temperature not above 86° F. and not below 41° F. at 10 meters above ground.

(iv) Airport reported wind not above 10 knots and crosswind component not above 5 knots at 10 meters above ground.

(v) No temperature inversion or anomalous wind conditions that would significantly affect the noise level of the aircraft when the noise is recorded at the measuring points defined in Appendix C of this part.

(c) *Aircraft testing procedures.* (1) The aircraft testing procedures and noise measurements must be conducted and processed in an approved manner to yield the noise evaluation measure designated as Effective Perceived Noise Level, EPNL, in units of EPNdB, as described in Appendix B of this part.

(2) The aircraft height and lateral position relative to the extended centerline of the runway must be determined by a method independent of normal flight instrumentation such as radar tracking, theodolite triangulation, or photographic scaling techniques to be approved by the FAA.

(3) The aircraft position along the flight path must be related to the noise recorded at the noise measurement locations by means of synchronizing signals. The position of the aircraft must be recorded relative to the runway from a point at least 4 nautical miles from threshold to touchdown during the approach and at least 6 nautical miles from the start of roll during the takeoff.

(4) The takeoff test may be conducted at a weight different from the maximum takeoff weight at which noise certification is requested if the necessary EPNL correction does not exceed 2 EPNdB. The approach test may be conducted at a weight different from the maximum landing weight at which noise certification is requested provided the necessary EPNL correction does not exceed 1 EPNdB. Approved data may be used to determine the variation of EPNL with weight for both takeoff and approach test conditions.

(5) The takeoff test must meet the conditions of § C36.7 of Appendix C of this part.

(6) The approach test must be conducted with the aircraft stabilized and following a $3° \pm 0.5°$ approach angle and must meet the conditions of § C36.9.

(d) *Measurements.* (1) Position and performance data required to make the corrections referred to in § A36.3(c) of this appendix must be automatically recorded at an approved sampling rate. Measuring equipment must be approved by the FAA.

(2) Position and performance data must be corrected, by the methods outlined in § A36.3(d) of this appendix to standard pressure at sea level, an ambient temperature of 77° F., a relative humidity of 70 percent, and zero wind.

(3) Acoustic data must be corrected by the methods of § A36.3(d) of this appendix to standard pressure at sea level, an ambient temperature of 77° F., and a relative humidity of 70 percent. Acoustic data corrections must also be made for a minimum distance of 370 feet between the aircraft's approach path and the approach measuring point, a takeoff path vertically above the flyover measuring point and for differences of more than 20 feet in elevation of measuring locations relative to the elevation of the nearest point of the runway.

(4) The airport tower or another facility must be approved for use as the location at which measurements of atmospheric parameters are representative of those conditions existing over the geographical area in which aircraft noise measurements are made. However, the surfac wind velocity and temperature must be measured near the microphone at the approach, sideline, and takeoff measurement locations, and the tests are not acceptable unless the conditions conform to § A36.1(b)(3) of this appendix.

(5) Enough sideline measurement stations must be used during tests so that the maximum sideline noise is clearly defined with respect to location and level.

Section A36.2 *Measurement of aircraft noise received on the ground*—(a) *General.* (1) These measurements provide the data for determining one-third octave band noise produced by aircraft during testing procedures, at specific observation stations, as a function of time.

(2) Methods for determination of the distance form the observation stations to the aircraft include theodolite triangulation techniques, scaling aircraft dimensions on photographs made as the aircraft flies directly over the measurement points, radar altimeters, and radar tracking systems. The method used must be approved.

(3) Sound pressure level data for noise type certification purposes must be obtained with approved acoustical equipment and measurement practices.

(b) *Measurement system.* (1) The acoustical measurement system must consist of approved equipment equivalent to the following:

(i) A microphone system with frequency response compatible with measurement and analysis system accuracy as stated in paragraph (c) of this section.

(ii) Tripods or similar microphone mountings that minimize interference with the sound being measured.

(iii) Recording and reproducing equipment characteristics, frequency response, and dynamic range compatible with the response and accuracy requirements of paragraph (c) of this section.

(iv) Acoustic calibrators using sine wave or broadband noise of known sound pressure level. If broadband noise is used, the signal must be described in terms of its average and maximum rms value for a nonoverload signal level.

(v) Analysis equipment with the response and accuracy requirements of paragraph (d) of this section.

(c) *Sensing, recording, and reproducing equipment.* (1) The sound produced by the aircraft shall be recorded in such a way that the complete information, time history included, is retained. A magnetic tape recorder is acceptable.

(2) The characteristics of the system must comply with the recommendations given in International Electrotechnical Commission (IEC) Publication No. 179 with regard to the sections concerning microphone and amplifier characteristics. The text and specifications of IEC Publication No. 179 entitled: "Precision Sound Level Meters" are incorporated by reference into this part and are made a part hereof as provided in 5 U.S.C. 552(a)(1) and 1 CFR Part 20. This publication was published in 1965 by the Bureau Central de la Commission Electrotechnique Internationale located at 1, rue de Varembe, Geneva, Switzerland, and copies may be purchased at that place. Copies of this publication are available for examination at the DOT Library, Federal Office Building 10A Branch and at the Office of Noise Abatement both located at Headquarters, Federal Aviation Administration, 800 Independence Avenue, Washington, D.C. Moreover, copies of this publication are available for examination at the Regional Offices of the FAA. Furthermore, a historic, official file will be maintained by the Office of Noise Abatement and will contain any changes made to this publication.

(3) The response of the complete system to a sensibly plane progressive sinusoidal wave of constant amplitude must lie within the tolerance limits specified in IEC Publication No. 179, over the frequency range 45 to 11,200 Hz.

(4) If limitations of the dynamic range of the equipment make it necessary, high frequency preemphasis must be added to the recording channel with the converse deemphasis on playback. The preemphasis must be applied such that the instantaneous recorded sound pressure level of the noise signal between 800 and 11,200 Hz does not vary more than 20 dB between the maximum and minimum one-third octave bands.

(5) The equipment must be acoustically calibrated using facilities for acoustic freefield calibration and electronically calibrated as stated in paragraph (d) of this section.

(6) A windscreen must be employed with the microphone during all measurements of aircraft noise when the wind speed is in excess of 6 knots. Corrections for any insertion loss produced by the windscreen, as a function of frequency, must be applied to the measured data and the corrections applied must be reported.

(d) *Analysis equipment.* (1) A frequency analysis of the acoustical signal shall be performed using one-third octave filters complying with the recommendations given in International Electrotechnical Commission (IEC) Publication No. 225. The text and specifications of IEC publication No. 225 entitled "Octave, Half-Octave and Third-Octave Band Filters Intended for the Analysis of Sounds and Vibrations" are incorporated by reference into this part and are made a part hereof as provided in 5 U.S.C. 552(a)(1) and 1 CFR Part 20. This publication was published in 1966 by the Bureau Central de la Commission Electrotechnique Internationale located at 1, rue de Varembe, Geneva, Switzerland, and copies may be purchased at that place. Copies of this publication are available for examination at the Office of Noise Abatement and at the DOT Library, Federal Office Building 10A Branch both located at Headquarters, Federal Aviation Administration, 800 Independence Avenue, Washington, D.C. Moreover, copies of this publication are available for examination at the Regional Offices of the FAA. Furthermore

a historic, official file will be maintained by the Office of Noise Abatement and will contain any changes made to this publication.

(2) A set of 24 consecutive one-third octave filters must be used. The first filter of the set must be centered at a geometric mean frequency of 50 Hz and the last of 10 kHz.

(3) The analyzer indicating device must be analog, digital, or a combination of both. The preferred sequence of signal processing is:

(i) Squaring the one-third octave filter outputs;

(ii) Averaging or integrating; and

(iii) Linear to logarithmic conversion.

The indicating device must have a minimum crest factor capacity of 3 and shall measure, within a tolerance of ±1.0dB, the true root-mean-square (rms) level of the signal in each of the 24 one-third octave bands. If other than a true rms device is utilized, it must be calibrated for nonsinusoidal signals and time varying levels. The calibration must provide means for converting the output levels to true rms values.

(4) The dynamic response of the analyzer to input signals of both full-scale and 20 dB less than full-scale amplitude, shall conform to the following two requirements:

(i) When a sinusoidal pulse of 0.5-second duration at the geometrical mean frequency of each one-third octave band is applied to the input, the maximum output value shall read 4 dB±1 dB less than the value obtained for a steady state sinusoidal signal of the same frequency and amplitude.

(ii) The maximum output value shall exceed the final steady state value by 0.5±0.5 dB when a steady state sinusoidal signal at the geometrical mean frequency of each one-third octave band is suddenly applied to the analyzer input and held constant.

(5) A single value of the rms level must be provided every 0.5±0.01 second for each of the 24 one-third octave bands. The levels from all of the 24 one-third octave bands must be obtained within a 50-millisecond period. No more than 5 milliseconds of data from any 0.5-second period may be excluded from the measurement.

(6) The amplitude resolution of the analyzer must be at least 0.25 dB.

(7) Each output level from the analyzer must be accurate within ±1.0 dB with respect to the input signal, after all systematic errors have been eliminated. The total systematic errors for each of the output levels must not exceed ±3 dB. For contiguous filter systems, the systematic correction between adjacent one-third octave channels may not exceed 4 dB.

(8) The dynamic range capability of the analyzer for display of a single aircraft noise event must be at least 55 dB in terms of the difference between full-scale output level and the maximum noise level of the analyzer equipment.

(9) The complete electronic system must be subjected to a frequency and amplitude electrical calibration by the use of sinusoidal or broadband signals at frequencies covering the range of 45 to 11,200 Hz, and of known amplitudes covering the range of signal levels furnished by the microphone. If broadband signals are used, they must be described in terms of their average and maximum rms values for a nonoverload signal level.

(e) *Noise measurement procedures.* (1) The microphones must be oriented so that the maximum sound received arrives as nearly as reasonable in the direction for which the microphones are calibrated. The microphones must be placed so that their sensing elements are approximately 4 feet above ground.

(2) Immediately prior to and after each test, a recorded acoustic calibration of the system must be made in the field with an acoustic calibrator for the two purposes of checking system sensitivity and providing an acoustic reference level for the analysis of the sound level data.

(3) For the purpose of minimizing equipment or operator error, field calibrations must be supplemented with the use of an insert voltage device to place a known signal at the input of the microphone, just prior to and after recording aircraft noise data.

(4) The ambient noise, including both acoustical background and electrical noise of the measurement system, must be recorded and determined in the test area with the system gain set at levels which will be used for aircraft noise measurements.

Section A36.3 *Reporting and correcting measured data*—(a) *General.* Data representing physical measurements or corrections to measured data must be recorded in permanent form and appended to the record except that corrections to measurements for normal equipment response deviations need not be reported. All other corrections must be approved. Estimates must be made of the individual errors inherent in each of the operations employed in obtaining the final data.

(b) *Data reporting.* (1) Measured and corrected sound pressure levels must be presented in one-third octave band levels obtained with equipment conforming to the standards described in § A36.2 of this appendix.

(2) The type of equipment used for measurement and analysis of all acoustic aircraft performance and meteorological data must be reported.

(3) The following atmospheric environmental data, measured at hourly intervals or less during the test period at the observation points prescribed in § A36.1(d)(4) of this appendix, must be reported:

(i) Air temperature in degrees Fahrenheit and relative humidity in percent.

(ii) Maximum, minimum, and average wind in knots and their direction.

(iii) Atmospheric pressure in inches of Mercury.

(4) Comments on local topography, ground cover, and events that might interfere with sound recordings must be reported.

(5) The following aircraft information must be reported:

(i) Type, model, and serial numbers (if any) of aircraft and engines.

(ii) Gross dimensions of aircraft and location of engines.

(iii) Aircraft gross weight for each test run.

(iv) Aircraft configuration such as flap and landing gear positions.

(v) Airspeed in knots.

(vi) Engine performance in pounds of net thrust, engine pressure ratios, jet exit temperatures, and fan or compressor shaft rev./min. as recorded by cockpit instruments and manufacturer's data.

(vii) Aircraft height in feet determined by a method independent of cockpit instrumentation such as radar tracking theodolite triangulation, or approved photographic techniques.

(6) Aircraft speed and position and engine performance parameters must be recorded at an approved sampling rate sufficient to correct to the noise type certification reference conditions prescribed in § A36.3(c) of this appendix. Lateral position relative to the extended centerline of the runway, configuration, and gross weight must be reported.

(c) *Noise type certification reference conditions*—(1) *Meteorological conditions.* Aircraft position and performance data and the noise measurements must be corrected to the following noise type certification reference atmospheric conditions:

(a) Sea level pressure of 2116 psf (76 cm mercury),

(b) Ambient temperature of 77° F. (ISA+10°C.),

(c) Relative humidity of 70 percent,

(d) Zero wind.

(2) *Aircraft conditions.* The reference condition for takeoff is the maximum weight except as provided in § 36.1581(b),

The reference conditions for approach are:

(a) Design landing weight, except as provided in § 36.1581(b),

(b) Approach angle of 3°,

(c) Aircraft height of 370 feet above noise measuring station.

(d) *Data corrections.* (1) The noise data must be corrected to the noise type certification reference conditions as stated in § A36.3(c) of this appendix. The measured atmospheric conditions must be those obtained in accordance with § A36.1(d)(4) of this appendix. Atmospheric attenuation of sound requirements are given in § A36.5 of this appendix.

(2) The measured flight path must be corrected by an amount equal to the difference between the applicant's predicted flight paths for the test conditions and for the noise type certification reference conditions. Necessary corrections relating to aircraft flight path or performance may be derived from approved data other than certification test data. The flight path correction procedure for approach noise must be made with reference to a fixed aircraft height of 370 feet and a glide angle of 3°. The effective perceived noise level correction must be less than 2 EPNdB to allow for:

(a) The aircraft not passing vertically above the measuring point.

(b) The difference between 370 feet and the actual minimum distance of the aircraft's ILS antenna from the approach measuring points.

(c) The difference between the actual approach angle and 3°.

Detailed correction requirements are given in § A36.6 of this appendix.

(3) If aircraft sound pressure levels do not exceed the background sound pressure levels by at least 10 dB in any one-third octave band, approved corrections for the contribution of background sound pressure levels to observed sound pressure levels must be applied.

(e) *Validity of results.* (1) The test results must produce three average EPNL values and their 90 percent confidence limits, each being the arithmetic average of the corrected acoustical measurements for all valid test runs at the takeoff, approach, and sideline measuring points, respectively. If more than one acoustic measurement system is used at any single measurement location (such as for the symmetrical sideline measuring points), the resulting data for each test run must be averaged as a single measurement.

(2) The minimum sample size acceptable for each of the three certification measuring points is six. The samples must be large enough to establish statistically for each of the three average noise type certification levels a 90 percent confidence limit not exceeding ±1.5 EPNdB. No test result may be omitted from the average process unless otherwise specified by the FAA.

(3) The average EPNL values and their 90 percent confidence limits obtained by the foregoing process must be those by which the noise performance of the aircraft is assessed against the noise type certification criteria, and must be reported.

Section A36.4 *Symbols and units*—(a) *General.* The symbols used in Appendixes A and B of this part have the following meanings.

Symbol	Unit	Meaning
ant		*Antilogarithm to the Base 10.*
C(k)	dB	*Tone Correction.* The factor to be added to PNL(k) to account for the presence of spectral irregularities such as tones at the k-th increment of time.
d	sec	*Duration Time.* The length of the significant noise time history being the time interval between the limits of t(1) and t(2) to the nearest second.
D	dB	*Duration Correction.* The factor to be added to PNLM to account for the duration of the noise.
EPNL	EPNdB	*Effective Perceived Noise Level.* The value of PNL adjusted for both the presence of discrete frequencies and the time history. (The unit EPNdB is used instead of the unit dB.)
f(i) or fi	Hz	*Frequency.* The geometrical mean frequency for the i-th one-third octave band.
F(i, k)	dB	*Delta-dB.* The difference between the original and background sound pressure levels in the i-th one-third octave band at the k-th interval of time.
h	dB	*dB-Down.* The level to be subtracted from PNLTM that defines the duration of the noise.
H	%	*Relative Humidity.* The ambient atmospheric relative humidity.
(i) or i		*Frequency Band Index.* The numerical indicator that denotes any one of the 24 one-third octave bands with geometrical mean frequencies from 50 to 10,000 Hz.
(k)		*Time Increment Index.* The numerical indicator that denotes the number of equal time increments that have elapsed from a reference zero.
log		*Logarithm to the Base 10.*
log n(s)		*Noy Discontinuity Coordinate.* The log n value of the intersection point of the straight lines representing the variation of SPL with log n.
M(b), M(c)		*Noy Inverse Slope.* The reciprocals of the slopes of the straight lines representing the variation of SPL with log n.
n	noy	*Perceived Noisiness.* The perceived noisiness at any instant of time that occurs in a specified frequency range.
n(i, k)	noy	*Perceived Noisiness.* The perceived noisiness at the k-th instant of time that occurs in the i-th one-third octave band.
n(k)	noy	*Maximum Perceived Noisiness.* The maximum value of all of the 24 values of n(i) that occurs at the k-th instant of time.
N(k)	noy	*Total Perceived Noisiness.* The total perceived noisiness at the k-th instant of time calculated from the 24-instantaneous values of n(i, k).
p(b), p(c)		*Noy Slope.* The slopes of the straight lines representing the variation of SPL with log n.
PNL	PNdB	*Perceived Noise Level.* The perceived noise level at any instant of time (the unit PNdB is used instead of the unit dB).
PNL(k)	PNdB	*Perceived Noise Level.* The perceived noise level calculated from the 24 values of SPL (i,k) at the k-th increment of time. (The unit PNdB is used instead of the unit dB.)
PNLM	PNdB	*Maximum Perceived Noise Level.* The maximum value of PNL(k) that occurs during the aircraft flyover. (The unit PNdB is used instead of the unit dB.)
PNLT	PNdB	*Tone Corrected Perceived Noise Level.* The value of PNL adjusted for the presence of spectral irregularities (discrete frequencies) at any instant of time. (The unit PNdB is used instead of the unit dB.)
PNLT(k)	PNdB	*Tone Corrected Perceived Noise Level.* The value of PNL(k) adjusted for the presence of discrete frequencies that occurs at the k-th increment of time. (The unit PNdB is used instead of the unit dB.)
PNLTM	PNdB	*Maximum Tone Corrected Perceived Noise Level.* The maximum value of PNLT(k) that occurs during the aircraft flyover. (The unit PNdB is used instead of the unit dB.)
s(i,k)	dB	*Slope of Sound Pressure Level.* The change in level between adjacent one-third octave band sound pressure levels at the i-th band for the k-th instant of time.
Δs(i, k)	dB	*Change in Slope of Sound Pressure Level.*
s'(i, k)	dB	*Adjusted Slope of Sound Pressure Level.* The change in level between adjacent adjusted one-third octave band sound pressure levels at the i-th band for the k-th instant of time.
s̄(i, k)	dB	*Average Slope of Sound Pressure Level.*
SPL	dB re 0.0002 microbar.	*Sound Pressure Level.* The sound pressure level at any instant of time that occurs in a specified frequency range.
SPL(s)	dB re 0.0002 microbar.	*Noy Discontinuity Coordinate.* The SPL value of the intersection point of the straight lines representing the variation of SPL with log n.
SPL(b), SPL(c)	dB re 0.0002 microbar.	*Noy Intercept.* The intercepts on the SPL-axis of the straight lines representing the variation of SPL with log n.
SPL(i, k)	dB re 0.0002 microbar.	*Sound Pressure Level.* The sound pressure level at the k-th instant of time that occurs in the i-th one-third octave band.
SPL'(i, k)	dB re 0.0002 microbar.	*Adjusted Sound Pressure Level.* The first approximation to background level in the i-th one-third octave band for the k-th instant of time.
SPL"(i, k)	dB re 0.0002 microbar	*Background Sound Pressure Level.* The final approximation to background level in the i-th one-third octave band for the k-th instant of time.
SPLi	dB re 0.0002 microbar	*Maximum Sound Pressure Level.* The sound pressure level that occurs in the i-th one-third octave band of the spectrum for PNLTM.
SPLic	dB re 0.0002 microbar	*Corrected Maximum Sound Pressure Level.* The sound pressure level that occurs in the i-th one-third octave band of the spectrum for PNLTM corrected for atmospheric sound absorption.
t	sec	*Elapsed Time.* The length of time measured from a reference zero.
t(1), t(2)	sec	*Time Limit.* The beginning and end of the significant noise time history defined by h.
Δt	sec	*Time Increment.* The equal increments of time for which PNL(k) and PNLT(k) are calculated.
T	sec	*Normalizing Time Constant.* The length of time used as a reference in the integration method for computing duration corrections.
T	°F	*Temperature.* The ambient atmospheric temperature.
α(i	dB/feet.	*Test Atmospheric Absorption.* The atmospheric attenuation of sound that occurs in the i-th one-third octave band for the measured atmospheric temperature and relative humidity.
α(i'	dB/1000 feet.	
α(o	dB/feet.	*Reference Atmospheric Absorption.* The atmospheric attenuation of sound that occurs in the i-th one-third octave band for the reference atmospheric temperature and relative humidity.
α(o'	dB/1000 feet.	
β	degrees	*First Constant Climb Angle.*
γ	degrees	*Second Constant Climb Angle.*
δ	degrees.	*Thrust Cutback Angles.* The angles defining the points on the takeoff flight path at which thrust reduction is started and ended respectively.
ε	degrees.	
η	degrees	*Approach Angle.*
θ	degrees	*Takeoff Noise Angle.* The angle between the flight path and noise path for takeoff operation. It is identical for both measured and corrected flight paths.
λ	degrees	*Approach Noise Angle.* The angle between the flight path and the noise path for approach operation. It is identical for both measured and corrected flight paths.
Δ1	EPNdB	*PNLT Correction.* The correction to be added to the EPNL calculated from measured data to account for noise level changes due to differences in atmospheric absorption and noise path length between reference and test conditions.
Δ2	EPNdB	*Noise Path Duration Correction.* The correction to be added to the EPNL calculated from measured data to account for noise level changes due to the noise duration because of differences in flyover altitude between reference and test condition.
Δ3	EPNdB	*Weight Correction.* The correction to be added to the EPNL calculated from measured data to account for noise level changes due to differences between maximum and test aircraft weights.
Δ4	EPNdB	*Approach Angle Correction.* The correction to be added to the EPNL calculated from measured data to account for noise level changes due to differences between 3° and the test approach angle.
ΔAB	feet.	*Takeoff Profile Changes.* The changes in the basic parameters defining the takeoff profile due to differences between reference and test conditions.
Δβ	degrees.	
Δγ	degrees.	
Δδ	degrees.	
Δε	degrees.	

FLIGHT PROFILE IDENTIFICATION POSITIONS

Position	*Description*
A	Start of takeoff roll.
B	Liftoff.
C	Start of first constant climb.
D	Start of thrust reduction.
E	Start of second constant climb.
Ec	Start of second constant climb on corrected flight path.
F	End of noise certification takeoff flight path.
Fc	End of second constant climb on corrected flight path.
G	Start of noise certification approach flight path.
Gr	Start of noise certification approach on reference flight path.
H	Position on approach path directly above noise measuring station.
I	Start of level off.
Ir	Start of level off on reference approach flight path.
J	Touchdown.
K	Takeoff noise measuring station.
L	Sideline noise measuring station (not on flight track).

FLIGHT PROFILE IDENTIFICATION POSITIONS—Continued

Position	Description
M	End of noise type certification takeoff flight track.
N	Approach noise measuring station.
O	Threshold of approach end of runway
P	Start of noise type certification approach flight track.
Q	Position on measured takeoff flight path corresponding to PNLTM at station K.
Qc	Position on corrected takeoff flight path corresponding to PNLTM at station K.
R	Position on measured takeoff flight path nearest to station K.
Rc	Position on corrected takeoff flight path nearest to station K.
S	Position on measured approach flight path corresponding to PNLTM at station N.
Sr	Position on reference approach flight path corresponding to PNLTM at station N.
T	Position on measured approach flight path nearest to station N.
Tr	Position on reference approach flight path nearest to station N.
X	Position on measured takeoff flight path corresponding to PNLTM at station L.

FLIGHT PROFILE DISTANCES

Distance	Unit	Meaning
AB	feet	*Length of Takeoff Roll.* The distance along the runway between the start of takeoff roll and lift off.
AK	feet	*Takeoff Measurement Distance.* The distance from the start of roll to the takeoff noise measurement station along the extended centerline of the runway.
AM	feet	*Takeoff Flight Track Distance.* The distance from the start of roll to the takeoff flight track position along the extented centerline of the runway for which the position of the aircraft need no longer be recorded.
KQ	feet	*Measured Takeoff Noise Path.* The distance from station K to the measured aircraft position Q.
KQc	feet	*Corrected Takeoff Noise Path.* The distance from station K to the corrected aircraft position Qc.
KR	feet	*Measured Takeoff Minimum Distance.* The distance from station K to point R on the measured flight path.
KRc	feet	*Corrected Takeoff Minimum Distance.* The distance from station K to point Rc on the corrected flight path.
LX	feet	*Measured Sideline Noise Path.* The distance from station L to the measured aircraft position X.
NH	feet	*Aircraft Approach Height.* The vertical distance between the aircraft and the approach measuring station.
NS	feet	*Measured Approach Noise Path.* The distance from station N to the measured aircraft position S.
NSr	feet	*Reference Approach Noise Path.* The distance from station N to the reference aircraft position Sr.
NT	feet	*Measured Approach Minimum Distance.* The distance from station N to point T on the measured flight path.
NTr	feet	*Reference Approach Minimum Distance.* The distance from station N to point Tr on the corrected flight path; it equals 360 feet.
ON	feet	*Approach Measurement Distance.* The distance from the runway threshold to the approach measurement station along the extended centerline of the runway.
OP	feet	*Approach Flight Track Distance.* The distance from the runway threshold to the approach flight track position along the extended centerline of the runway for which the position of the aircraft need no longer be recorded.

Section A36.5 *Atmospheric attenuation of sound*—(a) *General.* The atmospheric attenuation of sound must be determined in accordance with the curves of Figure 15 presented in SAE ARP 866 or by the simplified procedure presented below. SAE ARP 866 is a publication entitled: "Standard Values of Atmospheric Absorption as a Function of Temperature and Humidity for Use in Evaluating Aircraft Flyover Noise" and the recommendations presented therein are incorporated by reference into this Part and are made a part hereof as provided in 5 U.S.C. 522(a)(1) and 1 CFR Part 20. This publication was published on August 31, 1964, by the Society of Automotive Engineers, Inc., located at 2 Pennsylvania Plaza, New York, N.Y. 10001, and copies may be purchased at that place. Copies of this publication are available for examination at the DOT Library, Federal Office Building 10A Branch and at the Office of Noise Abatement both located at Headquarters, Federal Aviation Administration, 800 Independence Avenue, Washington, D.C. Moreover, copies of this publication are available for examination at the Regional Offices of the FAA. Furthermore, a historic, official file will be maintained by the Office of Noise Abatement and will contain any changes made to this publication.

(b) *Reference conditions.* For the reference atmospheric conditions of temperature and relative humidity equal to 77° F. and 70 percent, respectively, and for all other conditions of temperature and relative humidity where their product is equal to or greater than 4,000, the sound absorption must be expressed by the following equation:

$$\alpha_{io}' = f_i/500 \text{ (dB/1,000 ft.)}$$

α_{io}' is the atmospheric attenuation of sound that occurs in the i-th one-third octave band for the reference atmospheric conditions and f_i is the geometrical mean frequency for the i-th one-third octave band.

(c) *Nonreference conditions.* (1) For all atmospheric conditions of temperature and relative humidity where their product is equal to or less than 4,000, the relationship between sound absorption, frequency, temperature, and humidity must be expressed by the following equation:

$$500\ \alpha_i'/f_i = (2/3)\ [(11/2) - (HT/1{,}000)]$$

α_i' is the atmospheric attenuation of sound that occurs in the i-th one-third octave band for a relative humidity of H percent and a temperature of T° Fahrenheit.

(2) Figure A1 graphically illustrates the simplified relationship. The second equation represents the inclined line which is valid for all values of HT up to and including 4,000. For all values of 4,000 and greater, the horizontal line, represented by the first equation, is valid. The minimum, reference, and maximum values of humidity and temperature are indicated in Figure A1.

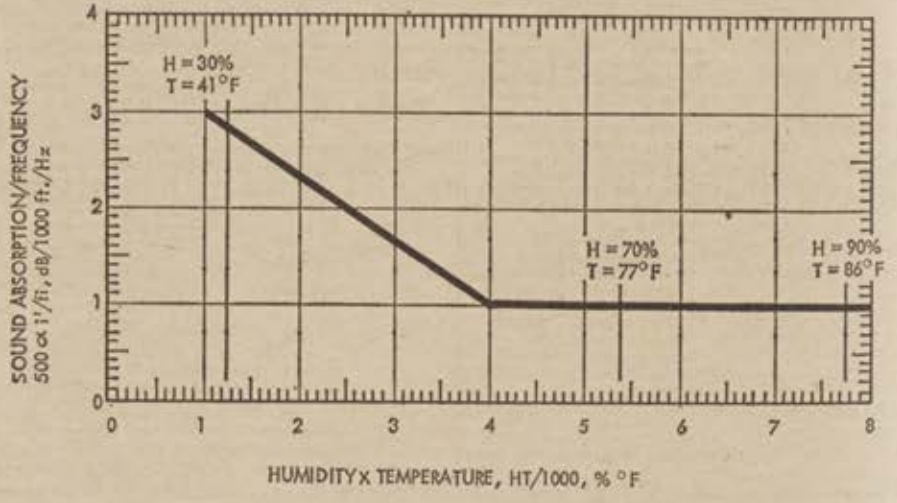

FIGURE A1. SIMPLIFIED RELATIONSHIP BETWEEN ATMOSPHERIC SOUND ATTENUATION, FREQUENCY, HUMIDITY, AND TEMPERATURE.

Section A36.6 *Detailed correction procedures*—(a) *General.* If the noise type certification test conditions are not equal to the noise certification reference conditions, appropriate positive corrections must be made to the EPNL calculated from the measured data. Differences between reference and test conditions which lead to positive corrections can result from the following:

(1) Atmospheric absorption of sound under test conditions greater than reference,

(2) Test flight path at higher altitude than reference, and

(3) Test weight less than maximum.

Negative corrections are permitted if the atmospheric absorption of sound under test conditions is less than reference and also if the test flight path is at a lower altitude than reference.

The takeoff test flight path can occur at a higher altitude than reference if the meteorological conditions permit superior aerodynamic performance ("cold day" effect). Conversely, the "hot day" effect can cause the takeoff test flight path to occur at a lower altitude than reference. The approach test flight path can occur at either higher or lower altitudes than reference irrespective of the meteorological conditions.

The correction procedures presented in the following discussion consist of one or more of five possible values added algebraically to

the EPNL calculated as if the tests were conducted completely under the noise type certification reference conditions. The flight profiles must be determined for both takeoff and approach, and for both reference and test conditions. The test procedures require noise and flight path recordings with a synchronized time signal from which the test profile can be delineated, including the aircraft position for which PNLTM is observed at the noise measuring station. For takeoff, a flight profile corrected to reference conditions may be derived from manufacturer's data, and for approach, the reference profile is known.

The noise paths from the aircraft to the noise measuring station corresponding to PNLTM are determined for both the test and reference profiles. The SPL values in the spectrum of PNLTM are then corrected for the effects of:

(1) Change in atmospheric sound absorption,

(2) Atmospheric sound absorption on the change in noise path length,

(3) Inverse square law on the change in noise path length.

The corrected values of SPL are then converted to PNLT from which is subtracted PNLTM. The difference represents the correction to be added algebraically to the EPNL calculated from the measured data.

The minimum distances from both the test and reference profiles to the noise measuring station are calculated and used to determine a noise duration correction due to the change in the altitude of aircraft flyover. The duration correction is added algebraically to the EPNL calculated from the measured data.

From approved data in the form of curves or tables giving the variation of EPNL with takeoff weight and also for landing weight, corrections are determined to be added to the EPNL calculated from the measured data to account for noise level changes due to differences between maximum and test aircraft weights.

From approved data in the form of curves or tables giving the variation of EPNL with approach angle, corrections are determined to be added algebraically to the EPNL calculated from measured data to account for noise level changes due to differences between 3° and the test approach angle.

(b) *Takeoff profiles.* Figure A2 illustrates a typical takeoff profile. The aircraft begins the takeoff roll at point A, lifts off at point B, and initiates the first constant climb at point C at an angle β. The noise abatement thrust cutback is started at point D and completed at point E where the second constant climb is defined by the angle δ (usually expressed in terms of the gradient in per cent).

The end of the noise type certification takeoff flight path is represented by aircraft position F whose vertical projection on the flight track (extended centerline of the runway) is point M. The position of the aircraft must be recorded for a distance AM of at least 6 nautical miles.

Position K is the takeoff noise measuring station whose distance AK is specified as 3.5 nautical miles. Position L is the sideline noise measuring station located on a line parallel to and a specified distance from the runway centerline where the noise level during takeoff is greatest.

The takeoff profile is defined by the following five parameters: AB, the length of takeoff roll; β, the first constant climb angle; γ, the second constant climb angle; and δ and ϵ, the thrust cutback angles. These five parameters are functions of the aircraft performance and weight and the atmospheric conditions of temperature, pressure, and wind velocity and direction. If the test conditions are not equal to the reference conditions, the corresponding test and reference profile parameters will be different as shown in Figure A3. The profile parameter changes, identified as $\triangle$AB, $\triangle\beta$, $\triangle\alpha$, $\triangle\delta$, and $\triangle\epsilon$, can be derived from the manufacturer's data (approved by the FAA) and can be used to define the flight profile corrected to the reference conditions. The relationships between the measured and corrected takeoff flight profiles can then be used to determine the corrections, which if positive, must be applied to the EPNL calculated from the measured data.

NOTE: Under reference atmospheric conditions and with maximum takeoff weight, the gradient of the second constant climb angle, δ, is specified to be not less than 4 percent. However, the actual gradient will depend upon the test atmospheric conditions, assuming maximum takeoff weight and the parameters characterizing engine performance are constant (rpm, epr, or any other parameter used by the pilot).

Figure A4 illustrates portions of the measured and corrected takeoff flight paths including the significant geometrical relationships influencing sound propagation. EF represents the measured second constant flight path with climb angle γ, and EcFc represents the corrected second constant flight path at reduced altitude and with reduced climb angle $\delta - \Delta\delta$.

Position Q represents the aircraft location on the measured takeoff flight path for which PNLTM is observed at the noise measuring station K, and Qc is the corresponding position on the corrected flight path. The measured and corrected noise propagation paths are KQ and KQc, respectively, which form the same angle θ with their flight paths.

Position R represents the point on the measured takeoff flight path nearest the noise measuring station K, and Rc is the corresponding position on the corrected flight path. The minimum distance to the measured and corrected flight paths are indicated by the lines KR and KRc, respectively, which are normal to their flight paths.

(c) *Approach profiles.* Figure A5 illustrates a typical approach profile. The beginning of the noise type certification approach profile is represented by aircraft position G whose vertical projection on the flight track (extended centerline of the runway) is point P. The position of the aircraft must be recorded for a distance OP from the runway threshold O of at least 4 nautical miles.

The aircraft approaches at an angle η, passes vertically over the noise measuring station N at a height of NH, begins the level off at position I, and touches down at position J. The distance ON is specified as 1.0 nautical mile.

The approach profile is defined by the approach angle η and the height NH which are functions of the aircraft operating conditions controlled by the pilot. If the measured approach profile parameters are different from the corresponding reference approach parameters (3° and 370 feet, respectively, as shown in Figure A6), corrections, if positive, must be applied to the EPNL calculated from the measured data.

Figure A7 illustrates portions of the measured and reference approach flight paths including the significant geometrical relationships influencing sound propagation. GI represents the measured approach path with approach angle η, and GrIr represents the reference approach flight path at lower altitude and approach angle of 3°.

Position S represents the aircraft location on the measured approach flight path for which PNLTM is observed at the noise measuring station N, and Sr is the corresponding position on the reference approach flight path. The measured and corrected noise propagation paths are NS and NSr, respectively, which form the same angle λ with their flight paths.

Position T represents the point on the measured approach flight path nearest the noise measuring station N, and Tr is the corresponding point on the reference approach flight path. The minimum distances to the measured and reference flight paths are indicated by the lines NT and NTr, respectively, which are normal to their flight paths.

NOTE: The reference approach flight path is defined by $\eta = 3°$ and NH = 370 feet. Consequently, NTr can also be defined; NTr = 369 feet to the nearest foot and is, therefore, considered to be one of the reference parameters.

(d) *PNLT corrections.* Whenever the ambient atmospheric conditions of temperature and relative humidity differ from the reference conditions (77° F. and 70 percent, respectively) and whenever the measured takeoff and approach flight paths differ from the corrected and reference flight paths respectively, it may be necessary or desirable to apply corrections to the EPNL values calculated from the measured data. If the corrections are required, they must be calculated as described below.

Referring to the takeoff flight path shown in Figure A4, the spectrum of PLNTM observed at station K for the aircraft at position Q, is decomposed into its individual SPLi values. A set of corrected values are then computed as follows:

$$\begin{aligned} SPLic = SPLi &+ (\alpha i - \alpha io)\, KQ \\ &+ \alpha io\, (KQ - KQc) \\ &+ 20 \log\, (KQ/KQc) \end{aligned}$$

where SPLi and SPLic are the measured and corrected sound pressure levels, respectively, in the i-th one-third octave band. The first correction term accounts for the effects of change in atmospheric sound absorption where αi and αio are the sound absorption coefficients for the test and reference atmospheric conditions, respectively, for the

i-th one-third octave band and KQ is the measured takeoff noise path. The second correction term accounts for the effects of atmospheric sound absorption on the change in the noise path length where KQc is the corrected takeoff noise path. The third correction term accounts for the effects of the inverse square law on the change in the noise path length.

The corrected values of SPLic are then converted to PNLT and a correction term calculated as follows:

$$\Delta 1 = PNLT - PNLTM$$

which represents the correction to be added algebraically to the EPNL calculated from the measured data.

The same procedure is used for the approach flight path except that the values for SPLic relate to the approach noise paths shown in Figure A7 as follows:

$$SPLic = SPLi + (\alpha i - \alpha io)\ NS + \alpha io\ (NS - NSr) + 20 \log\ (NS/NSr)$$

where NS and NSr are the measured and reference approach noise paths, respectively. The remainder of the procedure is the same as for the takeoff flight path.

The same procedure is used for the sideline flight path except that the values for SPLic relate only to the measured sideline noise path as follows:

$$SPLic = SPLi + (\alpha i - \alpha io)\ LX$$

where LX is the measured sideline noise path from station L (Figure A2) to position X of the aircraft for which PNLTM is observed at station L. Only the correction term accounting for the effects of change in atmospheric sound absorption is considered. The difference between the measured and corrected noise path lengths are assumed negligible for the sideline flight path. The remainder of the procedure is the same as for the takeoff flight path.

(e) *Duration corrections.* Whenever the measured takeoff and approach flight paths differ from the corrected and reference flight paths, respectively, it may be necessary or desirable to apply duration corrections to the EPNL values calculated from the measured data. If the corrections are required, they shall be calculated as described below.

Referring to the takeoff flight path shown in Figure A4, a correction term is calculated as follows:

$$\Delta 2 = -10 \log\ (KR/KRc)$$

which represents the correction to be added algebraically to the EPNL calculated from the measured data. The lengths KR and KRc are the measured and corrected takeoff minimum distances, respectively, from the noise measuring station K, to the measured and corrected flight paths. The negative sign indicates that, for the particular case of a duration correction, the EPNL calculated from the measured data is reduced if the measured flight path is at a greater altitude than the corrected flight path.

The same procedure is used for the approach flight path except that the correction relates to the approach minimum distances shown in Figure A7 as follows:

$$\Delta 2 = -10 \log\ (NT/369)$$

where NT is the measured approach minimum distance from the noise measuring station N to the measured flight path and 369 feet is the minimum distance from station N to the reference flight path.

No duration correction is computed for the sideline flight path because the differences between the measured and corrected flight paths are assumed negligible.

(f) *Weight corrections.* Whenever the aircraft weight, during either the noise type certification takeoff, sideline, or approach test, is less than the corresponding maximum takeoff or landing weight, a correction must be applied to the EPNL value calculated from the measured data. The corrections are determined from approved data in the form of tables or curves such as schematically indicated in Figures A8 and A9. The data must be applicable to the noise type certification reference atmospheric conditions.

(g) *Approach angle corrections.* Whenever the aircraft approach angle during the noise type certification approach test is greater than 3°, a correction must be applied to the EPNL value calculated from the measured data. The corrections are determined from approved data in the form of tables or curves such as schematically indicated in Figure A10. The data must be applicable to the noise type certification reference atmospheric conditions and to the test landing weight.

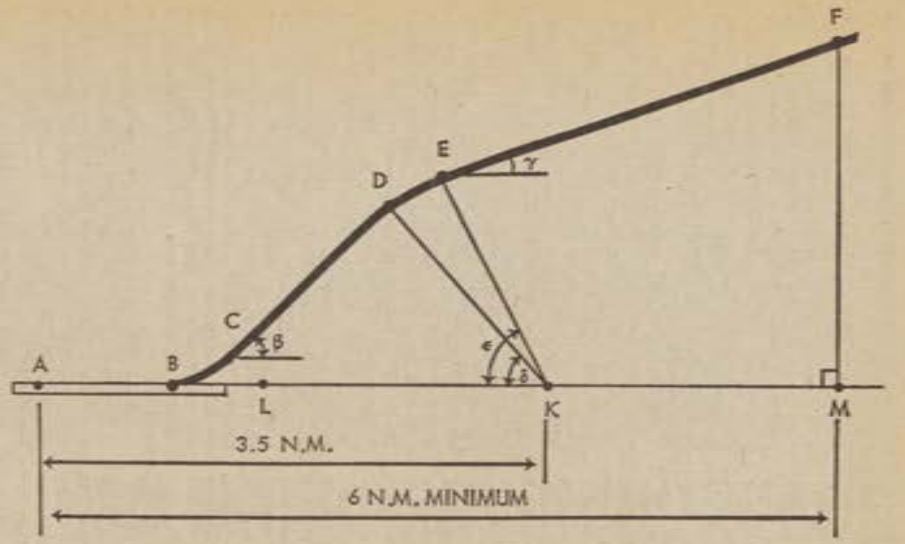

FIGURE A2. MEASURED TAKEOFF PROFILE.

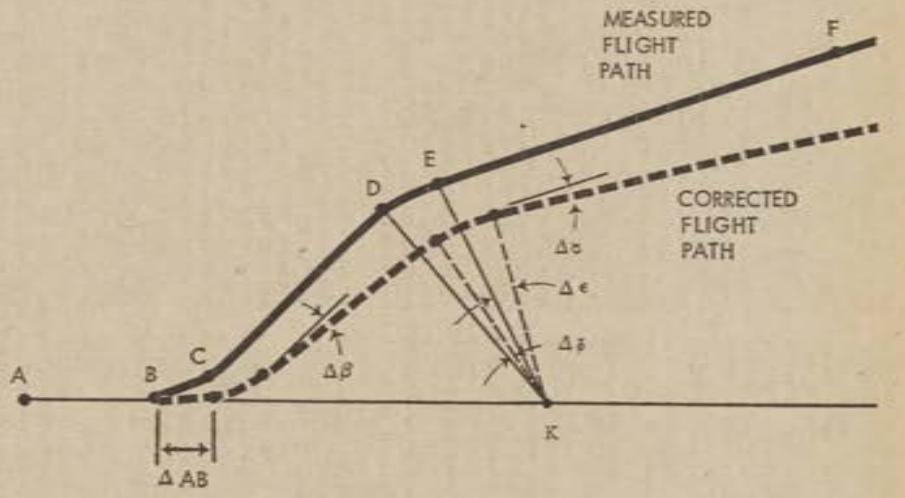

FIGURE A3. COMPARISON OF MEASURED AND CORRECTED TAKEOFF PROFILES.

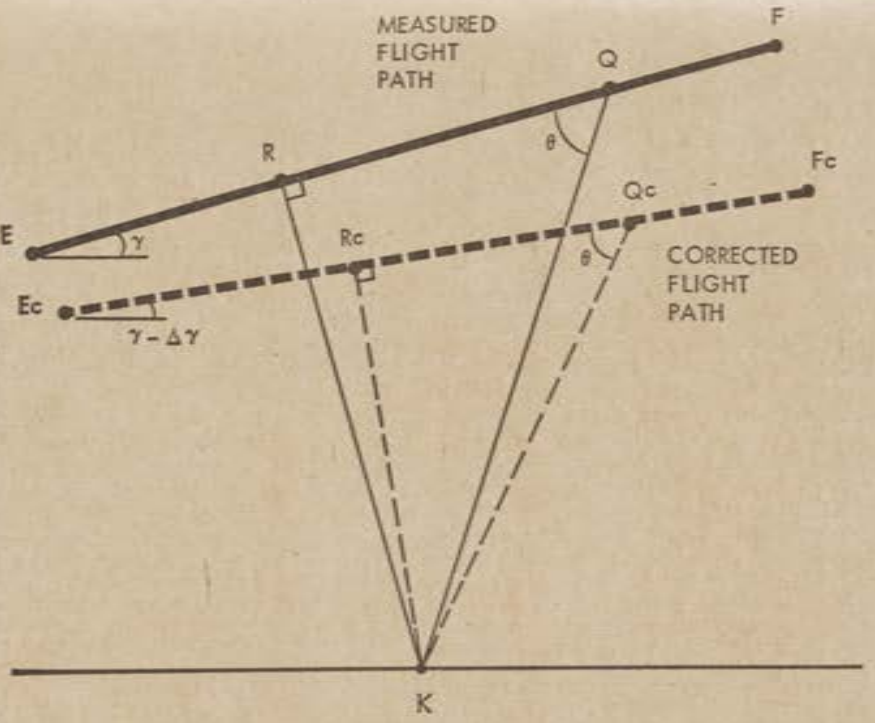

FIGURE A4. TAKEOFF PROFILE CHARACTERISTICS INFLUENCING SOUND PROPAGATION.

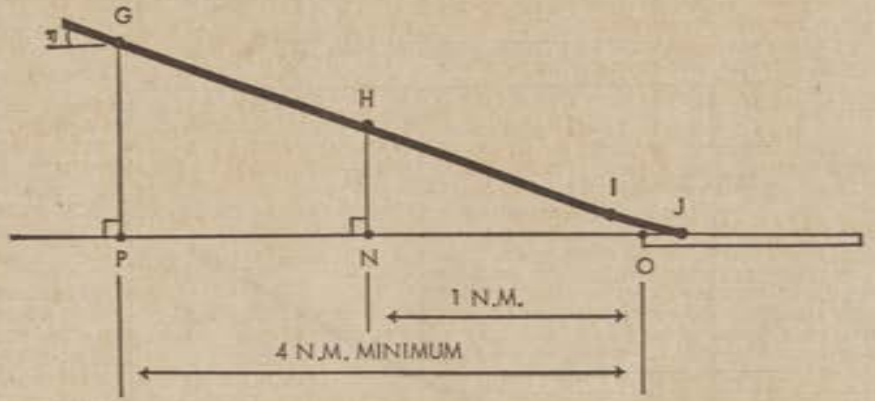

FIGURE A5. MEASURED APPROACH PROFILE.

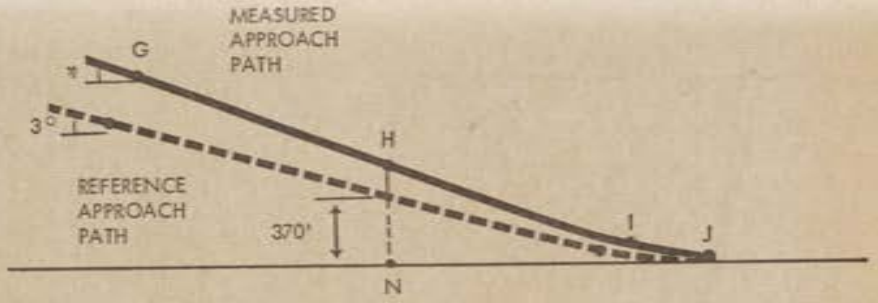

FIGURE A6. COMPARISON OF MEASURED AND CORRECTED APPROACH PROFILES.

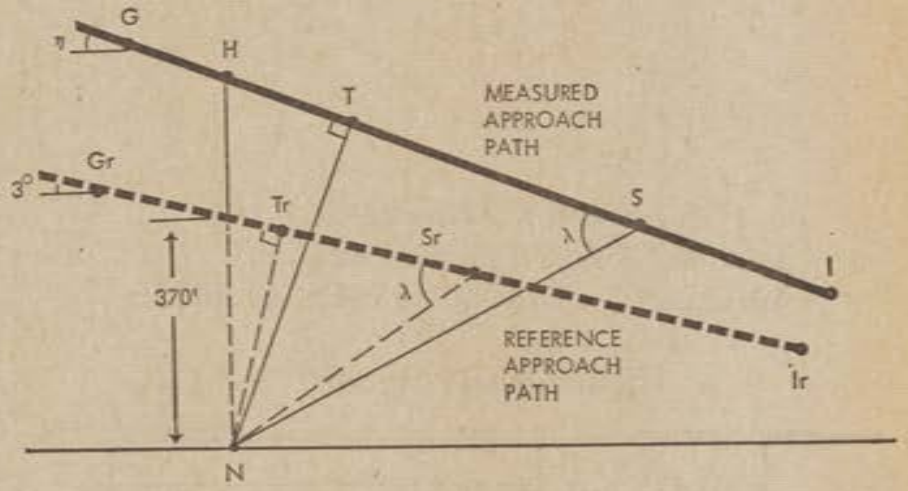

FIGURE A7. APPROACH PROFILE CHARACTERISTICS INFLUENCING SOUND PROPAGATION.

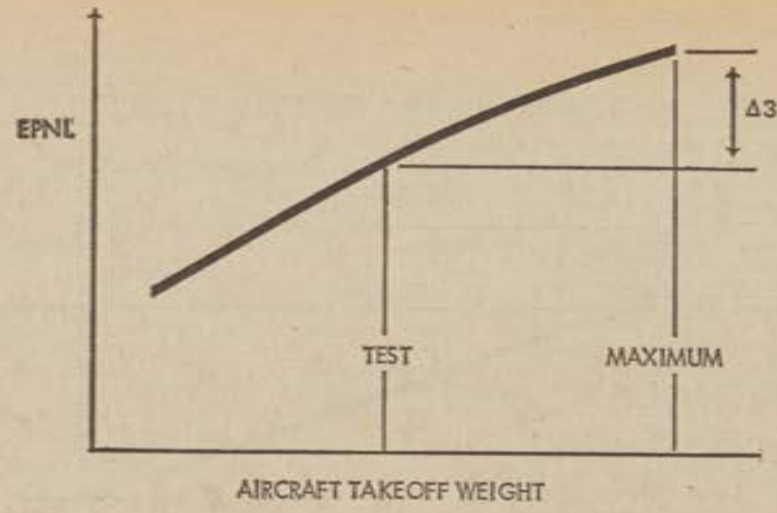

FIGURE A8. TAKEOFF WEIGHT CORRECTION FOR EPNL AT 3.5 NAUTICAL MILES FROM BRAKE RELEASE.

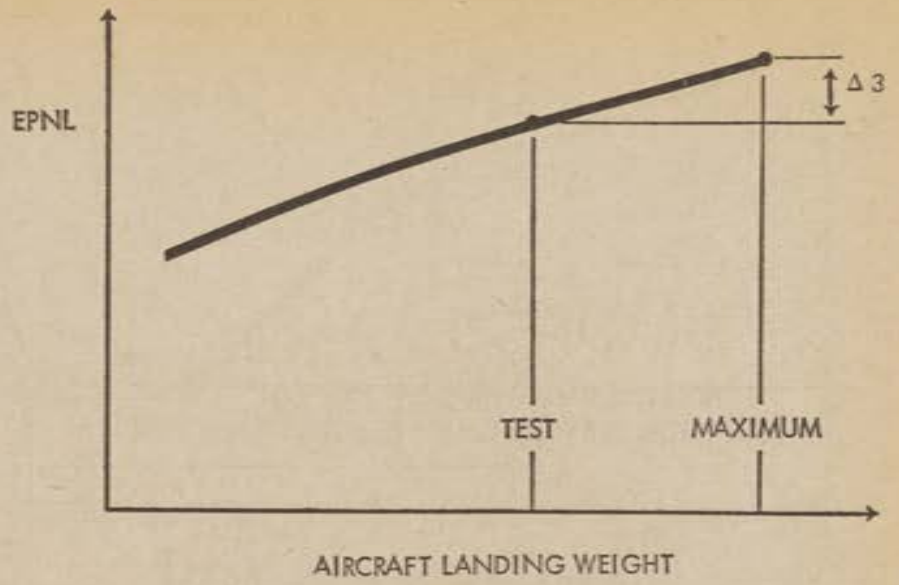

FIGURE A9. APPROACH WEIGHT CORRECTION FOR EPNL AT 1.0 NAUTICAL MILE FROM RUNWAY THRESHOLD.

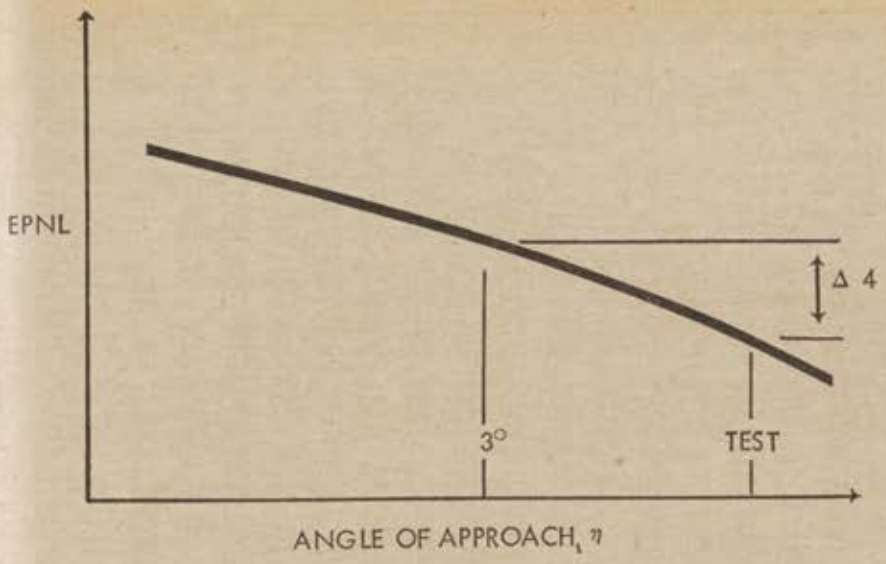

FIGURE A10. APPROACH ANGLE CORRECTION FOR EPNL AT 1.0 NAUTICAL MILE FROM RUNWAY THRESHOLD.

APPENDIX B—AIRCRAFT NOISE EVALUATION UNDER § 36.103

Section B36.1 *General.* The procedures in this appendix must be used to determine the noise evaluation quantity designated as effective perceived noise level, EPNL, under § 36.103. These procedures, which use the physical properties of noise measured as prescribed by Appendix A of this part, consist of the following:

(a) The 24 one-third octave bands of sound pressure level are converted to perceived noisiness by means of a noy table. The noy values are combined and then converted to instantaneous perceived noise levels, PNL(k).

(b) A tone correction factor, C(k), is calculated for each spectrum to account for the subjective response to the presence of the maximum tone.

(c) The tone correction factor is added to the perceived noise level to obtain tone corrected perceived noise levels, PNLT(k), at each one-half second increment of time. The instantaneous values of tone corrected perceived noise level are noted with respect to time and the maximum value, PNLTM, is determined.

$$PNLT(k) = PNL(k) + C(k)$$

(d) A duration correction factor, D, is computed by integration under the curve of tone corrected perceived noise level versus time.

(e) Effective perceived noise level, EPNL, is determined by the algebraic sum of the maximum tone corrected perceived noise level and the duration correction factor.

$$EPNL = PNLTM + D$$

Section B36.2 *Perceived noise level.* Instantaneous perceived noise levels, PNL(k), must be calculated from instantaneous one-third octave band sound pressure levels, SPL(i,k), as follows:

Step 1. Convert each one-third octave band SPL(i,k), from 50 to 10,000 Hz, to perceived noisiness, n(i,k), by reference to Table B1, or to the mathematical formulation of the noy table given in § B36.7 of this appendix.

Step 2. Combine the perceived noisiness values, n(i,k), found in step 1 by the following formula:

$$N(k) = n(k) + 0.15\left[\left[\sum_{i=1}^{24} n(i,k)\right] - n(k)\right]$$

$$= 0.85n(k) + 0.15\sum_{i=1}^{24} n(i,k)$$

where $n(k)$ is the largest of the 24 values of n(i,k) and N(k) is the total perceived noisiness.

Step 3. Convert the total perceived noisiness, N(k), into perceived noise level, PNL(k), by the following formula:

$$PNL(k) = 40.0 + 33.3 \log N(k)$$

which is plotted in Figure B1. PNL(k) may also be obtained by choosing N(k) in the 1,000 Hz column of Table B1 and then reading the corresponding value of SPL(i,k) which, at 1,000 Hz, equals PNL(k).

Table B1. Perceived Noisiness (NOYs) as a Function of Sound Pressure Level.

SPL dB	One-Third Octave Band Center Frequencies f, HZ																							
	50	63	80	100	125	160	200	250	315	400	500	630	800	1000	1250	1600	2000	2500	3150	4000	5000	6300	8000	10000
28																			1.00	1.00				
29																		1.00	1.07	1.07	1.00			
30																		1.07	1.15	1.15	1.07	1.00		
31																		1.15	1.23	1.23	1.15	1.07		
32																	1.00	1.23	1.32	1.32	1.23	1.15	1.00	
33																	1.07	1.32	1.41	1.41	1.32	1.23	1.07	
34																1.00	1.15	1.41	1.51	1.51	1.41	1.32	1.15	
35																1.07	1.23	1.51	1.62	1.62	1.51	1.41	1.23	
36																1.15	1.32	1.62	1.74	1.74	1.62	1.51	1.32	
37																1.23	1.41	1.74	1.86	1.86	1.74	1.62	1.41	
38																1.32	1.51	1.86	2.00	2.00	1.86	1.74	1.51	
39															1.00	1.41	1.62	1.99	2.14	2.14	2.00	1.86	1.62	
40										1.00	1.00	1.00	1.00	1.00	1.02	1.51	1.74	2.14	2.29	2.29	2.14	1.99	1.74	1.00
41									1.00	1.07	1.07	1.07	1.07	1.07	1.07	1.62	1.86	2.29	2.45	2.45	2.29	2.14	1.86	1.10
42									1.07	1.15	1.15	1.15	1.15	1.15	1.15	1.74	1.99	2.45	2.61	2.61	2.45	2.29	1.99	1.21
43									1.15	1.23	1.23	1.23	1.23	1.23	1.23	1.86	2.14	2.61	2.78	2.78	2.61	2.45	2.14	1.34
44									1.23	1.32	1.32	1.32	1.32	1.32	1.32	1.99	2.29	2.78	2.96	2.96	2.78	2.61	2.29	1.48
45									1.32	1.41	1.41	1.41	1.41	1.41	1.41	2.14	2.45	2.96	3.15	3.15	2.96	2.78	2.45	1.63
46									1.41	1.51	1.51	1.51	1.51	1.51	1.51	2.29	2.61	3.15	3.35	3.35	3.15	2.96	2.61	1.78
47									1.51	1.62	1.62	1.62	1.62	1.62	1.62	2.45	2.78	3.35	3.56	3.56	3.35	3.15	2.78	1.99
48									1.62	1.74	1.74	1.74	1.74	1.74	1.74	2.61	2.96	3.56	3.78	3.78	3.56	3.35	2.96	2.19
49									1.74	1.86	1.86	1.86	1.86	1.86	1.87	2.78	3.15	3.78	4.02	4.02	3.78	3.56	3.15	2.40
50									1.86	1.99	1.99	1.99	1.99	1.99	2.00	2.96	3.35	4.02	4.26	4.26	4.02	3.78	3.35	2.63
51									1.99	2.14	2.14	2.14	2.14	2.14	2.14	3.15	3.56	4.26	4.52	4.52	4.26	4.02	3.56	2.91
52									2.14	2.29	2.29	2.29	2.29	2.29	2.29	3.35	3.78	4.52	4.79	4.79	4.52	4.26	3.78	3.23
53									2.29	2.45	2.45	2.45	2.45	2.45	2.45	3.56	4.02	4.79	5.08	5.08	4.79	4.52	4.02	3.56
54									2.45	2.61	2.61	2.61	2.61	2.61	2.61	3.78	4.26	5.08	5.38	5.38	5.08	4.79	4.26	3.91
55									2.61	2.78	2.78	2.78	2.78	2.78	2.78	4.02	4.52	5.38	5.70	5.70	5.38	5.08	4.52	4.30
56									2.78	2.96	2.96	2.96	2.96	2.96	2.96	4.26	4.79	5.70	6.04	6.04	5.70	5.38	4.79	4.73
57									2.96	3.15	3.15	3.15	3.15	3.15	3.15	4.52	5.08	6.04	6.40	6.40	6.04	5.70	5.08	5.24
58									3.15	3.35	3.35	3.35	3.35	3.35	3.35	4.79	5.38	6.40	6.78	6.78	6.40	6.04	5.38	5.81
59									3.35	3.56	3.56	3.56	3.56	3.56	3.56	5.08	5.70	6.78	7.18	7.18	6.78	6.40	5.70	6.01
60	1.00								3.56	3.78	3.78	3.78	3.78	3.78	3.78	5.38	6.04	7.18	7.61	7.61	7.18	6.78	6.04	6.44
61	1.41	1.00	1.00	1.00	1.00	1.00	1.00	1.00	3.78	4.02	4.02	4.02	4.02	4.02	4.02	5.70	6.40	7.61	8.06	8.06	7.61	7.18	6.40	6.90
62	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	4.02	4.26	4.26	4.26	4.26	4.26	4.26	6.04	6.78	8.06	8.54	8.54	8.06	7.61	6.78	7.32
63	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	4.26	4.52	4.52	4.52	4.52	4.52	4.52	6.40	7.18	8.54	9.05	9.05	8.54	8.06	7.18	7.76
64	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	4.52	4.79	4.79	4.79	4.79	4.79	4.79	6.78	7.61	9.05	9.59	9.59	9.05	8.54	7.61	8.22
65	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	4.79	5.08	5.08	5.08	5.08	5.08	5.08	7.18	8.06	9.59	10.2	10.2	9.59	9.05	8.06	8.71
66	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	5.08	5.38	5.38	5.38	5.38	5.38	5.38	7.61	8.54	10.2	10.8	10.8	10.2	9.59	8.54	9.23
67	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	5.38	5.70	5.70	5.70	5.70	5.70	5.70	8.06	9.05	10.8	11.4	11.4	10.8	10.2	9.05	9.78
68	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	5.70	6.04	6.04	6.04	6.04	6.04	6.04	8.54	9.59	11.4	12.0	12.0	11.4	10.8	9.59	10.4
69	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	6.04	6.40	6.40	6.40	6.40	6.40	6.40	9.05	10.2	12.0	12.7	12.7	12.0	11.4	10.2	11.0
70	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	6.40	6.78	6.78	6.78	6.78	6.78	6.78	9.59	10.8	12.7	13.5	13.5	12.7	12.0	10.8	11.7
71	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	6.78	7.18	7.18	7.18	7.18	7.18	7.18	10.2	11.4	13.5	14.3	14.3	13.5	12.7	11.4	12.4
72	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	7.18	7.61	7.61	7.61	7.61	7.61	7.61	10.8	12.0	14.3	15.2	15.2	14.3	13.5	12.0	13.1
73	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	7.61	8.06	8.06	8.06	8.06	8.06	8.06	11.4	12.7	15.2	16.1	16.1	15.2	14.3	12.7	13.9
74	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	8.06	8.54	8.54	8.54	8.54	8.54	8.54	12.0	13.5	16.1	17.1	17.1	16.1	15.2	13.5	14.7
75	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	8.54	9.05	9.05	9.05	9.05	9.05	9.05	12.7	14.3	17.1	18.1	18.1	17.1	16.1	14.3	15.6
76	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	9.05	9.59	9.59	9.59	9.59	9.59	9.59	13.5	15.2	18.1	19.2	19.2	18.1	17.1	15.2	16.5
77	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	9.59	10.2	10.2	10.2	10.2	10.2	10.2	14.3	16.1	19.2	20.4	20.4	19.2	18.1	16.1	17.5
78	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	10.2	10.8	10.8	10.8	10.8	10.8	10.8	15.2	17.1	20.4	21.6	21.6	20.4	19.2	17.1	18.5
79	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	10.8	11.4	11.4	11.4	11.4	11.4	11.4	16.1	18.1	21.6	22.9	22.9	21.6	20.4	18.1	19.6
80	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	11.4	12.0	12.0	12.0	12.0	12.0	12.0	17.1	19.2	22.9	24.3	24.3	22.9	21.6	19.2	20.8
81	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	12.0	12.7	12.7	12.7	12.7	12.7	12.7	18.1	20.4	24.3	25.8	25.8	24.3	22.9	20.4	22.0
82	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	12.7	13.5	13.5	13.5	13.5	13.5	13.5	19.2	21.6	25.8	27.4	27.4	25.8	24.3	21.6	23.3
83	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	13.5	14.3	14.3	14.3	14.3	14.3	14.3	20.4	22.9	27.4	29.1	29.1	27.4	25.8	22.9	24.7
84	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	14.3	15.2	15.2	15.2	15.2	15.2	15.2	21.6	24.3	29.1	30.9	30.9	29.1	27.4	24.3	26.2
85	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	15.2	16.1	16.1	16.1	16.1	16.1	16.1	22.9	25.8	30.9	32.7	32.7	30.9	29.1	25.8	27.8
86	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	16.1	17.1	17.1	17.1	17.1	17.1	17.1	24.3	27.4	32.7	34.7	34.7	32.7	30.9	27.4	29.4
87	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	17.1	18.1	18.1	18.1	18.1	18.1	18.1	25.8	29.1	34.7	36.7	36.7	34.7	32.7	29.1	31.1
88	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	18.1	19.2	19.2	19.2	19.2	19.2	19.2	27.4	30.9	36.7	38.9	38.9	36.7	34.7	30.9	33.0
89	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	19.2	20.4	20.4	20.4	20.4	20.4	20.4	29.1	32.7	38.9	41.2	41.2	38.9	36.7	32.7	34.9
90	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	20.4	21.6	21.6	21.6	21.6	21.6	21.6	30.9	34.7	41.2	43.6	43.6	41.2	38.9	34.7	37.0
91	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	21.6	22.9	22.9	22.9	22.9	22.9	22.9	32.7	36.7	43.6	46.2	46.2	43.6	41.2	36.7	39.2
92	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	22.9	24.3	24.3	24.3	24.3	24.3	24.3	34.7	38.9	46.2	48.9	48.9	46.2	43.6	38.9	41.5
93	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	24.3	25.8	25.8	25.8	25.8	25.8	25.8	36.7	41.2	48.9	51.8	51.8	48.9	46.2	41.2	44.0
94	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	25.8	27.4	27.4	27.4	27.4	27.4	27.4	38.9	43.6	51.8	54.9	54.9	51.8	48.9	43.6	46.6
95	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	27.4	29.1	29.1	29.1	29.1	29.1	29.1	41.2	46.2	54.9	58.1	58.1	54.9	51.8	46.2	49.4
96	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	29.1	30.9	30.9	30.9	30.9	30.9	30.9	43.6	48.9	58.1	61.6	61.6	58.1	54.9	48.9	52.3
97	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	30.9	32.7	32.7	32.7	32.7	32.7	32.7	46.2	51.8	61.6	65.2	65.2	61.6	58.1	51.8	55.4
98	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	32.7	34.7	34.7	34.7	34.7	34.7	34.7	48.9	54.9	65.2	69.1	69.1	65.2	61.6	54.9	58.7
99	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	34.7	36.7	36.7	36.7	36.7	36.7	36.7	51.8	58.1	69.1	73.2	73.2	69.1	65.2	58.1	62.2
100	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	36.7	38.9	38.9	38.9	38.9	38.9	38.9	54.9	61.6	73.2	77.5	77.5	73.2	69.1	61.6	65.8
101	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	38.9	41.2	41.2	41.2	41.2	41.2	41.2	58.1	65.2	77.5	82.0	82.0	77.5	73.2	65.2	69.7
102	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	41.2	43.6	43.6	43.6	43.6	43.6	43.6	61.6	69.1	82.0	86.9	86.9	82.0	77.5	69.1	73.8
103	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	43.6	46.2	46.2	46.2	46.2	46.2	46.2	65.2	73.2	86.9	92.0	92.0	86.9	82.0	73.2	78.2
104	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	46.2	48.9	48.9	48.9	48.9	48.9	48.9	69.1	77.5	92.0	97.4	97.4	92.0	86.9	77.5	82.8
105	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	48.9	51.8	51.8	51.8	51.8	51.8	51.8	73.2	82.0	97.4	103	103	97.4	92.0	82.0	87.6
106	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	51.8	54.9	54.9	54.9	54.9	54.9	54.9	77.5	86.9	103	109	109	103	97.4	86.9	92.8
107	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	54.9	58.1	58.1	58.1	58.1	58.1	58.1	82.0	92.0	109	116	116	109	103	92.0	98.3
108	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	58.1	61.6	61.6	61.6	61.6	61.6	61.6	86.9	97.4	116	123	123	116	109	97.4	104
109	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	61.6	65.2	65.2	65.2	65.2	65.2	65.2	92.0	103	123	130	130	123	116	103	110
110	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	65.2	69.1	69.1	69.1	69.1	69.1	69.1	97.4	109	130	138	138	130	123	109	117
111	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	69.1	73.2	73.2	73.2	73.2	73.2	73.2	103	116	138	146	146	138	130	116	124
112	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	73.2	77.5	77.5	77.5	77.5	77.5	77.5	109	123	146	155	155	146	138	123	131
113	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	77.5	82.0	82.0	82.0	82.0	82.0	82.0	116	130	155	164	164	155	146	130	139
114	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	82.0	86.9	86.9	86.9	86.9	86.9	86.9	123	138	164	174	174	164	155	138	147
115	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	86.9	92.0	92.0	92.0	92.0	92.0	92.0	130	146	174	184	184	174	164	146	156
116	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	92.0	97.4	97.4	97.4	97.4	97.4	97.4	138	155	184	195	195	184	174	155	165
117	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	97.4	103	103	103	103	103	103	146	164	195	207	207	195	184	164	175
118	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	103	109	109	109	109	109	109	155	174	207	219	219	207	195	174	185
119	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	109	116	116	116	116	116	116	164	184	219	232	232	219	207	184	196
120	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	116	123	123	123	123	123	123	174	195	232	246	246	232	219	195	208
121	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	123	130	130	130	130	130	130	184	207	246	261	261	246	232	207	220
122	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	130	138	138	138	138	138	138	195	219	261	276	276	261	246	219	233
123	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	138	146	146	146	146	146	146	207	232	276	293	293	276	261	232	247
124	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	146	155	155	155	155	155	155	219	246	293	311	311	293	276	246	262
125	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	155	164	164	164	164	164	164	232	261	311	329	329	311	293	261	277
126	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	164	174	174	174	174	174	174	246	276	329	349	349	329	311	276	293
127	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	174	184	184	184	184	184	184	261	293	349	369	369	349	329	293	311
128	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	184	195	195	195	195	195	195	276	311	369	391	391	369	349	311	330
129	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	195	207	207	207	207	207	207	293	329	391	414	414	391	369	329	349
130	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	207	219	219	219	219	219	219	311	349	414	439	439	414	391	349	370
131	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	219	232	232	232	232	232	232	329	369	439	466	466	439	414	369	392
132	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	232	246	246	246	246	246	246	349	391	466	493	493	466	439	391	415
133	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	246	261	261	261	261	261	261	370	414	493	523	523	493	466	414	440
134	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	261	277	277	277	277	277	277	392	439	523	554	554	523	493	439	466
135	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	277	293	293	293	293	293	293	415	466	554	587	587	554	523	466	494
136	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	293	311	311	311	311	311	311	440	493	587	622	622	587	554	493	523
137	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	311	329	329	329	329	329	329	466	523	622	659	659	622	587	523	554
138	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	329	349	349	349	349	349	349	494	554	659	698	698	659	622	554	587
139	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	349	369	369	369	369	369	369	523	587	698	739	739	698	659	587	622
140	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	369	391	391	391	391	391	391	554	622	739	783	783	739	698	622	659
141	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	391	414	414	414	414	414	414	587	659	783	830	830	783	739	659	698
142	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	414	439	439	439	439	439	439	622	698	830	880	880	830	783	698	739
143	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	439	466	466	466	466	466	466	659	739	880	932	932	880	830	739	783
144	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	466	493	493	493	493	493	493	698	783	932	987	987	932	880	783	830
145	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	493	523	523	523	523	523	523	739	830	987	1046	1046	987	932	830	880
146	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	523	554	554	554	554	554	554	783	880	1046	1108	1108	1046	987	880	932
147	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	554	587	587	587	587	587	587	830	932	1108	1174	1174	1108	1046	932	987
148	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	587	622	622	622	622	622	622	880	987	1174	1244	1244	1174	1108	987	1046
149	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	622	659	659	659	659	659	659	932	1046	1244	1318	1318	1244	1174	1046	1108
150	1.41	1.02	1.00	1.00	1.00	1.00	1.00	1.00	659	698	698	698	698	698	698	987	1108	1318	1396	1396	1318	1244	1108	1174

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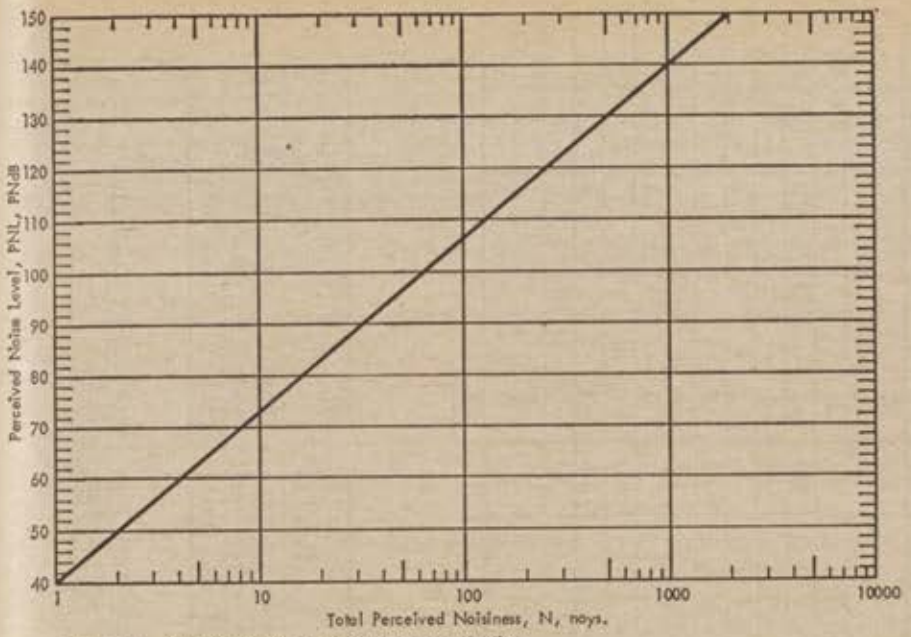


Figure B1. Perceived Noise Level as a Function of Noys.

Section B36.3 *Correction for spectral irregularities.* Noise having pronounced irregularities in the spectrum (for example, discrete frequency components or tones), must be adjusted by the correction factor C(k) calculated as follows:

Step 1. Starting with the corrected sound pressure level in the 80 Hz one-third octave band (band number 3), calculate the changes in sound pressure level (or "slopes") in the remainder of the one-third octave bands as follows:

$$s(3,k) = \text{no value}$$
$$s(4,k) = SPL(4,k) - SPL(3,k)$$
$$\vdots$$
$$s(i,k) = SPL(i,k) - SPL[(i-1),k]$$
$$\vdots$$
$$s(24,k) = SPL(24,k) - SPL(23,k)$$

Step 2. Encircle the value of the slope, s(i,k), where the absolute value of the change in slope is greater than 5; that is, where

$$|\Delta s(i,k)| = |s(i,k) - s[(i-1),k]| > 5.$$

Step 3. (a) If the encircled value of the slope s(i,k) is positive and algebraically greater than the slope s[(i−1),k], encircle SPL(i,k).

(b) If the encircled value of the slope s(i,k) is zero or negative and the slope s[i−1),k] is positive, encircle (SPL[(i−1),k])

(c) For all other cases, no sound pressure level value is to be encircled.

Step 4. Omit all SPL(i,k) encircled in Step 3 and compute new sound pressure levels SPL'(i,k) as follows:

(a) For nonencircled sound pressure levels, let the new sound pressure levels equal the original sound pressure levels,

$$SPL'(i,k) = SPL(i,k)$$

(b) For encircled sound pressure levels in bands 1–23, let the new sound pressure level equal the arithmetic average of the preceding and following sound pressure levels,

$$SPL'(i,k) = (\tfrac{1}{2})[SPL[(i-1),k] + SPL[(i+1),k]]$$

(c) If the sound pressure level in the highest frequency band (i=24) is encircled, let the new sound pressure level in that band equal

$$SPL'(24,k) = SPL(23,k) + s(23,k).$$

Step 5. Recompute new slopes s' (i,k), including one for an imaginary 25-th band, as follows:

$$s'(3,k) = s'(4,k)$$
$$s'(4,k) = SPL'(4,k) - SPL'(3,k)$$
$$\vdots$$
$$s'(i,k) = SPL'(i,k) - SPL'[(i-1),k]$$
$$\vdots$$
$$s'(24,k) = SPL'(24,k) - SPL'(23,k)$$
$$s'(25,k) = s'(24,k)$$

Step 6. For i from 3 to 23, compute the arithmetic average of the three adjacent slopes as follows:

$$\bar{s}(i,k) = (1/3)[s'(i,k) + s'[(i+1),k] + s'[(i+2),k]]$$

Step 7. Compute final adjusted one-third octave-band sound pressure levels, SPL'' (i,k), by beginning with band number 3 and proceeding to band number 24 as follows:

$$SPL''(3,k) = SPL(3,k)$$
$$SPL''(4,k) = SPL''(3,k) + \bar{s}(3,k)$$
$$\vdots$$
$$SPL''(i,k) = SPL''[(i-1),k] + \bar{s}[(i-1),k]$$
$$\vdots$$
$$SPL''(24,k) = SPL''(23,k) + \bar{s}(23,k)$$

Step 8. Calculate the differences, F(i,k), between the original and the adjusted sound pressure levels as follows:

$$F(i,k) = SPL(i,k) - SPL''(i,k)$$

and note only values greater than zero.

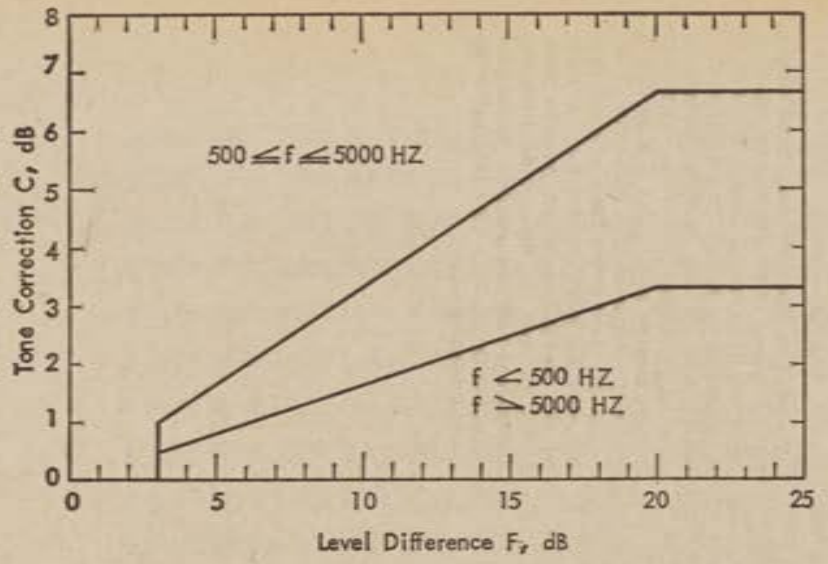
Step 9. For each of the 24 one-third octave bands, determine tone correction factors from the sound pressure level differences F(i,k) and Table B2.

Step 10. Designate the largest of the tone correction factors, determined in Step 9, as C(k). An example of the tone correction procedure is given in Table B3.

Tone corrected perceived noise levels PNLT(k) are determined by adding the C(k) values to corresponding PNL(k) values, that is,

$$PNLT(k) = PNL(k) + C(k)$$

For any i-th one-third octave band, at any k-th increment of time, for which the tone correction factor is suspected to result from something other than (or in addition to) an actual tone (or any spectral irregularity other than aircraft noise), an additional analysis may be made using a filter with a bandwidth narrower than one-third of an octave. If the narrow band analysis corroborates that suspicion, then a revised value for the background sound pressure level, SPL''(i,k), may be determined from the analysis and used to compute a revised tone correction factor, F(i,k), for that particular one-third octave band.



Frequency f, HZ	Level Difference F, dB	Tone Correction C, dB
50 ≤ f < 500	F < 3 3 ≤ F < 20 20 ≤ F	0 F/6 3 1/3
500 ≤ f ≤ 5000	F < 3 3 ≤ F < 20 20 ≤ F	0 F/3 6 2/3
5000 < f ≤ 10000	F < 3 3 ≤ F < 20 20 ≤ F	0 F/6 3 1/3

Table B2.. Tone Correction Factors

① Band (i)	② f HZ	③ SPL dB	④ S dB Step 1	⑤ |ΔS| dB Step 2	⑥ SPL' dB Step 4	⑦ S' dB Step 5	⑧ $\overline{S}$ dB Step 6	⑨ SPL'' dB Step 7	⑩ F dB Step 8	⑪ C, dB Step 9
1	50	-	-	-	-	-	-	-	-	-
2	63	-	-	-	-	-	-	-	-	-
3	80	70	-	-	70	-8	-2 1/3	70	-	
4	100	62	- 8	-	62	-8	+3 1/3	67 2/3	-	
5	125	(70)	+(8)	16	71	+9	+6 2/3	71	-	
6	160	80	+10	2	80	+9	+2 2/3	77 2/3	2 1/3	
7	200	82	+(2)	8	82	+2	-1 1/3	80 1/3	1 2/3	
8	250	(83)	+ 1	1	79	-3	-1 1/3	79	4	2/3
9	315	76	-(7)	8	76	-3	+ 1/3	77 2/3	-	
10	400	(80)	+(4)	11	78	+2	+1	78	2	
11	500	80	0	4	80	+2	0	79	1	
12	630	79	- 1	1	79	-1	0	79	-	
13	800	78	- 1	0	78	-1	- 1/3	79	-	
14	1000	80	+ 2	3	80	+2	- 2/3	78 2/3	1 1/3	
15	1250	78	- 2	4	78	-2	- 1/3	78	-	
16	1600	76	- 2	0	76	-2	+ 1/3	77 2/3	-	
17	2000	79	+ 3	5	79	+3	+1	78	1	
18	2500	(85)	+ 6	3	79	0	- 1/3	79	6	[2]
19	3150	79	-(6)	12	79	0	-2 2/3	78 2/3	1/3	
20	4000	78	- 1	5	78	-1	-6 1/3	76	2	
21	5000	71	-(7)	6	71	-7	-8	69 2/3	1 1/3	
22	6300	60	-11	4	60	-11	-8 2/3	61 2/3	-	
23	8000	54	- 6	5	54	-6	-8	53	1	0
24	10000	45	- 9	3	45	-9	-	45	-	
						-9				

Step 1	③(i) - ③(i-1)
Step 2	|④(i) - ④(i-1)|
Step 3	see instructions
Step 4	see instructions
Step 5	⑥(i) - ⑥(i-1)

Step 6	[⑦(i) + ⑦(i+1) + ⑦(i+2)] ÷ 3
Step 7	⑨(i-1) + ⑧(i-1)
Step 8	③(i) - ⑨(i)
Step 9	see Table B2

Table B3. Example of Tone Correction Calculation for a Turbofan Engine

Section B36.4 *Maximum tone corrected perceived noise level.* The maximum tone corrected perceived noise level, PNLTM, is the maximum calculated value of the tone corrected perceived noise level, PNLT(k), calculated in accordance with the procedure of § B36.3 of this Appendix. Figure B2 is an example of a flyover noise time history where the maximum value is clearly indicated. Half-second time intervals, Δt, are small enough to obtain a satisfactory noise time history.

If there are no pronounced irregularities in the spectrum, then the procedure of § B36.3 of this Appendix would be redundant since PNLT(k) would be identically equal to PNL(k). For this case, PNLTM would be the maximum value of PNL(k) and would equal PNLM.

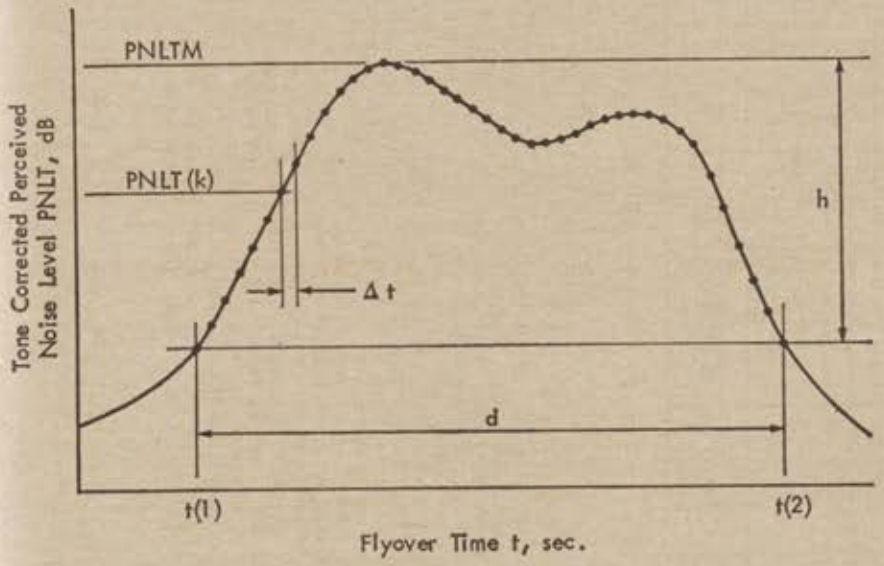


Figure B2. Example of Perceived Noise Level Corrected for Tones as a Function of Aircraft Flyover Time

Section B36.5 *Duration correction.* The duration correction factor D is determined by the integration technique defined by the expression:

$$D=10\log\left[(1/T)\int_{t(1)}^{t(2)}\text{ant}\,[PNLT/10]\,dt\right]-PNLTM$$

where T is a normalizing time constant, PNLTM is the maximum value of PNLT, and t(1) and t(2) are the limits of the significant noise time history.

Since PNLT is calculated from measured values of SPL, there will, in general, be no obvious equation for PNLT as a function of time. Consequently, the equation can be rewritten with a summation sign instead of an integral sign as follows:

$$D=10\log\left[(1/T)\sum_{k=0}^{d/\Delta t}\Delta t\,\text{ant}\,[PNLT(k)/10]\right]-PNLTM$$

where Δt is the length of the equal increments of time for which PNLT(k) is calculated and d is the time interval to the nearest 1.0 second during which PNLT(k) is within a specified value, h, of PNLTM.

Half-second time intervals for Δt are small enough to obtain a satisfactory history of the perceived noise level. A shorter time interval may be selected by the applicant provided aproved limits and constants are used.

The following values for T, Δt, and h, must be used in calculating D:

$$T=10\text{ sec},$$
$$\Delta t=0.5\text{ sec, and}$$
$$h=10\text{ dB}.$$

Using the above values, the equation for D becomes

$$D=10\log\left[\sum_{k=0}^{2d}\text{ant}\,[PNLT(k)/10]\right]-PNLTM-13$$

where the integer d is the duration time defined by the points that are 10 dB less than PNLTM.

If the 10 dB-down points fall between calculated PNLT(k) values (the usual case), the applicable limits for the duration time must be chosen from the PNLT(k) values closest to PNLTM−10. For those cases with more than one peak value of PNLT(k), the applicable limits must be chosen to yield the largest possible value for the duration time.

If the value of PNLT(k) at the 10 dB-down points is 90 PNdB or less, the value of d may be taken as the time interval between the initial and the final times for which PNLT(k) equals 90 PNdB.

Section B36.6 *Effective perceived noise level.* The total subjective effect of an aircraft flyover is designated "effective perceived noise level," EPNL, and is equal to the algebraic sum of the maximum value of the tone corrected perceived noise level, PNLTM, and the duration correction, D. That is,

$$EPNL=PNLTM+D$$

where PNLTM and D are calculated under §§ B36.4 and B36.5 of this appendix.

The above equation can be rewritten by substituting the equation for D from § B36.5 of this appendix, that is,

$$EPNL=10\log\left[\sum_{k=0}^{2d}\text{ant}\,[PNLT(k)/10]\right]-13$$

Section B36.7 *Mathematical formulation of noy tables.* The relationship between sound pressure level and perceived noisiness given in Table B1 is illustrated in Figure B3. The variation of SPL with log n for a given one-third octave band can be expressed by either one or two straight lines depending upon the frequency range. Figure B3(a) illustrates the double line case for frequencies below 400 Hz, and above 6,300 Hz and Figure B3(b) illustrates the single line case for all other frequencies.

The important aspects of the mathematical formulation are:

1. the slopes of the straight lines, p(b) and p(c),
2. the intercepts of the lines on the SPL-axis, SPL(b), and SPL(c), and
3. the coordinates of the discontinuity, SPL(a), and log n(a).

The equations are as follows:

Case 1. Figure B3(a), f <400 Hz.
f >6300 Hz.

$$SPL(a)=\frac{p(c)SPL(b)-p(b)SPL(c)}{p(c)-p(b)}$$

$$\log n(a)=\frac{SPL(c)-SPL(b)}{p(b)-p(c)}$$

(a) $SPL(b)\leq SPL\leq SPL(a)$.

$$n=\text{ant}\frac{SPL-SPL(b)}{p(b)}$$

(b) $SPL\geq SPL(a)$.

$$n=\text{ant}\frac{SPL-SPL(c)}{p(c)}$$

(c) $0\leq\log n\leq\log n(a)$.

$$SPL=p(b)\log n+SPL(b)$$

(d) $\log n\geq\log n(a)$.

$$SPL=p(c)\log n+SPL(c)$$

Case 2. Figure B3(b), $400\leq f\leq 6300$ Hz.

(a) $SPL\geq SPL(c)$.

$$n=\text{ant}\frac{SPL-SPL(c)}{p(c)}$$

(b) $\log n\geq 0$.

$$SPL=p(c)\log n+SPL(c)$$

Let the reciprocals of the slopes be defined as,

$$M(b)=1/p(b)$$
$$M(c)=1/p(c)$$

Then the equations can be written,

Case 1. Figure B3(a), f<400 Hz.
f>6300 Hz.

$$SPL(a)=\frac{M(b)SPL(b)-M(c)SPL(c)}{M(b)-M(c)}$$

$$\log n(a)=\frac{M(b)M(c)[SPL(c)-SPL(b)]}{M(c)-M(b)}$$

(a) $SPL(b)\leq SPL\leq SPL(a)$.
$n=\text{ant}\,M(b)[SPL-SPL(b)]$

(b) $SPL\geq SPL(a)$.
$n=\text{ant}\,M(c)[SPL-SPL(c)]$

(c) $0\leq\log n\leq\log n(a)$.

$$SPL=\frac{\log n}{M(b)}+SPL(b)$$

(d) $\log n\geq\log n(a)$.

$$SPL=\frac{\log n}{M(c)}+SPL(c)$$

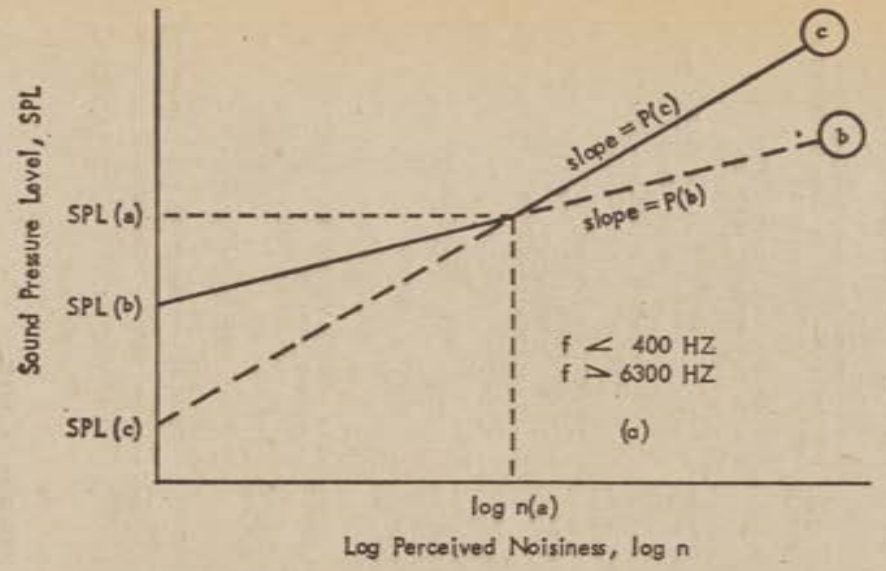
Case 2. Figure B3(b), $400\leq f\leq 6300$ Hz.

(a) $SPL\geq SPL(c)$.
$n=\text{ant}\,M(c)[SPL-SPL(c)]$

(b) $\log n\geq 0$.

$$SPL=\frac{\log n}{M(c)}+SPL(c)$$

Table B4 lists the values of the important constants necessary to calculate sound pressure level as a function of perceived noisiness.



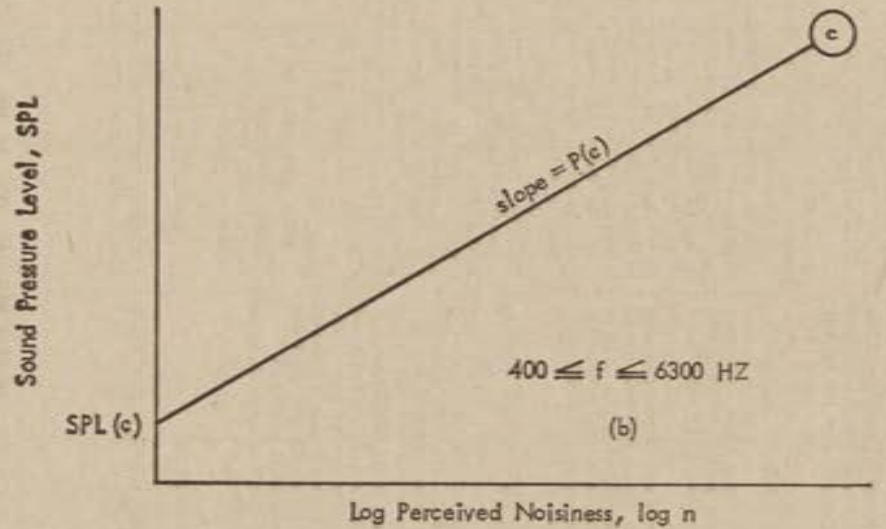


Figure B3. Sound Pressure Level as a Function of Noys.

Band (i)	f HZ	M(b)	SPL (b) dB	SPL (a) dB	M(c)	SPL (c) dB
1	50	0.043478	64	91.0	0.030103	52
2	63	0.040570	60	85.9	"	51
3	80	0.036831	56	87.3	"	49
4	100	"	53	79.9	"	47
5	125	0.035336	51	79.8	"	46
6	160	0.033333	48	76.0	"	45
7	200	"	46	74.0	"	43
8	250	0.032051	44	74.9	"	42
9	315	0.030675	42	94.6	"	41
10	400	-	-	-	"	40
11	500	-	-	-	"	"
12	630	-	-	-	"	"
13	800	-	-	-	"	"
14	1000	-	-	-	"	"
15	1250	-	-	-	"	38
16	1600	-	-	-	0.029960	34
17	2000	-	-	-	"	32
18	2500	-	-	-	"	30
19	3150	-	-	-	"	29
20	4000	-	-	-	"	"
21	5000	-	-	-	"	30
22	6300	-	-	-	"	31
23	8000	0.042285	37	44.3	"	34
24	10000	"	41	50.7	"	37

Table B4. Constants for Mathematically Formulated NOY Values

APPENDIX C—NOISE LEVELS FOR SUBSONIC TRANSPORT CATEGORY AND TURBOJET POWERED AIRPLANES UNDER § 36.201

Section C36.1 *Noise measurement and evaluation.* Compliance with this appendix must be shown with noise levels measured and evaluated as prescribed, respectively, by Appendix A and Appendix B of this part, or under approved equivalent procedures.

Section C36.3 *Noise measuring points.* Compliance with the noise level standards of § C36.5 must be shown—

(a) For takeoff, at a point 3.5 nautical miles from the start of the takeoff roll on the extended centerline of the runway;

(b) For approach, at a point 1 nautical mile from the threshold on the extended centerline of the runway; and

(c) For the sideline, at the point, on a line parallel to and 0.25 nautical miles from the extended centerline of the runway, where the noise level after liftoff is greatest, except that, for airplanes powered by more than three turbojet engines, this distance must be 0.35 nautical miles.

Section C36.5 *Noise levels*—(a) *General.* Except as provided in paragraphs (b) and (c) of this section, it must be shown by flight test that the noise levels of the airplane, at the measuring points prescribed in § 36.3, do not exceed the following (with appropriate interpolation between weights):

(1) For approach and sideline, 108 EPNdB for maximum weights of 600,000 pounds or more, less 2 EPNdB per halving of the 600,000-pound maximum weight down to 102 EPNdB for maximum weights of 75,000 pounds and under.

(2) For takeoff, 108 EPNdB for maximum weights of 600,000 pounds or more, less 5 EPNdB per halving of the 600,000-pound maximum weight down to 93 EPNdB for maximum weights of 75,000 pounds and under.

(b) *Tradeoff.* The noise levels in paragraph (a) may be exceeded at one or two of the measuring points prescribed in § C36.3, if—

(1) The sum of the exceedances is not greater than 3 EPNdB;

(2) No exceedance is greater than 2 EPNdB; and

(3) The exceedances are completely offset by reductions at other required measuring points.

(c) *Prior applications.* For applications made before December 1, 1969, for airplanes powered by more than three turbojet engines with bypass ratios of two or more, the value prescribed in paragraph (b)(1) of this section may not exceed 5 EPNdB and the value prescribed in paragraph (b)(2) of this section may not exceed 3 EPNdB.

Section C36.7 *Takeoff test conditions.* (a) This section applies to all takeoffs conducted in showing compliance with this part.

(b) Takeoff power or thrust must be used from the start of the takeoff to the point at which an altitude of at least 1,000 feet above the runway is reached, except that, for airplanes powered by more than three turbojet engines, this altitude must not be less than 700 feet.

(c) Upon reaching the altitude specified in paragraph (b) of this section, the power or thrust may not be reduced below that power or thrust that will provide level flight with one engine inoperative, or below that power or thrust that will maintain a climb gradient of at least 4 percent, whichever power or thrust is greater.

(d) A speed of at least V_2+10 knots must be attained as soon as practicable after lift-off, and must be maintained throughout the takeoff noise test.

(e) A constant takeoff configuration, selected by the applicant, must be maintained throughout the takeoff noise test.

Section C36.9 *Approach test conditions.* (a) This section applies to all approaches conducted in showing compliance with this part.

(b) The airplane's configuration must be that specified by the applicant.

(c) The approaches must be conducted with a steady glide angle of $3°\pm0.5°$ and must be continued to a normal touchdown with no airframe configuration change.

(d) A steady approach speed of not less than 1.30 V_s+10 knots must be established and maintained over the approach measuring point.

(e) All engines must be operating at approximately the same power or thrust, and must be operating at not less than the power or thrust required for the maximum allowable flap setting.

[F.R. Doc. 69-13368; Filed, Nov. 17, 1969; 9:08 a.m.]

[Docket No. 9958; Amdt. 39-877]

PART 39—AIRWORTHINESS DIRECTIVES

Aer Pegaso Model M.100S and C.A.R.M.A.M. Model M.200 Gliders

There have been reports of improper installation of the horizontal stabilizer on the Aer Pegaso Model M.100S and C.A.R.M.A.M. Model M.200 gliders which caused improper engagement of the elevator "quick disconnect" attachment. In view of the seriousness of such a condition, and the likelihood that such a condition may exist or develop in other gliders of the same type design, an airworthiness directive (AD) is being issued to require installation of a means to permit visual confirmation of proper engagement and the installation of a placard to require visual confirmation of the engagement before the first flight after each installation of the horizontal stabilizer.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

AER PEGASO C.A.R.M.A.M. Applies to Aer-Pegaso Model M.100S and C.A.R.M.A.M. Model M.200 gliders.

Compliance is required within the next 25 hours' time in service after the effective date of this AD, unless already accomplished.

To detect improper installation of the horizontal stabilizer to the glider, accomplish the following:

(a) Install an inspection window on the left side of the dorsal fin to allow visual confirmation of the elevator "quick disconnect" attachment and paint the two plates of the elevator control transmission fork in accordance with Aer-Pegaso Technical Bulletin N.10/M-100S, dated September 26, 1969, or an FAA-approved equivalent.

(b) Install the following placard in the cockpit in clear view of the pilot:

"Before the first flight after rigging the tailplane to the fuselage, look through the inspection window located on the left side of the dorsal fin and visually confirm that the end (ball bearing) of the elevator control lever is correctly engaged in the corresponding fork of the elevator control transmission. To do this, it may be necessary to move the control stick in the longitudinal direction in order to bring the lever end into view through the window. If the rigging is correct, the ball bearing will appear between the fork sides."

This amendment becomes effective November 23, 1969.

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

Issued in Washington, D.C., on November 10, 1969.

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

[F.R. Doc. 69-13659; Filed, Nov. 17, 1969; 8:46 a.m.]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 69-WE-79]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the time of designation of the Santa Rosa, Calif., control zone.

The Santa Rosa control zone is presently designated from 0600 to 2200 hours local time daily. Due to changes in aircraft activity, the hours of operation of the Santa Rosa Tower will be changed to 0700 to 2300 hours local time daily. Therefore, action is taken herein to redesignate the effective hours of the Santa Rosa control zone coincident with those of the control tower.

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

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

In § 71.171 (34 F.R. 4557) the Santa Rosa, Calif., control zone is amended by deleting "* * * 0600 to 2200 hours * * *" and substituting "* * * 0700 to 2300 hours * * *" therefor.

Effective date. This amendment shall be effective 0901 G.m.t., December 11, 1969.

Issued in Los Angeles, Calif., on November 4, 1969.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 69-13660; Filed, Nov. 17, 1969; 8:46 a.m.]

[Airspace Docket No. 69-CE-106]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Wolf Point, Mont., transition area.

The Wolf Point Airport, Wolf Point, Mont., has been renamed Wolf Point International Airport. Therefore, it is necessary to alter the Wolf Point transition area which presently refers to the airport as Wolf Point Airport to reflect the airport change of name. Action is taken herein to reflect this change.

Since this change is minor in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

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

In § 71.181 (34 F.R. 4637), the Wolf Point, Mont., transition area is altered by deleting "Wolf Point Airport" in the text and substituting therefor "Wolf Point International Airport".

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 22, 1969.

ROBERT I. GALE,
Acting Director, Central Region.

[F.R. Doc. 69-13661; Filed, Nov. 17, 1969; 8:46 a.m.]

[Airspace Docket No. 69-WE-65]

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

Designation of Transition Area

On September 20, 1969, a notice of proposed rule making was published in the

FEDERAL REGISTER (34 F.R. 14658) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a 700-foot transition area for Fort Collins-Loveland Airport, Colo.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., January 8, 1970.

Issued in Los Angeles, Calif., on October 27, 1969.

ARVIN O. BASNIGHT,
Director, Western Region.

In § 71.181 (34 F.R. 4637) the following transition area is added:

FORT COLLINS

That airspace extending upward from 700 feet above the surface within 9.5 miles east and 5 miles west of the 173° and 353° bearings from the Fort Collins-Loveland RBN (latitude 40°26'49" N., longitude 105°00'22" W.) extending from 6.5 miles north to 18.5 miles south of the RBN.

[F.R. Doc. 69-13662; Filed, Nov. 17, 1969; 8:46 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 9951; Amdt. 95-186]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

The purpose of this amendment to Part 95 of the Federal Aviation Regulations is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current changeover points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof.

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

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 95 of the Federal Aviation Regulations is amended, effective December 11, 1969 as follows:

1. By amending Subpart C as follows:

Section 95.638 *Blue Federal airway 38* is amended to read in part:

From, to, and MEA

United States-Canadian Border; Annette Island, Alaska, LFR; 5,000.
Guard Island INT, Alaska; Petersburg, Alaska, LFR; 5,700.
Petersburg, Alaska, LFR; Five Finger, Alaska, LF/RBN; 5,700.

Section 95.1001 *Direct routes—United States* is amended to delete:

From, To, and MEA

Panama City, Fla., VOR; Chipley INT, Fla.; *1,900. *1,500—MOCA.
Atlanta, Ga., RBN; Rome, Ga., RBN; 3,000.

Section 95.1001 *Direct routes—United States* is amended by adding:

Wichita Falls, Tex., VOR; Ardmore, Okla., VOR; *4,000. *2,500—MOCA.
Greenhead INT, Fla.; Chipley INT, Fla.; *1,900. *1,500—MOCA.
Roan Mountain INT, Tenn.; INT, 231° M rad, Holston Mountain VOR and 133° M bearing Boone RBN; *7,000. *6,900—MOCA.
Bruce, Ga., RBN; Rome, Ga., RBN; 3,000.

Section 95.6001 *VOR Federal airway 1* is amended to read in part:

Myrtle Beach, S.C., VOR; *Chatham INT, N.C.; **2,000. *3,000—MRA. **1,400—MOCA.
Chatham INT, N.C.; *Green INT, N.C.; **2,000. *3,000—MRA. **1,400—MOCA.
Green INT, N.C.; *Swamp INT, N.C.; **2,000. *3,000—MRA. **1,400—MOCA.
Swamp INT, N.C.; Wilmington, N.C., VOR; *2,000. *1,400—MOCA.
Wilmington, N.C., VOR; *Angola INT, N.C.; **2,000. *3,500—MRA. **1,600—MOCA.
Angola INT, N.C.; Kinston, N.C., VOR; *2,000. *1,600—MOCA.

Section 95.6008 *VOR Federal airway 8* is amended by adding:

Grantsville, Md., VOR via N alter.; Flintstone INT, Pa., via N alter.; 5,000.

Section 95.6008 *VOR Federal airway 8* is amended to read in part:

Hanksville, Utah, VOR via S alter.; Moab INT, Utah, via S alter.; *10,700. *8,100—MOCA.
Briggs, Ohio, VOR; Bellaire, Ohio, VOR; 3,000.
Bellaire, Ohio, VOR; Garard INT, Pa.; 3,600.
Garard INT, Pa.; Grantsville, Md., VOR; 5,000.
Grantsville, Md., VOR; Martinsburg, W. Va., VOR; 5,000.

Section 95.6010 *VOR Federal airway 10* is amended by adding:

Youngstown, Ohio, VOR; Templeton INT, Pa.; 3,600.
Templeton INT, Pa.; Revloc, Pa., VOR; 4,000.

Section 95.6011 *VOR Federal airway 11* is amended to read in part:

Indianapolis, Ind., VOR; via E alter.; Pendleton INT, Ind., via E alter.; 2,900.

Section 95.6012 *VOR Federal airway 12* is amended to read in part:

Dayton, Ohio, VOR; *Plain City INT, Ohio; 3,000. *5,000—MRA.
Newcomerstown, Ohio, VOR; Bellaire, Ohio, VOR; 3,000.
Bellaire, Ohio, VOR; Garard INT, Pa.; 3,600.
Garard INT, Pa.; Indianhead, Pa., VOR; 5,000.
Indianhead, Pa., VOR; Johnstown, Pa., VOR; 5,000.

Section 95.6014 *VOR Federal airway 14* is amended to read in part:

Indianapolis, Ind., VOR; Pendleton INT, Ind.; 2,900.
Pendleton INT, Ind.; Muncie, Ind., VOR; 2,800.

Section 95.6020 *VOR Federal airway 20* is amended to read in part:

Corpus Christi, Tex., VOR; *Bayside INT, Tex.; **1,600. *3,500—MRA. **1,400—MOCA.

Section 95.6025 *VOR Federal airway 25* is amended to read in part:

From, To, and MEA

Salinas, Calif., VOR; *Santa Cruz INT, Calif.; **5,000. *7,000—MRA. **4,000—MOCA.

Section 95.6030 *VOR Federal airway 30* is amended to read in part:

Akron, Ohio, VOR; Campbell INT, Ohio; 3,100.
Campbell INT, Ohio; Clarion, Pa.; VOR; 3,600.

Section 95.6035 *VOR Federal airway 35* is amended by adding:

Morgantown, W. Va., VOR via W alter.; Newton INT, Pa., via W alter.; 5,000.
Newton INT, Pa., via W alter.; Johnstown, Pa., VOR via W alter.; 5,000.

Section 95.6037 *VOR Federal airway 37* is amended to read in part:

Morgantown, W. Va., VOR; Indianhead, Pa., VOR; 5,000.
Indian Head, Pa., VOR; Quarry INT, Pa.; 5,000.
Quarry INT, Pa.; Templeton INT, Pa.; 4,000.
Templeton INT, Pa.; Clarion, Pa., VOR; 3,700.
Clarion, Pa., VOR; Franklin, Pa., VOR; 3,700.
Franklin, Pa., VOR; Erie, Pa., VOR; 3,600.

Section 95.6039 *VOR Federal airway 39* is amended to read in part:

Pinehurst, N.C., VOR; *Snow Camp INT, N.C.; **2,500. *4,000—MRA. **2,000—MOCA.
Snow Camp INT, N.C.; South Boston, Va., VOR; *2,500. *2,000—MOCA.

Section 95.6040 *VOR Federal airway 40* is amended to read in part:

Briggs, Ohio, VOR; Anderson INT, Ohio; 3,000.

Section 95.6041 *VOR Federal airway 41* is amended to read:

Anderson INT, Ohio; Youngstown, Ohio, VOR; 3,100.

Section 95.6050 *VOR Federal airway 50* is amended to read in part:

Indianapolis, Ind., VOR via N alter.; Pendleton INT, Ind., via N alter.; 2,900.
Pendleton INT, Ind., via N alter.; Muncie, Ind., VOR via N alter.; 2,800.

Section 95.6055 *VOR Federal airway 55* is amended to read in part:

Bear Creek INT, Wis.; Stevens Point, Wis., VOR; *3,000. *2,700—MOCA.

Section 95.6058 *VOR Federal airway 58* is amended to delete:

Revloc, Pa., VOR; Tyrone, Pa., VOR; 4,500.

Section 95.6069 *VOR Federal airway 69* is amended to read in part:

*Cotton INT, La., via W alter.; **Foster INT, La., via W alter.; ***2,000. *3,000—MRA. **3,500—MRA. ***1,500—MOCA.

Section 95.6070 *VOR Federal airway 70* is amended to read in part:

Corpus Christi, Tex., VOR; *Bayside INT, Tex.; **1,600. *3,500—MRA. **1,400—MOCA.

Section 95.6075 *VOR Federal airway 75* is amended to read in part:

Morgantown, W. Va., VOR; Bellaire, Ohio, VOR; 4,000.
Bellaire, Ohio,VOR; Briggs, Ohio, VOR; 3,000.

Section 95.6092 *VOR Federal airway 92* is amended to read in part:

From, To, and MEA

Briggs, Ohio, VOR; Bellaire, Ohio, VOR; 3,000.
Bellaire, Ohio, VOR; Garard INT, Pa.; 3,600.
Garard INT, Pa.; Grantsville, Md., VOR; 5,000.

Section 95.6103 *VOR Federal airway 103* is amended to read in part:

Clarksburg, W. Va., VOR; Burton INT, W. Va.; 3,700.
Burton INT, W. Va.; Bellaire, Ohio, VOR; 3,400.
Bellaire, Ohio, VOR; Akron, Ohio, VOR; 3,000.

Section 95.6105 *VOR Federal airway 105* is amended to read in part:

Pahrump INT, Nev.; Hidden Hills INT, Calif.; 12,000.
Hidden Hills INT, Calif.; Beatty, Nev., VOR; northwestbound *11,000; southeastbound *12,000. *8,400—MOCA.

Section 95.6115 *VOR Federal airway 115* is amended to read in part:

Parkersburg, W. Va., VOR; Caldwell INT, Ohio; 2,800.
Caldwell INT, Ohio; Newcomerstown, Ohio, VOR; 3,000.
Newcomerstown, Ohio, VOR; Atwood INT, Ohio; 3,000.
Atwood INT, Ohio; Campell INT, Ohio; 3,600.
Campbell INT, Ohio; Franklin, Pa., VOR; 3,500.
Franklin, Pa., VOR; Tidoute, Pa., VOR; 3,800.

Section 95.6117 *VOR Federal airway 117* is added to read:

Parkersburg, W. Va., VOR; Beallsville INT, Ohio; 2,500.
Beallsville INT, Ohio; Bellaire, Ohio, VOR; 3,100.
Bellaire, Ohio, VOR; Warwood INT, W. Va.; 3,000.

Section 95.6119 *VOR Federal airway 119* is amended is read in part:

Parkersburg, W. Va., VOR; Burton INT, W. Va.; 3,200.
Burton INT, W. Va.; Garard INT, Pa.; 3,700.
Garard INT, Pa.; Indian Head, Pa., VOR; 5,000.
Indian Head, Pa., VOR; Quarry INT, Pa.; 5,000.
Quarry INT, Pa.; Templeton INT, Pa.; 4,000.
Templeton INT, Pa.; Clairon, Pa., VOR; 3,700.

Section 95.6129 *VOR Federal airway 129* is amended to read in part:

Hibbing, Minn., VOR via W alter.; *Beaver INT, Minn., via W alter.; **3,500. *4,000—MRA. **2,800—MOCA.
Beaver INT, Minn., via W alter.; International Falls, Minn., VOR via W alter.; *3,500. *2,800—MOCA.

Section 95.6135 *VOR Federal airway 135* is amended to read in part:

Clark INT, Calif.; Hidden Hills INT, Calif.; 12,000.
Hidden Hills INT, Calif.; Beatty, Nev., VOR; northwestbound *11,000; southeastbound *12,000. *8,400—MOCA.

Section 95.6161 *VOR Federal airway 161* is amended to read in part:

Grand Rapids, Minn., VOR; *Beaver INT, Minn.; **3,500. *4,000—MRA. **2,800—MOCA.
Beaver INT, Minn.; International Falls, Minn., VOR; *3,500. *2,800—MOCA.

Section 95.6170 *VOR Federal airway 170* is amended to read in part:

From, To, and MEA

Fairmont, Minn., VOR; Mankato, Minn., VOR; *3,000. *2,600—MOCA.

Section 95.6177 *VOR Federal airway 177* is amended to read in part:

Wausau, Wis., VOR; Rib Lake INT, Wis.; 3,500.
Rib Lake INT, Wis.; Duluth, Minn., VOR; *6,000. *3,500—MOCA.

Section 95.6198 *VOR Federal airway 198* is amended to read in part:

Ozona INT, Tex.; Junction, Tex., VOR; *6,000. *4,000—MOCA.

Section 95.6210 *VOR Federal airway 210* is amended to read in part:

Indianapolis, Ind., VOR; Pendleton INT, Ind.; 2,900.
Pendleton INT, Ind.; Muncie, Ind., VOR; 2,800.
Tiverton, Ohio, VOR; Briggs, Ohio, VOR; 3,000.
Briggs, Ohio, VOR; INT, 048° M Briggs VOR and 092° M Akron VOR; 3,000.
INT, 048° M Briggs VOR and 092° M Akron VOR; Campbell INT, Ohio; 3,100.
Campbell INT, Ohio; Templeton INT, Pa.; 3,600.
Templeton INT, Pa.; Revloc, Pa., VOR; 4,000.

Section 95.6214 *VOR Federal airway 214* is amended to read in part:

Bellaire, Ohio, VOR; Garard INT, Pa.; 3,600.
Garard INT, Pa.; Indian Head, Pa., VOR; 5,000.
Indian Head, Pa., VOR; Flintstone INT, Pa.; 5,000.
Flintstone INT, Pa.; Martinsburg, W. Va., VOR; 4,000.

Section 95.6219 *VOR Federal airway 219* is amended to read in part:

Fairmont, Minn., VOR; Mankato, Minn., VOR; *3,000. *2,600—MOCA.

Section 95.6222 *VOR Federal airway 222* is amended to read in part:

Ozona INT, Tex.; Junction, Tex., VOR; *6,000. *4,000—MOCA.

Section 95.6226 *VOR Federal airway 226* is amended to read in part:

Graham INT, Pa.; Clarion, Pa., VOR; 3,300.

Section 95.6276 *VOR Federal airway 276* is amended to read in part:

Clarion, Pa., VOR; Tyrone, Pa., VOR; 4,600.

Section 95.6297 *VOR Federal airway 297* is amended to read in part:

Johnstown, Pa., VOR; East Brady INT, Pa.; 4,600.
East Brady INT, Pa.; Campbell INT, Ohio; 3,600.
Campbell INT, Ohio; Akron, Ohio, VOR; 3,100.

Section 95.6307 *VOR Federal airway 307* is amended to read in part:

Pawnee City, Nebr., VOR; Alma INT, Kans.; *5,000. *2,800—MOCA.

Section 95.6309 *VOR Federal airway 309* is amended to read in part:

United States-Canadian border; Annette Island, Alaska, VOR; *5,000. *4,900—MOCA.

Section 95.6309 *VOR Federal airway 309* is amended to read:

From, To, and MEA

Charleston, W. Va., VOR; Burton INT, W. Va.; 5,000.
Burton INT, W. Va.; Bellaire, Ohio, VOR; 3,400.

Section 95.6337 *VOR Federal airway 337* is amended by adding:

Anderson INT, Pa.; Akron, Ohio, VOR; 3,000.

Section 95.6415 *Hawaii VOR Federal airway 15* is amended to read in part:

South Kauai, Hawaii, VOR; Moray INT, Hawaii; 5,000.
Moray INT, Hawaii; Catfish INT, Hawaii; 5,500.
Catfish INT, Hawaii; Honolulu, Hawaii, VOR; 5,000.

Section 95.6438 *VOR Federal airway 438* is amended to read in part:

Fairbanks, Alaska, VOR; *Chatanika INT, Alaska; **7,000. *7,000—MRA. **5,000—MOCA.
Chatanika INT, Alaska; Fort Yukon, Alaska, VOR; *8,000. *7,200—MOCA.

Section 95.6443 *VOR Federal airway 443* is amended to read in part:

Warwood INT, W. Va.; Newcomerstown, Ohio, VOR; 3,000.

Section 95.6474 *VOR Federal airway 474* is amended to read in part:

Newton INT, Pa.; Indian Head Pa., VOR; 5,000.

Section 95.7152 *Jet Route No. 152* is amended to read in part:

From, to, MEA, and MAA

Rosewood, Ohio, VORTAC; INT, 085° M rad, Rosewood VORTAC and 285° M rad, Harrisburg VORTAC; 30,000; 41,000.
INT, 085° M rad, Rosewood VORTAC and 285° M rad, Harrisburg VORTAC; INT, 104° M rad, Harrisburg VORTAC and 064° M rad, Westminster VORTAC; 18,000; 45,000.

Section 95.7523 *Jet Route No. 523* is amended to delete:

Neah Bay, Wash., NDB; Sandspit, British Columbia, Canada, VOR; #18,000; #45,000.
#For that airspace over U.S. territory.

2. By amending Subpart D as follows:

Section 95.8003 *VOR Federal airway changeover points:*

From, to—Changeover point; Distance; from

V–8 is amended to read in part:

Grantsville, Md., VOR; Bellaire, Ohio, VOR; 46; Grantsville.

V–10 is amended by adding:

Revloc, Pa., VOR; Youngstown, Ohio, VOR; 49; Revloc.

V–12 is amended to delete:

Pittsburgh, Pa., VOR; Johnstown, Pa., VOR; 26; Pittsburgh.

V–37 is amended to delete:

Ellwood City, Pa., VOR; Erie, Pa., VOR; 38; Ellwood City.

V–40 is amended to delete:

Briggs, Ohio, VORTAC; Imperial, Ohio; 47; Imperial.

V–75 is amended to delete:

Wheeling, W. Va., VOR; Briggs, Ohio, VORTAC; 22; Wheeling.

From, to—Changeover point: Distance; from

V–92 is amended to delete:
Briggs, Ohio, VOR; Wheeling, W. Va., VOR; 27; Briggs.

V–92 is amended by adding:
Grantsville, Md., VOR; Bellaire, Ohio, VOR; 46; Grantsville.

V–119 is amended to read in part:
Indian Head, Pa., VOR; Parkersburg, W. Va., VOR; 60; Indian Head.

V–276 is amended to delete:
Briggs, Ohio, VOR; Ellwood City, Pa., VOR TAC; 33; Briggs.

V–309 is amended by adding:
United States-Canadian border; Annette Island, Alaska, VOR; 29; Annette Island.

V–309 is added to read:
Allegheny, Pa., VOR; Charleston, W. Va., VOR; 70; Allegheny.

Section 95.8005 *Jet routes changeover points:*

J–7 is amended to delete:
Boise, Idaho, VORTAC; Dillon, Mont., VOR TAC; 78; Boise.

J–60 is amended to delete:
Grand Junction, Colo., VORTAC; Denver, Colo., VORTAC; 115; Grand Junction.

J–80 is amended to delete:
Grand Junction, Colo., VORTAC; Denver, Colo., VORTAC; 115; Grand Junction.

J–82 is amended to delete:
Dubois, Idaho, VORTAC; Crazy Woman, Wyo., VORTAC; 142; Dubois.

J–110 is amended to delete:
Alamosa, Colo., VOR; Garden City, Kans., VORTAC; 101; Alamosa.

J–128 is amended to delete:
Tuba City, Ariz., VORTAC; Gunnison, Colo., VORTAC; 110; Gunnison.

(Secs. 307, 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1510))

Issued in Washington, D.C., on November 6, 1969.

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

[F.R. Doc. 69–13549; Filed, Nov. 17, 1969; 8:45 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR–44; Amdt. 8]

PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

Requests for Waivers and Applications

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of November 1969.

In Regulation OR–43, adopted and effective October 14, 1969, the Board amended paragraph (l) of § 389.25 to provide a filing fee for contracts and bonds covering a bulk inclusive tour or series of bulk inclusive tours filed under new Part 378a, adopted concurrently in Regulation SPR–32. Inadvertently, no provision was made for a filing fee for requests for waivers of the provisions of new Part 378a. Therefore, paragraph (j) of § 389.25 is being amended to provide such filing fee.

In addition, the Board has decided to reduce the present $2,000 filing fee for applications under section 408 pertaining to air taxi operators. Under the recent amendment of section 408 (Public Law 91–62), the Board is empowered to exempt acquisitions of noncertificated air carriers, including both air taxi operators and air freight forwarders, and thus ordinarily to dispense with evidentiary hearings. In these circumstances, the Board believes that it is equitable to charge the same $65 fee for applications under section 408 pertaining to both air taxi operators and air freight forwarders.

The Board finds that notice and public procedure hereon are unnecessary and the amendments shall be made effective immediately.

Accordingly, the Board hereby amends paragraphs (j)(1) and (n) of § 389.25 (14 CFR 389.25 (j)(1) and (n)), effective November 13, 1965, to read as follows:

§ 389.25 Schedule of filing and license fees.

* * * * *

(j) *Other exemptions and Parts 208, 295, 378, and 378a waivers.* (1) Except as provided in subparagraph (2) of this paragraph, the filing fee for (i) an application for exemption under section 101(3) or section 416(b) of the Act, except applications within the provisions of paragraph (h) or (i) of this section, or (ii) a request under § 208.3a, § 295.3, § 378.30, or § 378a.20 of this chapter for a waiver of any of the provisions of Part 208, Part 295, Part 378, or Part 378a of this chapter, respectively, is $55: *Provided,* That the filing fee for an application for exemption for the performance of a specific number of charters (one-way or round-trip) is $55, plus $5 for each charter (one-way or round-trip) described, subject to a miximum fee of $200.

* * * * *

(n) *Merger, acquisition of control,* etc., *under section 408.* The filing fee for an application under section 408 of the Act is $65; except that the filing fee for an application for merger, consolidation, or acquisition of control of certificated air carriers is $2,000 for each certificated air carrier named in the merger, consolidation, or acquisition of control.

* * * * *

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324; 31 U.S.C. 483a)

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 69–13674; Filed, Nov. 17, 1969; 8:47 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

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

VINYL CHLORIDE-PROPYLENE COPOLYMERS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 9B2380) filed by Air Reduction Co., Inc., 150 East 42d Street, New York, N.Y. 10017, and other relevant material, concludes that the food additive regulations should be amended as set forth below (1) to permit additional safe food-contact use for vinyl chloride-propylene copolymers complying with § 121.2521 and (2) to provide for safe use of additional substances as adjuvants in such copolymers. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended in Subpart F as follows:

1. Section 121.2511(b) is amended by revising use limitation number 2 for the items "Dicyclohexyl phthalate" and "Diphenyl phthalate" to read as follows:

§ 121.2511 Plasticizers in polymeric substances.

* * * * *

(b) List of substances.

	Limitations
* * *	* * *
Dicyclohexyl phthalate	For use only:
	* * *
	2. Alone or in combination with other phthalates, in plastic film or sheet prepared from polyvinyl acetate, polyvinyl chloride, and/or vinyl chloride copolymers complying with § 121.2521. Such plastic film or sheet shall be used in contact with food at temperatures not to exceed room temperature and shall contain no more than 10 percent by weight of total phthalates, calculated as phthalic acid.

	Limitations
* * *	* * *
Diphenyl phthalate	For use only: * * * 2. Alone or in combination with other phthalates, in plastic film or sheet prepared from polyvinyl acetate, polyvinyl chloride, and/or vinyl chloride copolymers complying with § 121.2521. Such plastic film or sheet shall be used in contact with food at temperatures not to exceed room temperature and shall contain no more than 10 percent by weight of total phthalates, calculated as phthalic acid. * * *
* * *	* * *

2. Section 121.2532(b) is revised to read as follows:

§ 121.2532 Polyethylene, chlorinated.

* * * * *

(b) Chlorinated polyethylene may be used in contact with all types of food, except that when used in contact with fatty food of types III, IV–A, V, VII–A, and IX described in table 1 of § 121.2526(c), chlorinated polyethylene is limited to use only as a modifier admixed at levels not exceeding 15 weight percent in plastic articles prepared from polyvinyl chloride and/or from vinyl chloride copolymers complying with § 121.2521.

3. Section 121.2541(c) is amended by revising use limitation number 1 for the item "Ammonium salt of epoxidized oleic acid * * *" to read as follows:

§ 121.2541 Emulsifiers and/or surface-active agents.

* * * * *

(c) List of substances:

	Limitations
Ammonium salt of epoxidized oleic acid, produced from epoxidized oleic acid (predominantly dihydroxystearic and acetoxyhydroxystearic acids) meeting the following specifications: Acid number 160–180, saponification number 210–235, iodine number 2–15, and epoxy groups 0–0.4 percent.	For use only: 1. As a polymerization emulsifier at levels not to exceed 1.5 percent by weight of vinyl chloride polymers used as components of nonfood articles complying with §§ 121.2514, 121.2520, 121.2526, 121.2550, and 121.2571. Such vinyl chloride polymers are limited to polyvinyl chloride and/or vinyl chloride copolymers complying with § 121.2521.
* * *	* * *

4. Section 121.2544(a) is revised to read as follows:

§ 121.2544 Tetrahydrofuran.

* * * * *

(a) It is used as a solvent in the casting of film from a solution of polymeric resins of vinyl chloride, vinyl acetate, or vinylidene chloride that have been polymerized singly or copolymerized with one another in any combination, or it may be used as a solvent in the casting of film prepared from vinyl chloride copolymers complying with § 121.2521.

* * * * *

5. Section 121.2566(b) is amended by revising the use limitations for seven items as follows:

§ 121.2566 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) List of substances:

	Limitations
* * *	* * *
N,N'-Diphenylthiourea	For use only: 1. At levels not to exceed 0.5 percent by weight of polyvinyl chloride and/or vinyl chloride copolymers complying with § 121.2521. 2. At levels not to exceed 0.5 percent by weight of vinyl chloride-vinyl acetate copolymers containing not more than 20 molar percent of vinyl acetate.
Hydrogenated 4,4'-isopropylidenediphenol-phosphite ester resins produced by the condensation of 1 mole of triphenyl phosphite and 1.5 moles of hydrogenated 4,4'-isopropylidenediphenol such that the finished resins have a molecular weight in the range of 2,400–3,000, a phosphorus content of 6.5–6.9 percent, and contain no more than 2.2 percent by weight of residual free phenol.	For use only at levels not to exceed 0.55 percent by weight vinyl chloride copolymers complying with § 121.2521 and/or polyvinyl chloride when such vinyl chloride homo- and/or copolymers are used in the manufacture of rigid vinyl chloride plastic bottles intended for contact with edible oils (including edible oil in simple mixture or emulsion form), all types of dressings for salads, and food of types VIII and IX described in table 1 of § 121.2526(c). The finished food-contact article containing this stabilizer, when extracted with distilled water at 135° F. for 1 week (168 hours), using a volume-to-surface ratio of 5 milliliters per square inch of surface tested, shall yield extracted phenol not to exceed 0.008 milligram per square inch of food-contact surface and shall yield extracted organophosphates (total phosphates minus inorganic phosphates) not to exceed 0.0001 milligram per square inch of food-contact surface.
2(2'-Hydroxy-5'-methylphenyl)benzotriazole meeting the following specification: Melting point 126°–132° C.	For use only: 1. As component of nonfood articles complying with § 121.2591. 2. At levels not to exceed 0.25 percent by weight of rigid polyvinyl chloride and/or rigid vinyl chloride copolymers complying with § 121.2521 when such vinyl chloride homo- and/or copolymers are used in contact with nonfatty food.
* * *	* * *
Magnesium salicylate	For use only in rigid polyvinyl chloride and/or in rigid vinyl chloride copolymers complying with § 121.2521, provided that total salicylates (calculated as the acid) do not exceed 0.3 percent by weight of such polymers.
* * *	* * *
Pentaerythritol and its stearate ester.	For use only in rigid polyvinyl chloride and/or in rigid vinyl chloride copolymers complying with § 121.2521, provided that the total amount of pentaerythritol and/or pentaerythritol stearate (calculated as free pentaerythritol) does not exceed 0.4 percent by weight of such polymers.
* * *	* * *

	Limitations
Tris(2 - methyl - 4 - hydroxy - 5 - *tert* - butylphenyl) butane.	For use only: 1. At levels not to exceed 0.25 percent by weight of polymers used as provided in § 121.2571. 2. At levels not to exceed 0.25 percent by weight of the following polymers when used in articles that contact food of types I, II, IV–B, VI–B, VII–B, and VIII described in table 1 of § 121.2526 (c): Olefin polymers complying with § 121.2501(c), items 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, or 4 or complying with other sections in this Subpart F; vinyl chloride polymers; and/or vinyl chloride copolymers complying with § 121.2521. 3. At levels not to exceed 0.1 percent by weight of the following polymers when used in articles that contact food of types III, IV–A, V, VI–A, VI–C, VII–A, and IX described in table 1 of § 121.2526(c): Olefin polymers complying with § 121.2501(c), items, 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, or 4 or complying with other sections in this Subpart F; vinyl chloride polymers; and/or vinyl chloride copolymers complying with § 121.2521.
* * *	* * *
Zinc salicylate	For use only in rigid polyvinyl chloride and/or in rigid vinyl chloride copolymers complying with § 121.2521, provided that total salicylates (calculated as the acid) do not exceed 0.3 percent by weight of such polymers.
* * *	* * *

8. Section 121.2591(a)(4) is amended by alphabetically inserting in the list of polymers a new item as follows:

§ 121.2591 **Semirigid and rigid acrylic and modified acrylic plastics.**

* * * * *

(a) * * *

(4) * * *

Vinyl chloride copolymers complying with § 121.2521.

* * * * *

9. Section 121.2597 is amended by revising the introductory text to read as follows:

§ 121.2597 **Polymer modifiers in semirigid and rigid vinyl chloride plastics.**

The polymers identified in paragraph (a) of this section may be safely admixed, alone or in mixture with other permitted polymers, as modifiers in semirigid and rigid vinyl chloride plastic food-contact articles prepared from vinyl chloride homopolymers and/or from vinyl chloride copolymers complying with § 121.2521, § 121.2608, and/or § 121.2609, in accordance with the following prescribed conditions:

* * * * *

10. Section 121.2602 is amended by revising the section heading, the introductory text, and paragraph (b) to read as follows:

§ 121.2602 **Octyltin stabilizers in vinyl chloride plastics.**

The octyltin chemicals identified in paragraph (a) of this section may be safely used alone or in combination, at levels not to exceed a total of 3 parts per hundred of resin, as stabilizers in vinyl chloride plastic articles that are prepared from polyvinyl chloride and/or from vinyl chloride copolymers complying with § 121.2521 and that are intended for use in contact with food of types I, II, III, IV (except liquid milk), V, VI (except malt beverages and carbonated nonalcoholic beverages), VII, VIII, and IX described in table 1 of § 121.2526(c), in accordance with the following prescribed conditions:

* * * * *

(b) The food in contact with the finished vinyl chloride plastic articles shall contain no more than 1 part per million of each or any combination of the di(*n*-octyl)tin *S,S'*-bis(isooctylmercaptoacetate) and di(*n*-octyl)tin maleate polymer identified in paragraph (a) (1) and (2) of this section.

11. Section 121.2605 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 121.2605 **Polyhydric alcohol diesters of oxidatively refined (Gersthoffen process) montan wax acids.**

* * * * *

(a) The polyhydric alcohol diesters identified in this paragraph may be used as lubricants in the fabrication of vinyl chloride plastic food-contact articles prepared from polyvinyl chloride and/or from vinyl chloride copolymers complying with § 121.2521. Such diesters meet the following specifications and are produced by partial esterification of oxidatively refined (Gersthoffen process) montan wax acids by either ethylene glycol or 1,3-butanediol with or without neutralization of unreacted carboxylic groups with calcium hydroxide:

* * * * *

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

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

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

Dated: November 7, 1969.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 69-13650; Filed, Nov. 17, 1969; 8:45 a.m.]

PART 121—FOOD ADDITIVES

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

ANTIOXIDANTS AND/OR STABILIZERS FOR POLYMERS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 9B2417) filed by The Goodyear Tire & Rubber Co., Akron, Ohio 44316, and other relevant material, concludes that § 121.2566 *Antioxidants and/or stabilizers for polymers* should be amended as set forth below to revise the identification and specifications for the item "Butylated, styrenated cresols produced when * * *." Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2566(b) is amended by revising the item "Butylated, styrenated cresols produced when * * *" to read as follows:

§ 121.2566 **Antioxidants and/or stabilizers for polymers.**

* * * * *

(b) * * *

* * *	*Limitations*
Butylated, styrenated cresols produced when equal moles of isobutylene, styrene, and a metacresol-paracresol mixture having a no more than 3° C. distillation range including 202° C. are made to react so that the final product meets the following specifications: Not less than 95 percent by weight of total alkylated phenols consisting of 13–25 percent by weight of butylated *m*- and *p*-cresols, 26–38 percent by weight of styrenated *m*- and *p*-cresols, 47–49 percent by weight of butylated styrenated *m*- and *p*-cresols, and not more than 10 percent by weight total of alkylated xylenols, alkylated o-cresol, alkylated phenol, and alkylated ethylphenol; acidity not more than 0.003 percent; and refractive index at 25° C. of 1.5550–1.5650, as determined by ASTM Method D 1218–61.	* * * For use only: 1. As provided in §§ 121.2520 and 121.2562. 2. At levels not to exceed 0.5 percent by weight of polystyrene, rubber-modified polystyrene, or olefin polymers complying with § 121.2501(c), items 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, or 4, or complying with other sections in this Subpart F, used in articles that contact food only under the conditions described in § 121.2526(c), table 2, under conditions of use C through G. * * *

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

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

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

Dated: November 6, 1969.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 69-13648; Filed, Nov. 17, 1969; 8:45 a.m.]

SUBCHAPTER C—DRUGS

PART 146—ANTIBIOTIC DRUGS; PROCEDURAL AND INTERPRETATIVE REGULATIONS

Clarification

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 146.2(c)(10) is revised to read as follows to clarify that "results and dates" refers to substances in the batch rather than before they are incorporated into the batch:

§ 146.2 Requests for certification, check tests and assays, and working standards; information and samples required.

* * * * *

(c) * * *

(10) The results and dates of tests and assays made by or for him on the nonantibiotic active ingredients in the batch.

* * * * *

Since this amendment is merely a clarification and is nonrestrictive and noncontroversial in nature, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

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

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

Dated: November 6, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69-13649; Filed, Nov. 17, 1969; 8:45 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Office of Emergency Preparedness

Section 213.3326(a)(6) is amended to show that the position of Director of Information is removed from Schedule C.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 69-13670; Filed, Nov. 17, 1969; 8:47 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter III—Corps of Engineers, Department of the Army

PART 311—PUBLIC USE OF CERTAIN RESERVOIR AREAS

Foster Joseph Sayers Reservoir Area, Pa.

The Secretary of the Army having determined that the use of Foster Joseph Sayers Reservoir Area, Bald Eagle Creek, Pa., by the general public for boating, swimming, bathing, fishing, and other recreational purposes will not be contrary to the public interest and will not be inconsistent with the operation and maintenance of the reservoir for its primary purposes, hereby prescribes rules and regulations for public use, pursuant to the provisions of section 4 of the Flood Control Act of 1944 as amended (76 Stat. 1195), adding the reservoir area to those listed in § 311.1, as follows:

§ 311.1 Areas covered.

* * * * *

Pennsylvania

* * * * *

Foster Joseph Sayers Reservoir Area, Bald Eagle Creek.

* * * * *

[Regs., Oct. 21, 1969, ENGCW-OM] (Sec. 4, 58 Stat. 889, as amended; 16 U.S.C. 460d)

For the Adjutant General.

HAROLD SHARON,
Chief, Legislative and Precedent Branch, Management Division, TAGO.

[F.R. Doc. 69-13647; Filed, Nov. 17, 1969; 8:45 a.m.]

Title 32—NATIONAL DEFENSE

Chapter XIV—Renegotiation Board

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

PART 1460—PRINCIPLES AND FACTORS IN DETERMINING EXCESSIVE PROFITS

Minimum Refund

Section 1460.5 *Minimum refund* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1460.5 Minimum refund.

(a) *In general.* Except as otherwise provided in this section, and in the absence of unusual circumstances, no determination of excessive profits for a fiscal year will be made in an amount less than $40,000 or, in the case of subcontracts described in section 103(g)(3) of the act, in an amount less than $10,000, in each instance before adjustment for taxes measured by income,

other than Federal taxes (see § 1459.9 of this chapter).

(b) *"Floor" cases.* If the excessive profits of the contractor equal or exceed the applicable minimum provided in paragraph (a) of this section, a determination will be made in the amount of the excessive profits realized, even though the amount thereof that can be eliminated is limited by the provisions of section 105(f) (1) or (2) of the act and § 1458.3 (a) or (b) of this chapter. For example, if renegotiable receipts or accruals are $1,028,000, and the excessive profits are $100,000, a determination in the amount of $100,000 will be made, although the amount that will be eliminated is $28,000.

(c) *Related contractors.* In the renegotiation of an affiliated or related group of contractors, whether or not consolidated, determinations of excessive profits with respect to individual members of the group may be made in amounts less than the applicable minimum provided in paragraph (a) of this section: *Provided*, That the aggregate of the determinations for all members of the group equals or exceeds such applicable minimum.

(d) *Short fiscal years.* If in any case the fiscal year of a contractor is a fractional part of 12 months, the applicable minimum provided in paragraph (a) of this section will be reduced to the same fractional part thereof.

(Sec. 109, 65 Stat. 22; 50 U.S.C.A., App. sec. 1219)

Dated: November 13, 1969.

LAWRENCE E. HARTWIG,
Chairman.

[F.R. Doc. 69-13679; Filed, Nov. 17, 1969; 8:47 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket Nos. 17999, 18452; FCC 69-1241, 69-1242]

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Community Antenna Relay Stations

Report and order. In the matter of amendment of Part 74, Subpart J, of the Commission's rules and regulations relative to Community Antenna Relay Stations; Docket No. 18452.

1. The notice of proposed rule making in this proceeding (16 FCC 2d 433, 34 F.R. 2361) proposed to accommodate a local CATV radio distribution service in the 12.7–12.95 GHz band presently shared by the Community Antenna Relay (CAR) and television broadcast auxiliary services. It was contemplated that the CATV operator would use radio in place of some cable trunk lines within the CATV system to relay program material from a transmitter site to multiple receiving sites, for forwarding to the premises of the CATV subscriber via cable. The radio distribution portion would operate with vestigial sideband amplitude modulation (AM) emission for the visual signal and frequency modulation (FM) for the accompanying sound utilizing a Channel 6 MHz wide for each television signal relayed. The notice recognized that such use of radio within a CATV system might facilitate expansion of CATV service to some suburban and rural population pockets not economically reached by cable alone and might offer economies in areas where overhead cable construction is prohibited (16 FCC 2d at 434).

2. Comments and reply comments have been received from interested persons and considered by the Commission. The proposal was favored by the National Cable Television Association (NCTA), TelePrompTer Corp. (TelePrompTer), Jerrold Corp. (Jerrold), and Hughes Aircraft Co. (Hughes). Opposition was expressed by the All Channel Television Society (ACTS), the Association of Maximum Service Telecasters, Inc. (AMST), the National Association of Educational Broadcasters (NAEB), American Broadcasting Co. (ABC), General Electric Co. (GE), and Electronic Industries Association (EIA). Those opposed assert that establishment of a local radio distribution service would be premature prior to a determination of issues in other proceedings (e.g., Dockets Nos. 18397, 18294, 17999, and 16495) as to CATV program origination and the various types of services that might be provided on CATV systems in addition to carriage of broadcast signals.[1] GE, though not against the service as such, urges that 12.7–12.95 GHz affords inadequate spectrum space for potential CATV services, and asserts that the 18 GHz region of the spectrum would be more suitable location for a local radio service. ACTS and AMST argue that the proposed service is inconsistent with spectrum conservation and the oft-made claim that spectrum saving will result from cable distribution of television. They further assert that microwave links should not be authorized merely to achieve economies (which allegedly would not be passed along to CATV subscribers), but rather only upon a showing of public benefits which would be unavailable through the alternative of cable links.

3. After full consideration of the views expressed, we have decided that the public interest would be served by authorizing the proposed service in the 12.7–12.95 GHz band at this time. We are not persuaded by the argument that it would be premature to do so prior to determinations in other proceedings as to the types of services that CATV might provide in the future in addition to carriage of broadcast signals. While those commenting in support of the proposal concentrated on transmission of television broadcast signals, it is apparent that some other services could be accommodated within the available spectrum space. The proposed frequency assignment plan would permit 38 television or equivalent channels for nonrepeatered operation and 18 for repeatered (two hop) operation, which is more than the number of television signals usually carried by CATV systems. In general, we see no reason why a CATV system using intrasystem microwave links should not be permitted to provide the same services as an all cable system, if technically feasible within spectrum limitations and compatible with the requirements of other users sharing the band. In the event that the Commission should determine in another proceeding that the provision of other services in conjunction with carriage of broadcast signals would be contrary to the public interest for substantive reasons, or should be regulated in the public interest, any such prohibition or regulations would be applicable to the CATV system whether or not it used microwave. Hence it is unnecessary to resolve the matter of potential future services prior to determining whether CATV should be permitted to use microwave in conjunction with its present operations.

4. Apart from carriage of broadcast signals, the only additional service now generally provided by CATV systems is program origination. We think that any local radio distribution service should encompass transmission of television program material originated by the CATV operator and by others on leased channels, as well as broadcast signals, subject of course to any regulations adopted in Docket No. 18397.[2] This would accord with the Commission's view in Docket No. 18397 that the public interest would be served by encouraging CATV systems to engage in program origination and to lease channels to others for origination by them. See First Report and Order in Docket No. 18397, issued October 27, 1969 (FCC 69-1170). Moreover, it does not appear that substantially different technical standards would be required. We will leave the question of other possible services, which might entail different technical standards, for consideration on a case-by-case basis as the occasion arises or for such further rule making as may be appropriate in light of any determinations reached in Part V of Docket No. 18397 or in Docket No. 16495 (the domestic satellite proceeding).

5. The notice specifically requested comments on what, if any, problems of congestion might be encountered if a local distribution service is accommodated in the 12.7–12.95 GHz band. TelePrompTer states that the proposed service appears to be compatible with CAR operations of the present nature, and that television auxiliary services (intercity relay, studio-transmitter link (STL) and television pickup (TV pickup)) have

[1] NCTA, though in favor of the proposed service, urged that technical standards should be deferred for later resolution.

[2] We are concurrently resolving the proceedings in Docket No. 17999 in a manner not inconsistent with our decision herein, and will append the rules changes in both dockets to each order.

other bands, including the adjacent frequencies 12.95–13.2 GHz for STL and TV pickup. Hughes states that congestion is not likely. It has made a spot check of likely congestion points and other areas, which indicates that present use is light. Moreover, Hughes points out that the spatial aspect of a pencil beam antenna pattern usually permits multiple use of the same frequencies in the same area. No claim to the contrary is made in the comments of others, and the record contains no objection by CAR or television auxiliary licensees.[3] In the circumstances, and in view of the technical characteristics and localized operation of the proposed intrasystem operations, we conclude that the likelihood of undue congestion vis-a-vis other services in this band is not such as to bar establishment of the local distribution service at 12.7–12.95 GHz.[4]

6. Apart from the factor of possible congestion with other users, GE asserts that the 12.7–12.95 GHz band would not afford sufficient space for the local distribution service to grow to its full potential if the future new services that might be provided by CATV are taken into account. GE's suggestion that the proposed service should therefore be authorized in the 18 GHz portion of the spectrum, renews a contention that the Commission has previously rejected. In the Matter of the Petition of TelePrompTer Corp., New York, N.Y., for Rulemaking to Allocate Frequencies, (SHF) for High Capacity, Local Distribution Communications Purposes, denying the TelePrompTer petition for rule making (RM–1104), 12 FCC 2d 936. As there stated, it is not considered to be practicable to allocate this portion of the spectrum for any regular or nationwide use until after the next international space conference in 1971 and the allocations for the communications satellite service, as well as the requirements of other potential users, are known. In the event that 12.7–12.95 GHz proves inadequate for the local radio distribution service in the light of future developments and the outcome of the space conference and allocations in this region are such as to permit use of 18 GHz, we can reexamine the question of affording additional space at that time. No extensive delay for research and development of equipment would be entailed, since equipment for 18 GHz has already been developed and is now authorized in three areas on an experimental basis. In the interim, the number of channels to be derived from the frequency assignment plan for 12.7–12.95 GHz should be adequate for the immediate future, and the use of this band is a necessity if the service is to be established now.

7. We also find not controlling the spectrum conservation argument of AMST and ACTS and their related assertion that spectrum should not be used to achieve economies or unless cable is not technically feasible. While spectrum conservation is a pertinent consideration, the same argument could be made with respect to most point-to-point uses of microwave not involving mobile equipment. The Commission has repeatedly noted the valuable contributions made by CATV in bringing service to underserved areas, and its promise as a means for increasing the number of local outlets for community self-expression and for augmenting the public's choice of programs and types of services in all areas. We have been unable to place primary reliance on CATV in large part because of its inability to serve sparsely populated areas where cable is uneconomic. To the extent that economies in the use of radio may permit a CATV system to expand its service to some, but not all, outlying areas (e.g., population pockets too small to support their own system and too remote from the central system to warrant a cable link), we think that the public benefits outweigh the abstract concept of spectrum conservation per se, at least in the absence of other compelling considerations not presented here. However, we will require applicants to make a showing that there is need to use microwave relay rather than cable for intrasystem purposes (see § 74.1031(e) of the rules in Appendix B).

8. Moreover, there are other reasons for permitting CATV to achieve economies in heavily populated areas where overhead construction is often prohibited. While distant signal operations in major television markets pose serious public interest questions in present circumstances, the Commission is now seeking to encourage CATV entry into major cities on the basis of carriage of local signals, program origination, and possibly other services. We are aware of the costs of program origination from the record in Docket No. 18397 and our experience in the television broadcast field, and would be reluctant to have the costs of underground construction bar or delay such entry, or curtail program origination efforts. In addition, the underground conduits are usually under the control of the telephone companies, as indeed is generally the case for aboveground cable construction where pole attachment agreements or lease arrangements are necessary.[5] We think that CATV should have available the alternative of radio links which would enable it to construct its own facilities, independent or largely independent of the telephone companies.[6] Here, again, we will require applicants to make a showing of need (§ 74.1031(e) of the rules in appendix B).

9. Accordingly, we find that establishment of the proposed service at 12.7–12.95 GHz will serve the public interest, and turn to the question of technical standards.[7] The notice specifically requested comments on what modifications of the CAR service rules would be necessary or desirable, the number of transmitter sites necessary to serve a single area, appropriate frequency assignment plans, whether the transmitters should operate on an adjacent or alternate channel basis, and whether local television signals should be obtained at receiving sites in some areas to economize on spectrum usage. Except for the latter question, only TelePrompTer and Hughes addressed their comments to these matters. AMST and ACTS urge that local signals and automated services (e.g., time, weather, news ticker, stock market ticker) should be disseminated from the receiving site of the radio link. However, TelePrompTer and Hughes state that this is generally impracticable for multiple receiving sites because of the substantial cost in duplicating equipment and is not desirable from a maintenance and reliability standpoint. We think that their position has merit and will impose no general requirement to this effect.

10. The technical standards proposed by Hughes and TelePrompTer to accommodate AM television transmission for a local distribution service are tailored to a multiplexing technique under development by Hughes, which they characterize as "single sideband amplitude modulation" and which involves the transmission of a pilot subcarrier for use in the demodulation process. We are adopting technical rules that differ in some respects from those proposed. The rules set forth in Appendix B will accommodate not only the specific techniques

[3] TelePrompTer urges that STL and TV pickup should be required to use 12.95–13.2 GHz before using 12.7–12.95 GHz, whereas NCTA urges that the local distribution service should be permitted to use the 12.95–13.2 GHz band as well as 12.7–12.95 GHz. We decline to adopt either suggestion at this time. Experience with coordination within the present allocations (as modified herein) will afford a better basis for a judgment as to whether any adjustment is desirable and, if so, of what nature.

[4] Jerrold and TelePrompTer suggest that any possible future crowding of the CARS band could be alleviated by substituting the proposed 6 MHz per channel AM operation for the existing 25 MHz per channel FM operation of CAR stations for relatively short hop applications. Jerrold further suggests that the same technique could be used in the Instructional Television Fixed Service (ITFS) to reduce congestion in the 2.5 GHz band and also to reduce ITFS costs. The rules adopted herein will permit the use of this technique for traditional CAR service operations.

[5] The Commission has received numerous complaints in this area which are being considered in Docket No. 16928 et al. and other proceedings.

[6] We need not consider in this proceeding the assertion of ACTS that radio links would enable CATV to hop over areas it did not want to serve. In the event that such a situation should arise, the procedures for objecting to individual applications, and the public interest finding prerequisite to any grant, afford ample protection.

[7] While NCTA suggests that the matter of technical standards should be deferred pending recommendations of an advisory committee, we think it desirable to consider this aspect now in order to afford guidance to equipment manufacturers, as well as to facilitate the early filing of applications. In the event that modifications appear desirable in the light of future developments, the Commission can take appropriate action on a case-by-case basis or institute further rule making, with the assistance of an advisory committee if this should appear useful.

used by Hughes but may also permit the use of other methods of translating standard television broadcast signals to the 12.7–12.95 GHz band.

11. In order to distinguish the new service from traditional CAR operations, which differ both in technical characteristics and in the kind of route, we will call such intrasystem operations the Local Distribution Service (LDS). The rules governing the CAR service will also apply to the LDS except where different provisions are specifically made applicable to LDS stations. The rules in Appendix B amend the present CAR service rules to provide additionally for LDS stations: (a) A new channeling plan for vestigial sideband AM (5750A5C/250F3) emission, (b) modified power requirements, (c) revised spurious emission limitations, (d) rules regarding antenna beamwidth, and (e) new frequency tolerance requirements.

12. The channeling plan for LDS stations in § 74.1003 in Appendix B is that proposed by Hughes. It has the advantage that it can be used with or without a pilot subcarrier, facilitates repeatering for routes having more than a single hop, and permits a multicasting coverage approach such as conceived by TelePrompTer for its AML system at 18 GHz. We are adopting a spurious emission limitation for vestigial sideband AM transmission which differs from that proposed by Hughes. The channeling plan envisions the radiation of television signals on immediately adjacent channels.[6] To insure that emission components produced by signals in one channel will not cause visible interference in another, we are requiring that all out-of-channel emissions be attenuated by at least 50 decibels with respect to the peak power of emission within that channel. This required attenuation appears to be a value that can be readily achieved, and assumes that the power radiated is closely the same on each channel. A requirement that the radiated power on each channel be closely equal for LDS stations is added to § 74.1039, along with a maximum permissible aural/visual power ratio.

13. The present CAR service rule concerning antenna beamwidth, § 74.1043, is amended to provide for circumstances in the LDS service in which spectrum utilization will be served by radiating a wider beam than presently permitted, or to permit a single relay station to serve in different directions. Hughes and TelePrompTer suggested a frequency tolerance of 0.002 percent for amplitude modulated systems. We find that a tolerance four times better (0.0005 percent) would facilitate the operation of nonsynchronously demodulated systems and can be achieved with readily available crystal controlled sources, and are thus persuaded to adopt the tighter tolerance for LDS stations (see § 74.1061 in Appendix B).

14. Although the carriage of programs of AM and FM aural broadcast stations is permitted in the CAR service and may be requested in the LDS, none of the comments addressed themselves to the matter of necessary technical standards for carrying such programs on vestigal sideband AM relay systems. Hughes, in its channeling plan, marked several channels for possible alternate use for carrying FM broadcast programs, but did not propose methods for accomplishing this. Accordingly, we are not adopting technical standards for LDS aural broadcast relaying at this time. Pending any further rule making on this aspect, applications in which aural broadcast relaying is proposed will be examined on a case-by-case basis, and may be granted or denied in accordance with frequency utilization and other pertinent public interest considerations. We will follow the same procedure for any other service proposed in an LDS application, apart from the relay of television broadcast signals and television programing originated by the CATV operator and/or others on leased channels.

15. In light of all the foregoing, we conclude that the public interest would be served by adoption of the rules set forth in Appendix B. Authority for the rules adopted herein is contained in sections 2, 3 (a) and (b), 4 (i) and (j), 301, 303, 307(b), 308, 309, and 403 of the Communications Act.

16. *Accordingly, it is ordered,* That the rules set forth in Appendix B are adopted, effective December 23, 1969. *It is further ordered,* That this proceeding is terminated.

Report and order. In the matter of amendment of Part 74 of the Commission's rules to permit stations licensed in the Community Antenna Relay Service to transmit program material originated by CATV systems; Docket No. 17999.

1. On February 15, 1968, the Commission issued a notice of proposed rule making in the above-entitled matter (13 FCC 2d 731, 33 F.R. 3188). It was proposed therein to amend certain sections of Part 74 of the Commission's rules and regulations to permit stations licensed in the Community Antenna Relay Service to transmit program material originated by CATV systems.[1]

2. In this notice comments were sought on whether a need existed for the proposed service, whether a showing should be required in each application that a need exists to use microwave rather than cable, and whether the proposed service would have an undesirable impact on the television auxiliary stations sharing the same bandwidth. Although this proceeding was to be concerned "mainly with the technical aspects of the problem," comments were also invited on the question of whether there should be any limitations on the types of CATV originated programing which might be transmitted.[2]

3. The comments filed and our own study indicate that at present there is generally no serious problem of spectrum congestion in the CARS band nor in the frequencies reserved for television auxiliary broadcast services considered as a whole. Some comments by users of television auxiliary broadcast services, however, expressed some fear that CAR stations in the future could become profligate users of spectrum space and so impair the ability of broadcasters to obtain additional frequencies for their own auxiliary services and in particular for remote pickups. Our analysis indicates, however, that this clearly undesirable result is not likely even in the areas of the country where there is the most congestion. In addition to the 250 MHz between 12,700 and 12,950 MHz shared with CARS, television broadcasters have been allocated 170 MHz in the 1,990–2,500 MHz band, 250 MHz in the 6,875–7,125 MHz band and 300 MHz in the 12,950–13,250 MHz band for STL, intercity relay and remote pickup use. This provides 970 MHz of spectrum for television broadcast auxiliary services of which 720 MHz is almost exclusively reserved for broadcast users.[3] Not even in the most heavily congested areas of the country has this amount of spectrum space been fully utilized by the auxiliary services, even though only a minimum of sharing of remote pickup channels has been undertaken. For example, in Los Angeles, one of the most congested area, six fixed broadcast auxiliary stations using eight channels and only one pickup station are presently using the frequencies in the CARS band, which would appear to leave sufficient room available to absorb the additional uses proposed herein.

4. There is little dispute that a need exists for additional auxiliary facilities to aid CATV systems in the production and presentation of locally originated and nonbroadcast programing. We have, accordingly, concluded that provision should be made for the carriage of CATV originated programing ("cablecasting") in the Community Antenna Relay service and that the public interest, convenience and necessity will be served by such use. The rules we now adopt will permit use of these frequencies to be expanded to give CATV systems facilities comparable to those in the Television Auxiliary

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[6] Both Hughes and TelePrompTer state that adjacent channel operation is feasible for television signals. They also state that generally only a single transmitter site would be needed (except for New York City and places where more than one CATV operator is authorized to serve the same area). Applicants for LDS stations are encouraged to apply for adjacent channels within each group of channels. However, as suggested by Hughes, we will retain flexibility to authorize a different arrangement upon a showing of good cause.

[1] Appendix A set forth below is a list of the parties filing comments. Comments, after one time extension, were due Sept. 20, 1968, with reply comments due Nov. 19, 1968.

[2] Some of the issues raised in this notice, especially as they concern spectrum congestion, were also in issue in Docket 18452 (16 FCC 2d 433 (1969)) which concerns the establishment of a local CATV distribution service in the 12,700–12,950 MHz band. That proceeding is being resolved concurrently with this one. Because the rule changes made in the two proceedings overlap, the rule changes contained in Appendix B below reflect decisions made in both of the proceedings.

[3] See § 74.602 of the rules.

Broadcast service for the carriage of CATV originated programing. Three types of stations will now be available for use in conjunction with CATV systems. First, CAR stations such as are presently authorized but without the present prohibition on carriage of programing other than broadcast programing. Second, CAR studio to head-end link (SHL) stations for the transmission of CATV originated programing from a CATV studio to a CATV head-end. And third, CAR pickup stations, which will be land mobile stations for the transmission of television signals from the scenes of events outside of a studio to the CATV studio or directly to the CATV head-end (see Appendix B, § 74.1001 (g) and (h)). Our licensing policy with respect to these new types of stations will be conformed to that in the television broadcast auxiliary area. Fixed stations (CAR and CAR studio to head-end link) will be assigned channels in the band subject to the condition that harmful interference is not caused to existing fixed stations already authorized at the time of such grants.[4] CAR pickup stations, like television pickup stations, will be subject to the condition that no harmful interference is caused to fixed television auxiliary or CAR stations. To assure that CATV systems with large channel capacity do not wastefully and inequitably occupy the available space we will limit CATV licensees, in the absence of a special showing, to the assignment of not more than three channels in the band for CAR pickup use.[5]

5. Because CATV systems in some instances already have rights of way and cable available in the communities they serve which could be used for nonradio studio to head-end links, we have considered whether a showing should be required by applicants for CAR SHL stations that there is a need to use microwave relay rather than cable. We have concluded that such a showing is desirable since the limited frequencies available clearly should not be occupied by those who can, without significant difficulty, use cable instead. In order to encourage the most efficient use of spectrum space, a statement will be required in every application for a CAR studio to head-end link station that the applicant has investigated the possibility of using cable rather than microwave and the reasons why it was decided to use microwave rather than cable. Where there appears to be no significant advantage in terms of either cost or service, and where there appears to be a strong likelihood of alternate users of the same frequencies, further investigation may be required and in appropriate cases denial of the application. Especially careful attention will be paid to this showing when the application is for a station in any of the larger metropolitan areas of the country where congestion problems are most likely to arise.

6. Finally, the question has been raised whether, assuming some use of CAR service for carriage of nonbroadcast programing, there ought to be some restrictions on the programing which may be carried. Two types of restrictions have been proposed in the comments received. First, those designed to assure that CATV originated programing does not have an adverse impact on television service (i.e., restrictions on the carriage of advertising and programing other than local public service programing), and secondly, restrictions of the type now applied to broadcasters (i.e., rules as to diversification, section 315, fairness, sponsor identification, number and length of commercials, false and misleading advertising, rules relating to lottery information, rigged contests, obscenities, deletions or alterations of program material). We have concluded, along with a number of parties filing comments, that this proceeding is an inappropriate one in which to issue any specific rules with respect to these questions. This proceeding was intended to be concerned primarily with the technical aspects of the problem and we have concluded that there is no technical impediment to authorization of the additional types of stations proposed. Those questions raised here with respect to CATV originated programing are also being considered in Docket 18397 (15 FCC 2d 417 (1968)). In the First Report and Order in Docket 18397 (FCC 69-1170, released Oct. 27, 1969) we concluded that it was in the public interest for CATV systems to originate programing and certain rules were there adopted regulating CATV cablecasting. No additional rules appear to be required simply because microwave facilities are being used. This is not to imply, of course, that in specific instances these questions will be, or even permissibly could be ignored. Licenses may be granted or renewed only upon a finding by the Commission that the "public interest, convenience and necessity would be served thereby." (Communications Act of 1934, as amended, section 307). This standard, including the content given it by other sections of the Act, rules adopted in Docket 18397, and by other relevant Commission rules and decisions, must, of course, be applied to the additional types of stations for which provision is made herein.

7. In light of all the foregoing, we conclude that the public interest would be served by the adoption of the rules set forth in Appendix B. Authority for the rules adopted is contained in sections 2, 3 (a) and (b), 4 (i) and (j), 301, 303, 307(b), 308, 309, and 403 of the Communications Act.

8. *Accordingly, it is ordered*, That the rules set forth in Appendix B hereto are adopted, effective December 23, 1969. *It is further ordered*, That this proceeding is terminated.

(Secs. 2, 3, 4, 301, 303, 307, 308, 309, 403, 48 Stat. 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085, 1094, as amended; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309, 403)

Adopted: November 7, 1969.

Released: November 14, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[6]

[SEAL] BEN F. WAPLE, *Secretary.*

APPENDIX A

List of Parties That Filed Comments:

Channel 6, Inc.
International Telemeter Corp.
Hubbard Broadcasting, Inc.
Jerrold Corp.
Smith, Pepper, Shack & L'Heureux.
Association of Maximum Service Telecasters, Inc.

Joint Comments of:

WANE-TV, Fort Wayne, Ind.
WAVE-TV, Louisville, Ky.
WCIA(TV), Champaign, Ill.
WFIE-TV, Evansville, Ind.
WFRV-TV, Green Bay, Wis.
WGBH-TV, Boston, Mass.
WGBX-TV, Indianapolis, Ind.
WMBD-TV, Peoria, Ill.
WMT-TV, Cedar Rapids, Iowa.
WPHL-TV, Philadelphia, Pa.
WSPA-TV, Spartanburg, N.C.
KFMB-TV, San Diego, Calif.
KHOU-TV, Houston, Tex.
KOTV(TV), Tulsa, Okla.
KQED-TV, San Francisco, Calif.
KXTV(TV), Sacramento, Calif.
Sangre De Cristo Broadcasting Corp.
H & B Communications Corp.
Pikes Peak Broadcasting Co.
Palmer Broadcasting Co.
Carthage Cablevision Corp.
American Broadcasting Co.
National Cable Television Association, Inc.

Joint Comments of:

Twin County Trans-Video, Inc.
El Paso Cablevision, Inc., and Southwest Cablevision, Inc.
San Jose Cable TV Service.
Mountain States Video, Inc.
National Association of Broadcasters.
American Television and Communications Corp.
Continental CATV of New York, Inc.
Gencoe, Inc.
Teleprompter Corp.
National Association of Educational Broadcasters.
Allen's TV Cable Service, Inc.
Antietam Cable Co.
Asbury & James TV Cable Service.
Athens TV Cable Co. of Alabama, Inc.
Back Mountain Telecable, Inc.
Blasdell Cablevision, Inc.
Boise City CATV, Inc.
Brownwood Television Cable Service, Inc.
Burns-Hines TV, Inc.
Cable Television Co. of Illinois.
Center Cable Television, Inc.
Clear Channel TV, Inc.
Clear View Cable Systems, Inc.
Columbia Television Co., Inc.
Colville Cable Co., Inc.
Cypress Valley Cable TV Service, Inc.
Dorate, Inc.

[4] No alteration is intended in the existing status of a small number of presently authorized television remote pickup stations which claim exclusive use of the frequencies to which they have been assigned.

[5] Until such time as separate forms are available for CAR pickup stations, applicants should use Form 400 in the Safety and Special Radio Service. Applicants for CAR and CAR studio to head-end link stations should use Form 402 in the Safety and Special Radio Service.

[6] Chairman Burch abstaining from voting; Commissioner Robert E. Lee dissenting; Commissioner Johnson concurring in the result; Commissioner Wells not participating.

Eastern Shore CATV, Inc.
Fredonia Cable TV Co.
Gemini Communications Co., Inc.
Green River Cable TV Co., Inc.
Grossco CATV, Inc.
H. C. Ostertag Cable Television Co., Inc.
Hamburg Cablevision, Inc.
Hill Country Cablevision, Inc.
International Cablevision.
Junction TV Cable Corp.
Kar-Mel CATV Systems, Inc.
KOTA Cable TV Co.
Lackawanna Cablevision, Inc.
Lake Shore Master Antenna Corp.
Lakeview TV, Inc.
Laurel Cablevision, Inc.
Louisiana Cable TV, Inc.
Marin Cable TV, Inc.
Marshall Cable, Inc.
Mobile TV Cable Co., Inc.
Monte Cable, Inc.
Monticello Cable Co., Inc.
Multi-Pix, Inc.
National Cable Co.
Norristown Distribution Systems, Inc.
North Penn Cablevision, Inc.
Northwest Illinois TV Cable Co.
Oregon Cablevision Co.
Pine Tree Microwave Corp.
Quinebaug Valley Cablevision, Inc.
Rowley United Pension Fund.
St. Landry Cable TV, Inc.
Sanderson Cable Co.
Shen-Heights Television Associates, Inc.
Soundvision, Inc.
Stan Socia Corp.
Suffolk Cable of Shelter Island.
Sullivan Productions, Inc.
Sweetwater Television Co., Inc.
Telecable, Inc.
Television Cable Co.
Texas Community Antennas, Inc.
TV Cable Co.
TV Enterprises, Inc.
United Artists Theatre Circuit, Inc.
Vandalia Cable TV Co., Inc.
Willmar Video, Inc.

APPENDIX B

Part 74, Subpart J, is amended as follows:

1. In § 74.1001, paragraph (a) is amended and paragraphs (f), (g), (h), and (i) are added, as follows:

§ 74.1001 Definitions.

(a) *Community Antenna Relay (CAR) Station.* A fixed or mobile station used for the transmission of television and related audio signals, signals of standard and FM broadcast stations and cablecasting, from the point of reception to a terminal point from which the signals are distributed to the public by cable.

NOTE: Except where the rules contained in this subpart make separate provision, the term "community antenna relay" or "CAR" includes the term "local distribution service" or "LDS", the term "community antenna relay studio to head-end link" or "SHL" and the term "community antenna relay pickup" as defined in paragraphs (f), (g), and (h) of this section.

* * * * *

(f) *Local Distribution Service (LDS) Station.* A fixed CAR station used within a CATV system or systems for the transmission of television signals and related audio signals, signals of standard and FM broadcast stations, and cablecasting, from a local transmission point to one or more receiving points, from which the communications are distributed to the public by cable. LDS stations may also engage in repeatered operation.

(g) *Community Antenna Relay Studio to Head-end Link (SHL) Station.* A fixed CAR station used for the transmission of television program material and related communications from a CATV studio to the head-end of a CATV system.

(h) *Community antenna relay pickup station.* A land mobile CAR station used for the transmission of television signals and related communications from the scenes of events occurring at points removed from CATV studios to CATV studios or head-ends.

(i) *Cablecasting.* The term "cablecasting" means television programing distributed on a CATV system which has been originated by the CATV operator or by another entity, exclusive of television broadcast signals distributed on the system.

2. Section 74.1003 is revised to read as follows:

§ 74.1003 Frequency assignments.

(a) The following channels may be assigned to community antenna relay stations:

(1) For community antenna relay stations using FM transmission:

Group A Mc/s	*Group B Mc/s*
12,700–12,725	12,712.5–12,737.5
12,725–12,750	12,737.5–12,762.5
12,750–12,775	12,762.5–12,787.5
12,775–12,800	12,787.5–12,812.5
12,800–12,825	12,812.5–12,837.5
12,825–12,850	12,837.5–12,862.5
12,850–12,875	12,862.5–12,887.5
12,875–12,900	12,887.5–12,912.5
12,900–12,925	12,912.5–12,937.5
12,925–12,950	

(2) For community antenna relay stations using vestigial sideband AM transmission:

Group C Mc/s	*Group D Mc/s*
12,700.5–12,706.5	12,759.7–12,765.7
12,706.5–12,712.5	12,765.7–12,771.7
12,712.5–12,718.5	12,771.7–12,777.7
12,718.5–12,722.5 [1]	12,777.7–12,781.7 [1]
12,722.5–12,728.5	12,781.7–12,787.7
12,728.5–12,734.5	12,787.7–12,793.7
12,734.5–12,740.5	12,793.7–12,799.7
12,740.5–12,746.5	12,799.7–12,805.7
12,746.5–12,752.5	12,805.7–12,811.7
12,752.5–12,758.5	12,811.7–12,817.7
12,820.5–12,826.5	12,879.7–12,885.7
12,826.5–12,832.5	12,885.7–12,891.7
12,832.5–12,838.5	12,891.7–12,897.7
12,838.5–12,844.5	12,897.7–12,903.7
12,844.5–12,850.5	12,903.7–12,909.7
12,850.5–12,856.5	12,909.7–12,915.7
12,856.5–12,862.5	12,915.7–12,921.7
12,862.5–12,868.5	12,921.7–12,927.7
12,868.5–12,874.5	12,927.7–12,933.7
Auxiliary Channels Mc/s	
12,933.7–12,939.7	12,939.7–12,945.7

(b) Television pickup, STL and intercity relay stations may be assigned channels in the band 12,700–12,950 Mc/s subject to the condition that no harmful interference is caused to community antenna relay stations authorized at the time of such grants. Similarly, new community antenna relay stations shall not cause harmful interference to television STL and intercity relay stations authorized at the time of such grants. Television pickup stations and CAR pickup stations will be assigned channels in the band on a coequal basis subject to the condition that they accept interference from and cause no interference to existing or subsequently authorized television STL, television intercity relay, fixed CAR, CAR SHL or LDS stations. A CATV system operator will normally be limited in any one area to the assignment of not more than three channels for CAR pickup use: *Provided, however,* That additional channels may be assigned upon a satisfactory showing that additional channels are necessary and are available.

(c) An application for a community antenna relay station shall be specific with regard to the channel or channels requested. Channels shall be identified by the channel-edge frequencies listed in paragraph (a) of this section.

(d) For community antenna relay stations using FM transmission, channels normally shall be selected from Group A. Channels in Group B will be assigned only on a case-by-case basis upon an adequate showing that Group A channels cannot be used and that such use will not degrade the technical quality of service provided in Group A channels to the extent that the Group A channels could not be used for television STL circuits. On-the-air tests may be required before channels in Group B are permitted to be placed in regular use.

(e) For community antenna relay stations using vestigial sideband AM transmission, channels from only Group C or only Group D normally will be assigned a station, although upon adequate showing variations in the use of channels in Groups C and D may be authorized on a case-by-case basis in order to avoid potential interference or to permit a more efficient use. The use of channels in both Groups C and D may be authorized for repeatered operation, or where the channels in one group are not sufficient to accommodate the services proposed to be provided on the CATV system, if the Commission finds that such use of channels in both groups would serve the public interest.

(f) For vestigial sideband AM transmission, the assigned visual carrier frequency for each channel listed in Group C or Group D shall be 1.25 Mc/s above the lower channel-edge frequency. The center frequency for the accompanying FM aural carrier in each channel shall be 4.5 Mc/s above the corresponding visual carrier frequency.

(g) Should any conflict arise among applications for stations in this band priority will be based on the filing date of an application completed in accordance with the instructions thereon.

3. In § 74.1030, paragraphs (a), (b), and (e)(2) are amended and paragraph (i) is added, as follows:

[1] For transmission of pilot subcarriers, or other authorized narrow band signals.

§ 74.1030 Purpose and permissible service.

(a) Community antenna relay stations are authorized to relay radio and television broadcast programing and cablecasting intended for use solely by one or more community antenna television systems. LDS stations are authorized to relay radio and television broadcast programing, cablecasting and such other communications as may be authorized by the Commission. CAR licensees may interconnect their facilities with those of other CAR or common carrier licensees.

(b) The transmitter of a community antenna relay station using FM transmission may be multiplexed to provide additional communication channels for the transmission of standard and FM broadcast station programs and operational communications directly related to the technical operation of the relay system (including voice communications, telemetry signals, alerting signals, fault reporting signals, and control signals). A community antenna relay station will be authorized only where the principal use is the transmission of television broadcast program material or cablecasting: *Provided, however,* That this requirement shall not apply to LDS stations using vestigial sideband AM transmission.

* * * * *

(e) * * *

(2) Network and station origin of the signals to be transmitted or, if cablecasting, the intended source and general nature of the programing;

* * * * *

(i) The license of a CAR pickup station authorizes the transmission of program material, and related communications necessary to the accomplishment of such transmission, from the scenes of events occurring in places other than a CATV studio, to the studio or head-end of its associated CATV system, or to such other CATV systems as are carrying the same program material. CAR pickup stations may be used to provide temporary CAR studio to head-end links or CAR circuits consistent with this subpart without further authority of the Commission: *Provided, however,* That prior Commission authority shall be obtained if the transmitting antenna to be installed will increase the height of any natural formation or man-made structure by more than 20 feet and will be in existence for a period of more than 2 consecutive days.

4. In § 74.1031, paragraph (b) and the first sentence of paragraph (c) are amended and paragraphs (d) and (e) are added to read as follows:

§ 74.1031 Eligibility and contents of application.

* * * * *

(b) An application for a new community antenna relay station or for changes in the facilities of an existing station shall specify the call sign and location of any television, standard and FM broadcast station or stations to be received and the intended source and general nature of any cablecasting to be relayed, the location of the point at which reception will be made, the number and location of any intermediate relay stations in the system, the location of the terminal receiving point(s) in the system, the name or names of the communities to be served by the CATV system or systems to which the programs will be delivered, the current number of subscribers of each such CATV system, and the name of any other licensee to whom the same program will be delivered through interconnection facilities. An application for a new LDS station or for changes in the facilities of an existing station shall specify in detail the precise nature and technical operation of any service other than the relay of television broadcast signals proposed to be provided on the LDS facilities, including any sections of this subpart for which waiver is sought.

(c) An application for any authorization subject to § 74.1033 for a station used or to be used for the transmission of television broadcast programing shall contain a statement that the applicant(s) have notified the licensee or permittee of any television station, within whose predicted Grade B contour the CATV system(s) operate or will operate, in whole or in part, and the licensee or permittee of any 100 watts or higher power translator station operating in the community of each such system, of the filing of the application. * * *

(d) An application for a construction permit for a new CAR pickup station or for renewal of license of an existing station shall designate the CATV system with which it is to be operated and specify the area in which the proposed operation is intended.

(e) An application for a CAR studio to head-end link or LDS station construction permit shall contain a statement that the applicant has investigated the possibility of using cable rather than microwave and the reasons why it was decided to use microwave rather than cable.

5. In § 74.1037, the introductory text of paragraph (a) is amended to read:

§ 74.1037 Unattended operation.

(a) A community antenna relay station (other than a CAR pickup station) may be operated unattended provided that the following requirements are met:

* * * * *

6. Section 74.1039 is revised to read as follows:

§ 74.1039 Power limitations.

(a) Transmitter peak output power shall not be greater than necessary and, in any event, shall not exceed 5 watts on any channel.

(b) LDS stations shall use vestigial sideband AM transmission for the visual signal and shall maintain the peak power of the visual signal on all channels within 2 decibels of equality. The mean power of aural signals on each channel shall not exceed a level 7 decibels below the peak power of the visual signal.

7. In § 74.1041, paragraph (b) is amended to read as follows:

§ 74.1041 Emissions and bandwidth.

* * * * *

(b) Any emission appearing on a frequency outside of the channel authorized for a transmitter shall be attenuated below the peak power of emission in accordance with the following schedule:

(1) For CAR stations using FM transmission:

(i) On any frequency above the upper channel limit and below the lower channel limit by between zero and 50 percent of the assigned channel width: At least 25 decibels;

(ii) On any frequency above the upper channel limit or below the lower channel limit by more than 50 percent and up to 150 percent of the assigned channel width: At least 35 decibels;

(iii) On any frequency above the upper channel limit or below the lower channel limit by more than 150 percent of the assigned channel width: At least $43+10 \log_{10}$ (power in watts) decibels.

(2) For CAR stations using vestigial sideband AM transmission: At least 50 decibels.

* * * * *

8. In § 74.1043, paragraph (a) is amended to read as follows:

§ 74.1043 Antennas.

(a) Community antenna relay stations shall use directive transmitting antennas. The maximum beam width in the horizontal plane between half power points of the major lobe shall not exceed 3 degrees: *Provided,* That, upon adequate showing of need to serve a larger sector, or more than a single sector, greater beamwidth or multiple antennas may be authorized for LDS stations. Either vertical, horizontal, or elliptical polarization may be employed. The Commission reserves the right to specify the polarization of the transmitted signal.

* * * * *

9. In § 74.1050, paragraph (b) is amended to read as follows:

§ 74.1050 Equipment and installation.

* * * * *

(b) Each transmitter authorized for use in the Community Antenna Relay Service (other than a CAR pickup station) must be of a type which has been type accepted pursuant to Part 2 (Subpart F) of this chapter, as capable of meeting the requirements of §§ 74.1003, 74.1039, 74.1061, and 74.1065.

* * * * *

10. In § 74.1053, paragraph (a) is amended to read as follows:

§ 74.1053 Equipment changes.

(a) Formal application is required for any of the following changes:

(1) Replacement of the transmitter as a whole, except replacement with an identical transmitter, or any change in equipment which could result in a change in the electrical characteristics or performance of the station.

(2) Any change in the transmitting antenna system of a station (other than a CAR pickup station), including the direction of the main radiation lobe, directive pattern, antenna gain or transmission line.

(3) Any change in the height of the antenna of a station (other than a CAR pickup station) above ground, or any horizontal change in the location of the antenna.

(4) Any change in the transmitter control system.

(5) Any change in the location of a station transmitter (other than a CAR pickup station transmitter), except a move within the same building or upon the tower or mast or a change in the area of operation of a CAR pickup station.

(6) Any change in frequency assignment.

(7) Any change of authorized operation power.

* * * * *

11. Section 74.1061 is revised to read as follows:

§ 74.1061 Frequency tolerance.

(a) The frequency of the unmodulated carrier of a community antenna relay station using FM transmission shall be maintained within 0.02 percent of the center of the assigned channel.

(b) The frequency of the visual carrier of a CAR station using vestigial sideband AM transmission shall be maintained within 0.0005 percent of the assigned frequency, and the center frequency of the accompanying aural signal shall be maintained 4.5 megacycles per second plus or minus 1 kilocycle per second above the visual frequency.

12. In § 74.1083, paragraph (a) is amended to read as follows:

§ 74.1083 Retransmissions.

(a) Unless otherwise authorized by the Commission, community antenna relay stations are limited to the relaying of television broadcast and related audio signals, the signals of standard and FM broadcast stations, and cablecasting. Relaying includes retransmission of such signals by intermediate relay stations in the system.

* * * * *

[F.R. Doc. 69-13673; Filed, Nov. 17, 1969; 8:47 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER B—GENERAL RULES AND REGULATIONS

[No. MC-C-3437 (Sub-No. 4)]

PART 1041—INTERPRETATION—CERTIFICATES AND PERMITS

Interpretation of Operating Rights Authorizing Service at Designated Airports

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 27th day of October 1969.

It appearing, that the Commission, upon consideration of a joint petition filed May 8, 1969, by Air Delivery Service et al., issued a notice of proposed rule making in this proceeding under authority of 5 U.S.C. 553 (the Administrative Procedure Act), for the purpose of inquiring into the necessity for the entry of an appropriate regulation construing operating rights held by motor carriers of property authorizing service from or to named airports;

It further appearing, that the said notice of proposed rule making invited the representations of all interested parties setting forth their views with respect to the proposed inquiry; and that notice to all interested parties was given through publication of said notice in the FEDERAL REGISTER of July 2 and 9, 1969 (34 F.R. 11151, 11384);

And it further appearing, that various parties submitted representations in support of the proposed rule, and no party submitted representations in opposition thereto; and that the Commission, on the date hereof, has made and filed its report setting forth its conclusions and findings and its reasons therefor, which report is hereby referred to and made a part hereof:

It is ordered, That Part 1041, of Chapter X of Title 49 of the Code of Federal Regulations be, and it is hereby, amended by the addition of § 1041.23 to read as follows:

§ 1041.23 Operating authority to serve a particular airport, construction.

(a) A certificate or permit issued to a motor carrier of property pursuant to part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.) authorizing service at a named airport shall be construed as authorizing service at any airfreight terminal located beyond the physical boundaries of such airport: *Provided*, That (1) such airfreight terminal is utilized by an air (direct or indirect) carrier in connection with the movement of property to or from the named airport by aircraft, (2) such airfreight terminal is located within the air terminal area (as described in § 1047.40 of this chapter) of the airport authorized to be served by the motor carrier, and (3) the traffic so transported by such motor carrier shall move to or from the airport designated in the certificate or permit issued to such motor carrier, except in those situations where substituted motor-for-air transportation may be provided pursuant to the provisions of § 1047.40(b) of this chapter.

(b) A certificate or permit issued to a motor carrier of property pursuant to part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.) authorizing service at an airfreight terminal or other facility utilized by a designated air (direct or indirect) carrier at a named airport shall be construed as authorizing service at any airfreight terminal utilized by the same air carrier in connection with the movement of property to or from the named airport by aircraft, which terminal is located beyond the physical boundaries of such airport: *Provided*, That (1) such airfreight terminal is located within the air terminal area (as described in § 1047.40 of this chapter) of the airport designated in the certificate or permit issued to such motor carrier, and (2) the traffic so transported by such motor carrier shall move to or from the airport designated in the certificate or permit issued to such motor carrier, except in those situations where substituted motor-for-air transportation may be provided pursuant to the provisions of § 1047.40(b) of this chapter.

(Secs. 204, 207, 208, 209, 49 Stat. 546, 551, 552, as amended, 49 U.S.C. 304, 307, 308, 309)

It is further ordered, That the petition in all other respects be, and it is hereby, denied.

It is further ordered, That this order shall become effective on November 26, 1969, and shall continue in effect until further order of the Commission.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commisison.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-13681; Filed, Nov. 17, 1969; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 230]

[Docket No. FRA-LI-2]

LOCOMOTIVE INSPECTION

Notice of Proposed Rule Making

Notice is hereby given that the Federal Railroad Administration has under consideration proposed amendments to § 230.227(f) respecting the condemning limits on flanges of cast-steel locomotive wheels and incidental changes in paragraphs (m) and (o) of § 230.227.

The proposed amendments would:

(1) Amend § 230.227(f) by striking therefrom the words "or cast-steel";

(2) Amend paragraphs (m) and (o) of § 230.227 and the caption of figure 7, which illustrates the requirements of paragraph (m), by striking therefrom the word "rolled."

The proposed amendments would prescribe the same condemning limits for cast-steel wheels that have long been in effect with respect to wrought-steel wheels and would remove other disparities in the locomotive inspection rules between cast-steel and wrought-steel wheels that no longer appear to be necessary in view of improved manufacturing processes for cast-steel wheels and the experience of the railroad industry with cast-steel wheels under diesel locomotives and 100-ton capacity cars.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted to the Federal Railroad Administration, Office of Hearings and Proceedings, Attention: Docket No. FRA LI-2; Washington, D.C. 20591. All written submissions received on or before December 15, 1969, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available both before and after the closing dates for comments in the Public Docket for examination by interested persons. The Docket may be examined at any time during normal working hours, at the Office of Public Affairs, Room 206, Federal Railroad Administration, 400 Sixth Street SW., Washington, D.C. 20591.

1. In consideration of the foregoing it is proposed to amend paragraphs (f), (m), and (o) of § 230.227 of the locomotive inspection rules to read as follows:

§ 230.227 Defects.

* * * * *

(f) *Worn flanges.* Wheels with flanges having flat vertical surface extending 1 inch or more from the tread, or flanges 1⅜-inch thick or less, gauged at a point three-eighths inch above the tread, except cast-iron wheels on axles with journals 5 by 9 inches or over which shall not be continued in service with flanges having flat vertical surface extending seven-eighths inch or more from the tread, or flange 1-inch thick or less gauged at a point three-eighths above tread.

* * * * *

(m) *Flanges and rims, steel wheels.* Steel wheels 1⅜ inches or less in thickness through throat of flange, or 1 inch or less in thickness at rim, when used in road service; or 1⅛ inches or less in thickness through throat of flange or three-fourths inch or less in thickness at rim, when used in switching service.

* * * * *

(o) *Fusion welding.* Fusion welding shall not be used on tires or steel wheels including building up of worn flanges, flat spots, shelled-out spots or for repair of cracks, except on locomotives used in switching and transfer service, and then only for repair of flat spots and worn flanges.

2. In addition, it is proposed to amend the caption of figure 7 which illustrates the requirements of paragraph (m) of § 230.227 to read as follows: "Figure 7. Steel wheels. (See § 230.227(m).)"

These amendments are proposed under the authority of section 2 and 5, 36 Stat. 913, 914, 45 U.S.C. 23, 28; section 6 (e) and (f), 80 Stat. 939, 940, 49 U.S.C. 1655.

Issued in Washington, D.C., on November 13, 1969.

R. N. WHITMAN,
Administrator,
Federal Railroad Administration.

[F.R. Doc. 69-13680; Filed, Nov. 17, 1969; 8:47 a.m.]

Notices

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

ALABAMA LIVESTOCK AUCTION, INC., ET AL.

Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

Original name of stockyard, location, and date of posting	*Current name of stockyard and date of change in name*
ALABAMA	
Farmers' and Ranchers' Livestock Market, Uniontown, Nov. 15, 1968.	Alabama Livestock Auction, Inc., Sept. 5, 1969.
GEORGIA	
McClure-Burnett Commission Co., Toccoa, Feb. 1, 1968.	Toccoa Livestock Auction, Oct. 17, 1969.
MISSISSIPPI	
Knight Bros. Sales, Carthage, Feb. 9, 1959	Knight Stockyard, Sept. 1, 1969.
Southern Livestock Yard, Hattiesburg, Jan. 6, 1959.	Farmer's Livestock Yard, Inc., Sept. 11, 1969.
OKLAHOMA	
Caddo County Livestock Commission Co., Anadarko, Sept. 7, 1961.	Anadarko Livestock Sale, May 28, 1969.
Elk City Stockyards, Elk City, Mar. 10, 1950	Elk City Livestock Auction, Inc., Oct. 1, 1969.
TEXAS	
Jacksonville Livestock Commission, Jacksonville, Dec. 17, 1966.	Jacksonville Livestock Market, Oct. 9, 1969.
Smithville Livestock Commission Co., Smithville, Sept. 17, 1968.	Smithville Livestock Commision Company, Aug. 21, 1969.

Done at Washington, D.C., this 12th day of November 1969.

E. L. THOMPSON,
Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 69-13688; Filed, Nov. 17, 1969; 8:48 a.m.]

ATWOOD SALE BARN, INC., ET AL.

Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

Original name of stockyard, location, and date of posting	*Current name of stockyard and date of change in name*
KANSAS	
Atwood Sale Barn, Atwood, Apr. 22, 1950	Atwood Sale Barn, Inc., May 1, 1969.
Oberlin Livestock Commission Company, Oberlin, Oct. 16, 1956.	Oberlin Livestock Commission Company, Inc., May 1, 1969.
KENTUCKY	
Mayfield Livestock and Sales Co., Mayfield Dec. 9, 1959.	Mayfield Livestock Market, Jan. 1, 1969.
MONTANA	
Dillon Public Auction, Inc., Dillon, Nov. 30, 1961 1961.	Dillon Livestock Market, Oct. 10, 1969.
NEW MEXICO	
Albuquerque Livestock, Inc., Albuquerque, Jan. 24, 1957.	Bunker Livestock Commission, Inc., Oct. 3, 1969.
Clovis Cattle Commission Company, Clovis, Jan. 17, 1947.	Ranchers and Farmers Livestock Auction Co., Inc., May 4, 1968.

Done at Washington, D.C., this 10th day of November 1969.

E. L. THOMPSON,
Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 69-13669; Filed, Nov. 17, 1969; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 10782 V]

TRANQUILIZERS DERIVED FROM PHENOTHIAZINE

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparations:

1. Thorazine Tablets; 10 milligrams or 25 milligrams of chlorpromazine hydrochloride per tablet; for use in dogs, cats, sheep, and goats; by Pitman-Moore, Inc., Subsidiary of Johnson and Johnson, Camp Hill Road, Fort Washington, Pa. 19034.

2. Thorazine Solution; containing 25 milligrams of chlorpromazine hydrochloride per milliliter; intended for use in horses, cattle, sheep, goats, swine, dogs, and cats; by Pitman-Moore, Inc.

3. Sparine Injection; containing 50 milligrams of promazine hydrochloride per cubic centimeter; intended for use in horses, cattle, swine, sheep, dogs, cats, and certain nondomesticated animals; by Wyeth Laboratories, Inc., Post Office Box 8299, Philadelphia, Pa. 19161.

4. Sparine Tablets; containing 25 milligrams, 50 milligrams, or 100 milligrams of promazine hydrochloride per tablet; for use in horses, cattle, swine, sheep, dogs, and cats; Wyeth Laboratories, Inc.

5. Sparine Pellets; containing 4 grams of promazine hydrochloride per pound; for beef cattle and horses; by Wyeth Laboratories, Inc.

6. Promazine Hydrochloride; containing 50 milligrams of promazine hydrochloride per cubic centimeter; an injectable product for use in horses, cattle, swine, dogs, and cats; by Fort Dodge Laboratories, Inc., Fort Dodge, Iowa 50502.

7. Promazine Granules; containing 8 grams of promazine hydrochloride per 10.25 ounce package; for oral administration to horses and cattle; by Fort Dodge Laboratories, Inc.

8. Diquel Tablets; containing 10 milligrams or 50 milligrams of ethyl isobutrazine hydrochloride per tablet; for use in dogs and cats; by Jensen-Salsbery Laboratories, Division of Richardson-Merrell, Inc., 520 West 21st Street, Kansas City, Mo. 64141.

9. Diquel Sterile Solution; containing 50 milligrams of ethyl isobutrazine hydrochloride per cubic centimeter; for use in cattle, dogs, and cats; by Jensen-Salsbery Laboratories.

10. Vetame Tablets; containing 10 milligrams or 25 milligrams of triflupromazine hydrochloride per tablet; for use in dogs and cats; by E. R. Squibb and Sons, Georges Road, New Brunswick, N.J. 08903.

11. Vetame Aqueous Solution; containing 20 milligrams of triflupromazine hydrochloride per cubic centimeter; for use in horses, cattle, swine, sheep, dogs, and cats; by E. R. Squibb and Sons.

12. Mepine Tablets; containing 50 milligrams of mepazine, as the hydrochloride monohydrate, per tablet; for use in dogs; by Research Laboratories, Inc., a subsidiary of Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph, Mo. 64502.

13. Mepine Injectable; containing 25 milligrams of mepazine acetate dihydrate per cubic centimeter; for use in dogs; by Research Laboratories, Inc.

14. Nortran Tablets; containing 10 milligrams of trifluomeprazine, *dl*-10-(3-dimethylamino-2-methylpropyl)-2-trifluoromethylphenothiazine, as the maleate, per tablet; for dogs and cats; by Norden Laboratories, Inc., 601 West Oak, Lincoln, Nebr. 68501.

15. Nortran Solution; containing 10 milligrams of trifluomeprazine, *dl*-10-(3-dimethylamino-2-methylpropyl)-2-trifluoromethylphenothiazine, as the hydrochloride, per cubic centimeter; for dogs and cats; by Norden Laboratories, Inc.

The Academy stated that (1) the described drugs are probably effective for veterinary use as tranquilizers; and (2) dosage levels should be documented and adjusted to ranges shown to be conclusively effective for veterinary medical purposes.

The Academy further stated if data is furnished to establish that the described drugs are effective, the drug labeling should bear appropriate precautionary statements to the effect that:

1. Tranquilizers should be administered in smaller doses and with greater care during general anethesia and also to animals exhibiting symptoms of debilitation, cardiac disease, sympathetic blockade, hypovolemia, or shock.

2. Tranquilizers are potent central nervous system depressants and they can cause marked sedation with suppression of the sympathetic nervous system.

3. Hypotension can occur after rapid interavenous injection causing cardiovascular collapse.

4. Epinephrine is contraindicated for treatment of acute hypotension produced by phenothiazine-derivative tranquilizers since further depression of blood pressure can occur. Other pressor amines, such as norepinephrine or phenylephrine, are the drugs of choice.

5. Tranquilizers can produce prolonged depression or motor restlessness when given in excessive amounts or when given to sensitive animals.

6. Accidental intracarotid injection in horses can produce clinical signs ranging from disorientation to convulsive seizures and death.

7. Tranquilizers are additive in action to the actions of other depressants and will potentiate general anesthesia.

The Academy also stated that manufacturers of promazine hydrochloride pellets and granules for oral administration must substantiate and document claims for the drug.

The Food and Drug Administration concurs with the Academy's findings and recommendations and in addition concludes that an additional precautionary statement is needed where appropriate in the labeling as "Do not use this product in conjunction with organophosphates and/or procaine hydrochloride since phenothiazines may potentiate the toxicity of organophosphates and the activity of procaine hydrochloride."

Veterinary items of this type are prescription drugs and should bear the legend, "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian."

This evaluation is concerned only with the drugs' effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing in the announcement will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and of the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Written comments regarding this announcement, including requests for an informal conference may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

The holders of the new animal drug applications for the subject drugs have been mailed copies of the NAS-NRC report. Any manufacturer, packer, or distributor of a drug of similar composition and labeling to these drugs or any other interested persons may also obtain a copy by writing to the Food and Drug Administration, Press Relations Office, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: November 10, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69-13651; Filed, Nov. 17, 1969; 8:45 a.m.]

Office of the Secretary

NATIONAL INSTITUTES OF HEALTH

Statement of Organization, Functions, and Delegations of Authority

Part 9, section 9-B, of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare (34 F.R. 170), as revised, is amended to reflect the expansion of functions of the National Heart Institute and to change its name to National Heart and Lung Institute, pursuant to authority of section 431(b) of the Public Health Service Act, by replacing the statement for the National Heart Institute with the following statement:

National Heart and Lung Institute. Conducts, fosters, and supports research, investigations, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of diseases of the heart, lungs, and circulation through: (1) Research performed in its own laboratories and through contracts; (2) research grants to scientific institutions and to individuals; (3) training and instruction in the research and clinical aspects of cardiovascular and respiratory diseases; (4) promoting the coordination of all such research and activities and the useful application of their results; and (5) collection and dissemination of information on these diseases.

Dated: November 10, 1969.

ROBERT H. FINCH,
Secretary.

[F.R. Doc. 69-13686; Filed, Nov. 17, 1969; 8:48 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ACTING ASSISTANT REGIONAL ADMINISTRATOR FOR FHA, REGION IV (CHICAGO)

Designation

The officers appointed to the following listed positions in Region IV (Chicago) are hereby designated to serve as Acting Assistant Regional Administrator for FHA, Region IV, during the vacancy in the position of the Assistant Regional Administrator for FHA, with all the powers, functions, and duties redelegated or assigned to the Assistant Regional Administrator for FHA: *Provided*, That no officer is authorized to serve as Acting Assistant Regional Administrator for FHA unless all other officers whose titles precede his in this designation are unable to act by reason of absence:

1. Director, Project Review Division.

2. Director, Low-Income Housing and Rent Supplement Division.

3. Deputy Director, Project Review Division.

(Secretary's delegation effective Nov. 16, 1966)

Effective date. This designation shall be effective as of February 24, 1969.

LEWIS E. WILLIAMS,
Deputy Assistant Secretary for Administration.

[F.R. Doc. 69-13678; Filed, Nov. 17, 1969; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 17007]

CHICAGO-DES MOINES NONSTOP SERVICE CASE

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled case is assigned to be heard on December 8, 1969, at 10 a.m., e.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the Board.

Dated at Washington, D.C., November 13, 1969.

[SEAL] RALPH L. WISER,
Associate Chief Examiner.

[F.R. Doc. 69-13687; Filed, Nov. 17, 1969; 8:48 a.m.]

CIVIL SERVICE COMMISSION

DIRECTOR, OPERATION BREAKTHROUGH, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission has found, effective October 31, 1969, that there is a manpower shortage for the single position of Director, Operation Breakthrough, Office of the Assistant Secretary for Research and Technology, Department of Housing and Urban Development, Washington, D.C. This finding will terminate when the position is filled.

Assuming other legal requirements are met, the appointee to this position may be paid for the expense of travel and transportation to first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 69-13671; Filed, Nov. 17, 1969; 8:47 a.m.]

POST OFFICE DEPARTMENT

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1969, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from "Deputy Assistant Postmaster General" to "Deputy Assistant Postmaster General—Acquisitions" in the Bureau of Facilities.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 69-13672; Filed, Nov. 17, 1969; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18718; FCC 69-1198]

AMERICAN TELEPHONE AND TELEGRAPH CO.

Memorandum Opinion and Order Instituting Investigation

In the matter of American Telephone and Telegraph Co.; revision of American Telephone and Telegraph Co. Tariff FCC No. 133, Teletypewriter Exchange Service.

1. The Commission has before it for consideration proposed revisions to FCC Tariff No. 133, Teletypewriter Exchange Service (TWX), filed by the American Telephone and Telegraph Co. (A.T. & T.) on October 1, 1969, to become effective November 1, 1969. The revised tariff schedules establish an increase in the general level of rates for basic service, additional station equipment, and message rates for Teletypewriter Exchange Service.[1]

2. A.T. & T. contemplates increasing the message rates in TWX in the order of 10 percent by extending the tariff schedule in a progressive rate structure to 11 steps with rates ranging from $0.20 to $0.70 per minute in lieu of the existing nine-step schedule ranging from $0.20 to $0.60 per minute. The company also proposes to maintain existing rate relationships by increasing the monthly charges for both basic service and additional station equipment by amounts up to and including $5 per month. In addition to these general increases in rate level, adjustments are also being made (1) to increase the collect call additional charge from $0.15 to $0.25, which it is alleged more appropriately reflects operating costs, and (2) to establish a flat $0.50 per station additional charge on conference connections, which A.T. & T. states reflects the additional cost of operator handling, longer circuit holding time and rising switchboard costs.

3. On the basis of the foregoing information, and the information now before us, we are unable to determine that the charges, classifications, regulations, and practices contained in the revised schedules are or will be just and reasonable or otherwise lawful. Moreover, it appears that if the revised schedules are permitted to become effective on the date specified, the rights and interests of the public may be adversely affected thereby. Accordingly, we are hereby ordering an investigation into the lawfulness of such increases and suspending the effective date of these increases for the full 3-month statutory period.

4. We also note with concern that the present TWX service offering does not provide for interconnection of customer equipment in the same manner and to the same degree as is presently provided in message toll tariff FCC No. 263. For example, it appears that under the message toll tariff the customer may provide his own modulating and demodulating unit (modem) while under the TWX tariff offering this is not permitted. We believe serious questions are raised in view of the apparent limitations imposed presently in the TWX tariff as to the use of customer owned equipment and on our own motion are ordering that the lawfulness of General Regulation B 12(A) (1) and (2) be explored in this investigation.

5. Accordingly, in view of the foregoing considerations: *It is ordered*, That, pursuant to the provisions of sections 201, 202, 203, 204, 205, and 403 of the communications Act of 1934, as amended, an investigation is instituted into the lawfulness of the above-described revisions to A.T. & T.'s Tariff FCC No. 133 forwarded with Transmittal No. 10610 and filed on October 1, 1969, as enumerated in the appendix hereto,[2] including cancellations, amendments or reissues thereof and General Regulation B 12(A) (1) and (2) of A.T. & T. Tariff FCC No. 133.

6. *It is further ordered*, That, pursuant to the provisions of section 204, the operation of the tariff schedules described in the appendix is hereby suspended until February 1, 1970, and respondents shall, in the case of all increased charges and until further order of the Commission, keep accurate account of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts were paid, and upon completion of the hearing and decision therein, the Commission may by further order require the refund thereof, with interest, pursuant to section 205 of the Act, and the carriers shall file with the Commission a report on or before the 10th day of each calendar month, commencing March 10, 1970, showing the amounts accounted for as aforesaid during the previous calendar month;

7. *It is further ordered*, That, without in any way limiting the scope of the investigation, it shall include consideration of the following:

1. Whether the charges, classifications, practices, and regulations published in the aforesaid tariffs are or will be unjust

[1] We also have before us a petition for suspension and investigation filed by Data Automation Co., Inc., and Data Automation Communications, Inc.

[2] Filed as part of the original document.

and unreasonable within the meaning of section 201(b) of the Act, including General Regulation B 12(A) (1) and (2) of A.T. & T. Tariff FCC No. 133.

2. Whether such charges, classifications, practices, and regulations will, or could be applied to, subject any person or class of persons to unjust or unreasonable discrimination or give any undue or unreasonable perference, or prejudice to any person, class of persons, or locality, within the meaning of section 202(a) of the Act, particularly General Regulation B 12(A) (1) and (2) of A.T. & T.'s Tariff FCC No. 133.

3. Whether the aforesaid tariffs conform to the requirement of section 203 of the Act and Part 61 (47 CFR Part 61) of our rules implementing that section.

4. If any of such charges, classifications, practices, and regulations are found to be unlawful, whether the Commission should prescribe charges, classifications, practices and regulations for the service governed by the tariffs, and if so, what should be prescribed.

8. *It is further ordered*, That a hearing be held in this proceeding at the Commission's offices in Washington, D.C., at a time to be specified; and that the Examiner to be designated to preside at the hearing shall certify the record, without preparation of an initial or recommended decision, and the Chief of the Common Carrier Bureau shall thereafter issue a recommended decision which shall be subject to the submittal of exceptions and requests for oral argument as provided in 47 CFR 1.276 and 1.277, after which the Commission shall issue its decision as provided in 47 CFR 1.282; and

9. *It is further ordered*, That A.T. & T. and all carriers listed as concurring carriers in the above-mentioned tariff schedules are made parties respondent, and that the petitioners named in footnote 1 are granted leave to intervene by notice within 20 days from the release of this order.

Adopted: October 29, 1969.

Released: November 12, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-13675; Filed, Nov. 17, 1969; 8:47 a.m.]

[Docket No. 18684; FCC 69-1197]

AMERICAN TELEPHONE AND TELEGRAPH CO.

Memorandum Opinion and Order Designating Tariff Schedules for Hearing

In the matter of American Telephone and Telegraph Co.; revision of American Telephone and Telegraph Co. Tariff FCC No. 260, Series 6000 and 7000 channels (Program Transmission Series).

1. The Commission has before it for consideration proposed revisions to FCC Tariff No. 260, Series 6000, the radio-broadcasting service, filed by the American Telephone and Telegraph Co. (A.T. & T.) on September 25, 1969, to become effective November 1, 1969. The revised tariff schedules establish a new structure for radio broadcasting rates, namely, the Series 6000 service offering which it appears would effectuate substantial increases in such rates.[1]

2. A brief history of changes in regulation and rates for the Series 6000 offering is appropriate at this time. On February 1, 1968, A.T. & T. filed rate changes for the audio and video services to be effective April 1, 1968. At the request of the Chief, Common Carrier Bureau, A.T. & T. deferred the effective date of these changes until April 1, 1969. It was suggested that the period of postponement be used by interested parties for the development of a revised rate structure that would facilitate final resolution of the issues in Sports Network, Inc., Docket No. 16043 (FCC 68D-4). Subsequently, the time period required to complete pending studies necessitated a deferral of the filing date of rate structure changes until September 1, 1969. On August 29, 1969, A.T. & T. filed revised tariff schedules for FCC Tariff No. 260, Series 6000 and 7000 (television), the program transmission services to become effective October 1, 1969. However, on September 17, 1969, the Chief, Common Carrier Bureau, rejected the revised Series 6000 offering as justifications and reasons for the changes contemplated had not been submitted pursuant to Part 61 of the Commission's rules. On September 24, 1969, we suspended the effective date of the Series 7000 offering for 1 day, instituted an investigation, and issued an accounting order, in Docket No. 18684. The Series 6000 offering presently before us for consideration is a refiling of the revised tariff schedules rejected September 17, 1969.

3. The changes contemplated in the revised radio broadcasting tariffs vary substantially the type of offering presently made. In so doing it presents considerable difficulty in making a comparison between the present and the proposed offering. For example, the establishment of a clock hour rate schedule, together with a flat rate for local channels renders practically impossible a meaningful comparison of the proposed offering with the present existing tariff. However, we do observe that the newly filed station connection and interexchange channel rates may result in substantially increased charges during desirable evening, Saturday and Sunday time periods.

On the basis of the foregoing, and the information now before us, we are unable to determine that the charges, classifications, regulations, and practices contained in the revised schedules are or will be just and reasonable or otherwise lawful. By order adopted September 24, 1969, and released October 6, 1969 (FCC 69-1038), the Commission instituted an investigation and hearing, Docket No. 18684, into the lawfulness of charges by A.T. & T. for television service. We believe that sufficient questions have been raised to warrant the investigation of the radio broadcasting offering and that Docket 18684 is the appropriate vehicle for the overall investigation of the program services. Moreover, we are of the opinion that if the revised schedules are permitted to become effective on the date specified, the rights and interests of the public may be adversely affected thereby and accordingly, are suspending the revised schedules for the full statutory period and issuing an accounting order.

5. *Accordingly, It is ordered*, That, pursuant to sections 201, 202, 204, 205, and 403 of the Communications Act of 1934, as amended, the hearing and investigation in Docket No. 18684 concerning the lawfulness of the program transmission tariff schedules of American Telephone and Telegraph Co. shall include the like revisions to A.T. & T.'s Tariff No. 260 forwarded with Transmittal No. 10596, as enumerated in Appendix B hereto,[2] including cancellations, amendments, or reissues thereof, and that the issues heretofore specified in that docket shall apply with equal force to the above-described revised tariff schedules of A.T. & T.

6. *It is further ordered*, That, pursuant to the provisions of section 204, the operation of the above-described tariff schedules is hereby suspended until February 1, 1970, and respondents shall, in the case of all increased charges and until further order of the Commission, keep accurate account of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts were paid, and upon completion of the hearing and decision therein, the Commission may by further order require the refund thereof, with interest, pursuant to section 205 of the Act, and the carriers shall file with the Commission a report on or before the 10th day of each calendar month, commencing March 10, 1970, showing the amounts accounted for as aforesaid during the previous calendar month;

7. *It is further ordered*, That the petitions for suspension or rejection are granted to the extent herein noted and otherwise denied;

8. *It is further ordered*, That A.T. & T. and all carriers listed as concurring carriers in the above-mentioned tariff schedules are made parties respondent and petitioners listed in Appendix A hereof are granted leave to intervene upon filing a notice of intention to appear and participate within 20 days of the release date of this order.

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[2] Commissioner Robert E. Lee absent; Commissioner Cox issuing a separate statement which is filed as part of the original document; Commissioner Johnson concurring in the result.

[1] We also have considered a large number of informal requests for suspension or rejection of these tariffs as well as formal objections listed in Appendix A.

[2] Filed as part of the original document.

Adopted: October 29, 1969.

Released: November 12, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

APPENDIX A

FORMAL PLEADINGS IN OPPOSITION TO SERIES 6000 TARIFFS

Mutual Broadcasting System, Inc.
Las Cruces Broadcasting Co.
Laird Broadcasting Co., Inc.
Uintah Broadcasting and TV Co.
Radio Lafayette, Inc.
Montana Broadcasters Association.
Radio Station KDXU (Julie P. Miner, Licensee).
National Association of Broadcasters.
Intermountain Network, Inc.
New Mexico Broadcasters Association.
Boulder Radio KBOL Inc.
Golden West Broadcasters.
American Broadcasting Co., Columbia Broadcasting System, and National Broadcasting Co.
Utah Broadcasters Association.
Maine Radio and Television Co.
Paul E. Taft, dba Taft Broadcasting Co.

[F.R. Doc. 69-13676; Filed, Nov. 17, 1969; 8:47 a.m.]

[Dockets Nos. 17884, 17885; FCC 69-1213]

BERWICK BROADCASTING CORP. AND P.A.L. BROADCASTERS, INC.

Memorandum Opinion and Order Modifying Issues

In regard applications of Berwick Broadcasting Corp., Berwick, Pa., Docket No. 17884, File No. BPH-5812; and P.A.L. Broadcasters, Inc., Pittston, Pa., Docket No. 17885, File No. BPH-5924; for construction permits.

1. This proceeding originally involved the applications of Berwick Broadcasting Corp. and P.A.L. Broadcasters, Inc. (hereinafter PAL), for new FM broadcast stations on Channel 276A in Berwick and Pittston, Pa., respectively. By our report and order, FCC 64-579, released June 25, 1964, 2 RR 2d 1650, we assigned Channel 276A to White Haven, Pa., in order to permit its use in Berwick and several other communities.[1] Although PAL had filed a request to assign this channel to Wilkes-Barre, Pa., we noted that Wilkes-Barre is an urbanized area, that it already had two FM and three standard broadcast stations, that this was the only Class A channel which could be assigned to this area at that time, and that none of the other proposed communities had full-time broadcast stations. For these reasons, we concluded that one of the smaller communities should be preferred for a first local FM station as against the third FM station in Wilkes-Barre and that the channel should be assigned to White Haven.

2. After these applications were designated for hearing on issues to determine, inter alia, which would better provide a fair, efficient, and equitable distribution of radio service under section 307(b) of the Communications Act, FCC 67-1289, released December 19, 1967, the Review Board added a Suburban Community issue to determine whether PAL will realistically provide a local transmission facility for Pittston or for another larger community, 12 FCC 2d 8 (1968). In support of its action, the Board pointed out that PAL proposes to place a 3.16 mV/m signal over all of the city of Wilkes-Barre (population 63,551); that Pittston (population 12,407) is within the Wilkes-Barre Urbanized Area; that PAL owns an AM station in Wilkes-Barre, the staff of which would be utilized, at least to some extent, in the operation of the FM station; that the proposed FM station would duplicate some of PAL's AM station's programing; and that the FM station's proposed transmitter site is midway between Pittston and Wilkes-Barre.[2]

3. Subsequently, the applicants entered into an agreement providing for the dismissal of the Berwick proposal and for the reimbursement of its legitimate expenses. Since the applicants had agreed that the expenses of the Berwick applicant could not be reimbursed until certain character issues against it have been resolved and since the applicants complied with the publication requirements of § 1.525(b) of the rules, the Review Board approved the applicants' joint agreement. At the same time, noting that there was no longer any proposal competing with PAL's application for a grant in this proceeding and that PAL is qualified to be a licensee, the Board held: (a) That the Suburban Community issue could be properly deleted and (b) that PAL's application should be granted, 16 FCC 2d 639 (1969). Thereafter, for reasons unrelated to the present matter, the Board stayed the effect of this action by its order, FCC 69R-110, released March 3, 1969, and finally vacated that stay by its further Order, FCC 69R-301, released July 14, 1969.

4. On August 1, 1969, the Broadcast Bureau filed an application for review of the Board's action,[3] claiming that the Board never explained why the Suburban Community issue does not relate to PAL's basic qualifications. The Bureau contends that, if PAL's proposal is in reality one for Wilkes-Barre rather than for Pittston, it should be denied, since this FM channel is assigned to White Haven, Pa., and since the channel is not available for use in Wilkes-Barre under § 73.203(b) of the rules in view of the facts that Wilkes-Barre is not an "unlisted community" and that it has several operating FM stations. Although the report and order assigning this channel to White Haven recognized that its use in this area could result in coverage of Wilkes-Barre, the Bureau asserts: (a) That the report and order refused to assign the channel to Wilkes-Barre, (b) that the report and order gives no implication that it would be appropriate to use the channel for a Wilkes-Barre station, and (c) that grant of PAL's application without resolution of the Suburban Community issue would thus undermine the FM table of assignments.

5. In addition the Bureau urges that the basic considerations underlying the 307(b) policy statement concerning standard broadcast proceedings should be applied to FM proposals. According to the Bureau, an FM applicant, just as an applicant in an AM case, may specify a small community in order to serve a larger, neighboring community. Thus, the Bureau notes, where assignments to the larger community preclude specification of that community for a channel assigned outside the central city, an applicant interested in serving that central city may specify a nearby smaller community so as to obtain a transmitter site providing a strong signal over the city. The Bureau concludes that this proceeding presents novel and important questions of law and policy which should be reviewed and that the Board's action should be reversed so that a full evidentiary hearing may be held on the Suburban Community issue.

6. In its opposition PAL initially claims that the Bureau's application for review is procedurally defective,[4] but it also asserts that it would be contrary to the public interest and inequitable to grant review in this case. PAL notes that its application was originally filed in December of 1967 and that the Review Board has found PAL qualified for a grant. PAL contends that Pittston's first local transmission service has been substantially delayed for reasons beyond

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[1] Commissioner Robert E. Lee absent; Commissioner Johnson concurring in the result.

[1] Both of the present applications were filed in 1967 when § 73.203(b) of the rules provided that a channel would be available for use in any unlisted community located within 25 miles of the listed community.

[2] Although the Policy Statement on 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities, 2 FCC 2d 190 (1965), does not specifically apply to FM proceedings, we agree with the Board that the public interest considerations underlying the policy statement are applicable and that an evidentiary inquiry was appropriate under the circumstances of this proceeding. See E.S.H. Company, Inc., FCC 69-231, released Mar. 20, 1969.

[3] In addition, PAL filed an opposition to the Bureau's application for review on Aug. 18, 1969, and the Bureau filed a reply to that opposition on Aug. 28, 1969.

[4] PAL contends that the Bureau's pleading was not filed within 30 days of the Board's action enlarging the issues as required by § 1.115(d) of the rules and that the Board was never afforded an opportunity to pass upon the Bureau's present contentions as required by § 1.115(c) of the rules. However, we agree with the Bureau that there is no procedural impediment to its application for review. Section 1.115(e)(2) clearly indicates that applications for review of interlocutory matters, such as the Board's action enlarging the issues in this case, may be delayed until final action has been taken. Since the Bureau has complied with the restrictions for review of the Board's action granting PAL's application, and since we also agree that the Bureau's present contentions were adequately raised before the Board, both in the pleadings concerning the enlargement of the issues and in the pleadings relating to the applicants' dismissal agreement, we are convinced that the merits of the Bureau's application for review should be considered.

PAL's control and that the Bureau's request would involve even further delay. Although the Board could have specified a disqualifying issue, PAL urges that, in view of its failure to do so, the Board must have considered PAL's showing of its ability and intention to serve Pittston to be sufficient to establish that this proposal would serve the public interest without an evidentiary hearing. PAL also argues that there is no reason to apply the principles underlying the 307(b) policy statement in FM cases, since the basic section 307(b) questions in AM cases are resolved prior to hearing by the FM allocation table. Finally, PAL concludes that its application complied with all of the applicable rules when it was filed and that it would be unfair to adopt a new policy requiring a hearing solely for a Suburban Community issue under the circumstances of this proceeding.

7. In reply, the Bureau contends that, although PAL sought to show that it will be a Pittston station, PAL did not indicate whether or not Pittston has programing needs distinct and different from those of Wilkes-Barre or whether Pittston's needs are being met by existing stations. The Bureau argues that such a showing, as contemplated by the 307(b) policy statement, is essential to the resolution of the question in this proceeding. In this connection, the Bureau urges that issues involving such complex and ambiguous facts should not be decided on the basis of a paper showing, since greater assurance of a sound result is provided when the showing can be tested by cross examination during an evidentiary hearing. The Bureau asserts that a paper showing, such as PAL has proffered here, should be accepted only where the facts are undisputed. Since many aspects of this matter remain in dispute, the Bureau concludes that a hearing is necessary to determine whether or not PAL is in reality proposing a Pittston station.

8. We agree with the Bureau that this proceeding presents a significant policy question of first impression warranting our consideration. While we recognize that the Bureau's proposed hearing would necessarily delay the institution of a new broadcast service, we are convinced that the mandate of section 307(b) requires a determination of the question raised by the Bureau on the basis of a full evidentiary record. The 307(b) policy statement was intended to discourage applicants for smaller communities who would be merely substandard stations for neighboring, larger communities. In view of the increasing demand for FM facilities, we agree with the Bureau that FM proposals can raise allocation questions similar to those noted in the 307(b) policy statement for AM cases.

9. Although PAL contends that all of the 307(b) questions concerning the fair, efficient, and equitable distribution of broadcast service have been resolved in this case by the FM allocations table, the circumstances surrounding PAL's proposal suggest that this channel may be used in a manner directly in conflict with our earlier determination that the channel should be used as a first local transmission service for a community other than Wilkes-Barre. Thus, the facts that PAL proposes to place a substantial signal over all of the city of Wilkes-Barre; that the population of Wilkes-Barre is over 50,000 persons and more than twice that of Pittston; that PAL owns an AM station in Wilkes-Barre, which would be used in conjunction with the proposed FM station; and that PAL's proposed transmitter is midway between the two communities persuade us that a serious question exists as to whether PAL realistically proposes to serve Pittston or Wilkes-Barre.[4]

10. While PAL has sought to show that it will realistically serve Pittston, the Bureau is correct that this issue can be best resolved through the hearing process in light of the substantial questions of fact remaining in dispute. We recognize that PAL's application complied with all of the appropriate rules when it was filed, but we are convinced that the integrity of our 307(b) allocations must take priority over the private interests of the applicant, where significant allegations are brought to our attention indicating that a substantial doubt exists as to whether or not the proposal would provide a realistic local transmission service for its specified station location. For these reasons, we are convinced that the Board action granting PAL's application should be set aside and that the issues should be modified to permit PAL to make a full evidentiary showing under the Suburban Community issue.

11. *Accordingly, it is ordered:*

(a) That the Application for Review filed August 1, 1969, by the Chief, Broadcast Bureau, is granted;

(b) That the memorandum opinion and order, FCC 69R-95, 16 FCC 2d 639, released by the Review Board on February 26, 1969, is set aside to the extent that it deleted the Suburban Community issue and to the extent that it granted the application of P.A.L. Broadcasters, Inc.; and

(c) That the issues in this proceeding are modified to read as follows:

To determine whether the proposal of P.A.L. Broadcasters, Inc., will realistically provide a local transmission facility for its specified station location or for another larger community.

To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether the application of P.A.L. Broadcasters, Inc., for a construction permit should be granted.

[4] Cf., our actions at 11 FCC 2d 941 (1968) and FCC 69-837, released Aug. 1, 1969, 16 RR 2d 1654, where we refused to assign channels to smaller communities because of the likelihood that they would be used to serve larger, neighboring communities. Although we were aware in allocating this channel that it could be used in a community near enough to place a signal over Wilkes-Barre, we specifically held that the channel should be used in a community other than Wilkes-Barre and we had no intention that the facility would be used as a Wilkes-Barre station.

Adopted: November 7, 1969.

Released: November 12, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[5]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 69-13677; Filed, Nov. 17, 1969; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI70-267 etc.]

GULF OIL CORP. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

OCTOBER 9, 1969.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before November 26, 1969.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[5] Chairman Burch abstaining from voting; Commissioner Johnson concurring in the result; Commissioner Wells not participating.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI70-267..	Gulf Oil Corp., Post Office Box 1589, Tulsa, Okla. 74102.	253	3	Cities Service Gas Co. (Northwest Quinlan Field, Woodward County, Okla.) (Panhandle Area).	$72	9-15-69	[2] 10-16-69	3-16-70	[4] [6] 17.0	[3] [4] [5] [6] 18.0	RI65-151.
	.....do.....	283	6	Cities Service Gas Co. (Seward County, Kansas and Texas County, Okla.) (Panhandle Area).	1,590	9-15-69	[2] 10-16-69	3-16-70	[4] 16.0	[3] [4] [5] 17.0	
	.....do.....	361	5	Michigan Wisconsin Pipe Line Co. (Woodward Area, Major County, Okla.) (Oklahoma "Other" Area).	6,810	9-15-69	[2] 10-16-69	3-16-70	[4] 15.46	[4] [7] [8] 18.46	
RI70-268..	Gulf Oil Corp. (Operator) et al.	280	3	Cities Service Gas Co. (Northwest Lovedale Field, Harper County, Okla.) (Oklahoma "Other" Area).	340	9-15-69	[2] 10-16-69	3-16-70	[4] 17.0	[3] [4] [5] 18.0	
RI70-269..	Champlin Petroleum Co., Post Office Box 9365, Fort Worth, Tex. 76107.	28	4	Cities Service Gas Co. (Yellowstone Field, Woods County, Okla.) (Oklahoma "Other" Area).	7,500	9-17-69	[2] 10-19-69	3-19-70	[4] 14.0	[3] [4] [5] 15.0	RI65-154.
RI70-270..	Skelly Oil Co. (Operator) et al., Post Office Box 1650, Tulsa, Okla. 74102.	5	13	Tennessee Gas Pipeline Co. (Logansport Field, De Soto Parish, La.) (North Louisiana Area).	17,357	9-16-69	[2] 11-1-69	4-1-70	[9] 15.75	[3] [5] [9] 16.79407	
RI70-271..	Ashland Oil & Refining Co., Post Office Box 18695, Oklahoma City, Okla. 73118.	165	3	Kansas-Nebraska Natural Gas Co., Inc. (Northeast Boyd Field, Beaver County, Okla.) (Panhandle Area).	655	9-18-69	[2] 11-1-69	4-1-70	[4] [10] 17.01	[3] [4] [5] [10] 18.01	RI68-116.
RI70-272..	Wessely Petroleum, Ltd., 2002 Republic National Bank Bldg., Dallas, Tex. 75201.	2	2	Northern Natural Gas Co. (West Sharon Field, Woodward County, Okla.) (Panhandle Area).	1,042	9-15-69	[11] 10-16-69	3-16-70	[12] [13] 19.686	[4] [12] [13] 20.844	
RI70-273..	Thomas N. Berry & Co. (Operator) et al., Post Office Box 111, Stillwater, Okla. 74074.	9	2	Colorado Interstate Gas Co. (Mocane Field, Beaver County, Okla.) (Panhandle Area).	298	9-15-69	[2] 10-16-69	3-16-70	[12] [14] 17.440	[4] [12] [14] 18.545	
RI70-274..	Earl F. Wakefield, 300 West Douglas, Suite 500, Wichita, Kans. 67202.	1	215	.....do.....	1,911	9-15-69	[11] 10-16-69	3-16-69	[12] [17] 16.620	[4] [12] [15] [17] 18.836	
RI70-275..	Sun Oil Co., Post Office Box 3383, Tulsa, Okla. 74101.	237	2	Lone Star Gas Co. (Southeast Doyle Field, Stephens County, Okla.) (Oklahoma "Other" Area).	70	9-19-69	[2] 10-20-69	3-20-70	15.01	[3] [4] 16.01	RI68-394
RI70-276..	Sun Oil Co. (Operator) et al.	172	5	Panhandle Eastern Pipe Line Co. (Northwest Avard Pool, Woods County, Okla.) (Oklahoma "Other" Area).	3,316	9-19-69	[2] 10-20-69	3-20-70	[20] 15.54	[4] [15] [18] [20] 18.555	
RI70-277..	Mobil Oil Corp., Post Office Box 1774, Houston, Tex. 77001.	370	4	El Paso Natural Gas Co. (Basin Dakota Field, San Juan County, N. Mex.) (San Juan Basin Area).	146	9-12-69	[2] 10-13-69	3-13-70	13.0	[3] [4] 14.0	
RI70-278..	Signal Oil & Gas Co., 1010 Wilshire Blvd. Los Angeles, Calif. 90017.	19	2	Transwestern Pipeline Co. (Bell Lake Field, Lea County, N. Mex.) (Permian Basin Area).	11,149	9-10-69	[11] 10-11-69	3-11-70	[22] 15.5	[4] [21] 21.0	
RI70-279..	Atlantic Richfield Co., Post Office Box 2819, Dallas, Tex. 75221.	237	5	Transcontinental Gas Pipe Line Corp. (San Miquel Creek Field, McMillen County, Tex.) (R.R. District No. 1).	6,081	9-12-69	[2] 10-23-69	3-23-70	15.2025	[3] [4] 16.2160	

[2] The stated effective date is the effective date requested by Respondent.
[3] Periodic rate increase.
[4] Pressure base is 14.65 p.s.i.a.
[5] Subject to a downward B.t.u. adjustment.
[6] Includes a 1-cent gathering, dehydration and delivery charge paid by buyer to seller.
[7] "Fractured" rate increase. Filing from initial certificated rate. Respondent contractly due 22 cents per Mcf.
[8] Includes 0.46-cent upward B.t.u. adjustment (1,046 B.t.u. gas). Base rate subject to upward and downward B.t.u. adjustment.
[9] Pressure base is 15.025 p.s.i.a.
[10] Subject to a 2-cent deduction for compression.
[11] The stated effective date is the first day after expiration of the statutory notice.
[12] Subject to upward and downward B.t.u. adjustment.
[13] Includes base rate of 17 cents plus upward B.t.u. adjustment before increase and 18 cents plus upward B.t.u. adjustment after increase (1,158 B.t.u. gas).
[14] Includes base rate of 16 cents plus upward B.t.u. adjustment before increase and 17 cents plus upward B.t.u. adjustment plus 0.015-cent tax reimbursement after increase (1,090 B.t.u. gas).
[15] Applicable to Maple Barby Unit No. 1 and Wakefield-Texas-Maple Unit No. 1.
[16] Renegotiated rate increase.
[17] Includes base rate of 15 cents plus upward B.t.u. adjustment before increase and 17 cents plus upward B.t.u. adjustment after increase (1,108 B.t.u. gas).
[18] Filing from initial certificated rate to first periodic increase plus tax reimbursement.
[19] Includes 0.015-cent tax reimbursement.
[20] Includes 0.54-cent upward B.t.u. adjustment (1,054 B.t.u. gas). Base rate subject to upward and downward B.t.u. adjustment.
[21] Increase from applicable area ceiling rate to contract rate.
[22] Plus State and local production taxes and minus treating costs. Respondent has not filed a quality statement.

Wessely Petroleum, Ltd., requests that its proposed rate increase be permitted to become effective as of October 1, 1969. Earl F. Wakefield requests a retroactive effective date of May 31, 1967, for his proposed rate increase. Signal Oil & Gas Co. requests waiver of the statutory notice to permit an effective date of September 1, 1969, for its proposed rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for the aforementioned producers' rate filings and such requests are denied.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56), with the exception of the rate increase filed by Signal Oil & Gas Co. in the Permian Basin Area which exceeds the just and reasonable rate established by the Commission in Opinion No. 468, as amended, and should be suspended for 5 months as ordered herein.

[F.R. Doc. 69-13556; Filed, Nov. 17, 1969; 8:45 a.m.]

[Docket No. RI70-414 etc.]

MOBIL OIL CORP. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

NOVEMBER 7, 1969.

The respondents named herein have filed proposed increased rates and

[1] Does not consolidate for hearing or dispose of the several matters herein.

charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceeedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before December 24, 1969.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI70-414..	Mobil Oil Corp., Post Office Box 1774, Houston, Tex. 77001.	215	20	El Paso Natural Gas Co. (Tip Top Field, Sublette County, Wyo.).	$242,740	10-16-69	[2] 11-16-69	4-16-70	[3] 15.0	[3] [4] 17.0	
	....do	352	5	Mountain Fuel Supply Co. (Hogsback Field, Sublette County, Wyo.).	1,237	[7] 10-16-69	[2] 11-16-69	4-16-70	[3] 15.0	[4] [5] 17.085	
	....do	367	[6] 9	El Paso Natural Gas Co. (Hogsback Field, Sublette County, Wyo.).	1,730	10-16-69	[2] 11-16-69	4-16-70	[3] 15.0	[4] [10] 17.17586	
	....do	371	6	El Paso Natural Gas Co. (Tip Top Field, Sublette County, Wyo.).	2,775	10-16-69	[2] 11-16-69	4-16-70	[3] 15.0	[3] [4] 17.0	
	....do	428	3	Texas Gas Transmission Corp. (Calhoun Field, Ouachita Parish, La.) (North Louisiana Area).	1,399	10-13-69	[2] 11-13-69	4-13-70	[11] 18.25	[3] [4] [11] 19.6	
	....do	429	4	United Gas Pipe Line Co. (Calhoun Field, Ouachita Parish, La.) (North Louisiana).	403	10-13-69	[2] 11-13-69	4-13-70	18.75	[3] [4] 19.6	
RI70-415..	Mobil Oil Corp. (Operator) et al.	217	19	El Paso Natural Gas Co. (Hogsback Area, Lincoln and Sublette Counties Wyo.).	157,430	10-16-69	[2] 11-16-69	4-16-70	[4] 15.0	[3] [4] 17.0	
RI70-416..	Shell Oil Co. (Operator), 50 West 50th St., New York, N.Y. 10020.	283	11	Northern Natural Gas Co. (Tippett Field, Crockett County, Tex.) (RR. District No. 7-C) (Permian Basin Area).	2,746	10-13-69	[2] 12-1-69	5-1-70	15.47	[12] [13] 15.6315	
RI70-417..	Murchison Trusts (Operator) et al., 2280 First National Bank Bldg., Dallas, Tex. 75202.	1	4	El Paso Natural Gas Co. (Blanco and Ignacio Fields, La Plata County, Colo.).	5,050	10-10-69	[14] 11-10-69	4-10-70	[13] [15] 13.0	[4] [15] 14.0	RI64-577.
					[17]				[15] 14.0	[4] [15] 15.0	RI64-577.
RI70-418..	P. G. Lake, Inc., Post Office Box 179, Tyler, Tex. 75701.	7	2	Cities Service Gas Co. (Northeast Waynoka Field, Woods County, Okla.) (Oklahoma "Other" Area).	600	10-13-69	[2] 1-1-70	6-1-70	[11] [19] 14.0	[11] [15] [19] 15.0	RI65-354.
RI70-419..	Sun Oil Co., DX Division, 907 South Detroit Ave., Tulsa, Okla. 74120.	119	8	Panhandle Eastern Pipe Line Co. (Keyes Field, Cimarron County, Okla.) (Panhandle Area).	368	10-13-69	[2] 1-1-70	6-1-70	[20] 17.01	[11] [20] 18.01	RI68-444.
	....do	134	10	Cities Service Gas Co. (Eureka Field, Grant and Alfalfa Counties, Okla.) (Oklahoma "Other" Area).	2,407	10-13-69	[2] 1-1-70	6-1-70	[11] 14.0	[11] [15] 15.0	RI68-405.
RI70-420..	Skelly Oil Co., Post Office Box 1650, Tulsa, Okla. 74102.	199	2	Northern Natural Gas Co. (Cunningham Area, Lipscomb County, Tex.) (RR. District No. 10) and Beaver County, Okla. (Panhandle Area).	4,248	10-15-69	[2] 12-1-69	5-1-70	[11] 17.0	[11] [15] 18.0	
	....do	202	1	Panhandle Eastern Pipe Line Co. (Arkalon Field, Seward County, Kans.).	24	10-15-69	[2] 1-1-70	6-1-70	16.0	[11] 17.0	
RI70-421..	Edwin L. Cox, 3800 First National Bank Bldg., Dallas, Tex. 75202.	5	[21] 2	Panhandle Eastern Pipe Line		10-14-69	[14] 11-14-69	(Accepted)			
		5	3	Co. (Greenwood Field, Morton County, Kans.).	407	10-14-69	[2] 1-1-70	6-1-70	14.15	[22] [23] 14.9	RI60-471.
	....do	6	[21] 2	....do		10-14-69	[14] 11-14-69	(Accepted)			
		6	3	....do	184	10-14-69	[2] 1-1-70	6-1-70	14.15	[22] [23] 14.9	RI60-471.
RI70-422..	Petroleum, Inc. (Operator) et al., 300 West Douglas, Wichita, Kans.	31	7	Northern Natural Gas Co. (Como and Mocane Fields, Beaver County, Okla.) (Panhandle Area).	2,079	10-13-69	[14] 11-13-69	4-13-70	[11] 17.0	[11] [15] 18.015	

[2] The stated effective date is the effective date requested by Respondent.
[3] "Fractured" rate increase.
[4] Pressure base is 15.025 p.s.i.a.
[5] Includes all applicable tax reimbursement.
[6] Initial rate and settlement rate.
[7] Correction filed Oct. 20, 1969.
[8] Periodic rate increase.
[9] Initial rate.
[10] 1 cent per Mcf periodic increase plus 1.048 cents per Mcf adjustment for increase in Department of Labor Index of wholesale prices and tax reimbursement.
[11] Subject to a downward B.t.u. adjustment.
[12] Increase from applicable area ceiling rate to contract rate.
[13] Pressure base is 14.65 p.s.i.a.
[14] The stated effective date is the first day after expiration of the statutory notice.
[15] For wells connected to the 500 p.s.i.g. gathering system.
[16] Previously reported as 14 cents inclusive of the 1-cent minimum guarantee for liquids.
[17] No gas being delivered into 650 p.s.i.g. gathering system at present time.
[18] For wells connected to the 650 p.s.i.g. gathering system.
[19] Buyer deducts 0.75 cent from rate shown for dehydration.
[20] Subject to upward and downward B.t.u. adjustment.
[21] Contract amendment dated Sept. 29, 1969, which provides for increased rate.
[22] Renegotiated rate increase.

Murchison Trust (Operator) et al. (Murchison), request a retroactive effective date of January 1, 1969, for their proposed rate increases. Petroleum, Inc. (Operator) et al. (Petroleum), request an effective date of November 1, 1969, for their rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for Murchison and Petroleum's rate filings and such requests are denied.

The basic contract related to the proposed rate increases filed by Murchison contains a provision for a 1 cent per Mcf minimum guarantee for liquids which has been excluded from the proposed increased rates. Murchison is advised that a notice of change in rate will be required if they intend to collect the 1 cent per Mcf minimum guarantee for liquids in the future.

Concurrently with the filing of his rate increases, Edwin L. Cox (Cox) submitted two contract agreements dated September 29, 1969, designated as Supplement No. 2 to Cox's FPC Gas Rate Schedule Nos. 5 and 6, respectively, which provide the basis for Cox's proposed rate increases. We believe that it would be in the public interest to accept for filing Cox's contract agreements to become effective as of November 14, 1969, the expiration date of the statutory notice, but not the proposed rate contained therein which is suspended as ordered herein.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61–1, as amended (18 CFR § 2.56) with the exception of the rate increase filed by Shell Oil Co. (Operator) in the Permian Basin Area which exceeds the just and reasonable rate established by the Commission in Opinion No. 468, as amended, and should be suspended for five months as ordered herein.

[F.R. Doc. 69–13575; Filed, Nov. 17, 1969; 8:45 a.m.]

[Docket No. RI70–441 etc.]

SUN OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

NOVEMBER 7, 1969.

The respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.[2]

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before December 24, 1969.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

[2] If an acceptable general undertaking, as provided in Order No. 377, has previously been filed by a producer, then it will not be necessary for that producer to file an agreement and undertaking as provided herein. In such circumstances the producer's proposed increased rate will become effective as of the expiration date of the suspension period without any further action by the producer.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI70–441	Sun Oil Co.	32	19	Texas Eastern Transmission Corp.			[3] 10–1–69	10–2–69	14.6	[4] [5] 14.6617	
	do	88	11	do			[3] 10–1–69	10–2–69	14.1	[4] [5] 14.1617	
	do	164	1	Natural Gas Pipeline Co. of America			[3] 10–1–69	10–2–69	16.0	[4] [5] 16.06	
	do	190	1	Valley Gas Transmission, Inc.			[3] 10–1–69	10–2–69	14.0	[4] [5] 14.0525	
RI70–442	Pan American Petroleum Corp. (Operator) et al.	504	1	Texas Eastern Transmission Corp.			[3] 10–1–69	10–2–69	16.0	[4] [5] 16.07	
RI70–443	George H. Coates	8	2	South Texas Natural Gas Gathering Co.			[3] 10–1–69	10–2–69	16.0	[4] [5] 16.06	
	do	5	3	do			[3] 10–1–69	10–2–69	15.0	[4] [5] 15.0563	
	do	6	3	do			[3] 10–1–69	10–2–69	15.0	[4] [5] 15.0563	
	do	7	1	do			[3] 10–1–69	10–2–69	15.0	[4] [5] 15.0563	
RI70–444	American Petrofina Co. of Texas.	27	2	do			[3] 10–1–69	10–2–69	14.0	[4] [5] 14.052	
	do	37	3	Valley Gas Transmission, Inc.			[3] 10–1–69	10–2–69	14.0	[4] [5] 14.053	
RI70–445	American Petrofina Co. of Texas (Operator) et al.	29	2	Coastal States Gas Producing Co.[6]			[3] 10–1–69	10–2–69	13.24897	[4] [5] 13.2971787	
	do	52	4	Tennessee Gas Pipeline Co., a division of Tenneco Inc.			[3] 10–1–69	10–2–69	15.0	[4] [5] 15.05625	

See footnotes at end of table.

APPENDIX A—Continued

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI70-446..	Sun Oil Co., DX Division	208	7	Tennessee Gas Pipeline Co., etc.			[2] 10- 1-69	10- 2-69	15.0	[4] [5] 15.05625	
	do	37	9	do			[2] 10- 1-69	10- 2-69	15.0	[4] [5] 15.05625	
	do	1	9	do			[2] 10- 1-69	10- 2-69	15.0	[4] [5] 15.05625	
RI70-447..	Texaco, Inc	55	[7] 12	do			[2] 10- 1-69	10- 2-69	16.0	[4] [5] 16.06	
RI70-448..	Carrl Oil (Operator) et al	8	1	Texas Eastern Transmission Corp			[2] 10- 1-69	10- 2-69	15.0	[4] [5] 15.0613375	
RI70-449..	Phillips Petroleum Co	417	11	Florida Gas Transmission Co			[2] 10- 1-69	10- 2-69	15.0	[4] [5] 15.0656	
RI70-450..	Sun Oil Co., DX Division (Operator) et al	5	17	Tennessee Gas Pipeline Co., a division of Tenneco Inc.			[2] 10- 1-69	10- 2-69	15.0	[4] [5] 15.05625	
RI70-451..	Cra, Inc. (Operator) et al	12	4	Texas Gas Pipeline Corp			[2] 10- 1-69	10- 2-69	15.0	[4] [5] 15.0563	
RI70-452..	George H. Coates et al	2	6	Tennessee Gas Pipeline Co., a division of Tenneco, Inc.			[2] 10- 1-69	10- 2-69	15.0	[4] [5] 15.0563	
RI70-453..	George H. Coates (Operator) et al	4	3	South Texas Natural Gas Gathering Co.			[2] 10- 1-69	10- 2-69	15.0	[4] [5] 15.0563	

[2] Waiver of notice being granted pursuant to the Commission's Order No. 390 issued Oct. 10, 1969.
[4] Tax reimbursement increase.
[5] Pressure base is 14.65 p.s.i.a.
[6] Resells gas to South Texas Natural Gas Gathering Co. at an initial rate of 15 cents per Mcf. (Rate Schedule No. 27.)
[7] Pertains to acreage added by Supplement No. 10. Temporary certificate issued at 16 cents on Aug. 29, 1969, in Docket No. G-4820 and contains Condition (2) provision.

The proposed rate increases herein reflect the 0.5 percent increase in the production tax from 7 percent to 7.5 percent enacted by the State of Texas on September 9, 1969, to be effective as of October 1, 1969. All of the proposed rates herein exceed the applicable area ceiling for the areas involved as announced in the Commission's statement of general policy No. 61-1, as amended.

We believe that it would be in the public interest to waive the statutory notice provided in section 4(d) of the Natural Gas Act. Pursuant to Commission's Order No. 390 issued October 10, 1969, the producers' proposed rate increases from underlying firm rates are suspended for 1 day from October 1, 1969, the effective date of the tax increase enacted by the State of Texas.

The sale related to Texaco, Inc.'s (Texaco), rate increase is presently being made pursuant to a temporary certificate issued on August 29, 1969, in Docket No. G-4280 which contains a Condition (2) provision prohibiting changes in the rate specified in the temporary certificate until changed by further Commission order in the related certificate proceeding. We conclude that Condition (2) of the temporary certificate issued in Docket No. G-4280 should be waived to permit the tax increase filed by Texaco. Condition (2) in Texaco's temporary certificate is waived.

[F.R. Doc. 69-13576; Filed, Nov. 17, 1969; 8:45 a.m.]

[Docket No. RI70-423 etc.]

SUN OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

NOVEMBER 7, 1969.

The respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.[2]

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before December 24, 1969.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

[2] If an acceptable general undertaking, as provided in Order No. 377, has previously been filed by a producer, then it will not be necessary for that producer to file an agreement and undertaking as provided herein. In such circumstances the producer's proposed increased rate will become effective as of the expiration of the suspension period without any further action by the producer.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI70-423..	Sun Oil Co., DX Division, 907 South Detroit Ave., Tulsa, Okla. 74120.	[2] 229	3	Cities Service Gas Co. (Northeast Wanoka Field, Woods County, Okla.) (Oklahoma "Other" Area).	$11	10-13-69	[4] 1-1-70	[5] 1-2-70	[6] 14.0	[7] [8] 15.0	RI68-454.
RI70-424..	Sun Oil Co., DX Division (Operator).	[2] 272	1	Cities Service Gas Co. (Southeast Wakita and West Hawley Fields, Grant County, Okla.) (Oklahoma "Other" Area).	16,591	10-13-69	[4] 1-1-70	[5] 1-2-70	[6] 14.0	[7] [8] 15.0	
RI70-425..	Skelly Oil Co., Post Office Box 1650, Tulsa, Okla. 74102.	[2] 207	1	Cities Service Gas Co. (Palmer Field, Barber County, Kans.).	143	10-15-69	[4] 12-23-69	[5] 12-24-69	[6] 14.0	[7] [8] 15.0	
	Skelly Oil Co.	[2] 213	1	Cities Service Gas Co. (Northwest Boggs Mississippi Field, Barber County, Kans.).	1,693	10-15-69	[4] 12-23-69	[5] 12-24-69	[6] 14.0	[7] [8] 15.0	
	do.	[2] 223	1	Cities Service Gas Co. (Aetna Field, Barber County, Kans.).	3,221	10-15-69	[4] 12-23-69	[5] 12-24-69	[6] 14.0	[7] [8] 15.0	

[2] Contract dated after Sept. 28, 1960, the date of issuance of the Commission's statement of general policy No. 61-1 and the proposed rate does not exceed the initial rate ceiling.
[4] The stated effective date is the effective date requested by Respondent.
[5] The suspension period is limited to 1 day.
[6] Periodic rate increase.
[7] Pressure base is 14.65 p.s.i.a.
[8] Subject to a downward B.t.u. adjustment.

The basic contracts related to the proposed rate increases filed by Sun Oil Co.—DX Division, Sun Oil Co.—DX Division (Operator) (both referred to herein as Sun) and Skelly Oil Co. (Skelly) were executed subsequent to September 28, 1960, the date of issuance of the Commission's statement of general policy No. 61-1, as amended, and the proposed increased rates are above the applicable ceilings for increased rates but below the initial service ceilings for the areas involved. We believe, in this situation, Sun and Skelly's proposed rate filings should be suspended for 1 day from January 1, 1970 (Sun) and December 23, 1969 (Skelly), the proposed effective dates.

[F.R. Doc. 69-13577; Filed, Nov. 17, 1969; 8:45 a.m.]

[Docket No. G-5991, etc.]

TEXAS PACIFIC OIL CO., INC., ET AL.

Order Amending Orders

OCTOBER 22, 1969.

Order amending orders issuing certificates of public convenience and necessity, substituting applicants and respondents, redesignating proceedings, accepting agreement and undertaking for filing, accepting notices of succession for filing, and redesignating FPC gas rate schedules.

On July 22, 1969, Texas Pacific Oil Co., Inc. (petitioner), filed a petition to amend the orders issuing certificates of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act to Joseph E. Seagram & Sons, Inc., doing business as Texas Pacific Oil Co., by substituting petitioner as certificate holder, all as more fully set forth in the petition to amend and in the appendix hereto.

Petitioner acquired effective May 1, 1969, all assets of Joseph E. Seagram & Sons, Inc., doing business as Texas Pacific Oil Co., and proposes to continue to sell natural gas pursuant to the latter's FPC gas rate schedules on file with the Commission. Petitioner has filed notices of succession to its predecessor's FPC gas rate schedules. Petitioner has filed a motion to be substituted in lieu of its predecessor as respondent in the latter's rate proceedings, together with an agreement and undertaking in said proceedings to assure the refund of all amounts collected by its predecessor and itself in excess of the amounts determined to be just and reasonable in said proceedings.

The Commission's staff has reviewed the petition to amend and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, no petition to intervene, notice of intervention, or protest to the granting of the petition to amend has been filed.

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that petitioner should be substituted in lieu of Joseph E. Seagram & Sons, Inc., doing business as Texas Pacific Oil Co., as certificate holder, applicant, and respondent; that petitioner's notices of succession and agreement and undertaking should be accepted for filing; and that the related FPC gas rate schedules should be redesignated accordingly.

The Commission orders:

(A) The orders issuing certificates of public convenience and necessity to Joseph E. Seagram & Sons, Inc., doing business as Texas Pacific Oil Co., in the dockets listed in the appendix hereto are amended by substituting petitioner as certificate holder, and in all other respects said orders shall remain in full force and effect.

(B) Petitioner is substituted in lieu of Joseph E. Seagram & Sons, Inc., doing business as Texas Pacific Oil Co., as applicant and respondent in the pending certificate and rate proceedings listed in the appendix hereto and the proceedings are redesignated accordingly.

(C) The agreement and undertaking submitted by petitioner is accepted for filing. Petitioner shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder. The agreements and undertakings filed by petitioner shall remain in full force and effect until discharged by the Commission.

(D) The notices of succession to the FPC gas rate schedules of Joseph E. Seagram & Sons, Inc., doing business as Texas Pacific Oil Company, are accepted for filing to be effective as of May 1, 1969; and said rate schedules are redesignated as those of petitioner and shall retain the same numerical designations as set forth in the appendix hereto.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

APPENDIX

TEXAS PACIFIC OIL CO., INC. (SUCCESSOR TO JOSEPH E. SEAGRAM & SONS, INC., DOING BUSINESS AS TEXAS PACIFIC OIL CO.)

Certificate docket No.	FPC gas rate schedule No.	Rate suspension docket No.
G-11503	2	
G-12398	3	RI64-449 and RI65-407.
CI60-506	5	
CI61-1412	6	
CI61-1412	7	RI62-50.
CI61-1412	8	
CI62-1251	[1] 10	RI68-629 and RI69-36.
G-5991	11	RI61-357, RI65-87, and RI69-598.
G-5991	12	RI69-434.
G-5991	13	RI61-357, RI63-435, RI65-87, and RI69-598.
G-5991	14	RI61-357, RI63-439, and RI65-87.
G-9261	15	RI61-357 and RI65-87.
G-10155	16	RI62-50.
G-10237	17	RI61-357, RI63-435, RI65-87, and RI69-598.
G-12188	18	
G-14335	[1] 19	RI63-182 and RI69-599.
G-14407	20	RI61-357, RI61-358, RI65-87, and RI69-585.
G-14849	21	RI69-434.
G-14848 and G-18637.	22	RI63-439, RI64-477, and RI69-434.
G-15296	23	RI63-435, RI64-477, and RI69-434.
G-16911	24	RI68-681.
G-17385, G-18659, and G-19959.	25	RI69-434.
G-18507	[1] 26	
G-18549	[1] 27	RI64-582.
G-18303	[1] 28	RI61-358, RI63-434, RI65-88, and RI69-586.
G-18449	29	RI61-544.
G-19545	31	RI63-183.
CI60-278	[1] 32	RI63-182.
CI60-774	33	RI63-183 and RI68-331.
CI60-780	34	RI63-183 and RI68-331.
CI61-1044	35	RI63-179 and RI68-331.
CI61-1079	[1] 36	RI63-180 and RI68-331.
CI61-1425	37	RI61-544, RI65-87, and RI69-585.

See footnotes at end of table.

APPENDIX—Continued

Certificate docket No.	FPC gas rate schedule No.	Rate suspension docket No.
CI61-1425	38	RI60-442, RI63-435, and RI65-87.
CI61-1425	[1] 39	
CI61-1425	[1] 40	RI63-434, RI65-88, and RI69-586.
CI61-1425	41	RI63-114, RI63-435, and RI65-87.
CI61-1425	[1] 42	RI63-434, RI65-88, and RI69-586.
CI61-1425	[1] 43	RI63-434, RI65-88, and RI69-586.
CI61-1425	[1] 44	RI63-434, RI65-88, and RI69-586.
CI61-1425	[1] 45	
CI61-1425	[1] 46	
CI61-1425	47	
CI61-1425	48	
CI61-1429	49	
CI61-1429	[1] 50	RI60-118 and RI65-88.
CI61-1429	[1] 51	
CI61-1429	[1] 52	
CI61-1429	53	
CI61-1429	54	
CI61-1429	55	
CI61-1429	56	RI63-435, RI65-87, and RI69-585.
CI61-1429	57	RI63-435, RI65-87, and RI69-585.
CI61-1429	[1] 58	RI60-455, RI63-175, RI63-434, RI65-88, and RI69-586.
CI61-1429	[1] 59	RI63-434, RI65-88, and RI69-586.
CI61-1429	[1] 60	RI63-443.
CI61-1429	[1] 61	
CI61-1582	62	
CI61-1649	[1] 63	RI63-180 and RI68-331.
CI62-3	[1] 64	
CI62-438 [2]	65	
CI62-742	[1] 66	RI69-636.
CI61-996	67	
CI62-852	[1] 68	RI68-650.
CI62-1234	69	RI65-100.
CI62-1237	[1] 70	
CI62-1344	71	
CI63-469	72	
CI63-1351	75	
CI63-1573	76	RI65-100.
CI64-302	77	RI65-100.
CI64-1547	79	
CI64-1554	80	
CI65-223	81	RI69-434.
CI65-490	82	
CI65-1196	83	
CI65-558	84	
CI66-103	85	
CI66-129	86	RI69-434.
CI66-1215	88	
CI67-202	89	
CI67-822	90	RI69-434.
CI68-309	91	RI69-43.
CI68-800 [2]	[1] 92	
CI68-1280	93	
CI69-458	94	

[1] (Operator) et al.
[2] Temporary certificate.

[F.R. Doc. 69-13578; Filed, Nov. 17, 1969; 8:45 a.m.]

[Docket No. RP70-15]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Motion and Alternative Proposed Changes in Rates and Charges

NOVEMBER 17, 1969.

Take notice that on November 10, 1969, Natural Gas Pipeline Company of America (Natural) tendered for filing a motion by which it seeks Commission approval of a specific method of "tracking" supplier rate changes. In the event that the Commission does not approve the "tracking" rate change procedure, Natural has tendered an alternative thereto in the form of proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1 to become effective December 10, 1969.

Natural states it is seeking approval of its "tracking" method in order to avoid the necessity of a rate change filing to reflect supplier increases not included in RP69-36 which at the present time total $4,230,493.

Natural states that in general the proposed method of computation, as more fully set out in their motion, provides that Natural can file from time to time during a period ending December 1, 1970, revised tariff sheets increasing or decreasing all rates and charges under its then effective CD-1, CD-2, PL-1, G-1, G-2, I-1 and WS Rate Schedules to reflect the full amount of Natural's pipeline supplier rate changes, and a net aggregate increase of 0.5 cents per Mcf from its other suppliers. No change in rates would be made until the net aggregate of increases and decreases in the supplier rates involved would produce an increase or decrease in Natural's Rate Schedule CD-1 commodity charge of at least 0.02 cent per Mcf (and commensurate changes in Natural's other rates and charges, which are calculated on the basis of the CD-1 charges). Revised tariff sheets submitted in accordance with the proposed method would become effective 30 days after filing.

Natural states the rate changes proposed in the revised tariff sheets, filed herein as an alternative to Commission approval of Natural's proposed method of "tracking," are to reflect increases in supplier rates over those encompassed by Natural's rate proceeding Docket No. RP69-36 now pending before this Commission, and that barring Commission approval of the proposed "tracking" method the filing is necessary to protect Natural against known supplier increases.

Copies of the filing were served on all parties of record in Docket No. RP69-36.

Any person desiring to be heard or to make any protest with reference to this filing should on or before December 3, 1969, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The motion is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-13726; Filed, Nov. 17, 1969; 9:05 a.m.]

OFFICE OF EMERGENCY PREPAREDNESS

ALABAMA

Notice of Major Disaster

Pursuant to the authority vested in me by the President under Executive Order 10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, and Executive Order 11051 of September 27, 1962 (18 F.R. 407, 22 F.R. 8799, 27 F.R. 9683); and by virtue of the Act of September 30, 1950, entitled "An Act to authorize Federal assistance to States and local governments in major disasters and for other purposes" (42 U.S.C. 1855-1855g); notice is hereby given that on November 7, 1969, the President declared a major disaster as follows:

I have determined that the damages in those areas of the State of Alabama, adversely affected by Hurricane Camille beginning on or about August 17, 1969, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 81-875. I, therefore, declare that such a major disaster exists in Alabama.

I do hereby determine the following areas of the State of Alabama to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of November 7, 1969:

The Counties of:
Baldwin. Mobile.

Dated: November 12, 1969.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[F.R. Doc. 69-13652; Filed, Nov. 17, 1969; 8:45 a.m.]

VIRGINIA

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Virginia, dated August 27, 1969, and published September 5, 1969 (34 F.R. 14116), and amended September 25, 1969, and published October 2, 1969 (34 F.R. 15398), is hereby further amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 23, 1969:

Campbell.

Dated: November 12, 1969.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[F.R. Doc. 69-13653; Filed, Nov. 17, 1969; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File 812-2639]

AMERICAN RESEARCH AND DEVELOPMENT CORP.

Notice of Filing of Application for Order Exempting Proposed Purchase of Shares of Investment Company

NOVEMBER 10, 1969.

Notice is hereby given that American Research and Development Corp. ("applicant"), 200 Berkeley Street, Boston, Mass. 02110, a Massachusetts corporation

which is registered as a closed-end, nondiversified, management investment company under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting from the provisions of section 12(e) of the Act to the extent noted below the proposed purchase by applicant of a maximum of 50,000 shares of capital stock of Canadian Enterprise Development Corp. Ltd. ("CED"), a Canadian investment company, at a price of $10 a share. All interested persons are referred to the application on file with the Commission for a statement of applicant's representations which are summarized below.

Applicant, which registered under the Act in 1946, is engaged in furnishing capital to or purchasing securities of companies engaged in the development of new enterprises, products or processes. CED is engaged in the business of investing in and furnishing capital to Canadian companies engaged in substantially the same type of activities as those engaged in by the companies in which applicant invests.

At September 30, 1969, CED had outstanding 555,000 shares of a single class of capital stock, of which applicant owned 50,000 shares, or approximately 9 percent of the total capital stock of CED outstanding. Applicant is the only United States stockholder. The shares of CED capital stock owned by applicant were acquired by applicant in 1962 at a cost of $464,305. The application states that at the time of the organization of CED in 1962, CED had 40 stockholders of record none of whom owned as much as 10 percent of the capital stock of CED outstanding, and that at such time CED was entitled to the exception from the definition of an investment company afforded by section 3(c)(1) of the Act. This section excepts from the definition of an investment company any issuer which is not making and does not propose to make a public offering of its securities and whose outstanding securities are beneficially owned by not more than 100 persons and further provides that beneficial ownership by a company shall be deemed beneficial ownership by one person, except that if such company owns 10 percent or more of the outstanding voting securities of the issuers the beneficial ownership of the issuer shall be deemed to be the holders of such company's outstanding securities.

The application states that within the past two years Sun Life Assurance Company of Canada, a mutual insurance company increased its holdings of CED common stock; that as a result such company now owns of record and beneficially 10.8 percent of the capital stock of CED; that, consequently, CED is no longer entitled to the exception from the definition of an investment company afforded by section 3(c)(1) of the Act; and that CED is an investment company under the Act.

In addition to its present holdings of CED stock and the additional shares of such stock it now proposes to acquire, applicant owns about 7 percent of the voting securities outstanding of European Enterprises Development Company ("EED"), which is a European venture capital investment company with objectives and policies similar to those of applicant.[1]

By notice dated October 8, 1969, CED made an offer to its shareholders to subscribe for additional shares on the basis of one new share for each outstanding share ARD anticipates exercising its rights to acquire a maximum of 50,000 shares at a cost of $10 per share but will reduce the number of shares which it purchases so that it will not own 10 percent or more of the outstanding capital stock of CED.

Section 12(d)(1) of the Act, as here pertinent, prohibits the acquisition by a registered investment of more than 5 percent of the total voting stock outstanding of any other investment company if the policy of such other investment company is the concentration of investments in a particular industry or group of industries, or more than 3 percent of such stock, if the policy is not so to concentrate.

Section 12(e) of the Act provides, among other things, that notwithstanding the provisions of section 12(d)(1), a registered investment company may utilize up to 5 percent of the value of its assets to purchase or otherwise acquire any securities issued by any one investment company engaged in the business of underwriting, furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence and reorganizing companies or similar activities, provided, among other things, the securities issued by such other investment company consist solely of one class of common stock and shall have originally issued or sold for investment to registered investment companies only. Unless an exemptive order from section 12(e) is issued, applicant will be prohibited from consummating the proposed purchase of shares of CED, an investment company since (1) following its consummation of the proposed acquisition of additional shares of CED, applicant will have acquired stock of two investment companies (CED and EED) and, (2) registered investment companies were not the only purchasers of the CED shares now outstanding, nor will registered investment companies be the only purchasers of the additional CED shares to be issued. Applicant requests an exemption from section 12(e) to permit the proposed acquisition of CED stock.

Section 6(c) of the Act authorizes the Commission upon application to exempt any transaction from any provisions of the Act or any rule thereunder, if and to the extent that the Commission finds that such exemption is necessary or appropriate and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed acquisition is not inconsistent with the purposes of sections 12(d)(1) and 12(e) because (1) it will not result in the duplication of investment advisory fees since neither applicant nor CED have contracted to pay such fees to any other person; (2) control of CED will not be unduly or inequitably concentrated in applicant since applicant will not own more than 10 percent of the outstanding stock of CED (which has 40 stockholders of record) while Sun Life Assurance Company owns about 10.8 percent of the stock of CED outstanding; and (3) such proposal will not create undue complexities in the structure of portfolio companies. In the latter connection, the application shows that applicant's valuation of its investment in CED and EED at December 31, 1968, as adjusted to reflect the additional proposed maximum investment of $500,000 in CED stock, is equal to about .3 percent of the net assets of applicant at such date.

Notice is further given that any interested person may, not later than November 25, 1969 at 12:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-13654; Filed, Nov. 17, 1969; 8:45 a.m.]

[1] By order dated Dec. 12, 1963, the Commission granted an exemption to permit applicant to purchase such interest in EED (Investment Company Act Release No. 3857, Dec. 12, 1963).

[File No. 24B–1595]

DESIGN INTERNATIONAL CORP.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

NOVEMBER 12, 1969.

I. Design International Corp. ("DIC"), 132 Boylston Street, Boston, Mass., a Massachusetts corporation located at 132 Boylston Street, Boston, Mass., filed with the Commission on May 28, 1969, a notification on Form 1–A and an offering circular relating to a proposed public offering of 33,333 shares of its 10 cents par value common stock at $9 per share (to be sold in minimum units of 100 shares) with net proceeds to the issuer of $275,997.24 for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933 ("Securities Act"), as amended, pursuant to the provisions of section 3(b) thereof and regulation A, promulgated thereunder. The proposed offering is to be underwritten on a "best efforts" basis by Daniel Breslin and Associates (the "underwriter"), Needham, Mass.

II. The Commission has reasonable cause to believe from information reported to it by the staff that:

A. The terms and conditions of Regulation A have not been complied with in that:

1. The Issuer (DIC) violated Rule 255 of the regulation by offering its securities prior to filing a notification on Form 1–A, and for which no registration statement was on file.

2. The Issuer through its agent, the underwriter, sold the securities which were the subject of the said notification and accepted payment therefor, prior to the time in which such securities could legally be offered for sale.

3. The Issuer offered securities and accepted payment for such securities through its agent, the underwriter, without first having given to the persons to whom the securities were sold an offering circular containing the information specified in Schedule 1 of Form 1–A, in violation of Rule 256(a)(2).

4. The Issuer through its agent, the underwriter, advertised for sale the securities which were the subject of the said notification without having first filed such advertising material with the Commission, in violation of Rule 258.

5. It appears that the issuer had no knowledge of the actions of its underwriter as alleged above, prior to the time such matters were brought to its attention by the staff, and that it has no culpability with respect to such matters.

B. The offering, as made, was in violation of the registration provisions of section 5 and the antifraud provisions of section 17 of the Securities Act of 1933, as amended, and would continue to be in violation of sections 5 and 17 of the Securities Act of 1933, as amended, if the offers of sale would continue to be made.

C. The Form 1–A Notification and the offering circular do not disclose that the sales are and were made in violation of the Securities Act of 1933, as amended, nor does the offering circular show a contingent liability for such sales, and any sales made with said offering circular not making such disclosure would be in violation of section 17 of the Securities Act of 1933, as amended.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended:

It is ordered, Pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and it hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 252(f), that this order shall not serve to operate as a bar to the use of the Regulation A exemption by this issuer should the exemption otherwise be available.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the 30th day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69–13655; Filed, Nov. 17, 1969; 8:45 a.m.]

[812–2543]

NPG GROWTH FUND, INC.

Notice of Application for Order of Exemption

NOVEMBER 10, 1969.

Notice is hereby given that NPG Growth Fund, Inc. ("applicant"), 1200 Stewart Avenue, Garden City, N.Y. 11530, an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("the Act"), has applied pursuant to section 6(c) of the Act for an order exempting applicant from Rule 22c–1 of the rules and regulations under the Act to the extent that said rule requires that shares of applicant be priced for sale on the day orders for the purchase of such shares are received. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Applicant presently computes net asset value twice a month, as of the close of business on the 5th and 20th day, and offers its shares for sale at the net asset value next computed following receipt of a subscription order. Applicant proposes to offer its shares at the net asset value per share computed as of the close of business on the Thursday next succeeding the receipt of a subscription order or on the day of receipt of a subscription order if it is received on a Thursday. Applicant has and will continue to redeem shares at the net asset value per share computed as of the close of business on the day such shares are properly tendered for redemption.

As of September 30, 1969, applicant had 166 shareholders and net assets of approximately $342,000. Sales of its shares are limited to regular and associate members of the Nassau Physicians Guild, Inc., who are residents of New York State. Applicant states that during a recent period of 8 weeks, applicant's custodian received an average of 11 subscriptions for applicant's shares per week. Applicant represents that it has been advised by its custodian that if daily pricing is required, applicant will be charged approximately $40 for each of its daily pricings.

Rule 22c–1 provides, in part, that redeemable securities of registered investment companies must be sold, redeemed, or repurchased at a price based on the current net asset value (computed on each day during which the New York Stock Exchange is open for trading, not less frequently than once daily as of the close of trading on such exchange) which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Applicant represents (a) that in view of its relatively small asset size and the limited number of transactions in its shares, the additional cost imposed by daily pricing of applicant's shares would impose an excessive financial burden, and (b) that its present and proposed pricing method, under which shares are prospectively valued, is consistent with the objectives of Rule 22c–1 to prevent dilution in the value of shares and prevent short-term speculation resulting from sale of shares at a previously determined price, and (c) that daily pricing would be unduly burdensome and expensive.

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with

the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Applicant seeks an order permitting it to price shares for sale once a week at the close of business on Thursday until the weekly average number of subscription orders received by applicant totals 15 or more during any consecutive 8-week period ending on a valuation date, and thereafter, applicant will determine the net asset value in conformity with Rule 22c–1.

Notice is further given that any interested person may not later than November 28, 1969, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69–13656; Filed, Nov. 17, 1969; 8:45 a.m.]

RAJAC INDUSTRIES, INC.

Order Suspending Trading

NOVEMBER 12, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Rajac Industries, Inc. (a New York corporation), and all other securities of Rajac Industries, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 13, 1969, through November 22, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69–13658; Filed, Nov. 17, 1969; 8:46 a.m.]

[812–2531]

STAR CAPITAL CORP. ET AL.

Notice of Filing of Application for Order Exempting Proposed Transactions

NOVEMBER 10, 1969.

In the matter of Star Capital Corp., 663 Fifth Avenue, New York, N.Y. 10022; Sun Capital Corp., 76 Beaver Street, New York, N.Y. 10005; Abacus Fund, Inc., 76 Beaver Street, New York, N.Y. 10005.

Notice is hereby given that Star Capital Corp. ("Star") a Pennsylvania corporation which is registered as a closed-end, nondiversified management investment company under the Investment Company Act of 1940 ("Act") and is licensed as a small business investment company under the Small Business Investment Act of 1958, Abacus Fund, Inc. ("Abacus"), a Delaware corporation which is registered as a closed-end, diversified management investment company under the Act, and Sun Capital Corp. ("New Star"), a Delaware corporation which is registered as a closed-end, nondiversified management investment company under the Act and all of whose outstanding securities are owned by Abacus (hereinafter referred to collectively as "applicants"), have filed a joint application pursuant to section 6(c) of the Act for an order of exemption to the extent noted below from the provisions of sections 12(e), 17(a), and 17(d) of the Act and Rule 17d–1 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

At December 31, 1968, the assets of Abacus aggregated about $54 million and it had 2,520,000 shares of common stock outstanding.

At December 31, 1968, the assets of Star aggregrated $3,257,553, consisting principally of certificates of deposit, a U.S. Government security, cash, and one loan receivable in the principal amount of $100,000; and Star had 541,670 shares of common stock outstanding.

New Star, which was organized by Abacus in 1969 and does not presently carry on any business, has outstanding 100 shares of common stock, all of which, as noted above, are owned by Abacus.

As more fully explained below, if the requested exemptive order is issued by the Commission, Abacus would, in effect, be in a position to carry out its program to operate a small business investment company (New Star) whose assets would consist of those acquired from Star which assets might otherwise be withdrawn from the small business investment company program.

On November 26, 1968, Abacus and Star reached agreement in principle for the transfer of Star's assets on the basis of exchanging one Abacus share for each 3½ shares of Star. Subsequently, as of January 29, 1969, Star and New Star entered into a plan and agreement of merger providing, among other things, for the merger of Star into New Star on such basis.

On the date as of which agreement in principle was reached with respect to the proposed merger, the net asset value per share of Star common stock was $5.96, and the per share net asset value of Abacus common stock after provision for estimated taxes on unrealized appreciation was $20.36 as of December 31, 1968. On this basis, 3½ shares of Star common stock had a net asset value of $20.86 compared with a net asset value of $20.36 for one share of Abacus stock.

The application states that New Star will apply for a license as a small business investment company from the Small Business Administration ("SBA") and that in the event the merger is consummated Abacus will operate through New Star (whose name is to be changed to Star Capital Corp.) the assets and business acquired from Star. In the event the merger is not consummated, Star's management intends to surrender Star's license as a small business investment company and to take action which will result in Star's ceasing to be an investment company.

Applicant's request exemption from the following provisions of the Act.

Section 12(e). Section 12(d)(1), as here pertinent, prohibits the acquisition by a registered investment company of more than 5 percent of the total voting stock outstanding of any other investment company if the policy of such other investment company is the concentration of investments in a particular industry or group of industries, or more than 3 percent of such stock, if the policy is not so to concentrate.

Section 12(e) of the Act provides, among other things, that notwithstanding the provisions of section 12(d)(1), a registered investment company may utilize up to 5 percent of the value of its assets to purchase or otherwise acquire any securities issued by another investment company engaged in the business of underwriting, furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence and reorganizing companies or similar activities: *Provided*, That the securities issued by such other investment company consist solely of one class of common stock. An exemptive order from section 12(e) of the Act is necessary in order to enable Abacus to invest more than 5 percent of the value of its assets in (1) Star, a registered investment company and a small business investment company whose stock is publicly held, and in (2) New Star, a registered investment company which proposes to obtain a license as a small business investment company and which may have outstanding debt as well as common stock. Applicant requests an exemption from section

12(e) to permit the acquisitions in connection with the proposed merger of Star and New Star.

Section 17(a), as here pertinent, makes it unlawful for an affiliated person (New Star) of a registered investment company (Abacus) to sell to or purchase from such registered company (Abacus) any securities or property. Thus, the transfer of any assets from Abacus to New Star under the contemplated program would be unlawful in the absence of an exemption from section 17(a).

In addition, section 17(a) of the Act would prohibit any small business concern which may become an affiliated person of New Star or Abacus from thereafter borrowing from, or selling securities issued by it to, Abacus or to New Star.

The application requests exemption from section 17(a) of the Act to permit any transfer by Abacus, and acquisition by New Star, of a portion of the assets of Abacus which may be involved in the proposed merger of Star into New Star. The application also requests exemption from section 17(a) until such time as the Commission has issued an order pursuant to section 8(f) of the Act declaring that either Abacus or New Star has ceased to be an investment company (1) to permit any transfer by Abacus, and acquisition by New Star, of a portion of the assets of Abacus following the merger of Star into New Star, and (2) to permit any small business concern which may become an affiliated person of Abacus or New Star to borrow from, or sell securities issued by it to, New Star.

Section 17(d) of the Act and Rule 17d–1 thereunder, taken together, provide, among other things, that it shall be unlawful, with certain exceptions not applicable here, for an affiliated person of a registered investment company or any affiliated person of such a person, acting as principal, to participate in, or effect any transaction in connection with any joint enterprise or arrangement in which any such registered company or a company controlled by such registered company, is a participant unless an application regarding such arrangement has been granted by the Commission. Applicants have requested an order of exemption from the provisions of section 17(d) of the Act and Rule 17d–1 until such time as the Commission has issued an order pursuant to section 8(f) of the Act declaring that either Abacus or New Star has ceased to be an investment company to permit Abacus and New Star to participate in joint transactions or other joint arrangements involving third parties which are small business concerns.

Abacus and New Star have agreed that the order of the Commission that may issue pursuant to this notice may be conditioned as follows:

Until such time as the Commission has issued an order pursuant to section 8(f) of the Act declaring that either Abacus or New Star has ceased to be an investment company:

(a) Neither Abacus nor New Star will issue or sell any class of senior security unless immediately after such issuance or sale such class of senior security will have the asset coverage required by section 18(a) of the Act on two bases, namely, Abacus on a corporate (unconsolidated) basis and Abacus and New Star on a consolidated basis.

(b) Abacus will not cause or permit New Star to issue or sell (and New Star will not have outstanding) any securities other than (i) common stock to be held and owned by Abacus; (ii) debt securities to be held and owned by Abacus evidencing borrowings by New Star from Abacus; and/or (iii) debt securities to be held and owned by the SBA (or by one or more banks, insurance companies, and/or pension funds where payment is guaranteed by the SBA) evidencing borrowings by New Star from the SBA (or from one or more banks, insurance companies, and/or pension funds) on such terms as the SBA may lend to or guarantee for small business investment companies and as may be permitted under the Act and the order of the Commission: *Provided, however*, That so long as Abacus has outstanding any senior security other than that described in clause (ii) of subparagraph (d) below, Abacus will not cause or permit New Star to issue or sell or to have outstanding any security other than common stock and debt held by Abacus.

(c) Abacus will not guarantee any loan made to New Star.

(d) So long as New Star has any debt outstanding other than debt of New Star held and owned by Abacus, Abacus will not issue any security or sell or have or permit to remain outstanding any security issued by it other than (i) common stock and (ii) unsecured promissory notes or other unsecured evidences of indebtedness issued in consideration of any loan, extension, or renewal thereof, made by one or more banks, insurance companies and/or pension funds and privately arranged, and not intended to be publicly distributed and not convertible into, exchangeable for, or accompanied by any options to acquire, any equity security.

(e) Abacus will not make any investment in New Star if the aggregate value of any existing investment plus the cost of any additional investment in New Star would exceed 25 percent of the value of Abacus' total assets on a corporate (unconsolidated) basis at the time of such additional investment.

(f) Abacus will at all times own and hold beneficially all of the outstanding capital stock of New Star.

(g) Abacus will not cause or permit New Star to change any of its fundamental investment policies, unless such action shall have been authorized by Abacus as the holder of all of the outstanding voting securities of New Star after approval of such action by the vote of a majority (as defined in the Act) of Abacus' outstanding voting securities.

(h) Abacus will not cause or permit New Star to enter into, renew or perform any investment advisory or underwriting contracts or agreements, written or oral, as contemplated by section 15 of the Act, unless the terms of such contracts or agreements and any renewal thereof shall have been approved in compliance with section 15 of the Act. Any vote of the shareholders of New Star, as required by section 15 of the Act, will be deemed to require a vote of Abacus' shareholders. Any action of the directors of New Star, as required by section 15 of the Act, will be deemed to require a vote of the directors of Abacus, including a majority of those directors who are not parties to any such contract or agreement or affiliated persons of any such party.

(i) Abacus will file with the Commission and transmit to its shareholders reports prescribed and required by section 30 of the Act, including separate financial statements of New Star. Abacus will also cause New Star to file with the Commission copies of all reports which New Star will be required to file with the SBA.

(j) Any independent public accountant who signs a financial statement filed by Abacus or New Star with the Commission shall be selected and approved for Abacus in compliance with section 32(a) of the Act by the vote of a majority (as defined in the Act) of Abacus' outstanding voting securities.

(k) The officers and directors of Abacus and New Star will be in all respects identical.

(l) Any small business concern which may become an affiliated person of New Star or of Abacus may borrow from, or sell securities issued by it to, New Star: *Provided*, That such transaction meets the requirements for an exemption pursuant to Rule 17a–6 except to the extent that it fails to meet the requirements of such rule solely because Abacus is also a party to the transaction or has, or within 6 months prior to the transaction had, or pursuant to an arrangement will acquire, a direct or indirect financial interest in the small business concern.

(m) Abacus and New Star may participate in any joint transaction or other joint arrangement involving a third party which is a small business concern: *Provided*, That no person (other than Abacus itself) who, as respects Abacus or New Star, falls within any category of persons mentioned in subparagraphs (1), (2), (3), (4), or (5) of Rule 17a–6, is also a party to the joint transaction or has, or within 6 months prior to the commencement of the joint transaction had, or pursuant to an arrangement will acquire, a direct or indirect financial interest in the small business concern.

The application states that the exemptive order requested is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 25, 1969, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should

order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the addresses stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in the application, unless an order for hearing upon said proposal shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It is ordered, That the Secretary of the Commission shall send a copy of this notice by certified mail to the Associate Administrator for Investment, Investment Division, Small Business Administration, Washington, D.C. 20416.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-13657; Filed, Nov. 17, 1969; 8:46 a.m.]

TARIFF COMMISSION

[332-61]

ASSEMBLED AND PROCESSED ARTICLES

Hearing Rescheduled

In response to a request dated August 18, 1969, by the President of the United States, the Tariff Commission instituted an investigation of the economic factors affecting the use of items 806.30 and 807.00 of the Tariff Schedules of the United States and ordered a hearing in connection therewith to begin on November 18, 1969 (34 F.R. 14043). Notice was subsequently given of the postponement of the hearing in the investigation until further notice by the Commission (34 F.R. 18206).

The date by which the Commission's report is to be submitted to the President has been extended to August 31, 1970, at the direction of the President. In view of this extension, the Commission has rescheduled the hearing in the investigation to begin at 10 a.m., e.d.s.t., on May 5, 1970, in the Hearing Room, Tariff Commission Building, 8th and E Streets NW., Washington, D.C.

Interested parties desiring to appear and to be heard should notify the Secretary of the Commission, in writing, on or before April 24, 1970. Written statements in lieu of appearance should be submitted not later than May 12, 1970. Requests to appear and written statements in lieu of appearance must be submitted in conformity with the additional requirements pertaining thereto in the Commission's initial notice of investigation and hearing (34 F.R. 14043).

Interested parties who made requests to appear at the hearing originally scheduled to begin November 18, 1969, will be deemed to have made requests for the hearing scheduled to begin on May 5, 1970, unless the Commission is notified to the contrary.

All communications regarding the Commission's investigation should be addressed to the Secretary, U.S. Tariff Commission, Washington, D.C. 20436.

Issued: November 13, 1969.

By order of the Commission.

[SEAL] WILLARD W. KANE, *Acting Secretary.*

[F.R. Doc. 69-13690; Filed, Nov. 17, 1969; 8:48 a.m.]

[337-21]

FURAZOLIDONE

Findings of Unfair Methods and Acts

The Tariff Commission on November 13, 1969, issued a report of its findings in investigation No. 337-21 instituted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) upon complaint of the Norwich Pharmacal Co. (now Morton-Norwich Products, Inc.). In its report, the Commission finds unfair methods of competition and unfair acts in the importation and sale of furazolidone manufactured in accordance with the claims of U.S. patent No. 2,742,462, owned by complainant, and of products containing furazolidone, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, in violation of section 337(a) of the Tariff Act of 1930.

Based upon its findings the Commission recommends that the President order the exclusion of furazolidone and products containing furazolidone from entry into the United States through April 17, 1973, the date of expiration of complainant's patent.

Under the statute (19 U.S.C. 1337(c)) a rehearing before the Commission may be requested. In accordance with § 201.14 of the Commission's rules of practice and procedure (19 CFR 201.14) a motion for a rehearing may be granted for good cause shown. Any such motion for a rehearing must be in writing and filed with the Secretary of the U.S. Tariff Commission, Washington, D.C. 20436, within twenty (20) days after publication of this notice. The motion must state clearly the grounds which are relied upon for the granting of a rehearing and must be accompanied by 19 true copies.

Issued: November 13, 1969.

[SEAL] WILLARD W. KANE, *Acting Secretary.*

[F.R. Doc. 69-13689; Filed, Nov. 17, 1969; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 13, 1969.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41797—*Sodium (soda) chlorate to Hawesville, Ky.* Filed by Southwestern Freight Bureau, agent (No. B-98), for interested rail carriers. Rates on sodium (soda) chlorate, in bulk, in shipper-owned covered hopper cars, in carloads, as described in the application, from Lake Charles and West Lake Charles, La., to Hawesville, Ky.

Grounds for relief—Market competition.

Tariff—Supplement 182 to Southwestern Freight Bureau, agent, tariff ICC 4668.

FSA No. 41798—*Class and commodity rates between points in Texas.* Filed by Texas-Lousiana Freight Bureau, agent (No. 633), for interested rail carriers. Rates on pulpboard or fiberboard and pelletized sulphur, in carloads, as described in the application, from, to and between points in Texas, over interstate routes through adjoining states.

Grounds for relief—Intrastate rates and maintenance of rates from and to points in other States not subject to the same competition.

Tariff—Supplement 96 to Texas-Louisiana Freight Bureau, agent, tariff ICC 998.

FSA No. 41800—*Newsprint cores, returned, from points in southern territory.* Filed by O. W. South, Jr., agent (No. A6137), for interested rail carriers. Rates on newsprint cores, returned, in carloads, as described in the application, from points in southern territory, to points in Canada.

Grounds for relief—Carrier competition.

Tariffs—Supplement 34 to Canadian Pacific Railway Co. tariff ICC E. 2629, and supplement 5 to Canadian National Railways tariff ICC E. 545.

FSA No. 41801—*Phosphatic fertilizer solution to points in western trunkline territory.* Filed by Trans-Continental Freight Bureau, agent (No. 456), for interested rail carriers. Rates on phosphatic fertilizer solution, in tank carloads, as described in the application, from Silver Bow, Mont., to points in western trunkline territory.

Grounds for relief—Market competition, short-line distance formula and grouping.

Tariff—Supplement 41 to Trans-Continental Freight Bureau, agent, tariff ICC 1785.

FSA No. 41802—*Talc and talc tailings from points in Montana.* Filed by Trans-Continental Freight Bureau, agent (No.

457), for interested rail carriers. Rates on talc and talc tailings, in carloads, as described in the application, from specified points in Montana, to points in official, southern, southwestern and western trunkline territories.

Grounds for relief—Market competition, modified short-line distance formula and grouping.

Tariffs—Supplement 41 to Trans-Continental Freight Bureau, agent, tariff ICC 1785, and 3 other schedules named in the application.

AGGREGATE-OF-INTERMEDIATES

FSA No. 41799—*Class and commodity rates between points in Texas.* Filed by Texas-Louisiana Freight Bureau, agent (No. 634), for interested rail carriers. Rates on blackstrap molasses, and other commodities named in the application, in carloads and tank carloads, from, to and between points in Texas, over interstate routes through adjoining states.

Grounds for relief—Maintenance of depressed rates published to meet intrastate competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 96 to Texas-Louisiana Freight Bureau, agent, tariff ICC 998.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-13682; Filed, Nov. 17, 1969; 8:48 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during November

3 CFR

Page

PROCLAMATION:
3944 ... 18221

EXECUTIVE ORDERS:
Nov. 11, 1901 (revoked by PLO 4741) ... 18169
Apr. 30, 1902 (revoked by PLO 4741) ... 18169
July 19, 1912 (revoked in part by PLO 4746) ... 18246
Oct. 30, 1916 (revoked in part by PLO 4728) ... 18301
Apr. 4, 1917 (revoked in part by PLO 4735) ... 18303
5327 (see PLO 4738) ... 18167
8598 (revoked in part by PLO 4724) ... 17773
11398 (amended by EO 11492) ... 17721
11492 ... 17721
11493 ... 18289
11494 ... 18291

5 CFR

213 ... 17724, 17774, 17797, 18157, 18241, 18293, 18385
511 ... 17774
531 ... 17774
550 ... 17775
591 ... 18157

7 CFR

70 ... 17755
225 ... 17797
301 ... 17999
354 ... 18001
401 ... 18002
722 ... 18089
728 ... 17757, 18223
729 ... 18293
847 ... 18002
850 ... 17724
863 ... 17797
864 ... 17800
905 ... 18089, 18354
906 ... 18002
907 ... 17949, 18170, 18223
909 ... 18294
910 ... 17724, 18092, 18171, 18294
912 ... 17725, 18093, 18295
913 ... 18226
947 ... 18171
966 ... 18090, 18226
980 ... 18091
984 ... 17803

7 CFR—Continued

Page

989 ... 18003
991 ... 18003
1427 ... 17725
1468 ... 17803
1472 ... 17768

PROPOSED RULES:
81 ... 17731
301 ... 18042
777 ... 17730
813 ... 18309
909 ... 17776
912 ... 18043
948 ... 18094
966 ... 17955
967 ... 18126
993 ... 18043
1011 ... 17776
1036 ... 18173
1133 ... 17960

8 CFR

212 ... 18085
214 ... 18085, 18157
238 ... 18085
316a ... 18086

9 CFR

78 ... 17769
101 ... 18119
108 ... 18119
109 ... 18119
112 ... 18004
113 ... 18004, 18241
114 ... 18005, 18119
116 ... 18119
117 ... 18120
118 ... 18120
119 ... 18120
120 ... 18120
121 ... 18121

10 CFR

PROPOSED RULES:
30 ... 18178
31 ... 18178

12 CFR

207 ... 18242
217 ... 18157
226 ... 18242, 18243
329 ... 18086

PROPOSED RULES:
206 ... 18313
217 ... 17918, 18130

14 CFR

Page

21 ... 18355
36 ... 18355
39 ... 17755, 18121, 18226, 18295–18298, 18379
65 ... 18226
71 ... 17725, 17949, 18005, 18158, 18159, 18298, 18379
73 ... 17805
95 ... 18380
97 ... 18006, 18086, 18227
249 ... 17950
288 ... 18299
389 ... 18382

PROPOSED RULES:
21 ... 18094
39 ... 17963, 18127, 18128, 18309
71 ... 17732, 17733, 17964, 18175–18178, 18309–18311
75 ... 17733, 18178
91 ... 18252
93 ... 18312

15 CFR

1000 ... 17806
1050 ... 17770

16 CFR

13 ... 17868–17871, 17950
15 ... 18243, 18353
500 ... 18159
503 ... 18086

PROPOSED RULES:
423 ... 17776
424 ... 18252

17 CFR

231 ... 18160
241 ... 18160

PROPOSED RULES:
210 ... 18130
230 ... 18130
239 ... 18130
240 ... 18130
249 ... 18130

18 CFR

2 ... 17803

PROPOSED RULES:
157 ... 18180
620 ... 17730