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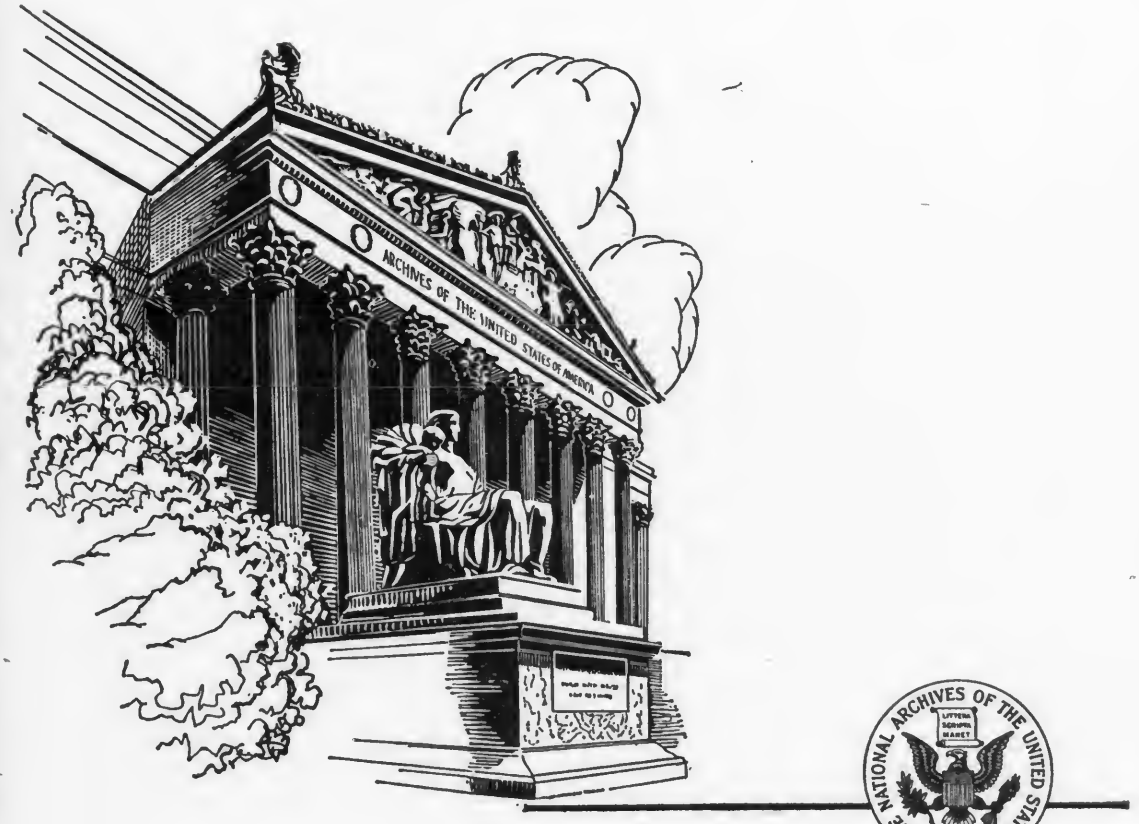
PART I



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FEDERAL REGISTER

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Title 3—THE PRESIDENT

Proclamation 3642

CANCER CONTROL MONTH, 1965

By the President of the United States of America

A Proclamation

WHEREAS the health of the American people is essential to our national strength and well-being; and

WHEREAS a Presidential Commission on Heart Disease, Cancer, and Stroke has given intensive study to the problem of the control of these diseases; and

WHEREAS the Congress now has under consideration a broad program of research and demonstration aimed at combatting cancer and other such major diseases, through the strengthening of all of our medical resources; and

WHEREAS the encouraging progress already made against leukemia and other forms of cancer deserves official recognition, and the scientists, physicians, and official and voluntary agencies devoted to the control of malignant disease in all its forms merit grateful commendation; and

WHEREAS the Congress, by House Joint Resolution 468, approved March 28, 1938 (52 Stat. 148), requested the President to issue annually a proclamation setting apart the month of April as Cancer Control Month:

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, do hereby proclaim the month of April 1965 as Cancer Control Month; and I invite the Governors of the States, the Commonwealth of Puerto Rico, and other areas subject to the jurisdiction of the United States to issue similar proclamations.

I also ask the medical and allied health professions, the communications industries, and all other interested persons and groups to unite during the appointed month in public reaffirmation of this Nation's efforts to control cancer.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this fourth day of March in the year of our Lord nineteen hundred and sixty-five, and of [SEAL] the Independence of the United States of America the one hundred and eighty-ninth.

LYNDON B. JOHNSON

By the President:

DEAN RUSK,
Secretary of State.

[F.R. Doc. 65-2433; Filed, Mar. 5, 1965; 10:24 a.m.]

Executive Order 11201

INSPECTION OF INCOME, EXCESS-PROFITS, ESTATE, AND GIFT TAX RETURNS BY THE COMMITTEE ON GOVERNMENT OPERATIONS, HOUSE OF REPRESENTATIVES

By virtue of the authority vested in me by section 55(a) of the Internal Revenue Code of 1939, as amended (53 Stat. 29, 54 Stat. 1008; 26 U.S.C. (1952 Ed.) 55(a)), and by section 6103(a) of the Internal Revenue Code of 1954, as amended (68A Stat. 753; 26 U.S.C. 6103(a)), it is hereby ordered that any income, excess-profits, estate, or gift tax return for the years 1947 to 1966, inclusive, shall, during the Eighty-ninth Congress, be open to inspection by the Committee on Government Operations, House of Representatives, or any duly authorized subcommittee thereof, in connection with its studies of the operation of Government activities at all levels with a view to determining the economy and efficiency of the Government. Such inspection shall be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in Treasury Decisions 6132 and 6133, relating to the inspection of returns by committees of the Congress, approved by the President on May 3, 1955.

This order shall be effective upon its filing for publication in the FEDERAL REGISTER.

LYNDON B. JOHNSON

THE WHITE HOUSE,
March 4, 1965.

[F.R. Doc. 65-2414; Filed, Mar. 4, 1965; 3:41 p.m.]

Rules and Regulations

Title 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

[Amdt. 15]

PART 5—DETERMINATION OF PARITY PRICES

Merion Kentucky Bluegrass Seed

The regulations of the Secretary of Agriculture with respect to the determination of parity prices (21 F.R. 761, as amended; 7 CFR 5.1–5.6) are amended as hereinafter specified in order to add Merion Kentucky bluegrass seed to the list of commodities for which parity prices shall be calculated and to designate Merion Kentucky bluegrass seed as a commodity for which marketing season average prices shall be used for the purpose of calculating the adjusted base price.

1. In § 5.2, the paragraph under the centerhead "Seed Crops" is amended by adding the words "Merion Kentucky bluegrass" after "Kentucky bluegrass".

2. In § 5.4, the paragraph under the centerhead "Seed Crops" is amended by adding the words "Merion Kentucky bluegrass" after "Kentucky bluegrass".

(Sec. 301, 52 Stat. 38, as amended; 7 U.S.C. 1301)

Done at Washington, D.C., this third day of March 1965.

ORVILLE L. FREEMAN,
Secretary of Agriculture.

[F.R. Doc. 65–2380; Filed, Mar. 5, 1965; 8:49 a.m.]

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

[Navel Orange Reg. 76]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.376 Navel Orange Regulation 76.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 4, 1965.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., March 7, 1965, and ending at 12:01 a.m., P.s.t., March 14, 1965, are hereby fixed as follows:

(i) District 1: 900,000 cartons;

(ii) District 2: 550,000 cartons;

(iii) District 3: Unlimited movement;

(iv) District 4: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: March 5, 1965.

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

[F.R. Doc. 65–2444; Filed, Mar. 5, 1965; 11:22 a.m.]

[Valencia Orange Reg. 108]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.408 Valencia Orange Regulation 108.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 4, 1965.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., March 7, 1965, and ending at 12:01 a.m., P.s.t., March 14, 1965, are hereby fixed as follows:

(i) District 1: Unlimited movement;
(ii) District 2: Unlimited movement;
(iii) District 3: 74,819 cartons.

(2) As used in this section, "handled," "handler," "District 1," "District 2," and "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: March 5, 1965.

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

[F.R. Doc. 65–2445; Filed, Mar. 5, 1965; 11:22 a.m.]

[Lemon Reg. 151]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.451 Lemon Regulation 151.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, 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 and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 2, 1965.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., March 7, 1965, and ending at 12:01 a.m., P.s.t., March 14, 1965, are hereby fixed as follows:

(i) District 1: 13,950 cartons;
(ii) District 2: 195,300 cartons;
(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: March 4, 1965.

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

[F.R. Doc. 65–2390; Filed, Mar. 5, 1965; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Docket No. 6507; Amdt. 39–44]

PART 39—AIRWORTHINESS DIRECTIVES

Eureka Williams Survivor Locator Lights

There have been failures of life preservers and liferafts caused by the emission of hydrochloric acid from batteries of certain Model EW–101–WL–( )–8 Eureka Williams survivor locator lights. Since this condition is likely to exist or develop in other products of the same type design, an airworthiness directive is being issued to require inspection of life preservers and liferafts equipped with these lights, repair or replacement of damaged life preservers and liferafts, and replacement of the lights.

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

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 39.13 of Part 39 (14 CFR Part 39) is hereby amended by adding the following new airworthiness directive:

EUREKA WILLIAMS. Applies to all aircraft with life preservers or liferafts equipped with Eureka Williams Survivor Locator Light Model EW–101–WL–( )–8 with a yellow polyethylene lower battery end cap.

Compliance required within 30 days after the effective date of this AD unless already accomplished.

To prevent further damage to life preservers or liferafts from acid emitted from survivor locator light batteries, accomplish the following:

(a) Inspect life preservers and liferafts for acid damage from survivor locator light batteries. Repair or replace damaged life preservers and liferafts before further service.

(b) Replace survivor locator lights with FAA-approved lights other than Eureka Williams EW–101–WL–( )–8 lights with a yellow polyethylene lower battery end cap before further service.

NOTE: Number denoted by empty brackets varies with lead length. All lights with yellow caps were manufactured after December 9, 1964, and are stamped with manufacturer codes 1–65, 2–65, or 12–64.

(Eureka Williams Service Bulletin No. ADV SCI 101–1 dated February 19, 1965, covers this subject.)

This amendment shall become effective March 6, 1965.

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

Issued in Washington, D.C., on March 3, 1965.

C. W. WALKER,
Acting Director, Flight Standards Service.

[F.R. Doc. 65–2365; Filed, Mar. 5, 1965; 8:47 a.m.]

[Reg. Docket No. 6502; Amdt. 61–14]

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

Lighter-Than-Air Ratings and Free Balloon Pilot Certificates

The purpose of this amendment is to change the name of the certificates and ratings issued for pilots of airships and free balloons. Although this amendment involves many changes in the pilot regulations, it does not involve any change in the requirements for the issuance of such certificates and ratings, or the privileges afforded by them.

Part 61 provides for the issuance of a separate free ballon pilot certificate, and a lighter-than-air category rating that is placed on pilot certificates for the pilot of an airship. This amendment will provide for the issue of a pilot certificate with two class ratings (free balloon and airship) within the lighter-than-air category rating.

This amendment does not require the pilot of a lighter-than-air aircraft to exchange his certificate for the new class ratings; however, if he does exchange his pilot certificate for any reason he will automatically be issued a pilot certificate that is in accord with the new class ratings.

A person who applies for a lighter-than-air piloting privilege after the ef-

fective date of this amendment will be issued a pilot certificate with a lighter-than-air category rating and either a free balloon or airship class rating, as appropriate to the class of aircraft for which a rating is sought.

The present lighter-than-air category rating applies only to airships, but the holder of such a rating has the same free balloon piloting privileges as the holder of a free balloon pilot certificate (§§ 61.-101 and 61.131). Since this amendment is a change in name only, the holder of a present lighter-than-air pilot certificate or category rating may continue to exercise the privileges of a free balloon pilot certificate, which after this amendment will be called a lighter-than-air category rating and a free balloon class rating. If the holder of a present lighter-than-air pilot certificate or category rating does exchange his pilot certificate, he will automatically be issued a commercial pilot certificate with the privileges of the new lighter-than-air category rating that is limited to a free balloon class rating He will also be issued an airship class rating on the grade of pilot certificate for which he qualified for a lighter-than-air category rating (airship).

The holder of a free balloon pilot certificate under the present rules has the same privileges as the holder of a commercial pilot certificate that is limited to free balloons; therefore, if he does exchange his free balloon pilot certificate he will be issued a commercial pilot certificate with appropriate free balloon privileges and limitations.

Any activity in which a lighter-than-air pilot (airship or free balloon) is authorized to engage under his present certificate or rating will continue to be authorized.

For the reasons stated above, and since this is a change in name only, the Agency for good cause has found that public notice as required by section 4(a) of the Administrative Procedure Act (5 U.S.C. 1003) is unnecessary.

In consideration of the foregoing, Part 61 of the Federal Aviation Regulations (14 CFR Part 61 [New]) is amended, effective April 3, 1965, as follows:

1. By striking out paragraph (f) of § 61.1.

2. By amending § 61.5 as follows:

a. By amending the parenthetical expression in paragraph (e) to read: "(other than an airline transport pilot certificate or a pilot certificate with a lighter-than-air category rating)."

b. By amending paragraph (f) to read as follows:

(f) Unless the order of revocation provides otherwise, a person whose air line transport pilot certificate or pilot certificate with a lighter-than-air category rating is revoked may not apply for any pilot or flight instructor certificate for at least one year after the date of revocation.

3. By amending § 61.9 as follows:

a. By amending paragraph (c) to read as follows:

(c) *Airline transport; lighter-than-air.* An airline transport pilot certificate or pilot certificate with a lighter-than-air category rating that is issued to a person who is not a citizen of the United States is effective for a period of not more than 12 months after the month in which it was issued, but may be reissued without proof of technical ability.

b. By amending paragraph (g) to read as follows:

(g) *Return of certificate.* The holder of an airline transport pilot certificate or pilot certificate with a lighter-than-air category rating that is suspended or revoked shall, upon the Administrator's request, return it to the Administrator.

4. By amending § 61.15 as follows:

a. By redesignating paragraphs (d), (e), (f), and (g) as paragraphs (f), (g), (h), and (i), respectively.

b. By adding a new paragraph (d) to read as follows:

(d) When applicable, the lighter-than-air class ratings to be placed on pilot certificates are—

(1) Airship; and

(2) Free balloon.

c. By adding a new paragraph (e) to read as follows:

(e) The holder of a lighter-than-air pilot certificate, a pilot certificate with a lighter-than-air category rating, or a free balloon pilot certificate, may continue to exercise the privileges of that rating or certificate. However, if he does exchange his pilot certificate—

(1) The holder of a private pilot certificate with a lighter-than-air category rating is issued—

(i) A private pilot certificate with a lighter-than-air category rating and an airship class rating; and

(ii) A commercial pilot certificate with a lighter-than-air category rating and a free balloon class rating;

(2) The holder of a commercial pilot certificate with a lighter-than-air category rating is issued a commercial pilot certificate with a lighter-than-air category rating and an airship and free balloon class rating; and

(3) The holder of a free balloon pilot certificate is issued a commercial pilot certificate with a lighter-than-air category rating and free balloon class rating.

d. By adding a new sentence at the end of new paragraph (f) to read: "Type ratings are not issued for lighter-than-air aircraft."

e. By changing the reference to "paragraph (e) or (f)" as it appears in the redesignated paragraph (i) to read "paragraph (e), (g), or (h)."

5. By amending § 61.17 as follows:

a. By striking the words "or lighter-than-air" in the parenthetical expression of the section heading.

b. By striking "(f)" as it appears in paragraph (a) and substituting therefor "(i)".

c. By striking out paragraph (i).

d. By redesignating paragraphs (f), (g), and (h) as paragraphs (h), (j), and (k), respectively.

e. By adding a new paragraph (f) reading as follows:

(f) *Lighter-than-air.* A pilot holding an aircraft rating for a heavier-than-air aircraft who applies for a lighter-than-air category rating must meet the requirements for the original issue of a certificate with a lighter-than-air category rating and a free balloon or airship class rating, as the case may be.

f. By adding a new paragraph (g) reading as follows:

(g) *Heavier-than-air.* A pilot holding a lighter-than-air category rating who applies for a category rating in a heavier-than-air aircraft must meet the requirements for the original issue of a certificate with that category rating.

g. By adding a new paragraph (i) reading as follows:

(i) *Additional airship or free balloon class.* A pilot holding a lighter-than-air category rating with a free balloon class rating who applies for an airship class rating must meet the requirements for the original issue of a certificate with an airship class rating. A pilot who is issued a pilot certificate with an airship class rating is also issued a commercial pilot certificate with a free balloon class rating.

h. By changing the reference to "paragraph (f)" as it appears in the redesignated § 61.17(j)(1)(ii) to read "paragraph (h)."

6. By amending paragraph (d) of § 61.23 to read as follows:

(d) This section does not apply to an applicant for an airline transport pilot certificate or a pilot certificate with a lighter-than-air category rating.

7. By amending the parenthetical expression in paragraph (b) of § 61.25 to read as follows: "(other than an airline transport pilot certificate or a pilot certificate with a lighter-than-air category rating)."

8. By amending § 61.27 as follows:

a. By amending the parenthetical expression in paragraphs (a) and (b) each to read as follows: "(other than an airline transport pilot certificate or a pilot certificate with a lighter-than-air category rating or associated rating)."

b. By amending the introductory text of paragraph (f) to read as follows:

(f) *Lighter-than-air; written test.* An applicant for a private or commercial pilot certificate with a lighter-than-air category rating (airship or free balloon class) who fails a written test under this part may apply for retesting.

c. By amending paragraph (g) to read as follows:

(g) *Lighter-than-air; flight test.* An applicant for a private or commercial pilot certificate with a lighter-than-air category rating (airship or free balloon class) who fails a flight test under this part may apply for retesting after he has logged at least three additional hours of flight time.

9. By amending § 61.31 as follows:

a. By amending the parenthetical expression in paragraph (a)(1) to read as follows: "(or, in the case of an applicant for a pilot certificate with a lighter-

than-air category rating, has been in that status for a period of at least six consecutive months before the date he applies)."

b. By amending the parenthetical expression in paragraph (a)(3) to read as follows: "(or, in the case of an applicant for a pilot certificate with a lighter-than-air category rating, has been in that status for a period of at least six consecutive months)."

c. By striking out the parenthetical expression "(other than lighter-than-air)" as it appears in paragraph (b)(1) of § 61.31.

d. By changing the reference to "§ 61.17(g)(1)(i) and (iii)" as it appears in § 61.31(b)(3) to read "§ 61.17(j)(1)(i) and (iii)."

10. By amending § 61.39 as follows:

a. By amending paragraph (a)(2)(iv) to read as follows:

(iv) Flight instruction from an appropriately rated flight instructor, in the case of airplanes or rotorcraft; from an appropriately rated flight instructor or commercial glider pilot, in the case of gliders; from a commercial lighter-than-air pilot with an airship rating, in the case of airships or free balloons; or from a commercial free balloon pilot in the case of free balloons.

b. By striking out the words "A lighter-than-air pilot" in paragraph (f) and inserting the words "The holder of a pilot certificate with a lighter-than-air category rating" in place thereof.

11. By amending § 61.43 as follows:

a. By amending paragraph (a)(3) to read as follows:

(3) The 24th month after the month in which it is issued, for operations requiring only a private or student pilot certificate or a free balloon class rating.

b. By amending paragraph (b)(2) to read as follows:

(2) The 24th month after the month in which it is issued, for operations requiring only a private or student pilot certificate or a free balloon class rating.

c. By amending paragraph (c) to read as follows:

(c) A third-class medical certificate expires at the end of the last day of the 24th month after the month in which it is issued for operations requiring a private or student pilot certificate or a free balloon class rating.

12. By amending § 61.49 to read as follows:

§ 61.49 Cooperation during inspection or test.

Each applicant for an airline transport pilot certificate or a pilot certificate with a lighter-than-air category rating, and each person who holds such a certificate or rating, shall cooperate fully in any inspection or tests made of him by the Administrator.

13. By amending the last sentence of paragraph (a) of § 61.71 to read as follows: "Subparagraph (2) of this paragraph does not apply to a student pilot who holds a free balloon class rating."

14. By adding the words "of the airship class" immediately after the words "lighter-than-air rating" in paragraph (a) of § 61.81.

15. By amending § 61.97 as follows:

a. By inserting the parenthetical expression "(airship class)" immediately after the words "Lighter-than-air rating" in the section catchline.

b. By striking the parenthetical expression "(lighter-than-air)" and inserting the parenthetical expression "(lighter-than-air, airship class)" in place thereof.

16. By amending § 61.99 as follows:

a. By inserting the parenthetical expression "(airship class)" immediately after the words "Lighter-than-air rating" in the section catchline.

b. By striking the parenthetical expression "(lighter-than-air)" as it appears in the section lead-in and inserting the parenthetical expression "(lighter-than-air, airship class)" in place thereof.

17. By amending § 61.111 as follows:

a. By amending paragraph (a) to read as follows:

(a) Be at least 18 years of age, or 17 years of age in the case of a free balloon class rating only;

b. By adding the clause, "except in the case of a lighter-than-air rating of the free balloon class," immediately after the words "English language, or" in paragraph (b).

c. By deleting paragraph (c) and substituting a new paragraph (c) to read as follows:

(c) In the case of an applicant for other than a glider or free balloon rating, hold at least a second-class medical certificate issued under Part 67 of this chapter during the preceding 12 months;

d. By redesignating paragraph (d) as paragraph (f) and by adding a new paragraph (d) to read as follows:

(d) In the case of an applicant for a glider rating, certify that he has no known physical defect that makes him unable to pilot a glider;

e. By adding a new paragraph (e) to read as follows:

(e) In the case of an applicant for a free balloon class rating, hold a student pilot certificate and at least a third-class medical certificate issued under Part 67 of this chapter; and

18. By amending § 61.113 as follows:

a. By amending the lead-in clause of paragraph (a) to read as follows:

(a) An applicant for a commercial pilot certificate, except for a lighter-than-air rating of the free balloon class, must pass a written test on—

b. By striking out the words "lighter-than-air rating" in subparagraph (3)(ii) and inserting the words "lighter-than-air rating, airship class" in place thereof.

c. By striking out the parenthetical expression "(lighter-than-air)" in the first sentence of paragraph (b) and inserting the parenthetical expression "(lighter-than-air, airship class)" in place thereof.

d. By adding a new paragraph (c) to read as follows:

(c) An applicant for a commercial pilot certificate (lighter-than-air, free balloon class), other than a free balloon class rating limited to hot air balloons, must pass a written test on the following:

(1) So much of §§ 91.1 to 91.9 and Subpart B of Part 91 of this chapter as relate to his certificate.

(2) Prevailing weather conditions in the United States that are met in flying and the forecasting thereof.

(3) Analyzing weather maps and sequence reports furnished by the United States Weather Bureau.

(4) Practical air navigation problems using maps.

(5) Navigation by terrain and by dead reckoning, including using instruments and other aids to navigation in visual contact flying.

(6) The general operation of free balloons.

19. By amending § 61.127 as follows:

a. By inserting the parenthetical expression "(airship class)" immediately after the words "lighter-than-air rating" in the section catchline.

b. By striking out the parenthetical expression "(lighter-than-air)" and inserting the parenthetical expression "(lighter-than-air, airship class)" in place thereof.

20. By adding a new § 61.128 to read as follows:

§ 61.128 Lighter-than-air (free balloon class) rating: aeronautical experience.

An applicant for a commercial pilot certificate (lighter-than-air, free balloon class), other than a free balloon class rating limited to hot air balloons, must have made at least eight ascents averaging two hours in duration, substantiated by a logbook, including six ascents under the supervision of a holder of a pilot certificate with a lighter-than-air category rating, one ascent in control to an altitude of 10,000 feet under that supervision, and one solo ascent.

21. By amending § 61.129 as follows:

a. By inserting the parenthetical expression "(airship class)" immediately after the words "lighter-than-air rating" in the section catchline.

b. By striking out the parenthetical expression "(lighter-than-air)" and inserting the parenthetical expression "(lighter-than-air, airship class)" in place thereof.

22. By adding a new § 61.130 reading as follows:

§ 61.130 Lighter-than-air rating (free balloon class): aeronautical skill.

(a) An applicant for a commercial pilot certificate (lighter-than-air, free balloon class) must successfully perform the following maneuvers:

(1) Ground handling and mooring.
(2) Preflight checks.
(3) Takeoffs.
(4) Ascents.
(5) Descents.
(6) Landings (positive static balance).
(7) Show his ability to satisfactorily pilot and maneuver a free balloon in solo flight.

(b) The applicant must show his ability to exercise reasonable judgment in the flight maneuvers required by paragraph (a) of this section by complying with Part 91 of this chapter, avoiding critical situations, and observing accepted good operating practices for the flight conditions encountered.

23. By amending § 61.131(d) to read as follows:

(d) A commercial glider pilot may give flight instruction in gliders. A commercial pilot (lighter-than-air, airship class) may give flight instruction in aircraft of the airship or free balloon class. A commercial pilot (lighter-than-air, free balloon class only) may not act as pilot in command of any aircraft except a free balloon. However, he may act as pilot in command of a free balloon for hire carrying passengers or property and may give flight instruction in a free balloon.

24. By striking out Subpart G.

(Secs. 313(a), 601, and 602 of the Federal Aviation Act of 1958; 49 U.S.C. 1354, 1421, and 1422)

Issued in Washington, D.C., on February 25, 1965.

N. E. HALABY,
Administrator.

[F.R. Doc. 65-2343; Filed, Mar. 5, 1965; 8:45 a.m.]

[Docket No. 6181; Amdt. 61-15]

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

Helicopter Rating Experience Requirements

The purpose of this amendment is to provide an increased experience requirement for a pilot with an airplane rating who applies for an additional rotorcraft category rating with a helicopter class rating. Under this amendment to § 61.17 (b), the applicant must have had a total of at least 25 hours of flight instruction from an appropriately rated flight instructor and solo flight time, instead of 15 hours as previously required. In addition, the substitution of a flight instructor's recommendation for the flight time needed by an applicant for either a helicopter or gyroplane rating is deleted.

The amendment was proposed in Notice 64-41 and published in the FEDERAL REGISTER on August 29, 1964 (29 F.R. 12430). Over one-half of the comments received on the Notice concurred in the increased experience requirement without reservation or with the suggestion that still higher minimums should be provided. One helicopter manufacturer, supported by six other persons, concurred in the application of the increased experience requirement to applicants who are not FAA approved school graduates, but not in the application to FAA approved school graduates. One person, while neither concurring in nor objecting to the proposal, suggested that provision be made for the acceptance of "time" obtained in certain ground trainers.

Two comments objected to the increased experience requirements, calling attention to language in Notice 64-41 stating that past experience has shown that "most" pilots require more than 15 hours in order to acquire proper competency in the operation of a helicopter. These comments conclude that since many applicants have passed flight tests with less than 25 hours, the increased hours penalize the exceptionally capable applicant. The Agency does not agree with this position, since minimum standards do not presuppose unusual ability.

Three of the comments opposed the deletion of the current permission to substitute a flight instructor's recommendation for flight time. One comment suggested that instead of this deletion, that is intended to make the provisions consistent with present standards in Part 61 for other ratings or certificate actions, the latter should be amended to permit the same substitution. The second of these comments indicated a belief that the flight instructor's recommendation alone is an appropriate requirement, without specification of experience requirements expressed in terms of flight time. The third of these comments not only indicated opposition to deletion but also suggested that the instructor's recommendation be made mandatory in addition to the experience requirement.

After consideration of the comments, the Agency has decided to issue this amendment, for the reasons stated in Notice 64-41. The Notice proposed this amendment "without prejudicing different standards that may result from a comprehensive study being made for all categories and classes of aircraft." The Agency is engaged in such a study and evaluation of present pilot certification and ratings experience standards, and the points of issue raised by comments on Notice 64-41 have been included for consideration in the study. It is contemplated that, when this evaluation has been sufficiently developed, public participation will be sought, through an advance notice of proposed rule making, in the identification and selection of a tentative course or alternate courses of action. If the Agency should, upon further consideration of the problems and public responses, decide to proceed further, it would then issue subsequent notice.

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

In consideration of the foregoing, paragraph (b) of § 61.17 of Part 61 of the Federal Aviation Regulations, is amended, effective April 4, 1965, to read as follows:

§ 61.17 Additional aircraft ratings after original issue of certificate (other than airline transport).

* * * * *

(b) *Rotorcraft.* A pilot holding an airplane rating who applies for a rotorcraft rating must pass an appropriate flight test, and—

(1) In the case of gyroplanes, have had a total of at least 15 hours of flight time in gyroplanes consisting of (i) flight instruction from an appropriately rated flight instructor and (ii) at least 5 hours of solo flight time; and

(2) In the case of helicopters, have had a total of at least 25 hours of flight time in helicopters consisting of (i) flight instruction from an appropriately rated flight instructor and (ii) at least 5 hours of solo flight time.

* * * * *

(Secs. 313(a), 601, and 602 of the Federal Aviation Act of 1958; 49 U.S.C. 1354, 1421, 1422)

Issued in Washington, D.C., on February 26, 1965.

N. E. HALABY,
Administrator.

[F.R. Doc. 65-2337; Filed, Mar. 5, 1965; 8:45 a.m.]

[Airspace Docket No. 65-SO-10]

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 revoke two extensions of the Tampa, Fla., control zone.

The Tampa, Fla., radio beacon is scheduled to be relocated to latitude 27°-51'39" N., longitude 82°32'46" W. on May 1, 1965, so as to serve as an approach aid to Runway 36L at Tampa International Airport. This will make controlled airspace based on the beacon at its existing location unnecessary.

Since this amendment is less restrictive in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may become effective without regard to the 30-day statutory period.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., May 1, 1965, as hereinafter set forth.

In § 71.171 (29 F.R. 17581) the Tampa, Florida, control zone is amended by deleting "within 2 miles either side of a line extending from the Tampa International Airport to the Tampa RBN" and "within 2 miles either side of the 137° bearing from the Tampa RBN extending from the MacDill AFB 5-mile radius zone to 10 miles SE of the RBN."

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

Issued in East Point, Ga., on March 1, 1965.

PAUL H. BOATMAN,
Acting Director, Southern Region.

[F.R. Doc. 65-2338; Filed, Mar. 5, 1965; 8:45 a.m.]

[Airspace Docket No. 64-CE-34]

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

Designation of Federal Airway

On December 2, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 16093) stating that the Federal Aviation Agency was

considering an amendment to Part 71 of the Federal Aviation Regulations that would extend VOR Federal airway No. 71 from Kansas City, Mo., via Pawnee City, Nebr., to Raymond, Nebr.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Due consideration was given to all relevant matter presented.

The U.S. Air Force objected to the proposal, but stated the objection would be withdrawn if assurance was given that the proposed airway will not cause any restriction to be placed on the Lincoln AFB, Nebr., instrument approach procedures and associated holding airspace. Aircraft presently operate IFR between the Pawnee City VORTAC and the Raymond VORTAC via the same radials which are used for establishment of the airway. Therefore, designation of the airway does not cause any restrictions to be placed on the Lincoln AFB instrument approach procedures and associated holding patterns.

The Air Transport Association endorsed the airway designation, as proposed, but commented that it would seem appropriate to designate the segments as direct between the Kansas City, Pawnee City, and Raymond VORs. An alignment from Kansas City direct to Pawnee City would not permit establishment of a clearance limit fix without an intolerable increase in intra-center coordination. Alignment from Pawnee City direct to Raymond would result in a conflict between airway traffic and military aircraft conducting jet penetration procedures to Lincoln AFB.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., April 29, 1965, as hereinafter set forth.

In § 71.123 (29 F.R. 17509), V-71 is amended by deleting "to Kansas City, Mo." and substituting therefor "Kansas City, Mo.; INT Kansas City 310° and Pawnee City, Nebr., 122° radials; Pawnee City; INT Pawnee City 334° and Raymond, Nebr., 146° radials; to Raymond."

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

Issued in Washington, D.C., on March 1, 1965.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-2339; Filed, Mar. 5, 1965; 8:45 a.m.]

[Airspace Docket No. 65-EA-11]

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

Alteration of Federal Airways

The purpose of these amendments to Part 71 of the Federal Aviation Regulations is to realign the common segments of VOR Federal airways Nos. 119 and 804 direct between Imperial, Pa. and Clarion, Pa.

A recent flight inspection of V-119 and V-804 between Imperial and Clarion indicated that the existing airway radial from the Clarion VOR had course roughness beyond acceptable tolerance. Maintenance adjustments cannot eliminate the roughness. Therefore, action is taken herein to realign the airways.

Since these amendments are minor in nature and involve a maximum displacement for the realigned airways of less than two nautical miles, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., April 29, 1965, as hereinafter set forth.

In § 71.123 (29 F.R. 17509), V-119 and V-804 are amended, respectively, as follows:

a. In V-119 "INT of Imperial 045° and Clarion, Pa., 214° radials; Clarion;" is deleted and "Clarion, Pa.;" is substituted therefor.

b. In V-804 "INT of Clarion 214° and Imperial, Pa., 045° radials; Imperial;" is deleted and "Imperial, Pa.;" is substituted therefor.

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

Issued in Washington, D.C., on March 1, 1965.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-2340; Filed, Mar. 5, 1965; 8:45 a.m.]

[Airspace Docket No. 64-WE-62]

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

Alteration of Federal Airways

On December 23, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 18230) stating that the Federal Aviation Agency was considering amendments to Part 71 of the Federal Aviation Regulations that would alter VOR Federal airway No. 23 between Portland, Oreg., and Seattle, Wash., and that would alter VOR Federal airway No. 287 between Portland and Olympia, Wash.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

It was intended to mention in the notice of proposed rule making, and inadvertently left out, that reference to Restricted Area/Military Climb Corridor R-5703 would be deleted from the description of the Troutdale, Oreg., control zone since R-5703 has been revoked. Since such an amendment would be editorial in nature, and notice and public procedure thereon unnecessary, action is taken herein to amend the Troutdale control zone to reflect deletion of R-5703 from the description.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., May 27, 1965, as hereinafter set forth.

1. In § 71.123 (29 F.R. 17509), V-23 and V-287 are amended, respectively, as follows:

a. In the text of V-23 "INT of Portland 353° and Seattle, Wash., 197° radials" is deleted and "INT of Portland 350° and Seattle 197° radials" is substituted therefor.

b. In the text of V-287 "INT of Portland 353° and Olympia, Wash., 165° radials; Olympia;" is deleted and "Olympia, Wash.;" is substituted therefor.

2. In § 71.171 (29 F.R. 17581) the Troutdale, Oreg., control zone is amended by deleting "excluding the portion within R-5703".

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

Issued in Washington, D.C., on March 1, 1965.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-2341; Filed, Mar. 5, 1965; 8:45 a.m.]

[Airspace Docket No. 64-SO-24]

PART 75—ESTABLISHMENT OF JET ROUTES

Alteration of Jet Route

On February 3, 1965, a rule was published in the FEDERAL REGISTER (30 F.R. 1113) as Federal Register Document 65-1114, in which Jet Route No. 119 was added to § 75.100, Part 75 of the Federal Aviation Regulations. The route is designated, in part, via the intersection of the Miami, Fla., 297° and the St. Petersburg, Fla., 152° radials. It was intended to designate this route to overlie the low altitude structure between Fort Myers, Fla., and St. Petersburg. In light of this, the True radial from the St. Petersburg VORTAC should have been 151° instead of 152°.

Since this amendment involves a change in radials of only one degree, it is minor in nature. Therefore, notice and public procedure hereon are unnecessary, and the amendment is effective immediately. The effective date of the rule, 0001 e.s.t., April 1, 1965, as originally adopted, is retained.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended as hereinafter set forth.

In § 75.100 (30 F.R. 1113), Jet Route No. 119 is amended by deleting "via the INT of the Miami 297° and the St. Petersburg, Fla., 152° radials" and substituting "via the INT of the Miami 297° and the St. Petersburg, Fla., 151° radials" therefor.

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

Issued in Washington, D.C., on February 26, 1965.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-2342; Filed, Mar. 5, 1965; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 8585]

PART 13—PROHIBITED TRADE PRACTICES

Lone Star Cement Corp.

Subpart—Acquiring corporate stock or assets: § 13.5 *Acquiring corporate stock or assets.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 18) [Order of divestiture, Lone Star Cement, New York, N.Y., Docket 8585, Jan. 19, 1965]

Consent order requiring one of the nation's three largest producers of portland cement, an essential ingredient of ready-mixed concrete, to divest itself absolutely within one year of 25 of the 31 ready-mixed concrete plants in the States of Virginia, Florida, and Washington which it acquired as a result of its acquisitions of Pioneer Sand and Gravel Co. in December 1959, and Southern Materials Co., Inc., in August 1962; requiring it for a period of 3 years from the date of divestiture of each of the ready-mixed concrete plants to make available each year and affirmatively to offer to purchasers of said plants a quantity of mineral aggregates for use in the manufacture of ready-mixed concrete equivalent to the quantity consumed by each plant in the calendar year 1963, at prevailing market prices, terms and conditions; and requiring it to refrain from acquiring any other ready-mixed concrete plants in the States of Virginia, Florida, and Washington for 2 years or until issuance by the Federal Trade Commission of a trade regulation rule or report concerning mergers or acquisitions in the cement industry—and requiring it to comply with other provisions of the order of divestiture as set forth below.

The order of divestiture, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent, Lone Star Cement Corp., and its subsidiaries, affiliates, officers, directors, agents, representatives, employees, successors, and assigns, shall, within one (1) year from the date of service of this Order, divest, absolutely and in good faith, and to a purchaser or purchasers approved by the Federal Trade Commission, the following ready-mixed concrete plants acquired by respondent as a result of the acquisition of Southern Materials Co., Inc., and Pioneer Sand & Gravel Co., Inc., together with the land on which they are located (except as provided in the notes herein) and all machinery or equipment thereon presently being used in the manufacture and sale of ready-mixed concrete, including such ready-mixed concrete mixer trucks as are necessary to establish such purchaser or purchasers as effective competitors in the manufacture and sale of ready-mixed concrete.

NORFOLK AREA

Little Creek.
Hampton Blvd. ("Grain Elevator").[1]
Virginia Beach.
Euclid.
Crawford St. (Portsmouth).[2]
Virginia Avenue.
Hampton.[3]
Williamsburg.
Oyster Point.
Wise Point.
Lee Hall (Newport News).[4]

RICHMOND AREA

Acca.
South Richmond.
Ashland.
Bellwood.[5]
Hopewell.[6]

JACKSONVILLE AREA

West (Edgewood).
Hap.
Cecil Field.
McClenny.
Bowden.
Beach (Mayport).

SEATTLE AREA

Canal St.
Northlake.[7]
Kent.

[1] At this location respondent may sell or, at its option, lease or sublease the land on which the ready-mixed concrete plant, machinery and equipment to be divested are situated, or may, at its option, sell the plant, machinery and equipment for removal.

[2] At this location the ready-mixed concrete plant to be divested consists of cement bins and truck repair shop, with related minor equipment. At such location respondent shall sell the cement bins and may sell or, at its option, lease or sublease the portion of the land on which such bins and truck repair shop are situated for a minimum term of ten (10) years, subject to earlier termination if respondent loses the right to occupy such portion of the land under its month-to-month lease from the owner thereof.

[3] At this location the ready-mixed concrete plant to be divested consists of cement bins and truck repair shop, with related minor equipment. At such location respondent shall sell the cement bins and may sell or, at its option, lease or sublease the portion of the land on which such bins and truck repair shop are situated for a minimum term of ten (10) years.

[4] At this location the ready-mixed concrete plant to be divested consists of cement bins. Respondent shall sell the cement bins and may sell or, at its option, lease for a minimum term of ten (10) years a portion of the land on the edge of the present property, which portion shall be sufficient to permit efficient operation of such plant.

[5] At this location respondent may sell or, at its option, lease for a minimum term of ten (10) years the portion of respondent's land on which the ready-mixed concrete plant is situated.

[6] At this location the ready-mixed concrete plant to be divested consists of a cement bin. Respondent shall sell such bin and may sell or, at its option, lease the portion of respondent's land on which it is situated for a minimum term of ten (10) years.

[7] At this location the ready-mixed concrete plant to be divested consists of a central mixer and related minor equipment. Respondent shall sell the central mixer and related minor equipment and may sell or, at its option, lease for a minimum term of ten (10) years the portion of the land on which the central mixer and related equipment are situated. Respondent shall begin to make good faith efforts to divest the aforesaid ready-mixed concrete plants promptly after the date of service of this order and shall continue such efforts to the end that the divestiture thereof shall be effected within the aforesaid period of one (1) year. If divestiture of all of said ready-mixed concrete plants, or any of them, shall not have been accomplished within the specified one (1) year period, or any extension thereof, the Commission will give respondent notice and an opportunity to be heard before the Commission issues any further order or orders which the Commission may deem appropriate.

It is further ordered, That, in said divestiture respondent shall not sell or transfer, directly or indirectly, any of the aforesaid assets to any corporation, or to anyone who is at the time of divestiture an officer, director, employee or agent of a corporation, engaged in the production and sale of portland cement or the principal business of which is the distribution of portland cement, or to any corporation or person controlled by one of the foregoing corporations or persons, or to any person who is an officer, director, employee or agent of, or under the control or direction of, Lone Star Cement Corporation or any of its subsidiaries or affiliates, or who owns or controls, directly or indirectly, more than one (1) percent of the outstanding shares of common stock of Lone Star Cement Corp.

It is further ordered, That, pending divestiture, respondent shall not make any changes in any of the assets to be divested which shall impair their present capacity for the manufacture, sale and distribution of ready-mixed concrete, or their market value.

It is further ordered, That, for a period of three (3) years from the date of divestiture of each of the aforesaid ready-mixed concrete plants, respondent shall, in each calendar year, make available and affirmatively offer, to the purchaser or purchasers of said ready-mixed concrete plants, in good faith, and at prices, terms, and conditions and from locations then currently offered by respondent to competing purchasers in the relevant areas, a quantity of mineral aggregates, for the use of such purchaser or purchasers in the manufacture of ready-mixed concrete at each said ready-mixed concrete plant, equivalent to the quantity consumed by each such ready-mixed concrete plant in the calendar year 1963.

It is further ordered, That respondent shall not supply, in any calendar year, in any of the following areas, to the purchaser or purchasers of the aforesaid ready-mixed concrete plants for consumption in said plants in the manufacture of ready-mixed concrete, more than thirty-five percent (35%) of the portland cement consumed, in the aggregate, by all of the divested ready-mixed concrete plants in each such area:

Norfolk, Richmond, Jacksonville, and Seattle,

Provided, however, That:

(i) The foregoing limitation shall not apply to sales of portland cement to any of said ready-mixed concrete plants following the expiration of three years from the date of divestiture of each such plant; and

(ii) Sales of portland cement to any of said ready-mixed concrete plants as a result of the specification by a cus-

tomer of said plant, in an oral or written agreement with the operator of said plant, requiring the purchase of respondent's cement shall not be taken into consideration in computing the amount of cement supplied or consumed in accordance with this paragraph.

It is further ordered, That, for a period of three (3) years from the date of service of this Order, respondent shall not sell or distribute ready-mixed concrete in the Norfolk, Richmond, Jacksonville, or Seattle areas except from locations at which respondent presently operates plants; provided, that the above limitation shall not apply to ready-mixed concrete produced by any temporary plant established for the purpose of supplying concrete to a single project which requires from respondent at least 15,000 cubic yards of concrete. For the purpose of the foregoing proviso a single project shall include, without limitation, projects such as a shopping center, housing development, apartment house, school, factory, bridge, or a highway section.

It is further ordered, That, for a period of two (2) years from the date of service of this order, or until the issuance or announcement by the Federal Trade Commission of a trade regulation rule or report concerning mergers or acquisitions in the cement industry, if such event occurs prior to the expiration of such two-year period, respondent shall cease and desist from acquiring, directly, or indirectly, through subsidiaries or otherwise, any part of the share capital or assets of any corporation engaged in the manufacture or sale of ready-mixed concrete or concrete products in the States of Virginia, Florida, and Washington.

It is further ordered, That respondent shall, within sixty (60) days after the date of service of this order, and every sixty (60) days thereafter until respondent has fully complied with the provisions of this order, submit in writing to the Federal Trade Commission a report setting forth in detail the manner and form in which respondent intends to comply, is complying, or has complied with this order. All compliance reports shall include, among other things that are from time to time required, a summary of all contacts and negotiations with potential purchasers of the specified ready-mixed concrete plants, the identity of all such potential purchasers, and copies of all written communications to and from such potential purchasers.

Issued: January 19, 1965.

By the Commission.

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

[F.R. Doc. 65-2350; Filed, Mar. 5, 1965; 8:46 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 101–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Revision of Part

Part 101–45 of Title 41 is revised to incorporate the Federal Property Management Regulations (Temporary) H–1, Sale of Personal Property by the General Services Administration, published in 29 F.R. 15304–15305, November 14, 1964. Part 101–45 is also amended to authorize acceptance of uncertified personal or business checks as bid deposits, and to provide for the sale of firearms only as scrap. Incorporation of this regulatory material substantially affected the existing Part 101–45; therefore, for the sake of simplicity and clarity, Part 101–45, with the foregoing material incorporated therein, is published as a complete revision. In this revision, no substantive changes were made in the forms included in the original Part 101–45 (29 F.R. 16050) except for the deletion of § 101–45.4916. GSA Form 1673 is added as new § 101–45.4916.

Part 101–45 of Title 41 is revised to read as follows:

Sec.

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101–45.106 Property controlled by other law.
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101–45.219 Related personal property.
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101–45.301 Policy.
101–45.302 Sale to Government employees.
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101–45.303–1 Describing property.
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101–45.304 Sales methods and procedures.
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101–45.304–9 Credit.
101–45.304–10 Deposits and final payments.
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101–45.306 Contractor inventory.
101–45.307 Proceeds from sales.
101–45.308 Performance reports.
101–45.309 Special classes of property.
101–45.309–1 Agricultural commodities.
101–45.309–2 Dangerous property.
101–45.309–3 Demilitarization and decontamination.
101–45.309–4 Firearms.
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101–45.309–6 Narcotics.
101–45.310 Antitrust laws.
101–45.311 Assistance in controlling unauthorized transport of property.
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101–45.313 Procedures and forms concerning contingent or other fees for soliciting or securing contracts.
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101–45.4905 Standard Form 119, Contractor's Statement of Contingent or Other Fees.
101–45.4906 Standard Form 150, Deposit Bond—Individual Invitation, Sale of Government Personal Property.
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101–45.4907 Standard Form 151, Deposit Bond-Annual, Sale of Government Personal Property.
101–45.4908 Standard Form 28, Affidavit of Individual Surety.
101–45.4909 Optional Form 20, Notice to Surety.
101–45.4910 Instructions for the preparation of advance sale notice to the Department of Commerce.
101–45.4911 Exchange/Sale category list.
101–45.4912 Sample format—Irrevocable Letter of Credit.
101–45.4913 General instruction for preparation of irrevocable letter of credit.
101–45.4914 Sample format—Draft drawn against irrevocable letter of credit.
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101–45.4916 GSA Form 1673, Memorandum of Nonreportable Personal Property.
101–45.4917 Sample assembly—Standard Form 114, Sale of Government Property.
101–45.4918 Sample assembly—Standard Form 114, Sale of Government Property.
101–45.4919 Outline for preparation of explanatory statement relative to negotiated sales.
101–45.4920 Optional Form 15, poster, Sale of Government Property.
101–45.4921 Optional Form 16, Sales Slip, Sale of Government Personal Property.
101–45.4922 GSA Form 27, Notice of Award.

AUTHORITY: The provisions of this Part 101–45 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), §§ 101–45.400 to 101–45.405 also issued under sec. 307, 49 Stat. 880; 40 U.S.C. 304*l*.

§ 101–45.000 Scope of part.

This part prescribes policies and methods governing the disposal by public sale, abandonment, or destruction of personal property (including salvage, scrap, and waste materials) owned by the Government when such property is no longer needed for use in authorized programs or is being replaced by a similar type of property and is located within the United States, the Commonwealth of Puerto Rico, and the Virgin Islands.

Subpart 101–45.1—General

§ 101–45.101 Applicability.

This Part 101–45 applies to all agencies in the executive, legislative, and judicial branches of the Government, except the Senate, the House of Representatives, and the Architect of the Capitol and any activties under his direction, to the extent provided in the Federal Property and Administrative Services Act of 1949, as amended (hereinafter generally referred to in this Part 101–45 as "the Act").

§ 101–45.102 Needs of Federal agencies paramount.

Any need for personal property expressed by any Federal agency (including the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction, the District of Columbia, and mixed-ownership corporations as defined in the Government Corporation Control Act) shall be paramount to any disposal, if such need is made known to the holding agency prior to passage of title in the case of sale.

§ 101–45.103 Sales responsibilities.

§ 101–45.103–1 Responsibilities of the General Services Administration.

GSA through its regional offices shall be responsible for:

(a) Conducting sales for holding agencies;

(b) Performing all aspects of sales preparation including, but not limited to, advertising, collection, documentation, deposit of proceeds, and contract administration;

(c) Programing property for sale from existing locations insofar as possible;

(d) Providing for consolidated sales when it is determined to be advantageous and economical to the Government, with a minimum movement of property;

(e) Accepting physical custody of property transported by holding agencies to a consolidated sales site provided by GSA;

(f) Apprising the holding agencies of sales plans and requesting essential administrative, clerical, or labor assistance when such assistance is available; and

(g) Controlling routine correspondence pertaining to the personal property sales program.

§ 101–45.103–2 Responsibilities of holding agencies.

Holding agencies shall be responsible for:

(a) Providing the appropriate GSA regional office with information necessary for effective sale of property and the accounting data for appropriate application of gross proceeds;

(b) Transporting property to a consolidated sales site when agreed to by the holding agency and GSA;

(c) Providing for the inspection of property by prospective bidders;

(d) Providing facilities for the conduct of sales and the essential administrative, clerical or labor assistance when requested by GSA; and

(e) Assisting in the physical lotting of property to be sold.

§ 101–45.104 Care and handling pending disposal.

Pending disposal, each holding agency shall be responsible for performing, and bear the cost of, care and handling of its property.

§ 101–45.105 Exclusions and exemptions.

§ 101–45.105–1 Materials required for the national stockpile or the supplemental stockpile, or under the Defense Production Act.

This Part 101–45 does not apply to materials acquired for the national stockpile or the supplemental stockpile or to materials or equipment acquired under section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093). However, to the extent deemed appropriate the provisions of this Part 101–45 should be followed in the disposal of such materials.

§ 101–45.105–2 Disposal of certain vessels.

The Secretary of Commerce has jurisdiction over the disposal of vessels of 1,500 gross tons or more which the Secretary determines to be merchant vessels or capable of conversion to merchant use. Such vessels, therefore, are excluded from the provisions of this Part 101–45.

§ 101–45.105–3 Exemptions.

The sale by GSA of property (excluding contractor inventory under the control of the Department of Defense) as required by this Part 101–45 has been determined at this time to be advan-

tageous to the Government in terms of economy, efficiency, and service with due regard to the program activities of the agencies concerned. Exemptions from the provisions of this Part 101–45 may be obtained only under the following circumstances:

(a) Any agency head who believes that authority with respect to the programs covered by section 602(d) of the Act would be impaired or adversely affected by this Part 101–45, may seek an exemption from the Administrator of General Services by a letter explaining the impairment or adverse effect and justifying the exemption; or

(b) GSA regional offices, after consultation with a holding activity, may, on a case-by-case or blanket basis, authorize sale by such holding activity of perishable items or small lots of limited value property at isolated locations. In such cases, Optional Form 15, poster, Sale of Government Property (see § 101–45.4920) and Optional Form 16, Sales Slip, Sale of Government Personal Property (see § 101–45.4921) are prescribed for use by holding activities for the sale of such property. These forms may be requisitioned from the GSA regional offices in the usual manner. Procedures for conducting such sales are set forth in § 101–45.304–3.

§ 101–45.106 Property controlled by other law.

No property shall be disposed of in violation of any other applicable law.

§ 101–45.107 Holding agency compliance function.

Subject to the provisions of § 101–45.107–1 requiring referral of criminal matters to the Department of Justice, each holding agency shall perform investigatory functions as are necessary to insure compliance with the provisions of the Federal Property Act and with the regulations, orders, directives, and policy statements of the Administrator of General Services. Nothing in this § 101–45.107 should be deemed to affect the jurisdiction of any agency over its own personnel or any existing arrangements with Department of Justice concerning the handling and prosecution of criminal matters.

§ 101–45.107–1 Referral to other Government agencies.

All information indicating violations by any person of Federal criminal statutes, or violations of section 209 of the Federal Property Act, including, but not limited to, fraud against the Government, mail fraud, bribery, attempted bribery, or criminal collusion, shall be referred immediately to the Department of Justice, for further investigation and disposition. Each holding agency shall make available to the Department of Justice, or to such other governmental investigating agency to which the matter may be referred by the Department of Justice, all pertinent information and evidence concerning the indicated violations; shall desist from further investigation of the criminal aspects of such matters except upon the request of the Department of Justice; and shall cooperate fully with the agency assuming final jurisdiction in establishing proof of criminal violations. After making the necessary referral to the Department of Justice, inquiries conducted by the holding agency compliance organizations shall be limited to obtaining information for administrative purposes. Where irregularities reported or discovered involve wrongdoing on the part of individuals holding positions in Government agencies other than the agency initiating the investigation, the case shall be reported immediately to the Administrator of General Services for an examination in the premises.

§ 101–45.107–2 Compliance reports.

A written report shall be prepared on all compliance investigations conducted by each agency compliance organization. Each holding agency shall maintain files of all such reports. Until otherwise directed by the Administrator of General Services, there shall be transmitted promptly to GSA one copy of any such report which contains information indicating criminality on the part of any person or indicating substantial noncompliance with the Act or with the regulations, orders, directives, and policy statements of the Administrator of General Services. In transmitting such reports to the Administrator of General Services, the agency shall set forth the action taken or contemplated by the agency to correct the improper conditions disclosed by the investigation. Where any matter is referred to the Department of Justice, a copy of the letter of referral shall be transmitted to GSA.

Subpart 101–45.2—Definition of Terms

§ 101–45.200 Scope of subpart.

As used throughout this Part 101–45, the following terms have the meanings set forth in this subpart.

§ 101–45.201 Agricultural commodity.

"Agricultural commodity" means a product resulting from the cultivation of the soil or husbandry on farms and in the form customarily marketed by farmers.

§ 101–45.202 Auction.

"Auction" means a sales offering by public outcry.

§ 101–45.203 Combat materiel.

"Combat materiel" means arms, ammunition, and implements of war listed in the currently effective designations (68 Stat. 848, as amended, 22 U.S.C. 1934).

§ 101–45.204 Contractor inventory.

"Contractor inventory" means any property acquired by and in the possession of a contractor or subcontractor (including Government-furnished property) under a contract pursuant to the terms of which title is vested in the Government, and in excess of the amounts needed to complete full performance under the entire contract; and any property which the Government is obligated or has the option to take over under any type of contract as a result either of any changes in the specifications or plans thereunder or of the termination of such contract (or sub-contract thereunder), prior to completion of the work, for the convenience or at the option of the Government.

§ 101–45.205 Cotton or woolen goods.

"Cotton or woolen goods" means any textile, article, or product resulting from the processing or manufacturing, in whole or in major part, of cotton or wool.

§ 101–45.206 Distilled spirits.

"Distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof.

§ 101–45.207 Executive agency.

"Executive agency" means any executive department or independent establishment in the executive branch of the Government, including any wholly-owned Government corporation.

§ 101–45.208 Federal agency.

"Federal agency" means any executive agency or any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction).

§ 101–45.209 Firearms.

"Firearms" means any weapon, by whatever name known, which is designed to expel a projectile or projectiles by the action of any explosive, and a muffler or silencer for any such weapon.

§ 101–45.210 Forfeitures.

"Forfeitures" means forfeitures, whether by summary process or by order of a court of competent jurisdiction pursuant to any law of the United States.

§ 101–45.211 Holding agency.

"Holding agency" means the executive agency which has accountability for the property involved.

§ 101–45.212 Identical bids.

(a) "Identical bids" means two or more bids received for the same line item of an invitation for bids issued under formal advertising procedures which:

(1) Appear on the face of the bids to be identical as to unit price or total amount; or

(2) Are found, in the contracting agency's normal process of evaluating bids for award, to be identical as to unit price or total amount.

(b) "Line item" means each item of personal property specified in an invitation for bid which, under the terms of the invitation, is susceptible to a separate contract award.

§ 101–45.213 Intangible personal property.

"Intangible personal property" includes, but is not limited to, such classes of personal property as patents, patent rights, processes, techniques, inventions, and copyrights, except as, in a given case or class of cases, may be excluded by the Administrator of General Services.

§ 101–45.214 Local government.

"Local government" means a government, or administration of a locality, within a State, Puerto Rico, or any territory or possession of the United States.

§ 101–45.215 Malt beverages.

"Malt beverages" means beverages made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

§ 101–45.216 Narcotics.

"Narcotics" means the following drugs or preparations thereof:

(a) Opium, coca leaves, cocaine, or any salt derivative, or preparation of opium, coca leaves, or cocaine;

(b) Isonipecaine (demarol);

(c) Any drug found by the Secretary of the Treasury and proclaimed by the President to have addiction-forming or addiction-sustaining liability similar to morphine or cocaine, such as methadon (delphine, adanon) and nisentil; and

(d) Marihuana (cannabis sativa L.).

§ 101–45.217 No commercial value.

"No commercial value" means personal property which is not usable and cannot economically be rehabilitated by anyone for use for the purposes for which it was originally intended, and can reasonably be expected to have no market value for use as an entity for any other purpose.

§ 101–45.218 Personal property.

"Personal property" means property of any kind or any interest therein, except real property, records of the Federal Government, and naval vessels of the following categories: battleships, cruisers, aircraft carriers, destroyers, and submarines.

§ 101–45.219 Related personal property.

"Related personal property" means any personal property which is located on, or is an integral part of, real property, or essential for the productive capacity thereof, or determined by the Administrator of General Services to be otherwise related to the real property.

§ 101–45.220 Reviewing authority.

"Reviewing authority" means a local, regional, or departmental board of review of an executive agency. It may consist of one or more persons.

§ 101–45.221 Salvage.

"Salvage" means personal property that has some value in excess of its basic material content but which is in such condition that it has no reasonable prospect for use for any purpose as a unit (either by the holding or any other Federal agency) and its repair or rehabilitation for use as a unit (either by the holding or any other Federal agency) is clearly impracticable. Repairs or rehabilitation estimated to cost in excess of 65 percent of acquisition cost would be considered "clearly impracticable" for purposes of this definition.

§ 101–45.222 Scrap.

"Scrap" means material that has no value except for its basic material content.

101–45.223 Small business concern.

"Small business concern" means any concern or group of concerns which qualifies as a "small business concern" under governing standards by the Small Business Administration (see 13 CFR Part 121).

§ 101–45.224 Surplus personal property.

"Surplus personal property" means any excess personal property not required for the needs and the discharge of the responsibilities of all Federal agencies, as determined by the Administrator of General Services.

§ 101–45.225 Wine.

"Wine" means wine as defined in sections 5381 and 5385 of the Internal Revenue Code of 1954 (26 U.S.C. 5381, 5385), as now in force or hereafter amended, and other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry, and sake; in each instance only if containing not less than 7 per centum and not more than 24 per centum of alcohol by volume, and if for nonindustrial use.

Subpart 101–45.3—Sale of Personal Property

§ 101–45.300 Scope of subpart.

This subpart prescribes the policies and methods governing the disposal of personal property by sale.

§ 101–45.301 Policy.

The General Services Administration will act as the single sales agency of the Government in the sale of personal property under control of executive agencies including surplus, contractor inventory, and that property designated to be sold for replacement under Section 201(c) of the Act, 63 Stat. 384, except for that property or those activities exempted under § 101–45.105.

§ 101–45.302 Sale to Government employees.

Persons known to be officers or employees of the Federal Government shall not be allowed to purchase personal property except to the extent determined by the head of their agency to be in the best interests of the Government and under procedures and safeguards which are adequate to preclude collusion and fraud.

§ 101–45.303 Reporting property for sale.

Holding agencies shall report property to the appropriate GSA regional office for the region in which the property is physically located in the manner outlined below:

(a) *Reportable property.* Property required to be reported to the GSA regional offices for utilization screening as set forth in Part 101–43, if not transferred or donated, will be programmed for sale by the GSA regional office.

(b) *Nonreportable property.* Property not required to be reported for utilization screening and for which any required donation screening has been completed, shall be reported to the appropriate GSA regional office on GSA Form 1673, Memorandum of Nonreportable Personal Property (see § 101–45.4916), or in accordance with such other local arrangements as may be made by a reporting activity and the regional office. Stocks of GSA Form 1673 may be requisitioned from GSA regional offices in the usual manner.

§ 101–45.303–1 Describing property.

In the interest of good business practice, property reported for sale shall be described in commercial terminology and as fully and accurately as possible, including its condition.

§ 101–45.303–2 Display and inspection.

Holding agencies shall assist prospective bidders to the maximum extent possible during the inspection period prescribed in the sales offering. However, no information shall be provided to a prospective bidder which is not available to all bidders.

§ 101–45.303–3 Delivery.

After full payment has been received from a buyer, the GSA regional office will notify the holding activity by copy of the GSA Form 27, Notice of Award (see § 101–45.4922) that property may be released to the purchaser. Upon completion of a sale, holding activities will be provided additional copies of the GSA Form 27 for use as an internal accounting document. If a purchaser fails to remove property within the period specified, the GSA regional office shall be advised of this fact immediately in order that appropriate action may be taken.

§ 101–45.304 Sales methods and procedures.

§ 101–45.304–1 Competitive bid sales.

Except as provided in § 101–45.304–2, property shall be sold by competitive bid sale after advertising, in accordance with this § 101–45.304–1. Competitive bid sales include the following:

(a) *Sealed bid sales.* In sealed bid sales, bidders shall be required to submit, to the office designated for receipt and opening of bids, sealed written bids on authorized bid forms for public opening at a time and place designated.

(b) *Spot bid sales.* In spot bid sales, bidders shall be furnished with bid forms in advance of the bidding, a bid form to be used for each lot or unit to be separately sold. Requests for bids on items offered for sale shall be made by the official in charge. In requesting bids, the official in charge shall announce the item, its identification number, and a brief description of the item or lot. The right to reject all such bids for a lot or item shall be reserved in the terms of sale; and when the Invitation for Bids so specifies, lots or items for which all bids

have been rejected may be reoffered at the same sale in order to secure an acceptable bid price. After examining all bids, award shall be made or bids rejected immediately following the offering of the item or lot. The bids at spot bid sales shall not be disclosed prior to the announcement of award for any item or lot. Where mailed written or drop bids are permitted, they shall not be disclosed to the public prior to the announcement of award. Bidders may be required to register in advance of the sale. Any special condition of sale shall be set out in the Invitation for Bids in order to assure that all bidders are afforded an opportunity to compete on the same terms and conditions.

(c) *Auction sales.* When the terms and conditions of sale have been published and distributed to participating buyers, any special or unusual conditions of sale shall be announced by the person conducting the auction, immediately prior to commencement of the sale. Offerings must reserve in the Government, the right to accept or reject any or all bids. Lots for which all offers have been rejected may be reoffered later at the same sale to secure acceptable bids, when the published terms and conditions so provide.

§ 101–45.304–2 Negotiated sales and negotiated sales at fixed prices.

(a) *Circumstances permitting negotiated sales.* While it is the policy to sell property after publicly advertising for bids, property also may be sold by negotiation, subject to obtaining such competition as is feasible under the circumstances, where:

(1) It is determined by the agency that the sale involves property:

(i) That has an estimated fair-market value not in excess of $1,000;

(ii) Where public exigency will not admit of the delay incident to advertising;

(iii) Where bid prices after advertising therefor are not reasonable (either as to all or some part of the property), or bid prices have not been independently arrived at in open competition, and it is determined that readvertising will serve no useful purpose: *Provided,* That all responsible bidders who responded to the previous advertising shall be afforded an opportunity to submit offers for the property; or

(iv) That the disposal will be to a State, Territory, possession, political subdivision thereof, or tax-supported agency therein, and that the estimated fair-market value of the property and other satisfactory terms of disposal are obtained by negotiation.

(2) Full and adequate justification therefor has been submitted to the head of the selling agency or his designee for prior approval, and he has determined:

(i) That the public health, safety, or national security will thereby be promoted; or

(ii) That it is necessary in the public interest during the period of a national emergency declared by the President or the Congress. The authority of this subdivision shall be used only with respect to a particular lot or lots of personal property identified by the Administrator of General Services or a specifically described category or categories of property determined by the Administrator of General Services during any period fixed by the Administrator of General Services, but not in excess of three months. Declaration of a national emergency alone is not justification for use of this authority; there must be other reasons making use of negotiation necessary in the public interest.

(3) Full and adequate justification therefor has been submitted to the Administrator of General Services for his prior approval, and he has determined that the property involved is of a nature and quantity which, if disposed of by advertising would cause such an impact on an industry or industries as to adversely affect the national economy: *Provided,* That the estimated fair market value of such property and other satisfactory terms of disposal can be obtained by negotiation.

(4) Negotiation is otherwise authorized by the Act or other law.

(b) *Negotiated sale at fixed prices.* Property may be sold at fixed prices, either directly or through the use of disposal contractors, only with prior approval of the Administrator of General Services or his designee.

(c) *Explanatory statements.* Subject to the exceptions noted in this subparagraph, the selling agency shall prepare an explanatory statement of the circumstances of each proposed disposal by negotiation of any personal property and shall submit the statement to the Administrator of General Services for review and transmission by the Administrator of General Services to the appropriate committee of the Senate and House of Representatives, as early as practicable in advance of each proposed disposal; and, shall preserve a copy thereof in its files.

(1) No statement need be:

(i) Prepared for disposals of personal property having a fair market value of $1,000 or less;

(ii) Submitted for sales of personal property at fixed prices when previously authorized pursuant to § 101–45.304–2 (b); or

(iii) Submitted for disposals of personal property authorized to be made without advertising by any provision of law other than section 203(e) of the Act.

(2) An outline for the preparation of the explanatory statement is shown in § 101–45.4919.

§ 101–45.304–3 Small lot sales.

When holding activities have been authorized pursuant to § 101–45.105–3 on a case or blanket basis to sell perishables or small lots of property at isolated locations, the following forms shall be used:

(a) *Poster, Sale of Government Property, Optional Form 15.* This dual purpose form (see § 101–45.4920) may be used as a direct sales announcement or as a poster to be displayed in prominent locations in public buildings. It requires only fill-in data to indicate the selling agency, sales location, time of sale, and type of property. When the form is used as a sales announcement, it may be either mailed in an envelope or the mailing data printed on the reverse side. The posting of the form or mailing of the announcement should be made in advance of the proposed sale. The period of time between posting or mailing the announcement will vary according to the type and quantity of property being offered. Generally, a 7-day period is adequate.

(b) *Sales Slip, Sale of Government Personal Property, Optional Form 16.* This four-part form (see § 101–45.4921) is provided for simple documentation of sales. It is similar to cash sales slips utilized in over-the-counter sales in private retail stores. The form functions as a quotation, invoice, cash receipt, permanent accounting record, or a property release document as required by individual agency procedures.

§ 101–45.304–4 Lotting.

To the extent practicable, and consistent with the types of property and usual commercial practice, property offered for sale shall be assembled in reasonably sized lots of like or similar items by make or manufacturer. Unused property shall be lotted separately from used items. Scrap and other property having scrap value only shall be lotted in accordance with established trade practice and shall generally not be included in the same sale with usable items. Determination of the size of lots shall take into consideration the buying capacities of prospective buyers and the requirement that adequate competition be obtained. Large quantities of identical items shall be lotted in such a way as to encourage bidding by small businesses and individuals.

§ 101–45.304–5 Inspection by bidders.

Sufficient time prior to the date for submission of bids shall be allowed to permit inspection by potential purchasers.

§ 101–45.304–6 Reviewing authority.

Approval by a reviewing authority of the agency effecting the sale shall be required for each proposed award involving the type of sale and acquisition cost (actual or estimated) of property other than scrap as follows:

(a) By negotiated sale—$1,000 or more.

(b) By competitive-bid sale—$100,000 or more.

§ 101–45.304–7 Advertising.

Adequate public notice shall be given to each offering for sale of property to be disposed of after advertising. Except where the nature or condition of the property does not permit, advertising shall be made in sufficient time previous to sale to permit full and free competition. The extent of solicitation shall have due regard to the quantity and type of property to be sold, the logical market of disposal, the type of sale contemplated, and the public interest.

(a) *Advertising media by type of sales*—(1) *Sealed bid sales.* In the case

of sealed bid sales, advertising shall be by the distribution of written invitations for bids including public posting thereof, and may be supplemented by newspaper or trade journal advertising (ordered in accordance with existing law) where advisable.

(2) *Spot bid sales.* Advertising in the case of spot bid sales shall be by written invitation for bids or other appropriate notices, including public posting thereof. Notice of such sales may also be given by appropriate newspaper or trade journal advertising (ordered in accordance with existing law) where advisable.

(3) *Auction sales.* In the case of auction sales, newspaper or trade journal advertising ordinarily should be employed (ordered in accordance with existing law) in addition to other written notice deemed appropriate.

(4) *Small lot sales.* Advertising in the case of small lot sales of property at isolated locations shall be limited to public posting or mailing of the Optional Form 15.

(b) *Advance sale notices to Department of Commerce.* In order that the Department of Commerce may make regular publication of a synopsis of principal proposed sales of Government personal property, the sales office shall, when the acquisition cost of the property to be sold at one time at one place is $250,000 or more, cause a notice of each proposed sale to be transmitted to the U.S. Department of Commerce, Room 1300, 433 West Van Buren Street, Chicago, Ill., 60607. Where the acquisition cost is less than this amount, such notice may be transmitted when considered desirable. The notice shall be sent as early as possible in advance of the sale but at least 20 days prior to the date when the bids will be opened, or, in the case of spot bid or auction sale, when the sale will be conducted. Such notice shall be transmitted by fastest mail available and shall be in synopsis form suitable for printing directly from the text as transmitted without editing or condensing. Instructions for the preparation of advance sale notices, including form and content thereof, are set forth in § 101–45.4910. The failure to comply with the advance notice of sale requirements of this § 101–45.304–7(b) shall not, in and of itself, affect the validity of a sales award which is otherwise valid.

(c) The appropriate GSA regional office shall be provided, at the time of public distribution, a copy of each invitation for bids or other form of offering involving:

(1) Contractor inventory, whether being sold by the contractor for the Government or by a Government activity authorized to conduct sales.

(2) Small lots at isolated locations, perishables, etc., being sold pursuant to an authorization from a GSA regional office pursuant to § 101–45.105–3.

§ 101–45.304–8 Forms prescribed.

Standard Forms 114, 114A, 114B, and 114C (illustrated at §§ 101–45.4901, 101–45.4902, 101–45.4903, and 101–45.4904) shall be used in all sales of personal property by sealed bid. Typical assemblies for sealed bid sales, which include these standard forms, are shown in §§ 101–45.4917 and 101–45.4918. In auction, spot bid, negotiated and small lot sales, Standard Form 114C should be used and, if appropriate, Standard Forms 114, 114A, and 114B may be used.

(a) *Description of standard forms—*(1) *Standard Form 114, Invitation Title Page.* This form has space for the invitation number and date; time, date, and place of bid opening; bid deposit requirements; arrangements for inspection; name and address of issuing activity; and location(s) of property.

(2) *Standard Form 114A, Bid and Award Page.* This form provides a block for the bidder to state his total bid, and a block for the Government to accept the bid. Extra space is provided in the acceptance by the Government block for optional agency use. Accounting data, acquisition cost of the property, office identification numbers, etc., may be over printed in this space if deemed necessary by the using agency. Neither instructions to bidders nor special conditions of sale, however, are to be printed in this blank space.

(3) *Standard Form 114B, Item Bid Page.* This form provides for the summary listing of articles for sale, the quantity in number of units, and the unit of measure. It has columns for the bidder to insert the line item price bid as well as space for the bidder's name to facilitate identification.

(4) *Standard Form 114C, General Sale Terms and Conditions.* The sale terms and conditions are provided as a separate page so as to permit, where necessary, the inclusion of special conditions and instructions to bidders on the reverse of Standard Form 114C. (See § 101–45.4917. A continuation sheet, if required, may be used.) However, special conditions of sale and instructions to bidders are to be kept to absolute minimum, and are to be used only if and when deemed necessary and appropriate for the particular property offered for sale. No special conditions of sale shall be included which are inconsistent with the provisions contained in Standard Forms 114A and 114C unless authority is obtained from the Administrator of General Services.

(5) *Alternate assembly of forms for small sealed bid sales.* To provide the simplest type of documentation for sales involving only a small number of items, an assembly consisting of Standard Form 114 with Standard Form 114A on the reverse thereof; and Standard Form 114B with Standard Form 114C on the reverse is shown as § 101–45.4918. It is to be noted that when an agency determines special conditions of sale and instructions to bidders are necessary, they may be set forth on Standard Form 114B after the description of the items to be sold.

(b) *Description of items for sale.* (1) A short, accurate, and to the extent feasible, commercially clear description shall be prepared for each item offered for sale. This description may be used in the Standard Form 114B whenever a few items are to be sold. In larger sales, a summary list of the items shall be set forth on the Standard Form 114B as shown in § 101–45.4917 and a list of detailed item descriptions shall be prepared in the format shown in § 101–45.4917 and set forth in the same order as in the Standard Form 114B. (Section 101–45.4917 assumes multiple locations of property were indicated in Standard Form 114. There is no intent in § 101–45.4917 to suggest lotting. Examples of items given are intended only to establish format and proper descriptive terminology.) The block is for the convenience of the bidder to record for his use, the amounts bid and submitted on Standard Form 114B.

(2) When it is determined to be to the Government's advantage, original acquisition costs may be included in the individual item descriptions.

(3) Normally, one copy of this list setting forth the descriptions of property should be sufficient for distribution with whatever number of sets of the Standard Form 114 is furnished each bidder, as the list is not to be returned with the bid.

(4) Extreme care should be exercised in the preparation of the item description list to avoid uncertainty in a prospective buyer's mind by the use of misleading, ambiguous, or unintended descriptions which could possibly lead to disputes and litigation. For example, there is uncertainty when a "lot" of property described as an "item" consists of more than one item and the weight of the "item" is stated. Is the weight shown that of one of the items or is it the total weight for all items?

(5) Also, inasmuch as there can be honest difference of opinion as to condition, such opinions shall not be expressed. Descriptions shall be limited to statements of fact such as "unused" or "used." To these general descriptions, qualifying statements, when known and applicable, shall be added as guide information such as "some surface rust," "broken cartons," "rubber may be deteriorated," and "packed for export." On listing motor vehicles from which tires have been removed that fact shall be indicated; or, if the vehicle has no motor, that fact shall be disclosed.

(c) *Removal of property.* In normal disposals, a minimum of ten days shall be afforded successful buyers to effect complete removal of the property.

§ 101–45.304–9 Credit.

Except as authorized in § 101–45.304–12, personal property shall not be offered for sale or sold on credit without the prior approval of the Administrator of General Services or his designee. When approved, the terms and conditions of sale shall specifically provide therefor.

§ 101–45.304–10 Deposits and final payments.

(a) Whenever a bid deposit is required by the terms and conditions of the invitation for bids, the normal deposit for individual type sales shall be 20 percent of the total amount of the bid. For sales of property on an "as generated" basis during a stated period of time (referred to as term contracts), the normal deposit shall not be less than an amount to adequately protect the

Government's interest. (Example: 33⅓ percent of the total amount bid on a 90-day contract.)

(b) Bid deposits shall be acceptable when in the form of cash; cashier's, certified, or travelers check; bank draft or money order; postal money order, or express, telegraphic, or other commercial money order; U.S. Government check properly endorsed; or any combination thereof made payable to the Treasurer of the United States or to the Government agency conducting the sale. Uncertified personal and business checks may be accepted, except where it is undesirable to do so because of the substantial value of the property or special circumstances involved. Post dated checks are not acceptable. Deposit bonds (submitted on Standard Forms 150 and 151) may also be accepted.

(c) Irrevocable commercial letters of credit issued by a bank established in the United States, payable to the Treasurer of the United States or to the Government agency conducting the sale, may be used in lieu of the foregoing forms of deposit. Such letters shall be substantially in the format shown in § 101–45.4912. General instructions relating to the preparation of letters of credit are also contained in § 101–45.4913.

(d) Any draft drawn against such letter of credit shall be substantially in the format shown in § 101–45.4914. Such draft shall be accompanied by a transmittal letter and certification substantially in the format shown in § 101–45.4915.

(e) Final payments shall be acceptable in the same forms as for bid deposits, with the exception of deposit bonds.

(f) Potential buyers shall be notified as to the exact organizational entity to the order of which the prescribed form of deposit is to be made payable. In no event shall a bid be rejected solely on the grounds that the instrument of deposit is made payable to the Treasurer of the United States when the offering specifies that it be made payable to the Government agency conducting the sale, or conversely, as the case may be.

§ 101–45.304–11 Deposit bonds.

(a) *Standard forms.* The following standard forms, as applicable, shall be used when a bond, in lieu of cash or other acceptable form of bid deposit, is permitted by the sales invitation.

(1) Standard Form 150, Deposit Bond—Individual Invitation, Sale of Government Personal Property (see § 101–45.4906).

(2) Standard Form 151, Deposit Bond—Annual, Sale of Government Personal Property (see § 101–45.4907).

(3) Standard Form 28, Affidavit of Individual Surety (see § 101–45.4908).

(Standard Forms 150 and 151 are applicable only to normal cash sales where payment in full is required prior to release of the property. In the conduct of sales involving term contracts or other unusual contractual arrangements, executive agencies may use such other bond forms as they may determine to be acceptable.)

(b) *Instructions and procedures.* (1) Comprehensive instructions for the execution and use of Standard Form 150, Deposit Bond—Individual Invitation; Standard Form 151, Deposit Bond—Annual; and Standard Form 28, Affidavit of Individual Surety, are provided on the reverse of each form. Implementing instructions shall be consistent therewith.

(2) Standard Form 151, Deposit Bond—Annual, contains the following provision:

> Upon the making of an award to the principal, or within a reasonable period of time thereafter, the Government shall transmit, in writing, the following information to the surety at the address above: (i) Name and address of the principal(s); (ii) number of the invitation for bids; (iii) name and address of the department or agency making the award; (iv) date of the award; and (v) total purchase price covered by the award.

The phrase, "or within a reasonable period of time thereafter", shall, for practicable purposes, be construed to mean within fifteen days following the making of the award. Optional Form 20, Notice to Surety—Deposit Bond—Annual (§ 101–45.4909) is a form of written notice available for this purpose.

(3) In the event a bidder whose bid deposit is secured by a deposit bond attempts to withdraw his bid in violation of paragraph 3, General Sale Terms and Conditions, Standard Form 114C, and such bid is determined to be the high bid acceptable to the Government, a formal notice of award shall be issued to inform the bidder of his contractual obligations.

(4) In the event of default by a bidder whose bid deposit has been secured by a deposit bond, a notice of such default should be sent to the bidder (principal) and the surety.

§ 101–45.304–12 State and local governments.

In the case of sales to State and local governments and instrumentalities thereof, the requirements for bid deposit and payment for property prior to removal shall be waived whenever representation is made in writing by an official of such State or local government or instrumentality that compliance therewith is precluded by law applicable to such governments, including a citation to the applicable law forming the basis for such exemptions; and, may be waived in the case of such sales where otherwise deemed in the best interest of the Federal Government.

§ 101–45.305 Exchange or sale of non-excess personal property for replacement purposes.

This section prescribes policies and methods governing the sale of property referred to in section 201(c) of the Act. Sale of personal property in connection with the application of the proceeds of sale in the acquisition of similar personal property for replacement purposes shall be made only after compliance with the provisions of subpart 101–43.2 covering the utilization requirements to be met prior to outright sale.

§ 101–45.305–1 Solicitation of bids.

The objective shall be to obtain the maximum return to the Government from property sold. Therefore, bids shall be solicited except when the items sought to be sold may be disposed of without solicitation of bids under applicable laws and regulations.

§ 101–45.305–2 Terms and conditions of sale.

The terms and conditions of sale authorized in § 101–45.304, as well as methods of sale and forms prescribed, shall also be used in the sale of property being replaced. Such property will be reported to the appropriate GSA regional office for sale unless experience indicates a greater net return can be obtained through trade-in.

§ 101–45.305–3 Availability of proceeds of sale.

Except as otherwise authorized by law, proceeds of sales of personal property disposed of pursuant to this § 101–45.305 shall be accounted for in accordance with General Accounting Office, Accounting Systems Memorandum No. 23, Revised, issued June 19, 1953, or any revision thereof. The requirements for a written administrative determination to establish that a bona fide replacement is involved are set forth in § 101–43.203. Procedures for the application of the proceeds of sale for the acquisition of similar items follow:

(a) *Sale of property before the purchase of replacement property.* (1) When the sale of the property to be replaced is made before the acquisition of the replacement property, the proceeds of such sales are to be deposited to the agencies' deposit fund account "------ 6875 Suspense (Department or Establishment)" or to a separate deposit fund account if such account has been approved for the department or establishment.

(2) The proceeds of such sales will be available for obligation for the acquisition of similar replacement items of personal property during the fiscal year in which the sale is made and for one fiscal year thereafter.

(3) When the acquisition of the replacement property is subsequently made and the obligation incurred, an adjustment voucher should be processed to charge the applicable deposit fund account and reimburse the appropriation charged for the replacement. For audit purposes, the adjustment voucher (Standard Form No. 1081, Revised, or other approved forms) must include or be supported by sufficient evidence to show that the reimbursement to the appropriation is applicable to the obligation incurred for the acquisition of similar replacement personal property.

(4) Proceeds of sales related to personal property for which on obligation for replacement has not been incurred during the period of availability following the date of sale, or sales proceeds which for other reasons an agency elects not to apply to replacement costs, shall be deposited to miscellaneous receipts account "3199—Proceeds from Sale of Gov-

ernment Property Not Otherwise Classified."

(5) If it is determined at the time of collection that sales proceeds are not to be applied to replacement acquisitions, the deposit should be made directly to the miscellaneous receipts account.

(b) *Sale of property after the purchase of replacement property.* When the sale of the replaced property is made after the acquisition of the replacement property, the proceeds of such sale may be deposited as a direct reimbursement credit to the appropriation previously charged for the replacement of similar items of personal property.

§ 101–45.306 Contractor inventory.

Except for retention of contractor inventory where authorized by the terms of the contracts, and after compliance with the applicable requirements of § 101–43.316, contractor inventory shall be sold in the same manner as surplus personal property.

§ 101–45.307 Proceeds from sales.

Section 201(c) of the Act authorizes any executive agency to apply the proceeds from sale of exchange/sale property in whole or in part payment for similar items acquired for replacement purposes. Section 204(a) of the Act requires, except in certain specified instances, that proceeds from sale of surplus personal property shall be covered into the Treasury as miscellaneous receipts. The exceptions are where property sold was originally acquired by funds not appropriated from the general fund of the Treasury, or appropriated therefrom and by law reimbursable from assessments, taxes, or other revenues; and where any contract entered into by any executive agency or any subcontract under such contract authorizes the proceeds of any sale of contractor inventory to be credited to the price or cost of the work covered by such contract or subcontract. In these cases, the gross proceeds from the sale of such property will be deposited by GSA to the reimbursable fund or appropriation or paid to the Federal agency accountable for the property. In all other cases, the gross proceeds from the sale of property will be deposited by GSA to the Treasury as miscellaneous receipts. Therefore, it is essential that the Standard Form 120 or GSA Form 1673 be properly completed to identify the appropriate appropriation or fund symbol, title, and station deposit symbol, or other manner in which payment is desired.

§ 101–45.308 Performance reports.

A quarterly performance report of the disposition of surplus personal property shall be submitted to GSA on Standard Form 121, Quarterly Report of Utilization and Disposal of Excess and Surplus Personal Property (see § 101–43.4907).

§ 101–45.309 Special classes of property.

§ 101–45.309–1 Agricultural commodities.

(a) *Disposal by holding agencies.* Surplus agricultural commodities, surplus foods processed from agricultural commodities, and surplus cotton or woolen goods may be disposed of in accordance with this Part 101–45, without reference to the Department of Agriculture, in the following instances:

(1) Where the quantity of such commodity or product in any one location has an acquisition cost not in excess of $5,000.

(2) Where such commodity or product must be disposed of immediately to prevent spoilage.

(3) Where the quantity to be sold during any month has an acquisition cost not in excess of:

(i) Raw cotton, wheat and other grains, flour, leaf tobacco, and cotton or woolen goods—$300,000.

(ii) Meat, poultry and poultry products, peanuts, and other fats and oils—$50,000.

(iii) All other agricultural commodities and foods processed from agricultural commodities—$25,000.

(b) *Required references to the Department of Agriculture.* With respect to quantities of surplus agricultural commodities, surplus foods processed from agricultural commodities, and surplus cotton or woolen goods, in excess of the amounts specified in this § 101–45.309–1, holding agencies shall obtain from the Commodity Stabilization Service, Department of Agriculture:

(1) A determination, with appropriate instructions, that the commodities or products should be transferred to the Department of Agriculture for disposition as provided by section 203(h) of the Act. Holding agencies accordingly may execute transfers without charge to the Department of Agriculture; or

(2) A statement setting forth the conditions and prices which should be used in the disposition of the commodities or products.

§ 101–45.309–2 Dangerous property.

(a) No property shall be disposed of that is dangerous to public health or safety without rendering innocous such property or providing adequate safeguards therefor.

(b) The following procedure shall apply in any disposal of high explosives used for blasting purposes (including but not limited to dynamite, TNT, and demolition blocks), supplies used for blasting purposes (such as blasting caps, fuse lighters, detonators, detonating cord, primacord, primers, and fuses), and chemicals used in the manufacture of ammunition primers.

(1) All materials of the above classifications offered for sale shall be properly identified in the offering with respect to their hazardous characteristics.

(2) All the materials of the above classifications shall be labeled by the holding agency prior to shipment so that their hazardous character will be immediately evident upon inspection.

(3) Purchasers of materials of the above classification shall be required by the sales offering to execute the following certification:

It is hereby certified that the purchaser will comply with all applicable Federal, State and local laws, ordinances and regulations with respect to the care, handling, storage and shipment, resale, export, and other use of the materials, hereby purchased, and that he is a user of, or dealer in, said materials capable of complying with all applicable Federal, State, and local laws. This certification is made in accordance with and subject to the penalties of Title 18, Section 1001, the United States Code, Crime and Criminal Procedures.

§ 101–45.309–3 Demilitarization and decontamination.

No dangerous material shall be disposed of pursuant to this Part 101–45 without first demilitarizing or decontaminating such property if such action is found by a duly authorized official of the executive agency concerned to be in the interest of public health, safety, or security. This may include rendering such property innocuous, stripping from it any confidential or secret characteristics or otherwise making it unfit for further use. Demilitarization or decontamination of property to be donated to public bodies shall be accomplished in such manner as to preserve so far as possible any civilian utility or commercial value of the property.

§ 101–45.309–4 Firearms.

Firearms may be disposed of at public sale only for scrap after total destruction by crushing, cutting, breaking, or deforming to be performed in a manner to assure that the firearms are rendered completely inoperative and to preclude their being made operative.

§ 101–45.309–5 Garbage.

All invitations to bid for removal of garbage from property occupied or controlled by the Federal Government, unless specifically requiring destruction by incineration, shall state that all bidders must comply with basic requirements for sterilization prescribed by the Animal Disease Eradication Division, Bureau of Animal Industry, Department of Agriculture. In the interest of uniformity, the following provision shall be included in all invitations to bid where garbage collected may, under any circumstances, be fed to livestock or poultry:

Prior to award the bidder agrees to furnish a certification from an Animal Disease Eradication Division representative of the U.S. Department of Agriculture, that he possesses adequate and approved garbage sterilization equipment. In the event of an acceptance of his bid by the Government, the bidder warrants that all garbage received under the contract will be sterilized not less than 30 minutes at 212° F. before being fed to livestock or poultry. The bidder agrees to permit representatives of the Animal Disease Eradication Division of the U.S. Department of Agriculture to make inspections at any time without prior arrangements to determine that the garbage is heat treated in accordance with the provision.

§ 101–45.309–6 Narcotics.

Surplus narcotic drugs which are not required to be destroyed as provided in § 101–45.505, shall, unless otherwise authorized and directed by the Administrator of General Services, be offered for sale by sealed bid in accordance with the provisions of this subpart 101–45.3: *Pro-*

vided, That the following safeguards and instructions also shall be observed:

(a) Effort shall be made to limit the distribution of any sales offering of narcotic drugs to registered manufacturers of narcotic drugs.

(b) The sales offering shall include the following special conditions of sale:

Any bid for any of the items included in this offering will be rejected unless the bidder signs the following certification on all copies of the bid submitted by him as a condition of any award and sale to him of such items: The undersigned represents and warrants that he is registered under the Federal Narcotics Laws and is authorized by Law and by the Bureau of Narcotics, Department of the Treasury, as a manufacturer of narcotic drugs. No award will be made and no sale will be consummated pursuant to this offering until after this agency has obtained from the Bureau of Narcotics, Department of the Treasury, confirmation in writing of the authority of the bidder to manufacture narcotic drugs, and approval of the award as to type and quantity proposed for sale to one buyer.

(c) As a condition precedent to the making of an award pursuant to a sales offering of narcotic drugs, the following shall be submitted to the Department of the Treasury, Bureau of Narcotics, Washington, D.C., 20226:

(1) The name of the bidder to whom the sale is proposed to be made;

(2) The name of the holding agency and the name and address of the selling activity;

(3) A description of the narcotic drugs and how packaged and the quantity of such drugs proposed to be sold to the bidder referred to in subparagraph (1) of this paragraph;

(4) The acquisition cost of the narcotic drugs proposed to be sold;

(5) Identification of the sale offering by its number; and

(6) A request for advice as to whether the bidder named in subparagraph (1) of this paragraph is authorized by law to manufacture narcotic drugs and whether there are any objections to the proposed sale.

§ 101–45.310 Antitrust laws.

Whenever an award is proposed to any private interest of personal property with an acquisition cost to the Government of $3,000,000 or more, or of a patent, process, technique, or invention, irrespective of cost, the selling agency shall promptly notify the Attorney General and the Administrator of General Services, simultaneously, of the proposed disposal and the probable terms and conditions thereof. Upon request by the Attorney General, the agency shall furnish or cause to be furnished to the Attorney General such additional information as the agency may possess concerning the proposed disposition. The Attorney General will advise the agency and the Administrator of General Services within a reasonable time, in no event to exceed 60 days after receipt of such notification, whether, so far as he can determine, the proposed disposition would tend to create or maintain a situation inconsistent with the antitrust laws. The agency shall not effect disposition until it has received such advice. The agency shall include in the notification transmitted to the Attorney General and the Administrator of General Services, the following information:

(a) Location and description of property (specifying the tonnage, if scrap).

(b) Proposed sale price of property (explaining the circumstances, if proposed purchaser was not highest bidder).

(c) Acquisition cost of property to Government.

(d) Manner of sale, indicating whether by:

(1) Sealed bid (specifying numbers of purchasers solicited and bids received);

(2) Auction or spot bid (stating how sale was advertised); or

(3) Negotiation (explaining why property was not offered for sale by competitive bid).

(e) Proposed purchaser's name, address, and trade name (if any) under which it is doing business.

(f) If a corporation, give name of State and date of incorporation, and name and address of:

(1) Each holder of 25 percent or more of the corporate stock;

(2) Each subsidiary; and

(3) Each company under common control with proposed purchaser.

(g) If a partnership, give:

(1) Name and address of each partner;

(2) Other business connections of each partner.

(h) Nature of proposed purchaser's business, indicating whether its scope is local, statewide, regional, or national.

(i) Estimated dollar sales volume of proposed purchaser (as of latest calendar or fiscal year).

(j) Estimated net worth of proposed purchaser.

(k) Proposed purchaser's intended use of property.

§ 101–45.311 Assistance in controlling unauthorized transport of property.

In order to help alleviate the problems associated with unauthorized transport of property sold by the Government, and to assist the Interstate Commerce Commission in improving control of transportation for hire, the following information shall be made known to all purchasers and shall be included as a "Special Instruction to Bidders" in all formal invitations requesting bids or offers for the sale of personal property:

Attention is invited to the fact that the Interstate Commerce Act makes it unlawful for anyone other than those duly authorized pursuant to that Act to transport this property in interstate commerce for hire. Anyone aiding or abetting in such violation is a principal in committing the offense (49 U.S.C. 301–327 and 18 U.S.C. 2).

§ 101–45.312 Auctioneers.

When an auction is to be conducted and the services of a private auctioneer are necessary, the names of auctioneers qualified to conduct Government sales shall be requested from the Administrator of General Services.

§ 101–45.313 Procedures and forms concerning contingent or other fees for soliciting or securing contracts.

§ 101–45.313–1 Purpose.

For the purpose of promoting uniformity among executive agencies with respect to the required use of the "covenant against contingent fees" and with respect to the procedure for obtaining information concerning contingent or other fees paid by contractors for soliciting and securing Government contracts, the Department of Defense and GSA have developed cooperatively and agreed upon the required use of the "covenant against contingent fees" and the form, procedure, principles, and standards described in this section.

§ 101–45.313–2 Objectives and methods.

(a) *Objectives.* The requirements of section 101–45.313 have as their objective the prevention of improper influence in connection with the obtaining of Government contracts, the elimination of arrangements which encourage the payment of inequitable and exorbitant fees bearing no reasonable relationship to the services actually performed, and prevention of the reduction in return to the Government which inevitably results therefrom. Improper influence means influence, direct or indirect, which induces or intends to induce consideration or action by any employee or officer of the United States with respect to any Government contract on any basis other than the merits of the matter.

(b) *Methods.* The methods used to achieve the above objectives stated in paragraph (a) of this section are the requirement for disclosure of the details of arrangements under which agents represent concerns in obtaining Government contracts, and the prohibiting, by use of the covenant against contingent fees, of certain types of contractor-agent arrangements. The Criminal Code will apply in any case involving actual criminal conduct.

§ 101–45.313–3 Representation and covenant.

(a) *Representation.* Except as provided in § 101–45.313–7, each selling agency shall inquire of and secure a written representation from prospective purchasers as to whether they have employed or retained any company or person (other than a full-time employee working solely for the prospective purchaser) to solicit or secure the contract, and shall secure a written agreement to furnish information relating thereto as required by the contracting officer. The form of such representation shall be that contained in Standard Form 114–A, Sale of Government Property—Bid and Award (illustrated in § 101–45.4902).

(b) *Covenant.* Selling agencies shall include in every negotiated or advertised contract for the sale of Government-owned personal property the "covenant against contingent fees" as contained in the Standard Form 114C, General Sale Terms and Conditions (illustrated in § 101–45.4904).

§ 101–45.313–4 General principles and standards applicable to the covenant.

(a) *Use of principles and standards.* The principles and standards set forth in this § 101–45.313–4 are intended to be

used as a guide in the negotiation, awarding, administration, or enforcement of Government contracts.

(b) *Contingent character of the fee.* Any fee whether called commission, percentage, brokerage, or contingent fee, or otherwise denominated, is within the purview of the covenant if, in fact, any portion thereof is dependent upon success in obtaining or securing the Government contract or contracts involved. The fact, however, that a fee of a contingent nature is involved does not preclude a relationship which qualifies under the exceptions to the prohibition of the covenant.

(c) *Exceptions to the prohibition.* There are excepted from the prohibition of the covenant "bona fide employees" and "bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business."

(d) *Bona fide employee.* (1) The term "bona fide employee," for the purpose of the exception to the prohibition of the covenant, means an individual (including a corporate officer) employed by a concern in good faith to devote his full time to such concern and no other concern and over whom the concern has the right to exercise supervision and control as to time, place, and manner of performance of work.

NOTE: It is recognized that a concern, especially a small business concern, may employ an individual who represents other concerns. The factors set forth in § 101–45.313–4(e)(2), except (iv), shall be applied to determine whether such an individual comes within the exception to the prohibition of the covenant.

(2) The hiring must contemplate some continuity and it may not be related only to the obtaining of one or more specific Government contracts.

(3) An employee is not "bona fide" who seeks to obtain any Government contract or contracts for his employer through the use of improper influence or who holds himself out as being able to obtain any Government contract or contracts through improper influence.

(4) A person may be a bona fide employee whether his compensation is on a fixed salary basis, or when customary in the trade, on a percentage, commission, or other contingent basis or a combination of the foregoing.

(e) *Bona fide established commercial or selling agency maintained by the contractor for the purpose of securing business.* (1) An agency or agent is not "bona fide" which seeks to obtain any Government contract or contracts for its principals through the use of improper influence or which holds itself out as being able to obtain any Government contract or contracts through improper influence.

(2) In determining whether an agency is a "bona fide established commercial or selling agency maintained by the contractor for the purpose of securing business," the factors set forth below shall be considered. They are necessarily incapable of exact measurement or precise definition and it is neither possible nor desirable to prescribe the relative weight to be given any single factor as against any other factor or as against all other factors. The conclusions to be reached in a given case will necessarily depend upon a careful evaluation of the agreement and other attendant facts and circumstances.

(i) The fees charged should not be inequitable and exorbitant in relation to the services actually rendered. That is, the compensation should be commensurate with the nature and extent of the services and should not be excessive as compared with the fees customarily allowed in the trade concerned for similar services related to commercial (non-Government) business. In evaluating reasonableness of the fee, there should be considered services of the agent other than actual solicitation, as for example, technical, consultant, or managerial services, and assistance in the procurement of essential personnel, facilities, equipment, materials, or subcontractors for performance of the contract.

(ii) The selling agency should have adequate knowledge of the products and the business of the concern represented, as well as other qualifications necessary to sell the products or services on their merits.

(iii) There should ordinarily be a continuity of relationship between the contractor and the agency. The fact that the agency has represented the contractor over a considerable period of time is a factor for favorable consideration. It is not intended, however, to disqualify newly established contractor-agency relationships where a continuing relationship is contemplated by the parties.

(iv) It should appear that the agency is an established concern. The agency may be either one which has been in business for a considerable period of time or a new agency which is a presently going concern and which is likely to continue in business as a commercial or selling agency in the future. The business of the agency should be conducted in the agency name and characterized by the customary indicia of the conduct of a regular business.

(v) The fact that a selling agency confines its selling activities to the field of Government contracts does not, in and of itself, disqualify it under the covenant. The fact, however, that the selling agency is employed to secure business generally, that is, to represent the concern in connection with sales to the Government, as well as regular commercial sales to non-Government activities, is a factor entitled to favorable consideration in evaluating the case as one coming within the authorized exception. Arrangements confined, however, to obtaining Government contracts, particularly those involving a selling agency organized immediately prior to or during periods of expanded procurement resulting from conditions of national emergency, must be closely scrutinized.

(f) *Fees for "information."* Contingent fees paid for "information" leading to obtaining a Government contract or contracts are included in the prohibition and, accordingly, are in breach of the covenant unless the agent qualified under the exception as a bona fide employee or a bona fide established commercial or selling agency maintained by the contractor for the purpose of securing business.

§ 101–45.313–5 Standard Form 119, Contractor's Statement of Contingent or Other Fees.

Pursuant to the Act and in furtherance of the purpose and objectives stated in sections 1 and 3 thereof, Standard Form 119, shall be used in accordance with the provisions of this § 101–45.313.

§ 101–45.313–6 Use of Standard Form 119, Contractor's Statement of Contingent or Other Fees.

(a) *Required use.* Except as provided in § 101–45.313–7, Standard Form 119 shall be used, without deviation, whenever either part of the inquiry provided for in § 101–45.313–3(a) with respect to contingent fees is answered in the affirmative. The form shall be used also, without deviation, in any other case where an agency desires to obtain such information. When, after use of the form, further information is required, it may be obtained in any appropriate manner. Submission of the form shall be required, normally, only of successful bidders and contractors.

(b) *Statement in lieu of form.* Any bidder who has previously furnished a Standard Form 119 to the office issuing the invitation or negotiating the contract may be permitted to accompany his bid with, or submit in connection with the proposed contract, a signed statement indicating when such completed form was previously furnished, identifying by number the previous invitation or contract in connection with which such form was submitted; and representing that the statements in such previously furnished form are applicable to such subsequent bid or contract. In such case, submission of an additional completed Standard Form 119 need not be required.

§ 101–45.313–7 Exceptions.

The inquiry and agreement specified in § 101–45.313–3(a) need not be made and submission of Standard Form 119 need not be requested in connection with any of the following:

(a) Any advertised contract in which the aggregate amount involved does not exceed $25,000.

(b) Any negotiated contract in which the aggregate amount involved does not exceed, in the case of the Department of Defense, $5,000; in all other cases, $1,000.

(c) Contracts to be made in foreign countries.

(d) Any other contracts, individually or by class, of the Department of Defense, designated by the Secretary, Under Secretary, or Assistant Secretary of a military department. (Reports of any such exceptions shall be filed promptly with the Administrator of General Services.)

§ 101–45.313–8 Enforcement.

(a) *Failure or refusal to furnish representation and agreement.* Each selling agency shall take the necessary steps to

assure that the indicated successful bidder or proposed contractor has furnished a representation (negative or affirmative) and agreement as prescribed in § 101–45.313–3.

(1) If the indicated successful bidder makes such representation in the negative such representation may be accepted and award made or offer accepted in accordance with established procedure.

(2) If the indicated successful bidder or proposed contractor makes such representation in the affirmative, a completed Standard Form 119 shall be requested from the bidder or proposed contractor. In the case of formal advertising, the making of an award in accordance with established procedure need not be delayed pending receipt of the form. In the case of negotiation, if the proposed contractor makes such representation in the affirmative, he shall be required to file a completed Standard Form 119 prior to acceptance of the offer or execution of the contract unless the head of the executive agency (including for this purpose, any military department) concerned, or his authorized representative, considers that the interest of the Government will be prejudiced by the suspension of negotiations pending receipt and consideration of an executed Standard Form 119.

(3) If the indicated successful bidder or proposed contractor fails to furnish the representation and agreement, such failure shall be considered a minor informality and, prior to award, such bidder or proposed contractor shall be afforded a further opportunity to furnish such representation and agreement. A refusal or failure to furnish such representation and agreement, after such opportunity has been afforded, shall require rejection of the bid or offer.

(b) *Failure or refusal to furnish Standard Form 119.* If the successful bidder or contractor, upon request, refuses or fails to furnish a completed Standard Form 119, or a statement in lieu thereof as provided in § 101–45.313–6, the selling agency concerned shall take one or more of the following actions, or other action, as may be appropriate:

(1) If an award has not been made or offer accepted. determine whether the bid or offer should be rejected.

(2) If the contract has been awarded or the offer accepted, determine what action shall be taken, such as making an independent investigation or considering the eligibility of the contractor as a future contractor in accordance with established procedure.

(c) *Misrepresentations or violations of the covenant against contingent fees.* In case of misrepresentation, or violation or breach of the covenant against contingent fees, or some other relevant impropriety, the selling agency concerned shall take one or more of the following actions, or other action, as may be appropriate:

(1) If an award has not been made, or offer has not been accepted, determine whether the bid or offer should be rejected.

(2) If an award has been made or offer has been accepted, take action to enforce the covenant in accordance with its terms, that is, as the best interests of the Government may appear, annul the contract without liability or recover the amount of the fee involved.

(3) Consider the future eligibility as a contractor of the bidder or contractor in accordance with established procedure.

(4) Determine whether the case should be referred to the Department of Justice in accordance with established procedure with respect to determining matters of fraud or criminal conduct.

§ 101–45.313–9 Preservation of records.

Selling agencies shall preserve, for enforcement or report purposes, at least one executed copy of any representation and completed Standard Form 119, together with a record of any other pertinent data, including data as to action taken.

§ 101–45.314 Federal excise taxes.

Federal manufacturers' and retailers' excise taxes are not applicable to the sale or other disposal by the Government of personal property or the disposal of contractor inventory. Federal manufacturers' excise taxes do not apply to subsequent sales, including uses, by purchasers of Government property and contractor inventory. Federal retailers' excise taxes apply to subsequent sales, but not to subsequent uses by the purchasers unless the subsequent sale is made for resale and a certificate of resale is obtained. The foregoing does not apply to gasoline, and holding agencies shall make appropriate arrangements with the Internal Revenue Service with respect to the disposal thereof. Questions relating to the applicability of Federal excise taxes arising from the disposal of property or contractor inventory should be referred to the Internal Revenue Service.

§ 101–45.315 Nondiscrimination clause in contracts.

The nondiscrimination clause prescribed by Executive Order No. 10925 of March 6, 1961 (26 F.R. 1977; 3 CFR), as amended by Executive Order No. 11114 of June 22, 1963 (28 F.R. 6485; 3 CFR), shall be included in all contracts providing for the sale of personal property when the contract exceeds $10,000, and an appreciable amount of work by the purchaser is involved (exclusive of normal pickup and delivery of the property as well as related packing and loading). When a sale is planned and the probability exists that the foregoing conditions will be present, the nondiscrimination clause shall be included in the contract provisions of the invitation as a special condition of sale.

§ 101–45.316 Report on identical bids.

§ 101–45.316–1 Governing order.

Executive Order No. 10936 of April 24, 1961 (26 F.R. 3555; 3 CFR) requires agencies to report information on identical bids to the Department of Justice.

§ 101–45.316–2 Reporting requirements and procedures.

When an invitation for bids for the sale of personal property results in submission of identical bids under the conditions set forth in this § 101–45.316–2, a copy of the invitation and a copy of the completed abstract of bids, with identical bid prices (other than nominal or token bids) circled, shall be forwarded to the Attorney General, Washington, D.C., Reference AT–IBR, within 20 days following the disposition of all bids received in response to the invitation involved whether by awarding of contract(s) or other action:

(a) Where bids or offers were solicited through the formal sealed bid method of sale using Standard Form 114 Assembly, Sale of Government Property;

(b) Where the bid value of the line item(s) on which identical bids were received exceeds $2,500 (based on the apparent high bid received for such line item); and

(c) Where the total bid value of all line items covered by the invitation exceeds $10,000 (based on the apparent high bid received for each line item).

§ 101–45.316–3 Supplemental requests by Attorney General.

The Attorney General may, from time to time, request such supplemental information as he may deem necessary for effective enforcement of antitrust laws.

§ 101–45.316–4 Antitrust law referrals.

The submission of information on identical bids is in addition to and is not to be considered as satisfying the requirements of § 101–45.310, for notifying the Attorney General and the Administrator of General Services regarding proposed disposals which are required to be referred to the Attorney General for antitrust advice.

Subpart 101–45.4—Disposal of Abandoned and Forfeited Property

§ 101–45.400 Scope of subpart.

This subpart prescribes the policies and methods governing the disposal by Federal agencies of abandoned or forfeited property in their custody or control in the United States, Puerto Rico, and the Virgin Islands.

§ 101–45.401 General.

Property which is not desired by the seizing agency or for which utilization cannot be obtained for any other Federal agency shall be disposed of in accordance with the provisions of this subpart.

§ 101–45.402 Forfeited distilled spirits, wine, and malt beverages.

(a) Forfeited distilled spirits, wine, and malt beverages not required to be reported under § 101–43.406(b)(13) shall be destroyed immediately after forfeiture, and those not required to be reported under § 101–43.406(b)(14), when not donated as prescribed by Part 101–44, shall also be destroyed immediately.

(b) When reportable forfeited distilled spirits, wine, and malt beverages are not transferred to a Federal agency or disposed of to an eleemosynary institution by GSA, the Regional Administrator, GSA, shall issue clearance to the seizing agency submitting the report prescribed by § 101–43.406, and such spirits shall be destroyed by that agency. A record of the destruction, showing time, place, and quantities destroyed, shall be filed with papers and documents relating to such seizure and forfeiture.

§ 101–45.403 Forfeited firearms.

Forfeited firearms subject to disposal under the Internal Revenue Code of 1954 may not be sold at public sale. Such firearms shall be disposed of as scrap, after total destruction by crushing, cutting, breaking, or deforming (to be performed in a manner to assure that the firearms are rendered completely inoperative and to preclude their being made operative).

§ 101–45.404 Forfeited property other than forfeited firearms subject to disposal under the Internal Revenue Code of 1954.

(a) When an application to the courts for transfer of the property is denied, such property shall be disposed of in accordance with the court decree.

(b) If property has been forfeited other than by court decree and is not ordered by competent authority to be returned to any claimant, and utilization by Federal agencies cannot be effected, the Regional Administrator, GSA, may order it released for sale, except as provided in § 101–45.402, or as otherwise provided by law.

(c) Abandoned property which, by the provisions of § 101–43.406(b), is not required to be reported may be sold at any time after 3 months from the date of abandonment.

(d) Sale shall be by competitive bid as prescribed in Subpart 101–45.3, and the decision as to whether such bidding shall be by sealed bid, spot bid, or auction shall be left to the discretion of the authorized selling agency.

§ 101–45.405 Disposition of proceeds.

§ 101–45.405–1 Abandoned property.

(a) Proceeds from the sale of abandoned property shall be deposited in a special fund for a period of at least 3 years. A former owner may be reimbursed from the special fund based upon a proper claim filed within 3 years from the date of vesting of title in the United States as determined by the head of the agency concerned. Such reimbursement shall not exceed the proceeds realized from the disposal of such property less the costs incident to the care and handling of such property, as determined by the head of the agency concerned.

(b) In cases where property has been sold as a part of a lot containing other items and the purchase price for the lot covers items in addition to that for which reimbursement is sought, the proceeds of sale for that portion of the property for which reimbursement is being sought shall be proportionate to the proceeds received for the total lot. In order to assure accuracy in determining proportionate recovery in cases where more than one item has been sold as a lot, all items to be included in a group of items to be sold as one lot shall be listed and appraised in advance of the sale by the selling official, and his appraisal stated in writing for each item on the list. Such list and appraisal shall be maintained as a part of the permanent file and recorded of sale until the 3-year period for filing claims has elapsed.

§ 101–45.405–2 Forfeited property.

Proceeds from the sale of property which has been forfeited either summarily or by court decree shall be deposited in the Treasury of the United States as miscellaneous receipts.

Subpart 101–45.5—Abandonment or Destruction of Surplus Property

§ 101–45.500 Scope of subpart.

This subpart prescribes the policies and methods governing the disposition by executive agencies of personal property by abandonment or destruction.

§ 101–45.501 Findings justifying abandonment or destruction.

§ 101–45.501–1 General.

Except as to property disposed of under §§ 101–45.504, 101–45.505, and 101–45.506, property shall not be abandoned or destroyed by an executive agency unless it shall have been affirmatively found, in writing, by a duly authorized official of such agency either that (a) such property has no commercial value, or (b) the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale. Such finding shall not be made by any official directly accountable for the property covered thereby.

§ 101–45.501–2 Reviewing authority.

Whenever a line item of the property proposed to be disposed of under this Subpart 101–45.5 at any one location at any one time had an original cost (estimated if not known) of more than $1,000, findings made under § 101–45.501–1 shall be approved by a reviewing authority before any such disposal.

§ 101–45.502 Authority to abandon or destroy.

(a) Property may be abandoned or destroyed by an executive agency in accordance with this Subpart 101–45.5, provided that donation of the property in accordance with Subpart 101–44.5 has been determined, in writing, by a duly authorized official of such agency, not to be feasible.

(b) No abandonment or destruction shall be made in a manner which is detrimental or dangerous to public health or safety, or which will cause infringement of the rights of other persons. If, at any time prior to actual abandonment or destruction, donation of such property pursuant to Subpart 101–44.5 becomes feasible, such donation shall be made.

§ 101–45.503 Notice of proposed abandonment or destruction.

Except as provided in §§ 101–45.504, 101–45.505, and 101–45.506, property shall not be abandoned or destroyed by any executive agency until after public notice of such proposed abandonment or destruction. Such notice shall be given in the area in which the property is located, shall contain a general description of the property to be abandoned or destroyed, and shall include an offering of the property for sale.

§ 101–45.504 Abandonment or destruction without notice.

(a) Property may be abandoned or destroyed by an executive agency without public notice upon a written finding by a duly authorized official thereof, approved by a reviewing authority, that the immediate abandonment or destruction of the property is necessary or desirable in the best public interest because of its nature or because of the expense or difficulty of its care and handling. Such abandonment or destruction would be appropriate whenever:

(1) The value of the property is so little or the cost of its care and handling is so great that its retention for advertising for sale is clearly not economical; or

(2) Abandonment or destruction is required by consideration of health, safety, or security.

(b) Whenever any line item of the property proposed to be abandoned or destroyed at any one location at any one time had an original cost (estimated if not known) of less than $100, it shall be presumed for the purposes of this § 101–45.504 that its immediate abandonment or destruction without notice is justified by reason of the expense or difficulty of its care and handling.

§ 101–45.505 Destruction of surplus narcotics.

(a) Surplus narcotic drugs shall not be abandoned and the following drugs will be destroyed by the holding agency in accordance with the provisions of § 101–45.505 (b) and (c);

(1) Narcotics in a deteriorated condition or otherwise unusable.

(2) Quantities of narcotic drugs determined to be surplus at one time and one place having an acquisition cost of less than $500.

(3) Narcotics which have been offered for sale in accordance with the provisions of § 101–45.309–6, but for which no satisfactory or acceptable bids have been received.

(b) When surplus narcotic drugs are required to be destroyed by the holding agency, they shall be destroyed by an employee of such agency in the following manner:

(1) If soluble, they may be dissolved in water and dissipated through the sewer;

(2) If insoluble, they may be burned;

(3) They may be destroyed in any manner which annihilates the substance as a narcotic drug and precludes the utilization of any portion thereof in any other form of narcotic;

(4) Destruction shall be performed in the presence of two additional employees of the agency as witnesses to such destruction.

(c) When surplus narcotic drugs have been destroyed, the fact, manner, and date of such destruction and the type and quantity so destroyed shall be certified to by the agency employee charged with responsibility for such destruction. The two agency employees who witnessed the destruction shall sign the following statement, which shall appear on the certification below the signature of the certifying employee:

I have witnessed the destruction of the narcotic drugs described in the foregoing certification in the manner and on the date stated herein:

---------- Witness ---------- date

§ 101–45.506 Abandonment or destruction of expendable property.

Property such as obsolete unclassified navigation charts, electric light bulbs, radio tubes, fuses, resistors, capacitors, air filters, dust cloths, and teletype part replacements, which has been rendered unserviceable, may be abandoned or destroyed without public notice and pursuant to rules, regulations, or instructions prescribed by the executive agency generating the property when accumulation of the property for disposal or rehabilitation is not economical or in the best interest of the Government.

Subparts 101–45.6—101–45.48 [Reserved]

Subpart 101–45.49—Illustrations

§ 101–45.4900 Scope of subpart.

This subpart contains illustrations of the forms and formats prescribed in this Part 101–45.

NOTE: The forms in §§ 101–45.4901–101–45.4909, 101–45.4917, and 101–45.4918 filed as part of the original document. Copies may be obtained from Central Office, GSA.

§ 101–45.4901 Standard Form 114, Sale of Government Personal Property, Invitation.

§ 101–45.4902 Standard Form 114A, Sale of Government Property, Bid and Award.

§ 101–45.4903 Standard Form 114B, Sale of Government Property, Item Bid Page.

§ 101–45.4904 Standard Form 114C, Sale of Government Property, General Terms and Conditions.

§ 101–45.4905 Standard Form 119, Contractor's Statement of Contingent or Other Fees.

§ 101–45.4906 Standard Form 150, Deposit Bond—Individual Invitation, Sale of Government Personal Property.

§ 101–45.4907 Standard Form 151, Deposit Bond, Annual, Sale of Government Personal Property.

§ 101–45.4908 Standard Form 28, Affidavit of Individual Surety.

§ 101–45.4909 Optional Form 20, Notice to Surety.

§ 101–45.4910 Instructions for the preparation of advance notice to the Department of Commerce.

1. *Transmittal of notice.* Section 101–45.304–7 provides that when the acquisition cost of personal property to be sold at one time at one place is $250,000 or more, the proposal agency shall cause a notice of each such proposed sale to be transmitted to the U.S. Department of Commerce, Room 1300, 433 West Van Buren Street, Chicago, Ill., 60607.

The notice shall be sent at as early a date as possible in advance of the sale but at least 20 days prior to the date when the bids will be opened, or, in the case of spot bid or auction sale, when the sale will be conducted. Such notice shall be transmitted by fastest mail available and shall be in synopsis form suitable for printing direct from the text so transmitted without editing or condensing.

These notices are for use of the Department of Commerce in making regular publication of a synopsis of principal proposed sales of Government personal property.

2. *Format and content of notice.*

a. *Information to be furnished.* The following information shall be provided in the order listed so as to preserve the format of the Department of Commerce publication: the name of the office which will issue the invitation; the name or title, address, and telephone number of the official from whom copies of the sales offering and other information can be obtained; a description of the property to be sold; when deemed desirable; the total estimated acquisition cost; the number of the invitation or sale; the date of the sale or bid opening, the types of sale, i.e., sealed bid, spot bid, or auction; and the location(s) of the property.

b. *Detailed requirements.* In preparing the notice to the Department of Commerce, the utmost care should be exercised in describing the types of property to be sold in order to assure interest by the maximum number of potential buyers but, at the same time, condense the information so that minimum space in the Department of Commerce publication will be required for printing. While the various kinds of property to be sold should be stated concisely, the names of important items should not be omitted. The following example is provided as a guide, both as to the order in which the information should be given, the extent to which information should be condensed or expanded, depending upon the size of the sale, and the format which, if followed, will facilitate publication without editing. Attention is specially invited to the double spacing the "hanging" indention, and the length of the line which should be approximately 65, but not to exceed 69, character spaces.

EXAMPLE

General Services Administration, Region 8 Business Service Center, Building 41 Denver Federal Center, Denver, Colo.

Scrapers, Graders, Street Sweeper, Crawler Tractor, Air Compressors, Power Units, Cement Mixer—Total acquisition cost $269,850. Invitation No. 8UPS–65–41—Bid opening 11–30–65. Sealed bid, location above.

Motor vehicles, passenger cars and ¾-ton to 5-ton trucks, materials handling equipment, fork lift trucks and warehouse tractors, jack lift trucks, warehouse trailers, platform and box trucks, hand tools, hardware, plumbing equipment, special industry machinery, office machines, furniture, rope, cable chair and fittings, miscellaneous gasoline and water hose; burlap bags, barrier paper, pack saddles, tape and webbing, lanterns, spare parts for compressors, tractors, shovels, bulldozers, cranes, welding equipment, motor vehicles, air hammer, diesel and gasoline engines—Total estimated acquisition cost $6 million; Sale No. 8UPS–A—65–44. Sale starts 12–15–65. Auction sale, location above.

§ 101–45.4911 Exchange/Sale category list.

1. Agricultural products, processed foods and forage.
2. Air conditioning units, office and residential.
3. Air conditioning units, industrial.
4. Ambulances, all sizes.
5. Ammunition and ammunition components.
6. Animals and animal products.
7. Asphalt distributors.
8. Asphalt pavers, portable or road mix.
9. Batteries, storage.
10. Bicycles, tricycles.
11. Binoculars; field glasses; telescopes.
12. Boilers, steam.
13. Busses, all sizes.
14. Cards, tabulating.
15. Compressors, air portable.
16. Compressors, air stationary.
17. Crawler, wheel mounted, and railroad cranes (including shovels and drag lines).
18. Crane trucks, industrial warehouse, electric and gasoline powered.
19. Ditching machines.
20. Dozer blades.
21. Drill presses.
22. Earth augers.
23. Fans, electric.
24. Graders, self-powered and towed.
25. Lathes.
26. Machines, adding; machines, calculating.
27. Machines, addressing and mailing.
28. Machines, dictating and transcribing.
29. Machines, duplicating.
30. Machines, punched card, bookkeeping, tabulating and accounting.
31. Milling machines.
32. Mixers, concrete, portable or truck mounted.
33. Motor scooters.
34. Motorcycles with or without side car.
35. Mowers, lawn, power.
36. Piledrivers.
37. Polishers, floor, powered.
38. Pontoon, assemblies.
39. Power shovels.
40. Railroad cars, freight.
41. Railroad cars, passenger.
42. Railroad cars, service.
43. Railroad locomotives.
44. Refrigeration equipment.
45. Refrigerators.
46. Road rollers, wheeled and sheepsfoot.
47. Saws, bench.
48. Scrapers, earth moving (self-powered).
49. Scrapers, earth moving, towed.
50. Sedans; station wagons; coupes; limousines.
51. Snow plows, motorized.
52. Spreaders, aggregate and lime.
53. Tractors, warehouse.
54. Tractors wheeled or crawler, with or without special attachments, up to 65 h.p.
55. Tractors, wheeled or crawler, with or without special attachments, 65 h.p., and up.
56. Trailers, general purpose, multiple axle.
57. Trailers, general purpose single axle.
58. Trailers, industrial.
59. Trailers, special purpose (including fire pumper and Bean type sprayer and crash trailer).
60. Trailers, tank mounted.
61. Trucks, electronic.
62. Trucks, fire.
63. Trucks, fork lift.
64. Trucks, general purpose, cargo and construction 12,500 GVW through 28,000 GVW (including truck tractors, dump, multiple drive, etc.).
65. Trucks, general purpose and utility up to 12,500 GVW (including suburbans, carryalls and sedan deliveries).
66. Trucks, straddle.
67. Trucks, tank (special purpose trailer of which the tank is an integral part of the construction).
68. Trucks, warehouse platform, electric and gasoline powered.
69. Typewriter, manual and electric.

§ 101–45.4912 Sample format-irrevocable letter of credit.

(Name and address of Bank Issuing Letter of Credit)

(Date)

(Number of Letter of Credit and Reference)

Treasurer of the United States
Washington, D.C. 20220

Dear Madam:

We hereby establish our irrevocable credit No. ------ in your favor by order and for account of (name of company submitting bid) up to an aggregate amount of $-------- available by demand drafts drawn on us by a representative of (specify agencies to which directed: e.g., Department of the Army, Department of the Air Force, General Services Administration). Drafts must be accompanied by a written statement of the interested agency that the amount drawn under this credit represents (1) the deposit required as a guarantee to support an acceptable bid made by (name of bidder) to purchase material from the Government, or (2) payment in full for the property. Drafts drawn under this credit must be marked "drawn under letter of credit No. ------ of (name and address of issuing bank)."

Unless otherwise expressly stated herein, this credit is subject to the uniform customs and practice for commercial documentary credits fixed by the 13th Congress of the International Chamber of Commerce. We hereby agree with you that the drafts drawn under and in compliance with the terms of this credit shall be duly honored on due presentation to the (name of the bank) if presented on or before ----------.

Very truly yours,

(Authorized signature of bank official)

§ 101–45.4913 General instructions for preparation of irrevocable letter of credit.

Use either clause (1) or (2) of § 101–45.4912, as applicable.

Some banks use language which varies from that shown in § 101–45.4912. Variations from the prescribed text may be permitted if the meaning of the letter of credit prepared by the bank is the same. Each of the paragraphs of the prescribed letter of credit is an essential part of the agreement. No paragraphs shall be added and none shall be deleted.

A letter of credit may be addressed to a specific department or agency instead of "Treasurer of the United States." Letters of credit of this type shall be adddressed to the head of the agency or department, as the Secretary of the Army, or the Administrator of General Services. Should this be done, the words "Treasurer of the United States for the account of" shall be deleted from the draft drawn under the letter of credit.

Each letter of credit must be clearly irrevocable and is not acceptable if the expiration date stated therein is less than 30 days from the date of the sale at which it is used.

§ 101–45.4914 Sample format—draft drawn against irrevocable letter of credit.

FORM OF DRAFT

$_____ Date _____

At sight pay to the order of Treasurer of the United States for the account of (specify name of department or agency). _____ dollars and _____ cents for value received—drawn under letter of credit No. ____ of _____

(Name and address of issuing bank)

To _____

(Name and address of bank)

(Name of office—finance or disbursing—and activity of department or agency by which draft is issued.)

By _____

Title _____

Date _____

NOTE: If the letter of credit is addressed to a department or agency rather than the Treasurer, omit the words "Treasurer of the United States for the account of," and in lieu thereof insert the name of the particular department or agency or installation or office thereof.

§ 101–45.4915 Sample format transmittal letter to accompany letter of credit.

OFFICIAL LETTERHEAD

To: Name of bank (same as on L/C).

Gentlemen:

This is to certify that on _____, 196__, at a sale held by the (insert the name of the department or agency) at (insert location) the (insert name and address of company) submitted acceptable bids for property at sales price of $_____.

The amount of the accompanying draft, $_____, drawn under letter of credit No. _____ represents (1) the deposit of _____ percent of the sales price required as a guarantee to support the acceptable bid made by (insert name of company) to purchase material from the Government, or (2) payment in full for the property on which (insert name of company) submitted acceptable bids.

(Name of office—finance or disbursing—and activity of department or agency to which check is to be forwarded.)

By _____

Title _____

Date _____

NOTE: Strike out the clause in the second paragraph which is not applicable.

§ 101–45.4916 GSA Form 1673, Memorandum of Nonreportable Personal Property.

§ 101–45.4917 Sample assembly-Standard Form 114, Sale of Government property.

§ 101–45.4918 Sample assembly-Standard Form 114, Sale of Government property.

§ 101–45.4919 Outline for preparation of explanatory statement relative to negotiated sales.

The following outline shall be used for the preparation of explanatory statements relative to negotiated sales:

Explanatory statement of proposed negotiated disposal of surplus personal property submitted pursuant to the provisions of section 203(e)(6) of the Federal Property and Administrative Services Act of 1949.

Description of property: (including quantity and condition).

Location:

Reported excess by: (name of agency and date).

Acquisition cost and date: (If not known, estimate and so indicate).

Income: (All income known to the holding agency, if any, received by the Government for use of the property).

Estimated fair market value: (Including date of estimate and name of estimator).

Proposed disposal price:

Proposed purchaser: (name and address).

Justification: (a narrative statement containing complete justification for the proposed sale and other pertinent facts involved in the Government's decision to sell by negotiation).

§ 101–45.4920 Optional Form 15, poster, Sale of Government Property.

§ 101–45.4921 Optional Form 16, Sales Slip, Sale of Government Personal Property.

§ 101–45.4922 GSA Form 27, Notice of Award.

Effective date. Acceptance of uncertified personal and business checks and procedures for the sale of firearms are effective April 15, 1965, but may be observed earlier. As indicated in FPMR (T) H–1, regulations governing sale by GSA of civil agency personal property were effective on January 1, 1965, except that assumption of sales responsibility for personal property belonging to the Tennessee Valley Authority, Department of Agriculture, and the Atomic Energy Commission is effective March 1, 1965, and for the Department of Defense, at such time as the Bureau of the Budget approves the necessary financing arrangements.

Dated: February 26, 1965.

LAWSON B. KNOTT, Jr.,
Acting Administrator of General Services.

[F.R. Doc. 65–2369; Filed, Mar. 5, 1965; 8:45 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

GRISEOFULVIN

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition (FAP 4D1465) filed by Schering Corp., Bloomfield, N.J., and other relevant material, has concluded that the following regulation should issue to provide for the safe use of griseofulvin in chinchilla feed. 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 by the Secretary of Health, Education, and Welfare (21 CFR 2.90), Subpart C of the food additive regulations is amended by adding thereto a new section as follows:

§ 121.267 Griseofulvin.

The food additive griseofulvin may be safely used in animal feed when incorporated therein in accordance with the following prescribed conditions:

(a) Griseofulvin is the antibiotic substance produced by growth of *Penicillium patulum* or *Pencillium griseofulvum* or the same substance produced by any other means.

(b) The quantity of antibiotic authorized in this section is expressed in terms of the activity of the master standard.

(c) It is used or intended for use in complete chinchilla feed at a level of 160 milligrams per pound (0.0353 percent for the prevention, treatment, and control of fungal infections caused by *Trichophyton* and as an aid in the prevention of fur chewing associated with these fungal infections.

(d) To assure safe use, the label and labeling of the additive and any feed additive supplement, feed additive concentrate, feed additive premix, or complete feed prepared therefrom, shall bear, in addition to the other information required by the act, the following:

(1) The name of the additive.

(2) A statement of the quantity of the additive contained therein.

(3) Adequate directions and warnings for use, including the statement that such feeds are to be administered as sole ration.

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 be 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: March 2, 1965.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 65-2371; Filed, Mar. 5, 1965; 8:47 a.m.]

SUBCHAPTER C—DRUGS

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

Demethylchlortetracycline Hydrochloride Tablets

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended; 21 U.S.C. 357) and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR 2.90), § 146c.-266 is amended to provide for the certification of demethylchlortetracycline hydrochloride tablets in a new dosage size by inserting in the first sentence the words "or 300 milligrams". As amended, § 146c.266 reads as follows:

§ 146c.266 Demethylchlortetracycline hydrochloride tablets.

Demethylchlortetracycline hydrochloride tablets are tablets that conform to all requirements and are subject to all procedures prescribed by § 146c.252 for demethylchlortetracycline hydrochloride capsules, except that each tablet shall contain 150 milligrams or 300 milligrams of demethylchlortetracycline hydrochloride. In addition to the requirements prescribed by § 146c.252, demethylchlortetracycline hydrochloride tablets shall disintegrate within 1 hour. A person who requests certification shall therefore also submit for distintegration time studies, results of this test made by him and a sample of six tablets. The fee for the tablets submitted for disintegration time studies shall be $3.00.

Notice and public procedure and delayed effective date are unnecessary prerequisities to the promulgation of this order, and I so find, since this amendment provides for the certification of a new dosage size of an established product and this new size has been determined to be safe and efficacious for use.

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

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

Dated: March 2, 1965.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 65-2372; Filed, Mar. 5, 1965; 8:47 a.m.]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 41—INTERPRETATIONS OF FARM LABOR CONTRACTOR REGISTRATION ACT OF 1963

A new Part 41 of Title 29 of the Code of Federal Regulations is hereby established pursuant to the Farm Labor Contractor Registration Act of 1963 (Public Law 88-582; approved September 7, 1964) and the Secretary of Labor's Orders, Nos. 36-64 and 37-64 (30 F.R. 1139). Part 41 sets forth interpretations adopted by the Department for the guidance of those who are or may become subject to the Act and to the regulations established to implement its provisions (29 CFR Part 40; 29 F.R. 18156).

Section 4 of the Administrative Procedure Act (5 U.S.C. 1003), which requires notice of proposed rule making, opportunity for public participation, and delay in effective date is not applicable, because these are interpretative rules. I do not believe such procedures will serve a useful purpose here. Accordingly, these interpretations shall become effective upon publication in the FEDERAL REGISTER.

The new part reads as follows:

INTRODUCTORY

Sec.
41.1 General statement.
41.2 Relation to other laws.
41.3 "Farm Labor Contractor" defined.
41.4 "Person."
41.5 "Fee."
41.6 "For himself or on behalf of another person."
41.7 "Recruits, solicits, hires, furnishes, or transports."
41.8 "Ten or more."
41.9 "At any one time."
41.10 "Any calendar year."
41.11 "For interstate agricultural employment."

WHAT CONSTITUTES A MIGRANT WORKER

41.12 General.
41.13 "Primary employment."
41.14 "On a seasonal or other temporary basis."

EXEMPTIONS FROM COVERAGE

41.15 Introductory statement.
41.16 "Nonprofit charitable organizations."
41.17 Farm labor contracting activities solely in connection with certain agricultural operations.
41.18 Full-time or regular employees of persons excluded by sections 3(b)(1) or 3(b)(2).
41.19 International agreements or arrangements.

REQUIREMENT OF A CERTIFICATE OF REGISTRATION OR FARM LABOR CONTRACTOR IDENTIFICATION CARD

Sec.
41.20 Kept in person's "immediate possession."
41.21 Causes for refusal to issue or renew and causes for suspension or revocation of a Certificate of Registration or a Farm Labor Contractor Identification Card.
41.22 Responsibilities of the farm labor contractor and full-time or regular employee.

AUTHORITY: The provisions of this Part 41 issued under 78 Stat. 920, Secretary of Labor's Orders, Nos. 36–64 and 37–64 (30 F.R. 1139).

INTRODUCTORY

§ 41.1 General statement.

Pursuant to its power to regulate interstate commerce, Congress has enacted the Farm Labor Contractor Registration Act (Public Law 88–582, 88th Congress, 78 Stat. 920, effective January 1, 1965), hereinafter referred to as the Act, as a means of removing the impediments, obstructions, and restraints occasioned to the flow of interstate commerce by the activities of certain farm labor contractors for the services of migrant agricultural laborers who exploit producers of agricultural products, migrant agricultural laborers, and the public generally. Interpretations of the Act in this Part 41 are designed to give effect to these announced Congressional policies and are not intended to duplicate the provisions of the regulations (Part 40 of this title) promulgated pursuant to the Act. Accordingly, the discussion in this part should be considered together with the provisions of the Act and of the regulations thereunder.

§ 41.2 Relation to other laws.

The provisions of the various State laws and regulations, applicable to the activities of persons engaged as contractors for the services of agricultural laborers differ from the provisions of the Act. In those situations, where any such legislation and the provisions of this Act both apply, as directed in section 12 of the Act, no provision of this Act will excuse anyone from complying with the appropriate State law and regulations. In like manner, compliance with other applicable State legislation will not excuse anyone for failure to comply with the provisions of this Act.

§ 41.3 "Farm labor contractor" defined.

(a) The term "farm labor contractor" means any person, who, for a fee, either for himself or on behalf of another person, recruits, solicits, hires, furnishes, or transports ten or more migrant workers (excluding members of his immediate family) at any one time in any calendar year for interstate agricultural employment. Such term does not include (1) any nonprofit charitable organization, public or nonprofit private educational institution, or similar organization; (2) any farmer, processor, canner, ginner, packing shed operator, or nurseryman who engages in any such activity for the purpose of supplying migrant workers solely for his own operation; (3) any full-time or regular employee of any entity referred to in subparagraph (1) or (2) of this paragraph; or (4) any person who engages in any such activity for the purpose of obtaining migrant workers of any foreign nation for employment in the United States, if the employment of such workers is subject to (i) an agreement between the United States and such foreign nation, or (ii) an arrangement with the government of any foreign nation under which written contracts for the employment of such workers are provided for and the enforcement thereof is provided for in the United States by an instrumentality of such foreign nation.

(b) In general, the farm labor contractor or "crew leader," as he is frequently called, is the middleman in making work arrangements between the migrant workers and the growers for interstate agricultural employment. When these arrangements involve recruiting, soliciting, hiring, furnishing or transporting ten or more migrant workers, excluding members of the contractor's immediate family, at any one time for interstate agricultural employment, the contractor is required to comply with the Act, unless he is otherwise exempt.

(c) The meanings of the terms "person," "fee," "interstate agricultural employment," "migrant worker," and other statutory language, relating to the definition of farm labor contractor, is discussed in the following sections.

§ 41.4 "Person."

Generally, any natural person or business establishment, capable of conducting business, may be a "person" within the definition of this term in section 3(a) of the Act and may include any individual, partnership, association, joint stock company, trust or corporation. However, instrumentalities or agencies of the State or any political subdivision thereof, acting in the capacity of a "farm labor contractor," are not "persons" within the meaning of this section.

§ 41.5 "Fee."

The term "fee" is defined by the Act to include any money or other valuable consideration paid or promised to be paid to a person for services as farm labor contractor. Any money, checks, securities, or property, either personal or real, or other valuable consideration as this term is used for purposes of the law of contracts, paid or promised to be paid, whether as wages, salary, commission or any other method of payment, is a fee when paid to a person for services as a farm labor contractor within the meaning of the term. Money or other valuable consideration accepted as a nonreimbursable advance may also be a fee, as where a grower advances money for repairs or travel expenses to a contractor or where workers pay a contractor in advance for transportation. A promise to pay money or other valuable consideration in the future may also be a fee, as where workers promise to pay a contractor for transportation after the travel is accomplished. Where two or more persons share expenses in a common venture, money or other valuable consideration received by one from the other for this purpose would not be considered a fee. The facts and circumstances of each individual case will be considered in determining whether any valuable consideration paid or promised to be paid constitutes a "fee" within the meaning of the Act.

§ 41.6 "For himself or on behalf of another person."

A farm labor contractor is defined, in part, as any person who, for a fee, for himself or on behalf of another person, recruits, solicits, hires, furnishes, or transports migrant workers for interstate agricultural employment. In view of the phrase, "either for himself or on behalf of another person," it does not matter whether the person is engaging in the activities of a farm labor contractor for his own personal use and benefit or for or on behalf of his employer, contractor, or some other person. Wherever a person is performing the activities of a farm labor contractor, it is immaterial who is or will be the employer or prospective employer of the migrant workers.

§ 41.7 "Recruits, solicits, hires, furnishes, or transports."

These terms are to be given their ordinary meaning as each is defined in the unabridged edition of Webster's New International Dictionary. The Act will apply to any person who engages in or performs one or more of these activities and otherwise meets the definition of a farm labor contractor.

§ 41.8 "Ten or more."

(a) The Act applies to any person who, for a fee, recruits, solicits, hires, furnishes or transports ten or more migrant workers (excluding members of his immediate family) at any one time in any calendar year for interstate agricultural employment. Accordingly, the count of "ten or more" would not include the farm labor contractor himself, whether the contractor be an individual proprietor, a partner of a partnership entity, or one of the principals of a joint venture. Further, in determining the number of workers, the count would include only those individuals who are migrant workers, as hereinafter defined and explained, and would exclude members of the contractor's own immediate family.

(b) The total number of migrant workers to be counted includes all those who are affected by one or more of the following activities, performed or engaged in by a farm labor contractor at any one time, as explained in § 41.9: Recruiting, soliciting, hiring, furnishing, and transporting. Where a contractor performs more than one of these services with relation to a migrant worker, the same worker is not counted more than once. Thus, where a contractor recruits migrant workers and the same workers are hired or transported through the efforts of the same contractor, each worker would be counted only one time for the purpose of arriving at the total number prescribed by the Act. Likewise, if a contractor recruits migrant workers and performs other farm labor

contracting services with relation to additional and different workers, all the workers are to be included in the count: *Provided, however,* That the principles, set forth in § 41.9, explaining the meaning of "at any one time," are applied.

§ 41.9 "At any one time."

(a) Within the meaning of the Act, a farm labor contractor performs the described farm labor contracting activities with respect to ten or more migrant workers "at any one time" if, pursuant to a single agreement, arrangement, objective, or purpose and during a single time period reasonably appropriate in length for carrying out such agreement, arrangement, objective, or purpose, the contractor performs one or more of such activities with respect to migrant workers in such number for interstate agricultural employment.

(b) Persons may not escape coverage of the Act by treating every act or transaction as independent or separate from all others, so as, purportedly, to maintain an existing relationship or to contemplate a proposed relationship with less than ten migrant workers "at any one time." Thus, if a person, pursuant to an undertaking, agreement or other obligation solicits, recruits, hires, furnishes or transports migrant workers for interstate agricultural employment for or on behalf of an employer, farmer, other farm labor contractor, or any combination of such, and such performance includes two or more of these activities, simultaneously or successively, the entire operation of the several component activities will be regarded as being performed or engaged in "at any one time": *Provided,* That ten or more migrant workers are affected by the operation. For example, if a person is obligated or has undertaken to hire and transport migrant workers for Farmer A, the fact that three weeks may be consumed to hire the required number of migrant workers would not preclude this activity from being performed "at any one time" with the additional act of transporting, whether the latter act involves the same and/or different workers. While the act of transporting is a single act that is completed when migrant workers are delivered to a prearranged destination, the situation is different for soliciting, recruiting, hiring or furnishing. These activities are such as, usually, to require a series of acts extending over a span of time varying according to the circumstances of the specific situation or assigned task.

(c) Factors to be taken into consideration in determining whether or not a series of farm labor contracting activities will be deemed to have been performed or engaged in "at any one time" should include, among others, (1) the nature of the person's operations, (2) the relationship, if any, between successive individual acts of soliciting, recruiting, hiring, furnishing or transporting migrant workers as part of a chain or connecting sequence of activities for servicing an employer, producer, other farm labor contractor, or any combination of such, (3) the lapse of time between the performance of each of two or more of the activities, and (4) the person's actual or proposed relationship with migrant workers.

(d) Where several activities are performed separately and at different times, and each activity involves less than ten migrant workers, the statutory requirement of ten will not be reached by taking a total of the number included in each activity, unless there is such a continuity or connection between the several activities as to be reasonably regarded as occurring "at any one time." Thus, if a person intends to recruit five (5) migrant workers one day for Farmer A and the next day is requested to recruit and does recruit eight (8) migrant workers for Farmer B, these are separate and independent acts and do not total up to thirteen (13) for purposes of the statutory requirement. However, if he has contracts to hire a total of eighteen (18) migrant workers for Farmers X, Y and Z and he hires this number as a result of three days' effort, the statutory amount of "ten or more" would be present. Also, if the person, under a single arrangement or agreement, recruits, for example, seven (7) migrant workers for Farmer A and, shortly thereafter, also transports eight (8) different migrant workers for the same Farmer A, the result, for purposes of the Act, is more than the statutory total of "ten or more" migrant workers.

(e) The foregoing examples illustrate the manner in which the language "at any one time" may be applied in these specific factual situations. However, the application of these principles to other situations will depend on all the facts.

§ 41.10 "Any calendar year."

(a) A person, engaged in farm labor contracting activities, is covered by the Act, only if he performs those activities with respect to ten or more migrant workers "at any one time in any one calendar year." A certificate of registration, once issued, is effective for the remainder of the calendar year during which it is issued, unless suspended or revoked by the Secretary in accordance with procedures provided in the Act and set forth in Part 40 of this title. A calendar year is measured from the first day of January through the thirty-first day of December, inclusive of the first and last day.

(b) Since registration is required, under the Act, to be renewed for each calendar year, the farm labor contractor's activities, with respect to coverage under the Act, are measured within the limits of the calendar year for which registration is required. In other words, the contractor, whose activities involve ten or more migrant workers at any one time in one calendar year, does not continue to be covered in subsequent calendar years, unless his activities in each subsequent calendar year, independently, are within the scope of the Act.

§ 41.11 "For interstate agricultural employment."

(a) The Act applies to any person who, for a fee, recruits, solicits, hires, furnishes or transports ten or more migrant workers (excluding members of his immediate family) at any one time in any calendar year for interstate agricultural employment.

(b) Where a farm labor contractor intends, expects, or has reason to believe that the workers he recruits, solicits, hires, furnishes or transports will be transported to or employed in another State, his activities with respect to them would be "for interstate agricultural employment." Also, the contractor would be carrying on activities "for interstate agricultural employment," even though at the time he recruits, solicits, hires, furnishes or transports the workers, they are not then engaged in interstate agricultural employment within the definition of that term. Further, the activities of a farm labor contractor are "for interstate agricultural employment," notwithstanding that the contractor or his regular or full-time employee conducts all the farm labor contracting functions entirely within a State, but are calculated to result in migrant workers being transported to or employed in another State.

(c) A farm labor contractor who, either by himself or by or through a full-time or regular employee or by means of any agent, including another farm labor contractor, recruits, solicits, hires, furnishes or transports migrant workers from one State to another is doing so "for interstate agricultural employment," although he is never physically present in the State of origin of the migrant workers.

WHAT CONSTITUTES A MIGRANT WORKER

§ 41.12 General.

(a) A person is engaging in activities as a farm labor contractor for purposes of the Act when he recruits, solicits, hires, furnishes or transports "migrant workers" within the meaning of the Act. A "migrant worker" is defined in section 3(g) as meaning an individual whose primary employment is in agriculture, as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), or who performs agricultural labor, as defined in section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)), on a seasonal or other temporary basis. An individual is a migrant worker irrespective of his primary employment, if he performs agricultural labor on a seasonal or other temporary basis.

(b) "Agriculture" is defined in section 3(f) of the Fair Labor Standards Act of 1938 to include "farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15(g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market." A complete discussion of the activities that are included within the scope of this

definition will be found in §§ 780.103–780.183 of this title.

(c) An "agricultural commodity" as defined in section 15(g) of the Agricultural Marketing Act, as amended (46 Stat. 1550, section 3; 12 U.S.C. 1141) includes, in addition to other agricultural commodities, crude gum (oleoresin), from a living tree, and the following products as processed by the original producer of the crude gum (oleoresin) from which derived: gum spirits of turpentine, and gum resin, as defined in section 92 of Title 7 (the Naval Stores Act, approved March 3, 1923). See, for a further explanation, § 780.125 of this title.

(d) "Agricultural labor" within the meaning of section 3121(g) of the Internal Revenue Code of 1954 includes all service performed:

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended (46 Stat. 1550, section 3; 12 U.S.C. 1141j), or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(4) (A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed;

(B) In the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A), but only if such operators produced all of the commodity with respect to which such service is performed. For purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than 20 at any time during the calendar quarter in which such service is performed;

(C) The provisions of subparagraphs (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(5) On a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for raising of agricultural or horticultural commodities, and orchards.

§ 41.13 "Primary employment."

As used in the definition of "migrant worker," the term "primary employment" is intended to include any person whose chief, principal or main occupation is in "agriculture." If an individual performs agricultural labor, however, on a seasonal or other temporary basis, he is a "migrant worker," as defined in the Act, irrespective of his primary employment.

§ 41.14 "On a seasonal or other temporary basis."

(a) Labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, cannot be continuous or carried on throughout the year. A worker who moves from one seasonal activity to another, while employed in agriculture or performing agricultural labor, is employed on a seasonal basis even though he may continue to be employed during a major portion of the year.

(b) A worker is employed on "other temporary basis" where he is employed for a limited time only or his performance is contemplated for a particular piece of work, usually of short duration. Generally, employment, which is contemplated to continue indefinitely, is not temporary.

Exemptions From Coverage

§ 41.15 Introductory statement.

The term "farm labor contractor" is defined in section 3(b) of the Act to exclude these four categories of individuals or organizations:

(1) Any nonprofit charitable organization, public or nonprofit private educational institution, or similar organization;

(2) Any farmer, processor, canner, ginner, packing shed operator, or nurseryman who engages in any such activity for the purpose of supplying migrant workers solely for his own operation;

(3) Any full-time or regular employee of any entity referred to in (1) or (2) above: or

(4) Any person who engages in any such activity for the purpose of obtaining migrant workers of any foreign nation for employment in the United States, if the employment of such workers is subject to (A) an agreement between the United States and such foreign nation, or (B) an arrangement with the government of any foreign nation under which written contracts for the employment of such workers are provided for and the enforcement thereof is provided for in the United States by an instrumentality of such foreign nation.

§ 41.16 Nonprofit charitable organizations.

This exemption applies only to "any nonprofit charitable organization, public or nonprofit private educational institution or similar organization": *Provided*, That they are conducted in good faith and are not entered into for the purpose of making a profit or in the belief that a profit can be realized thereon. (Doggett v. Burnet, 1933, 65 F. 2d 191, 194.) It is to be noted that the exemption is available only if the organization is both nonprofit and charitable or is a nonprofit public or private educational institution.

§ 41.17 Farm labor contracting activities solely in connection with certain agricultural operations.

(a) The exemption of section 3(b)(2) of the Act applies to "any farmer, processor, canner, ginner, packing shed operator, or nurseryman" who engages in farm labor contracting activities "for the purpose of supplying migrant workers solely for his own operation." The Act was intended to regulate the practices of all persons functioning in the capacity of middlemen between the farmer, processor, etc., and the migrant worker. Thus, the exclusion applies only in those situations where the normal functions of the middlemen are performed by the farmer, processor, etc., solely for himself and should any of these persons perform in the role of middleman, such as where the activities are in behalf of other employers, producers, processors, etc., in addition to himself, the exclusion would not apply. Generally, the Act will not exclude any farmer's cooperative performing any of the farm labor contracting activities in behalf of its members, unless such an association is a farmer, processor, etc., and is employed in contracting activities solely in its own behalf as such.

(b) For example, if a processor solicits, recruits, hires, furnishes or transports migrant workers to be used in the harvesting of crops which he has in fact purchased through a contract with the farmer and under whose contractual terms title to the crops is vested in the processor before the crop has been harvested, the exemption would apply, because the processor would be supplying migrant workers solely for his own operation. Where the processor or any other person acts as the conduit through whom the migrant workers are made available to third parties, even though the crops on which the migrant workers are employed are the subject matter of a contract to purchase (as distinguished from a contract of sale) and will be used in the processing, canning, etc., the exemption does not apply.

§ 41.18 Full-time or regular employees of persons excluded by sections 3(b)(1) or 3(b)(2).

(a) These particular full-time or regular employees are excluded because they constitute no more than the instruments or means by which the organizations or individuals, exempt under sections 3(b)(1) and (2) of the Act, operate. Unless such employee's farm labor contracting activities are performed only for a single employer, such employee may be constituted an independent contractor while performing such activities.

(b) On the basis of long-established common law principles, an independent contractor is a person, other than a servant or employee, who is engaged to perform a designated task and who is responsible to his principal only for the result and not for the means of doing the work contracted for. A determination of whether one employed to render a service does so as an "employee" or as an

"independent contractor" cannot be based on isolated factors or upon a single characteristic, but rather upon the circumstances of the whole activity.

(c) Following are some of the factors considered in ascertaining whether an independent contractor relationship exists in a given situation:

(1) The degree of control exercised by the alleged employer;

(2) The extent to which the alleged employer supplies equipment and materials;

(3) The extent to which the alleged independent contractor has established a separate and independent business;

(4) The opportunity for profit or loss by the alleged independent contractor.

(d) A particularly significant factor is the degree or extent to which the alleged employer may intervene to control the means by which the work is to be accomplished.

§ 41.19 International agreements or arrangements.

(a) Also excused from coverage of the Act, under the provision of section 3(b)(4) are those persons who are engaged in farm labor contracting activities for the purpose of obtaining foreign migrant workers for employment in the United States pursuant either to an international agreement or to an international arrangement. All contracts, entered into pursuant to an arrangement with a foreign government for the employment of its nationals in this country, in order to qualify for the exemption under this provision, must be in writing and enforceable in the United States by an instrumentality of such foreign nation.

(b) The agreements or arrangements which presently come within the scope of this exemption are those governing the employment of Mexican nationals, pursuant to the Migrant Labor Agreement of 1951, as amended, the British West Indies, Bahamas, Japanese and Philippine farm workers programs.

REQUIREMENT OF A CERTIFICATE OF REGISTRATION OR FARM LABOR CONTRACTOR IDENTIFICATION CARD

§ 41.20 Kept in person's "immediate possession."

(a) Under section 4(a) of the Act, the farm labor contractor is required to have a valid certificate in his "immediate possession." On the other hand, section 4(b) requires that the farm labor contractor's full-time or regular employee have his farm labor contractor identification card in his "immediate personal possession."

(b) A farm labor contractor who is an individual is required to carry the certificate of registration on his physical person. Other holders need not keep such certificate on their persons, but may keep it in a place immediately accessible to them or under their control. Thus, a corporation, partnership, association, trust or joint stock company may comply by keeping the certificate at its main business office.

(c) As for a holder of an identification card, he must keep it on his physical person.

§ 41.21 Causes for refusal to issue or renew and causes for suspension or revocation of a Certificate of Registration or a Farm Labor Contractor Identification Card.

(a) Section 5(b) of the Act provides that upon

> • • • notice and hearing in accordance with regulations prescribed by him, the Secretary may refuse to issue or to renew, or may suspend or revoke a certificate of registration to any farm labor contractor if he finds that such contractor has, among other things, acted or failed to act as set forth in the following paragraphs (b) through (h):
>
> (b)
>
> (1) Knowingly has made any misrepresentation or false statements in his application for a certificate of registration or any renewal thereof.

The use of the term "knowingly" in section 5(b)(1) of the Act would indicate that a violation would exist if there is present some fact or circumstance that indicates that the information was given, intentionally and with actual knowledge of its falsity, in bad faith, willfully, or for some fraudulent purpose. Any person who is charged with giving false or misleading information under these circumstances may also be subject to the penal provisions of section 1001, Title 18.

> (c)
>
> (2) Knowingly has given false or misleading information to migrant workers concerning the terms, conditions, or existence of agricultural employment.

It should be noted that under the Byrnes Act, relating to the transportation of strikebreakers (49 Stat. 1899; 18 U.S.C. 1231), whoever knowingly transported in interstate or foreign commerce any person for the purpose of strikebreaking shall be fined not more than $5,000 or imprisoned not more than two years, or both.

> (d)
>
> (3) Has failed, without justification, to perform agreements entered into or arrangements with farm operators; and (4) has failed, without justification, to comply with the terms of any working arrangements he has made with migrant workers.

The term "without justification" in subsections (3) and (4) indicates that a legal wrong has been committed without sufficient lawful reason for acting or failing to act. Such wrongdoing need not have resulted in the institution of court action by the aggrieved party. If the act of commission or omission complained of constitutes a breach of contract under the common law rules of contract or a wrong as embraced by the common law principles pertaining to torts, it may be "without justification." The extent of the harm, injury or loss resulting from such contractual breach or tortious wrong and mitigating circumstances will be considered in determinations of situations concerning subsections (3) and (4) of this section. Normally, "without justification" would not include situations in which the farm labor contractor's failure was directly attributable to acts of God, due to conditions beyond his control or to conditions which he could not reasonably foresee.

> (e)
>
> (6) Has recruited, employed, or utilized the services of a person with knowledge that such person is violating the provisions of the immigration and nationality laws of the United States.

The term "with knowledge" includes not only actual knowledge but also knowledge which may fairly be inferred through notice of certain facts and circumstances which would lead ordinary, careful and vigilant persons to know about a certain condition.

> (f)
>
> (7) Has been convicted of any crime under State or Federal law relating to gambling or to the sale, distribution or possession of alcoholic liquors in connection with or incident to his activities as a farm labor contractor; or has been convicted of any crime under State or Federal law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, or prostitution.

Under the definition contained in the regulations, § 40.2(a) of this title, a person has been "convicted" for purposes of section 5(b)(7) of the Act when "a final judgment of guilt has been rendered" against such person by a "court of competent jurisdiction" and "no opportunity for appeal remains." The term includes judgments rendered on pleas of guilty in open court and on pleas of nolo contendere.

(1) A crime "relating to gambling or to the sale, distribution, or possession of alcoholic liquors" must have been in connection with or incidental to the person's activities as a farm labor contractor and may be any one of a variety of offenses, intended to punish an individual or organization for violation of any State or Federal laws regulating certain uses of liquor or certain gaming practices. It should be noted, however, that with the exception of these two offenses, all other crimes enumerated need not have been in connection with or incident to activities as a farm labor contractor.

(2) It is the general policy that convictions which have occurred more than five (5) years prior to the date of the application for a Certificate of Registration or for a Farm Labor Contractor Identification Card would not be constituted a basis for ineligibility for a certificate or identification card, provided that the applicant in each case has demonstrated a record of continuous good behavior during the most recent five-year period.

(3) Where a conviction has been set aside by subsequent judicial process, it no longer constitutes a "conviction" within the meaning of this Act.

(4) A full pardon after conviction also removes the "conviction" as a cause for ineligibility. This position is in accord with the court's language in Knote v. U.S. (1877), 95 U.S. 140 that "in contemplation of law," a full pardon, "so far blots out the offense, that afterwards it cannot be imputed to him to prevent the assertion of legal rights."

(g)

(8) Has failed to comply with rules and regulations promulgated by the Interstate Commerce Commission that are applicable to his activities and operations in interstate commerce.

Legislative history surrounding this particular subsection indicates Congressional intent that this Act implement the enforcement of the Interstate Commerce Commission Regulations (49 CFR Part 198), adopted on January 17, 1957 and promulgated as a result of amendments to sections 203(a) and 204(a) of the Interstate Commerce Act (49 U.S.C. 303(a) and 304(a)). Under section 204(a), the Interstate Commerce Commission is empowered to establish for carriers of migrant workers by motor vehicles reasonable requirements with respect to comfort of passengers, qualifications and maximum hours of service of operators and safety of operation and equipment. Such requirements may be made applicable only in the case of transportation of migrant workers for a total distance of more than 75 miles across State or international boundary lines. In the exercise of the authority, the Commission has promulgated special regulations for carriers of migrant workers in motor vehicles, other than passenger automobiles and station wagons. These regulations prescribe minimum qualifications of drivers and safe driving practices comparable to those applicable to common and contract carriers generally subject to regulation by the Commission. Carriers of less than three migrant workers at any one time are not included within the term "carrier of migrant workers by motor vehicle" as defined in said regulations.

(1) The regulations do establish minimum standards for the comfort of passengers and for parts and accessories necessary for safe operation, hours of service of drivers, and inspection and maintenance. Whenever a vehicle is found to be in a mechanical condition which renders its continued operation imminently hazardous in the sense that accident or mechanical failure is likely, the vehicle is ordered "out of service" until the necessary repairs are accomplished.

(2) The resulting 1957 regulations, pertaining to the Interstate transportation of migrant workers, therefore, expressly excluded common carriers from their coverage. These are the only regulations referred to in section 5(b)(8) of the Act. Congress did not intend to require a person, engaged solely as a common carrier or contract carrier in the transportation of migrant workers in interstate commerce, to obtain a Certificate of Registration. (See Senate Report No. 202 on S. 524, 88th Congress, 1st Session, dated May 27, 1963, stating as follows: "Common carriers or contract carriers insofar as their activities are subject to the certificate or permit requirements of the Interstate Commerce Act are not intended to be within the purview of this requirement.")

(h)

(9) Knowingly employs or continues to employ any person to whom subsection (b) of section 4 of this Act applies who has taken any action, except for that listed in paragraph 5 of this subsection, which could be used by the Secretary under this subsection to refuse to issue a certificate of registration.

This language puts the farm labor contractor on notice against employing or continuing to employ a full-time or regular employee where he has knowledge that such employee has committed or has omitted such acts, except for failure to show financial responsibility or maintain prescribed insurance coverage, which would render a person ineligible for a certificate of registration under section 5(b) of the Act.

(i) In view of section 4(b) of the Act, providing that the provisions of the Act and regulations prescribed thereunder shall apply to a full-time or regular employee to the same extent as if he were required to obtain a certificate of registration in his own name, the foregoing would be applicable for purposes of refusing to issue or for purposes of revoking or suspending a farm labor contractor identification card.

§ 41.22 Responsibilities of the farm labor contractor and full-time or regular employee.

(a) Under section 6 of the Act, the farm labor contractor assumes the following obligations, among others: (1) To keep on his person the certificate of registration and to exhibit it, prior to dealing, to all persons with whom he may deal as a farm labor contractor; (2) to ascertain and to disclose, to the best of his knowledge and belief, to each worker at the time of his recruitment, the area of employment, the crops and operation on which he may be employed, the transportation, housing and insurance to be provided, the wage rates to be paid and the contractor's charges for his services; (3) to post in a conspicuous place, upon arrival at the employment situs, a statement of working conditions; and (4) to post in a conspicuous place a statement of conditions of occupancy, in the event the contractor either manages, supervises, or otherwise controls the housing facilities.

(b) Where a contractor pays the migrant worker engaged in interstate agricultural employment, either on his own behalf or on behalf of another person, such contractor is required, pursuant to section 6(e) of the Act and with respect to those migrant workers, to provide them with each of the following for each payroll period: (1) All wage data required for computing earnings, either on a time or piece rate basis, whichever is applicable; (2) a statement of all sums paid to the contractor on account of the labor of such migrant worker and sums received on behalf of such migrant worker; and (3) an itemized statement showing all sums withheld by the contractor from the amount he received on account of the labor of such worker and the purposes for which the sums have been withheld.

(c) Sums paid to the contractor, "on account of the labor of such migrant worker," include, but are not limited to, social security payments, wages, production bonus, profit sharing payments, and payments for room, board and transportation, if any. Such sums, however, do not include monies paid to the contractor for services performed independently of his capacity as a farm labor contractor, e.g., as an office worker, as a mechanic, as a supervisor, or in some other type of job.

(d) The language, "including sums received on behalf of such migrant worker," embraces, but is not limited to, housing and cafeteria payments where such facilities are supplied by the contractor or some person in his behalf and payment for travel expenses.

(e) The itemized statement, showing all sums withheld by the contractor and the purposes for which such separate sums may be withheld, should include, but is not limited to, such items as social security, withholdings for federal and state income taxes, travel costs, charges for room and board, credit purchases at the employer's commissary and union dues or membership fees.

(f) Failure of the farm labor contractor or his full-time or regular employee to comply with the obligations discussed in paragraphs (a) and (b) of this section and with those cited in § 40.10 of this title may be the basis for refusal to issue or renew or for revocation or suspension of a certificate of registration or a farm labor contractor identification card.

Signed at Washington, D.C., this 27th day of February 1965.

ROBERT C. GOODWIN,
Administrator,
Bureau of Employment Security.

[F.R. Doc. 65-2356; Filed, Mar. 5, 1965; 8:47 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS RELATING TO PARKS AND MONUMENTS

Glacier National Park, Mont.; Fishing

On page 6348 of the FEDERAL REGISTER of May 14, 1964, there was published a notice and text of a proposed amendment to Part 7 of Title 36, Code of Federal Regulations. The purpose of this amendment is to allow fishing under conditions which conform, insofar as possible, with State laws and regulations.

Interested persons were given thirty days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. There have been no comments, suggestions or objections; therefore, it has been determined that the amendment should be and is hereby adopted, as set forth below. The final publication of this amendment has been delayed to avoid a change in fishing regulations during the normal visitor season. This amendment shall become effective thirty days after publication in the FEDERAL REGISTER.

Paragraphs (a), (b), and (c) of § 7.3 are amended to read as follows:

§ 7.3 Glacier National Park.

(a) *Fishing; open season.* All waters within the Park are open to fishing in conformance with the State of Montana opening date for high mountain streams and shall close at 10:00 p.m., on October 15, subject to the following exceptions and restrictions:

* * * * *

(6) Hidden Lake, Logging Creek from the head of Logging Lake and including Grace Lake, and Quartz Creek between Lower Quartz Lake and Quartz Lake shall be open to fishing from July 1 to October 15, inclusive.

* * * * *

(8) Kintla Creek between Kintla Lake and Upper Kintla Lake shall be open to fishing from July 1 to August 31, inclusive.

(9) Nyack Creek and Ole Creek shall be open to fishing from the opening date of the general Park fishing season to August 31, inclusive.

(b) *Fishing, limit of catch and in possession.* (1) The limit of catch per fisherman per day shall be ten (10) pounds of fish (dressed weight with heads and tails intact) and one fish, not exceeding a total of ten (10) fish, except that two legal-size fish may be in possession without regard to weight limitation. There is no size limitation on fish that can be retained, except Dolly Varden (bull trout) which must be at least eighteen (18) inches in length with head and tail intact.

* * * * *

(c) *Fishing; bait; license.* * * *

(2) The possession or use for bait of any live or dead fish eggs, fish or any part thereof, or the placing or depositing of fish eggs, fish roe, food or other substances in the waters for the purpose of attracting, feeding, or collecting fish is prohibited: Except, that dead salmon eggs may be used as bait in conformance with the laws of the State of Montana.

* * * * *

(4) The snagging of fish by any method is prohibited.

* * * * *

(60 Stat. 238; 5 U.S.C. 1003; 39 Stat. 535; 16 U.S.C. 3)

KEITH NEILSON,
Superintendent,
Glacier National Park.

[F.R. Doc. 65-2357; Filed, Mar. 5, 1965; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Ch. I]

[327.1]

FLUORSPAR IMPORTED IN RAILROAD CARS

Proposed Method of Analyzing

When a consignment of fluorspar, consisting of multiple cars in a railroad train, is shipped from one supplier to one consignee, the method of analysis employed by the Bureau of Customs has been to take a test sample from each car and to classify the contents of each car for customs purposes on the basis of the laboratory test of the sample taken from the car.

It has been determined that, under the circumstances described, assays of samples of each individual railroad car are not required for tariff classification or other customs purposes. Therefore, notice is hereby given that under the authority of general headnote 12 of the Tariff Schedules of the United States (19 U.S.C. Title 1), it is proposed to revise the method of analyzing such fluorspar. It is proposed that customs shall continue to take samples from each car of a multiple car shipment of fluorspar from one consignor to one consignee, but such samples will be composited on the basis of the dry weights of the fluorspar in the cars to arrive at a final sample the chemical composition of which, as determined by laboratory tests, will be used to classify the importation under the provisions of the Tariff Schedules of the United States.

This notice is published pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003). Prior to final action on the proposal, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Customs, Washington, D.C., and received within a period of 30 days from the date of the publication of this notice in the FEDERAL REGISTER.

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

Approved: February 26, 1965.

JAMES A. REED,
Assistant Secretary of the Treasury.

[F.R. Doc. 65-2367; Filed, Mar. 5, 1965; 8:47 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 71]

[Airspace Docket No. 65-SW-4]

FEDERAL AIRWAY

Proposed Alteration

The Federal Aviation Agency is considering an amendment to Part 71 of the Federal Aviation Regulations that would realign VOR Federal airway No. 83, in part, from Santa Fe, N. Mex., direct to Alamosa, Colo.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, Post Office Box 1689, Fort Worth, Tex., 76101. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C., 20553. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed realignment, based upon the small number of aircraft using this airway segment, would eliminate the requirement for the Taos, N. Mex., VOR in the description of the pertinent segment of V-83. The air-ground communications contacts normally handled through the Taos VOR by the Santa Fe Flight Service Station would be handled through the Alamosa, or Cimarron, N. Mex., VOR outlets controlled by the Trinidad, Colo., Flight Service Station or the Santa Fe Flight Service Station. Elimination of the Taos VOR would require a slight increase in the airway segment MEA from 11,000 feet MSL to 13,000 feet MSL.

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

Issued in Washington, D.C., on March 1, 1965.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-2344; Filed, Mar. 5, 1965; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65-WA-1]

FEDERAL AIRWAY

Proposed Designation

The Federal Aviation Agency is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the United States portion of VOR Federal airway No. 316 from Sault Ste. Marie, Mich., direct to the Sudbury, Ontario, VOR which is to be commissioned at latitude 46°37'43" N., longitude 80°47'55" W.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C., 20553. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in the notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments.

The proposed airway was requested by the Canadian Department of Transport to provide a route for VOR-equipped aircraft operating between Sault Ste. Marie and Sudbury.

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

Issued in Washington, D.C., on March 1, 1965.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-2345; Filed, Mar. 5, 1965; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65-EA-6]

TRANSITION AREA

Proposed Designation

The Federal Aviation Agency is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations which would establish a 700-foot transition area over North Central State Airport, Smithfield, R.I.

The controlled airspace presently designated in the Smithfield, R.I., terminal area is composed of the Province, R.I., transition area (29 F.R. 17692), the Boston, Mass., Control Area Extension (29 F.R. 17559). There is a proposed Boston, Mass., 1,200-foot transition area (64-EA-41).

The proposed 700-foot transition area would provide protection to aircraft executing prescribed instrument approach procedures down to 700 feet above ground level and executing prescribed instrument departure procedures above 700 feet above ground level.

The floors of airways which traverse the transition area proposed herein would coincide with the floor of the transition area.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, Federal

Building, John F. Kennedy International Airport, Jamaica, N.Y., 11430. All communications received within 45 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Branch, Eastern Region.

Any data, or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Agency, having completed a review of terminal airspace requirements for Smithfield, R.I., proposes the airspace action hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700-foot Smithfield, R.I., Transition Area described as follows:

SMITHFIELD, R.I.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°55'21" N., 71°29'30" W. of North Central State Airport, Smithfield, R.I., and within 2 miles east and 5 miles west of the Providence, R.I., VOR 347° radial extending from the 5-mile radius to the VOR, excluding the portion that overlaps the Providence 700-foot transition area.

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

Issued in Jamaica, N.Y., on February 19, 1965.

WAYNE HENDERSHOT,
Deputy Director,
Eastern Region.

[F.R. Doc. 65-2346; Filed, Mar. 5, 1965; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65-EA-8]

TRANSITION AREAS

Proposed Designation

The Federal Aviation Agency is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations which would designate a 700-foot transition area over Rhea Airport, Clarion, Pa., and a 1,200-foot Clarion, Pa., Transition Area.

The controlled airspace in the Clarion terminal area is presently composed of portions of the Pittsburgh, Pa., Control Area Extension (29 F.R. 17574) and the Youngstown, Ohio, 1,200-foot Transition Area (29 F.R. 17706).

The proposed designations will provide protection for aircraft executing prescribed holding procedures and for aircraft executing instrument approach procedures down to 700 feet above ground level and departure procedures above 700 feet above ground level.

The floors of airways which traverse the transition areas proposed herein would coincide with the floors of the transition areas.

Specific details of the changes to procedures and minimum flight rules altitudes that would be required may be examined by contacting the Chief, Airspace Branch, Air Traffic Division, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y., 11430.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y., 11430. All communications received within 45 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Branch, Eastern Region.

Any data, or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Agency, having completed a comprehensive review of the airspace requirements for the terminal area of Clarion, Pa., attendant to the implementation of the provisions of Civil Air Regulation amendments 60-21 and 60-29 (26 F.R. 570, 27 F.R. 4012), proposes the airspace actions hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700- and 1,200-foot Clarion, Pa., Transition Area described as follows:

CLARION, PA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°14'22" N., 79°25'54" W. of Rhea Airport, Clarion, Pa., and within 2 miles each side of the Clarion VOR 016° radial extending from the 5-mile radius area to the VOR. This transition area is effective from sunrise to sunset, daily.

That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 41°17'00" N., 79°15'00" W. to 41°03'00" N., 79°15'00" W. to 40°55'00" N., 78°28'00" W. to 40°55'00" N., 78°38'00" W. to a point on the Imperial VOR 37-mile arc at 40°33'00" N. thence counterclockwise along this arc to 80°08'00" W. to the Clarion VOR to the point of beginning.

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

Issued in Jamaica, N.Y. on February 19, 1965.

WAYNE HENDERSHOT,
Deputy Director,
Eastern Region.

[F.R. Doc. 65-2347; Filed, Mar. 5, 1965; 8:46 a.m.]

[14 CFR Part 75]

[Airspace Docket No. 65-EA-9]

JET ROUTE SEGMENT

Proposed Revocation

The Federal Aviation Agency is considering an amendment to Part 75 of the Federal Aviation Regulations that would revoke the segment of Jet Route No. 47 from Spartanburg, S.C., via Lexington, Ky., to Dayton, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y., 11430. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C., 20553. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The fiscal year 1964 IFR peak-day traffic survey indicates insufficient use of the jet route segment, proposed for revocation, to justify its continued designation.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on March 1, 1965.

H. B. HELSTROM,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-2348; Filed, Mar. 5, 1965; 8:46 a.m.]

[14 CFR Part 75]

[Airspace Docket No. 65-WA-13]

JET ROUTE

Proposed Designation

The Federal Aviation Agency is considering an amendment to Part 75 of the Federal Aviation Regulations that would designate a jet route segment between Fort Dodge, Iowa, and Mason City, Iowa.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to

the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C., 20553. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in the notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments.

At present, scheduled air-carrier aircraft operating via jet routes between Los Angeles, Calif., and Milwaukee, Wis., normally proceed via Jet Route No. 60 to Denver, Colo., Jet Route No. 30 to Sioux Falls, S. Dak., and Jet Route No. 16 to Milwaukee, Wis. The proposed jet route from Fort Dodge to Mason City would permit operation from O'Neill, Nebr., via Jet Route No. 94 and the route proposed herein to Mason City, thence via Jet Route No. 16 to Milwaukee, thereby reducing the jet route distance between Los Angeles and Milwaukee by 21 miles.

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

Issued in Washington, D.C., on March 1, 1965.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-2349; Filed, Mar. 5, 1965; 8:46 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 545]

PIECE RATES IN PUERTO RICO

Notice of Proposed Rule Making

Pursuant to section 6(a)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(2)), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and General Order No. 45–A of the Secretary of Labor (15 F.R. 3290), I hereby propose to revise Schedules A and B of 29 CFR 545.13 by increasing the piece rates appearing thereon commensurate with increases in the minimum hourly wage rates now applicable under the wage orders issued in accordance with the recommendations of Industry Committees Nos. 68–A, 68–B, and 69–C for Puerto Rico (29 F.R. 17811; 30 F.R. 219).

Any person interested in this proposal may file a written statement of data, views, or argument regarding it with the Administrator of the Wage and Hour and Public Contracts Divisions, U.S. Department of Labor Building, 14th Street and Constitution Avenue NW., Washington, D.C., 20210, within 15 days after this notice is published in the FEDERAL REGISTER.

The proposed revised schedules read as follows:

§ 545.13 Piece rates established in accordance with § 545.9.

SCHEDULE A—PIECE RATE SCHEDULE FOR THE WOMEN'S AND CHILDREN'S UNDERWEAR AND WOMEN'S BLOUSE INDUSTRY AND THE CHILDREN'S DRESS AND RELATED PRODUCTS INDUSTRY IN PUERTO RICO [1]

No.	Operation	Women's and children's underwear and women's blouse industry		Children's dress and related products industry	Unit of payment
		Blouses and neckwear and silk and synthetic underwear and nightwear (1)	Cotton underwear and nightwear (2)	(3)	
		Cents	*Cents*	*Cents*	
1	Arenilla (seed stitch), close, ½" squares	102.00	91.80	96.00	Per dozen squares.
2	Arenilla (seed stitch), scattered, ½" squares	51.00	45.90	48.00	Do.
3	Arrows, filled in, ¼"	25.50	22.95	24.00	Per dozen.
4	Basting bias with cord	28.05	25.25	26.40	Per yard.
5	Basting for fagoting	7.67	6.91	7.22	Do.
6	Basting hems, 1" to 6" wide	[3] 17.00	[3] 15.30	20.30	Do.
7	Basting lace	14.70	13.22	13.83	Do.
8	Basting waist lines, plackets, and facings, 2 to 3 stitches per inch.	[3] 10.63	[3] 9.58	12.71	Do.
9	Bias piping, joined, double, over 10 stitches per inch.	34.00	30.60	32.00	Do.
10	Bias piping, joined, single, over 10 stitches per inch.	42.50	38.25	40.00	Do.
11	Buttons sewed on with double thread, 2 to 3 stitches.	[3] 11.11	[3] 9.99	13.21	Per dozen.
12	Buttonhole, stamped, ⅜" long	[3] 36.66	[3] 33.00	43.73	Do.
13	Buttonhole, stamped, ½" long	[3] 48.73	[3] 43.86	58.25	Do.
14	Buttonhole stitch, close	76.50	68.85	72.00	Per yard.
15	Cord, twisted, over basting	8.50	7.65	8.00	Per dozen inches.
16	Cutting material applied over lace with hand-embroidered solid cord stitch.	11.65	10.48	10.97	Per yard.
17	Hand cutting material over lace applique or other material and at edges of garment following machine embroidered cord, large outline, around scallops measuring 1" or more.	2.04	----------	----------	Do.
18	Hand cutting materials over lace applique or other material and at edges of garment following machine embroidered cord, small outline around scallops measuring less than 1".	4.58	----------	----------	Do.
19	Cutting material under lace or at seams, straight outline, following hand-sewing operation.	4.78	4.31	4.50	Do.
20	Cutting material under lace or at seams, straight outline, following machine operations.	5.62	5.62	5.70	Do.
21	Hand cutting material underneath straight or nearly straight outline.	1.56	----------	----------	Do.
22	Hand cutting material underneath irregular outline.	2.33	----------	----------	Do.
23	Dots, baby, not finished off, 2 to 3 stitches	7.08	6.38	6.67	Per dozen.
24	Dots, medium, not filled in, finished off, 8 to 9 stitches.	11.22	10.11	10.55	Do.
25	Eyelets, up to ⅛" diameter	18.95	17.06	17.83	Do.
26	Eyelets, 3/16" diameter	34.00	30.60	32.00	Do.
27	Fagoting, straight lines	118.40	106.55	111.43	Per yard.
28	Fagoting, twisted lines	56.67	51.00	53.33	Do.
29	Feather stitch, 12 stitches per inch	56.67	51.00	53.33	Do.
30	Feather stitch cord	29.83	26.84	28.08	Do.
31	Flat roll	[3] 25.78	[3] 23.20	30.73	Do.
32	French knots, not finished off	3.55	3.19	3.33	Per dozen.
33	French seams, first seam by machine, 9 to 12 stitches per inch.	[3] 14.03	[3] 12.64	16.77	Per yard.
34	Furunecos, with tape	127.50	114.75	120.00	Do.
35	Guariquenas	8.50	7.65	8.00	Per dozen.
36	Half roll (with colored or emb. thread)	27.88	25.08	26.25	Per yard.
37	Hemming stitch for felling, 2 to 3 stitches per inch.	[3] 14.88	[3] 13.37	17.74	Do.
38	Hemming stitch for felling, cuffs, collars, plackets, and waist bands, 8 to 10 stitches per inch.	[3] 38.02	[3] 34.23	45.41	Do.
39	Hemstitch, single, 4 threads in a hundle, thread drawing not included.	55.33	49.79	52.08	Do.
40	Lace, sewed on with hemming stitch or round roll.	42.50	38.25	40.00	Do.
41	Leaves, open, ¼" long	34.00	30.60	32.00	Per dozen.
42	Leaves, open, ⅜" to ½" long	51.00	45.90	48.00	Do.
43	Leaves, simple	3.17	2.85	2.99	Do.
44	Leaves, solid, not finished off, ⅛" long	9.33	8.41	8.78	Do.
45	Leaves, solid, not finished off, ¼" long	11.33	10.20	10.67	Do.
46	Leaves, solid, not finished off, ⅜" to ½" long	17.00	15.30	16.00	Do.
47	Leaves, solid, finished off, ⅝" to ¾" long	34.00	30.60	32.00	Do.
48	Loops, knitted, ¼"	10.63	9.58	10.02	Do.
49	Loops, knitted, 1" to 1½"	17.87	16.09	16.82	Do.
50	Loops, made with huttonhole stitch	25.50	22.95	24.00	Do.
51	Overcasting seams	[3] 18.08	[3] 16.26	21.60	Per yard.
52	Pasadas, short, 1" to 8"	----------	7.93	----------	Per dozen pasadas.
53	Patches, sewed on with single point de turc	169.32	152.40	159.35	Per yard.
54	Patches, rectangular, sewed on with blind stitch, up to 1½ inch.	10.69	9.61	10.06	Per dozen inches.
55	Patches, sewed on with solid cord, cutting and hasting included.	166.60	149.94	156.80	Per yard.
56	Point de turc plain, with embroidery thread	49.58	44.62	46.67	Do.
57	Randa, hundles twisted hut not tied, thread drawing not included.	21.25	19.12	20.00	Do.
58	Randa, Don Gonzales, thread drawing not included.	89.25	80.32	84.00	Do.
59	Randa, Mexican, tied at center only, thread drawing not included.	25.50	22.95	24.00	Do.
60	Ribbons, setting ends of	11.65	10.48	10.97	Per dozen.

See footnotes at end of table.

SCHEDULE A—PIECE RATE SCHEDULE FOR THE WOMEN'S AND CHILDREN'S UNDERWEAR AND WOMEN'S BLOUSE INDUSTRY AND THE CHILDREN'S DRESS AND RELATED PRODUCTS INDUSTRY IN PUERTO RICO [1]—Continued

No.	Operation	Women's and children's underwear and women's blouse industry		Children's dress and related products industry	Unit of payment
		Blouses and neckwear and silk and synthetic underwear and nightwear	Cotton underwear and nightwear		
		(1)	(2)	(3)	
		Cents	*Cents*	*Cents*	
61	Rose buds, worm stitch, 4 worms, 1 or 2 colors or tones.	25.25	22.72	23.77	Do.
62	Running stitch on hems up to 1" wide, 12 stitches per inch.	[2] 22.84	[2] 20.55	27.32	Per yard.
63	Running stitch on lace	22.55	20.31	21.24	Do.
64	Running stitch for plain sewing	[2] 15.36	[2] 13.83	18.36	Do.
65	Scallops, plain, cutting included	85.57	77.01	80.53	Do.
66	Shadow stitch, up to 3/8" wide	164.33	147.90	154.67	Do.
67	Shell, 4 to 5 stitches per inch	29.15	26.24	27.43	Do.
68	Shirring, material to be measured before shirring	17.11	15.39	16.11	Do.
69	Shirring and basting lace edging, material to be measured after shirring.	20.57	18.51	19.35	Do.
70	Shirring and setting lace edging with hemming stitch on straight outline, material to be measured after shirring.	36.97	33.26	34.78	Do.
71	Size tickets set with hemming stitch, cutting tickets included.	[2] 17.00	[2] 15.30	20.30	Per dozen inches.
72	Smocking	.70	.62	.67	Per dozen stitches.
73	Snaps, sewing on both sides	[2] 17.00	[2] 15.30	20.30	Per dozen.
74	Solid cord stitch on gores and embroidery	79.90	71.91	75.20	Per yard.
75	Spiders, 4 legs	17.00	15.30	16.00	Per dozen.
76	Spiders, 8 legs	33.23	29.90	31.28	Do.
77	Tacks, set for fagoting	8.50	7.65	8.00	Do.
78	Tucks, stamped, 1/16" to 1/4" wide, up to 6" long.	26.60	23.93	25.03	Do.

[1] See current wage orders for these two industries for definitions of the industries and of the classifications of "hand-sewing", "hand-embroidery", and "other operations", and for applicable minimum hourly wage rates.
[2] Piece rate not applicable when operation is performed on articles which are wholly machine-sewn or machine-knit.

SCHEDULE B—PIECE RATE SCHEDULE FOR THE HANDKERCHIEF, SCARF, AND ART LINEN INDUSTRY IN PUERTO RICO [1]

No.	Operation	Cents	Unit of payment
79	Arenillas (seed stitch), close, 1/4" squares	39.60	Per dozen squares.
80	Arenillas (seed stitch), scattered, 1/2" squares	19.80	Do.
81	Arrows, filled in, 1/4" long	9.90	Per dozen.
82	Basting lace	1.89	Per dozen inches.
83	Basting stitch for trimming, forming crosses, etc., 4 stitches per inch	1.65	Do.
84	Basting and folding hem on edges up to 1 1/2" hem	[2] .66	Do.
85	Blind hemstitch	6.60	Do.
86	Buttonhole stitch, 16 stitches per inch	6.60	Do.
87	Buttonhole stitch, 24 to 30 stitches per inch	9.90	Do.
88	Chain stitch, 4 stitches per inch	1.65	Do.
89	Chain stitch, 8 stitches per inch	3.30	Do.
90	Cord, solid, on stem	10.33	Do.
91	Cord, twisted, over basting	3.30	Do.
92	Cord or embroidery, solid, without filling, up to 1/8" thick [2]	9.90	Do.
93	Couching or flat cord, 4 stitches per inch	1.65	Do.
94	Cross stitch, 6 crosses per inch	7.03	Do.
95	Cut work with buttonhole stitch, 24 to 30 stitches per inch	13.20	Do.
96	Daisies, 12 to 15 stitches, with double embroidery thread	9.90	Per dozen.
97	Diamonds, filled in, 1/4" to 3/4" wide	9.90	Do.
98	Dots, baby, not finished off, 2 to 3 stitches	2.74	Do.
99	Dots, large, not filled in, finished off, 12 stitches	4.95	Do.
100	Dots, large, filled in, finished off, over 12 stitches	9.90	Do.
101	Dots, large, not filled in, finished off, over 12 stitches	6.60	Do.
102	Dots, medium, not filled in, finished off, 8 to 9 stitches	4.35	Do.
103	Dots, medium, in groups, not finished off, 5 stitches, with double embroidery thread.	2.82	Do.
104	Dots, medium, finished off, 5 stitches, with double embroidery thread	3.73	Do.
105	Embroidery, solid, 3/16" to 3/4" thick, averages 28 stitches per inch [2]	13.20	Per dozen inches.
106	Embroidery, solid, straight or diagonal, same as image stitch, filled in, loose	13.20	Do.
107	Embroidery, solid, straight or diagonal, same as image stitch, not filled in, loose.	9.90	Do.
108	Eyelets, 1/4" diameter	7.36	Per dozen.
109	Feather stitch, 12 stitches per inch	7.34	Per dozen inches.
110	Feather stitch cord	3.87	Do.
111	Flat hems without pasada	[2] 3.43	Do.
112	French knots, not finished off	1.38	Per dozen.
113	French knots, finished off, with double embroidery thread	2.64	Do.
114	Guariquenas	3.30	Do.
115	Hand or French rolling, 10 stitches or less per inch:		
	(a) Square scarves	9.83	Per 48 inches.
	(b) Oblong scarves	21.77	Do.
116	Hand or French rolling, 11 stitches or more per inch	11.21	Do.
117	Hand-rolling one side of a corner. The piece rate shall apply under the following conditions:		
	(a) The machine-stitching runs to the end on one side of each corner; and on the other side, the space left open for hand-rolling at the corner is not less than 1/4" nor more than 1"; and	22.01	Per dozen handkerchiefs.
	(b) Only one side of each corner is hand-rolled; and the hand-rolling is not longer than 1".		
118	Hand-rolling both sides of a corner. The piece rate shall apply under the following conditions:		
	(a) The machine-stitching does not run to the end of either side of any corner; and the space left open for hand-rolling at each side of the corners is not less than 1/4" nor more than 1"; and		
	(b) Both sides of the corners are hand-rolled; but the hand-rolling is not longer than one inch on either side of any corner.	43.99	Do.
119	Hand-rolling both sides of a corner. The piece rate shall apply under the following conditions:		
	(a) The machine-stitching runs to the end on one side of each corner; and on the other side, the space left open for hand-rolling at the corner is not less than 1/4" nor more than 1"; and		
	(b) Both sides of the corners are hand-rolled; but the hand-rolling is not longer than two inches on any corner.	55.01	Do.
120	Hemstitch, single, 4 threads in a bundle, thread drawing not included	7.17	Per dozen inches.
121	Initials, simple, with hoops	33.00	Do.
122	Initials, simple, without hoops	20.46	Do.
123	Lace, joined at corners with hemming stitch	9.90	Do.
124	Leaves, simple	1.23	Per dozen.
125	Leaves, solid, not finished off, 1/4" long	4.39	Do.
126	Leaves, solid, not finished off, 3/8" to 1/2" long	6.60	Do.
127	Leaves, solid, not finished off, 3/8" to 3/4" long	13.20	Do.
128	Loops, made with worm stitch, 1/4"	2.21	Do.
129	Pasadas, 11" x 11" to 14", linen up to 1600 count, inclusive	6.60	Per dozen pasadas.
130	Pasadas, 11" x 11" to 14" x 14", linen 1700 count and over	9.24	Do.
131	Pasadas, 15" x 15", linen up to 1600 count, inclusive	11.22	Do.
132	Pasadas, 15" x 15", linen 1700 count and over	13.86	Do.
133	Pasadas, 16" x 16" to 20" x 20" linen up to 1400 count inclusive	15.84	Do.
134	Pasadas, short, 1" to 7", linen up to 1600 count inclusive	[2] 3.43	Do.
	Pasadas, short		
135	Cambric, 1" to 10"	6.60	Do.
136	Crash, 1" to 10"	4.95	Do.
137	Cambric, 10 1/2" to 18"	13.20	Do.
138	Crash, 10 1/2" to 18"	9.90	Do.
139	Patches, circular, sewed on with hemming stitch, cutting included	7.22	Per dozen inches.
140	Patches, irregular outline, sewed on with hemming stitch, cutting included	12.58	Do.
141	Patches, irregular outline, sewed on with blind stitch, up to 4"	9.24	Do.
142	Patches, irregular outline, sewed on with blind stitch, over 4"	4.70	Do.
143	Patches, rectangular, sewed on with hemming stitch, cutting included	5.93	Do.
144	Randa, Don Diego, thread drawing not included	14.85	Do.
145	Randa, Mexican, tied at center only, thread drawing not included	3.30	Do.
146	Randa, simple, not stitched at either side, thread drawing not included	2.50	Do.
147	Rose buds, worm stitch, 4 worms, 2 colors or tones	9.80	Per dozen.
148	Scallops, plain, cutting included	11.08	Per dozen inches.
149	Shadow stitch, up to 3/8" wide	21.26	Do.
150	Spiders, 4 legs	6.60	Per dozen.
151	Spiders, 8 legs	12.91	Do.

See footnotes at end of tables.

SCHEDULE B—PIECE RATE SCHEDULE FOR THE HANDKERCHIEF, SCARF, AND ART LINEN INDUSTRY IN PUERTO RICO [1]—Continued

No.	Operation	Cambric (1)	Crash (2)	Unit of payment
	Thread drawing			
	Art linens, first thread, not coming out at edge:			
152	Stamped 1" to 10"	2.36		Per dozen threads.
513	Not stamped 1" to 10"	2.94	1.75	Do.
	Art linens, unstamped, first thread, all-around, not coming out at edge:			
154	Doilies 12" x 18"	13.19	10.74	Per dozen pieces.
	Napkins:			
155	12" x 12"	10.55	8.94	Do.
156	15" x 15"	13.19	10.74	Do.
157	18" x 18"	15.83	12.40	Do.
	Scarves:			
158	17" x 36"	23.29	16.69	Do.
159	17" x 45"	27.25	18.82	Do.
160	17" x 54"	31.21	20.89	Do.
	Squares:			
161	36" x 36"	31.67	21.11	Do.
162	45" x 45"	39.56	25.09	Do.
163	54" x 54"	47.48	29.32	Do.
	Art linens, unstamped, first thread at one end, coming out at both edges:			
	Towels:			
164	9" x 15"		1.66	Do.
165	15" x 24"		2.41	Do.
166	18" x 30"		2.77	Do.
167	Art linens, after first thread		(3)	

No.	Operation	Cents	Unit of payment
	Thread drawing		
	Ladies handkerchiefs:		
168	First thread around edge, cotton or linen, up to 1600 count inclusive	3.30	Per dozen threads.
169	First thread, inside, cotton or linen, up to 1600 count inclusive	4.14	Do.
170	After first thread (for example, for hemstitching)	(3)	
171	First thread around edge, linen up to 1500 count inclusive, 16" x 16" to 20" x 20".	4.95	Do.
172	First thread around edge, linen 1600 count and over, 16" x 16" to 20" x 20"	5.79	Do.
173	First thread, inside, linen up to 1500 count inclusive, 16" x 16" to 20" x 20"	5.79	Do.
174	First thread, inside, linen 1600 count and over, 16" x 16" to 20" x 20"	6.60	Do.
175	After first thread (for example, for hemstitching)	(3)	

See footnotes at end of tables.

SCHEDULE B—PIECE RATE SCHEDULE FOR THE HANDKERCHIEF, SCARF, AND ART LINEN INDUSTRY IN PUERTO RICO [1]—Continued

	Operation		
	No. 176	No. 177	No. 178
	Half roll, cambric and crash, at 3.60 cents per dozen inches	Hand or French rolling, 10 stitches or less per inch, cambric, and crash, at 2.34 cents per dozen inches	Hemming stitch over pasada, measuring all around edge: Cambric at 2.21 cents per dozen inches [2]
		(Payment per dozen)	
Doilies:			
8" x 16"	$1.73	$1.12	$1.05
10" x 14"	1.73	1.12	1.05
12" x 18"	2.16	1.40	1.32
Napkins:			
12" x 12"	1.73	1.12	1.05
15" x 15"	2.16	1.40	1.32
18" x 18"	2.59	1.68	1.59
Table scarves:			
17" x 36"	3.82	2.47	2.34
17" x 45"	4.47	2.89	2.73
17" x 54"	5.11	3.31	3.12
Squares:			
36" x 36"	5.19	3.36	3.17
45" x 45"	6.49	4.20	3.96
54" x 54"	7.78	5.05	4.76
Table cloths:			
54" x 72"	9.07	5.89	5.55
72" x 72"	10.38	6.73	6.35
72" x 90"	11.68	7.56	7.13

	Operation		
	No. 179	No. 180	No. 181
	Hemming stitch over pasada, measuring all around edge: Crash, at 2.07 cents per dozen inches [2]	Second seams, for separate borders, measuring all around edge: Cambric, at 2.21 cents per dozen inches [2]	Second seams, for separate borders, measuring all around edge: Crash, at 2.07 cents per dozen inches [2]
		(Payment per dozen)	
Doilies:			
8" x 16"	$0.99	$1.05	$0.99
10" x 14"	.99	1.05	.99
12" x 18"	1.24	1.32	1.24
Napkins:			
12" x 12"	.99	1.05	.99
15" x 15"	1.24	1.32	1.24
18" x 18"	1.48	1.59	1.48
Table scarves:			
17" x 36"	2.20	2.34	2.20
17" x 45"	2.56	2.73	2.56
17" x 54"	2.93	3.12	2.93
Squares:			
36" x 36"	2.98	3.17	2.98
45" x 45"	3.72	3.96	3.72
54" x 54"	4.47	4.76	4.47
Table cloths:			
54" x 72"	5.22	5.55	5.22
72" x 72"	5.95	6.35	5.95
72" x 90"	6.70	7.13	6.70

SCHEDULE B—PIECE RATE SCHEDULE FOR THE HANDKERCHIEF, SCARF, AND ART LINEN INDUSTRY IN PUERTO RICO [1]—Continued

	Operation	
	No. 182	No. 183
	Second seams, for separate borders, with French corners, measuring all around edge: Cambric, at 2.47 cents per dozen inches [2]	Second seams, for separate borders, with French corners, measuring all around edge: Crash, at 2.21 cents per dozen inches [2]
	(Payment per dozen)	
Doilies:		
8" x 16"	$1.19	$1.05
10" x 14"	1.19	1.05
12" x 18"	1.48	1.32
Napkins:		
12" x 12"	1.19	1.05
15" x 15"	1.48	1.32
18" x 18"	1.79	1.59
Table scarves:		
17" x 36"	2.63	2.34
17" x 45"	3.07	2.73
17" x 54"	3.52	3.12
Squares:		
36" x 36"	3.57	3.17
45" x 45"	4.45	3.96
54" x 54"	5.36	4.76
Table cloths:		
54" x 72"	6.24	5.55
72" x 72"	7.13	6.35
72" x 90"	8.03	7.13

No.	Operation	Cents	Unit of payment
	Scallop cutting		
	Hand-cutting machine-embroidered, shallow, curved scallops on handkerchiefs or square scarves:		
184	Small, measuring from 5/16" up to but not including 5/8", along outside edge.	31.24	Per dozen scallops.
185	Medium, measuring from 5/8" up to but not including 7/8", along outside edge.	39.33	Do.
186	Large, measuring from 7/8" to and inclusive of 1¼", along outside edge...	59.00	Do.
	Needlepoint operations [6] [7]		
187	Compact florals, figures and landscapes	34.32	Per 1,000 stitches.
188	Scattered florals	36.76	Do.
189	Scattered florals consisting of borders or garlands only	39.60	Do.
190	Combinations of compact center and scattered borders in which the compact portion totals 45 percent or more of the total design.	36.96	Do.
191	Combinations of compact center and scattered borders in which the compact portion totals less than 45 percent of the entire design.	39.60	Do.
192	2.64 cents must be added to the above piece rates to cover thumb-tack mounting on frame for each piece of canvas.	----------	
	Employers using other methods must set individual rates for mounting and removing canvas in accordance with Section 545.10.	----------	

[1] See current wage order for this industry for definition of the industry and of the classification of "hand-sewing" and "other operations", and for applicable minimum hourly wage rates.

[2] Piece rate not applicable when operation is performed on articles which are otherwise wholly machine-sewn.

[3] These piece rates have been set on the basis of O.N.T. thread No. 5, corded, which averages 28 stitches per inch of solid cord. If corded threads are used which are not so thick, the rate should be increased in proportion to the increase in the number of stitches per inch. If corded thread No. 11 is used, 15 percent must be added to the piece rates established for thread No. 5.

[4] For each additional count of 100, add 1.32 cents.

[5] For second and third threads, 20 percent of rate for first thread; for additional threads, 15 percent of rate for first thread.

[6] *Exceptions.* These piece rates do not apply to the following types of needlepoint. For these and all other varieties of needlepoint not covered by the schedule and definitions, piece rates must be set by employers in accordance with Regulation 545.10.

a. Florals having more than 10,000 stitches.
b. Florals having more than 36 color tones.
c. Figures and landscapes having more than 3,000 stitches.
d. Figures and landscapes having more than 25 color tones.
e. Petit Point.
f. Stamped grospoint.

[7] *Definitions.* (a) A scattered design is one in which 50 percent or more of the component parts, when finished, are separated by spaces of unsewn canvas. (b) A compact design is one in which 50 percent or more of the finished piece contains no spaces of unsewn canvas.

(Sec. 6, 52 Stat. 1062; 29 U.S.C. 206)

Signed at Washington, D.C., this 26th day of February 1965.

CLARENCE T. LUNDQUIST,
Administrator.

[F.R. Doc. 65-2276; Filed, Mar. 5, 1965; 8:45 a.m.]

Notices

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

AMDAL CO. AND BLATCHFORD CALF MEAL CO.

Notice of Filing of Petitions for Food Additives Erythromycin, Diethylstilbestrol

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that petitions (FAPs 5D1635, 5D1646) have been filed by AMDAL Co., Agricultural Division, Abbott Laboratories, North Chicago, Ill., 60064, and Blatchford Calf Meal Co., 2 East Madison Street, Waukegan, Ill., proposing an amendment to § 121.241 of the food additive regulations to provide for the safe use of erythromycin and diethylstilbestrol in beef cattle feed by adding a new entry under item 1 in the table of paragraph (b) as follows:

Principal ingredient	Amount	Combined with—	Amount	Limitations	Indications for use
	Mg. per head per day		*Mg. per head per day*		
Diethylstilbestrol...	10	Erythromycin...	37–60	For growing beef cattle: Not to be fed to dairy or breeding cattle: Withdraw 48 hours before slaughter; as erythromycin thiocyanate.	Growth promotion and feed efficiency.

Dated: February 26, 1965.

MALCOLM R. STEPHENS,
Assistant Commissioner for Regulations.

[F.R. Doc. 65–2373; Filed, Mar. 5, 1965; 8:47 a.m.]

NORTHWESTERN MALT AND GRAIN CO.

Notice of Filing of Petition for Food Additive Potassium Bromate

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 5A1690) has been filed by Northwestern Malt and Grain Co., 375 Grain Exchange, Minneapolis 15, Minn., proposing the issuance of a regulation to provide for the safe use of potassium bromate, calculated as bromide, in the malting of barley used in the production of fermented malt beverages and distilled spirits. Tolerances are proposed as follows:

7.5 parts per million in fermented malt beverages.
Zero in distilled spirits.

Dated: March 1, 1965.

MALCOLM R. STEPHENS,
Assistant Commissioner for Regulations.

[F.R. Doc. 65–2374; Filed, Mar. 5, 1965; 8:48 a.m.]

CHAS. PFIZER & CO., INC.

Notice of Withdrawal of Petition for Food Additives Oxytetracycline and Oleandomycin

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Chas. Pfizer & Co., Inc., 235 East 42d Street, New York 17, N.Y., has withdrawn its petition (FAP 2D0630), published in the FEDERAL REGISTER of February 20, 1963 (28 F.R. 1592), proposing the issuance of a regulation to provide for the safe use of a swine feeding supplement containing not more than 90 grams per ton total antibiotic activity in a ratio of one part oleandomycin to four parts oxytetracycline, for free-choice feeding for growth promotion and feed efficiency.

The withdrawal of this petition is without prejudice to a future filing.

Dated: March 1, 1965.

MALCOLM R. STEPHENS,
Assistant Commissioner for Regulations.

[F.R. Doc. 65–2375; Filed, Mar. 5, 1965; 8:48 a.m.]

PICKLE PACKERS INTERNATIONAL, INC.

Notice of Filing of Petition Regarding Food Additive

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 5A1694) has been filed by Pickle Packers International, Inc., 430 South Second Street, St. Charles, Ill., proposing an amendment to § 121.1146 *White mineral oil* to provide for the safe use of white mineral oil as a float on brine used in the manufacture of pickles.

Dated: March 1, 1965.

MALCOLM R. STEPHENS,
Assistant Commissioner for Regulations.

[F.R. Doc. 65–2376; Filed, Mar. 5, 1965; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50–34]

WESTINGHOUSE ELECTRIC CORP.

Notice of Issuance of Facility License Amendment

Please take notice that the Atomic Energy Commission has issued, effective as of the date of issuance, Amendment No. 13, set forth below, to Facility License No. CX–6, authorizing operation until March 31, 1975, of the Critical Reactor Experiment (CRX) Facility located at the Westinghouse Reactor Evaluation Center (WREC) near Waltz Mill in Westmoreland County, Pa.

The term of Facility License No. CX–6, as originally issued, has previously been extended to April 17, 1961, and March 31, 1965. Westinghouse Electric Corp. filed an application dated February 15, 1965, for renewal of the license for a ten-year period. No change in operating conditions is involved.

The Commission has found that:

1. The application for amendment complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;

2. Prior public notice of proposed issuance of this amendment is not required since the amendment does not involve significant hazards considerations different from those previously evaluated;

3. The issuance of this license amendment will not be inimical to the common defense and security or to the health and safety of the public.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the licensee may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice, 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see the application for renewal, a copy of which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 2d day of March 1965.

For the Atomic Energy Commission.

ROGER S. BOYD,
Chief, Research and Power Reactor Safety Branch, Division of Reactor Licensing.

[License No. CX–6; Amdt. 13]

1. Pursuant to the application dated February 15, 1965, License No. CX–6, as amended, which authorizes Westinghouse Electric Corp. to possess and operate the Critical Reactor Experiment (CRX) Facility located near Waltz Mill in Westmoreland County, Pa., is hereby further amended as follows:

A. Paragraph 5 is amended to read:

5. This license is effective as of the date of issuance and shall expire March 31, 1975.

2. This amendment is effective as of the date of issuance.

Date of issuance: March 2, 1965.

For the Atomic Energy Commission.

ROGER S. BOYD,
Chief, Research and Power Reactor Safety Branch, Division of Reactor Licensing.

[F.R. Doc. 65–2377; Filed, Mar. 5, 1965; 8:48 a.m.]

[Docket No. 50–30]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice of Proposed Issuance of Operating License

Notice is hereby given pursuant to section 189 of the Atomic Energy Act of 1954, as amended, § 50.58 of 10 CFR Part 50, and § 2.105 of 10 CFR Part 2, that unless a request for a hearing is filed with the United States Atomic Energy Commission by the National Aeronautics and Space Administration ("NASA") or a petition for leave to intervene is filed by any person whose interest may be affected, as provided by and in accordance with the Commission's rules of practice, 10 CFR Part 2, within 30 days after publication of this notice in the FEDERAL REGISTER, the Commission proposes to issue a full-term operating license substantially as set forth below to NASA for the Plum Brook Reactor located near Sandusky, Ohio.

NASA has operated the Plum Brook Reactor under Provisional Operating License No. TR–3, issued on March 14, 1961.

The Commission has found that:

(1) The application complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;

(2) NASA is technically and financially qualified to engage in the proposed activities in accordance with the Commission's regulations and to assume financial responsibility for payment of Commission charges for special nuclear material;

(3) There is reasonable assurance that the activities authorized by this license can be conducted without endangering the health and safety of the public and such activities will be conducted in compliance with the rules and regulations of the Commission;

(4) The issuance of this license will not be inimical to the common defense and security or to the health and safety of the public.

The proposed full-term operating license incorporates the Technical Specifications contained in Appendix A to Provisional Operating License No. TR–3, including Changes Nos. 1 through 16 thereto issued by the Commission, plus (1) revised paragraphs M and N.5 relating to experimental facilities and administrative controls, and (2) a revised specification for the maximum allowable leakage rate for the containment vessel as requested by NASA in its Change Report No. 25 dated July 22, 1964, and identified in Docket No. 50–30 as Change No. 17.

For further details with respect to this proposed license, see (1) NASA's request for issuance of full-term license dated January 10, 1964, (2) the report of the Advisory Committee on Reactor Safeguards dated February 19, 1964, (3) a related Hazards Analysis prepared by the Test and Power Reactor Safety Branch of the Division of Reactor Licensing, and (4) the Technical Specifications to be incorporated in the license, all of which are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of items (2) and (3) may be obtained in the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington, D.C., 20545, Attention, Director, Division of Reactor Licensing.

Dated: March 2, 1965.

For the Atomic Energy Commission.

E. G. CASE,
Acting Director, Division of Reactor Licensing.

[License No. TR–3]

1. This license applies to the utilization facility consisting of a heterogeneous light water-cooled and -moderated research and testing reactor (hereinafter referred to as the "reactor") of the National Aeronautics and Space Administration (hereinafter referred to as "NASA"), an independent agency of the United States Government, located at the NASA Plum Brook Reactor Facility (hereinafter referred to as the "facility") near Sandusky, Ohio.

2. Subject to the conditions and requirements incorporated herein, the United States Atomic Energy Commission (hereinafter referred to as the "Commission") hereby licenses NASA:

a. To possess and use the reactor as a utilization facility, pursuant to section 104(c) of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the "Act") and Title 10, Code of Federal Regulations, Chapter I, Part 50, Licensing of Production and Utilization Facilities.

b. To receive, possess, use and transfer up to 215.7 kilograms of contained Uranium 235 as fuel for the operation of the reactor, as flux measuring devices such as fission chambers, foils and wires, and as fueled experiments, pursuant to the Act and Title 10, Code of Federal Regulations, Chapter I, Part 70, Special Nuclear Material.

c. To possess, but not to separate, such byproduct material as may be produced by the operation of the reactor, pursuant to the Act and Title 10, Code of Federal Regulations, Chapter I, Part 30, Licensing of Byproduct Material.

3. This license shall be deemed to contain and be subject to the conditions specified in §§ 50.54, 50.59, 70.32 and 30.32 of Parts 50, 70 and 30 cited above, and is subject to all applicable provisions of the Act and rules, regulations and orders of the Commission now or hereafter in effect, and is subject to the additional conditions specified below.

a. NASA shall not operate the reactor at power levels in excess of sixty (60) megawatts thermal.

b. *Technical specifications.* The Technical Specifications attached as Appendix A to Provisional Operating License No. TR–3, as amended, including Changes Nos. 1–16 to the Technical Specifications issued by the Commission, and the attached Change No. 17 are hereby incorporated in this license. NASA shall operate the facility in accordance with these Technical Specifications. No changes shall be made in the Technical Specifications unless authorized by the Commission pursuant to § 50.59 of 10 CFR Part 50.

c. *Records.* In addition to those otherwise required under applicable regulations, NASA shall keep the following records:

(1) Reactor operating records, including power levels and periods of operation at each power level.

(2) Records showing the radioactivity released or discharged into the air or water beyond the effective control of NASA as measured at or prior to the point of such release or discharge.

(3) Records of radioactivity levels on site and at off-site monitoring stations.

(4) Records of emergency shutdowns and inadvertent scrams, including reasons therefor.

(5) Records of safety system components tests and measurements performed pursuant to the requirements of the Technical Specifications.

(6) Records of maintenance operations involving substitution or replacement of reactor equipment or components.

(7) Records of experiments installed in the reactor including description, location, exposure time, total irradiation and any unusual events involved in the handling or operation.

d. *Reports.* In addition to reports otherwise required under this license and applicable regulations:

(1) NASA shall make an immediate report in writing to the Commission of any indication or occurrence of a possible unsafe condition relating to the operation of the reactor, including, without implied limitation:

(a) Any substantial variance disclosed by operation of the reactor from the performance specification set forth in the Technical Specifications.

(b) Any accidental release of radioactivity, whether or not resulting in personal injury or exposure above permissible limits or property damage.

(2) NASA shall make a quarterly report in writing to the Commission listing the changes made in the facility and in the operating procedures without prior Commission approval pursuant to § 50.59 and summarizing the irradiation experiments conducted in the facility.

(3) NASA shall make a report in writing to the Commission within 30 days after completion of the leak rate tests performed pursuant to paragraph B.3 of the Technical Specifications of the results of such tests including a description of any necessary corrective measures taken to meet the Technical Specification for leak rate.

(4) NASA shall make an annual report in writing to the Commission within 60 days after the completion of each calendar year of operation of the facility which may incorporate the quarterly report required by 3.d.(2) and which summarizes the following:

(a) Total number of hours of operation and total thermal energy per loading.

(b) Number of shutdowns of the facility with a brief explanation of the cause of each shutdown.

(c) Number of fuel changes.

(d) Maximum fuel burn-up per loading.

(e) Maximum heat flux experienced at full power.

(f) Operating experience including description of tests performed, number of malfunctions in control and safety systems with brief explanation for each and description of all emergency evacuations of containment building.

(g) Fuel element inspections and results thereof.

(h) Principal maintenance performed and replacements made in the reactor and associated systems.

(i) Significant changes made in plant organization.

(j) Radiation levels recorded at on-site and off-site monitoring station.

(k) Radiation levels of the fluids in principal systems as established by chemical analysis.

4. Pursuant to § 50.60 of the regulations, Part 10, Code of Federal Regulations, Chapter I, Part 50, the Commission has allocated to NASA for use in the operation of the reactor 215.7 kilograms of Uranium 235 contained in Uranium at the isotopic ratios specified in NASA's license application. Estimated schedules of special nuclear material transfers to NASA and returns to the Commission are contained in Appendix B, which is attached hereto. Shipments by the Commission to NASA in accordance with Column (2) in Appendix B will be conditioned upon NASA's return to the Commission of material substantially in accordance with Column (3) of Appendix B. The allocation and estimated schedules of transfers included herein supersede those contained in Construction Permit No. CPTR-3.

5. This license is effective as of the date of issuance and shall expire ten (10) years from said date.

Date of issuance:

For the Atomic Energy Commission.

Director,
Division of Reactor Licensing.

[F.R. Doc. 65-2366; Filed, Mar. 5, 1965; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 15824, 15825; FCC 65M-250]

JACK O. GROSS AND CALIFORNIA WESTERN UNIVERSITY OF SAN DIEGO

Order Continuing Prehearing Conference

In re applications of Jack O. Gross, trading as Gross Broadcasting Co., San Diego, Calif., Docket No. 15824, File No. BPCT-3346; California Western University of San Diego, San Diego, Calif., Docket No. 15825, File No. BPCT-3421; for construction permit for new television broadcast station (Channel 51).

Upon oral request of counsel for Jack O. Gross, trading as Gross Broadcasting Co., and with the oral consent of the other parties: *It is ordered*, This 1st day of March 1965, that the prehearing conference presently scheduled for March 2, 1965, at 10 a.m., be, and the same is, hereby continued to March 8, 1965, at 9 a.m. in the Offices of the Commission in Washington, D.C.

Released: March 2, 1965.

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

[F.R. Doc. 65-2378; Filed, Mar. 5, 1965; 8:48 a.m.]

[Docket No. 15618; FCC 65M-254]

MARION MOORE

Order Scheduling Conference

In re application of Marion Moore, Joshua Tree, Calif., Docket No. 15618, File No. BP-14358; for construction permit.

The Hearing Examiner having under consideration: (1) "Motion to Reopen Hearing Record and For the Acceptance of Additional Measurement Data", filed by the applicant in the above-entitled proceeding on February 23, 1965; (2) "Comments" by Broadcast Bureau; and (3) Opposition filed by respondent KDHI;

It appearing, that the measurement data applicant desires to have included in the hearing record are designed to supplement other such evidence adduced during the hearing;[1] that the motion, while conforming generally to directions of the Examiner during the hearing, nevertheless omits sufficient analysis of the measurements, as explained in the Bureau's "Comments", and includes no map locating the interfering contour in relation to the proposed 0.5 mv/m contour; and that while the ends of justice and the desirability of having as complete and satisfactory a hearing record as is possible would otherwise warrant the scheduling of a further hearing herein,[2] it would be a wasteful expenditure of time and effort to schedule such a hearing in the event that the moving party should fail or refuse to supply, in timely manner, all necessary data:

It is ordered, This 3d day of March 1965, that the applicant, by her attorney, and all other parties, shall appear at an on-the-record conference which is hereby scheduled to convene at 10 a.m., Wednesday, March 10, 1965, at the Commission's Offices, Washington, D.C., to answer the following questions:

(a) Will the applicant supply the omitted information, under oath of her consulting engineer, not later than March 17, 1965?

(b) If so, and the information is timely furnished, will the applicant, as well as the other parties, be ready to go to hearing on Tuesday, March 23, 1965?

(c) When will the parties be prepared to submit proposed findings of fact and conclusions of law?

It is ordered further, That the record is hereby reopened for the limited purpose specified above and will be closed again on March 10 in the event that negative replies are received to questions (a) and (b) specified hereinabove; [3] and

It is ordered further, That the deadline date previously established for filing proposed findings is hereby cancelled.

Released: March 3, 1965.

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

[F.R. Doc. 65-2379; Filed, Mar. 5, 1965; 8:48 a.m.]

[1] A purpose of the motion to reopen is to obviate claimed "surprise" arising during the testimony of respondent's expert engineering witness. Another, more far-reaching, purpose is to try to eliminate uncertainties raised during the hearing with reference to the proper location of the interfering contour of Station XEXX, Tijuana, Mexico, in relation to the proposed 0.5 mv/m contour. While there is a record of delays in this proceeding due either to lack of proper preparation or misunderstanding of the original ground rules by applicant's advisers, the public interest, as distinguished from the private wishes of the parties, will be served best by affording the applicant this one last opportunity to improve the hearing record with the presentation of more complete measurement data. Also, the element of "surprise" should play no part whatsoever in the development of the best record possible under the circumstances. In ruling thus, the Hearing Examiner emphasizes that he is not purporting at the present juncture to pass upon the value of the additional evidence applicant wishes to proffer, except to state that if the omitted matter is timely produced in accordance with the procedures prescribed above, he holds herewith that the showing in support of the motion suffices to justify a further hearing.

[2] Generally speaking, the Commission has been lenient in permitting, even encouraging, applicants to take additional measurement data, even after the Initial Decision stage. Thus, in Massillon Broadcasting Co., Inc., et al., Memorandum Opinion and Order released June 29, 1962, 23 RR 915, one of the most recent of such instances, an applicant was authorized to set up a test transmitter and the record was reopened by the Commission after release of the Initial Decision in order to afford the applicant an opportunity to present in evidence the measurement data it had obtained. The Examiner would be remiss in the present case were he to ignore this precedent, thereby risking reversal and remand at a later date with attendant delay in the hearing process.

[3] In the event the applicant should be unable to comply with the dates set forth above, or be prepared to comply with such promptness as to avoid further unreasonable delays, the record will be closed on March 10 and will not be reopened again by the Hearing Examiner in the absence of direction by higher authority.

FEDERAL MARITIME COMMISSION

[Fact Finding Investigation No. 5]

TERMINAL PRACTICES AT SOUTH ATLANTIC AND GULF PORTS

Notice of Hearing

MARCH 3, 1965.

Terminal practices at South Atlantic and Gulf Ports (from, but excluding,

Hampton Roads, Va., to Brownsville, Tex.).

A hearing in this proceeding will be held by the undersigned beginning at 10 a.m., March 17, 1965, at the Maritime Association of the Port of Charleston, 2 Gillon Street, Charleston, S.C.

The hearing will be public.

JAMES A. KEMPKER,
Investigative Officer.

[F.R. Doc. 65-2370; Filed, Mar. 5, 1965; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI65-500]

FOREST OIL CORP.

Order Providing for Hearing on and Suspension of Proposed Change in Rate; Correction

FEBRUARY 25, 1965.

In the order providing for hearing on and suspension of proposed change in rate, issued February 9, 1965, and published in the FEDERAL REGISTER February 16, 1965 (F.R. Doc. 65-1604; 30 F.R. 2115); change "19.5 cents" to "18.5 cents" in line 23 of second paragraph.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-2354; Filed, Mar. 5, 1965; 8:47 a.m.]

[Docket Nos. CP64-294, RP65-43]

[Opinion No. 450]

COLORADO INTERSTATE GAS CO. ET AL.

Opinion and Order Granting Certificate and Instituting Rate Investigation

FEBRUARY 18, 1965.

Colorado Interstate Gas Co., Docket No. CP64-294; Kansas-Nebraska Natural Gas Co., Inc., complainant v. Colorado Interstate Gas Co., defendant, Docket No. RP65-43.

On November 4, 1964, the Presiding Examiner issued his initial decision granting Colorado Interstate Gas Co. (Colorado Interstate) a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act (Act) authorizing it to construct 0.19 miles (800 feet) of 3-inch line from its 40-mile 12-inch pipeline lateral running east and west just south of the Wyoming border, and to sell some 74,873 Mcf of natural gas (estimated annual third-year volume) from the 3-inch line to the Cheyenne Light, Fuel & Power Co. (Cheyenne Co.), for resale in the town of Pine Bluffs, Wyo. Colorado Interstate would make the sale under its P-1 rate schedule.

Kansas-Nebraska Natural Gas Co., Inc. (Kansas-Nebraska), a partial requirements purchaser of gas from Colorado Interstate, filed exceptions on December 4, 1964, objecting to the issuance of such certificate to Colorado Interstate. Kansas-Nebraska contends that to permit the sale from Colorado Interstate's 12-inch line under its P-1 rate schedule would result in undue discrimination against Kansas-Nebraska because Kansas-Nebraska must purchase gas from the same 12-inch line under Colorado Interstate's allegedly less favorable P-2 rate schedule. Kansas-Nebraska contends that the Examiner erroneously refused to deal with the merits of this issue. By way of relief, Kansas-Nebraska requests that the certificate be denied, or else be conditioned to require the filing of a revised rate applicable to its purchases based upon a 53-percent minimum take-or-pay requirement, instead of the present 75-percent requirement of the P-2 rate.

Kansas-Nebraska also contends that the Examiner erred in not dealing with its claim that the above alleged discrimination would violate section 2(a) of the Clayton Act, as amended by the Robinson-Patman Act (15 U.S.C. 13(a)), and complains of the exclusion of its testimony on the alleged discrimination.

Replies to Kansas-Nebraska's exceptions were filed by Staff on December 23, 1964, by Colorado Interstate on December 24, 1964, and jointly by the Cheyenne Co., the Public Service Co. of Colorado, and Colorado-Wyoming Gas Co. on December 24, 1964. All contend that the Examiner's decision is correct and urge its adoption.

Kansas-Nebraska is undoubtedly correct in its assertion that there are circumstances where we can and will consider the effect of a grant of a certificate for a new sale upon the rates charged to existing customers, and order the seller to reduce or change its rates to such other customers as a condition to the grant of the certificate. Thus, in Northern Natural Gas Co.[1] we conditioned the grant of a certificate for a non-jurisdictional sale of gas to an affiliated processing plant upon the applicant's reducing the charges to its resale customers to reflect the loss from the Btu content of the gas stream resulting from grant of the certificate. As we stated in the similar Panhandle Eastern Pipe Line Co. case,[2] "where the immediate effect of Commission action certificating a new sale may be to harm existing jurisdictional customers" there may be justification for "prompt remedial action". In both of these cases, however, if we had not taken action in the certificate case the other ratepayers would have immediately received less valuable service and could not have secured relief therefrom until a subsequent pipeline rate case.

There is no such immediate harmful effect here. Kansas-Nebraska's principal contention is that, in the light of the proposed sale to Cheyenne Co., the provision in the P-2 Schedule applicable to it, incorporating a 75-percent take-or-pay obligation, is no longer appropriate. This may or may not be correct, but Kansas-Nebraska does not contend that the sale to Cheyenne would in itself injure it or worsen its take-or-pay situation, and does not even contend that its present rates of take make the 75-percent obligation applicable. Significantly, Kansas-Nebraska does not contend that the public interest would not be served by the proposed sale. In these circumstances, we conclude that there is no reason in the present case for tying the rate matters to the certificate proceeding, an action which would only result in further delay in authorizing a sale which is admittedly in the public interest to be made at a rate which no one suggests is improper.

However, the pleadings and record in this case leave unresolved substantial questions of fact concerning the P-2 rate schedule; whether, among other things, Kansas-Nebraska is subject to undue discrimination, and, if so, the tariff provisions, rules and regulations the Commission should prescribe, pursuant to the provisions of the Act, for service to Kansas-Nebraska by Colorado Interstate. Simultaneously, therefore, with the granting of a certificate to Colorado Interstate, we shall, by considering Kansas-Nebraska's allegations as a formal complaint, institute an investigation into the propriety of Colorado Interstate's P-2 rate schedule.

It appears that a public hearing should be held in order to afford all interested parties an opportunity to present evidence concerning the issues herein; that Kansas-Nebraska has the obligation of adducing evidentiary support of its allegations and of going forward in the presentation of its case-in-chief; that the issues involved herein should be determined with the greatest possible expedition in conformity with § 2.59(h) of the Commission's rules of practice and procedure and, to that end, each party should have the opportunity to understand and evaluate the positions of the other parties. All matters which can be fully resolved without formal trial should be eliminated from hearing and settled by stipulation.

Since we do not dispose of the allegations of discriminatory treatment, we need not consider at the present time Kansas-Nebraska's further allegations of a violation of section 2(a) of the Clayton Act. In the light of our conclusion herein we need not consider the propriety of the Examiner's exclusion of some of Kansas-Nebraska's evidence.

The Commission finds:

(1) The construction and operation of the proposed facilities and the proposed delivery of natural gas by applicant are required by the public convenience and necessity and a certificate therefor should be issued.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that we, upon our own motion, institute an investigation pursuant to section 5(a) of the Natural Gas Act to determine the propriety of the 75-percent take-or-pay provision applicable to sales to Kansas-Nebraska from the 12-inch line involved herein. The issues should be expedited in accordance with the procedures set forth below.

The Commission orders:

(A) A certificate of public convenience and necessity be and the same is hereby issued authorizing applicant to construct and operate the proposed facilities as hereinbefore described.

(B) Except to the extent indicated above, the exceptions filed to the Pre-

[1] 28 FPC 1155 (1962).
[2] 30 FPC 1260 (1963), at 1266.

siding Examiner's decision by Kansas-Nebraska Natural Gas Co., Inc., on December 4, 1964, are hereby denied.

(C) Pursuant to authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Natural Gas Act, particularly sections 5, 15, and 16 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing will be held concerning the matters involved to determine whether or not the retention of the 75-percent take-or-pay provision applicable to sales to Kansas-Nebraska from Colorado Interstate's 12-inch line involved herein is just and reasonable within the meaning of the Act, and not unduly discriminatory.

(D) Kansas-Nebraska shall serve the prepared testimony and exhibits constituting its case-in-chief upon all parties on or before March 15, 1965.

(E) The respondent, Colorado Interstate, shall serve the prepared testimony and exhibits constituting its case-in-chief upon all parties on or before April 12, 1965.

(F) The Commission Staff and all other parties to this proceeding proposing to present evidence herein, shall serve their prepared testimony and exhibits on all parties on or before May 10, 1965.

(G) The Presiding Examiner shall set the date for the service of Kansas-Nebraska's rebuttal case and, if determined necessary and appropriate without unduly delaying the proceeding, he may provide for filing of cross-rebuttal between the parties on a date prior to the date set for service of Staff's rebuttal.

(H) Presiding Examiner Allen C. Lande or any other officer or officers of the Commission designated by the Chief Examiner for that purpose (see delegation of authority, 27 F.R. 4276, etc.), shall preside at the prehearing conference and at the hearing in this matter, pursuant to the Commission's rules of practice and procedure, and as further provided by this order, shall set the date of hearing by notice thereof.

(I) Without limitation upon the authority of the Presiding Examiner to convene conferences prior to, or subsequent to the date herein fixed, pursuant to the provisions of § 1.18 of the Commission's rules of practice and procedure, a prehearing conference before the Presiding Examiner herein designated shall commence at 10 a.m., e.d.s.t., on May 18, 1965, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., 20426, for the purpose of effectuating the intent of the Commission as hereinabove set out.

(J) Notices and petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the Commission's rules of practice and procedure, §§ 1.8 and 1.37(f) (18 CFR 1.8 and 1.37(f)) on or before March 15, 1965.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 65-2353; Filed, Mar. 5, 1965; 8:47 a.m.]

[Docket Nos. RI63-212, CP65-58]

JUPITER CORP. AND TENNESSEE GAS TRANSMISSION CO.

Order Further Extending Time for Filing and Serving of Evidence and Prehearing Conference

FEBRUARY 26, 1965.

In our order issued February 18, 1965, we granted The Jupiter Corp. (Jupiter), an additional period of 30 days from the date of that order to prepare and serve its evidence in Docket No. RI63-212, provided Jupiter advised the Commission by the close of business on Friday, February 19, of its intention to avail itself of this additional time to prepare evidence. Jupiter responded by telephone that it would appear in the United States District Court for the Northern District of Illinois in its then pending case (The Jupiter Corp. v. F.P.C., U.S.D. Ct., N.D. Ill., E.D., No. 65-C-228) on Tuesday, February 23. In Court, counsel for Jupiter represented that although Jupiter regarded the 30-day extension as insufficient, it would undertake to commence immediately the preparation of its evidence. In view of these representations in open court by Jupiter's counsel and the Court's expressed hope that the Commission would permit the 30-day extension to run from the date of the court hearing, it appears appropriate to provide that the 30-day extension within which Jupiter shall file and serve its evidence shall run from February 23, 1965, in lieu of February 18, 1965. Other procedural dates, as provided in our order issued February 3, 1965, should be extended commensurately.

The Commission orders:

(A) The time within which Jupiter shall file and serve its prepared testimony and exhibits upon all parties is extended to and including March 25, 1965.

(B) The time within which interveners may file and serve prepared testimony and exhibits upon all parties is extended to and including April 8, 1965.

(C) The prehearing conference presently scheduled to commence in these proceedings on March 9, 1965, is hereby continued to April 13, 1965.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 65-2355; Filed, Mar. 5, 1965; 8:47 a.m.]

PRESIDENT'S COMMITTEE ON EQUAL EMPLOYMENT OPPORTUNITY

ANNUAL COMPLIANCE REPORTS, STANDARD FORM 40 (REVISED FEBRUARY 1964), AND FORM EEO 10 (NOVEMBER 1964)

Notice To Provide Uniform Dates for Filing

In order to facilitate the anticipated extension of the reporting system required by the Civil Rights Act of 1964, the dates for the annual filing of Standard Form 40 (revised February 1964) and Form EEO 10 (November 1964) will henceforth be made identical.

Accordingly, all contractors and subcontractors who are subject to the reporting requirements of Executive Order 10925 of March 6, 1961 (26 F.R. 1977), as amended by Executive Order 11114 of June 22, 1963 (28 F.R. 6485), and who are required to file Annual Compliance Reports on Standard Form 40 (revised February 1964) with the President's Committee on Equal Employment Opportunity are advised that the time for the next filing of such annual reports will be March 1, 1966, and each March 1 thereafter. In view of this change, such contractors and subcontractors will not be required to file Annual Compliance Reports normally due on or before March 31, 1965.

The instructions attached to Standard Form 40 (revised February 1964) are being amended to reflect this change. Please note that this change of filing date of Annual Compliance Reports does not affect the obligations of contractors and subcontractors to file compliance reports in accordance with the instructions attached to Standard Form 40 (revised February 1964) upon the award of a contract or subcontract which makes such contractor or subcontractor subject to the reporting requirements of the orders.

Since the filing dates for Form EEO 10 (November 1964) are the same as those prescribed above for Standard Form 40 (revised February 1964), there will be no change with respect to Form EEO 10 (November 1964).

HOBART TAYLOR, JR., *Executive Vice Chairman.*

[F.R. Doc. 65-2358; Filed, Mar. 5, 1965; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-4258]

ARKANSAS POWER AND LIGHT CO. AND MIDDLE SOUTH UTILITIES, INC.

Proposed Issuance and Sale of First Mortgage Bonds and Preferred Stock at Competitive Bidding and Proposed Issuance of Common Stock to Holding Company

MARCH 2, 1965.

In the matter of Arkansas Power & Light Co., Middle South Utilities, Inc., Two Eighty Park Avenue, New York, N.Y., 10017, File No. 70-4258.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), a registered holding company, and Arkansas Power & Light Co. ("Arkansas"), a public-utility subsidiary company of Middle South, have filed a joint application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), 7, 9, and 12

of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the joint application-declaration, on file at the office of the Commission, for a statement of the transactions therein proposed which are summarized below.

Arkansas proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 promulgated under the Act, $25,000,000 principal amount of its First Mortgage Bonds, __ percent Series due 1995. The interest rate on the new bonds (which will be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest, to be paid to Arkansas (which will be not less than 100 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under Arkansas' Mortgage and Deed of Trust, dated as of October 1, 1944, as heretofore supplemented and as to be further supplemented by a Thirteenth Supplemental Indenture to be dated as of April 1, 1965. The net proceeds from the sale of the new bonds are to be used by Arkansas for its 1965 construction program (estimated at $46,400,000) and for other corporate purposes, including the repayment of short-term bank loans.

Arkansas also proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 75,000 shares of its cumulative preferred stock, par value $100 per share. The dividend rate of the new preferred stock (which will be a multiple of one twenty-fifth of 1 percent) and the price, exclusive of accrued dividends, to be paid to Arkansas (which will be not less than $100 nor more than $102.75 per share) will be determined by the competitive bidding. The net proceeds from the sale of the new preferred stock are to be applied by Arkansas toward the redemption and retirement of all 75,000 shares of its presently outstanding 5.48 percent series preferred stock ("old preferred stock") at the currently applicable redemption price of $106.75, plus accumulated dividends to the date of redemption. Assuming a dividend rate of $4.60 for the proposed new preferred stock, Arkansas estimates that the retirement of the old preferred stock will result in a reduction in annual preferred stock dividends of $66,000.

Arkansas has agreed that the Commission may subject the issuance and sale of the new preferred stock to the same conditions as those set forth in the Commission's order of April 27, 1959, in File No. 70-3786 (Holding Company Act Release No. 13992). Arkansas had heretofore agreed (Holding Company Act Release No. 15137 (October 13, 1964)) that it would propose to its stockholders at their 1965 annual meeting that appropriate corporate action be taken to amend the articles of incorporation of the company so as to include such conditions therein. It now proposes to defer such action until not later than the 1966 annual meetings, since, upon the enactment and effectiveness of the new "Arkansas Business Corporation Act," Arkansas also intends a general restatement of its articles of incorporation.

As of December 31, 1964, the earned surplus of Arkansas amounted to $17,946,537, of which $1,039,443 was restricted earned surplus. Arkansas proposes to transfer $3,000,000 of its earned surplus and credit such amount to its common stock capital account. Concurrently with such transfer, Arkansas proposes to issue to Middle South (the holder of all of the issued and outstanding shares of Arkansas' common stock, $12.50 par value), and Middle South proposes to acquire, 240,000 additional shares of Arkansas' authorized but unissued common stock aggregating $3,000,000 in par value. It is stated that the issuance of such common stock will permit Arkansas to convert into capital a portion of its earned surplus which has been permanently invested in betterments and improvements to its physical properties.

Fees and expenses incident to the proposed issuance and sale of the new bonds are estimated at $100,000, including auditors' fees of $2,500, counsel fees of $17,000, and management consultants' fees of $1,000. Fees and expenses incident to the proposed issuance and sale of the new preferred stock and the redemption of the old preferred stock (exclusive of the redemption premium on the old preferred stock) are estimated at $35,000, including auditors' fees of $1,500 and counsel fees of $11,000. Fees of counsel for the underwriters in the amount of $7,000 regarding the new bonds and $4,500 regarding the new preferred stock, together with out-of-pocket expenses, are to be paid by the successful bidders. The filing states that in connection with the issuance of the common stock no special or separable expenses of any kind are anticipated by either Arkansas or Middle South, except for Federal issuance taxes payable by Arkansas in the amount of approximately $3,000.

The joint application-declaration states that the Arkansas Public Service Commission, the State commission of the State in which Arkansas is organized and doing business, has jurisdiction over the proposed transactions; that the Tennessee Public Service Commission, the commission of a State in which Arkansas also does business, asserts jurisdiction over the proposed transactions; that the orders of said commissions will be filed by amendment; and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than March 26, 1965, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said joint application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request should 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 the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed contemporaneously with the request. At any time after said date, the joint application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 65-2351; Filed, Mar. 5, 1965; 8:46 a.m.]

[File No. 31-681]

CAROL PELLET CO.

Notice of Filing of Application for Exemption

MARCH 2, 1965.

Notice is hereby given that Carol Pellet Co. ("Carol"), 100 Erieview Plaza, Cleveland 14, Ohio, has filed with this Commission an application and an amendment thereto for an order pursuant to section 3(a)(5) of the Public Utility Holding Company Act of 1935 ("Act") exempting Carol, as a holding company, and every subsidiary company thereof, as such, from each and every provision of said Act, asserting that it is not, and derives no material part of its income, directly or indirectly, from any one or more subsidiary companies which are, a company or companies the principal business of which within the United States is that of a public-utility company.

All interested persons are referred to the application on file at the office of the Commission for a statement of the facts in support thereof, which are summarized as follows.

Carol, a Delaware corporation, is primarily engaged in the ownership and operation of a pellet plant located near Wabush Lake in Labrador, Canada, for the pelletizing of iron ore concentrates purchased from Iron Ore Co. of Canada ("IOC") at that location. Carol also owns 174,414 Class B shares (34.9 percent of the total outstanding) of Twin Falls Power Corp. Limited ("Twinco") which shares represent 11.63 percent of the total voting power of Twinco, a Canadian corporation having its princpal office in Montreal, Quebec, Canada.

At December 31, 1963, Carol's assets aggregated $75,699,250; its sales for the year then ended amounted to $32,260,243; and its net income was zero. At the same date Twinco's total assets amounted to $51,873,570; its revenues from power sales for the year 1963 were $3,074,198, and its net profit was $185,955.

Twinco, a public-utility company, has constructed and is constructing a hydroelectric power plant at Bonnell Creek in Labrador, having a generating capacity of 220,000 to 240,000 horsepower, with related facilities for the transmission of electric energy to Wabush Lake. Its authorized shares of capital stock consist of 500,000 shares of Class A and 1,000,000 shares of Class B stock, all of the par value of $10 each. The Class A stock has four votes per share, and the Class B has one vote per share. All of the presently outstanding Class A stock, 250,000 shares, is owned by Hamilton Falls Power Corp. Ltd., a Canadian corporation, and constitutes 66.67 percent of the total voting power of Twinco. Of the balance of Twinco's outstanding Class B shares, 162,786 shares are owned by IOC, and 162,800 shares are owned by Wabush Securities Corp. ("Wabush"), an Ohio corporation, and several Canadian corporations affiliated with Wabush. Each of these holdings represents 10.85 percent of Twinco's total voting power.

Of Twinco's electric generating capacity, Carol has contracted to purchase 75,000 horsepower; IOC, 70,000 horsepower; and Wabush, 70,000 horsepower. The above output and all other output, if any, of Twinco will be purchased and sold in Canada.

The filing states that neither Carol nor Twinco owns or operates any public-utility facilities in the United States, or owns, controls, or holds with power to vote any voting securities of any company which owns or operates such facilities in the United States.

Notice is further given that any interested person may, not later than March 29, 1965, request in writing that a hearing be held in respect of the application, stating the nature of his interest, the reasons for such request, and the issues of fact or law which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the above-noted address; and proof of service thereof (by affidavit, or in case of an attorney at law, by certificate) should be filed contemporaneously with the request. At any time after said date, the application, as filed or as it may be further amended, may be granted, or the Commission may take such other action as it may deem appropriate.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 65-2352; Filed, Mar. 5, 1965; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 3, 1965.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 39614—*Canned or preserved foodstuffs from and to points in Colorado.* Filed by Southwestern Freight Bureau, Agent (No. B-8696), for interested rail carriers. Rates on canned or preserved foodstuffs, in carloads, between points in Colorado, on the one hand, and points in southwestern territory, on the other.

Grounds for relief—Motor-truck competition, modified short-line distance formula and grouping.

Tariff—Supplement 8 to Southwestern Freight Bureau, Agent, tariff I.C.C. 4609.

FSA No. 39615—*Sugar, beet or cane to Dallas, Tex.* Filed by Southwestern Freight Bureau, Agent (No. B-8699), for interested rail carriers. Rates on sugar, beet or cane, in carloads, from Bayard, Nebr., to Dallas, Tex.

Grounds for relief—Market competition.

Tariff—Supplement 14 to Southwestern Freight Bureau, Agent, tariff I.C.C. 4434.

By the Commission.

[SEAL] BERTHA F. ARMES,
Acting Secretary.

[F.R. Doc. 65-2361; Filed, Mar. 5, 1965; 8:47 a.m.]

[Notice 1134]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 3, 1965.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-67491. By order of February 26, 1965, the Transfer Board approved the transfer to Pittsburgh-Buffalo Express, Inc., Pittsburgh, Pa., of a portion of Certificate in No. MC-610, issued August 8, 1960, to H. M. Skinner & Sons, Inc., New Bethlehem, Pa., authorizing the transportation of: General commodities, over regular routes, between McKeesport, Pa., and Buffalo, N.Y., serving specified intermediate and off-route points, and household goods, between points in that part of Pennsylvania on the west of U.S. Highway 219, on the one hand, and, on the other, points in New York. Harold G. Hernly, 711 Fourteenth Street NW., Washington, D.C., 20005, attorney for applicants.

No. MC-FC-67552. By order of February 26, 1965, the Transfer Board approved the transfer to Columbia River Truck Co., Inc., Camas, Wash., of Certificate in No. MC-31307, issued November 5, 1940, to Harold H. Blake, doing business as Columbia River Truck Co., and Interstate Express, Camas, Wash., authorizing the transportation of: General commodities, with the usual exceptions, between Portland, Oreg., and Washougal, Wash., over a regular route serving all intermediate points. William B. Adams, 624 Pacific Building, Portland, Oreg., 97204, attorney for applicants.

No. MC-FC-67577. By order of February 26, 1965, the Transfer Board approved the transfer to Fulton Jones, Bossier City, La., of Certificate No. MC-112569, issued September 28, 1951, to The Louisiana & North West Railroad Co., a corporation, Homer, La., authorizing the transportation of general commodities, moving in express service, including household goods and commodities in bulk, over a regular route, between Gibsland, La., and McNeil, Ark., with a restriction specified. Arthur R. Carmody, Jr., Post Office Box 1707, Shreveport, La., attorney for applicants.

No. MC-FC-67604. By order of February 26, 1965, the Transfer Board approved the transfer to John W. Snape, Inc., St. Charles, Ill., of the operating rights in Certificate of Registration No. MC-98808 (Sub-No. 1), issued November 4, 1963, to John W. Snape, St. Charles, Ill., corresponding to the grant of intrastate authority to transferor in Certificate of Public Convenience and Necessity No. 13202 MC dated December 20, 1955, issued by the Illinois Commerce Commission. Robert L. Gorecki, 116½ West Main Street, St. Charles, Ill., representative for applicants.

[SEAL] BERTHA F. ARMES,
Acting Secretary.

[F.R. Doc. 65-2362; Filed, Mar. 5, 1965; 8:47 a.m.]

[Rev. S.O. 562; Taylor's I.C.C. Order 183]

CHICAGO GREAT WESTERN RAILWAY

Diversion or Rerouting of Traffic

In the opinion of Charles W. Taylor, Agent, the Chicago Great Western Rail-

way is unable to transport traffic routed over its line because of flood conditions at Red Wing, Minn.

It is ordered, That:

(a) Rerouting traffic: The Chicago Great Western Railway and its connections, being unable to transport traffic in accordance with shippers' routing because of flood conditions at Red Wing, Minn., is hereby authorized to divert or reroute such traffic over any available route to expedite the movement, regardless of the routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained: The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted before the rerouting or diversion is ordered.

(c) Notification to shippers: Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 1 p.m., March 2, 1965.

(g) Expiration date: This order shall expire at 11:59 p.m., March 10, 1965, unless otherwise modified, changed, suspended, or annulled.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D.C., March 2, 1965.

INTERSTATE COMMERCE COMMISSION,
[SEAL] CHARLES W. TAYLOR,
Agent.

[F.R. Doc. 65-2363; Filed, Mar. 5, 1965; 8:47 a.m.]

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