

From McDonough, Ga., VOR; to Greenwood, S.C., VOR; MEA 2,100.
From Greenwood, S.C., VOR; to Ft. Mill, N.C., VOR; MEA 2,000.

Section 610.6476 VOR Federal airway 476 is amended to delete:

From McDonough, Ga., VOR; to Greenwood, S.C., VOR; MEA 2,100.
From Greenwood, S.C., VOR; to Ft. Mill, N.C., VOR; MEA 2,000.

Section 610.6477 VOR Federal airway 477 is added to read:

From Houston, Tex., VOR; to Leona, Tex., VOR; MEA *3,300. *1,800—MOCA.
From Houston, Tex., VOR via E alter.; to Gulf Coast INT, Tex., via E alter.; MEA *2,300. *1,800—MOCA.

From Gulf Coast INT, Tex., via E alter.; to New Waverly INT, Tex., via E alter.; MEA *3,300. *1,500—MOCA.

From New Waverly INT, Tex., via E alter.; to Leona, Tex., VOR via E alter.; MEA *2,800. *1,400—MOCA.

From Houston, Tex., VOR via W alter.; to Fairbanks INT, Tex., via W alter.; MEA 1,800.

From Fairbanks INT, Tex., via W alter.; to Magnolia INT, Tex., via W alter.; MEA 2,000.

From Magnolia INT, Tex., via W alter.; to Leona, Tex., VOR via W alter.; MEA 2,100.

From Leona, Tex., VOR; to Dallas, Tex., VORTAC; MEA *3,000. *2,100—MOCA.

From Leona, Tex., VOR via E alter.; to Dallas, Tex., VORTAC via E alter.; MEA *3,000. *2,000—MOCA.

Section 610.6478 VOR Federal airway 478 is added to read:

From Falmouth, Ky., VOR; to Newcombe, Ky., VOR; MEA 2,500.

Section 610.6491 VOR Federal airway 491 is added to read:

From Lafayette, Ind., VOR; to Peotone, Ill., VOR; MEA 2,000.

Section 610.6608 VOR Federal airway 1508 is amended to read in part:

From Gill INT, Mich.; to Jefferson, Ohio, VOR; MEA 3,000.

From Laramie, Wyo., VOR; to Scottsbluff, Nebr., VOR; MEA 10,700.

Section 610.6614 VOR Federal airway 1514 is amended to read in part:

From Lamar, Colo., VOR; to *Tuttle INT, Kans.; MEA 5,500. *6,000—MRA.

Section 610.6616 VOR Federal airway 1516 is amended to read in part:

From *Waco INT, Mo.; to Miller INT, Mo.; MEA 2,900. *6,500—MRA.

From Miller INT, Mo.; to Springfield, Mo., VOR; MEA 2,600.

Section 610.6618 VOR Federal airway 1518 is amended to read in part:

From Tucumcari, N. Mex., VOR; to *Vega INT, Tex.; MEA 6,000. *6,000—MRA.

Section 610.1624 VOR Federal airway 1524 is amended to read in part:

From Los Angeles, Calif., VOR; to *Ontario, Calif., VOR; MEA 4,000. *8,000—MCA Ontario VOR, eastbound.

From Ontario, Calif., VOR; to Moreno INT, Calif., westbound, MEA 5,500; eastbound, MEA 13,000.

(Secs. 313(a), 307(c), 72 Stat. 752, 749; 49 U.S.C. 1354(a), 1348(c))

These rules shall become effective October 20, 1960.

Issued in Washington, D.C., on September 23, 1960.

B. PUTNAM,
Acting Director,
Bureau of Flight Standards.

[F.R. Doc. 60-9034; Filed, Sept. 29, 1960; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7434 o.]

PART 13—PROHIBITED TRADE PRACTICES

Clinton Watch Co. et al.

Subpart—Advertising falsely or misleadingly: § 13.70 *Fictitious or misleading guarantees*. Supart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055-50 *Preticketing merchandise misleadingly*. Subpart—Misrepresenting oneself and goods—Prices: § 13.1811 *Fictitious preticketing*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, The Clinton Watch Company et al., Chicago, Ill., Docket 7434, July 19, 1960]

In the Matter of The Clinton Watch Company, a Corporation, and Irving L. Wein, Bernard J. Cogan, and Max Magnus, Individually and as Officers of Said Corporation

The complaint in this case charged Chicago distributors of watches to mail order and discount houses, wholesalers and retailers for resale, with representing "All Movement Parts Guaranteed for Life Never To Break" in advertising their watches, when in fact the guarantee required payment of an undisclosed service charge for repairs or adjustments; and with preticketing their watches with exaggerated amounts and designating fictitious prices as "retail prices" in catalog inserts and other advertising, whereby retailers were enabled to mislead the public as to the usual retail prices.

Denying respondents' appeal from the initial decision, the Commission on July 19 adopted it as the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondent The Clinton Watch Company, a corporation, and its officers; Irving L. Wein, Bernard J. Cogan and Max Magnus, as officers of said corporation; and Irving L. Wein, individually, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of watches, or any other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, in any manner that any amount is the retail price of merchandise, when such amount is in excess of the price at which such merchandise is usually and regularly sold at retail in the trade area or areas where the representations are made;

2. Putting into operation any plan or device whereby others may misrepresent the regular and usual retail price of respondents' merchandise;

3. Representing that any merchandise offered for sale is guaranteed, unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly disclosed;

4. Representing that merchandise is guaranteed, when a service charge is imposed, unless the amount thereof is clearly disclosed.

By "Final Order", report of compliance was required as follows:

It is ordered, That respondents, The Clinton Watch Company, a corporation, and Bernard J. Cogan and Max Magnus, as officers of said corporation, and Irving L. Wein, individually and as an officer of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: July 19, 1960.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 60-9107; Filed, Sept. 29, 1960; 8:49 a.m.]

[Docket 7873 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Continental Schools, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.60 *Earnings and profits*; § 13.105 *Individual's special selection or situation*; § 13.115 *Jobs and employment service*; § 13.143 *Opportunities*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Continental Schools, Inc. (Vancouver, Wash.), et al., Docket 7873, July 19, 1960]

In the Matter of Continental Schools, Inc., a Corporation, and Leroy White, Ralph J. Merris, and Ralph D. Lingenfelter, as Individuals and as Officers of Said Corporation, and Max Moore, as an Individual

This proceeding was heard by a hearing examiner on the complaint of the Commission charging operators of a correspondence school in Vancouver, Wash., selling a course on jet engine mechanics, among others, with using misleading claims in newspaper advertising, form letters, salesmen's statements, etc., concerning employment and earning prospects in the airplane industry, opportu-

nities therein for students completing their course, etc.

Accepting a consent agreement, the hearing examiner made his initial decision and order to cease and desist which became on July 19 the decision of the Commission.

Said order to cease and desist is as follows:

It is ordered, That respondents Continental Schools, Inc., a corporation, and its officers; and Leroy White, Ralph J. Merris and Ralph D. Lingenfelter individually and as officers of said corporation; and Max Moore, individually, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of courses of study or instruction, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That their sales representatives are primarily concerned with determining the qualifications of prospective purchasers of courses when their purpose is to sell courses of instruction;

(b) That they are selective to the extent of enrolling only those who possess the aptitude for successful completion of such courses of study, or that they are selective to any other extent that is contrary to the facts;

(c) That the jet engine mechanic course is so prepared and presented that the prospect can successfully complete it without personal instruction or supervision;

(d) That a person upon completion of such jet engine mechanic course will be a trained jet mechanic or technician or will be qualified to repair, maintain or overhaul jet engines;

(e) That a person upon completion of such jet engine mechanic course will be able to get employment as a jet mechanic or technician, or in the repair, maintenance or overhaul of jet engines;

2. Making any representations concerning employment or earning prospects in the aircraft industry, without affirmatively and conspicuously disclosing:

(a) That certification by the Federal Aviation Agency is required for employment as a skilled jet mechanic or technician in the repair, maintenance or overhauling of aircraft engines;

(b) That completion of such course of study does not meet the prerequisites for certification by such agency.

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

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

Issued: June 30, 1960.

By the Commission.

[SEAL]

ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 60-9108; Filed, Sept. 29, 1960; 8:49 a.m.]

[Docket 7679 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Winters-Schneider Sales Agency et al.

Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception*. Subpart—Securing information by subterfuge: § 13.2168 *Securing information by subterfuge*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Herman Winters (Enclino, Calif.) et al. doing business as Winters-Schneider Sales Agency, Docket 7679, July 19, 1960]

In the Matter of Herman Winters, Ralph Schneider and Sidney Mandy, Individually and as Copartners, Trading and Doing Business as Winters-Schneider Sales Agency

The complaint in this case charged three individuals in California with obtaining information from debtors through subterfuge, including the use of terms and forms similar to those used by the U.S. Government, and a Washington, D.C., mailing address, and representations that a sum of money was due and could be collected by persons filling in the desired information.

On the basis of a consent agreement, the hearing examiner made his initial decision and order to cease and desist which became on July 19 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents Herman Winters, Ralph Schneider and Sidney Mandy, as individuals, or as copartners doing business as Winters-Schneider Sales Agency, or under any other trade name or names, and respondents' representatives, agents or employees, directly, or through any corporate or other device, in connection with the business of obtaining information concerning delinquent debtors, or with the offering for sale, sale or distribution of forms, or other material, for use in obtaining information concerning delinquent debtors, or in the collection of, or in attempting to collect accounts, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Using, or placing in the hands of others for use, any forms, letters, questionnaires or other materials, printed or written, which do not clearly reveal that the purpose for which the information is requested is that of obtaining information concerning delinquent debtors.

(2) Representing, or placing in the hands of others any means of representing, directly or by implication, that money is being held for, or is due, persons concerning whom information is sought, or is collectible by such persons, unless money is in fact due and collectible by such persons and the amount thereof is expressly stated.

(3) Using the terms: "Semi-Annual Employment Record," "Change of Employment Records," "Employment Verification Request," "Department of Vehicle

Verification Records," "Department of Claims and Settlements," "Office of Area-A," "Bureau of Settlements and Collections," or "Division of Disbursements," or other words, terms or phrases of similar import to designate, describe, or refer to respondents' business; or representing, directly or by implication in any manner that requests for information concerning delinquent debtors are from, or have any connection with the Government of the United States or any agency or branch thereof.

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

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

Issued: July 19, 1960.

By the Commission.

[SEAL]

ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 60-9109; Filed, Sept. 29, 1960; 8:49 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 146—GENERAL REGULATIONS FOR THE CERTIFICATION OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 147—ANTIBIOTIC INTENDED FOR USE IN THE LABORATORY DIAGNOSIS OF DISEASE

Miscellaneous Amendments

In re: Certifiable antibiotic drugs for use in the laboratory diagnosis of disease; antibiotic sensitivity discs prepared with these drugs.

Comments received in response to the notice of proposed rule making in the above-entitled matter, published in the FEDERAL REGISTER of April 9, 1960 (25 F.R. 3084), fall mainly in the following categories:

I. Comments relating to certification per se.

II. Comments relating to classifying sensitivity discs as drugs.

III. Comments relating to failure to extend certification procedures to all drugs used in sensitivity discs.

With reference to the comments falling in category II, section 201(g) (2) of the Federal Food, Drug, and Cosmetic Act defines the term "drug" as " . . . articles intended for use in the diagnosis, cure, mitigation, or prevention of disease in man or other animals." Antibiotic sensitivity discs are used by laboratory technicians, under the supervision of the medical profession, in determining the drug best suited for the treatment of a specific disease condition; this

use as a diagnostic aid brings such discs within the statutory purview.

With reference to category I, sensitivity discs containing the antibiotic drugs listed in section 507 of the Federal Food, Drug, and Cosmetic Act were exempted from certification upon a finding that such discs would be safe and efficacious for use provided that they complied with certain requirements which are set forth in § 146.24. One such requirement was that their labeling should state the potency of each disc. Following numerous complaints by the medical profession, hospitals, and laboratory technicians, the Food and Drug Administration made an extensive survey of the conditions surrounding the production and marketing of these discs. This survey showed, among other things, that a substantial percentage of these drugs sampled in the channels of commerce and tested under simulated conditions of use showed substantially less or substantially more than the potency declared on their labels. They did not, therefore, comply with the requirements for exemption from certification under section 507 of the act. Moreover, these inaccurate statements of potency impaired their safety and efficacy for diagnostic use.

With reference to category III, the notice of proposed rule making dealt only with those antibiotic drugs subject to regulation under section 507 of the act, and not with sensitivity discs generally, which are subject to the general provisions of the law.

Other comments received related to the proposed standards of potency, tests and methods of assay, packaging, and labeling. The bases for such comments are not considered sufficient to require changes in the proposed amendments. The Food and Drug Administration will, however, consider proposals for changes relating to testing procedures if such changes are shown to be an improvement of the techniques involved or to bring about more accurate results.

All comments and recommendations filed have been carefully evaluated, and it is concluded that it is vital for the protection of the public health that the regulations published in the notice of proposed rule making above cited be promulgated. Therefore, the following amendments are ordered:

1. Section 146.24 is amended to read as follows:

§ 146.24 Penicillin powder for diagnostic use; streptomycin powder for diagnostic use; dihydrostreptomycin powder for diagnostic use; chlortetracycline hydrochloride powder for diagnostic use; tetracycline hydrochloride powder for diagnostic use; chloramphenicol powder for diagnostic use; bacitracin powder for diagnostic use.

[CROSS-REFERENCES: For tests and methods of assay and certification of antibiotic sensitivity discs for laboratory diagnosis of disease, see §§ 147.1 and 147.2 of this chapter.]

Dry powder of penicillin, streptomycin, dihydrostreptomycin, chlortetracycline hydrochloride, tetracycline hydrochloride, chloramphenicol, or bacitracin,

packaged for dispensing and intended for use solely in laboratory procedures in connection with the diagnosis or treatment of disease and conspicuously so labeled shall be exempt from the certification requirements of sections 502(1) and 507 of the act if each complies with all the following conditions:

(a) Its potency in terms of units or micrograms per milligram and its moisture content comply with the standards prescribed for the salt by §§ 146a.24, 146b.101, 146b.103, 146c.201, 146c.218, 146d.301, 146e.401 of this chapter.

(b) It is packaged in immediate containers that are tight containers as defined by the U.S.P. Each such container shall contain not less than 10 milligrams.

(c) Each package bears on the label or labeling of its outside wrapper or container and the immediate container the following:

(1) The statement "Diagnostic reagent. For professional use only."

(2) The number of milligrams or grams contained in each immediate container and the potency per milligram.

(3) The batch mark.

(4) The statement "Expiration date _____," the blank being filled in with the date that does not exceed the expiration date authorized for the antibiotic salt by this chapter.

(d) The circular or other labeling within or attached to the package bears directions adequate for the use of such drug.

2. Title 21 is amended by adding thereto the following new Part 147—Antibiotics Intended for Use in the Laboratory Diagnosis of Disease:

Sec.

147.1 Antibiotic sensitivity discs; tests and methods of assay; potency.

147.2 Antibiotic sensitivity discs; certification procedure.

AUTHORITY: §§ 147.1 and 147.2 issued under sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interpret or apply sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357.

§ 147.1 Antibiotic sensitivity discs; tests and methods of assay; potency.

(a) *Culture media*—(1) *If the discs contain penicillin, chloramphenicol, chlortetracycline, tetracycline, or bacitracin.* Use the medium described under § 141a.1(b)(2) of this chapter for the base layer and the medium described under § 141a.1(b)(1) of this chapter for the seed layer.

(2) *If the discs contain streptomycin or dihydrostreptomycin.* Use the medium described under § 141a.1(b)(1) of this chapter for both the base layer and seed layer, except adjust so that the pH will be 7.9–8.1 after sterilization.

(b) *Preparation of suspension*—(1) *If penicillin or bacitracin is used.* Prepare a suspension as directed in § 141e.410(b)(1)(v) of this chapter, except use "Staphylococcus aureus" (ATCC 13150).

(2) *If streptomycin or dihydrostreptomycin is used.* Prepare a suspension as directed in § 141a.1(e) of this chapter.

(3) *If chloramphenicol or chlortetracycline or tetracycline is used.* Prepare a suspension as directed in § 141c.201 (a) (5) of this chapter.

(c) *Preparation of plates*—(1) *Base layer.* Depending on the particular antibiotic in the discs to be tested, add 42 milliliters of the appropriate medium prescribed in paragraph (a) of this section to each Petri dish (20 millimeters x 150 millimeters) and allow to harden and dry slightly by raising the tops on one side.

(2) *Seed layer.* Add 8 milliliters of the appropriate seed agar as prescribed in paragraph (a) of this section to each plate, spread evenly over the hardened base layer, and allow to harden and dry on a level surface. For accurate results it is necessary to obtain uniform distribution of the agar over the surface of the plates. Depending on the antibiotic contained in the discs to be tested, the following amounts of inoculum (it may be necessary to adjust the inoculum in order to obtain satisfactory zone sizes) are to be used per 100 milliliters of seed agar:

(i) If it is penicillin or bacitracin: 1.0 milliliter of the inoculum prepared as directed in paragraph (b)(1) of this section.

(ii) If it is streptomycin or dihydrostreptomycin: 3.0 milliliters of the inoculum prepared as directed in paragraph (b)(2) of this section.

(iii) If it is chloramphenicol: 4.0 milliliters of the inoculum prepared as directed in paragraph (b)(3) of this section.

(iv) If it is chlortetracycline or tetracycline: 1.5 milliliters of the inoculum prepared as directed in paragraph (b)(3) of this section.

Add the appropriate amount of inoculum to the seed agar which has been melted and cooled to 48° C. Swirl the flasks to obtain a homogeneous suspension.

(d) *Preparation of control discs.* Use round blank discs, having a diameter of 1/4 inch, made of clear white paper weighing approximately 30 milligrams per square centimeter and that will absorb approximately three times its weight of distilled water. Place blank discs on aluminum or stainless steel wire mesh which is supported in a manner to allow circulation of air above and below the discs. Prepare the desired number of discs for each point on the standard curve by accurately adding 0.02-milliliter-increments of the appropriate standard stock solution to each disc, using a suitable pipette. Dry discs in circulating air or under vacuum. Discs may be stored for 2 weeks in a desiccator under refrigeration. Depending on the antibiotic contained in the sample to be tested, prepare the stock solutions for the standard discs by dissolving an accurately weighed quantity of the working standard in the solvent indicated to obtain stock solutions that will contain the following concentrations required for the standard discs:

(1) If it is penicillin: Use distilled water and prepare standard solutions which contain 1.3, 2.4, 4.4, 8.1, and 15.0 units per 0.02-milliliter.

(2) If it is streptomycin or dihydrostreptomycin: Use distilled water and prepare standard solutions which con-

tain 1.3, 2.4, 4.4, 8.1, and 15.0 μg per 0.02-milliliter.

(3) If it is chloramphenicol: Use one part methanol to one part distilled water and prepare standard solutions which contain 3.3, 6.3, 12.2, 23.4, and 45.0 μg per 0.02 milliliter.

(4) If it is chlortetracycline or tetracycline: Use methanol and prepare standard solutions which contain 3.3, 6.3, 12.2, 23.4, and 45.0 μg per 0.02-milliliter.

(5) If it is bacitracin: Use distilled water and prepare standard solutions which contain 1.3, 2.4, 4.4, 8.1, and 15.0 units per 0.02-milliliter.

(e) *Assay.* On each of three plates prepared as directed in paragraph (c) of this section, place the five control discs for the standard curve and two discs from each batch to be tested. The control discs for the standard curve and the sample discs are placed on the plates in a random arrangement, with no discs being closer than 24 millimeters (on centers) to any other disc. Discs are placed on the plates with the aid of forceps within as short a period of time as possible (not to exceed 3 minutes per plate) and tapped gently to ensure an even seal. Incubate the plates overnight at 32° C.-35° C. After incubation, measure the diameter of each circle of inhibition, using calipers or a measuring device of comparable accuracy. Average the three zone sizes for each of the five standard-curve concentrations and plot the mean sizes on the arithmetic scale of semilogarithmic graph paper with the antibiotic concentrations on the logarithmic scale. Use the following equation to calculate the best straight line.

$$L = \frac{3a + 2b + c - e}{5}$$

$$H = \frac{3e + 2d + c - a}{5}$$

where

L = the calculated zone size of the low concentration;

H = the calculated zone size of the high concentration;

a, b, c, d, e = the observed average zone sizes for each respective concentration, a being that for the lowest concentration.

Plot the values obtained for L and H and connect these two points with a straight line. Average the six sample zone sizes and read the corresponding antibiotic concentration of this mean from the standard curve. This is the average potency of the sample disc.

(f) The potency is satisfactory if the result obtained is not less than 67 percent and not more than 150 percent of that represented. The batch has a uniform potency if on the first or second test of six discs each, the diameter of the largest zone of inhibition is not more than 2.5 millimeters larger than the smallest zone, or if the number of zones that fall outside this range in three or more consecutive tests is not more than 10 percent of the total number of discs tested.

§ 147.2 Antibiotic sensitivity discs; certification procedure.

(a) *Standards of identity, strength, quality, and purity.* Antibiotic sensi-

tivity discs are discs of paper or compressed tablets impregnated or tableted with penicillin, streptomycin, dihydrostreptomycin, chlortetracycline, tetracycline, chloramphenicol, or bacitracin. If they are tablets they may contain suitable lubricants, binders, and diluents, none of which shall affect the antibacterial spectrums of the antibiotics. Each disc shall have a uniform potency that is equivalent to that contained in a standard disc prepared with one of the following quantities of antibiotic compounds:

(1) Bacitracin: Not less than two units or not more than 10 units.

(2) Chloramphenicol: Not less than 5 μg or not more than 30 μg .

(3) Chlortetracycline: Not less than 5 μg or not more than 30 μg .

(4) Dihydrostreptomycin: Not less than 2 μg or not more than 10 μg .

(5) Penicillin: Not less than two units or not more than 10 units.

(6) Streptomycin: Not less than 2 μg or not more than 10 μg .

(7) Tetracycline: Not less than 5 μg or not more than 30 μg .

The standard discs used to determine the potency shall be prepared from clear white paper that weighs approximately 30 milligrams per square centimeter and absorbs approximately three times its weight of distilled water, and each shall have a diameter of $\frac{1}{4}$ -inch. Each antibiotic compound used to impregnate such standard discs shall be equilibrated in terms of the working standard designated by the Commissioner for use in determining the potency or purity of such antibiotic.

(b) *Packaging.* The immediate container shall be a tight container as defined by the U.S.P., and shall be of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused that are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded. Each immediate container may contain a desiccant, and each may be packaged in combination with containers of suitable discs of drugs other than those described in paragraph (a) of this section. Such other discs shall be suitable only if the manufacturer and packer have submitted to the Commissioner information of the kind described in § 146.7 of this chapter and such information has been accepted by the Commissioner. If a packaged combination contains discs of more than one potency of any one of the antibiotics included in paragraph (a) of this section, the potencies shall be only the lowest and highest concentrations prescribed for that antibiotic by that paragraph.

(c) *Labeling.* Each package of discs shall bear on its label or labeling, as hereinafter indicated, the following:

(1) On the outside wrapper or container and the immediate container:

(i) The batch mark.

(ii) The potency of each disc in the batch.

(iii) The statement "Expiration date _____," the blank being filled in with one of the following appropriate

dates after the month during which the batch was certified:

(a) For penicillin: 6 months.

(b) For bacitracin: 12 months.

(c) For streptomycin, dihydrostreptomycin, chlortetracycline, tetracycline, and chloramphenicol: 24 months.

If it is a packaged combination of discs of two or more drugs, its outside wrapper shall bear only one expiration date, and that date shall be the date that is required for the shortest dated discs contained in the package.

(iv) The statement "For use in laboratory diagnosis only."

(2) On the circular or other labeling within or attached to the package, adequate directions for the use of such discs.

(d) *Request for certification; samples.*

(1) In addition to complying with the requirements of § 146.2 of this chapter, a person who requests certification of a batch of antibiotic sensitivity discs shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark, and, unless it was previously submitted, the date on which the latest assay of the antibiotic used in making such batch was completed, the potency of each disc, the quantity of each ingredient used in making the batch, the date on which the latest assay of the drug comprising such batch was completed, and a statement that each ingredient used in making the batch conforms to the requirements prescribed therefor by this section.

(2) Such person shall submit in connection with his request results of the tests and assays made by him on an accurately representative sample of the batch for potency.

(3) Such person shall submit in connection with his request an accurately representative sample of the batch consisting of one disc for each 5,000 discs in the batch, but in no case less than 36 discs collected by taking single discs at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(e) *Fees.* The fee for the services rendered with respect to each batch under the regulations in this section shall be:

(1) \$0.50 for each disc in the sample submitted in accordance with paragraph (d) (3) of this section.

(2) If the Commissioner considers that investigations other than the examination of such discs and packages are necessary to determine whether or not such batch complies with the requirements of § 146.3 of this chapter for the issuance of a certificate, the cost of such investigations.

The fee prescribed by subparagraph (1) of this paragraph shall accompany the request for certification unless such fee is covered by an advance deposit maintained in accordance with § 146.8(d) of this chapter.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day 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 25, D.C., written objections thereto. 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. All documents shall be filed in quintuplicate.

Effective date. This order shall become effective as applied to shipments of antibiotic discs introduced or delivered for introduction into interstate commerce on and after the date which is 90 days from the date of publication of this order in the *FEDERAL REGISTER*. Batches of discs may be submitted for certification beginning with the date of publication of this order.

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

Dated: September 23, 1960.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 60-9098; Filed, Sept. 29, 1960;
8:47 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6494]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DE- CEMBER 31, 1953

Short Sales

On August 12, 1959, notice of proposed rule making regarding the regulations under section 1233 of the Internal Revenue Code of 1954 relating to short sales, as amended by the Act of August 12, 1955 (Public Law 385, 84th Cong., 69 Stat. 717), and section 52 of the Technical Amendments Act of 1958 (72 Stat. 1643) was published in the *FEDERAL REGISTER* (24 F.R. 6501). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the following regulations are hereby adopted:

PARAGRAPH 1. Section 1.1233 is amended by revising section 1233(a), by adding a new paragraph (4) to section 1233(e), by adding a new section 1233(g), and by revising the historical note. These revised and new provisions read as follows:

§ 1.1233 Statutory provisions; gains and losses from short sales.

Sec. 1233. Gains and losses from short sales—(a) Capital Assets. For purposes of this subtitle, gain or loss from the short sale of property shall be considered as gain or

loss from the sale or exchange of a capital asset to the extent that the property, including a commodity future, used to close the short sale constitutes a capital asset in the hands of the taxpayer.

(e) Rules for application of section. . . .

(4) (A) In the case of a taxpayer who is a dealer in securities (within the meaning of section 1236)—

(i) If, on the date of a short sale of stock, substantially identical property which is a capital asset in the hands of the taxpayer has been held for not more than 6 months, and

(ii) If such short sale is closed more than 20 days after the date on which it was made, subsection (b) (2) shall apply in respect of the holding period of such substantially identical property.

(B) For purposes of subparagraph (A)—
(1) The last sentence of subsection (b) applies; and

(ii) The term "stock" means any share or certificate of stock in a corporation, any bond or other evidence of indebtedness which is convertible into any such share or certificate, or any evidence of an interest in, or right to subscribe to or purchase, any of the foregoing.

(g) **Hedging transactions.** This section shall not apply in the case of a hedging transaction in commodity futures.

[Sec. 1233 as amended by sec. 1, Act of Aug. 12, 1955 (Pub. Law 385, 84th Cong., 69 Stat. 717); sec. 52, Technical Amendments Act 1958 (72 Stat. 1643)]

PAR. 2. Section 1.1233-1 is amended by revising paragraph (b), by inserting a new sentence at the end of paragraph (c) (1), by revising paragraph (c) (5), and by adding paragraphs (e) and (f). The revised and new provisions read as follows:

§ 1.1233-1 Gains and losses from short sales.

(b) **Hedging transactions.** Under section 1233(g), the provisions of section 1233 and this section shall not apply to any bona fide hedging transaction in commodity futures entered into by flour millers, producers of cloth, operators of grain elevators, etc., for the purpose of their business. Gain or loss from a short sale of commodity futures which does not qualify as a hedging transaction shall be considered gain or loss from the sale or exchange of a capital asset if the commodity future used to close the short sale constitutes a capital asset in the hands of the taxpayer as explained in paragraph (a) of this section.

(c) **Special short sales—(1) General.** Section 1233 provides rules as to the tax consequences of a short sale of property if gain or loss from the short sale is considered as gain or loss from the sale or exchange of a capital asset under section 1233(a) and paragraph (a) of this section and if, at the time of the short sale or on or before the date of the closing of the short sale, the taxpayer holds property substantially identical to that sold short. The term "property" is defined for purposes of such rules to include only stocks and securities (including stocks and securities dealt with on a "when issued" basis) and commodity futures, which are capital assets in the hands of the taxpayer. Certain restrictions on the application of the section to commodity

futures are provided in section 1233(e) and paragraph (d) (2) of this section. Section 1233(f) contains special provisions governing the operation of rule (2) in subparagraph (2) of this paragraph in the case of a purchase and short sale of stocks or securities in a transaction qualifying as an arbitrage operation. See paragraph (f) of this section for detailed rules relating to arbitrage operations in stocks and securities.

(e) **Special rule for short sales by dealers in securities under certain circumstances.** In the case of a short sale of stock (as defined in subparagraph (3) of this paragraph) after December 31, 1957, by a dealer in securities, section 1233(e) (4) (A) provides that the holding period of substantially identical stock which he has held as an investment for not more than 6 months shall be determined in accordance with section 1233 (b) (2) unless such short sale is closed within 20 days of the date on which it was made. See rule (2) in paragraph (c) (2) of this section for the purpose of determining the holding period of such substantially identical stock. In addition, section 1233(e) (4) (B) provides that for the purpose of the special rule of section 1233(e) (4) (A), the acquisition of an option to sell property at a fixed price shall be considered a short sale, and the exercise or failure to exercise such option shall be considered a closing of such short sale. For purposes of this paragraph—

(1) Whether or not a taxpayer is a "dealer in securities" shall be determined in accordance with the meaning of the term for purposes of section 1236;

(2) Whether or not stock is "substantially identical" with other property shall be determined in accordance with the provisions of paragraph (d) (1) of this section; and

(3) The term "stock" means—
(i) Any share or certificate of stock,
(ii) Any bond or other evidence of indebtedness which is convertible into a share or certificate of stock, and
(iii) Any evidence of an interest in, or right to subscribe to or purchase, any of the items described in subdivision (i) or (ii) of this subparagraph.

(f) **Arbitrage operations in stocks and securities and holding periods—(1) General rule.** (i) In the case of a short sale entered into as part of an arbitrage operation, rule (2) of paragraph (c) (2) of this section shall apply first to substantially identical property acquired for arbitrage operations and held by the taxpayer at the close of business on the day of the short sale. The holding period of substantially identical property not acquired for arbitrage operations shall be affected only to the extent that the amount of property sold short exceeds the amount of substantially identical property acquired for arbitrage operations and held by the taxpayer at the close of business on the day of the short sale.

(ii) If the substantially identical property acquired for arbitrage operations is disposed of without closing the short sale so that a net short position in assets acquired for arbitrage operations is cre-

ated, a short sale in the amount of such net short position will be deemed to have been made on the day such net short position is created. Rule (2) of paragraph (c) (2) of this section will then apply to substantially identical property not acquired for arbitrage operations to the same extent as if the taxpayer, on the day such net short position is created, sold short an amount equal to the amount of the net short position in a transaction not entered into as part of an arbitrage operation.

(iii) The following examples illustrate the application of rule (2) of paragraph (c) (2) of this section to arbitrage operations:

Example (1). On August 13, 1957, A buys 100 bonds of X Corporation for purposes other than arbitrage operations. The bonds are convertible at the option of the bondholders into common stock of X Corporation on the basis of one bond for one share of stock. On November 1, 1957, A sells short 100 shares of common stock of X Corporation in a transaction identified and intended to be part of an arbitrage operation and on the same day buys another 100 bonds of X Corporation in a transaction identified and intended to be part of the same arbitrage operation. The bonds acquired on both August 13, 1957, and November 1, 1957, are, on the basis of all the facts and circumstances, substantially identical to the common stock of X Corporation. On December 1, 1957, A closes the short sale with 100 shares of common stock of X Corporation acquired on that day. The holding period of the bonds acquired on November 1, by application of rule (2) of paragraph (c) (2) of this section, will be deemed to begin on December 1 and the holding period of the bonds acquired on August 13 will be unaffected. If, instead of purchasing the 100 shares of common stock of X Corporation on December 1, 1957, A had converted the bonds acquired on November 1 into common stock and, on December 1, 1957, used the stock so acquired to close the short sale, rule (2) of paragraph (c) (2) of this section would similarly have no effect on the holding period of the bonds acquired on August 13.

Example (2). Assume the same facts as in example (1), except that A, on December 1, sells the bonds acquired on November 1 (or converts such bonds into common stock and sells the stock), but does not close the short sale. The sale of the bonds (or stock) creates a net short position in assets acquired for arbitrage operations which is deemed to be a short sale made on December 1. Accordingly, the holding period of the bonds acquired on August 13 will, by application of rule (2) of paragraph (c) (2) of this section, begin on the date such short sale is closed or on the date of sale, gift, or other disposition of such bonds, whichever date occurs first.

(2) **Right to receive or acquire property.** (i) For purposes of section 1233 (f) (1) and (2) and subparagraph (1) of this paragraph, a taxpayer will be deemed to hold substantially identical property acquired for arbitrage operations at the close of any business day if, by virtue of the ownership of other property acquired for arbitrage operations (whether or not substantially identical) or because of any contract entered into by the taxpayer in an arbitrage operation, he then has the right to receive or acquire such substantially identical property.

(ii) The application of section 1233 (f) (3) and subdivision (i) of this sub-

paragraph may be illustrated by the following example:

Example. A acquires on August 13, 1957, 100 shares of common stock of X Corporation for purposes other than arbitrage operations. On November 1, A sells short, in a transaction identified and intended to be part of an arbitrage operation, 100 shares of X common stock. On the same day, in a transaction also identified and intended to be part of the same arbitrage operation, A contracts to purchase 100 shares of preferred stock of X. The preferred stock of X may be converted into common stock of X on the basis of one share of preferred stock for one share of common stock. The preferred stock is not actually delivered to A until November 3. Since A has contracted before the close of business on the date of the short sale, as part of an arbitrage operation, to purchase property by virtue of which he has the right to receive or acquire substantially identical property to that sold short, he will be deemed, for purposes of section 1233(f) (1) and (2), to hold such substantially identical property at the close of business on the date of the short sale. For purposes of this subparagraph, it is immaterial whether, on the basis of all the facts and circumstances, the preferred stock of X is substantially identical to the common stock of X. The short sale on November 1 does not affect the holding period of the 100 shares of X Corporation common stock purchased on August 13, 1957. Because of the operation of rule (2) of paragraph (c) (2) of this section, the holding period of the preferred stock acquired as the result of A's contract to purchase it as part of an arbitrage operation (or the common stock which A acquires by conversion of such preferred stock into common stock) will not begin until the short sale entered into in the arbitrage operation is closed.

(3) **Definition of arbitrage operations.** For the purpose of section 1233(f), arbitrage operations are transactions involving the purchase and sale of property entered into for the purpose of profiting from a current difference between the price of the property purchased and the price of the property sold. Assets acquired for arbitrage operations include only stocks and securities and rights to acquire stocks and securities. The property purchased may be either identical to the property sold or, if not so identical, such that its acquisition will entitle the taxpayer to acquire property which is so identical. Thus, the purchase of bonds or preferred stock convertible, at the holder's option, into common stock and the short sale of the common stock which may be acquired therefor, or the purchase of stock rights and the short sale of the stock to be acquired on the exercise of such rights, may qualify as arbitrage operations. A transaction will qualify as an arbitrage operation under section 1233(f) only if the taxpayer properly identifies the transaction as an arbitrage operation on his records as soon as he is able to do so. Such identification must ordinarily be entered in the taxpayer's records on the day of the transaction. Property acquired in a transaction properly identified as part of an arbitrage operation is the only property which will be deemed acquired for an arbitrage operation. The provisions of section 1233(f) and this paragraph shall continue to apply to property acquired in a transaction properly identified as an arbitrage operation although, because of subsequent events, e.g., a

change in the value of bonds so acquired or of stock into which such bonds may be converted, the taxpayer sells such property outright rather than using it to complete the arbitrage operation.

(4) **Effective date of section 1233(f).** Section 1233(f), relating to arbitrage operations involving short sales of property, is effective only with respect to taxable years ending after August 12, 1955, and only with respect to short sales made after such date.

(Sec. 7805, Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[SEAL]

CHARLES I. FOX,
Acting Commissioner of
Internal Revenue.

Approved: September 26, 1960.

DAVID A. LINDSAY,
Acting Secretary of the Treasury.
[F.R. Doc. 60-9111; Filed, Sept. 29, 1960;
8:49 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers,
Department of the Army

PART 207—NAVIGATION REGULATIONS

Narragansett Bay, R.I.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) § 207.23 establishing and governing the use and navigation of a prohibited area in Narragansett Bay west of Gould Island, Rhode Island, is hereby revoked, as follows:

§ 207.23 Narragansett Bay, East Passage, west of Gould Island; naval prohibited area. [Revoked]

[Regs., Sept. 15, 1960, 285/91 (Narragansett Bay, R.I.)—ENGOW-O] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

R. V. LEE,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 60-9082; Filed, Sept. 29, 1960;
8:45 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration
PART 3—VETERANS CLAIMS

Additional Disability Compensation
for Certain Seriously Disabled Veterans

Part 3, Chapter I of Title 38 of the Code of Federal Regulations, is amended by adding § 3.1550 as follows:

§ 3.1550 Additional disability compensation for certain seriously disabled veterans.

(a) **Provisions of the law.** This law amends 38 U.S.C. 314, by adding subsection (s) as follows: