2677, 6803, 9611, 25 F.R. 897, 8065, 10567, 26 F.R. 1344, 2523). The remainder of the reserve, 365.4 acres, is hereby apportioned on exactly the same basis as the 1961 national acreage allotment was previously apportioned to the States.

Farmers in the southernmost areas of the United States will soon begin planting the 1961 crop of peanuts and farmers in the other peanut-producing areas of the nation are completing their plans for the production of peanuts in 1961. In order that the State and county Agricultural Stabilization and Conservation committees may apportion the additional acreage provided herein at the earliest possible date, it is essential that this revision of apportionment be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the notice, public procedure, and effective date requirements of the Administrative Procedure Act (5 U.S.C. 1001–1011) is impracticable and contrary to the public interest, and the revised apportionment of the national peanut acreage allotment among the peanut-producing States shall become effective upon filing of this document with the Director, Office of the Federal Register.

For the purpose of apportioning the national reserve of 1,244.6 acres § 729.1203 (25 F.R. 9939) is amended to read as follows:

§ 729.1203 Apportionment of the national peanut acreage allotment for the crop produced in the calendar year 1961.

(a) The national peanut acreage allotment proclaimed in § 729.1202 is hereby apportioned as follows:

State:	*1961 State acreage allotment*
Alabama	218,377.4
Arizona	717.2
Arkansas	4,220.0
California	940.2
Florida	55,352.0
Georgia	528,480.8
Louisiana	1,963.4
Mississippi	7,558.7
Missouri	247.1
New Mexico	5,103.1
North Carolina	169,018.0
Oklahoma	138,358.4
South Carolina	13,866.3
Tennessee	3,619.0
Texas	356,547.4
Virginia	105,631.0
Total	1,610,000.0

(b) The additional acreage hereby apportioned to each State shall be used to the extent necessary to establish new farm allotments on the basis of applications approved under the provisions of § 729.1021 and the remaining acreage shall be available for use for the purposes specified in §§ 729.1016(b)(5), subject to the 10 percent and other limitations contained therein, and 729.1017 of the Allotment and Marketing Quota Regulations for Peanuts of the 1959 and Subsequent Crops, as amended (23 F.R. 8515, 24 F.R. 2677, 6803, 9611, 25 F.R. 897, 8065, 10567, 26 F.R. 1344, 2523).

(Secs. 358, 375, 55 Stat. 88, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1358, 1375)

Issued at Washington, D.C., this 21st day of March 1961. Witness my hand and the seal of the Department of Agriculture.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 61–2611; Filed, Mar. 24, 1961; 8:45 a.m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Navel Orange Reg. 211]

PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 914.511 Navel Orange Regulation 211.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914), 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 by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under 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 23, 1961.

(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 26, 1961, and ending at 12:01 a.m., P.s.t., April 2, 1961, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 650,000 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 24, 1961.

FLOYD F. HEDLUND,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 61–2741; Filed, Mar. 24, 1961; 11:22 a.m.]

[Valencia Orange Reg. 219]

PART 922—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 922.519 Valencia Orange Regulation 219.

(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 22 as amended (7 CFR Part 922), 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 marketing agreement and order, as amended, 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 23, 1961.

(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 26, 1961, and ending at 12:01 a.m., P.s.t., April 2, 1961, are hereby fixed as follows:

(i) District 1: 103,666 cartons;

(ii) District 2: Unlimited movement;

(iii) District 3: 125,000 cartons.

(2) All Valencia oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

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

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

Dated: March 24, 1961.

FLOYD F. HEDLUND,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 61–2742; Filed, Mar. 24, 1961; 11:22 a.m.]

[Lemon Reg. 892]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 953.999 Lemon Regulation 892.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), 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 recommendation 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 21, 1961.

(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 26, 1961, and ending at 12:01 a.m., P.s.t., April 2, 1961, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 209,250 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 22, 1961.

FLOYD F. HEDLUND,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 61–2678; Filed, Mar. 24, 1961; 8:50 a.m.]

[Amdt. 1]

PART 1031—ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Container Regulation

Findings. 1. Pursuant to the Marketing Agreement No. 141 and Order No. 131 (7 CFR Part 1031; 25 F.R. 9093) regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Texas Valley Citrus Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation on the handling of oranges and grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that, as hereinafter set forth, the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and such amendment relieves restrictions on the handling of oranges and grapefruit.

It is therefore ordered, That paragraph (a) of § 1031.322 *Container regulation* (26 F.R. 2335) is hereby amended by adding at the end thereof a new subparagraph (12) reading as follows:

(12) Containers with inside dimensions of 19¾ x 13 x 12½ inches: *Provided*, That such containers may be used only (i) for the shipment of fruit in bags having a capacity for 5-, 8-, or 20-pounds of fruit, or (ii) for the shipment of grapefruit in bags having a capacity for three (3) pack size 64 grapefruit, each such bag containing three (3) grapefruit of pack size 64 or pack size 70 or 72, or both, grading at least U.S. No. 1.

The provisions of this amendment shall become effective at 12:01 a.m., c.s.t., March 27, 1961.

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

Dated: March 23, 1961.

FLOYD F. HEDLUND,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 61–2679; Filed, Mar. 24, 1961; 8:50 a.m.]

PART 1033—ONIONS GROWN IN SOUTH TEXAS

Rules and Regulations

Notice of rule making with respect to proposed rules and regulations to be made effective under Marketing Order No. 133 (7 CFR Part 1033; 26 F.R. 704), regulating the handling of onions grown in designated counties in South Texas, issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), was published in the FEDERAL REGISTER March 9, 1961 (26 F.R. 2053).

This notice afforded interested persons an opportunity to file data, views, or arguments pertaining thereto not later than ten days after publication in the FEDERAL REGISTER. None was filed.

After consideration of all relevant matters, including the proposals set forth in the aforesaid notice which were recommended by the South Texas Onion Committee, established pursuant to the aforesaid marketing order, the following rules and regulations are hereby approved to become effective upon publication in the FEDERAL REGISTER.

GENERAL

Sec.
1033.100 Order.
1033.101 Terms.
1033.102 Communications.
1033.103 Registered handler.
1033.104 Fiscal period.

SAFEGUARDS

1033.120 Policy.
1033.121 Qualification.
1033.122 Application.
1033.123 Approval.
1033.124 Reports.
1033.125 Disqualification.

AUTHORITY: §§ 1033.100 to 1033.125, issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL

§ 1033.100 Order.

Order means Order No. 133 (§§ 1033.1 to 1033.92; 26 F.R. 704) regulating the handling of onions grown in South Texas.

§ 1033.101 Terms.

The terms used in this subpart shall have the same meaning as when used in the order.

§ 1033.102 Communications.

Unless otherwise provided in the order, or by specific direction of the committee, all reports, applications, submittals, requests and communications in connection with the order shall be addressed to the South Texas Onion Committee, at its principal office.

§ 1033.103 Registered handler.

For purposes of this part any person who operates an established packing house within the production area with commonly accepted adequate facilities for grading and packing onions for market, and who customarily buys onions from producers for grading, packing, and marketing shall be recorded by the committee as a registered handler. Any other person who wishes to be listed as a registered handler may make application for registration on forms furnished by the committee. If such applicant has facilities available to him that are determined by the committee to be adequate for grading and packing onions for market, and he assumes responsibility for inspection of onions handled by him, and for assessments thereon, he may be approved and recorded as a registered handler. If the committee determines from the available information that the applicant is not entitled to be registered with the committee, he shall be so informed by written notice stating the reason for denial of his application. Any registration of a handler pursuant to this section may be canceled by the committee under circumstances which would have justified denial of his application. Any handler whose registration has been canceled shall be so informed by written notice thereof stating the reason therefor. The committee shall also notify producers of each such cancellation of handler registration through committee bulletins or published notice in local newspapers of general distribution, or both.

§ 1033.104 Fiscal period.

The initial fiscal period shall begin on the effective date of this part, February 6, 1961, and end on January 31, 1962. Thereafter, each fiscal period shall begin on February 1 of each year and end on January 31 of the following year, both dates inclusive.

SAFEGUARDS

§ 1033.120 Policy.

Whenever shipments of onions for special purposes pursuant to § 1033.53 are relieved in whole or in part from regulations issued under § 1033.52, the committee may require information and evidence on the manner, methods, and timing of such shipments as safeguards against the entry of any such onions in trade channels other than those for which intended. Such information and evidence shall include requirements set forth below with respect to Certificates of Privilege.

§ 1033.121 Qualification.

Before handling onions for special purposes which do not meet regulations issued pursuant to § 1033.52, a handler, when required by such regulations, must qualify with the committee to handle shipments for special purposes. To qualify he must (a) apply for and receive a Certificate of Privilege indicating his intent to so handle onions, (b) agree to comply with reporting and other requirements set forth in §§ 1033.120 to 1033.125, inclusive, with respect to such shipments, and (c) receive approval of the committee, or its duly authorized agents, to so handle onions. Such approval will be based upon evidence furnished in his application for Certificate of Privilege and other information available to the committee.

§ 1033.122 Application.

(a) Applications for a Certificate of Privilege shall be made on forms furnished by the committee. Each application may contain, but need not be limited to, the name and address of the handler; the quantity by grade, size, and quality of the onions to be shipped; the mode of transportation; the consignee; the destination; the purpose for which the onions are to be used; and certification to the United States Department of Agriculture and to the committee as to the truthfulness of the information shown thereon, and any other appropriate information or documents deemed necessary by the committee or its duly authorized agents for the purposes stated in § 1033.120.

(b) The committee may require each handler making shipments of onions for export to include with his application a copy of the Department of Commerce Shippers Export Declaration Form No. 7525–V applicable to such shipment.

§ 1033.123 Approval.

The committee or its duly authorized agents shall give prompt consideration to each application for a Certificate of Privilege. Approval of an application, based upon the determination as to whether the information contained therein and other information available to the committee supports approval, shall be evidenced by the issuance of a Certificate of Privilege to the applicant. Each certificate shall cover a specified period and specified qualities and quantities of onions to be sold or transported to a designated consignee for the purpose declared.

§ 1033.124 Reports.

Each handler of onions shipping under Certificates of Privilege shall supply the committee with reports as requested by the committee, or its duly authorized agents, showing the name and address of the shipper; the car or truck identification; the loading point; destination; consignee; the inspection certificate number when inspection is required; and any other information deemed necessary by the committee.

§ 1033.125 Disqualification.

The committee from time to time may conduct surveys of handling of onions for special purposes requiring Certificates of Privilege to determine whether handlers are complying with the requirements and regulations applicable

to such certificates. Whenever the committee finds that the handler or consignee is failing to comply with requirements and regulations applicable to handling of onions in special outlets and requiring such certificates, a Certificate or Certificates of Privilege issued such handler may be rescinded and subsequent certificates denied. Such disqualification shall apply to, and not exceed, a reasonable period of time as determined by the committee, but in no event shall it extend beyond the date of the succeeding fiscal period. Any handler who has a Certificate rescinded or denied may appeal to the committee in writing for reconsideration of his disqualification.

It is hereby found that good cause exists for not postponing the effective date of these rules and regulations beyond the date of publication in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that (1) these rules and regulations apply to the handling of onions grown in the production area and the handling of the 1961 early spring crop of onions has begun, (2) it is necessary to place these rules and regulations in effect at the earliest possible date in order to facilitate operations under the marketing order, and (3) notice hereof has been given by publication in the FEDERAL REGISTER of March 9, 1961 (26 F.R. 2053).

Effective date: Dated, March 22, 1961, to become effective upon publication in the FEDERAL REGISTER.

FLOYD F. HEDLUND,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 61–2653; Filed, Mar. 24, 1961; 8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER C—REGULATIONS PERTAINING TO MILITARY JUSTICE

PART 150—UNIFORM RULES OF PROCEDURE FOR PROCEEDINGS IN AND BEFORE BOARDS OF REVIEW

Revision of Part

Scope and purpose. The following is a revision of Part 150 as jointly prescribed by the Judge Advocates General of the armed forces, effective February 28, 1961.

Part 150 is revised to read as follows:

Subpart A—General

Subpart B—Rules

Subpart C—Appendixes

AUTHORITY: §§ 150.01 to 150.33 issued under sec. 866, 70A Stat. 59; 10 U.S.C. 866.

Subpart A—General

§ 150.01 Authority.

Pursuant to Article 66(f) of the Uniform Code of Military Justice (sec. 866(f), 70A Stat. 59–60, 10 U.S.C. 866 (f)), the following rules of procedure for proceedings in and before boards of review are jointly promulgated by the Judge Advocates General of the armed forces effective February 28, 1961.

§ 150.02 Definitions.

So far as the terms defined in Article 1 of the Uniform Code of Military Justice (sec. 801, 70A Stat. 36; 10 U.S.C. 801) are used in this part, they are used in the sense of their respective definitions therein unless the context indicates otherwise. As used in this part:

(a) "Appellate counsel" means any counsel representing any party before a board of review.

(b) "Appellate defense counsel" means any officer appointed by the Judge Advocate General to represent an accused before a board of review pursuant to Article 70 of the Uniform Code of Military Justice (sec. 870, 70A Stat. 62; 10 U.S.C. 870).

(c) "Appellate government counsel" means any officer appointed by the Judge Advocate General to represent the government before a board of review pursuant to Article 70 of the Uniform Code of Military Justice (sec. 870, 70A Stat. 62; 10 U.S.C. 870).

(d) "Civilian counsel" means civilian counsel provided by the accused to represent him before a board of review.

(e) "Appellate counsel for the accused" includes appellate defense counsel and civilian counsel.

(f) "Defense counsel" means any person who represented an accused at the trial by court-martial or who served as his counsel in the field.

Subpart B—Rules

§ 150.1 Quorum.

A majority of the member of a board of review constitutes a quorum for the purpose of hearing and determining any matter referred to the board. The determination of any matter referred to a board of review will be according to the opinion of a majority of the members participating in the decision. In the absence of a quorum the senior member present may make all necessary orders touching any proceedings pending in the board preparatory to hearing or decision thereof.

§ 150.2 Place for filing papers.

When the filing of a notice of appearance, brief, or other paper in the Office of a Judge Advocate General is required by these rules, such papers will be filed in the Office of the Judge Advocate General of the appropriate armed force. If transmitted by mail or other means, they are not filed until received in such office.

§ 150.3 Who may file papers.

Papers will be filed only by the accused or the duly authorized counsel for the parties in interest and proof of such authorization may be required.

§ 150.4 Signing of papers.

All formal papers must be signed and must show, typewritten or printed, the name and address of the person signing same, together with his military rank, if any, and the capacity in which he signs the paper. Such signature constitutes a certificate that the statements made therein are true and correct to the best of the knowledge, information, and belief of the person signing the paper, and that the paper is filed in good faith and not for purposes of unnecessary delay.

§ 150.5 Computation of time.

Times referred to herein are calendar days. If the last day falls on a Saturday, Sunday, or holiday, compliance may be made on the next working day.

§ 150.6 Qualification of counsel.

(a) In any proceeding before a board of review the accused may be represented by civilian counsel provided by him or by assigned appellate defense counsel. Civilian counsel must be a member of the bar of a Federal court or of the highest court of a State or Possession of the United States, and may be required to file a certificate setting forth such qualifications. Assigned appellate defense and government counsel must be qualified in accordance with Articles 70(a) and 27(b)(1) of the Uniform Code of Military Justice (secs. 870(a) and 827 (b)(1), 70A Stat. 62 and 46; 10 U.S.C. 870(a) and 827(b)(1)).

(b) Civilian counsel may not act as counsel before a board of review if he has been suspended by the Judge Advocate General of the service concerned from such practice and such suspension has not been revoked.

§ 150.7 Conduct of counsel.

(a) The conduct of counsel appearing before a board of review will be in accordance with the rules of conduct prescribed by paragraph 42b, Manual for Courts-Martial, United States, 1951 (16 F.R. 1320; 3 CFR, 1949–1953 Comp. p. 441).

(b) A board of review may exercise its inherent right to remove, on an ad hoc basis, counsel misbehaving before or in relation to their appearance before such board. When a counsel has been so removed and the board considers that his conduct was such as probably to warrant suspension, either temporarily or indefinitely, the board shall report the misconduct to the Judge Advocate General of the service concerned and make such recommendations as deemed appropriate.

§ 150.8 Request for appellate defense counsel.

A request for representation by appellate defense counsel will be forwarded to the convening or reviewing authority for attachment to the record or dispatched to the Office of the Judge Advocate General within ten days from the date of the action of the convening or reviewing authority, whichever is later. In cases referred to a board under Article 69 of the Uniform Code of Military Justice (sec. 869, 70A Stat. 61; 10 U.S.C. 869), the accused will have two days from the time he receives notice of such reference to forward a request for appellate defense counsel to the Office of the Judge Advocate General unless he has already forwarded such request. Any request for appellate defense counsel should be accompanied by a statement as to the errors or other matters urged as grounds for relief. Although such statement need not be in technical form, the assistance of counsel in the field should be made available for its preparation. In the event defense counsel files a brief as provided in Article 38(c) of the Uniform Code of Military Justice (sec. 838(c), 70A Stat. 50; 10 U.S.C. 838(c)), such brief may be submitted in lieu of this statement.

§ 150.9 Retention of civilian counsel.

(a) Notice that an accused has retained or has taken action to retain civilian counsel to represent him before a board of review will be forwarded to the convening or reviewing authority for attachment to the record or dispatched to the Judge Advocate General within ten days from the date of the action of the convening or reviewing authority, whichever is later. In cases referred to a board of review under Article 69 of the Uniform Code of Military Justice (sec. 869, 70A Stat. 61; 10 U.S.C. 869), the accused will forward such notice within two days after receipt of notice by him of such referral unless he has already forwarded such notice. The notice of retention of civilian counsel will be signed by the accused or his representative and will state the name and address of such civilian counsel. When the accused has forwarded a timely notice of intention to retain civilian counsel, a notice of retainer stating the name and address of such counsel must be received in the Office of the Judge Advocate General within ten days of receipt of the notice of intention. Such civilian counsel will thereafter be notified of the receipt of the record of trial in the Office of the Judge Advocate General, the number of the case, the board to which the case has been referred, and the arrangements made, or to be made, for a hearing.

(b) If the accused has forwarded a timely notice of intention to retain civilian counsel, appellate defense counsel shall be assigned to represent the interests of the accused pending appearance of civilian counsel.

§ 150.10 Failure to request or give notice of appellate counsel.

Failure of an accused to request appellate defense counsel or to give notice of retainer of civilian counsel or of intention to retain civilian counsel within the times prescribed may be regarded as a waiver of such right and a board may take final action in the case.

§ 150.11 Mandatory assignment of appellate defense counsel.

In all cases in which the United States is represented by counsel before a board of review, the accused will be assigned appellate defense counsel if not already represented by counsel.

§ 150.12 Relations between civilian counsel and other appellate counsel.

Civilian counsel may communicate directly with appellate defense or government counsel. Appellate defense counsel shall render such appropriate assistance in connection with the appellate review in the case as may be requested by civilian counsel.

§ 150.13 Notice of appearance of counsel.

Appellate defense and government counsel in a case before a board of review will file a written notice of appearance in the Office of the Judge Advocate General within five days of assignment to the case. Civilian counsel will file such notice within ten days from the date of receipt of the notice of retainer in the Office of the Judge Advocate General. Unless separate notice of appearance is filed, an assignment of errors, brief, or other formal paper will constitute a notice of appearance.

§ 150.14 Availability of records of trial to civilian counsel.

Civilian counsel who do not have a copy of the record of trial may make arrangements with appellate defense counsel to examine a copy of the record of trial in the Office of the Judge Advocate General and to make a copy of the whole or any part thereof without expense to the Government.

§ 150.15 Assignment of errors.

Within fifteen days after notification of the receipt of the record in the Office of the Judge Advocate General, appellate counsel for the accused shall file an assignment of errors setting forth separately and particularly each error asserted and intended to be urged (§ 150.31). An original and five clear copies prepared in accordance with the provisions of § 150.16(a) will be submitted. It will contain the information prescribed in § 150.16(d)(1). A reply to this assignment may be filed within fifteen days.

§ 150.16 Briefs.

(a) *General provisions.* The assignment of errors prescribed in § 150.15 may be included in, or filed in lieu of, a brief for the accused. An original and five clear copies of all briefs will be submitted. Briefs will be typewritten, double-spaced on 8″ x 12½″ (legal cap) white paper, securely fastened at the top. All references to matters contained in the record will show record page numbers and any exhibit designations.

(b) *Number of briefs.* Appellate counsel will be limited to the filing of one brief for each side unless the board otherwise permits or directs.

(c) *Time for filing.* Any brief for an accused will be filed within fifteen days after his appellate counsel has been notified of the receipt of the record in the Office of the Judge Advocate General. If the Judge Advocate General has directed appellate government counsel to represent the United States, such counsel may file a brief on behalf of the government within fifteen days after any brief or an assignment of errors has been filed on behalf of an accused. If no brief is filed on behalf of an accused, a brief on behalf of the government may be filed within fifteen days after expiration of the time allowed for the filing of a brief on behalf of the accused.

(d) *General contents.* (1) Each brief will indicate on the cover page (§ 150.32):

(i) The designation of the board of review to which the case has been referred,

(ii) The number of the case, if known, and the caption with designation of parties,

(iii) Title of the document,

(iv) Names and addresses of all counsel submitting the document,

(2) If the brief is ten pages or more, an index containing:

(i) Divisions of the brief, including a summary of the argument,

(ii) Table of authorities cited with references to the page of the brief where cited.

(e) *Contents (accused) (§ 150.33).* The brief for an accused will contain the following arranged in the order indicated:

(1) A summary of the proceedings showing the findings and sentence as approved and the action of the convening authority thereon,

(2) A concise statement of the facts of the case containing all that is material to the consideration of the questions presented with appropriate page references to the record,

(3) The substance of the errors or points intended to be urged, prepared in accordance with § 150.15,

(4) The argument exhibiting clearly the points of fact and law being presented, citing the authorities and statutes relied upon, and quoting the relevant parts of such authorities and statutes as are deemed to have an important bearing,

(5) A conclusion stating concisely why the case should be decided as urged.

(f) *Contents (government).* (1) A brief on behalf of the government will

be of like character as that prescribed for the accused except that the matters prescribed in paragraph (e) (1), (2), and (3) of this section need not be given unless deemed necessary in correcting any inaccuracy or omission in the brief of the accused.

(2) Appropriate proof of service of a copy of the brief will appear on the cover sheet when the accused is represented by civilian counsel.

§ 150.17 Oral arguments.

(a) *When heard.* All cases in which the parties are represented by counsel will be set for argument unless, upon request of counsel, a board permits a case to be submitted without argument.

(b) *Notice of setting of arguments.* A board of review will give appellate counsel at least ten days' notice of the time and place of oral argument, unless waived.

(c) *Time limits.* The length of oral arguments will be within the discretion of a board of review and ordinarily will not exceed thirty minutes for each side.

(d) *Number of counsel; opening and closing.* A board in its discretion may limit the number of counsel making an oral argument. The defense will have the right to make opening and closing arguments.

(e) *Failure to appear.* Failure of appellate counsel to appear at the time and place set for oral argument may be regarded as a waiver thereof and the board may proceed to act on the case as submitted without argument or, in its discretion, may continue the case for argument at a later date, giving due notice thereof.

(f) *Presence of accused.* The accused does not have a right to be present at the hearing before the board of review.

§ 150.18 Matters outside the record.

Matters outside the record of trial will not be presented to or argued before a board of review except with respect to:

(a) A petition for new trial referred to a board under Article 73 of the Uniform Code of Military Justice (sec. 873, 70A Stat. 63; 10 U.S.C. 873) (see § 150.21),

(b) A question of jurisdiction,

(c) Matters affecting the sanity of an accused tending to show that further inquiry as to his mental condition is warranted in the interest of justice,

(d) Matters as to which judicial notice may be taken in military law,

(e) Such other matters as a board of review may determine to be proper under substantive law.

§ 150.19 Decisions of a board of review.

(a) *Notice of decisions.* Notice of the decision of a board of review will be accomplished as prescribed in paragraph 100, Manual for Courts-Martial, United States, 1951 (16 F.R. 1351; 3 CFR, 1949–1953 Comp., p. 502). In any case where a board affirms a sentence without opinion, notice upon the accused and appellate counsel for the accused, in accordance with paragraph 100c(1)(a), Manual for Courts-Martial, United States, 1951 (16 F.R. 1351; 3 CFR, 1949–1953 Comp., p. 502), may be accomplished by any equally expeditious means of communication.

(b) *Copies of decisions.* A copy of the decision of a board of review will be furnished appellate counsel for the accused.

(c) *Format of decisions.* The Judge Advocate General of the service concerned may prescribe the format of board of review decisions.

§ 150.20 Reconsideration.

(a) A board of review may, in its discretion and on its own motion, enter an order in any case not later than 30 days after service of its decision on the accused to reconsider such decision, provided a petition for grant of review or certificate for review has not been filed with the United States Court of Military Appeals, or a record of trial for review under Article 67(b)(1) of the Uniform Code of Military Justice (sec. 867(b)(1), 70A Stat. 60; 10 U.S.C. 867(b)(1)) has not been received by the court.[1] Copies of such order will be served on appellate defense counsel and appellate government counsel. No briefs or arguments will be received unless the order so directs.

(b) A board of review may, in its discretion, reconsider its decision in any case upon motion filed by either appellate defense counsel within 10 days from the time an accused is notified of the decision of the board of review or upon motion of appellate government counsel within 10 days after receipt of its decision, provided a petition for grant of review or certificate for review has not been filed with the United States Court of Military Appeals, or a record of trial for review under Article 67(b)(1) of the Uniform Code of Military Justice (sec. 867(b)(1), 70A Stat. 60; 10 U.S.C. 867(b)(1)) has not been received by the court.[1]

(c) A motion for reconsideration shall briefly and directly state the grounds for reconsideration including a statement of facts showing jurisdiction in the board of review. A reply to the motion for reconsideration will be received by the board only if filed within five days of receipt of a copy of the motion. No oral argument will be received on a motion for reconsideration unless ordered by the board of review. The original of the motion filed with the board shall indicate the date of receipt of a copy of the same by opposing counsel.

(d) The time limitations prescribed by this section will not be extended under the authority of § 150.23 beyond the expiration of the time for filing a petition for review by the United States Court of Military Appeals, except that the time for filing briefs by either party may be extended for good cause.

[1] Entry of an order under paragraph (a) or receipt of a motion under paragraph (b) of this section, will delay the inception of the thirty-day appeal period prescribed by Article 67(c) of the Uniform Code of Military Justice (sec. 867(c), 70A Stat. 60; 10 U.S.C. 867(c)) until the time the accused is notified of the final disposition of the reconsideration or motion by the board of review and will delay the inception of the thirty-day period prescribed by Rule 25 of the Rules of Practice and Procedure of the United States Court of Military Appeals until the Judge Advocate General is notified of the final disposition of the reconsideration or motion by the board. See United States v. Sell, 3 USCMA 202, 11 CMR 202; United States v. Sparks, 5 USCMA 453, 18 CMR 77.

§ 150.21 Petition for new trial.

(a) *General provisions.* Upon receipt from the Judge Advocate General of a petition for a new trial in a case pending before a board, the board of review shall, as soon as practicable, notify appellate counsel for the accused of such receipt.

(b) *Additional investigation.* The board on considering a petition for a new trial may, when deemed appropriate, request the Judge Advocate General to initiate further investigation and to report the results thereof to the board. Additionally, the board may take evidence concerning the petition, relaxing the rules of evidence to whatever extent it deems advisable.

(c) *Answer.* Appellant government counsel shall file an answer to a petition for new trial within 10 days after receipt of notification of the receipt thereof by a board of review.

(d) *Briefs.* Any brief in support of a petition for new trial shall be filed within 10 days of appellant government counsel's answer. If appellee fails to file an answer, appellant may file a brief within 10 days after the expiration of the time allowed for the filing of appellee's answer. Appellee's brief shall be filed within 10 days of the filing of appellant's brief. If appellant fails to file a brief, appellee may file his brief within 10 days after the expiration of the time allowed for filing of appellant's brief.

(e) *Oral argument.* Except when ordered by the board, oral argument will not be permitted on a petition for a new trial.

§ 150.22 Motions.

(a) *Content.* All motions, unless made during the course of a hearing, shall state with particularity the relief sought and the grounds therefor.

(b) *Opposition.* Any opposition to a motion shall be filed within five days after receipt by the opposing party of service of the motion.

(c) *Leave to file.* Any pleading not required by this part shall be accompanied by a motion for leave to file such pleading.

§ 150.23 Continuances and interlocutory matters.

Except as otherwise provided in § 150.20(d), a board, in its discretion, may extend any time limits prescribed and may dispose of any interlocutory or other matters, not specifically covered

by this part, in such manner as may appear to be required for a full, fair, and expeditious consideration of the case. The Chairman of the board may grant such extensions of time limits prescribed, for such time and as often as may appear to be just.

Subpart C—Appendixes

§ 150.31 Appendix 1—Form for assignment of errors (§ 150.15).

IN THE OFFICE OF THE JUDGE ADVOCATE GENERAL OF THE AIR FORCE [1]

Before Board of Review No. —

UNITED STATES *v.* Private JOHN RICHARD ROE, U.S. Air Force, AF00000000, 3000th Training Squadron, 4000th Technical Training Group

Case No. ------
Tried at ----------, on ---------- 19--, before a G.C.M. appointed by CG-------- Air Force

ASSIGNMENT OF ERRORS

Summary of Proceedings

Upon trial by general court-martial the accused pleaded not guilty to, and was found guilty of, absence without leave from 2 June 1951 until 1 July 1951 in violation of U.C.M.J., Art. 86, and of larceny of a watch of a value of $75.00, the property of Private Schmidt, in violation of U.C.M.J., Art. 121. On ---------- 19-- he was sentenced to dishonorable discharge, forfeiture of all pay and allowances, and confinement at hard labor for 4 years. The convening authority approved the sentence, forwarded the record of trial to the Judge Advocate General of the ---------- and directed that pending completion of appellate review the accused be transferred to the command of ----------, where he is presently confined in the base stockade, ---------- Air Base, ----------.

Errors

The following errors are assigned:

1. The law officer erred in admitting in evidence as Prosecution's Exhibit No. 1, an alleged extract copy of the morning report of the 3000th Training Squadron dated 2 June 1951 (R. 17).

The exhibit shows that the alleged morning report was signed, and indicates that the entry as to the accused's alleged unauthorized absence was made, by Sergeant William Q. Johns, 3000th Training Squadron. Under pertinent regulations in effect at the time the alleged entry was made, a noncommissioned officer was not the proper person to sign the morning report and had no official duty to record the fact of unauthorized absence.

2. The court erred in its findings of guilty of absence without leave (R. 29), as there was no competent evidence of the alleged unathorized absence.

3. ----------

4. ----------

[S] ----------
JOHN J. DOE,
Major, U.S. Air Force, Office of the Judge Advocate General, U.S. Air Force, Appellate Defense Counsel.

[1] Use Judge Advocate General of the Army Judge Advocate General of the Navy, or General Counsel of the Treasury Department, respectively, for Army, Navy, or Coast Guard accused, and modify title accordingly.

§ 150.32 Appendix 2—Form for cover page of brief (§ 150.16).

IN THE OFFICE OF THE JUDGE ADVOCATE GENERAL OF THE AIR FORCE [1]

Before Board of Review No. —

UNITED STATES *v.* Private JOHN RICHARD ROE, U.S. Air Force, AF00000000, 3000th Training Squadron, 4000th Technical Training Group

Case No. ------
Tried at ----------, on ---------- 19--, before a G.C.M. appointed by CG-------- Air Force

Brief on behalf of accused
(Brief on behalf of the Government)
(Reply brief on behalf of accused)

ROGER Q. SMITH,
Attorney-at-Law,
Crow Building, Muscatine, Iowa,
Civilian Counsel for Accused.
WILLIAM R. QUEEN,
Major, U.S. Air Force,
Office of the Judge Advocate General, U.S. Air Force,
Appellate Defense Counsel.

§ 150.33 Appendix 3—Form for contents of brief on behalf of accused (§ 150.16).

(For Form of Cover Page, see § 150.32.)

INDEX OF BRIEF

(Omit if brief is less than 10 pages long)

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MISCELLANEOUS

(*New page*)

UNITED STATES v. Private JOHN RICHARD ROE, U.S. Air Force, AF00000000, 3000th Training Squadron, 4000th Technical Training Group

Case No. ------
Tried at ----------, on ---------- 19--, before a G.C.M. appointed by CG -------- Air Force

BRIEF ON BEHALF OF ACCUSED

Summary of Proceedings
(See first paragraph of § 150.31)

* * * * *

Statement of Facts

Briefly summarized the record of trial shows ————. (State all the facts material to the consideration of errors assigned).

Assignment of Errors

The following errors are assigned:
(See § 150.31)

* * * * *

Argument

(Discuss the points presented separately and in detail under the headings listed in the index, citing and quoting applicable authority deemed to have an important bearing.)

* * * * *

Conclusion

For the reasons stated, the findings of guilty and the sentence should be set aside and the charges should be dismissed.

[S] ----------
ROGER Q. SMITH,
Attorney - at - Law, Crow Building, Muscatine, Iowa, Civilian Counsel for Accused.

[S] ----------
WILLIAM R. QUEEN,
Major, U.S. Air Force, Office of the Judge Advocate General, U.S. Air Force, Appellate Defense Counsel.

MAURICE W. ROCHE,
Administrative Secretary, Office of the Secretary of Defense.

[F.R. Doc. 61-2625; Filed, Mar. 24, 1961; 8:46 a.m.]

[1] Same as for § 150.31.

Title 42—PUBLIC HEALTH

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

SUBCHAPTER F—QUARANTINE, INSPECTION, LICENSING

PART 73—BIOLOGIC PRODUCTS

Additional Standards; Poliovirus Vaccine, Live, Oral

On November 23, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER proposing regulatory standards for the manufacture of Poliovirus Vaccine, Live, Oral.

Views and arguments respecting the proposed amendments were invited to be submitted within 30 days after publication of the notice in the FEDERAL REGISTER, and notice was given of intention to make any amendments that were adopted effective 30 days after the date of publication of the adopted amendments.

After consideration of all comments submitted, the following amendments to Part 73 of the Public Health Service regulations are hereby adopted to become effective 30 days after the date of publication in the FEDERAL REGISTER.

1. Redesignate §§ 73.110, 73.111, 73.112, 73.113, 73.114, and 73.115 as §§ 73.130, 73.131, 73.132, 73.133, 73.134, 73.135, respectively.

2. In § 73.130(b) as redesignated, substitute the numerals "73.132" and "73.133" for the numerals "73.112" and "73.113".

3. In § 73.130(c) as redesignated, substitute the numerals "73.132" and "73.133" for the numerals "73.112" and "73.113".

4. In § 73.131(d) as redesignated, substitute the numeral "73.132" for the numeral "73.112" in the three places where it appears.

5. In § 73.132(b) as redesignated, substitute the numeral "73.131" for the numeral "73.111".

6. In § 73.135 as redesignated, substitute the numerals "73.130" and "73.134" for the numerals "73.110" and "73.114", respectively.

7. Insert the following immediately after § 73.105:

ADDITIONAL STANDARDS: POLIOVIRUS VACCINE, LIVE, ORAL

§ 73.110 The product.

(a) *Proper name and definition.* For the purpose of section 351(a)(2) of the Act and § 73.1(k), the proper name of this product shall be "Poliovirus Vaccine, Live, Oral", followed by a designation of the form in which the vaccine is distributed by the manufacturer. The vaccine shall be a preparation of one or more live, attenuated polioviruses grown in monkey kidney cell cultures, prepared in a form suitable for oral administration.

(b) *Criteria for acceptable strains and acceptable seed virus.* (1) Strains of attenuated poliovirus Types 1, 2, and 3 used in the manufacture of the vaccine shall be identified by: (i) Historical records including origin and techniques of attenuation, (ii) antigenic properties, (iii) neurovirulence for monkeys, (iv) pathogenicity for other animals and tissue cultures of various cell types, and (v) established virus markers including rct/40, d, MS.

(2) Poliovirus strains shall not be used in the manufacture of Poliovirus Vaccine, Live, Oral, unless, (i) data are submitted to the Surgeon General which establish that each such strain is free of harmful effect upon administration in the recommended dosage to at least 100,000 people susceptible to poliomyelitis, under circumstances where adequate epidemiological surveillance of neurological illness has been maintained, and, (ii) each such strain produces a vaccine meeting the safety and potency requirements of §§ 73.114(b), 73.115, and 73.117. Susceptibility shall be demonstrated by blood tests, stool examinations and other appropriate methods.

(3) Each seed virus used in manufacture shall be demonstrated to be free of extraneous microbial agents.

(4) No seed virus shall be used for the manufacture of poliovirus vaccine unless its neurovirulence in Macaca monkeys is no greater than that of the NIH Reference Attenuated Poliovirus. The neurovirulence of the seed virus shall be demonstrated by the following tests to be performed by the manufacturer: (i) The test prescribed in § 73.114(b)(1) using seed virus as test material in place of monovalent virus pool material and (ii) the following comparative intramuscular neurovirulence test: Each of at least ten monkeys shall be injected with a total of 5.0 ml. of the seed virus under test in one or more proximate locations of either a gluteus or gastrocnemius muscle. Similar injections shall be made in another group of ten monkeys using the NIH Reference Attenuated Poliovirus. Each monkey shall be injected intramuscularly with no less than $10^{7.7}$ $TCID_{50}$ of viral inoculum. All monkeys shall be observed for 17 to 21 days and a comparative evaluation shall be made of the evidence of neurovirulence of the virus under test and the NIH Reference Attenuated Poliovirus, as prescribed in § 73.114(b)(1)(iii).

(5) Subsequent and identical neurovirulence tests shall be performed in monkeys whenever there is evidence of a change in the neurovirulence of the production virus and upon introduction of a new production seed lot and as often as necessary otherwise to establish to the satisfaction of the Surgeon General that the seed virus strains for vaccine manufacture have maintained their neurovirulence properties as set forth in § 73.114(b)(1).

(6) The Surgeon General may, from time to time, prohibit the use of a specified strain whenever he finds it is practicable to use another strain of the same type which is potentially less pathogenic for man, and that it will produce a vaccine of equivalent safety and potency.

§ 73.111 NIH reference strains.

The following NIH reference viruses shall be obtained from the Division of Biologics Standards.

NIH Reference Poliovirus, Live Attenuated, Type 1, as a control for correlation of virus titers in tissue cultures.

NIH Reference Poliovirus, Live Attenuated, Type 2, as a control for correlation of virus titers in tissue cultures.

NIH Reference Poliovirus, Live Attenuated, Type 3, as a control for correlation of virus titers in tissue cultures.

NIH Reference Attenuated Poliovirus, Type 1, as a control for correlation of monkey neurovirulence tests.

§ 73.112 Animal conditioning, personnel, and facilities.

(a) *Monkey conditioning, housing and handling.* (1) Only Macaca monkeys, or a species found by the Director, Division of Biologics Standards, to be equally suitable, in overt good health, that have reacted negatively to tuberculin at the start of the prescribed quarantine period, shall be used as the source of kidney tissue for the manufacture of poliovirus vaccine.

(2) Monkeys that have been used previously for experimental purposes shall not be used as a source of kidney tissue in the manufacture of vaccine.

(3) Monkeys to be used as a source of kidney tissue in vaccine manufacture shall be maintained in quarantine for at least six weeks prior to use in cages closed on all sides with solid materials except the front, which shall be screened. Not more than two monkeys shall be housed in one cage, and cage mates shall not be interchanged.

(4) Excluding deaths from accidents or causes not due to infectious diseases, if the death rate of any group of monkeys being conditioned in accordance with subparagraph (3) of this paragraph exceeds five percent per month, the remaining monkeys may be used for poliovirus vaccine only if they survive a new quarantine period.

(5) Each animal at necropsy shall be examined under the direction of a qualified pathologist, physician, or veterinarian having experience with diseases of monkeys, for the presence of signs or symptoms of ill health, particularly for (i) evidence of tuberculosis, (ii) presence of herpes-like lesions, including eruptions or plaques on or around the lips, in the buccal cavity or on the gums and (iii) signs of conjunctivitis. If there are any such signs or other significant gross pathological lesions, the kidneys shall not be used in the manufacture of vaccine.

(b) *Personnel.* All possible steps shall be taken to insure that personnel involved in processing the vaccine are immune to poliovirus in order to minimize the possibility that they may become excretors of poliovirus.

(c) *Facilities.* The space set aside for work with live poliovirus vaccine shall not be used for any other purpose during the vaccine processing period. All areas used for live poliovirus vaccine processing shall be decontaminated prior to the initiation of such processing. Test procedures which potentially involve the presence of micro-organisms including viruses other than the vaccine strains, or the use of tissue culture cell lines other than primary cultures, shall not be conducted in live poliovirus vaccine manufacturing areas.

§ 73.113 Manufacture of poliovirus vaccine, live, oral.

(a) *Primary cell cultures.* Only primary monkey kidney tissue cultures may be used in the manufacture of poliovirus vaccine. Continuous line cells shall not be introduced or propagated in vaccine manufacturing areas.

(b) *Virus passages.* Virus in the final product shall represent no more than five tissue culture passages from the original strain, each of which shall have met the criteria of acceptability prescribed in § 73.110(b).

(c) *Identification of processed kidneys.* The kidneys from each monkey shall be processed and the viral fluid resulting therefrom shall be identified as a separate monovalent harvest and kept separately from other monovalent harvests until all samples for the tests prescribed in the following paragraph relating to that pair of kidneys shall have been withdrawn from the harvest.

(d) *Monkey kidney tissue production vessels prior to virus inoculation.* Prior to inoculation with the seed virus, the tissue culture growth in vessels representing each pair of kidneys shall be examined microscopically for evidence of cell degeneration at least three days after complete formation of the tissue sheet. If such evidence is observed, the tissue from that pair of kidneys shall not be used for poliovirus vaccine manufacture. To test the tissue found free of cell degeneration for further evidence of freedom from demonstrable viable microbial agents, the fluid shall be removed from the cell cultures immediately prior to virus inoculation and tested in each of four culture systems; (1) Macaca monkey kidney cells, (2) Cercopithecus monkey kidney cells, (3) primary rabbit kidney cells, and (4) human cells (from one of the systems described in § 73.114(a)(6)), in the following manner: Aliquots of fluid from each vessel shall be pooled and at least ten ml. of the pool inoculated into each system, with ratios of inoculum to medium being 1:1 to 1:3 and with the area of surface growth of cells at least three square centimeters per milliliter of test inoculum. The cultures shall be observed for at least 14 days. If these tests indicate the presence in the tissue culture preparation of any viable microbial agent the tissue cultures so implicated shall not be used for poliovirus vaccine manufacture.

(e) *Control vessels.* Before inoculation with seed virus, sufficient tissue culture vessels to represent at least 25 percent of the cell suspension from each pair of kidneys shall be set aside as controls. The control vessels shall be examined microscopically for cell degeneration for an additional 14 days. The cell fluids from such control vessels shall be tested, both at the time of virus harvest and at the end of the additional observation period, by the same method prescribed for testing of fluids in the preceding paragraph (d) of this section. In addition the cell sheet in each control vessel shall be examined for presence of hemadsorption viruses by the addition of guinea pig red blood cells.

(f) *Virus harvest; interpretation of test results.* At least 80 percent of the control vessels shall successfully complete the additional 14-day observation period without microscopic evidence of cell degeneration of the tissue sheets. If less than 80 percent of the control vessels fail to complete satisfactorily the observation period, no tissue from the kidneys implicated shall be used for poliovirus vaccine manufacture. If the test results of the control vessels indicate the presence of any extraneous agent at the time of virus harvest, the entire virus harvest from that tissue culture preparation shall not be used for poliovirus vaccine manufacture. If any of the tests or observations described in paragraph (d) or (e) of this section demonstate the presence in the tissue culture preparation of any microbial agent known to be capable of producing human disease, the virus grown in such tissue culture preparation shall not be used for poliovirus vaccine manufacture.

(g) *Kidney tissue production vessels after virus inoculation—temperature.* After virus inoculation, production vessels shall be maintained at a temperature not to exceed 35.0° C. during the course of virus propagation.

(h) *Kidney tissue virus harvests.* Virus harvested from vessels containing the kidney tissue from one monkey may constitute a monovalent virus pool and be tested separately, or viral harvests from more than one pair of kidneys may be combined, identified and tested as a monavalent pool. Each pool shall be mixed thoroughly and samples withdrawn for testing as prescribed in § 73.114(a). The samples shall be withdrawn immediately after harvesting and prior to further processing, except that samples of test materials frozen immediately after harvesting and maintained at −60° C. or below, may be tested upon thawing, provided no more than one freeze-thaw cycle is employed.

(i) *Filtration.* After harvesting and removal of samples for the safety tests described in § 73.114(a), the pool shall be passed through sterile filters having a sufficiently small porosity to assure bacteriologically sterile filtrates.

§ 73.114 Test for safety.

(a) *Tests prior to filtration.* Monovalent virus pools shall contain no demonstrable viable microbial agent other than the attenuated live polioviruses intended. The vaccine shall be tested for the absence of adventitious and other infectious agents including polioviruses of other types or strains, simian agents, Mycobacterium tuberculosis, pox viruses, lymphocytic choriomeningitis virus, Echo viruses, Coxsackie viruses, and B-virus. Testing of each monovalent pool shall include the following procedures:

(1) *Inoculation of rabbits.* A minimum of 100 ml. of each monovalent virus pool shall be tested by inoculation into at least ten healthy rabbits, each weighing 1500–2500 grams. Each rabbit shall be injected intradermally in multiple sites, with a total of 1.0 ml. and subcutaneously with 9.0 ml., of the viral pool, and the animals observed for at least three weeks. Each rabbit that dies after the first 24 hours of the test or is sacrificed because of illness shall be necropsied and the brain and organs removed and examined. The virus pool may be used for poliovirus vaccine only if at least 80 percent of the rabbits remain healthy and survive the entire period and if all the rabbits used in the test fail to show lesions of any kind at the sites of inoculation and fail to show evidence of B-virus or any other viral infection.

(2) *Inoculation of adult mice.* Each of at least 20 adult mice each weighing 15–20 grams shall be inoculated intraperitoneally with 0.5 ml. and intracerebrally with 0.03 ml. of each monovalent virus pool to be tested. The mice shall be observed for 21 days. Each mouse that dies after the first 24 hours of the test, or is sacrificed because of illness, shall be necropsied and examined for evidence of viral infection by direct observation and subinoculation of appropriate tissue into at least 5 additional mice which shall be observed for 21 days. The monovalent virus pool may be used for poliovirus vaccine only if at least 80 percent of the mice remain healthy and survive the entire period and if all the mice used in the test fail to show evidence of lymphocytic choriomeningitis virus or other viral infection.

(3) *Inoculation of suckling mice.* Each of at least 20 suckling mice less than 24 hours old, shall be inoculated intracerebrally with 0.01 ml. and intraperitoneally with 0.1 ml. of the monovalent virus pool to be tested. The mice shall be observed daily for at least 14 days. Each mouse that dies after the first 24 hours of the test, or is sacrificed because of illness shall be necropsied and all areas examined for evidence of viral infection. Such examination shall include subinoculation of appropriate tissue suspensions into an additional group of at least five suckling mice by the intracerebral and intraperitoneal routes and daily observed for 14 days. In addition, a blind passage shall be made of a single pool of the emulsified tissue (minus skin and viscera) of all mice surviving the original 14 day test. The virus pool under test is satisfactory for poliovirus vaccine only if at least 80 percent of the mice remain healthy and survive the entire period and if all the mice used in the test fail to show evidence of Coxsackie or other viral infection.

(4) *Inoculation of guinea pigs.* Each of at least five guinea pigs, each weighing 350–450 grams, shall be inoculated intracerebrally with 0.1 ml. and intraperitoneally with 5.0 ml. of the monovalent virus pool to be tested. The animals shall be observed for at least 42 days and daily rectal temperatures recorded for the last three weeks of the test. Each animal that dies after the first 24 hours of the test, or is sacrificed because of illness, shall be necropsied. The tissues shall be examined both microscopically and culturally for evidence of tubercle bacilli, and by passage of tissue suspensions into at least three other guinea pigs by the intracerebral and intraperitoneal routes of inoculation for evidence of viral infection. If clinical symptoms suggest infection with lymphocytic choriomeningitis virus, serological tests shall be performed on blood samples of the test guinea pigs to confirm the clinical observations. Animals that die or are sacrified during the first three weeks after inoculation with poliovirus shall be examined for infection with lymphocytic choriomeningitis virus. Animals that die in the final three weeks shall be examined both microscopically and culturally for M. Tuberculosis. The monovalent virus pool is satisfactory for poliovirus vaccine only if at least 80 percent of all animals remain healthy and survive the observation period and if all the animals used in the test fail to show evidence of infec-

tion with M. Tuberculosis, or any viral infection.

(5) *Inoculation of monkey kidney tissue cultures.* At least 500 doses or 50 ml., whichever represents a greater volume of virus, of each undiluted monovalent virus pool or in equal proportions from individual harvests or sub-pools, shall be tested for simian viruses in Macaca, and the same volume in Cercopithecus, monkey kidney tissue culture preparations, in a ratio of inoculum to medium of from 1:1 to 1:3, and with the area of surface growth of cells at least three square centimeters per milliliter of test inoculum, after neutralization of the poliovirus by high titer type specific nonsimian antisera. The immunizing antigens used for the preparation of antisera shall be grown in a human tissue culture cell line. The cultures shall be observed for no less than 14 days. The monovalent virus pool is satisfactory for poliovirus vaccine only if all the tissue cultures fail to show evidence of the presence of simian viruses.

(6) *Inoculation of human cell cultures.* At least 500 doses or 50 ml., whichever represents a greater volume of virus, taken from either a single monovalent pool or in equal proportions from individual harvests or sub-pools, shall be tested in a ratio of inoculum to medium of 1:1 to 1:3, and with the area of surface growth of cells at least three square centimeters per milliliter of test inoculum, for the presence of measles virus in either (i) primary human amnion cells, (ii) primary human kidney cells, or (iii) any other cell system of comparable susceptibility to unmodified measles virus. The test material shall be neutralized with poliovirus antiserum of non-simian derivation if the tissue culture cell system used is susceptible to poliovirus. The culture shall be observed for no less than 14 days. The monovalent virus pool is satisfactory for poliovirus vaccine only if all tissue cultures fail to show evidence of the presence of measles virus.

(7) *Inoculation of rabbit kidney tissue cultures.* At least 500 ml. of virus pool taken from either a single monovalent pool or in equal proportions from individual harvests or sub-pools, shall be tested in a ratio of inoculum to medium of from 1:1 to 1:3, and with the area of surface growth of cells at least three square centimeters per milliliter of test inoculum, in primary rabbit kidney tissue culture preparations for evidence of B-virus. The culture shall be observed for no less than 14 days. The monovalent virus pool is satisfactory for poliovirus vaccine only if all tissue cultures fail to show evidence of the presence of B-virus.

(b) *Tests after filtration.* The following tests relating to safety shall be performed after the filtration process, on each monovalent virus pool or on each multiple thereof (monovalent lot):

(1) *Neurovirulence in monkeys.* Each monovalent virus pool or monovalent lot shall be tested in comparison with the NIH Reference Attenuated Poliovirus for neurovirulence in Macaca monkeys by both the intrathalamic and intraspinal routes of injection. A preinjection serum sample obtained from each monkey must be shown to contain no neutralizing antibody in a dilution of 1:4 when tested against no more than 1,000 $TCID_{50}$ of each of the three types of poliovirus. The neurovirulence tests are not valid unless the sample contains at least $10^{7.0}$ $TCID_{50}$ per ml. when titrated in comparison with the NIH Reference Poliovirus, Live, Attenuated of the appropriate type. All monkeys shall be observed for 17 to 21 days, under the supervision of a qualified pathologist, physician or veterinarian, and any evidence of physical abnormalities indicative of poliomyelitis or other viral infections shall be recorded.

(i) *Intrathalamic inoculation.* Each of at least ten Macaca monkeys shall be injected intrathalamically with 1.0 ml. of virus pool material containing at least $10^{7.0}$ $TCID_{50}$ per ml. and each of at least ten additional Macaca monkeys shall be injected intrathalamically with 1.0 ml of a 10^{-1} dilution thereof. Comparative evaluations shall be made with the virus pool under test and the NIH reference material. Only monkeys that show evidence of inoculation into the thalamus shall be considered as having been injected satisfactorily.

(ii) *Intraspinal inoculation.* Each of a group of at least five Macaca monkeys shall be injected intraspinally with 0.2 ml. of virus pool material containing at least $10^{7.0}$ $TCID_{50}$ per ml. and each monkey in four additional groups of at least five Macaca monkeys shall be injected intraspinally with 0.2 ml. of 10^{-1}, 10^{-2}, 10^{-3}, and 10^{-4} dilutions thereof, respectively. Comparative evaluations shall be made with the virus pool under test and the NIH reference material. Only monkeys that show microscopic evidence of inoculation into the gray matter of the lumbar cord shall be considered as having been injected satisfactorily.

(iii) *Determination of neurovirulence.* At the conclusion of the observation period comparative histopathological examinations shall be made of the lumbar cord, cervical cord, lower medulla, upper medulla and mesencaphalon of each monkey in the groups injected with virus under test and those injected with the NIH Reference Attenuated poliovirus, except that for animals dying during the test period, these examinations shall be made immediately after death. The animals shall be examined to ascertain whether the distribution and histological nature of the lesions are characteristic of poliovirus infection. A comparative evaluation shall be made of the evidence of neurovirulence of the virus under test and the NIH Reference Attenuated Poliovirus with respect to (*a*) the number of animals showing lesions characteristic of poliovirus infection, (*b*) the number of animals showing lesions other than those characteristic of poliovirus infection, (*c*) the severity of the lesions, (*d*) the degree of dissemination of the lesions, and (*e*) the rate of occurrence of paralysis not attributable to the mechanical injury resulting from inoculation trauma. The virus pool under test is satisfactory for poliovirus vaccine manufacture only if at least 80 percent of the animals in each group survive the observation period and if a comparative analysis of the test results demonstrate that the neurovirulence of the test virus pool does not exceed that of the NIH Reference Attenuated Poliovirus.

(2) *Test for virus titer.* The concentration of living virus in each monovalent virus pool or lot shall be determined, using the NIH Reference Poliovirus Live, Attenuated of the same type as a control. The test shall be a 50 percent end-point titration calculation ($TCID_{50}$), performed with either groups of ten tubes at 1 log dilution steps or groups of five tubes of 0.5 log dilution steps, or a test of demonstrated equivalent sensitivity. Acceptable titrations of the reference virus shall not vary more than ± 0.5 log from its labeled titer.

(3) *Tests for In-vitro Markers.* A test shall be performed on each monovalent virus pool or each monovalent lot resulting therefrom, using the rct/40 Marker and at least one of the other marker methods described below. The test results shall demonstrate that the virus under test and the seed virus have substantially the same marker characteristics.

(i) *rct/40 Marker.* Attenuated strains which grow readily at 40° C. (±0.5° C.) are classified as rct/40 positive (+) in contrast to the rct/40 negative (—) strains which show an increased growth of at least 100,000 fold at 36° C. over that obtained at 40° C. Comparative determinations shall be made in either tube or bottle cultures.

(ii) *d Marker.* Attenuated strains which grow readily at low concentrations of bicarbonate under agar are classified as d positive (+) in contrast to the d negative (—) strains which exhibit delayed growth under the same conditions. The cultures shall be grown in a 36° C. incubator either in stoppered bottles or in plates in an environment of 5 percent CO_2 in air.

(iii) *MS Markers.* Attenuated strains which grow more readily on monkey stable (MS) cells are classified as MS positive (+) in contrast to the MS negative (—) strains. Comparative determinations shall be made in either tube cultures or in bottle cultures under agar.

(4) *Test for sterility.* The final bulk vaccine of each monovalent virus pool, or each monovalent lot resulting therefrom, shall be tested for sterility in both fluid Thioglycollate and Sabouraud media by the procedure prescribed in § 73.73 with a sample of no less than 10 ml. for each test.

§ 73.115 Potency test.

The concentration of live virus expressed as $TCID_{50}$ of each type in the vaccine shall constitute the measure of its potency. The accuracy of the titration to determine the concentration of live virus in the lot under test shall be confirmed by performing a titration with the NIH Reference Poliovirus, Live, Attenuated of the appropriate type as a check on titration technique. The concentration of each type of live virus contained in the vaccine of the lot under test shall be between 200,000 and 500,000 $TCID_{50}$ per human dose.

§ 73.116 General requirements.

(a) *Repeat tests.* Tests may be repeated when it is demonstrated that the results were due to faulty test techniques.

(b) *Final container tests.* Tests shall be made on final containers for identity and safety in accordance with § 73.72. The final container sterility test need not be performed provided aseptic techniques are used in the filling process.

(c) *Consistency of manufacture.* No lot of vaccine shall be released unless each monovalent pool contained therein is one of a series of five consecutive pools of the same type, each pool having been manufactured by the same procedures, and each having met the criteria of neurovirulence for monkeys prescribed in § 73.114(b)(1), and of in-vitro markers as prescribed in § 73.114(b)(3).

(d) *Dose.* The individual human dose of vaccine shall contain from 200,000 to 500,000 $TCID_{50}$ of each type of virus that is in the final product.

(e) *Labeling.* Labeling shall comply with the requirements of §§ 73.50 to 73.55, inclusive. In addition the label or a package enclosure shall include the identification and source of the virus or viruses contained in the vaccine, the tissue medium on which the virus or viruses were propagated, stabilizers and preservatives if any, and the type and calculated maximum amount of antibiotics.

(f) *Dating.* (1) The expiration date in no event shall be more than two years after the date of manufacture as defined in § 73.82(a) provided the product is maintained in the frozen state, (2) the expiration date shall be no more than one year from the date of issue provided that the product is maintained in the frozen state, and (3) the expiration date shall be no more than seven days from the date of issue if issued as a liquid and provided it is maintained at a temperature no higher than 10° C.

(g) *Samples and reports.* For each lot of vaccine, the following materials shall be submitted to the Director, Division of Biologics Standards, National Institutes of Health, Bethesda 14, Maryland:

(1) All protocols relating to the history of manufacture of each lot of vaccine, and the results of all tests performed.

(2) A one liter bulk sample of each final monovalent pool having a virus titer of no less than $10^{7.5}$ $TCID_{50}$ per milliliter, except that if the titer is greater, a correspondingly smaller volume may be submitted.

(3) A total of no less than a 200 milliliter sample of the vaccine in final labeled containers.

§ 73.117 Clinical trials to qualify for license.

To qualify for license, the antigenicity of the vaccine shall have been determined by clinical trials of adequate statistical design, by oral administration of the product. Such clinical trials shall be conducted with five consecutive lots of poliovirus vaccine which have been manufactured by the same methods, each of which has shown satisfactory results in all prescribed tests. Type specific neutralizing antibody (from less than 1:4 before vaccine treatment, to 1:16 or greater after treatment) shall be induced in 80 percent or more of susceptibles when administered orally as a single dose or in excess of 90 percent of susceptibles when administered orally after a series of doses. A separate clinical trial shall have been conducted for each monovalent and each polyvalent vaccine for which license application is made.

§ 73.118 Equivalent methods.

Modification of any particular manufacturing method or process or the conditions under which it is conducted as set forth in the additional standards relating to Poliovirus Vaccine, Live, Oral, shall be permitted whenever the manufacturer presents evidence that demonstrates the modification will provide assurances of the safety, purity, and potency of the vaccine that are equal to or greater than the assurances provided by such standards, and the Surgeon General so finds and makes such finding a matter of official record.

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216. Interpret or apply Sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262)

Dated: March 21, 1961.

[SEAL] LUTHER L. TERRY,
Surgeon General.

Approved: March 22, 1961.

ABRAHAM RIBICOFF,
Secretary.

[F.R. Doc. 61-2697; Filed, Mar. 24, 1961; 8:50 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER B—CARRIERS BY MOTOR VEHICLES

PART 205—REPORTS OF MOTOR CARRIERS

Motor Carrier Quarterly Report Form QFR–I (Class I Carriers of Property)

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 7th day of March A.D. 1961.

The matter of quarterly reports of Class I motor carriers of property being under further consideration, and, the changes to be made by this order being minor changes in the data to be furnished, rule-making procedures under section 4(a) of the Administrative Procedure Act, 5 U.S.C. 1003, being deemed unnecessary:

It is ordered, That § 205.12 of the order of October 22, 1956, in the matter of quarterly reports from Class I common and contract motor carriers of property be, and it is hereby, modified and amended with respect to reports for the quarter ended March 31, 1961, and subsequent quarters, to read as shown below.

It is further ordered, That § 205.12 be, and it is hereby, modified and amended to read as follows:

§ 205.12 Quarterly reports of property revenues, expenses, and statistics.

Commencing with reports for the quarter ended March 31, 1961, and for subsequent quarters thereafter, until further order, all Class I common and contract motor carriers of property as defined in § 182.01–1 of this chapter, viz., carriers having average annual gross operating revenues (including interstate and intrastate) of $1,000,000 or more, from property motor carrier operations, are required to file quarterly reports in accordance with Motor Carrier Quarterly Report Form QFR–I (Property),[1] which is attached to and made a part of this section. Such quarterly report shall be filed in triplicate in the office of the Bureau of Motor Carriers, Interstate Commerce Commission, for the District in which the carrier is domiciled, within 30 days after the close of the period to which it relates.

(Sec. 204, 49 Stat. 546, as amended; 49 U.S.C. 304. Interpret or apply sec. 220, 49 Stat. 563, as amended; 49 U.S.C. 320)

And it is further ordered, That copies of this order and of Motor Carrier Quarterly Report Form QFR–I (Property) shall be served on all Class I common and contract motor carriers of property subject to its terms, and on every trustee, receiver, executor, administrator, or assignee of any such motor carrier, and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission in Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 2.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 61-2630; Filed, Mar. 24, 1961; 8:46 a.m.]

PART 205—REPORTS OF MOTOR CARRIERS

Motor Carrier Quarterly Report Form QFR–I–GF (Class I Common Carriers of General Freight)

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 7th day of March A.D. 1961.

The matter of quarterly reports of Class I common carriers of general freight being under further consideration, and, the changes to be made by this order being minor changes in the data to be furnished, rule-making procedures under section 4(a) of the Administrative Procedure Act, 5 U.S.C. 1003, being deemed unnecessary:

It is ordered, That § 205.12a, of the order of October 16, 1958, in the matter of *Motor Carrier Quarterly Report Form (Class I Common Carriers of General Freight)*, be, and it is hereby, modified and amended with respect to reports for the quarter ended March 31, 1961, and subsequent quarters to read as shown below.

[1] Filed as part of the original document.

And it is further ordered, That § 205.12a be, and it is hereby, modified and amended to read as follows:

§ 205.12a Quarterly reports of revenues, expenses and statistics—Class I common carriers of general freight.

Commencing with reports for the quarter ended March 31, 1961, and for subsequent quarters thereafter, until further order, all Class I common carriers of general freight, included in Class I carriers, as defined in § 182.01–1 of this chapter, viz., carriers having average annual gross operating revenues (including interstate and intrastate) of $1,000,000 or more, from property motor carrier operations, are required to file quarterly reports in accordance with Motor Carrier Quarterly Report Form QFR–I–GF (General Freight) [1] which is attached to and made a part of this section. Such quarterly report shall be filed in triplicate in the office of the Bureau of Motor Carriers, Interstate Commerce Commission, for the District in which the carrier is domiciled, within 30 days after the close of the period to which it relates.

(Sec. 204, 49 Stat. 546, as amended; 49 U.S.C. 304. Interpret or apply sec. 220, 49 Stat. 563, as amended; 49 U.S.C. 320)

And it is further ordered, That copies of this order and of Motor Carrier Quarterly Report Form QFR–I–GF (General Freight) shall be served on all Class I common and contract motor carriers of general freight subject to its terms, and on every trustee, receiver, executor, administrator, or assignee of any such motor carrier, and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission in Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 2.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 61–2631; Filed, Mar. 24, 1961; 8:46 a.m.]

[1] Filed as part of the original document.

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 997]

HANDLING OF FILBERTS GROWN IN OREGON AND WASHINGTON

Administrative Rules and Regulations

Notice is hereby given that there is under consideration a proposal to revise the administrative rules and regulations (Subpart—Administrative Rules and Regulations; §§ 997.400–997.457) pertaining to operations under Marketing Agreement No. 115, as amended, and Order No. 97, as amended (7 CFR Part 997), regulating the handling of Filberts grown in Oregon and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674). The proposed revision is based on a recommendation of the Filbert Control Board and other information.

Consideration will be given to written data, views and arguments pertaining to the proposal which are received by the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than 15 days after publication of this notice in the FEDERAL REGISTER.

As proposed to be revised the subpart will read as hereinafter set forth. Sections 997.453 and 997.457 of the current rules and regulations are retained with minor modifications. §§ 997.400 and 997.432 are deleted and new sections are added.

The proposed revision reads as follows:

§ 997.432 Nominations.

Nominee petitions pursuant to § 997.32 (d) may be submitted only by independent growers in the particular district from which an independent grower position on the Board is to be filled and only such growers shall be eligible to sign a grower nominee petition or be nominated for such a member or alternate member position on the Board.

§ 997.446 Inspection documentation.

(a) The Board shall provide all inspection seals, tags, and stamps that are required to be affixed to filbert containers as provided in § 997.46(b).

(b) The required indentification shall be affixed to the containers of certified filberts by the handler as soon as practicable after certification, as follows:

(1) If such filberts are packed in bags, a "free" or "restricted" seal, as appropriate, shall be fastened over the closure seam of each bag, except that a tag may be used temporarily as authorized in subparagraph (3) of this paragraph.

(2) If such filberts are packed in cartons, each carton shall be marked with a "free" or "restricted" stamp, as appropriate.

(3) Tags shall be used temporarily to identify a lot of certified filberts when held for further processing or packing. The tags shall be affixed to individual units of the lot (e.g., bags, tote boxes, bins, and pallet loads) or to the entire lot. The information on each tag shall identify the filberts covered thereby and shall show, among other things: the quantity, by weight of the filberts; handler's lot number; the date of inspection; whether merchantable or ungraded; whether "restricted"; and the number and type of containers in the lot.

§ 997.450 Identification of filberts withheld.

(a) Each handler required to withhold restricted filberts pursuant to § 997.50 or § 997.51 shall hold such filberts separate from all other filberts and shall maintain the identify of each lot so withheld.

(b) By notification to the Board that he will not handle during the current fiscal year certified merchantable filberts of a specified weight and identity, a handler may exercise the option provided in § 997.50(c) of having such filberts bear the restricted and assessment obligations of the current or a subsequent fiscal year.

(c) Pursuant to § 997.50(d), a handler may withdraw from withholding restricted filberts in excess of his restricted obligation upon advising the Board of the weight and lot identity of the filberts to be withdrawn. When the quantity of restricted filberts to be withdrawn from withholding consists of a part of a lot of ungraded filberts no part of such lot shall be withdrawn unless the remainder of such lot is reinspected and meets the requirements of § 997.51.

§ 997.452 Disposition of restricted filberts.

(a) *Shelling.* (1) Any person desiring to shell restricted filberts during a fiscal year may do so upon being designated by the Board as an authorized sheller for such year. Application for such designation shall be made in duplicate on FCB Form 3 and include, in addition to the conditions specified in § 997.52(a), the following: (i) The location of the applicant's shelling operation; (ii) the number of years he has operated a filbert shelling plant; and (iii) the daily (8-hour) shelling capacity of the plant. Designation of an authorized sheller shall be effected by the Board manager signing the application form and returning a signed copy of the form to the applicant. Each such designation shall continue in effect during the particular fiscal year so long as the authorized sheller is in compliance with the requirements and conditions pursuant to §997.52 applicable to authorized shellers.

(2) When an authorized sheller completes the shelling of a lot of restricted filberts, he shall submit a report thereon to the Board on FCB Form 4 showing: (i) The date shelling was completed; (ii) the inspection certificate or lot number; (iii) the quantity shelled; (iv) the weight of the kernels produced; and (v) the location where the restricted filberts were held immediately prior to shelling.

(b) *Exports.* Any handler who desires to act as agent of the Board in negotiating export sales of certified merchantable restricted filberts may do so upon the execution of an "Export Agreement" wherein the handler agrees, among other things, to negotiate such export sales at not less than such price as the Board may prescribe, and in conformity to and compliance with the other terms and conditions of the Export Agreement.

(c) *Other authorized outlets.* Under the direction or supervision of the Board, a handler may dispose of restricted filberts for charitable purposes and for promoting the consumption of filberts on behalf of the filbert industry in general. The report required under § 997.67 (b) following each such disposition shall be accompanied by a certification by the person receiving such filberts from the handler that they will be used for charitable or promotional purposes, as authorized.

§ 997.453 Disposition of small size filberts.

Any inshell filberts that are substandard only because they are small size, as the term "small size" is defined in the Oregon Grades and Standards for Walnuts and Filberts, may be disposed of in export in the same manner and under the same conditions and procedures pursuant to § 997.52(b) for sales in export of certified merchantable restricted filberts. Such small size filberts are not eligible for restricted credit.

§ 997.454 Sureties acceptable to the Board.

Bonds secured by cash, cashier's or certified checks, or by assets that are entirely separate and apart from the handler named in the bond may be accepted by the Board pursuant to § 997.54 (a). As a condition of accepting any surety, the Board may require such financial statements or other information relating to the ability of such surety to guarantee a handler's bond as it deems necessary.

§ 997.455 Exchange of certified merchantable filberts withheld.

Each handler desiring to exchange filberts pursuant to § 997.55 shall prior thereto file a written notification with the Board setting forth for the respective quantities of filberts involved in the ex-

change, the inspection certificate numbers, quantities, locations, and applicable lot numbers.

§ 997.456 Interhandler transfers.

Each interhandler transfer of filberts pursuant to § 997.56 (a) and (c) may be made upon notification to the Board in triplicate by the receiving handler on FCB form 9 signed by both the transferring handler and the receiving handler which shall include the following information: (a) Date of transfer; (b) names of the transferring and receiving handlers; (c) locations between which the filberts were transferred; (d) whether uncertified inshell or certified merchantable; (e) net weight of the filberts transferred, by size and variety; (f) the inspection certificate, or lot number covering the filberts; and (g) if certified merchantable, the name of the handler responsible for compliance with the applicable requirements pursuant to this part relating to such filberts.

§ 997.457 Quantity exemption.

Any handler up to, but not to exceed, a total of 250 pounds of inshell filberts during any fiscal year, may handle such filberts free from the inspection and certification, restricted obligation, assessment, and reporting requirements of this part.

§ 997.466 Reports of inshell filberts handled and withheld.

At the end of each month, each handler shall report to the Board on FCB form 1 the respective quantities of inshell filberts handled and withheld since the last report, except that such reports shall be submitted each Thursday for weekly shipments through the preceding Wednesday with respect to any such filberts handled and withheld during October, November and through the Wednesday subsequent to December 15. The quantities handled shall be reported by size and the respective quantities of merchantable and ungraded filberts withheld shall be reported separately.

§ 997.468 Report of filbert receipts, disposition, and inventory.

On or before January 15 and August 5 each handler shall (a) report to the Board on FCB form 7 his receipts and disposition of inshell filberts and production of filbert kernels during the respective preceding periods of August 1–December 31, and August 1–July 31, and (b) report to the Board on FCB form 6 his inventory of filberts as of December 31 and July 31, respectively, showing the quantities of inshell filberts separately in terms of certified merchantable, graded uncertified merchantable, restricted, ungraded and substandard. The certified merchantable filberts shall be reported by whether located within or outside the production area and whether the restricted obligation has been met.

§ 997.471 Records.

Each handler shall maintain complete and accurate records showing the receipt, shipment and sale of all filberts handled, used or otherwise disposed of and shall retain such records for the two-year period prescribed in § 997.71. Handlers shall also maintain a current record of all filberts held in inventory.

Dated: March 21, 1961.

FLOYD F. HEDLUND,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 61–2624; Filed, Mar. 24, 1961; 8:46 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 601]

[Airspace Docket No. 60–NY–56]

CONTROLLED AIRSPACE

Alteration and Revocation of Control Area Extensions

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering amendments to Part 601, §§ 601.1377, 601.1164, 601.1141, and 601.1142 of the Regulations of the Administrator, the substance of which is stated below.

The Boston, Mass., control area extension (§ 601.1377) is presently designated as the airspace within a 25-mile radius of the Boston VOR, excluding the portion west of VOR Federal airways Nos. 3 and 16, and excluding the portion which overlaps Boston control area extensions § 601.1141 and § 601.1142.

The Federal Aviation Agency is considering the alteration of the Boston control area extension by expanding it to include the airspace within the following described area: Beginning at latitude 43°25′32″ N., longitude 70°36′50″ W.; thence southeast to latitude 43°21′30″ N., longitude 70°19′20″ W.; thence southwest to latitude 43°15′00″ N., longitude 70°30′00″ W.; thence south to latitude 42°44′20″ N., longitude 70°37′00″ W.; thence southerly along a line 3 nautical miles from and parallel to the shoreline to latitude 42°35′00″ N., longitude 70°34′45″ W.; thence east to latitude 42°35′00″ N., longitude 70°30′00″ W.; thence south to latitude 42°06′50″ N., longitude 70°30′00″ W.; thence southeast to latitude 41°57′30″ N., longitude 70°17′00″ W.; thence northeast to latitude 42°08′50″ N., longitude 70°03′20″ W.; thence south to latitude 42°05′55″ N., longitude 70°02′10″ W.; thence southerly along a line 3 nautical miles from and parallel to the shoreline to latitude 41°48′30″ N., longitude 69°51′50″ W.; thence southeast to latitude 41°41′40″ N., longitude 69°45′20″ W.; thence southwest to latitude 41°19′10″ N., longitude 70°13′40″ W.; thence west to latitude 41°13′40″ N., longitude 70°43′00″ W.; thence north to latitude 41°36′30″ N., longitude 70°43′00″ W.; thence west to latitude 41°42′20″ N., longitude 71°19′10″ W.; thence northwest to latitude 42°35′00″ N., longitude 71°58′30″ W.; thence northwest to latitude 42°46′40″ N., longitude 72°09′15″ W.; thence northeast to latitude 43°03′40″ N., longitude 71°41′15″ W.; thence northeast to latitude 43°13′11″ N., longitude 71°34′33″ W.; thence northeast to the point of beginning, including the airspace within the Camp Edwards, Mass. (R–4101); North Eastham, Mass. (R–4106); South Wellfleet, Mass. (R–4107); Falmouth, Mass., Otis AFB (R–4103), Restricted Areas and excluding the portion which would coincide with the Isle of Shoals, N.H., Restricted Area (R–4901). This alteration of the Boston control area extension would provide control area for the protection of aircraft conducting Instrument Flight Rules arrival, departure, and holding procedures at Grenier AFB, Manchester, N.H.; Fort Devens AAF, Fitchburg, Mass.; Pease AFB, Portsmouth, N.H.; Hanscom Airport, Bedford, Mass.; Logan International Airport, Boston, Mass.; New Bedford, Mass., Airport; Martha's Vineyard, Mass., Airport; Otis AFB, Falmouth, Mass.; Hyannis, Mass., Airport; and NAS, South Weymouth, Mass. In addition, the altered control area extension would facilitate air traffic management and would accommodate the application of radar air traffic control procedures by the Boston Air Route Traffic Control Center and the Otis AFB, radar approach control facility.

The inclusion of control area within Restricted Areas (R–4101), (R–4106), and (R–4107) would facilitate their use for air traffic management purposes when they are not being utilized for their designated purpose.

Due to the immediate requirement by Air Traffic Management for additional controlled airspace for protecting Instrument Flight Rules air traffic within the Greater Boston Terminal area, it is considered inappropriate at this time to treat the proposals contained herein with respect to Civil Air Regulations, Part 60, Air Traffic Rules, Amendment 60–21 (26 F.R. 570). However, in the future, the Federal Aviation Agency will propose under separate airspace action the implementation of Amendment 60–21 to the controlled airspace proposed herein as the Boston control area extension.

Concurrently, it is proposed to revoke the following control area extensions as they would no longer be necessary after the designation of the Boston control area extension as proposed herein:

1. Lawrence, Mass., control area extension (§ 601.1090).
2. Falmouth, Mass., control area extension (§ 601.1295).
3. Nantucket, Mass., control area extension (§ 601.1296).
4. Hyannis, Mass., control area extension (§ 601.1371).
5. Portsmouth, N.H., control area extension (§ 601.1410).
6. Martha's Vineyard, Mass., control area extension (§ 601.1426).
7. Manchester, N.H., control area extension (§ 601.1375).

In addition, it is proposed to alter the eastern boundary of the Quonset Point, R.I., control area extension (§ 601.1164), which is presently described to coincide with the southwestern boundary of Falmouth, Mass., control area extension (§ 601.1295), by redescribing it as being bounded on the east by the proposed Boston control area extension (§ 601.1377). It is also proposed to alter the

Boston control area extension (§ 601.-1141 and § 601.1142) by excluding from their descriptions the portions of these control area extensions which would coincide with the proposed Boston control area extension (§ 601.1377). This would eliminate a dual designation of control area.

If these actions are taken, the Boston, Mass., control area extension (§ 601.-1377), would be designated as follows:

That airspace bounded by a line beginning at latitude 43°25'32" N., longitude 70°36'-50' W.;
thence southeast to latitude 43°21'30" N., longitude 70°19'20" W.;
thence southwest to latitude 43°15'00" N., longitude 70°30'00" W.;
thence south to latitude 42°44'20" N., longitude 70°37'00" W.;
thence southerly along a line 3 nautical miles from and parallel to the shoreline to
Latitude 42°35'00" N., longitude 70°34'45" W.; thence east to
Latitude 42°35'00" N., longitude 70°30'00" W.; thence south to
Latitude 42°06'50" N., longitude 70°30'00" W.; thence southeast to
Latitude 41°57'30" N., longitude 70°17'00" W.; thence northeast to
Latitude 42°08'50" N., longitude 70°03'20" W.; thence south to
Latitude 42°05'55" N., longitude 70°02'10" W.; thence southerly along a line 3 nautical miles from and parallel to the shoreline to
Latitude 41°48'30" N., longitude 69°51'50" W.; thence southeast to
Latitude 41°41'40" N., longitude 69°45'20" W.; thence southwest to
Latitude 41°19'10" N., longitude 70°13'40" W.; thence west to
Latitude 41°13'40" N., longitude 70°43'00" W.; thence north to
Latitude 41°36'30" N., longitude 70°43'00" W.; thence west to
Latitude 41°42'20" N., longitude 71°19'10" W.; thence northwest to
Latitude 42°35'00" N., longitude 71°58'30" W.; thence northwest to
Latitude 42°46'40" N., longitude 72°09'15" W.; thence northeast to
Latitude 43°03'40" N., longitude 71°41'15" W.; thence northeast to
Latitude 43°13'11" N., longitude 71°34'33" W.; thence northeast to the point of beginning

excluding the portion of this control area extension which would coincide with the Isle of Shoals, N.H., Restricted Area (R–4901). The portion of this control area extension which would coincide with the Camp Edwards, Mass. (R–4101); North Eastham, Mass. (R–4106); South Wellfleet, Mass. (R–4107); and the Falmouth, Mass., Otis AFB (R–4103), Restricted Areas shall be used only after obtaining prior approval from the appropriate authority.

The Lawrence, Mass., Falmouth, Mass., Nantucket, Mass., Hyannis, Mass., Portsmouth, N.H., Martha's Vineyard, Mass., and Manchester, N.H., control area extensions would be revoked.

The Quonset Point, R.I., control area extension eastern boundary would be altered to coincide with the proposed Boston, Mass., control area extension (§ 601.1377) boundary.

The Boston, Mass., control area extensions (§ 601.1141) and (§ 601.1142) would be altered to exclude the portions which would coincide with the proposed Boston, Mass., control area extension (§ 601.1377).

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

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

Issued in Washington, D.C., on March 21, 1961.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.R. Doc. 61–2619; Filed, Mar. 24, 1961; 8:45 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[AA 643.3–A]

MEAT THERMOMETERS FROM JAPAN

Determination of No Sales at Less Than Fair Value

MARCH 20, 1961.

A complaint was received that meat thermometers from Japan were being sold in the United States at less than fair value within the meaning of the Antidumping Act of 1921.

I hereby determine that meat thermometers from Japan are not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

Statement of reasons. In determining whether there had been sales at less than fair value, a comparison was made between the purchase price and the constructed value of the merchandise. Constructed value was used for the comparison since the merchandise is not sold for home consumption in Japan and third country sales did not form an adequate basis due to the minor quantity involved in such sales. Purchase price was based on the ex-factory price of the manufacturers for thermometers sold for exportation to the United States.

The comparison disclosed that the purchase price was not less than the constructed value.

This determination and the statement of reasons therefor are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL] A. GILMORE FLUES,
Acting Secretary of the Treasury.

[F.R. Doc. 61–2651; Filed, Mar. 24, 1961; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

The Forest Service, U.S. Department of Agriculture, has filed an application, Serial Number J–012144 for the withdrawal of the lands described below, from all forms of appropriation.

The applicant desires the land for the planned expansion of the Tongass Avenue Administrative Site at Ketchikan, Alaska, and for the replacement of lands released on the opposite side of this site.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, P.O. Box 2511, Juneau, Alaska.

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

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

The lands involved in the application are:

Beginning at the Northeast corner of the Tongass Avenue Administrative site;
Thence S. 65°56′ E., 85 feet to a point;
Thence S. 24°04′ W., 183.82 feet to a point on the north boundary of the Tongass Avenue right-of-way;
Thence in a westerly direction along the north boundary of the Tongass Avenue right-of-way a distance of 85.05 feet to the southeast corner of the Administrative site;
Thence N. 24°04′ E. 180.9 feet along the Administrative site boundary to the point of beginning, and containing 0.35 of an acre more or less.

R. PAUL RIGTRUP,
Acting Operations Supervisor.

[F.R. Doc. 61–2626; Filed, Mar. 24, 1961; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 12240; Order No. E–16534]

MOHAWK AIRLINES, INC.

No Refund Rule for "No Shows" During Periods of Peak Traffic; Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of March 1961.

By tariff filed to become effective March 23, 1961,[1] Mohawk Airlines, Inc., has proposed to eliminate refunds on tickets to passengers who fail to use their reservations on certain dates [2] unless (1) the reservation is cancelled prior to scheduled departure time, or prior to actual departure time if the passenger has been notified that the flight will not depart on schedule; or (2) the reservation is not used because of the late arrival of an incoming connecting flight; or (3) the carrier cancels the reservation or refuses to transport the passenger under existing tariff rules. The proposal also states that upon surrender of a ticket upon which no refund will be paid, the carrier will issue another ticket for transportation between the same points for which transportation originally was to have been provided.[3]

The forfeiture of the total purchase price of the ticket appears to be an unreasonable "no show" penalty to passengers using the regular services of the carrier during the assumed peak periods designated in the tariff. The tariff provision for issuing another ticket for subsequent travel will operate as a mitigating circumstance only as to persons who will have occasion to utilize such subsequent transportation. Although the Board is sympathetic to attempts to alleviate the problems stemming from the "no-show" passengers during periods of peak traffic, the imposition of a 100 percent forfeiture may be unduly harsh and unjust to passengers subject to that rule. Therefore, we find that Rule 78(A)(4) and the exception to Rule 78(C)(1) may be unjust and unreasonable, unjustly discriminatory, or unduly preferential or unduly prejudicial and we will institute an investigation of such rules. In view of the severity of the 100 percent forfeiture, and the lack of a showing that a penalty of such severity is necessary and reasonably related to the problems it is designed to meet we have also concluded that this tariff should be suspended.

Under the peculiar circumstances here involved, where Mohawk seeks to alleviate the "no-show" problem during certain relatively brief periods of peak traffic and where the carrier's average length of haul is comparatively short with fares in concomitantly small amounts, the Board would not consider a no-show penalty of 50 percent of the tariff fare or $5, whichever is greater, to be unjust or unreasonable.

The Board finds that its action herein is necessary and appropriate to carry out the provisions and objectives of the Federal Aviation Act of 1958, particularly sections 204(a), 403, 404, and 1002 thereof.

Accordingly, it is ordered, That:

1. An investigation is instituted to determine whether the provisions in Rule 78(A)(4) on 14th Revised Page 59 and in exception to Rule 78(C)(1) on 12th Revised Page 60 of Agent C. C. Squire's C.A.B. No. 43 are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial, and if found to be unlawful to determine and prescribe the lawful provisions.

2. Pending investigation, hearing, and decision by the Board, the provisions in Rule 78(A)(4) on 14th Revised Page 59 and in exception to Rule 78(C)(1) on 12th Revised Page 60 of Agent C. C. Squire's C.A.B. No. 43 are suspended and their use deferred to and including June 20, 1961, unless otherwise ordered by the

[1] C.A.B. No. 43, Agent C. C. Squire.

[2] March 23–April 5, 1961; May 12–May 14, 1961; November 20–November 26, 1961; and December 20, 1961–January 2, 1962.

[3] Rule 78(A)(4) and the exception to Rule 78(C)(1).