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Volume 76

UNITED STATES STATUTES AT LARGE

[87th Cong., 2d Sess.]

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Rules and Regulations

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER I—MINERAL LANDS

[Circular 2128]

PART 192—OIL AND GAS LEASES

Miscellaneous Amendments

On page 2283 of the *FEDERAL REGISTER* of March 8, 1963, there was published a proposal to add new §§ 192.43a and 192.43b to 43 CFR Part 192 and a new subparagraph (a) (4) to 43 CFR 192.141.

The purpose of the proposed new sections was to define the meaning and intent of the phrase "sole party in interest" in a lease, what constitutes "interest" in a lease, and also to define collusive filings. The new subparagraph would have required that lands in lease assignments be described in the same manner as in offers to lease.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with regard to the proposals. After consideration of all of the comments and suggestions received during that period, the last sentence of the proposed § 192.43b was changed to provide for the cancellation of "interests" acquired in a lease as the result of a collusive filing rather than the "lease" itself, unless the rights of a bona fide purchaser intervened. Subparagraph (a) of § 192.141 has also been changed in such fashion as would allow descriptions of lands in lease assignments to be made in the same manner as described in the lease itself or in the manner required by § 192.42a.

The amendments are hereby adopted as set forth below, and shall become effective at the beginning of the 30th calendar day following publication in the *FEDERAL REGISTER*.

1. New §§ 192.43a and 192.43b and new subparagraph (a) (4) to § 192.141 are added to Title 43, Code of Federal Regulations to read as follows:

§ 192.43a Sole party in interest; statement of interest.

A sole party in interest in a lease or offer to lease is a party who is and will be vested with all legal and equitable rights under the lease. No one is, or shall be deemed to be, a sole party in interest with respect to a lease in which any other party has any of the interests described in this section. The requirement of disclosure in an offer to lease of an offeror's or other parties' interest in a lease, if issued, is predicated on the departmental

policy that all offerors and other parties having an interest in simultaneously filed offers to lease shall have an equal opportunity for success in the drawings to determine priorities. Additionally, such disclosures provide the means for maintaining adequate records of acreage holdings of all such parties where such interests constitute chargeable acreage holdings. An "interest" in the lease includes but is not limited to record title interests, overriding royalty interests, working interests, operating rights or options, or any agreements covering such "interests". Any claim (existing at the time when the lease is issued) or any prospective or future claim (which is based on conditions existing at the time when the lease is issued) to an advantage or benefit from a lease, or any participation or any defined or undefined share in any increments, issues, or profits, which may be derived from or which may accrue in any manner from the lease pursuant to any agreement or understanding existing at the time when the lease is issued, is deemed to constitute an "interest" in the lease.

§ 192.43b Collusive filings.

When any person, association, corporation, or other entity or business enterprise files an offer to lease for inclusion in a drawing, and an offer (or offers) to lease is filed for the same lands in the same drawing by any person or party acting for, on behalf of, or in collusion with the other person, association, corporation, entity or business enterprise, under any agreement, scheme, or plan which would give either, or both, a greater probability of successfully obtaining a lease, or interest therein, in any public drawing, held pursuant to § 192.43 of this part, all offers filed by either party will be rejected. Similarly, where an agent or broker files an offer to lease for the same lands in behalf of more than one offeror under an agreement that, if a lease issues to any of such offerors, the agent or broker will participate in any proceeds derived from such lease, the agent or broker obtains thereby a greater probability of success in obtaining a share in the proceeds of the lease and all such offers filed by such agent or broker will also be rejected. Should any such offer be given a priority as a result of such a drawing, it will be similarly rejected. In the event a lease is issued on the basis of any such offer, action will be taken for the cancellation of all interests in said lease held by each person who acquired any interest therein as a result of collusive filing unless the rights of a bona fide purchaser as provided for in § 191.15 of this Chapter intervene, whether the pertinent information regarding it is ob-

tained by or was available to the Government before or after the lease was issued.

2. Section 192.141 is supplemented by adding a new subparagraph (a) (4) thereto to read as follows:

§ 192.141 Requirements for filing of transfers.

(a) * * *

(4) Each instrument of transfer must describe the lands involved in the same manner as described in the lease or in the manner required by § 192.42a.

(30 U.S.C. 189, 43 U.S.C. 1201)

JANUARY 22, 1964.

STEWART L. UDALL,
Secretary of the Interior.

[F.R. Doc. 64-834; Filed, Jan. 28, 1964;
8:48 a.m.]

Title 41—PUBLIC CONTRACTS

Chapter 50—Division of Public Contracts, Department of Labor

PART 50-204—SAFETY AND HEALTH STANDARDS FOR FEDERAL SUPPLY CONTRACTS

Radiation

A document amending 41 CFR Part 50-204 to include radiation safety and health standards was published in the *FEDERAL REGISTER* on August 9, 1963 (28 F.R. 8208). Except as may otherwise be specifically provided, these minimum radiation safety and health standards shall apply to all contractors engaged in the performance of Federal supply contracts subject to the requirements of section 1(e) of the Walsh-Healey Public Contracts Act. Their purpose is to afford the strongest possible protections to employees of Federal supply contractors against the hazards of occupational radiation. Recognizing the somatic and genetic hazards of ionizing radiation to human beings, every effort shall be made to keep exposure of workers at lowest possible levels and to avoid all unnecessary exposure of such workers. The standards shall apply to all radiation sources such as industrial X-ray, particle accelerators, high energy electron tubes, radium, by-product material and other sources to which workers for Federal supply contractors are occupationally exposed. They will be subject to continual review in order to reflect increasing scientific knowledge concerning the biological effects of radiation.

It was provided in a document published on January 10, 1964, that these regulations would become effective February 5, 1964 (29 F.R. 260). On Novem-

ber 8, 1963, proposed amendments to the radiation safety and health standards were published (28 F.R. 11929).

After consideration of all relevant matter presented, the proposed amendments are hereby adopted, effective February 28, 1964, subject to the changes set forth below.

In order to make the basic radiation safety and health standards and the amendments thereto effective at the same time, the February 5, 1964, effective date is deferred to February 28, 1964. Application of all regulations following the centerhead "Radiation" in 41 CFR 50-204 shall be withheld in the cases of AEC contractors operating AEC plants and facilities and in the cases of employers in the States of Arkansas, California, Kentucky, Mississippi, New York, or Texas, operating under licenses issued by those States, however, until appropriate orders are issued after opportunity is accorded to demonstrate why the regulations should contain special provisions for them.

The changes are as follows:

1. Footnote 3 in § 50-204.307 is amended as set forth below.

2. In § 50-204.308(c)(2) after the words, "exists radiation" the words "originating in whole or in part within radioactive material," are deleted.

3. In § 50-204.310(b) after the words "presence of patients containing", the word "radioactive" will replace the word "by-product".

4. The words "or in a manner approved by the Atomic Energy Commission" are added to the end of § 50-204.314.

5. The table entitled "Concentrations in Air and Water Above Natural Background" in § 50-204.307 is amended as set forth below.

6. The title of 29 CFR 50-204.320 is changed to read "AEC licensees" and paragraph (b) of that section is deleted.

7. In addition to adoption of the proposal subject to the above-mentioned changes, paragraph (1) of § 50-204.306 (d) of the regulations published on August 9, 1963 (28 F.R. 8208) is revised to read as set forth below.

Signed at Washington, D.C., this 24th day of January, 1964.

W. WILLARD WIRTZ,
Secretary of Labor.

Sec.	
50-204.305	Units of ionizing radiation dose.
50-204.306	Exposure to radiation.
50-204.307	Exposure to radioactive material.
50-204.308	Precautionary procedures and personnel monitoring.
50-204.309	Caution signs, labels, and signals.
50-204.310	Exceptions from posting requirements.
50-204.311	Exemptions for radioactive materials packaged for shipment.
50-204.312	Instruction of personnel; posting.

Sec.	
50-204.313	Storage of radioactive material.
50-204.314	Waste disposal.
50-204.315	Notifications of incidents.
50-204.316	Reports of overexposure and excessive levels and concentrations.
50-204.317	Records.
50-204.318	Disclosure to former employee of individual employee's record.
50-204.319	Application for variations from radiation levels.
50-204.320	AEC licensees.

AUTHORITY: §§ 50-204.305 to 50-204.320 issued under secs. 1, 4, 49 Stat. 2036, 2038; 41 U.S.C. 35, 38; sec. 7, 60 Stat. 241; 5 U.S.C. 1006.

2. Subparagraph (3) of 41 CFR Part 50-204.305(c) would be amended to read as follows:

§ 50-204.305 Units of ionizing radiation dose.

(c) * * *

(3) A dose of 0.1 rad due to neutrons or high energy protons:

* * *

3. New subparagraphs (3) and (4) would be added to § 50-204.306(d) to read as follows:

* * *

CONCENTRATIONS IN AIR AND WATER ABOVE NATURAL BACKGROUND

[See notes at end of table]

Element (atomic number)	Isotope ¹	Column 1 Air ($\mu\text{Ci}/\text{ml}$)	Column 2 Water ($\mu\text{Ci}/\text{ml}$)
Actinium (89)	Ac 227 S	2×10^{-12}	6×10^{-4}
	Ac 228 I	3×10^{-12}	9×10^{-4}
Americium (95)	Am 241 S	8×10^{-12}	3×10^{-3}
	Am 243 I	2×10^{-12}	3×10^{-3}
Antimony (51)	Sb 122 S	6×10^{-12}	1×10^{-4}
	Sb 124 I	1×10^{-12}	8×10^{-4}
Argon (18)	Ar 37 Sub ²	6×10^{-9}	1×10^{-4}
	Ar 41 Sub	2×10^{-9}	1×10^{-4}
Arsenic (33)	As 73 S	2×10^{-12}	1×10^{-2}
	As 74 I	4×10^{-12}	1×10^{-2}
Astatine (85)	At 211 S	3×10^{-12}	2×10^{-3}
	At 210 I	1×10^{-12}	2×10^{-3}
Barium (56)	Ba 131 S	1×10^{-12}	6×10^{-4}
	Ba 140 I	4×10^{-12}	6×10^{-4}
Berkelium (97)	Bk 249 S	1×10^{-12}	2×10^{-3}
	Bk 248 I	9×10^{-13}	2×10^{-3}
Beryllium (4)	Be 7 S	1×10^{-12}	5×10^{-2}
	Be 10 I	1×10^{-12}	5×10^{-2}
Bismuth (83)	Bi 206 S	2×10^{-12}	1×10^{-3}
	Bi 207 I	1×10^{-12}	1×10^{-3}
Bromine (35)	Br 82 S	2×10^{-12}	1×10^{-3}
	Br 81 I	2×10^{-12}	1×10^{-3}

See footnotes at end of table.

(d) * * *

(3) Alternatively, the four periods may consist of the first 14 complete, consecutive calendar weeks; the next 12 complete, consecutive calendar weeks; the next 14 complete, consecutive calendar weeks; and the last 12 complete, consecutive calendar weeks. If at the end of a calendar year there are any days not falling within a complete calendar week of that year, such days shall be included (for purposes of this part) within the last complete calendar week of that year. If at the beginning of any calendar year there are days not falling within a complete calendar week of that year, such days shall be included (for purposes of this part) within the last complete calendar week of the previous year.

(4) No employer shall change the method observed by him of determining calendar quarters (for purposes of this part) except at the beginning of a calendar year.

4. The table contained in § 50-204.307 would be revised to read as follows:

§ 50-204.307 Exposure to airborne radioactive materials.

CONCENTRATIONS IN AIR AND WATER ABOVE NATURAL BACKGROUND—continued
[See notes at end of table]

Element (atomic number)	Isotope ¹	Column 1 Air ($\mu\text{c}/\text{ml}$)	Column 2 Water ($\mu\text{c}/\text{ml}$)
Praseodymium (59).....	Pr 142	2X10 ⁻⁷	9X10 ⁻⁴
	Pr 143	3X10 ⁻⁷	9X10 ⁻⁴
Promethium (61).....	Pm 147	2X10 ⁻⁷	1X10 ⁻³
	Pm 149	6X10 ⁻⁷	1X10 ⁻³
Protactinium (91).....	Pa 230	1X10 ⁻⁷	6X10 ⁻³
	Pa 231	3X10 ⁻⁷	1X10 ⁻³
	Pa 233	2X10 ⁻⁷	7X10 ⁻³
Radium (88).....	Ra 223	1X10 ⁻¹⁰	8X10 ⁻⁴
	Ra 224	2X10 ⁻¹⁰	8X10 ⁻⁴
	Ra 226	3X10 ⁻¹¹	8X10 ⁻⁴
	Ra 228	5X10 ⁻¹¹	9X10 ⁻⁷
	Rn 220	7X10 ⁻¹¹	8X10 ⁻⁷
	Rn 222	4X10 ⁻¹¹	7X10 ⁻⁴
	Re 183	3X10 ⁻⁷	2X10 ⁻²
	Re 186	2X10 ⁻⁷	8X10 ⁻²
	Re 187	6X10 ⁻⁷	3X10 ⁻³
	Re 188	2X10 ⁻⁷	1X10 ⁻³
	Rh 103m	9X10 ⁻⁷	7X10 ⁻²
	Rh 105	2X10 ⁻⁷	2X10 ⁻³
	Rb 86	8X10 ⁻³	4X10 ⁻¹
	Rb 87	3X10 ⁻³	3X10 ⁻³
	Ru 97	8X10 ⁻⁷	3X10 ⁻³
	Ru 103	7X10 ⁻⁷	3X10 ⁻³
	Ru 105	2X10 ⁻⁷	3X10 ⁻³
	Ru 106	5X10 ⁻⁷	3X10 ⁻³
	Sm 147	6X10 ⁻⁴	4X10 ⁻⁴
	Sm 151	7X10 ⁻¹¹	2X10 ⁻⁴
	Sm 153	3X10 ⁻¹⁰	2X10 ⁻⁴
	Sc 46	6X10 ⁻⁴	1X10 ⁻²
	Sc 47	1X10 ⁻⁷	1X10 ⁻²
	Sc 48	5X10 ⁻⁷	2X10 ⁻³
	Se 75	2X10 ⁻³	1X10 ⁻³
	Si 31	6X10 ⁻⁷	1X10 ⁻³
	Ag 105	1X10 ⁻⁷	8X10 ⁻³
	Ag 110m	1X10 ⁻⁷	3X10 ⁻³
	Ag 111	6X10 ⁻⁷	3X10 ⁻³
	Na 22	2X10 ⁻⁷	9X10 ⁻⁴
	Na 24	1X10 ⁻⁷	6X10 ⁻³

CONCENTRATIONS IN AIR AND WATER ABOVE NATURAL BACKGROUND—continued
[See notes at end of table]

Element (atomic number)	Isotope ¹	Column 1 Air ($\mu\text{c}/\text{ml}$)	Column 2 Water ($\mu\text{c}/\text{ml}$)
Lutetium (71).....	Lu 177	6X10 ⁻⁷	3X10 ⁻³
Manganese (25).....	Mn 52	5X10 ⁻⁷	3X10 ⁻³
	Mn 54	2X10 ⁻⁷	1X10 ⁻³
	Mn 56	1X10 ⁻⁷	9X10 ⁻⁴
	Hg 197m	4X10 ⁻⁷	3X10 ⁻³
	Hg 197	8X10 ⁻⁷	3X10 ⁻³
	Hg 203	7X10 ⁻⁷	3X10 ⁻³
	Mo 99	3X10 ⁻⁷	1X10 ⁻³
	Nd 144	2X10 ⁻⁷	1X10 ⁻³
	Nd 147	3X10 ⁻¹⁰	2X10 ⁻³
	Nd 149	4X10 ⁻⁷	2X10 ⁻³
	Np 237	2X10 ⁻⁴	8X10 ⁻³
	Np 239	1X10 ⁻⁴	9X10 ⁻⁴
	Ni 59	4X10 ⁻⁷	4X10 ⁻³
	Ni 63	5X10 ⁻⁷	6X10 ⁻³
	Ni 65	8X10 ⁻⁷	8X10 ⁻³
	Nb 93m	3X10 ⁻⁷	2X10 ⁻²
	Nb 95	9X10 ⁻⁷	4X10 ⁻³
	Nb 97	1X10 ⁻⁷	3X10 ⁻³
	Os 185	5X10 ⁻⁷	3X10 ⁻³
	Os 191m	6X10 ⁻⁷	3X10 ⁻³
	Os 191	5X10 ⁻⁷	2X10 ⁻³
	Os 193	2X10 ⁻⁷	7X10 ⁻³
	Pd 103	1X10 ⁻⁷	5X10 ⁻³
	Pd 109	3X10 ⁻⁷	2X10 ⁻³
	P 32	7X10 ⁻⁷	1X10 ⁻³
	Pt 191	8X10 ⁻⁷	5X10 ⁻⁴
	Pt 193m	7X10 ⁻⁷	7X10 ⁻⁴
	Pt 197m	6X10 ⁻⁷	3X10 ⁻³
	Pt 197	5X10 ⁻⁷	3X10 ⁻³
	Pu 238	8X10 ⁻⁷	3X10 ⁻³
	Pu 239	6X10 ⁻¹¹	1X10 ⁻⁴
	Pu 240	3X10 ⁻¹¹	1X10 ⁻⁴
	Pu 241	4X10 ⁻¹¹	8X10 ⁻⁴
	Pu 242	2X10 ⁻¹¹	7X10 ⁻³
	Po 210	5X10 ⁻¹⁶	1X10 ⁻⁴
	K42	2X10 ⁻⁴	6X10 ⁻⁴

See footnotes at end of table.

CONCENTRATIONS IN AIR AND WATER ABOVE NATURAL BACKGROUND—continued
[See notes at end of table]

Element (atomic number)	Isotope ¹	Column 1 Air ($\mu\text{c}/\text{ml}$)	Column 2 Water ($\mu\text{c}/\text{ml}$)
Tungsten (74)	W 181	2×10^{-6}	1×10^{-3}
	W 185	1×10^{-7}	1×10^{-4}
	W 187	8×10^{-7}	4×10^{-3}
Uranium (92)	U 230	3×10^{-7}	3×10^{-3}
	U 232	4×10^{-7}	2×10^{-3}
	U 233	3×10^{-6}	1×10^{-4}
	U 234	1×10^{-6}	8×10^{-4}
	U 235	3×10^{-11}	1×10^{-4}
	U 236	5×10^{-10}	9×10^{-4}
	U 238	1×10^{-6}	8×10^{-4}
Vanadium (23)	U-natural	6×10^{-6}	1×10^{-4}
	V 48	7×10^{-11}	1×10^{-4}
Xenon (54)	Xe 131m	6×10^{-11}	8×10^{-4}
	Xe 133	2×10^{-4}	8×10^{-4}
	Xe 135	2×10^{-4}	8×10^{-4}
	Yb 175	1×10^{-4}	8×10^{-4}
Ytterbium (70)	Y 90	7×10^{-7}	3×10^{-3}
Yttrium (39)	Y 91m	3×10^{-7}	3×10^{-3}
	Y 91	1×10^{-7}	6×10^{-4}
	Y 92	2×10^{-8}	1×10^{-1}
	Y 93	2×10^{-8}	8×10^{-4}
	Zn 65	3×10^{-7}	2×10^{-3}
Zinc (30)	Zn 66m	4×10^{-7}	2×10^{-3}
	Zn 69	1×10^{-7}	5×10^{-3}
	Zn 93	6×10^{-8}	2×10^{-3}
	Zn 95	3×10^{-7}	2×10^{-3}
	Zn 97	1×10^{-7}	2×10^{-3}
Zirconium (40)		9×10^{-8}	5×10^{-4}

¹ Soluble (S); Insoluble (I).
² "Sub" means that values given are for submersion in an infinite cloud of gaseous material.

5. Footnotes 2 and 3 of § 50-204.307 would be revised to read as follows:

§ 50-204.307 Exposure to radioactive materials.

* * * * *

^a If either the identity or the concentration of any radionuclide in the mixture is not known, the limiting values for purposes of this table shall be:

a. For purposes of Table I, Col. 1- 1×10^{-12}
 b. For purposes of Table I, Col. 2- 3×10^{-10}

^b If the conditions specified below are met, the corresponding values specified below may be used in lieu of that specified in paragraph 2 above.

a. If the identity of each radionuclide in the mixture is known but the concentration of one or more of the radionuclides in the mixture is not known, the concentration limit for the mixture is the limit specified in the table above for the radionuclide in the mixture having the lowest concentration limit; or

b. If the identity of each radionuclide in the mixture is not known, but it is known that certain radionuclides specified in the table above are not present in the mixture, the concentration limit for the mixture is the lowest concentration limit specified in the table above for any radionuclide which is not known to be absent from the mixture; or

CONCENTRATIONS IN AIR AND WATER ABOVE NATURAL BACKGROUND—continued
[See notes at end of table]

Element (atomic number)	Isotope ¹	Column 1 Air ($\mu\text{c}/\text{ml}$)	Column 2 Water ($\mu\text{c}/\text{ml}$)
Strontium (38)	Sr 85m	4×10^{-4}	2×10^{-1}
	Sr 85	3×10^{-4}	2×10^{-1}
	Sr 89	2×10^{-7}	3×10^{-3}
	Sr 90	1×10^{-7}	5×10^{-3}
	Sr 91	3×10^{-8}	3×10^{-4}
	Sr 92	4×10^{-8}	8×10^{-4}
Sulfur (16)	S 35	5×10^{-8}	1×10^{-3}
Tantalum (73)	Ta 182	1×10^{-8}	2×10^{-3}
Technetium (43)	Tc 96m	3×10^{-7}	1×10^{-3}
	Tc 96	2×10^{-7}	8×10^{-4}
	Tc 97m	6×10^{-7}	3×10^{-3}
	Tc 97	2×10^{-7}	1×10^{-3}
	Tc 99m	3×10^{-7}	5×10^{-3}
	Tc 99	1×10^{-7}	2×10^{-3}
Tellurium (52)	Te 125m	6×10^{-4}	5×10^{-3}
	Te 127m	4×10^{-7}	3×10^{-3}
	Te 127	1×10^{-7}	2×10^{-3}
	Te 129m	2×10^{-7}	5×10^{-3}
	Te 129	9×10^{-7}	1×10^{-3}
	Te 131m	8×10^{-7}	6×10^{-4}
	Te 132	5×10^{-7}	2×10^{-3}
	Tb 160	4×10^{-7}	2×10^{-3}
Terbium (65)	Tl 200	2×10^{-7}	9×10^{-4}
Thallium (81)	Tl 201	1×10^{-7}	6×10^{-4}
	Tl 202	1×10^{-7}	1×10^{-3}
	Tl 204	3×10^{-8}	3×10^{-4}
	Tl 208	1×10^{-8}	7×10^{-4}
	Tl 210	9×10^{-8}	5×10^{-3}
	Tl 212	4×10^{-7}	2×10^{-3}
	Tl 214	2×10^{-7}	2×10^{-3}
Thorium (90)	Th 223	3×10^{-7}	2×10^{-3}
	Th 228	8×10^{-8}	3×10^{-3}
	Th 230	4×10^{-12}	2×10^{-1}
	Th 232	2×10^{-12}	9×10^{-1}
	Th natural	3×10^{-11}	5×10^{-1}
	Th 234	3×10^{-11}	3×10^{-1}
Thulium (69)	Tm 170	3×10^{-11}	3×10^{-1}
	Tm 171	3×10^{-11}	1×10^{-1}
	Sn 113	1×10^{-7}	2×10^{-3}
	Sn 125	4×10^{-7}	2×10^{-3}
		5×10^{-7}	5×10^{-4}

See footnotes at end of table.

c. —

Element (atomic number) and isotope	Column 1 Air ($\mu\text{Ci/ml}$)	Column 2 Water ($\mu\text{Ci/ml}$)
If it is known that Sr 90, I 129, Pb 210, Po 210, At 211, Ra 223, Ra 224, Ra 226, Ac 227, Ra 228, Th 230, Pa 231, Th 232, and Th-232 are not present.		9×10^{-4}
If it is known that Sr 90, I 129, Pb 210, Po 210, Ra 223, Ra 226, Ra 228, Pa 231, and Th-232 are not present.		6×10^{-4}
If it is known that Sr 90, Pb 210, Ra 226 and Ra 228 are not present.		2×10^{-4}
If it is known that Ra 226 and Ra 228 are not present.		3×10^{-4}
If it is known that alpha-emitters and Sr 90, I 129, Pb 210, Ac 227, Ra 228, Pa 230, Pu 241 and Bk 249 are not present.	3×10^{-4}	
If it is known that alpha-emitters and Pb 210, Ac 227, Ra 228, and Pu 241 are not present.	3×10^{-10}	
If it is known that alpha-emitters and Ac 227 are not present.	3×10^{-11}	
If it is known that Ac 227, Th 230, Pa 231, Pu 238, Pu 239, Pu 240, Pu 242, and Cf 249 are not present.	3×10^{-12}	
If Pa 231, Pu 239, Pu 240, Pu 242 and Cf 249 are not present.	2×10^{-12}	

6. Section 50-204.308 would be revised to read as follows:

§ 50-204.308 Precautionary procedures and personnel monitoring.

(a) Every employer shall make such surveys as may be necessary for him to comply with the regulations in this part. "Survey" means an evaluation of the radiation hazards incident to the production, use, release, disposal, or presence of radioactive materials or other sources of radiation under a specific set of conditions. When appropriate, such evaluation includes a physical survey of the location of materials and equipment, and measurements of levels of radiation or concentrations of radioactive material present.

(b) Every employer shall supply appropriate personnel monitoring equipment, such as film badges, pocket chambers, pocket dosimeters, or film rings, to, and require the use of such equipment by:

(1) Each employee who enters an area under such circumstances that he receives, or is likely to receive, a dose in any calendar quarter in excess of 25 percent of the applicable value specified in paragraph (a) of § 50-204.306; and

(2) Each employee under 18 years of age who enters an area under such circumstances that he receives, or is likely to receive, a dose in any calendar quarter in excess of 5 percent of the applicable value specified in paragraph (a) of § 50-204.306.

(3) Each employee who enters a high radiation area.

(c) As used in this part:

(1) "Personnel monitoring equipment" means devices designed to be worn or carried by an individual for the purpose of measuring the dose received (e.g., film badges, pocket chambers, pocket dosimeters, film rings, etc.);

(2) "Radiation area" means any area, accessible to personnel, in which there exists radiation, at such levels that a major portion of the body could receive in any one hour a dose in excess of 5 millirem, or in any 5 consecutive days a dose in excess of 100 millirems;

(3) "High radiation area" means any area, accessible to personnel, in which there exists radiation at such levels that a major portion of the body could receive in any one hour a dose in excess of 100 millirems.

7. Section 50-204.309 would be renumbered as § 50-304.317.

8. Section 50-204.310 would be renumbered as § 50-204.319.

9. A new § 50-204.309 would be established to read as follows:

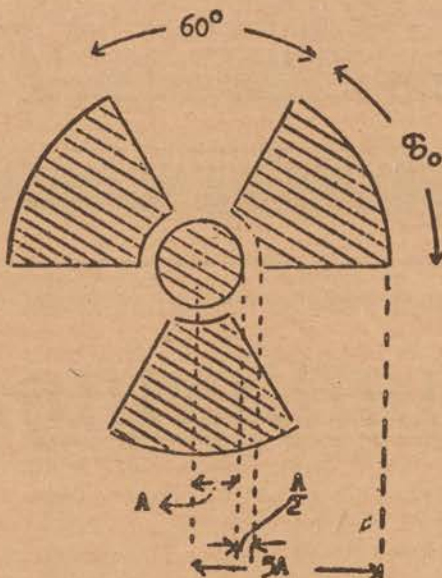
§ 50-204.309 Caution signs, labels, and signals.

(a) General. (1) Symbols prescribed by this section shall use the conventional radiation caution colors (magenta or purple on yellow background). The symbol prescribed by this section is the conventional three-bladed design:

RADIATION SYMBOL

1. Cross-hatched area is to be magenta or purple.
2. Background is to be yellow.

(2) In addition to the contents of signs and labels prescribed in this section, employers may provide on or near such signs and labels any additional information which may be appropriate in aiding individuals to minimize exposure to radiation or to radioactive material.



(b) Radiation areas. Each radiation area shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:

**CAUTION^{*}
RADIATION AREA**

(c) High radiation areas. (1) Each high radiation area shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:

^{*} Or "Danger"

**CAUTION^{*}
HIGH RADIATION AREA**

(2) Each high radiation area shall be equipped with a control device which shall either cause the level of radiation to be reduced below that at which an individual might receive a dose of 100 millirem in one hour upon entry into the area or shall energize a conspicuous visible or audible alarm signal in such a manner that the individual entering and the employer or a supervisor of the activity are made aware of the entry. In the case of a high radiation area established for a period of 30 days or less, such control device is not required.

(d) Airborne radioactivity areas. (1) As used in the regulations in this part, "airborne radioactivity area" means (i) any room, enclosure, or operating area in which airborne radioactive materials, composed wholly or partly of radioactive material, exist in concentrations in excess of the amounts specified in Column 1 of § 50-204.307; or any room, enclosure, or operating area in which airborne radioactive material exists in concentrations which, averaged over the number of hours in any week during which individuals are in the area, exceed 25 percent of the amounts specified in Column 1 of § 50-204.307.

(2) Each airborne radioactivity area shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:

**CAUTION^{*}
AIRBORNE RADIOACTIVITY AREA**

(e) Additional requirements. (1) Each area or room in which radioactive material is used or stored and which contains any radioactive material (other than natural uranium or thorium) in any amount exceeding 10 times the quantity of such material specified in paragraph (g) of this section shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:

**CAUTION^{*}
RADIOACTIVE MATERIAL (S)**

(2) Each area or room in which natural uranium or thorium is used or stored in an amount exceeding one hundred times the quantity specified in paragraph (g) of this section shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:

**CAUTION^{*}
RADIOACTIVE MATERIAL (S)**

(f) Containers. (1) Each container in which is transported, stored, or used a quantity of any radioactive material (other than natural uranium or thorium) greater than the quantity of such material specified in paragraph (g) of this section shall bear a durable, clearly visible label bearing the radiation caution symbol and the words:

**CAUTION^{*}
RADIOACTIVE MATERIAL**

(2) Each container in which natural uranium or thorium is transported, stored or used in a quantity greater than ten times the quantity specified in paragraph (g) of this section shall bear a durable, clearly visible label bearing

the radiation caution symbol and the words:

CAUTION
RADIOACTIVE MATERIAL

(3) Notwithstanding the provisions of subparagraphs (1) and (2) of this paragraph a label shall not be required:

(i) If the concentration of the material in the container does not exceed that specified in § 50-204.307, Column 2 of this part, or

(ii) For laboratory containers, such as beakers, flasks, and test tubes, used transiently in laboratory procedures, when the user is present.

(4) Where containers are used for storage, the labels required in this paragraph shall state also the quantities and kinds of radioactive materials in the containers and the date of measurement of the quantities.

(g) *Material.*

Material	Micro-curies
Ag ¹⁰⁸	1
Ag ¹¹⁰	10
As ⁷⁵ , As ⁷⁷	10
Au ¹⁹⁸	10
Au ¹⁹⁹	10
Ba ¹³⁰ +La ¹³⁰	1
Be ⁷	50
C ¹⁴	50
Ca ⁴⁵	10
Cd ¹⁰⁹ +Ag ¹⁰⁹	10
Ce ¹⁴⁴ +Pr ¹⁴⁴	1
Cl ³⁶	1
Co ⁶⁰	1
Cr ⁵¹	50
Cs ¹³⁷ +Ba ¹³⁷	1
Cu ⁶⁴	50
Eu ¹⁵⁴	1
Fe ⁵⁹	50
Fe ⁶⁰	50
Ga ⁷²	10
Ge ⁷⁶	50
H ³ (HTO or H ₂ O)	250
In ¹¹¹	10
In ¹¹⁴	1
Ir ¹⁹²	10
K ⁴⁰	10
La ¹⁴⁰	10
Mn ⁵⁴	1
Mn ⁵⁶	50
Mo ⁹⁹	10
Na ²²	10
Na ²⁴	10
Nb ⁹⁴	10
Ni ⁶³	10
Ni ⁶⁵	1
P ³²	1
Pd ¹⁰³ +Rh ¹⁰³	50
Pd ¹⁰⁹	10
Pm ¹⁴⁷	10
Po ²¹⁰	0.1
Pr ¹⁴³	10
Pu ²³⁹	1
Ra ²²⁶	0.1
Rb ⁸⁶	10
Rc ¹⁰⁶	10
Rh ¹⁰⁶	10
Ru ¹⁰⁶ +Rh ¹⁰⁶	1
S ³⁵	50
Sb ¹²⁴	1
Sc ⁴⁶	1
Sm ¹⁵³	10
Sn ¹¹³	10
Sr ⁹⁰	1
Sr ⁹⁰ +Y ⁹⁰	0.1
Ta ¹⁸²	10
Tc ⁹⁹	1
Tc ^{99m}	1
Te ¹³¹	10
Th (natural)	1
Ti ¹²⁸	50
Tridium. See H ³	50
U (natural)	250
U ²³³	50
U ²³⁴ -U ²³⁸	1
V ⁴⁸	50
W ¹⁸⁷	1
Y ⁹⁰	10
Y ⁹¹	1
Zn ⁶⁵	10
Unidentified radioactive materials or any of the above in unknown mixtures.	0.1

NOTE: For purposes of § 50-204.309 where there is involved a combination of isotopes in known amounts the limit for the combination should be derived as follows: Determine, for each isotope in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific isotope when not in combination. The sum of such ratios for all the isotopes in the combination may not exceed "1" (i.e., "unity").

10. A new § 50-204.310 would be established to read as follows:

§ 50-204.310 Exceptions from posting requirements.

Notwithstanding the provisions of § 50-204.309:

(a) A room or area is not required to be posted with a caution sign because of the presence of a sealed source provided the radiation level twelve inches from the surface of the source container or housing does not exceed five millirem per hour.

(b) Rooms or other areas in on site medical facilities are not required to be posted with caution signs because of the presence of patients containing radioactive material provided that there are personnel in attendance who shall take the precautions necessary to prevent the exposure of any individual to radiation or radioactive material in excess of the limits established in the regulations in this part.

(c) Caution signs are not required to be posted at areas or rooms containing radioactive materials for periods of less than eight hours provided that (1) the materials are constantly attended during such periods by an individual who shall take the precautions necessary to prevent the exposure of any individual to radiation or radioactive materials in excess of the limits established in the regulations in this part and; (2) such area or room is subject to the employer's control.

11. A new § 50-204.311 would be established to read as follows:

§ 50-204.311 Exemptions for radioactive materials packaged for shipment.

Radioactive materials packaged and labeled in accordance with regulations of the Interstate Commerce Commission shall be exempt from the labeling and posting requirements of § 50-204.309 during shipment, provided that the inside containers are labeled in accordance with the provisions of § 50-204.309.

12. A new § 50-204.312 would be established to read as follows:

§ 50204.312 Instruction of personnel: posting.

All employers regulated by the AEC shall be governed by § 20.206 (10 CFR Part 20) standards. All other employers shall be regulated by the following:

(a) All individuals working in or frequenting any portion of a radiation area shall be informed of the occurrence of radioactive materials or of radiation in such portions of the radiation area; shall be instructed in the safety problems associated with exposure to such materials or radiation and in precautions or devices to minimize exposure; shall be instructed in the applicable provisions of

these radiation health and safety regulations for the protection of employees from exposure to radiation or radioactive materials; and shall be advised of reports or radiation exposure which employees may request pursuant to these regulations.

(b) Each employer shall post a current copy of the regulations of this part and a copy of the operating procedures applicable to the work under contract conspicuously in such locations as to ensure that employees working in or frequenting radiation areas will observe these documents on the way to and from their place of employment, or shall keep such documents available for examination of employees upon request.

13. A new § 50-204.313 would be established to read as follows:

§ 50-204.313 Storage of radioactive materials.

Radioactive materials stored in a non-radiation area shall be secured against unauthorized removal from the place of storage. This will apply to covered employees, except those under AEC regulation which will be governed by the applicable provisions of § 20.207 (10 CFR Part 20).

14. A new § 50-204.314 would be established to read as follows:

§ 50-204.314 Waste disposal.

No employer shall dispose of radioactive material except by transfer to an authorized recipient or in a manner approved by the Atomic Energy Commission.

15. A new § 50-204.315 would be established to read as follows:

§ 50-204.315 Notification of incidents.

(a) *Immediate notification.* Each employer shall immediately notify the Regional Director of the appropriate Wage and Hour and Public Contracts Divisions Regional Office, U.S. Department of Labor for employees not regulated by AEC by means of 10 CFR Part 20, by telephone or telegraph of any incident involving radiation which may have caused or threatens to cause:

(1) Exposure of the whole body of any individual to 25 rems or more of radiation; exposure of the skin of the whole body of any individual of 150 rems or more of radiation; or exposure of the feet, ankles, hands or forearms of any individual to 375 rems or more of radiation; or

(2) A loss of one working week or more of the operation of any facilities affected; or

(3) Damage to property in excess of \$100,000.

(b) *Twenty-four hour notification.* Each employer shall within 24 hours notify the Regional Director of the appropriate Wage and Hour and Public Contracts Divisions' Regional Office, U.S. Department of Labor for employees not regulated by AEC by means of 10 CFR Part 20, by telephone or telegraph of any incident involving radiation which may have caused or threatens to cause:

(1) Exposure of the whole body of any individual to 5 rems or more of radiation; exposure of the skin of the whole body of any individual to 30 rems or

* Or "Danger"

more of radiation; or exposure of the feet, ankles, hands or forearms to 75 rems or more of radiation; or

(2) A loss of one day or more of the operation of any facilities affected; or

(3) Damage to property in excess of \$1,000.

16. A new § 50-204.316 would be established to read as follows:

§ 50-204.316 Reports of overexposure and excessive levels and concentrations.

(a) In addition to any notification required by § 50-204.315 each employer shall make a report in writing within 30 days to the Regional Director of the appropriate Wage and Hour and Public Contracts Divisions' Regional Office, U.S. Department of Labor, for employees not regulated by AEC by means of 10 CFR Part 20; (1) Each exposure of an individual to radiation or concentrations of radioactive material in excess of any applicable limit in this part. Each report required under this paragraph shall describe the extent of exposure of persons to radiation or to radioactive material; levels of radiation and concentrations of radioactive material involved, the cause of the exposure, levels of concentrations; and corrective steps taken or planned to assure against a recurrence.

(b) In any case where an employer is required pursuant to the provisions of this section to report to the Wage and Hour and Public Contracts Divisions, U.S. Department of Labor any exposure of an individual to radiation or to concentrations of radioactive material, the employer shall also notify such individual of the nature and extent of exposure. Such notice shall be in writing and shall contain the following statement:

This report is furnished to you under the provisions of 41 CFR Part 50-204, U.S. Department of Labor, Wage and Hour and Public Contracts Divisions. You should preserve this report for future reference.

17. A new § 50-204.318 would be established to read as follows:

§ 50-204.318 Disclosure to former employee of individual employee's record.

At the request of a former employee each employer shall furnish to the former employee a report of the former employee's exposure to radiation as shown in records maintained by the employer, pursuant to § 50-204.317(a). Such report shall be furnished within 30 days from the time the request is made; shall cover each calendar quarter of the individual's employment involving exposure to radiation, or such lesser period as may be requested by the employee. The report shall also include the results of any calculations and analysis of radioactive material deposited in the body of the employee. The report shall be in writing and contain the following statement:

This report is furnished to you under the provisions of the U.S. Department of Labor, Wage and Hour and Public Contracts Divisions, Radiation Safety and Health Standards (41 CFR Part 50-204). You should preserve this report for future reference.

(b) The former employee's request should include appropriate identifying data, such as social security number and dates and locations of employment.

18. A new § 50-204.320 would be established to read as follows:

§ 50-204.320 AEC licensees.

Any employer who possesses or uses source material, byproduct material, or special nuclear material, as defined in the Atomic Energy Act of 1954, as amended, under a license issued by the Atomic Energy Commission and in accordance with the requirements of Part 20, Chapter 1, Title 10, Code of Federal Regulations, shall be deemed to be in compliance with the requirements of this part with respect to such possession and use.

[F.R. Doc. 64-883; Filed, Jan. 28, 1964; 8:53 a.m.]

Title 7—AGRICULTURE

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

PART 970—CARROTS GROWN IN SOUTH TEXAS

Approval of Expenses and Rate of Assessment

Notice of rule making regarding proposed expenses and rate of assessment for the fiscal period ending July 31, 1964, and amended expenses for the fiscal period ending July 31, 1963, to be effective under Marketing Agreement No. 142 and Order No. 970, both as amended (7 CFR Part 970; 28 F.R. 7467, 7584) regulating the handling of carrots grown in South Texas, was published in the FEDERAL REGISTER January 4, 1964 (29 F.R. 107). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons an opportunity to submit data, views or arguments pertaining thereto not later than 10 days following publication in the FEDERAL REGISTER. None was filed.

After consideration of all relevant matters, including the proposal set forth in the aforesaid notice which was recommended by the South Texas Carrot Committee, established pursuant to the amended marketing agreement and order, it is hereby found and determined that:

§ 970.204 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the South Texas Carrot Committee, established under Marketing Agreement No. 142 and Order No. 970, both as amended, to enable the committee to perform its functions under the provisions of the marketing agreement and marketing order during the fiscal period August 1, 1963, through July 31, 1964, will amount to \$37,000.00.

(b) The rate of assessment to be paid by each handler under Marketing Agree-

ment No. 142 and Order No. 970, both as amended, shall be one-half cent (\$0.005) per 50 pound sack (or crate) of carrots, or the equivalent quantity thereof packed in other containers, handled by him as the first handler thereof during said fiscal period.

In § 970.203 *Expenses and rate of assessment* (27 F.R. 12183), paragraph (a) is amended to read as follows:

§ 970.203 Expenses and rate of assessment.

(a) The reasonable expenses incurred by the South Texas Carrot Committee enabling such committee to perform its functions during the fiscal period ended July 31, 1963, amounted to \$35,184.69. The budget for such fiscal period shall be, and is hereby, amended, pursuant to § 970.42(c) and recommendations of the committee, to approve expenses for \$35,184.69. No change in the rate of assessment is necessary.

It is hereby found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1003) in that: (1) The relevant provisions of the amended marketing agreement and this part require that rates of assessment fixed for a particular fiscal period shall be applicable to all assessable carrots from the beginning of such period, and (2) the current fiscal period began on August 1, 1963, and the rate of assessment herein fixed will automatically apply to all assessable carrots beginning with such date.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601 et seq.)

Dated: January 24, 1964.

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

[F.R. Doc. 64-896; Filed, Jan. 28, 1964; 8:55 a.m.]

PART 971—LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Change in Fiscal Period, and Approved Expenses and Rate of Assessment

Notice of rule making on amending § 971.103 *Fiscal Period*, and on § 971.204, *Expenses and Rate of Assessment* for the fiscal period ending July 31, 1964, was published in the FEDERAL REGISTER, December 18, 1963 (28 F.R. 13786). These rules, as recommended by the South Texas Lettuce Committee, are to be made effective pursuant to Marketing Agreement No. 144 and Marketing Order No. 971 (7 CFR Part 971) herein referred to collectively as the order. The order authorizes regulation of the handling of lettuce grown in the Lower Rio Grande Valley in South Texas and it is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The notice afforded interested parties an opportunity to submit data, views, or

arguments pertaining thereto not later than 14 days following publication in the FEDERAL REGISTER. None was filed.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, it is hereby found that the rules as herein-after set forth are in accordance with the provisions of the said order and such rules will tend to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended.

Therefore, the beginning and ending dates prescribed in § 971.103, and the expenses and rate of assessment prescribed in § 971.204, as hereinafter set forth, are hereby approved.

A. Amend § 971.103 to read:

§ 971.103 Fiscal period.

The fiscal period which extends from November 1, 1962, through October 31, 1963 (7 CFR 971.103), shall end July 31, 1963. Beginning August 1, 1963, and thereafter, the fiscal period shall begin August 1 of each year and end July 31 of the following year, both dates inclusive.

B. Amend § 971.204 *Expenses and rate of assessment* to read:

§ 971.204 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period August 1, 1963, through July 31, 1964, by the South Texas Lettuce Committee for its maintenance and functioning and for such purposes as the Secretary determines to be appropriate, will amount to \$16,050.00.

(b) The rate of assessment to be paid by each handler in accordance with the marketing agreement and this part shall be two cents (\$0.02) per carton of lettuce handled by him as the first handler thereof during said fiscal period.

(c) Terms used in this section have the same meanings as when used in the said marketing agreement and this part.

It is hereby found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1003) in that: (1) No advance preparation for such effective date will be required of handlers for compliance therewith; (2) the changed fiscal period will tend to promote more effective fiscal operations under the order; (3) the relevant provisions of the order require that rates of assessment fixed for a particular period shall apply to all assessable lettuce from the beginning of such period; (4) the current fiscal period, upon approval of these rules, will have begun on August 1, 1963, and (5) no useful purpose would be served by postponing the effective date of such rules, which, therefore, shall be effective upon publication in the FEDERAL REGISTER.

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

Dated: January 24, 1964.

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

[F.R. Doc. 64-897; Filed, Jan. 28, 1964; 8:55 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

SUBCHAPTER E—AIRSPACE [NEW]

[Airspace Docket No. 62-WE-131]

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

Alteration of Control Zones, Revocation of Control Area Extension and

Designation of Transition Areas

On October 4, 1963, a notice of proposed rule making was published in the FEDERAL REGISTER (28 F.R. 10717) stating that the Federal Aviation Agency proposed to alter the San Diego (Lindbergh Field), San Diego (NAS North Island) and NAAS Ream Field, Calif., control zones; revoke the San Diego control area extension; and designate the Santa Catalina, Calif., and San Diego transition areas.

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

The substance of the proposed amendments having been published and for the reasons stated in the Notice, the following actions are taken:

1. In § 71.171 (27 F.R. 220-91, November 10, 1962), the San Diego, Calif. (Lindbergh Field), San Diego (NAS North Island), and NAAS Ream Field, Calif., control zones are amended to read:

a. San Diego, Calif. (Lindbergh Field)

Within a 5-mile radius of Lindbergh Field, San Diego, Calif. (latitude 32°43'58" N., longitude 117°11'14" W.); within 2 miles each side of the Lindbergh VOR 106° radial, extending from the 5-mile radius zone to 7 miles E. of the VOR, excluding the portion S. of a line extending from latitude 32°43'22" N., longitude 117°16'20" W. to latitude 32°43'22" N., longitude 117°12'23" W., to latitude 32°41'02" N., longitude 117°07'25" W.; and the portion N. of latitude 32°47'00" N.

b. San Diego, Calif. (NAS North Island)

Within a 5-mile radius of NAS North Island (latitude 32°42'00" N., longitude 117°12'35" W.); within the arc of a 10-mile radius circle centered on the North Island TACAN, extending clockwise from a line 2 miles N. of and parallel to the TACAN 120° radial to the 162° radial, excluding the portion N. of a line from latitude 32°43'22" N., longitude 117°17'20" W., to latitude 32°43'22" N., longitude 117°12'23" W., to latitude 32°41'02" N., longitude 117°07'25" W. and the portion within the NAS Ream Field, Calif., control zone.

c. NAAS Ream Field, Calif.

Within a 3-mile radius of NAAS Ream Field (latitude 32°34'00" N., longitude 117°06'50" W.), and that airspace W. of Ream Field within the arc of a 6-mile radius circle centered on Ream TACAN, extending counterclockwise from a line 2 miles N. of and parallel to the Ream TACAN 288° radial to the United States/Mexican Flight Information Region boundary, excluding the portion under the jurisdiction of Mexico.

2. Section 71.165 (27 F.R. 220-59, November 10, 1962) is amended by revoking the San Diego, Calif., control area extension.

3. Section 71.181 (27 F.R. 220-139, November 10, 1962) is amended by adding the following:

a. San Diego, Calif.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 33°15'00" N., longitude 117°30'30" W., to latitude 33°15'00" N., longitude 117°17'00" W., to latitude 33°00'00" N., longitude 117°07'00" W., to latitude 33°00'00" N., longitude 116°51'00" W., thence S. along longitude 116°51'00" W. to the United States/Mexican Border, thence W. along the United States/Mexican Border, and Flight Information Region Boundary to latitude 32°29'40" N., longitude 117°21'00" W., thence via the arc of a 21-mile radius circle centered on the San Diego VOR to latitude 32°33'00" N., longitude 117°27'30" W., thence N. to the point of beginning; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 33°30'00" N., longitude 117°30'00" W., thence to latitude 33°30'00" N., longitude 116°18'00" W., thence to latitude 33°00'00" N., longitude 116°05'00" W., thence S. via longitude 116°05'00" W. to the United States/Mexican Border, thence W. via the United States/Mexican Border and Flight Information Region boundary to latitude 32°29'40" N., longitude 117°21'00" W., thence via the arc of a 21-mile radius circle centered on the San Diego VOR to latitude 32°37'15" N., longitude 117°31'50" W., thence to latitude 32°34'45" N., longitude 117°39'00" W., thence to latitude 32°49'30" N., longitude 117°45'15" W., thence to latitude 32°57'40" N., longitude 117°35'00" W., thence to latitude 33°11'00" N., longitude 117°48'55" W., thence to latitude 33°15'00" N., longitude 117°30'00" W., thence N. via longitude 117°30'00" W., to the point of beginning, excluding the portion within W-536. The portion of this transition area within R-2503 shall be used only after obtaining prior approval from appropriate authority.

b. Santa Catalina, Calif.

That airspace extending upward from 1,200 feet above the surface bounded on the E. by longitude 117°30'00" W., on the S. by a line extending from latitude 33°15'00" N., longitude 117°30'00" W., to latitude 33°11'00" N., longitude 117°48'55" W., to latitude 33°18'00" N., longitude 118°34'00" W., on the W. by longitude 118°34'00" W., and on the N. by latitude 33°30'00" N., excluding the portion within Control Area 1177. The portion of this transition area within R-2503 shall be used only after obtaining prior approval from appropriate authority.

These amendments shall become effective 0001 e.s.t., April 2, 1964.

(Secs. 307(a), and 1110, 72 Stat. 749 and 800; 49 U.S.C. 1348 and 1510, and Executive Order 10854, 24 F.R. 9565)

Issued in Washington, D.C., on January 22, 1964.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 64-802; Filed, Jan. 28, 1964; 8:45 a.m.]

[Airspace Docket No. 63-SO-50]

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

Alteration of Control Zone

On August 22, 1963, a notice of proposed rule making was published in the FEDERAL REGISTER (28 F.R. 9263) stating that the Federal Aviation Agency pro-

posed to alter the control zone at Atlanta, Ga.

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

The substance of the proposed amendment having been published and for reasons stated in the notice, the following action is taken:

In § 71.171 (27 F.R. 220-91, November 10, 1962), the Atlanta, Ga., (Municipal Airport) control zone is amended to read:

Atlanta, Ga. (Municipal Airport)

Within a 5-mile radius of Atlanta Municipal Airport (latitude 33°38'42" N., longitude 84°25'37" W.); within 2 miles each side of the Atlanta ILS localizer W. course, extending from the 5-mile radius zone to the OM; within 2 miles each side of the Atlanta ILS localizer SE. course, extending from the 5-mile radius zone to the OM; within 2 miles each side of the Atlanta ILS localizer E. course, extending from the 5-mile radius zone to the INT of the localizer E. course and the McDonough, Ga., VORTAC 333° radial; within a 3-mile radius of Morris AAF (latitude 33°37'20" N., longitude 84°20'30" W.); within 2 miles each side of the Rex, Ga., VOR 271° radial, extending from the 5-mile radius zone to 8.5 miles E. of the Atlanta Airport, and within 2 miles each side of the Fulton, Ga., VOR 151° radial, extending from the Atlanta Municipal Airport 5-mile radius zone to the Fulton County 5-mile radius zone.

This amendment shall become effective 0001 e.s.t., April 2, 1964.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on January 22, 1964.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 64-803; Filed, Jan. 28, 1964;
8:45 a.m.]

[Airspace Docket No. 63-PC-9]

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

Alteration of Federal Airways

On October 1, 1963, there was published in the FEDERAL REGISTER (28 F.R. 10549) a proposal to raise the floors of the VOR Federal airways in Hawaii.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments but no comments were received.

The substance of the proposal having been published and for the reasons stated in the notice, the following actions are taken:

In § 71.127 (27 F.R. 220-37, November 10, 1962, 28 F.R. 7290, 7670, 9428) the following changes are made:

1. In V-1, 2, 3, 6, 7, 11, 13, 16, and 17 Hawaii add:

The airspace below 1,200 feet MSL is excluded.

2. In V-4 Hawaii add:

The airspace below 3,500 feet MSL from the INT of Lihue 186° and Koko Head 254° radials to the INT of Koko Head 254° and South Kauai, Hawaii, 133° radials, and below 1,200 feet MSL from the INT of Koko Head 254° and South Kauai 133° radials to the

INT of Koko Head 065° and Molokai, Hawaii, 311° radials and below 2,500 feet MSL from the INT of Koko Head 065° and Molokai 311° radials to the INT of Koko Head 065° and Upolu Point 002° radials is excluded.

3. In V-9 Hawaii "21,000 feet MSL within W-321 (Area C) is excluded." is deleted and "Flight level 300 within W-321 (Area C) and the airspace below 1,200 feet is excluded." is substituted therefor.

4. In V-8 Hawaii add:

The airspace below 1,200 feet MSL from the INT of Honolulu 179° and Molokai 268° radials to the INT of Molokai 067° and Maui, Hawaii, 331° radials and below 2,500 feet MSL from the INT of Molokai 067° and Maui 331° radials to the INT of Molokai 067° and Upolu Point 010° radials is excluded.

5. In V-12 Hawaii add:

The airspace below 3,500 feet MSL from the INT of Lihue 195° and Honolulu 269° radials to the INT of South Kauai, Hawaii, 133° and Honolulu 269° radials, and below 1,200 feet MSL from the INT of South Kauai 133° and Honolulu 269° radials to the INT of Koko Head 050° and Molokai, Hawaii, 311° radials, and below 2,500 feet MSL from the INT of Koko Head 050° and Molokai 311° radials to the INT of Koko Head 050° and Maui 012° radials is excluded.

6. In V-14 Hawaii "is excluded." is deleted and "and the airspace below 5,000 feet MSL from the INT of the South Kauai 271° radial and Long. 161°-20'00" W., to Long. 159°43'00" W., and below 1,200 feet MSL from Long. 159°-43'00" W. to Koko Head is excluded." is substituted therefor.

7. In V-15 Hawaii "is excluded." is deleted and "and the airspace below 5,000 feet MSL from the INT of South Kauai 288° radial and Long. 161°15'00" W. to Long. 159°43'00" W., and below 1,200 feet MSL from Long. 159°43'00" W. to Hilo is excluded." is substituted therefor.

These amendments shall become effective 001 e.s.t., April 2, 1964.

(Secs. 307(a), and 1110, 72 Stat. 749 and 800; 49 U.S.C. 1348 and 1510, and Executive Order 10854, 24 F.R. 9565)

Issued in Washington, D.C., on January 22, 1964.

H. B. HELSTROM,
Acting Chief, Airspace
Utilization Division.

[F.R. Doc. 64-809; Filed, Jan. 28, 1964;
8:46 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER F—POLICY STATEMENTS

[Regulation Policy Statement No. 21]

PART 399—STATEMENTS OF GENERAL POLICY AMENDMENT AND CODIFICATION

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of January 1964.

The Board's policy statements published in Part 399 for the guidance of the public are presently arranged in chronological sequence of adoption by the Board, and modification of a policy statement is now accomplished by rescission and adoption of a new statement. The Board has decided, in the light of experience, that its policy statements would be more useful to the public if the state-

ments were grouped according to subject matter and were subject to amendment in the same manner in which other regulations are amended.

Accordingly, the currently effective policy statements have been redesignated and grouped into subparts, which are arranged according to subject matter. The policies have been reviewed for applicability and, with one principal exception, have been amended where necessary to reflect changes in the law, the air transportation industry, or the Board's practices. Since this is essentially a codification, however, and not a general revision of the policy statements, substantive changes have been kept to a minimum.

Four policy statements have been substantively amended in the manner indicated:

Section 399.11 sets forth the Board's "use it or lose it" policy for local service carriers. The "use it or lose it" policy, first applied to new local service authorizations in the Seven States Area Investigation decision (28 C.A.B. 680; E-13254, December 8, 1958), has been expanded in actual practice to apply to all local service authorizations, and the policy statement reflects this practice. At the same time the policy relating to permanent certification of local service carriers (former § 399.27), which contained the original traffic standard for local service carriers, has now been fully executed and has therefore been deleted.

Section 399.30, the policy on temporary subsidy rates, combines former §§ 399.13 and 399.32 into one section. The new statement has been revised to make the language accord with present practice in the method of computing subsidy needs and to make clear that the granting of temporary rates is an emergency action.

Section 399.50, the policy on extensions of time for filing reports, is a revision of former § 399.22, air carrier reporting delinquencies. The new statement indicates that extensions of time for filing reports will be granted only in emergency situations that could not be anticipated and guarded against by the carrier concerned. Also, the sanction of civil penalties (authorized by the 1962 amendment to section 901(a) of the Act) is made expressly applicable to overdue reports, in lieu of the present sanction of deferring action on petitions for increased mail rates.

Section 399.80, the policy on unfair and deceptive practices of ticket agents (former § 399.18), has been expanded to include as an unfair practice misrepresentations as to the requirements that must be met by persons or organizations in order to qualify for charter or group fare flights.

One policy statement which is due for substantive amendment, the domestic coach policy (former § 399.19), is being reprinted at this time in its present form as § 399.33. The Board recognizes that this policy is out of date in a number of respects because of the advent of new types of aircraft, the use of dual configurations, and changes in the relationship of coach to first-class fares, and early revision and reissuance of the

policy in the light of prevailing conditions is contemplated.

Except as indicated above, the other policy statements are being republished without substantive change, although updating changes and other minor editorial revisions have been made in some instances. For convenience of reference, the former and new designations of policies by number are tabulated in appendix A.

Since this amendment and codification of Part 399 relate solely to general policies of the Board, notice and public procedure hereon are not required and the regulation may be made effective upon less than 30 days' notice.

Accordingly, the Board hereby amends and codifies Part 399 of its Policy Statements (14 CFR Part 399), effective January 29, 1964, as hereinafter set forth.

By the Civil Aeronautics Board:

[SEAL] HAROLD R. SANDERSON,
Secretary.

APPENDIX A—TABLE OF CROSS REFERENCES TO FORMER AND NEW DESIGNATIONS OF POLICY STATEMENTS

Former section	New section
399.0	399.1
399.1	399.2
399.2	399.3
399.3	399.5
399.4	399.4
399.13	399.30
399.14	399.31
399.15	399.32
399.16	399.10
399.17	399.14
399.18	399.80
399.19	399.33
399.20	399.12
399.21	399.13
399.22	399.50
399.23	399.52
399.24	399.52
399.26	399.70
399.27	399.11
399.32	399.30
399.33	399.51
399.34	399.35
399.35	399.15
399.36	399.16
399.38	399.60
399.39	399.61
399.40	399.36
399.41	399.17
399.42	399.18
399.43	399.34
399.44	399.90
New section	Former section
399.1	399.0
399.2	399.1
399.3	399.2
399.4	399.4
399.5	399.3
399.10	399.16
399.11	399.27
399.12	399.20
399.13	399.21
399.14	399.17
399.15	399.35
399.16	399.36
399.17	399.41
399.18	399.42
399.30	399.13 and 399.32
399.31	399.14
399.32	399.15
399.33	399.19
399.34	399.43
399.35	399.34

¹ New policy substituted for rescinded policy.

New section	Former section
399.26	399.40
399.50	399.22
399.51	399.33
399.52	399.23 and 399.24
399.60	399.38
399.61	399.39
399.70	399.26
399.80	399.18
399.90	399.44

Subpart A—Applicability and Effect of Policy Statements

Sec.	
399.1	Applicability.
399.2	Exclusions.
399.3	Statements in other Board documents.
399.4	Nature and effect of policy statements.
399.5	Arrangement of policy statements.

Subpart B—Policies Relating to Operating Authority

399.10	Local service carrier certificates to indicate nature of operations specifically.
399.11	"Use it or lose it" policy for subsidized local service carriers.
399.12	Negotiation by air carriers for landing rights in foreign countries.
399.13	Standard provisions in foreign air carrier permits.
399.14	Issuance of foreign air carrier permits for Canadian transborder operations in small aircraft.
399.15	Processing of applications of foreign air carriers, pursuant to Part 212 of this chapter, for Statements of Authorization to conduct off-route charter trips.
399.16	Military Air Transport Service charter exemptions.
399.17	Public interest factors in granting special orders or amendments to interim operating authority for transatlantic passenger charter service.
399.18	Maximum duration of fixed-term route authorization granted by exemption; renewal of such authority.

Subpart C—Policies Relating to Rates and Tariffs

399.30	Temporary subsidy rates.
399.31	Rate policy applicable to nonsubsidized carriers.
399.32	Rate policy applicable to subsidized carriers.
399.33	Domestic coach policy.
399.34	Free transportation on inaugural flights in overseas and foreign air transportation with "new type" aircraft.
399.35	Free or reduced-rate transportation of persons in foreign air transportation by United States flag air carriers.
399.36	Processing of tariff publications filed on notice of 45 days or longer.

Subpart D—Policies Relating to Accounts and Reports

399.50	Extensions of time for filing reports.
399.51	Confidential treatment of unaudited preliminary year-end reports.
399.52	Retroactive adjustments of expenses.

Subpart E—Policies Relating to Hearing Matters

399.60	Standards for determining priorities of hearing.
399.61	Presentations of public and civic bodies in route proceedings.

Subpart F—Policies Relating to Aircraft Accident Investigations

399.70	Investigation of accidents involving foreign aircraft.
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Subpart G—Policies Relating to Enforcement

Sec.	
399.80	Unfair and deceptive practices of ticket agents.

Subpart H—Policies Relating to Prohibited Interests and Activities of Air Carriers

399.90	Non-transport activities of subsidized air carriers.
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AUTHORITY: The provisions of §§ 399.1 to 399.90 issued under sec. 204(a) of the Federal Aviation Act of 1958, 72 Stat. 743; 49 U.S.C. 1324; and sec. 3 of the Administrative Procedure Act, 60 Stat. 238; 5 U.S.C. 1002.

Subpart A—Applicability and Effect of Policy Statements

§ 399.1 Applicability.

All statements of general policy adopted by the Board for the guidance of the public will be published in this part, except as provided in § 399.2.

§ 399.2 Exclusions.

The following types of policies are not included in this part:

- Policies relating solely to the internal management of the Board;
- Policies requiring secrecy in the public interest or in the interest of national defense;
- Policies that are repetitive of section 102 of the Act;
- Policies that are fully expressed in a procedural or substantive rule of the Board, or in any opinion, decision, order, certificate, permit, exemption, or waiver of the Board;
- Expressions of encouragement or admonition to industry to follow a certain course of action;
- Positions on legislative items and on other matters that are outside the scope of the Board's current statutory powers and duties.

§ 399.3 Statements in other Board documents.

No statement contained in any Board opinion, decision, order, certificate, permit, exemption, or waiver shall be considered a statement of policy within the meaning of this part, even though such statements may constitute a precedent in future cases or declare future policy to be followed in like cases. Similarly, a denial by the Board or relief sought, or statements of the Board's reasons for failure to issue a rule upon which rule making proceedings have been commenced shall not be considered statements of policy, except to the extent that it is specifically stated that such denial or failure is based upon a policy thereafter to be followed.

§ 399.4 Nature and effect of policy statements.

Policy statements published in this part will be observed by the Board until rescinded, but any policy may be amended from time to time as experience or changing conditions may require. Changes in policy may be made with or without advance notice to the public and will become effective upon publication in the FEDERAL REGISTER unless otherwise provided. If it appears to the Board, in its consideration of any matter before it, that the application of a policy published in this part would run counter to an express provision of law or policy enunci-

ated by Congress in the Act, the published policy shall not be applicable to such matter.

§ 399.9 Arrangement of policy statements.

The statements of general policy relating to the various duties and functions of the Board are grouped according to subject matter in the following subparts; the titles of the subparts indicate the general subject matter included therein.

Subpart B—Policies Relating to Operating Authority

§ 399.10 Local service carrier certificates to indicate nature of operations specifically.

It is the policy of the Board to include a provision in the certificates of all local service air carriers to make it clear that their operations are definitely local air transportation, as distinguished from the service rendered by scheduled trunkline air carriers. The language that will be included is substantially as follows:

This certificate is issued pursuant to a determination of policy by the Civil Aeronautics Board that, in the discharge of its obligation to encourage and develop air transportation under the Federal Aviation Act of 1958, as amended, it is in the public interest to establish certain air carriers who will be primarily engaged in short-haul air transportation as distinguished from the service rendered by scheduled trunkline air carriers. In accepting the certificate, the holder acknowledges and agrees that the primary purpose of the certificate is to authorize and require it to offer short-haul air transportation services of the character described above.

§ 399.11 "Use it or lose it" policy for subsidized local service carriers.

(a) *Expansion of local carrier services.* Consistent with the Board's basic policy of affording the advantages of air transportation to as many persons as practicable, the Board has substantially expanded the services of subsidized local carriers and has given many small cities, with marginal or unknown traffic potentialities, a chance to demonstrate that they will use and can support new or improved air services adapted to their specific needs. The Board expects the cities awarded local air service to make a determined effort to generate the traffic forecast in the certification proceedings. Unless adequate use is made of subsidized air services, the cost to the Government is not justified and the Board should terminate the authorization.

(b) *Minimum traffic standard for newly certificated cities.* It is the policy of the Board to make an early and critical evaluation of the traffic results of new authorizations to determine whether newly certificated cities are making sufficient use of authorized services or should lose such services for lack of use. Under this "use it or lose it" policy, the Board will require each city to originate an average of five or more passengers per day during the 12-month period following the initial 6 months of operations. If a city is certificated on

more than one segment, the five-passenger standard will be applied to each segment. If a city fails to meet this minimum traffic standard, the Board will, in the absence of unusual or compelling circumstances, institute a formal investigation to determine whether service should be suspended or terminated. A city generating the bare traffic minimum during this trial period cannot safely assume that continued service is assured; the Board expects most cities to exceed the minimum requirements.

(c) *Minimum traffic standard for newly certificated route segments.* The Board will also evaluate the traffic results of each new route segment for the same 12-month period, following the initial six months of operations, to determine whether segments that do not adequately respond to air services should be suspended or deleted in whole or in part. If the passenger load per flight serving a segment averages less than five passengers, the Board will institute formal proceedings to delete the segment. If the passenger load per flight averages between five and seven passengers, the Board will institute proceedings to determine whether the segment should be suspended or deleted unless unusual circumstances, such as extreme isolation or national defense needs, dictate otherwise.

(d) *Continued use of local carrier services.* In evaluating the continuing need for air service at any point or on any route segment served by a local service carrier, the Board will use the minimum traffic standard of five passengers as a guide line, regardless of the type or duration of an authorization. The Board will require the local service carriers to make appropriate periodic reports of traffic results. Air carrier management is expected to suggest route or authorization modifications as soon as deficiencies in service become apparent. When a city or route segment fails to make continued use of subsidized services, the carrier is free, and is encouraged, to apply for suspension of service in advance of a Board proceeding to terminate the certification. The failure of a local service carrier to exercise vigilance in this regard may, in fact, reflect upon the economy and efficiency of management in proceedings to determine subsidy needs under section 406 of the Act.

§ 399.12 Negotiation by air carriers for landing rights in foreign countries.

(a) It is the policy of the Board (jointly with the Department of State) that, as a general rule, landing rights abroad for United States flag air carriers will be acquired through negotiation by the United States Government with foreign governments rather than by direct negotiation between an air carrier and a foreign government.

(b) It is corollary to the foregoing policy that no United States air carrier may avail itself of representations by one foreign government to further its interest with another foreign government, especially with respect to landing rights, except insofar as such representations have been specifically authorized by the United States Government.

§ 399.13 Standard provisions in foreign air carrier permits.

It is the policy of the Board that permits issued to foreign air carriers shall provide:

(a) That the permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period the permit remains in effect, to which the United States and the foreign government concerned are parties;

(b) That, by accepting the permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding in any court or other tribunal in the United States based on claims arising out of its operations under the permit.

§ 399.14 Issuance of foreign air carrier permits for Canadian transborder operations in small aircraft.

It is the policy of the Board, in accordance with a reciprocal understanding with the Air Transport Board of Canada published March 13, 1952, to facilitate so far as possible under existing law the issuance of foreign air carrier permits to Canadian operators of small aircraft for irregular transborder operations in common carriage. Authorizations granted under this procedure will be only for service of a casual, occasional, and infrequent nature and will be limited to five years' duration. Where requested, permission will customarily be granted, if statutory standards are met, to serve more than one point in the United States on the same flight, provided that no cabotage traffic is carried.

§ 399.15 Processing of applications of foreign air carriers, pursuant to Part 212 of this chapter, for Statements of Authorization to conduct off-route charter trips.

(a) *General.* This policy prescribes the general standards which will be used by the Board in processing applications of foreign air carriers for Statements of Authorization to conduct off-route charter trips. Since a determination of the public interest requires consideration of all the standards set forth in the Act, this policy does not purport to cover every matter that may be taken into account by the Board in passing upon such applications. For similar reasons, the Board reserves the right to depart from the provisions of this policy when there is a showing of exceptional circumstances and the Board finds that strict adherence to the detailed standards of the policy in a particular situation would not be in the public interest. However, in the absence of such a showing, any practice by a foreign air carrier, travel agent, or chartering group in conflict with the standards of this policy will constitute sufficient basis for denying an application for a statement of authorization. With respect to those standards applicable to chartering organizations and to travel agents, the foreign air carrier should reasonably assure itself before conducting any charter that such stand-

ards have been observed by the chartering organization and any travel agent involved (e.g., require suitable written information and assurance in connection with its own agreements with the charterer and any travel agent). If any practice in conflict with the standards of this policy is discovered after the particular charter flight has been performed and the Board finds that the carrier knew or should have known of such practice, the Board may deny future applications by the same foreign air carrier. Further, in deciding whether an application is in the public interest under the standards set forth in Part 212, the Board will assume that any flight previously authorized was actually operated unless apprised otherwise.

(b) *Provisions relating to foreign air carriers, travel agents, and chartering organizations.* In supplementation of the provisions of Part 212, of this chapter, all of which are here controlling, the following provisions of Part 295 of this chapter shall apply to off-route passenger charters by foreign air carriers:

(1) To such extent as the context will permit, the following provisions of Part 295 shall apply to foreign air carriers: §§ 295.2 (b) to (k) (definitions); 295.3 (waiver); 295.11 (solicitation and formation of a chartering group); 295.14(c) (one-way passenger and plane-load groups); 295.16 (prohibition against payments or gratuities); 295.50 (provisions for mixed charters); and 295.60 (advisory opinion).

(2) To such extent as the context will permit, the following provisions of Part 295 of this chapter shall apply to travel agents: §§ 295.2 (b) to (k) (definitions); 295.20 (limited activities); 295.21 (permissible solicitation, sale or ticketing of individual participants for land tours); 295.22 (prohibited compensation to agents who are members of chartering organizations); 295.23 (prohibition against double compensation); 295.24 (prohibition against incurring obligations); 295.25 (prohibition against payments or gratuities); and 295.50 (provisions for mixed charters).

(3) To such extent as the context will permit, the following provisions of Part 295 of this chapter shall apply to chartering organizations: §§ 295.2 (b) to (k) (definitions); 295.30 (solicitation of charter participants); 295.31 (passengers on charter flights); 295.32 (participation of immediate families in charter flights); 295.33 (a) to (c) (charter costs); 295.34(a) (statements of charges); 295.50 (provisions for mixed charters); and 295.60 (advisory opinion).

NOTE: Approval of an application for off-route charter authority in accordance with this policy statement shall not be construed as implying an exemption from any standard self-imposed by members of IATA under Charter Resolution 045, notwithstanding the Board's reserved right to waive any of the conditions imposed by it in approving IATA Charter Resolution 045.

§ 399.16 Military Air Transport Service charter exemptions.

In passing upon applications for exemptions from sections 401 and 403 of the Act to enable air carriers to perform charters for the Military Air Transport

Service (MATS), the Board will give great weight to the following criteria:

(a) Whether the carrier has contractually committed its CRAF aircraft to the Department of Defense;

(b) Whether the proposed service is in furtherance of the mission of the Department of Defense; and

(c) Whether the level of compensation provided in the charter contract is fair and reasonable.

The minimum charges set forth in Part 288 of this chapter (Board's Economic Regulations) will be considered as the minimum fair and reasonable charges for foreign and overseas services and for services between the 48 contiguous states on the one hand and Hawaii or Alaska on the other hand.

§ 399.17 Public interest factors in granting special orders or amendments to interim operating authority for transatlantic passenger charter service.

(a) *Ability to provide reliable service.* It is the policy of the Board carefully to screen and evaluate the passenger service history of applicants for seasonal charter authority, by special order or amendment to interim operating certificate under Parts 207 and 295 of this chapter, in order to provide reasonable assurance of reliable service to passengers. When an applicant has failed in the past to complete several such flights or has subjected its passengers to a significant number of unreasonably prolonged flight delays, and such cancellations or delays are not attributable to circumstances beyond the control of the carrier, the Board will deny the application unless the applicant establishes that its ability to provide reliable service has, since that time, materially improved. Moreover, the Board will not grant applications for individual flight exemptions to any air carrier which either has not applied, or has applied and been found unqualified, for a special order or amendment to interim operating authority unless there are unusual and compelling circumstances which might justify such authorizations.

(b) *Insurance coverage.* It is the policy of the Board to condition the grant of a special order or amendment to interim operating certificate, under Parts 207 and 295 of this chapter, upon compliance by the air carrier with the insurance requirements of Part 208 of this chapter, whether such carrier be a supplemental air carrier or a carrier holding a certificate of public convenience and necessity for the carriage of property only or property and mail only.

(c) *Substitute air transportation and incidental expenses on return portion of charter flight.* It is the policy of the Board to condition the grant of a special order or amendment to interim operating certificate, under Parts 207 and 295 of this chapter, upon the express agreement of the applicant air carrier to assume a firm and legally binding obligation which, in the judgment of the Board, meets the following standards:

(1) *Substitute air transportation.* (i) On all charter flights bound from a point outside the continent where the

charter originated to the point where it terminates, unless the air carrier causes an aircraft finally to enplane each passenger and commence the take-off procedures at the airport of departure before the forty-eighth hour following the time scheduled for the departure of such flight, it shall provide substitute transportation in accordance with the provisions of this subparagraph.

(ii) As soon as the air carrier discovers, or should have discovered by the exercise of reasonable prudence and forethought, that the departure of any such charter flight will be delayed more than forty-eight hours, such air carrier shall arrange for and pay the costs of substitute air transportation for the charter group on another charter flight, operated by any other air carrier or foreign air carrier.

(iii) When neither the charter transportation contracted for nor substitute transportation has been performed before the expiration of forty-eight hours following the scheduled departure time of any such charter flight, the charterer or his duly authorized agent may arrange for substitute air transportation of the members of the charter group, at economy or tourist class fares, on individually ticketed flights and the chartered air carrier shall pay the costs of such air transportation to the substitute air carrier or foreign air carrier.

(iv) In determining the period of time during which the departure of a charter flight has been delayed within the purview of this subparagraph, periods of delay caused by the prohibition of flights from the airport of departure because of weather or other operational conditions shall be excluded if, and while, the air carrier had an airworthy aircraft which is capable of transporting the charter group in a condition of operational readiness posted at such airport.

(2) *Incidental expenses.* (i) On all charter flights bound from a point outside the continent where the charter originated to the point where it terminates, unless the air carrier causes an aircraft finally to enplane each passenger and commence the take-off procedures at the airport of departure before the sixth hour following the time scheduled for the departure of such flight, it shall pay incidental expenses in accordance with the provisions of this subparagraph. Such payments shall be made at the airport of departure, as soon as they become due, to the charterer or his duly authorized agent for the account of each passenger, including infants and children traveling at reduced fares.

(ii) Such payments shall be made at the rate of \$16.00 for each full twenty-four hour period of delay following the scheduled departure time. However, the sum of \$8.00 shall be paid for each passenger delayed during all, or any portion, of the initial period of six hours following the scheduled departure time. Thereafter, during the succeeding 18 hours of delay, an additional sum of \$8.00 shall be paid for each passenger delayed in installments of \$4.00 for the first and second succeeding six-hour period of delay, or any fractional part thereof. If the delay continues beyond

a period of 24 hours following the scheduled departure time, such payments shall be made in equal installments of \$4.00 for each further six-hour period of delay, or any fractional part thereof: *Provided, however, That the air carrier may, at its option, discharge this obligation by providing free meals and lodging in lieu of making such payments.* The obligation of the air carrier to pay incidental expenses or to provide free meals and lodging shall cease when substitute air transportation is provided in accordance with the provisions of subparagraph (1) of this paragraph.

(d) *Ability to discharge obligations concerning substitute air transportation and incidental expenses.* It is the policy of the Board to condition the grant of a special order or amendment to interim operating certificate, under Parts 207 and 295 of this chapter, upon a showing satisfactory to the Board that the applicant air carrier can, and will, effectively and adequately discharge its obligations to provide substitute air transportation and pay incidental expenses in accordance with the provisions of paragraph (c) of this section. It is the further policy of the Board, when the applicant does not make such a satisfactory showing, to condition the grant of such special order or amendment to interim operating certificate upon the applicant's having entered into definite arrangements which the Board believes will effectively guarantee the performance of those obligations or having procured a surety bond which, in the judgment of the Board, meets the following standards:

(1) *Scope of obligation incurred by surety.* Such surety bond shall impose upon the surety company a firm and legally binding obligation to pay promptly to the charterer, or his duly authorized agent, in the United States, any and all sums of money which may be due and owing to the charterer by the chartered air carrier under the terms and conditions of the charter contract if, and when, the latter shall default thereon by refusing to honor promptly a request for such payments.

(2) *Terms and conditions of coverage.* The obligations of the surety company pursuant to such a surety bond shall not be subject to cancellation or suspension, by either party, on less than 30 days' notice by registered mail to both the other party to the surety contract and the Board.

(3) *Source of coverage.* Such surety bond shall be issued by a reputable and financially responsible surety company which is legally authorized to issue bonds of that type in any state, territory, or possession of the United States.

(e) *Conditions on special orders and amendments to interim operating certificates.* It is the policy of the Board to incorporate the following express conditions in each special order or amendment to interim operating certificate issued under Parts 207 and 295 of this chapter:

(1) The air carrier agrees to provide substitute transportation and pay incidental expenses;

(2) Each contract for a transatlantic charter operated pursuant to seasonal

authorization shall incorporate the provisions of this policy statement defining the scope of the air carrier's obligation to provide substitute transportation and pay incidental expenses; and

(3) The tariffs of the air carrier on file with the Board shall not, insofar as they pertain to transatlantic charter trips operated thereunder, contain any provision which is inconsistent with the standard of insurance coverage specified in paragraph (b) of this section; or with the obligations assumed in accordance with paragraph (c) of this section; or with the obligation, surety bond, or other arrangement assumed, procured or entered into in accordance with paragraph (d) of this section.

(f) *Limitation on special orders and amendments to interim operating certificates.* It is the policy of the Board to limit the effectiveness of special orders and amendments to interim operating certificates under Parts 207 and 295 of this chapter so that each such order or amendment shall be effective only with respect to transatlantic charter flights as to which:

(1) There is in full force and effect, to the extent specified in paragraphs (b), (c) and (d) of this section and in any special order or Board order granting an amendment to interim operating certificate, insurance coverage, a surety bond or equivalent arrangement and an obligation to provide substitute air transportation and cover the costs of incidental expenses; and

(2) The air carrier has fully complied with each and every condition specified in paragraph (e) of this section and any pertinent provisions of a special order or amendment to interim operating certificate.

§ 399.18 *Maximum duration of fixed-term route authorization granted by exemption; renewal of such authority.*

It is the policy of the Board to limit the duration of exemptions which authorize fixed-term route service to a maximum period of two years, and to entertain requests for renewal of such authority only when incorporated in a duly filed application for substantially equivalent certificate authority under section 401 of the Act. (See § 302.909 of this chapter (Procedural Regulations) and § 377.10 (c) of this chapter (Special Regulations).)

Subpart C—Policies Relating to Rates and Tariffs

§ 399.30 *Temporary subsidy rates.*

It is the policy of the Board to fix temporary subsidy rates, when such emergency action is required, at a level designed to provide only such amounts as are deemed necessary for continuation of operations prior to the establishment of a final rate. In most cases, this objective may be attained by providing an amount of subsidy equivalent to the subsidy break-even need (i.e., the excess of operating expenses over non-subsidy revenues) plus the carrier's interest charges on long-term debt. Temporary subsidy rates will be established at an amount less than the sum of subsidy

break-even need and interest charges in any case where overpayment might otherwise appear likely to result.

§ 399.31 *Rate policy applicable to non-subsidized carriers.*

It is the policy of the Board that rate levels should reflect cyclical needs, rather than the needs of any particular year. In examining mail or commercial rate proposals, the Board will consider not only the conditions prevailing at the time the proposals are advanced, but also the future prospects and the abnormal earnings of prior years. Accordingly, if earnings should fall markedly after a period during which they have been at high levels, the carriers will be expected to absorb such losses without resort to mail or commercial rate adjustments, unless it can be demonstrated that such earnings are below the level necessary to provide a fair return over a reasonably extended period which includes the good years as well as the bad.

§ 399.32 *Rate policy applicable to subsidized carriers.*

It is the policy of the Board to permit subsidized carriers maximum freedom to experiment, in interstate and overseas air transportation, with commercial rate changes for the purpose of maximizing revenues and thereby minimizing subsidy requirements, provided the resulting rates are not otherwise unreasonable.

§ 399.33 *Domestic coach policy.*

It is the policy of the Board to encourage regular coach service by the certificated route air carriers as one means of achieving the maximum development of civil aviation in the United States through placing air travel within the economic reach of the great majority of the traveling public. For the purpose of this policy, coach operations will be divided into two main classes: off-peak services and high density services.

(a) *Off-peak services.* Off-peak services are reduced-fare services which have as their primary objective the additional utilization of available equipment and facilities with flights departing at such times—particularly during the night hours—as would make their operation in first-class service uneconomic because of the inconvenience of the departure time.

(b) *High density services.* High density services are reduced-fare services which are conducted, without restriction as to flight departure time, in aircraft specifically equipped for and assigned to such service and having the applicable minimum seating capacity set forth below:

DC-4	64
DC-6	72
DC-6B	76
Constellation 049 to 749	79
Constellation 1049	88

NOTE: Maximum seating density is governed by the Civil Air Regulations.

(c) *Food service.* No free food service except coffee or similar beverages will be permitted on either off-peak or high density service.

(d) *Fare differentials.* Both high density and off-peak services will be sub-

ject to a fare ceiling of 75 percent of the corresponding first-class fare.

§ 399.34 Free transportation on inaugural flights in overseas and foreign air transportation with "new type" aircraft.

This policy statement prescribes the general standards that will be used in deciding applications, under § 223.8 of this chapter, for permission to furnish free transportation in overseas and foreign air transportation on so-called "inaugural flights" with "new type" aircraft.

(a) *Free transportation permissible.* Free transportation may be authorized on each type of aircraft described herein when that type is being introduced for the first time by a carrier on its system of routes or a part thereof as herein-after set forth. Free transportation on such flights may be authorized even though the type of aircraft involved may have been on the market and in use by other carriers for a number of years.

(b) *"New type" aircraft.* (1) For purposes of this policy, aircraft are classified according to the aircraft type certificate issued by the Administrator of the Federal Aviation Agency pursuant to section 603(a) of the Act. Variations of a basic model of aircraft covered by a single type certificate are listed together and are considered a single type. Any one of the following certificated aircraft may be regarded as a "new type" aircraft:

Manufacturer's model designation	Date certificated
Boeing S-307	Mar. 13, 1940.
Boeing SA-307B	May 4, 1940.
L-049, L-149, L-649 and L-749	Dec. 29, 1945.
DC-4	June 6, 1946.
DC-6	June 23, 1947.
M-202	Sept. 3, 1947.
B-377	Sept. 3, 1948.
CV-240	Dec. 7, 1948.
DC-6B	Apr. 11, 1951.
M-404	Oct. 5, 1951.
L-1049	Nov. 28, 1951.
CV-340 and CV-440	Mar. 27, 1952.
DC-7	Nov. 12, 1953.
Viscount	June 13, 1955.
L-1649A	Mar. 29, 1957.
F-27	Oct. 29, 1957.
Bristol Britannia 305	Apr. 10, 1958.
Lockheed 188A-08	Aug. 22, 1958.
Boeing 707-100 & -200	Sept. 18, 1958.
Sud Caravelle SE210	Apr. 8, 1959.
Grumman G-159	May 21, 1959.
Boeing 707-300 & -400	July 15, 1959.
Douglas DC-8	Aug. 31, 1959.
Convair 22 (880)	May 1, 1960.
Boeing 720	June 30, 1960.
Armstrong-Whitworth 650	Dec. 2, 1960.
de Havilland Comet 4C	Dec. 21, 1960.
de Havilland DHC-4 Caribou	Dec. 23, 1960.
Canadair CL-44D4	May 24, 1961.
Lockheed GL-1329	Aug. 28, 1961.
Convair 30 (990)	Dec. 15, 1961.
Handley Page Herald 300	May 25, 1962.

(2) With respect to aircraft for which the Administrator may issue type certificates in the future, all aircraft covered by a single type certificate will be regarded as of the same type in the Board's consideration of proposals to furnish free transportation on inaugural flights. Examples of such types of aircraft, which are now being developed, are:

A. V. Roe 748.
Boeing 727.
Breguet 941.
Convair 63.
de Havilland DH-121.
Lockheed 300.
Short SC 5.
Vickers BAC-111.
Vickers Vanguard 950.
Vickers VC-10.

(3) With respect to aircraft of foreign manufacture not certificated by the Administrator, each basic type of aircraft and all its variations shall be regarded as one type.

(c) *Geographical areas.* (1) Some carriers' operations are virtually worldwide in scope and these carriers generally maintain operating divisions or areas. For equitable reasons, therefore, the Board is establishing three "geographical areas" and will consider a carrier's system having routes in more than one of these areas to be divided into separate parts coincident with such areas.

(2) In the case of a carrier having a multi-area system, as above described, inaugural flights may be permitted in each geographical area at the time a new type of aircraft is introduced in service by the carrier in such area. If an inaugural flight is operated over routes of the carrier in two or more geographical areas, such flight will be considered as a separate inaugural flight in each of the geographical areas in which such flight is operated.

(3) A carrier having both overseas and foreign routes in the same area will be permitted inaugural flights in such area to the same extent as a carrier having only overseas, or only foreign, routes in such area.

(4) "Geographical areas" shall be considered to be as follows:

Area 1. The area encompassed by the routes of any given carrier between:

(a) Points in any State of the United States, or the District of Columbia, on the one hand, and points in Puerto Rico, the Virgin Islands, or the Canal Zone, on the other;

(b) Points in one and points in any other of the following territories and possessions: Puerto Rico, Virgin Islands, and the Canal Zone;

(c) Points in any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, or the Canal Zone, on the one hand, and any other points outside thereof on the North American and South American continents, Greenland, Bermuda, Cuba, Haiti, Dominican Republic, Jamaica, Netherlands Antilles, Trinidad, Bahamas, Leeward Islands, or Windward Islands, on the other.

Area 2. The area encompassed by the routes of any given carrier between:

Points in any State of the United States, the District of Columbia, or any territory or possession of the United States, on the one hand, and (a) points in Europe, Africa, Iceland, Ascension Island, Azores, Canary Islands, and Madeira, and (b) points beyond Europe or Africa in Asia or Australasia, involving transportation over the Atlantic Ocean, on the other.

Area 3. The area encompassed by the routes of any given carrier between:

(a) Points in any State of the United States, the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Asia or Australasia and points intermediate thereto that

are not in the United States, or a territory or possession thereof, on the other hand, involving transportation over the Pacific Ocean; or

(b) Points in any State of the United States, or the District of Columbia, on the one hand, and points in a territory or possession of the United States located in the Pacific Ocean, on the other, which involves transportation over the Pacific Ocean; or

(c) Points in a territory or possession of the United States, on the one hand, and points in any other territory or possession of the United States located in the Pacific Ocean, on the other, which involves transportation over the Pacific Ocean.

§ 399.35 Free or reduced-rate transportation of persons in foreign air transportation by United States flag air carriers.

It is the policy of the Board to grant applications of United States flag air carriers, pursuant to section 403(b) of the Act, for free or reduced-rate foreign air transportation of persons requested by agencies of the United States Government only where such agencies represent to the Board that considerations of paramount national interest require such transportation and where the Board finds such considerations to exist.

§ 399.36 Processing of tariff publications filed on notice of 45 days or longer.

When tariffs are filed with the Board 45 days or more in advance of their effective date, and bear a posting date as provided in § 221.31(a) (10) of this chapter, it is the policy of the Board to issue an order, if any, suspending the tariff and ordering an investigation at least fifteen (15) days before such tariff is to become effective. In the event the Board, for any reason, cannot take action on a tariff within the time specified herein, the Board will notify the filing carrier or his agent of this fact at least fifteen (15) days before the effective date of the tariff. This policy statement, however, should not be interpreted as limiting the Board's power, under section 1002 of the Act, to suspend a tariff at any time prior to its effective date. Thus, where circumstances warrant, the Board will issue a suspension order although it is less than 15 days prior to the tariff's effective date.

Subpart D—Policies Relating to Accounts and Reports

§ 399.50 Extensions of time for filing reports.

With respect to the prescribed reporting requirements, the Board will grant extensions of time for filing reports only in emergency situations that could not be anticipated and guarded against by the air carrier concerned. Written requests setting forth good reason for such an extension must be submitted sufficiently in advance of the due date to permit consideration and communication to the carrier of the action taken. When requests for extensions are denied by the Board and reports are not filed on the due date, the delinquent carriers will be subject to a civil penalty for each day the violation continues, as provided in section 901(a) of the Act.

§ 399.51 Confidential treatment of unaudited preliminary year-end reports.

In consideration of air carrier interest in confidential treatment of unaudited preliminary year-end reports, which are by their nature subject to change, and in the absence of specific public interest factors that require disclosure of such reports, it is the policy of the Board to grant requests of air carriers for temporary withholding of such unaudited reports from public disclosure until the final report is filed, or the final report is due, or the carrier releases the information contained in the preliminary report, whichever shall first occur.

§ 399.52 Retroactive adjustments of expenses.

Except as required by the Board to conform the accounting to the provisions of the Economic Regulations or as permitted by the Board to conform the books with adjustments required by the Board for rate-making purposes, it is the policy of the Board for accounting and reporting purposes to adhere strictly to the principle that costs once charged to expense shall not be reversed in a subsequent fiscal year and charged again as expense of future periods.

Subpart E—Policies Relating to Hearing Matters

§ 399.60 Standards for determining priorities of hearing.

(a) *General.* This policy statement describes the general standards which will be used by the Board in determining the order in which it will designate for hearing those matters on its docket which are to be decided after notice and hearing. Among such matters are applications for certificates of public convenience and necessity or for foreign air carrier permits; applications under section 408 of the Act for approval of consolidations or acquisitions of control; complaint cases; and various rate-making proceedings.

(b) *Standards.* Matters will be assigned for hearing in accordance with the degree of relative priority which each matter is entitled to on the basis of the comparative public interest involved therein. Among other things, the Board will take into account:

- (1) Statutory requirements for preference or statutory limitations on the time within which the Board shall act;
- (2) The impact of delay on the public or particular persons;
- (3) The need for promptly securing compliance with the provisions of the Act;
- (4) The time for which the matter has already been pending and which would be required to dispose of it;
- (5) Whether the application requests renewal of an existing temporary authorization; and
- (6) In matters relating to operating authority—

(i) Whether a proposal might reduce subsidy or increase economy of operations;

(ii) Whether an application proposes new service;

(iii) The volume of traffic that might be affected by the grant or denial of the proposal;

(iv) The period that has elapsed since the Board considered the service needs of the places or areas involved; and

(v) The relative availability of necessary staff members of the carriers, communities and the Board, in the light of other proceedings already in progress, to handle the processing of the case.

Interested persons may urge upon the Board such considerations as they believe should lead it to accord a particular application a priority different from that which the Board has given it.

§ 399.61 Presentations of public and civic bodies in route proceedings.

For the purpose of implementing the Board's policy to provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence and otherwise to expedite route proceedings, and in light of experience, the following guidelines are hereby established:

(a) Public and civic bodies which represent the same geographic area or community should consolidate their presentation of evidence, briefs or oral argument to the examiner and the Board;

(b) A public body or a civic organization, or several such bodies or organizations whose presentation of evidence is consolidated, should keep to a minimum the number of witnesses used to present the factual evidence in support of the community's position;

(c) Exhibits offered in evidence by a public body or civic organization should be limited to evidence of the economic characteristics of the community and area involved, data as to community of interest and traffic, evidence with respect to the sufficiency of existing service, and airport data, and should not include data relating to number of electricity, water and gas meters, telephones, schools, freight car loadings, building permits, sewer connections, or volume of bank deposits in the community.

Subpart F—Policies Relating to Aircraft Accident Investigations

§ 399.70 Investigation of accidents involving foreign aircraft.

It is the policy of the Board, in the case of accidents involving aircraft of foreign air carriers that occur in the United States, to investigate to the extent necessary to furnish the foreign government a full report of all facts, conditions, and circumstances, as well as the probable cause. This investigation may or may not require a public hearing.

Subpart G—Policies Relating to Enforcement

§ 399.80 Unfair and deceptive practices of ticket agents.

It is the policy of the Board to regard any of the following enumerated practices (among others) by a ticket agent as an unfair or deceptive practice or unfair method of competition:

(a) Misrepresentations¹ which may induce members of the public to believe that the ticket agent is an air carrier.

(b) Using or displaying or permitting or suffering to be used or displayed the name, trade name, slogan or any abbreviation thereof, of the ticket agent, in advertisements, on or in places of business, or on aircraft in connection with the name of an air carrier with whom it does business, in such manner that it may mislead or confuse the traveling public with respect to the agency status of the ticket agent.

(c) Misrepresentations as to the quality or kind of service, type or size of aircraft, time of departure or arrival, points served, route to be flown, stops to be made, or total trip-time from point of departure to destination.

(d) Misrepresentation as to qualifications of pilots or safety record or certification of pilots, aircraft or air carriers.

(e) Misrepresentations that passengers are directly insured when they are not so insured; for example, where the only insurance in force is that protecting the air carrier in event of liability.

(f) Misrepresentations as to fares and charges for air transportation or services in connection therewith.

(g) Misrepresentation that special discounts or reductions are available, when such discounts or reductions are not specified in the lawful tariffs of the air carrier which is to perform the transportation.

(h) Advertising or otherwise offering for sale or selling air transportation or services in connection therewith at less than the rates, fares and charges specified in the currently effective tariffs of the air carrier or air carriers who are engaged to perform such air transportation or services, or offering or giving rebates or other concessions thereon, or assisting, suffering or permitting persons to obtain such air transportation or services at less than such lawful rates, fares and charges.

(i) Misrepresentations that special priorities for reservations are available when such special considerations are not in fact granted to members of the public generally.

(j) Selling air transportation to persons on a reservation or charter basis for specified space, flight or time, or representing that such definite reservation or charter is or will be available or has been arranged, without a binding commitment with an air carrier for the furnishing of such definite reservation or charter as represented or sold.

(k) Selling or issuing tickets or other documents to passengers to be exchanged or used for air transportation knowing or having reason to know or believe that such tickets or other documents will not be or cannot be legally honored by air carriers for air transportation.

¹ The word "misrepresentation" used in this list includes any statement or representation made in advertising or made orally to members of the public which is false, fraudulent, deceptive or misleading, or which has the tendency or capacity to deceive or mislead.

(1) Failing or refusing to make proper refunds promptly when service cannot be performed as contracted or representing that such refunds are obtainable only at some other point, thus depriving persons of the immediate use of the money to arrange other transportation, or forcing them to suffer unnecessary inconveniences and delays or requiring them to accept transportation at higher cost, or under less desirable circumstances, or on less desirable aircraft than that represented at the time of sale.

(m) Misrepresentations regarding the handling, forwarding or routing of baggage or other property, or the loss or tracing thereof, or failing or refusing to honor proper claims for loss of or damage to baggage or other property.

(n) Misrepresentation as to the requirements that must be met by persons or organizations in order to qualify for charter or group fare flights.

Subpart H—Policies Relating to Prohibited Interests and Activities of Air Carriers

§ 399.90 Non-transport activities of subsidized air carriers.

(a) *Applicability.* This policy shall apply to proceedings in which the Board, in exercising its regulatory powers with regard to subsidized carriers, is required to make a determination as to the public interest or consistency with the Act. Its applicability shall include, but not be limited to, proceedings under sections 408, 409, and 412 of the Act.

(b) *Non-transport activity* means any business activity performed by a subsidized air carrier which is not an integral part of the transportation of persons, property or mail by the carrier pursuant to its certificate of public convenience and necessity or other authorization granted by the Board.

(c) *Presumption against non-transport activity.* Substantial engagement by subsidized carriers in non-transport activities will be presumed by the Board not to be in the public interest. The carriers shall have the burden of proving through factual evidence submitted in proceedings before the Board that their engagement in such activities will not involve a risk of significant financial loss and will not unduly divert the management or otherwise interfere with the primary business of the subsidized carrier which is to provide air transportation.

(d) *Public interest factors.* The major factors which the Board will consider in determining whether a non-transport activity is in the public interest are as follows:

(1) The amount of additional investment in plant and organization and the number of personnel necessary to perform the non-transport activity in excess of that required to perform the carrier's own air transportation functions (to the extent the non-transport activity is performed making use of the idle time of plant, organization and personnel essential to the carrier's air transport function it shall not be deemed adverse to the public interest);

(2) The carrier's past experience and degree of financial success in performing the activity;

(3) The amount and strength of the competition;

(4) The speculative nature of the activity;

(5) The affinity of the activity to the normal activities of an air carrier;

(6) The amount of supervision by the management required by the nature and scope of the activity;

(7) The extent to which the financial interest of the carrier in the non-transport activity may conflict with its interest in the economic performance of air transportation;

(8) The extent to which the non-transport activity contributes to the development of traffic over the routes of the carrier; and

(9) The extent to which the activity constitutes a contribution to safety in air commerce which would be lost if the activity were discontinued.

[F.R. Doc. 64-887; Filed, Jan. 28, 1964; 8:53 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 1944; Amdt. 678]

PART 507—AIRWORTHINESS DIRECTIVES

Hamilton Standard Propellers

A proposal to amend Part 507 of the Regulations of the Administrator to supersede Amendment 37, 24 F.R. 7254, AD 59-17-3, with a new directive to include the increase in number of blade models affected on Hamilton standard aluminum alloy propeller blades and to incorporate the new service bulletins was published in 28 F.R. 9957.

Interested persons have been afforded an opportunity to participate in the making of the amendment. A comment was received concerning the proposal to substitute the words "gouging and/or marring" for the words "other damage" used in the present AD. This proposed change was an attempt to be more definitive concerning the types of damages which require blade removal. However, from the comment received objecting to the substitution, it is clear that the words "gouging and/or marring" do not accomplish the intended purpose and are, in fact, ambiguous when used in connection with this AD. Therefore, the proposed change has not been adopted and the present phrase "other damage" has been retained in the AD.

Another comment suggested that all propellers should be permitted to continue in service for 50 hours following the required inspection before having a face alignment check. This suggestion is made in connection with the provision in the AD which would permit postponement of the face alignment check for 50 hours' time in service in those instances where a face alignment gage is not available and a satisfactory track check is made. The requirements in the AD concerning face alignment checks are consistent with the provisions of the manufacturers' service bulletins. In this connection the manufacturer rec-

ommends and the Agency concurs that the face alignment check should be made as soon as possible. Therefore, the Agency does not consider it appropriate in the interest of safety to permit propellers to be continued in service without a face alignment check in those instances where a face alignment gage is available.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 507.10(a) of Part 507 (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

HAMILTON STANDARD. Applies to all Hamilton Standard aluminum-alloy propeller blades. (Aircraft on which these propeller blades are installed include but are not necessarily confined to the Boeing 377; Convair 240, 340, 440; Douglas DC-3 Series, DC-6, DC-6A, DC-6B, DC-7, DC-7A, DC-7B, DC-7C; Lockheed 049, 749A, 1049/C/D/G/H, 1649A; and Martin 202A, 404.)

Compliance required as indicated. For all aluminum-alloy propeller blades exposed to known or suspected impact with solid objects (blades static or rotating), the following shall be accomplished:

(a) Non-surface-treated blades shall be inspected in accordance with the applicable Hamilton Standard Bulletins and Service Manuals. If repair of damage requires procedures that include bending or twisting, the blade shall be removed and repaired prior to further flight. Other damage may be repaired without blade removed in accordance with the applicable Hamilton Standard instructions.

(b) Surface-treated blades as classified in Hamilton Standard Bulletin No. 596B shall be inspected in accordance with the applicable Hamilton Standard Bulletins and Service Manuals.

(1) Blades with visual evidence of bending, twisting, or other damage shall be removed before further flight and submitted to Hamilton Standard for repair. A complete description of the circumstances surrounding the incident plus all available alignment records shall accompany the blade, since such details will determine the extent of the repair required.

(2) Blades with no visual evidence of bending, twisting, or other damage shall be treated as follows:

(i) If the applicable alignment gage is available, measure alignment and disposition blades in accordance with Hamilton Standard Service Bulletin No. 602A.

(ii) If an alignment gage is not available, measure propeller track. If track is beyond the tolerance specified in Table II of Hamilton Standard Service Bulletin No. 596A, the propeller shall be removed from service immediately. If track is within limits, the propeller may be continued in service for a period not to exceed 50 hours' time in service before the face alignment check prescribed in (i) is conducted.

(Hamilton Standard Service Bulletins Nos. 596, 596A, 596B, and 602A cover this same subject.)

This supersedes Amendment 37, 24 F.R. 7254 (AD 59-17-3).

This amendment shall become effective March 1, 1964.

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

Issued in Washington, D.C. on January 21, 1964.

G. S. MOORE,
Director,

Flight Standards Service.

[F.R. Doc. 64-800; Filed, Jan. 28, 1964; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-636]

PART 13—PROHIBITED TRADE PRACTICES

American Textile Company of New England, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods*; § 13.30-75 *Textile Fiber Products Identification Act*. Subpart—Concealing, obliterating or removing law required and informative marking: § 13.523 *Textile fiber products tags or identification*. Subpart—Furnishing false guaranties: § 13.1053 *Furnishing false guaranties*; § 13.1053-80 *Textile Fiber Products Identification Act*. Subpart—Misbranding or mislabeling: § 13.1185 *Composition*; § 13.1185-80 *Textile Fiber Products Identification Act*; § 13.1212 *Formal regulatory and statutory requirements*; § 13.1212-80 *Textile Fiber Products Labeling Act*. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition*; § 13.1845-70 *Textile Fiber Products Identification Act*; § 13.1852 *Formal regulatory and statutory requirements*; § 13.1852-70 *Textile Fiber Products Identification Act*. Subpart—Using misleading name—Goods: § 13.2280 *Composition*; § 13.2280-70 *Textile Fiber Products Identification Act*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 72 Stat. 1717; 15 U.S.C. 45, 70) [Cease and desist order, American Textile Company of New England, Inc., et al., Boston, Mass., Docket C-636, Dec. 27, 1963]

In the Matter of American Textile Company of New England, Inc., a Corporation, and Benjamin Weissman, Esther Weissman and Allen Weissman, Individually and as Officers of Said Corporation

Consent order requiring Boston, Mass., sellers of upholstery fabrics to furniture manufacturers and upholstery shops, to cease violating the Textile Fiber Products Identification Act by using terms for their products which falsely represented the fiber content, such as "Silkora", and failing to label fiber textiles with the correct generic name, on labels and in advertising; labeling products misleadingly as "Nylock" and setting forth the fiber content on labels as "100% Nylon" when only the surface yarns were composed of 100 percent Nylon; failing to label samples and swatches with required information; removing labels or other identification prior to final sale; furnishing false guaranties that their textile fiber products were not misbranded or falsely invoiced; and failing in other respects to comply with requirements of the Act.

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

It is ordered, That respondents American Textile Company of New England, Inc., a corporation, and its officers and Benjamin Weissman, Esther Weissman, and Allen Weissman, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, of any textile fiber product, which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products as to the name or amount of constituent fibers contained therein.

2. Stamping, labeling, invoicing, advertising or otherwise identifying such products by representing, either directly or by implication through the use of such terms as "Nylock" and "Silkora" or any other terms, that such products contain any fibers which are not present therein.

3. Failing to affix labels to such textile fiber products showing in a clear, legible and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

4. Using a generic name or fiber trademark on any label whether required or non-required, without making a full and complete fiber content disclosure in accordance with the Act and regulations the first time such generic name or fiber trademark appears on such label.

5. Using fiber trademarks or generic names on labels affixed to textile fiber products in such a manner as to be false, deceptive or misleading as to fiber content or so as to indicate directly or indirectly that any such textile fiber product is composed of wholly or in part of a particular fiber when such is not the case.

6. Using words, symbols, or depictions on labels attached to textile fiber products which constitute or imply the name or designation of a fiber when such fiber is not present in the aforesaid product.

7. Failing to affix labels showing the respective fiber content and other required information to samples, swatches and specimens of textile fiber products subject to the aforesaid Act which are used to promote or effect sales of such textile fiber products.

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations by disclosure or by implication of the fiber contents of any textile fiber product in any written advertisement which is used to aid, promote, or assist directly or indirectly in the sale or offering for sale of such textile fiber product unless the same information required to be shown on the stamp, tag, label or other means of identification under sections 4(b) (1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

2. Using a fiber trademark in advertising textile fiber products containing more than one fiber without such fiber trademark appearing in the required fiber content information in immediate proximity and conjunction with the generic name of the fiber in plainly legible type or lettering of equal size and conspicuousness.

3. Failing to set forth all parts of the required information in advertisements of textile fiber products in immediate conjunction with each other in legible and conspicuous type or lettering of equal size and prominence.

4. Using non-required information and representations in any advertisement of any textile fiber product in such a manner as to be false, deceptive or misleading as to the fiber content of the textile fiber product or so as to interfere with, minimize or detract from required information.

C. Furnishing false guaranties that textile fiber products are not misbranded or falsely invoiced under the provisions of the Textile Fiber Products Identification Act.

It is further ordered, That respondents American Textile Company of New England, Inc., a corporation, and its officers and Benjamin Weissman, Esther Weissman, and Allen Weissman, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from removing, or causing or participating in the removal of, the stamp, tag, label or other identification required by the Textile Fiber Products Identification Act to be on or affixed to any textile fiber product, after such textile fiber product has been shipped in commerce and prior to the time such textile fiber product has been sold and delivered to the ultimate consumer.

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

Issued: December 27, 1963.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 64-818; Filed, Jan. 28, 1964; 8:46 a.m.]