

in the Lima, Ohio, transition area description the coordinates "40°51'00" N., 84°00'00" W.", following the coordinates "40°51'00" N., 84°30'00" W."

(Sec. 307(a) of the Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y. on October 18, 1965.

WAYNE HENDERSHOT,
Deputy Director, Eastern Region.

[F.R. Doc. 65-11609; Filed, Oct. 28, 1965;
8:46 a.m.]

[Airspace Docket No. 65-CE-101]

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

Designation of Transition Area

On August 21, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 10911) stating that the Federal Aviation Agency proposed to designate controlled airspace in the vicinity of Storm Lake, Iowa.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. The one comment received was favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., January 6, 1966, as hereinafter set forth.

In § 71.181 (29 F.R. 17643) the following transition area is added:

STORM LAKE, IOWA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Storm Lake, Iowa, Municipal Airport (latitude 42°35'45" N., longitude 95°14'35" W.), and within 8 miles NE and 5 miles SW of the 142° and 322° bearings from the Storm Lake RBN, extending from 3 miles NW to 12 miles SE of the RBN.

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

Issued in Kansas City, Mo., on October 15, 1965.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 65-11610; Filed, Oct. 28, 1965;
8:46 a.m.]

[Airspace Docket No. 65-CE-107]

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

Designation of Transition Area

On August 21, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 10911) stating that the Federal Aviation Agency proposed to designate controlled airspace in the vicinity of Estherville, Iowa.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is

amended, effective 0001 e.s.t., January 6, 1966, as hereinafter set forth.

In § 71.181 (29 F.R. 17643) the following transition area is added:

ESTHERVILLE, IOWA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Estherville, Iowa, Municipal Airport (latitude 43°24'30" N., longitude 94°44'50" W.) and within 2 miles each side of the 175° bearing from Estherville Municipal Airport, extending from the 5-mile radius area to 8 miles S of the airport; and that airspace extending upward from 1,200 feet above the surface within 5 miles W and 8 miles E of the 175° bearing from Estherville Municipal Airport, extending from the airport to 12 miles S of the airport.

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

Issued in Kansas City, Mo., on October 15, 1965.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 65-11611; Filed, Oct. 28, 1965;
8:46 a.m.]

[Airspace Docket No. 65-WA-30]

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

Designation of Transition Area Extension

On July 23, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 9220) stating that the Federal Aviation Agency proposed to alter the Wilmington, N.C., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective January 6, 1966, as hereinafter set forth:

In § 71.81 the Wilmington, N.C., transition area (30 F.R. 7372, 8779) is amended as follows: "to point of beginning" is deleted and "to the point of beginning, and within 5 miles each side of the Wilmington, N.C., localizer SE course, extending from the LOM to 12 miles SE of the LOM." is substituted therefore.

(Secs. 307(a) and 1110 of the Federal Aviation Act of 1958; 49 U.S.C. 1348, 1510, and Executive Order 10854; 24 F.R. 9565)

Issued in Washington, D.C., on October 21, 1965.

JAMES L. LAMPL,
Acting Chief, Airspace Regulations
and Procedures Division.

[F.R. Doc. 65-11612; Filed, Oct. 28, 1965;
8:46 a.m.]

[Airspace Docket No. 65-WE-51]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

On July 8, 1965, a notice of proposed rule making was published in the Fed-

ERAL REGISTER (30 F.R. 8638) stating that the Federal Aviation Agency proposed to alter Restricted Area R-6408 at Indian Creek, Utah.

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

The boundaries described in the notice of proposed rule making contained an error; however, the pictorial presentation indicated the correct boundaries and these are shown in the final rule.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., January 6, 1966, as hereinafter set forth.

In § 73.64 (29 F.R. 17768), the present boundaries to R-6408 Indian Creek, Utah, are deleted and the following new boundaries are substituted therefore:

Boundaries. Beginning at latitude 37°59'00" N., longitude 109°23'00" W.; to latitude 37°57'00" N., longitude 109°25'00" W.; to latitude 37°58'00" N., longitude 109°40'00" W.; to latitude 38°02'00" N., longitude 109°54'00" W.; to latitude 38°21'00" N., longitude 109°54'00" W.; to latitude 38°23'00" N., longitude 109°52'00" W.; to latitude 38°22'00" N., longitude 109°38'00" W.; to latitude 38°21'00" N., longitude 109°31'00" W.; to latitude 38°16'00" N., longitude 109°24'00" W.; to latitude 38°08'00" N., longitude 109°22'00" W.; to the point of beginning.

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

Issued in Washington, D.C., on October 21, 1965.

CLIFFORD P. BURTON,
Acting Director, Air Traffic Service.

[F.R. Doc. 65-11613; Filed, Oct. 28, 1965;
8:46 a.m.]

[Docket No. 6992; Amdt. No. SFAR 10-1]

SFAR 10—MECHANICAL WORK PERFORMED ON UNITED STATES REGISTERED AIRCRAFT BY CERTAIN CANADIAN MECHANICS

Extension of Expiration Date

This amendment extends for six months the expiration date of Special Federal Aviation Regulation 10 which expires on November 1, 1965. The SFAR authorizes certain certificated Canadian mechanics to perform mechanical work, in Canada, on aircraft of United States Registry.

The Federal Aviation Agency has simultaneously with this amendment issued a notice of proposed rule making (Notice 65-32) proposing to amend Part 43 of the Federal Aviation Regulations to incorporate the authorization presently contained in SFAR 10. The purpose of this amendment is to temporarily extend the effectiveness of SFAR 10 to allow adequate time for the Agency to evaluate any comments received in response to Notice 65-32. Since this amendment merely extends for a 6-month period the authorization presently contained in SFAR 10 and imposes no additional burden on any person, I

See F.R. Doc. 65-11688, in Proposed Rule Making Section, *infra*.

find that the notice and public procedure provisions of the Administrative Procedure Act need not be complied with and this amendment may be made effective on less than 30 days notice.

In consideration of the foregoing, the last sentence of SFAR 10 is hereby amended, effective immediately, by striking out the words "November 1, 1965" and inserting in place thereof the words "May 1, 1966".

(Secs. 101(7), 313(a), 601, 605, and 610, Federal Aviation Act of 1958; 49 U.S.C. 1301(7), 1354(a), 1421, 1425, and 1430)

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

D. D. THOMAS,
Deputy Administrator.

[F.R. Doc. 65-11687; Filed, Oct. 28, 1965; 8:49 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER F—POLICY STATEMENTS

[Reg. No. PS-29]

PART 399—STATEMENTS OF GENERAL POLICY

Passing Off of Foreign Carrier Affiliates and System Relationships of Air Carriers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 26th day of October 1965.

In PSDR-11, dated May 11, 1965, 30 F.R. 6650, the Board proposed to issue a policy statement setting forth minimum safeguards to prevent the public from being misled as to the relationship between an affiliated¹ air carrier and foreign air carrier. The safeguards would protect against "passing off" by the affiliated carriers, i.e., against creation of the impression that the affiliated carriers were part of a unified system rather than independent entities or creation of a misleading impression as to which of the affiliated carriers would perform particular transportation. Activities resulting in passing off violate the prohibition in section 411 of the Federal Aviation Act against unfair and deceptive practices and unfair methods of competition.

Pan American World Airways filed the only comments on the proposal in PSDR-11. Pan American does not object to the proposed minimum safeguards. However, Pan American does contend that the Board's proposal would make the safeguards applicable to a geographical area which is unduly broad but to a class of carriers which is unduly narrow. We have carefully considered these objections, but for the reasons set forth below we have concluded that it would not be in the public interest to adopt the modifications proposed by Pan American. We have further determined that it would be in the public interest to adopt

the policy statement as originally proposed.²

In regard to the geographical area of the policy statement's applicability, Pan American proposes that the statement be applicable only to activities in the United States, rather than, as proposed by the Board, to activities anywhere in the world. Pan American contends that to apply the safeguards to activities in foreign countries would be inconsistent with Board precedent and unsound as a matter of policy.

Contrary to Pan American's suggestion, there is Board precedent for controlling passing off outside the United States. It is true that in the cases cited by Pan American the Board has tended to limit its restrictions to activities in the United States.³ However, the restrictions were so limited because the Board believed that in the context of the particular relationships, passing off was most likely to occur within the United States. There have been other cases in which the Board has perceived a threat of passing off outside of the United States and in these cases the Board has imposed restrictions on activities in foreign countries.⁴

The first policy consideration raised by Pan American is that in some areas of the world local customs or facilities make it impractical for affiliated carriers to achieve the degree of separation of activities which can be achieved in the United States. Pan American further states that there are countries in which a general agency relationship between Pan American and a foreign carrier is of greater value to Pan American than to the foreign carrier and that in these countries the foreign carrier would often prefer termination of the agency relationship to compliance with the safeguards of PSDR-11. Finally, Pan American alleges that in some countries the national carrier acts as agent for a number of foreign carriers. In these countries the result of the policy statement may be to impose restrictions on Pan American which are not imposed on foreign carriers competing with Pan American.

The matters raised by Pan American do not persuade the Board that it would be in the public interest to limit the policy statement to activities within the United States. Pan American's allegations are generalized and are not supported by specific illustrations. We find no reason to believe that the special circumstances described by Pan American are widespread, and in any event the

¹ Certain clarifying changes, identified below, have been made in response to the comments of Pan American.

² See, e.g., Havana-New York Air Carrier Permit Case, 14 CAB 399 (1951); 16 CAB 371 (1952); Compania Dominicana, Cap-Haitien and Port-Au-Prince-Service 19 CAB 823 (1955); Order E-16117, Dec. 2, 1960, and orders cited therein.

³ Even in these cases not all the restrictions were so limited. See Pan American Acquisition of LACSA, 35 CAB 343, 349, (1962) (condition "g"); Pan American-Compania Mexicana Agreements, 31 CAB 960, 965 (1960) (condition "c").

existence of these circumstances would not necessarily warrant an exception to the safeguards of the policy statement. An exception would only be warranted when consistent with our responsibilities under section 411 of the Act to protect competing carriers and the traveling public. In view of this, and of the benefits to be attained from having the policy statement govern activities outside of the United States,⁵ we believe the policy statement should be applicable on a world-wide basis, subject to the right of affected persons to prove that an exception is warranted by special conditions in a foreign country.⁶

Pan American further proposes that the coverage of the policy statement not be limited to an affiliated air carrier and foreign air carrier, but that the statement govern all carriers, or at least all affiliated carriers. We are not adopting this proposal because we are not convinced that there are significant passing-off problems involving carriers not covered by the policy statement. The only allegation by Pan American which indicates a need to extend the policy statement is an allegation that groups of affiliated foreign air carriers are now engaged in activities resulting in passing off. We will not act on the basis of this allegation since it is not supported by documentation or specific illustrations.⁷ Moreover, the detailed standards of the policy statement were developed on the basis of the Board's experience with passing-off activities by an affiliated air carrier and foreign air carrier. These detailed standards are not necessarily appropriate for groups of affiliated foreign air carriers.

We wish to caution that our refusal to extend the coverage of the policy statement should not be taken as an indication that carriers not covered by the statement are free to pass off by means of activities prohibited therein. If such activities are engaged in, the Board may find, on the basis of an adjudicatory proceeding, that the activities have a tendency to pass off and thereby violate section 411 of the Act.

Accordingly, in consideration of the foregoing, the Board hereby amends Part 399, Statements of General Policy (14 CFR Part 399), effective November 29, 1965, as follows:

By adding to Subpart G a new § 399.82 to read:

⁴ As noted in PSDR-11, when the policy statement governs carrier activities, it will ordinarily be unnecessary to consider passing-off problems in sections 401, 402, 408, 409, and 412 proceedings. Additionally, the policy statement will guide carriers in their relationships and enable them to avoid arrangements likely to result in passing off.

⁵ A provision recognizing this exception has been added to the proposed policy statement.

⁶ Pan American asks that it be given an opportunity to submit specific data before the Board rejects its proposed modifications. This would be inconsistent with orderly rule making procedure which requires that comments include data supporting controversial allegations.

¹ For purposes of the policy statement, "affiliation" was defined to include various control and agency relationships.

§ 399.82 Passing off of carrier identity by affiliation between carriers.

(a) *Applicability.* This policy shall apply to proceedings in which the Board, in exercising its regulatory powers with respect to air carriers and foreign air carriers, is required to determine whether carriers have engaged in unfair or deceptive practices, or unfair methods of competition. The standards herein shall not be construed to supersede any action previously taken by the Board in a particular proceeding dealing with the subject matter of this statement, but to the extent not inconsistent therewith shall provide standards which supplement, or implement such specific Board action. The limitation of this policy statement to certain affiliated carriers should not be construed as an indication that the Board will permit other carriers to pass off by means of activities which are inconsistent with the minimum safeguards set forth in paragraph (c) of this section. In such cases the Board may determine in an adjudicatory proceeding that the activities engaged in have a tendency to pass off and constitute an unfair or deceptive practice or an unfair method of competition.

(b) *Definition.* For the purpose of this statement, the term "affiliation," as between an air carrier and a foreign air carrier, shall mean that one of the carriers directly or indirectly has one of the following relationships to the other:

(1) Owns or controls 10 percent or more of the securities of the other, with or without an accompanying power to vote;

(2) Is in control of the other within the meaning of section 408 of the Act;

(3) Has any of the interlocking relationships described in section 409 of the Act;

(4) Is jointly controlled with the other carrier, directly or indirectly by a third person;

(5) Provides general agency services for the other carrier.

For the purpose of this statement, "general agency services" shall mean services performed under an agreement between an air carrier and a foreign air carrier which provides for the general representation of one by the other in a specified area or point, in relation to services such as the following: solicitation and sale of passenger, express, and cargo transportation; airport transportation and hotel accommodations; local advertising and publicity, local sales offices; passenger services; local government representation; purchase, lease or other acquisition of equipment; or aircraft and transit services, aircraft inspection, aircraft dispatch.

(c) *Minimum safeguards.* The minimum safeguards which the Board will consider as adequate to foreclose passing off by affiliated carriers are as follows:

(1) An air carrier and any affiliated foreign air carrier shall not engage in

joint public relations activities at points served by both carriers which tend to pass off the services of one carrier as the services of the other carrier or as part of a unified system of which each is a part;

(2) Where one affiliated carrier provides general agency services for the other carrier, at points served by both carriers, it shall specifically identify all flights of the other carrier as flights of that carrier without reference to any relationship to the carrier performing the agency services;

(3) All forms of display (including aircraft insignia), scheduled publications, advertising, or printed matter employed by affiliated carriers shall not state or imply that the services of either carrier are performed in common with the other carrier or as part of a single system. In cases where it is necessary to indicate that any agency service is performed by one affiliated carrier for the other, the references to the carrier performing the agency should be sufficiently subordinated to the name of the other carrier as to emphasize the limited role of the agent;

(4) Telephone facilities at points served by both carriers should preserve the identity of the individual carriers;

(5) Where joint traffic or sales facilities are maintained by affiliated carriers, the separate identity of each carrier should be maintained by reasonably comparable use of display advertising, desk-space, personnel uniforms, and other facilities and activities;

(6) Where one carrier sells time payment tickets for travel over the other carrier (except interline travel), the application form should identify the carrier performing the transportation;

(7) The respective personnel of the affiliated carriers shall preserve the individual identity of the respective carriers in all public dealings.

(d) *Unfair and deceptive practice.* It is the policy of the Board to regard any joint activity of an affiliated air carrier and a foreign air carrier as an unfair or deceptive practice or unfair method of competition where such joint activity does not satisfy the minimum safeguards enumerated in the preceding subsection.

(e) *Exceptions.* Exceptions to a safeguard set forth in paragraph (c) of this section may be recognized for activities in a foreign country if the Board finds that special circumstances pertaining to the country render the safeguard inappropriate. Exceptions on other grounds may be recognized pursuant to § 399.4.

(Secs. 204(a) and 411 of the Federal Aviation Act of 1958, 72 Stat. 743, 769; 49 U.S.C. 1324, 1381)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[P.R. Doc. 65-11636; Filed, Oct. 28, 1965; 8:48 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[10th Gen. Rev. of Export Regs., Amdt. 6]

PART 379—EXPORT CLEARANCE AND DESTINATION CONTROL

Miscellaneous Amendments

1. Section 379.1 *General export clearance requirements*, paragraph (b) (2) *Shipments under a general license* is amended by changing the figure "\$50" in subdivision (1) to read "\$100".

2. Section 379.3 *Presentation of Shipper's Export Declaration*, paragraph (c) (2) *When mailing* is amended by changing the figure "\$50" in subdivision (1) to read "\$100".

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487; E.O. 11038, 27 F.R. 7003)

RAUER H. MEYER,
Director,

Office of Export Control.

[P.R. Doc. 65-11629; Filed, Oct. 28, 1965; 8:48 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

South Branch of Shrewsbury River, N.J.

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.215 is hereby amended by adding a new paragraph (j) (3) to govern the operation of the Monmouth County bridge across South Branch of Shrewsbury River, N.J., effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 203.215 Navigable streams flowing into Raritan Bay (except Raritan River and Arthur Kill), the Shrewsbury River and its tributaries, and all inlets on the Atlantic Ocean including their tributaries and canals between Sandy Hook and Bay Head, N.Y.; bridges.

(j) * * *

(3) Shrewsbury River (South Branch), N.J. (1) Monmouth County bridge between the Boroughs of Rumson and Sea Bright. From May 15 to September 30, inclusive, of each year, on Saturdays, Sundays, Memorial Day, Independence Day, and Labor Day, between the hours of 11 a.m., e.d.s.t., and 7 p.m.,