

each side of the Redmond VORTAC 269° and 089° radials, extending from the 5-mile radius zone to 1 mile west of the VORTAC.

In § 71.181 (33 F.R. 2244) the Redmond, Oreg., transition area is amended to read:

**REDMOND, OREG.**

That airspace extending upward from 700 feet above the surface within 2 miles each side of the Redmond VORTAC 269° radial extending from 1 to 8 miles west of the VORTAC; within 2 miles each side of the Redmond VORTAC 162° radial extending from the VORTAC to 5 miles south of the VORTAC; within 2 miles each side of a 230° bearing from Roberts Field, Redmond, Oreg. (latitude 44°15'10" N., longitude 121°08'55" W.), extending from the arc of a 5-mile radius circle centered on Roberts Field Airport to 10 miles southwest of the airport, and within 2 miles each side of a 302° bearing from the Redmond RBN extending from the RBN to 8 miles northwest of the RBN; that airspace extending upward from 1,200 feet above the surface within 14 miles northeast and 2 miles southwest of the Redmond VORTAC 122° and 302° radials extending from 18 miles northwest to 10 miles southeast of the VORTAC, within 6 miles west and 9 miles east of the Redmond VORTAC 189° radial extending from the VORTAC to 19 miles south of the VORTAC, and that airspace bounded on the northeast by a line 2 miles southwest of and parallel to the Redmond VORTAC 302° radial, on the east by the west edge of V-25, on the south by a line 5 miles south of and parallel to the Redmond VORTAC 269° radial and on the west by an arc of a 17-mile radius circle centered on the Redmond VORTAC.

[F.R. Doc. 68-11177; Filed, Sept. 13, 1968; 8:47 a.m.]

[Airspace Docket No. 68-SO-35]

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

**Alteration of Federal Airway and Transition Area**

On June 20, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 9091) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would designate a 1,200 feet AGL east alternate to V-7 from Nashville, Tenn., to Central City, Ky.

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

The Logansport, Ky., transition area (33 F.R. 6859) is bounded on the west by the segment of V-7 from Nashville to Central City. To avoid dual designation of airspace where possible, action is taken to redescribe the west boundary of this transition area by the segment of V-7 east alternate considered herein, in lieu of V-7.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., November 14, 1968, as hereinafter set forth.

1. Section 71.123 (33 F.R. 2009) is amended as follows:

In V-7 "12 AGL Central City, Ky.," is deleted and "12 AGL Central City, Ky., including a 12 AGL east alternate;" is substituted therefor.

2. Section 71.181 (33 F.R. 2137, 6859) is amended as follows:

In the Logansport, Ky., transition area "VOR Federal airways Nos. 7," is deleted and "VOR Federal airways Nos. 7E," is substituted therefor.

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

Issued in Washington, D.C., on September 6, 1968.

T. McCORMACK,  
Acting Chief, Airspace and  
Air Traffic Rules Division.

[F.R. Doc. 68-11178; Filed, Sept. 13, 1968; 8:47 a.m.]

**SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES**

[Reg. Docket No. 9419; Amdt. 95-171]

**PART 95—IFR ALTITUDES**

**Miscellaneous Amendments**

The purpose of this amendment to Part 95 of the Federal Aviation Regulations is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current changeover points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof.

As a situation exists which demands immediate action in the interest of safety, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 95 of the Federal Aviation Regulations is amended, effective October 17, 1968, as follows:

1. By amending Subpart C as follows:

*From, To, and MEA*

Section 95.1001 *Direct routes—United States* is amended to delete:

Alma, Ga., VOR; Liberty, Ga., RBN; \*3,000. \*1,400—MOCA.

Brunswick, Ga., VOR; Liberty, Ga., RBN; \*2,000. \*1,300—MOCA.

Eglin, Fla., VOR; Montgomery, Ala., VOR COP, 58 NM MGM; 2,500.

Egmont Key, Fla., LF/RBN; Grand Isle, La., LF/RBN; \*2,000. \*1,300—MOCA.

Fayetteville INT, Tenn. (MSL 056/HSV005/HSV north crs); Shelbyville, Tenn., VOR; \*3,000. \*2,400—MOCA.

Johney INT, Ala.; Decatur, Ala., VOR; \*3,000. \*2,000—MOCA.

Section 95.1001 *Direct routes—United States* is amended by adding:

Allendale, S.C., VOR; Int, 302° M rad, Charleston, S.C., VOR and 170° M rad, Columbia, S.C., VOR; \*2,000. \*1,700—MOCA.

*From, To, and MEA*

Crab INT, Fla. (LF); \*Neptune INT, Fla. (LF); \*\*2,000. \*5,000—MRA. \*\*1,300—MOCA.

Eglin, Fla., VOR; Saufley, Fla., VOR; \*3,000. \*1,500—MOCA.

Egmont Keys, Fla., NDB; Crab INT, Fla. (LF); \*2,000. \*1,200—MOCA.

Florence, S.C., VOR; Myrtle Beach, S.C., VOR; \*2,000. \*1,400—MOCA.

Goshen INT, Ala.; Montgomery, Ala., VOR; 3,500.

Int, 302° M rad, Charleston, S.C., VOR and 170° M rad, Columbia, S.C., VOR; Columbia S.C., VOR; \*2,000. \*1,700—MOCA.

Neptune INT, Fla. (LF); Grand Isle, La., NDB; \*2,000. \*1,300—MOCA.

Section 95.1001 *Direct routes—United States* is amended to read in part:

Allendale, S.C., VOR; Marlow INT, Ga.; \*2,000. \*1,700—MOCA.

Caesar INT, Miss.; Gulfport, Miss., VOR; \*1,900. \*1,500—MOCA.

Dozier INT, Ala. (CEW 028/PZR 268); Andalusia INT, Ala. (VPS 360/MVC 101/OZR 268); \*2,000. \*1,700—MOCA.

Eglin, Fla., VOR; Corky INT, Fla.; \*2,500. \*1,500—MOCA.

Gulfport, Miss., VOR; Horn INT, Miss.; \*1,700. \*1,400—MOCA.

Jerome INT, Colo.; \*Kremmling, Colo., VORTAC; \*\*17,000. \*12,500—MCA Kremmling VORTAC, southbound. \*14,000—MOCA.

Perrin, Tex., VOR; McAlester, Okla., VOR; \*4,000. \*2,500—MOCA.

Union INT, S.C.; Charlotte, N.C., VOR; \*3,000. \*2,000—MOCA.

*Bahama Routes*

10 Lima:  
Portland, Fla., NDB; Grand Bahama, Bahama, NDB; \*2,000. \*1,400—MOCA.

Section 95.1001 *Direct routes—United States*, added to read:

*Bahama Routes*

66V:  
Miami, Fla., VORTAC; Guppy INT, Fla.; 2,000.

Guppy INT, Fla.; \*Int, 213° M rad, Freeport, Bahama, VOR and 089° M rad, Miami, Fla., VORTAC; \*\*4,500. \*4,500—MCA at Dogleg westbound. \*\*1,200—MOCA.

Int, 213° M rad, Freeport, Bahama, VOR and 089° M rad, Miami, Fla., VORTAC; Freeport, Bahama, VOR; \*1,500. \*1,200—MOCA.

Section 95.6002 *VOR Federal airway 2* is amended to read in part:

Muskegon, Mich., VOR; Saranac INT, Mich.; \*2,600. \*2,000—MOCA.

Saranac INT, Mich.; Lansing, Mich., VOR; \*2,600. \*2,200—MOCA.

Section 95.6004 *VOR Federal airway 4* is amended to read in part:

Louisville, Ky., VOR; Mount Eden INT, Ky.; 2,500.

Mount Eden INT, Ky.; Lexington, Ky., VOR; 3,000.

McAfee INT, Ky., via S alter.; Lexington, Ky., VOR via S alter.; 3,000.

Bridgeport INT, Ky., via N alter.; Lexington, Ky., VOR via N alter.; eastbound, 3,000; westbound, 2,600.

Section 95.6010 *VOR Federal airway 10* is amended to read in part:

Neptune INT, Mich., via N alter.; South Bend, Ind., VOR via N alter.; 2,600.

## RULES AND REGULATIONS

## From, To, and MEA

Section 95.6011 *VOR Federal airway 11* is amended to read in part:

Scotland, Ind., VOR via W alter.; Cloverdale INT, Ind., via W alter.; \*2,600. \*2,100—MOCA.

Section 95.6012 *VOR Federal airway 12* is amended to read in part:

Columbia, Mo., VOR; Shaw INT, Mo.; 2,600. Shaw INT, Mo.; Readsville INT, Mo.; \*2,600. \*2,200—MOCA.

Lewis, Ind., VOR; Wilbur INT, Ind.; \*2,200. \*2,100—MOCA.

Wilbur INT, Ind.; Shelbyville, Ind., VOR; \*2,600. \*1,900—MOCA.

Section 95.6013 *VOR Federal airway 13* is amended to read in part:

Shreveport, La., VOR; \*Ida INT, La.; 2,400. \*2,500—MRA.

Ida INT, La.; Texarkana, Ark., VOR; 2,000. Atlanta INT, Tex., via Walter; Texarkana, Ark., VOR via Walter; 2,000.

Section 95.6016 *VOR Federal airway 16* is amended to read in part:

Sulphur Springs, Tex., VOR via S alter; Texarkana, Ark., VOR via S alter; \*2,100. \*2,000—MOCA.

Section 95.6025 *VOR Federal airway 25*, amended to read in part:

Redfin INT, Calif.; Triton INT, Calif.; \*3,000. \*2,000—MOCA.

Triton INT, Calif.; Albacore INT, Calif.; \*3,000. \*2,000—MOCA.

Section 95.6027 *VOR Federal airway 27* is amended to read in part:

Redfin INT, Calif.; Triton INT, Calif.; \*3,000. \*2,000—MOCA.

Triton INT, Calif.; Avalon INT, Calif.; \*3,000. \*2,000—MOCA.

Avalon INT, Calif.; Santa Catalina, Calif., VOR; 4,000.

Section 95.6033 *VOR Federal airway 33* is amended to read in part:

Cofield, N.C., VOR; Surry INT, Va.; \*2,000. \*1,100—MOCA.

Surry INT, Va.; Harcum, Va., VOR; 2,000.

Section 95.6051 *VOR Federal airway 51* is amended to read in part:

Hillsboro INT, Fla., via E alter.; Pluto INT, Fla., via E alter.; \*3,000. \*1,200—MOCA.

Section 95.6053 *VOR Federal airway 53* is amended to read in part:

Lexington, Ky., VOR; Mount Eden INT, Ky.; 3,000.

Mount Eden INT, Ky.; Louisville, Ky., VOR; 2,500.

Section 95.6054 *VOR Federal airway 54* is amended to read in part:

Quitman, Tex., VOR; Texarkana, Ark., VOR; \*2,100. \*2,000—MOCA.

Section 95.6056 *VOR Federal airway 56* is amended to read in part:

Augusta, Ga., VOR; Sam INT, S.C.; \*2,200. \*2,000—MOCA.

Sam INT, S.C.; Columbia, S.C., VOR; \*2,000. \*1,700—MOCA.

Section 95.6066 *VOR Federal airway 66* is amended to read in part:

Iva INT, S.C.; Union INT, S.C.; \*4,000. \*2,200—MOCA.

Union INT, S.C.; Fort Mill, S.C., VOR; \*2,300. \*2,100—MOCA.

## From, To, and MEA

Section 95.6068 *VOR Federal airway 68* is amended to read in part:

Dexter DME, N. Mex.; Hagerman INT, N. Mex.; \*6,000. \*4,800—MOCA.

Section 95.6071 *VOR Federal airway 71* is amended to read in part:

New Market INT, Mo.; Huron INT, Kans.; \*2,600. \*2,200—MOCA.

Section 95.6072 *VOR Federal airway 72* is amended to read in part:

Cambridge, N.Y., VOR; Jamaica INT, Vt.; 6,000.

Section 95.6084 *VOR Federal airway 84* is amended to read in part:

Malta INT, Ill.; Chicago O'Hare, Ill., VOR; \*4,000. \*2,500—MOCA.

Section 95.6097 *VOR Federal airway 97* is amended to read in part:

Morris INT, Ind.; Shelbyville, Ind., VOR; \*2,800. \*2,200—MOCA.

Lexington, Ky., VOR via W alter.; Gratz INT, Ky., via W alter.; 3,000.

Section 95.6100 *VOR Federal airway 100* is amended to read in part:

Northbrook, Ill., VOR; Musky INT, Mich.; 2,500.

Musky INT, Mich.; Keeler, Mich., VOR; \*2,500. \*2,000—MOCA.

Section 95.6106 *VOR Federal airway 106* is amended to read in part:

Benton INT, Pa.; Wilkes-Barre, Pa., VOR; 4,000.

Wilkes Barre, Pa., VOR; Lake Henry, Pa., VOR; 4,000.

Section 95.6139 *VOR Federal airway 139* is amended to read in part:

Cofield, N.C., VOR; \*Sunbury INT, N.C.; \*\*2,000. \*2,500—MRA. \*\*1,200—MOCA.

Sunbury INT, N.C.; Norfolk, Va., VOR; 2,000.

Section 95.6147 *VOR Federal airway 147* is amended to read in part:

Effort INT, Pa.; Wilkes-Barre, Pa., VOR; 4,000.

Wilkes-Barre, Pa., VOR; Elmira, N.Y., VOR; 4,000.

Section 95.6149 *VOR Federal airway 149* is amended to read in part:

Effort INT, Pa.; Wilkes-Barre, Pa., VOR; 4,000.

Wilkes-Barre, Pa., VOR; Binghamton, N.Y., VOR; 4,000.

Section 95.6151 *VOR Federal airway 151* is amended to read in part:

Keene, N.H., VOR via W alter.; Jamaica INT, Vt., via W alter.; 4,000.

Jamaica INT, Vt., via W alter.; Lebanon, N.H., VOR via W alter.; 5,000.

Section 95.6163 *VOR Federal airway 163* is amended to read in part:

Brownsville, Tex., VORTAC; Harlingen, Tex., VOR; \*1,500. \*1,400—MOCA.

Section 95.6172 *VOR Federal airway 172* is amended to delete:

Chicago O'Hare, Ill., VOR; Musky INT, Mich.; 2,500.

Musky INT, Mich.; South Bend, Ind., VOR; \*2,600. \*2,100—MOCA.

## From, To, and MEA

Section 95.6172 *VOR Federal airway 172* is amended by adding:

Chicago O'Hare, Ill., VOR; Neptune INT, Ill.; 2,500.

Neptune INT, Ill.; South Bend, Ind., VOR; 2,600.

Section 95.6172 *VOR Federal airway 172* is amended to read in part:

Malta INT, Ill.; Chicago O'Hare, Ill., VOR; \*4,000. \*2,500—MOCA.

Section 95.6177 *VOR Federal airway 177* is amended to read in part:

Janesville, Wis., VOR; Madison, Wis., VOR; \*2,800. \*2,100—MOCA.

Madison, Wis., VOR; Stevens Point Wis., VOR; \*3,000. \*2,500—MOCA.

Madison, Wis., VOR via W alter.; Dells, Wis., VOR via W alter.; 3,300.

Dells, Wis., VOR via W alter.; Stevens Point, Wis., VOR via W alter.; \*3,000. \*2,400—MOCA.

Section 95.6178 *VOR Federal airway 178* is amended to read in part:

McAfee INT, Ky.; Lexington, Ky., VOR; 3,000.

Section 95.6183 *VOR Federal airway 183* is amended to read in part:

Taft INT, Calif.; \*Maricopa INT, Calif.; \*\*6,000. \*5,000—MOCA Maricopa INT, southbound. \*\*4,500—MOCA.

Section 95.6188 *VOR Federal airway 188* is amended to read in part:

Sweetvalley INT, Pa.; Wilkes Barre, Pa., VOR; 4,000.

Wilkes-Barre, Pa., VOR; Pocono INT, Pa.; 4,000.

Section 95.6208 *VOR Federal airway 208* is amended to read in part:

Santa Catalina, Calif., VOR; Avalon INT, Calif.; 4,000.

Avalon INT, Calif.; Pacific INT, Calif.; \*3,000. \*2,000—MOCA.

Pacific INT, Calif.; Oceanside, Calif., VOR; \*3,000. \*2,400—MOCA.

Section 95.6226 *VOR Federal airway 226* is amended to read in part:

Sweetvalley INT, Pa.; Wilkes Barre, Pa., VOR; 4,000.

Wilkes Barre, Pa., VOR; Stillwater, N.J., VOR; 4,000.

Section 95.6228 *VOR Federal airway 228* is amended by adding:

Northbrook, Ill., VOR via N alter. Musky INT, Mich., via N alter.; \*2,500. \*2,000—MOCA.

Musky INT, Mich., via N alter.; South Bend, Ind., VOR via N alter.; 2,600.

Section 95.6228 *VOR Federal airway 228* is amended to read in part:

Neptune INT, Ill.; South Bend, Ind., VOR; 2,600.

Section 95.6257 *VOR Federal airway 257* is amended by adding:

Great Falls, Mont., VOR; Havre, Mont., VOR; \*6,100. \*5,800—MOCA.

Section 95.6289 *VOR Federal airway 289* is amended to read in part:

Harleton INT, Tex.; Lassater INT, Tex.; \*2,000. \*1,700—MOCA.

Lassater INT, Tex.; Texarkana, Ark., VOR; 2,000.

*From, To, and MEA*

Section 95.6295 *VOR Federal airway 295* is amended to read in part:

\*Basket INT, Fla.; \*\*Turtle INT, Fla.; \*\*\*4,500. \*2,500—MRA. \*\*4,500—MRA. \*\*\*1,200—MOCA.  
Turtle INT, Fla.; Bonita INT, Fla.; \*4,500. \*1,200—MOCA.

Section 95.6341 *VOR Federal airway 341* is amended to read in part:

Dubuque, Ill., VOR; Madison, Wis., VOR; 3,200.  
Madison, Wis., VOR.; Oshkosh, Wis., VOR; \*2,800. \*2,200—MOCA.

Section 95.6408 *Hawaii VOR Federal airway 8* is amended to read in part:

Bluefin INT, Hawaii; Windward INT, Hawaii; 4,000.

Section 95.6412 *Hawaii VOR Federal airway 12* is amended to read in part:

Bamboo INT, Hawaii; Magnolia INT, Hawaii; 5,000.  
Magnolia INT, Hawaii; \*Shark INT, Hawaii; northeastbound, 13,000; southwestbound, 5,000. \*13,000—MRA.

Section 95.7020 *Jet Route No. 20* is amended to read in part:

*From, to, MEA, and MAA*

Tallahassee, Fla., VORTAC; Int, 128° M rad, Tallahassee VORTAC and 306° M rad, Orlando VORTAC; 18,000; 45,000.  
Int, 128° M rad, Tallahassee VORTAC and 306° M rad, Orlando VORTAC; Orlando, Fla., VORTAC; 18,000; 45,000.

Section 95.7034 *Jet Route No. 34* is amended to delete:

Dickinson, N. Dak., VORTAC; Aberdeen, S. Dak., VORTAC; 24,000; 45,000.  
Aberdeen, S. Dak., VORTAC; Minneapolis, Minn., VORTAC; 18,000; 45,000.  
Minneapolis, Minn., VORTAC; Nodine, Minn., VORTAC; 18,000; 45,000.

Section 95.7034 *Jet Route No. 34* is amended by adding:

Mullan Pass, Idaho, VORTAC; Helena, Mont., VORTAC; 18,000; 45,000.  
Helena, Mont., VORTAC; Billings, Mont., VORTAC; 18,000; 45,000.  
Billings, Mont., VORTAC; Dupree, S. Dak., VORTAC; #2,000; 45,000. #MEA is established with a gap in navigation signal coverage.  
Dupree, S. Dak., VORTAC; Redwood Falls, Minn., VOR; 18,000; 45,000.  
Redwood Falls, Minn., VOR; Nodine, Minn., VORTAC; 18,000; 45,000.

Section 95.7036 *Jet Route No. 36* is amended by adding:

Dickinson, N. Dak., VOR; Fargo, N. Dak., VORTAC; 18,000; 45,000.

Section 95.7090 *Jet Route No. 90* is amended to delete:

Mullan Pass, Idaho, VOR; Helena, Mont., VOR; 18,000; 45,000.  
Helena, Mont., VOR; Billings, Mont., VORTAC; 18,000; 45,000.  
Billings, Mont., VORTAC; Dupree, S. Dak., VORTAC; #20,000; 45,000. #MEA is established with a gap in navigation signal coverage.  
Dupree, S. Dak., VORTAC; Sioux Falls, S. Dak., VORTAC; 18,000; 45,000.  
Sioux Falls, S. Dak., VORTAC; Mason City, Iowa, VORTAC; 18,000; 45,000.

*From, To, MEA, and MAA*

Section 95.7090 *Jet Route No. 90* is amended by adding:

Mullan Pass, Idaho, VORTAC; Lewistown, Mont., VORTAC; 18,000; 45,000.  
Lewistown, Mont., VORTAC; Miles City, Mont., VORTAC; 18,000; 45,000.  
Miles City, Mont., VORTAC; Aberdeen, S. Dak., VORTAC; #20,000; 45,000. #MEA is established with a gap in navigation signal coverage.  
Aberdeen, S. Dak., VORTAC; Redwood Falls, Minn., VORTAC; 18,000; 45,000.  
Redwood Falls, Minn., VORTAC; Mason City, Iowa, VORTAC; 18,000; 45,000.

Section 95.7119 *Jet Route No. 119* is amended to read in part:

St. Petersburg, Fla., VORTAC; Alma, Ga., VORTAC; 18,000; 45,000.

Section 95.7523 *Jet Route No. 523* is amended to delete:

Neah Bay, Wash., NDB; United States-Canadian border; 18,000; 45,000.

2. By amending Subpart D as follows:

Section 95.8005 *Jet Routes Changeover Points 120* is amended to delete:

*From, to—Distance; from*

Bethel, Alaska, VOR; McGrath, Alaska, VORTAC; 32; Bethel.

Section 95.8003 *VOR Federal airway changeover points* is amended by adding:

*Airway segment: From; to—Changeover point: Distance; from*

V-172:  
Polo, Ill., VOR; Chicago O'Hare, Ill., VOR; 52; Polo.

(Secs. 307, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1510)

Issued in Washington, D.C., on September 5, 1968.

JAMES F. RUDOLPH,  
*Director,*  
*Flight Standards Service.*

[F.R. Doc. 68-11102; Filed, Sept. 13, 1968; 8:45 a.m.]

**Title 17—COMMODITY AND SECURITIES EXCHANGES**

**Chapter II—Securities and Exchange Commission**

[Release No. 34-8389]

**PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER**

**Distributions of Variable Annuities by Insurance Companies Broker-Dealer Registration and Regulation Under the Securities Exchange Act of 1934**

The recent increase in the public offering of those investment contracts frequently referred to as "variable annuity contracts", "variable annuity interests"

or simply "variable annuities"<sup>1</sup> has resulted in a number of inquiries to the staff concerning the application of the registration and other regulatory requirements applicable to brokers and dealers under the Securities Exchange Act of 1934 ("the Act"). Some of the more common problems which have arisen in this connection, as well as the views expressed by the staff are noted below for the guidance of interested persons and their counsel.

Sections 3(a) (4) and (5), and 15(a) (1) of the Act—*Broker-dealer registration requirements.* A life insurance company created a Separate Account under State law as the funding medium of a Group Annuity Contract to provide fixed and variable annuity benefits under a retirement plan for self-employed members of a professional organization and their employees. The insurance company proposed to offer and sell variable annuity interests in the retirement plan by direct mail, by using its representatives to explain details of the Group Annuity Contract at meetings of the members of the professional organization, and by direct solicitation through such representatives of the members of the professional organization at such meetings.

The following views were expressed by the staff:

Since the insurance company engages in the purchase and sale of its own portfolio securities, will make purchases and sales of securities for the portfolio of the Separate Account, and will distribute the variable annuity interests of which it and the Separate Account are coissuers, the insurance company would be a "broker" as defined in section 3(a) (4) of the Act as well as a "dealer" as defined in section 3(a) (5) of the Act. Accordingly, the insurance company will be required under section 15(a) (1) of the Act to register with the Commission as a broker-dealer. However, upon being informed by the insurance company that it contemplated the formation of a wholly owned subsidiary to engage in the offer and sale of the variable annuity interests, the staff stated that if the subsidiary becomes registered as a broker-dealer and complies with all applicable

<sup>1</sup> The Supreme Court has held that if the benefits to a member of the public from his contributions to a fund fluctuate to any degree with the fortunes of the fund, the arrangement between him and the fund or the person creating the interests in the fund, constitutes a security in the form of an "investment contract" for the purpose of the Securities Act of 1933 and the Investment Company Act of 1940. SEC v. United Benefit Life Insurance Co., 387 U.S. 202; SEC v. Variable Annuity Life Insurance Co., 359 U.S. 65. That such arrangements are investment contracts encompassed within the term "security" as defined in section 3(a) (10) of the Securities Exchange Act of 1934 also appears quite plain from the reasoning of the Supreme Court in Tcherepin v. Knight, 389 U.S. 332, that a security as defined in section 2(1) of the Securities Act of 1933 was intended by Congress to be included in the term "security" as defined in section 3(a) (10) of the Securities Exchange Act of 1934 (Act).

rules and regulations, including the requirement to direct and supervise all persons engaged directly or indirectly in the offer and sale of such securities, the staff would not recommend action by the Commission if the insurance company itself did not become registered as a broker-dealer. Such an arrangement, however, would not serve to relieve the insurance company, or the persons in control thereof, from the responsibilities imposed upon persons directly or indirectly controlling a broker or dealer of carrying out the standards embodied in section 15(b)(5)(E) of the Act.

**Form BD (17 CFR 249.501) Application for Registration.** A life insurance company desiring to become registered as a broker-dealer in order to offer and sell variable annuity interests in a Separate Account which it had created under a State law pointed out that it has more than 150 officers, the vast majority of whom would have no function, directly or indirectly, with the variable annuity operation. Upon inquiry as to whether all of such officers must be listed in response to Item 3(b) of Form BD (17 CFR 249.501) the staff stated it would raise no question if the officers who were listed were limited to the president, the secretary, the treasurer, such vice presidents as have authority to act "vice" the president, and such other officers of the insurance company who would be directly or indirectly engaged in activities relating to the variable annuity operations.

**Rule 15b1-2 (17 CFR 240.15b1-2), Statement of financial condition—Schedule of securities—Example No. 1.** A life insurance company proposing to engage in the offer and sale of variable annuity interests funded by a Separate Account created by it under State law was preparing its application for registration as a broker-dealer on Form BD (17 CFR 249.501). The applicant referred to the provisions of Rule 15b1-2 (17 CFR 240.15b1-2) requiring an applicant to file with its application a verified statement of financial condition disclosing in detail the nature and amount of its assets, liabilities and net worth as of a date within 30 days of filing, and pointed out that its operation is so vast as to render it physically impossible for it to complete any such statement, even on an unaudited basis within the prescribed 30-day period.

The staff stated that "no action" would be recommended, if, in lieu of such a 30-day statement, the insurance company filed with the Form BD (17 CFR 249.501) application a statement of its financial condition containing the required information as of the most recent practicable date, accompanied by a statement by a responsible financial official of the applicant, verified within 30 days of the date of filing, to the effect, if true, that the applicant's financial position on the date of such verification is not materially different from the condition reflected in such statement of financial condition.

**Example No. 2.** The life insurance company referred to in Example No. 1 also

pointed out that the number of items on its list of portfolio securities rendered it impractical for the company to furnish a schedule of such securities valued at market within 30 days of the filing of the Form BD (17 CFR 249.501) application, as is required by Rule 15b1-2 (17 CFR 240.15b1-2). The staff took the position that it would raise no question regarding failure to meet this requirement if the company filed its most recently printed schedule of securities containing market valuations and if, following its yearend audit, the company filed, as soon as possible after it becomes available, the yearend schedule of securities prepared by the company's auditor containing valuations at market at such yearend.

**Rule 15c3-1(b)(3) (17 CFR 240.15c3-1(b)(3)), Exemptions from net capital requirements.** Exemptions pursuant to Rule 15c3-1(b)(3) (17 CFR 240.15c3-1(b)(3)) from the net capital requirements of Rule 15c3-1 (17 CFR 240.15c3-1) have been granted to life insurance companies registered as broker-dealers which are required under operative State law to maintain the bulk of their investments in the form of interests in real estate and real estate mortgages which, when deducted from net worth in the computation of net capital as required by subparagraph (c)(2)(B) of Rule 15c3-1 (17 CFR 240.15c3-1), would preclude such companies from achieving compliance with the ratio between aggregate indebtedness and net capital as prescribed by the rule, upon a specific showing by each such company of a substantial financial position composed of substantial assets as well as unassigned surplus or net worth, with the bulk of liabilities consisting of policy reserves. (One of such companies had assets of \$25 billion and unassigned surplus of \$470 million. One of the smallest of such companies had total assets of approximately \$346 million and net worth of \$40 million). In addition to the foregoing, the companies, as required by the exemptive rule, demonstrated the existence of satisfactory safeguards for the protection of the funds and securities of customers, including the maintenance of a blanket fidelity bond covering all officers, employees, agents, and general agents; arrangements under which all customers' payments are sent directly to the company and are not handled by sales personnel and certificates are mailed directly by the company to the customer; restrictions on the withdrawal of funds and securities from the company's Separate Account; and internal and independent audit systems.

Section 17(a)—Inspection of Records.  
Rules 17a-3—Maintenance of Records, and 17a-4—Preservation of Records (17 CFR 240.17a-3 and -4).

Rule 15c1-4—Confirmation Requirements (17 CFR 240.15c1-4).

Section 3(a)(18)—Associated Persons.

Section 15(b)(5)(E)—Supervision and Control.

A life insurance company which has created a Separate Account under state law for the offer and sale of variable

annuity interests funded by the Separate Account has formed a subsidiary which has become registered as a broker-dealer to act as the distributor of the variable annuity interests. The records of the broker-dealer will be maintained by the accounting department of the insurance company which will also send to the participants confirmations of the transactions and pay the sales commissions due to the "persons associated" with the registered broker-dealer who also happen to be insurance agents for the insurance company.

No question will be raised by the staff respecting such arrangements upon adherence to the following conditions:

1. That a binding agreement exists between the insurance company and the broker-dealer registrant that all the books and records maintained by the insurance company in connection with the offer and sale of variable annuity interests funded by a Separate Account are to be maintained and preserved in conformity with the requirements of Rules 17a-3 and 17a-4 (17 CFR 240.17a-3 and -4) under the Act, to the extent that such requirements are applicable to the variable annuity operations; that all such books and records are maintained and held by the insurance company on behalf of and as agent for the broker-dealer registrant whose property they are and shall remain; and that such books and records are at all times subject to inspection by the Securities and Exchange Commission in accordance with section 17(a) of the Act. A copy of such agreement shall be furnished to the Commission.

2. That the making of payments by the insurance company to the sales personnel of the broker-dealer registrant be performed as a purely ministerial service and that the records in respect thereof are properly reflected on the books and records maintained by or for the broker-dealer registrant.

3. That, since the crediting of a payment by a participant on the books and records maintained by or for the broker-dealer registrant constitutes the sale of a security and, therefore, a "transaction" as that term is used in Rule 15c1-4 (17 CFR 240.15c1-4) under the Act, a confirmation for each such transaction will be sent to the participant at or before the completion thereof; and that the confirmation will reflect the facts of the transaction, and the form thereof will show that it is being sent on behalf of the broker-dealer registrant acting in the capacity of agent for the insurance company.

4. That the broker-dealer registrant has and assumes full responsibility for the securities activities of all persons engaged directly or indirectly in the variable annuity operation, each such person being a "person associated" of the registrant as defined in section 3(a)(18) of the Act, and, therefore, a person for whom the broker-dealer registrant has full responsibility in connection with training, supervision, and control as contemplated by section 15(b)(5)(E) of the Act.

**Rule 17a-5 (17 CFR 240.17a-5)**—*Financial reporting requirements.* If an insurance company is registered as a broker-dealer in order to offer and sell variable annuity interests funded by a Separate Account created under State law, and if it has been exempted pursuant to an order under Rule 15c3-1(b)(3) (17 CFR 240.15c3-1(b)(3)) under the Act from the net capital requirements of Rule 15c3-1 (17 CFR 240.15c3-1), no question will be raised by the staff respecting compliance with the financial reporting requirements of Rule 17a-5 (17 CFR 240.17a-5) if the company files a copy of the most recent certified financial statement filed with the Commission pursuant to the requirements of the Securities Act of 1933 in lieu of a report complying with Form X-17A-5 (17 CFR 249.617).

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

AUGUST 29, 1968.

[F.R. Doc. 68-11202; Filed, Sept. 13, 1968;  
8:49 a.m.]

## Title 21—FOOD AND DRUGS

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

#### SUBCHAPTER A—GENERAL

#### PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

##### Confirmation of Effective Date or Order Exempting Frozen Desserts From Certain Labeling Requirements

In the matter of exempting frozen desserts from certain labeling requirements of the regulations (21 CFR Part 1) for the enforcement of the Fair Packaging and Labeling Act:

Pursuant to the provisions of the Fair Packaging and Labeling Act (secs. 5(b), 6(a), 80 Stat. 1298, 1299; 15 U.S.C. 1453, 1455) and the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371), and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of July 16, 1968 (33 F.R. 10140). Accordingly, the amendment promulgated by that order will become effective September 14, 1968.

Dated: September 5, 1968.

J. K. KIRK,  
Associate Commissioner  
for Compliance.

[F.R. Doc. 68-11212; Filed, Sept. 13, 1968;  
8:49 a.m.]

#### SUBCHAPTER B—FOOD AND FOOD PRODUCTS PART 29—FRUIT BUTTERS, FRUIT JELLIES, FRUIT PRESERVES, AND RELATED PRODUCTS

##### Artificially Sweetened Fruit Jelly, Fruit Preserves, and Jams; Confirmation of Effective Date of Order Amending Standards To Permit Addition of Nutritive Sweeteners to Certain Jelling Ingredients

In the matter of amending the definitions and standards of identity for artificially sweetened fruit jelly (21 CFR 29.4) and artificially sweetened fruit preserves, artificially sweetened fruit jams (21 CFR 29.5) to provide that the jelling ingredients carrageenan and salts of carrageenan be optionally standardized with a nutritive sweetening ingredient and to provide for limiting the amounts of such sweetening ingredient and such standardized carrageenan or salts of carrageenan:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of July 20, 1968 (33 F.R. 10392). Accordingly, the amendments promulgated by that order will become effective September 18, 1968.

Dated: September 6, 1968.

J. K. KIRK,  
Associate Commissioner  
for Compliance.

[F.R. Doc. 68-11213; Filed, Sept. 13, 1968;  
8:49 a.m.]

#### PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

##### O,O-Diethyl S-2-(Ethylthio)ethyl Phosphorodithioate

A petition (PP 8F0707) was filed with the Food and Drug Administration by the Chemagro Corp., Post Office Box 4913, Hawthorn Road, Kansas City, Mo. 64120, requesting that §120.183 be amended to permit application of the subject insecticide in the spring in the production of wheat. (The regulation heretofore has restricted such application to fall planting.) No change was proposed in the tolerance levels regarding wheat (green fodder and straw) and wheat grain.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which tolerances are being established.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that the tolerances

established for spring wheat by this order will protect the public health. Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2); 68 Stat. 512; 21 U.S.C. 346(d)(2)) and delegated to the Commissioner (21 CFR 2.120), §120.183 is amended by deleting the paragraph "5 parts per million in or on wheat \* \* \*" and by revising the paragraphs "5 parts per million in or on alfalfa \* \* \*" and "0.3 part per million in or on coffee \* \* \*" to read as follows:

##### § 120.183 O,O-Diethyl S-2-(ethylthio)ethyl phosphorodithioate; tolerances for residues.

5 parts per million in or on alfalfa (fresh), barley (green fodder and straw), bean vines, clover (fresh), corn fodder or forage (including field corn, sweet corn, and popcorn), oats (green fodder and straw), peanut hay, pea vines, pineapple foliage, rice straw, wheat (green fodder and straw).

0.3 part per million in or on coffee, corn grain including field corn, sweet corn (kernels plus cob with husk removed), and popcorn, sugarcane, wheat grain.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

(Sec. 408(d)(2); 68 Stat. 512; 21 U.S.C. 346(d)(2))

Dated: September 5, 1968.

J. K. KIRK,  
Associate Commissioner  
for Compliance.

[F.R. Doc. 68-11214; Filed, Sept. 13, 1968;  
8:49 a.m.]

#### PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

##### 2,4-Dichlorophenyl p-Nitrophenyl Ether

A petition (PP 8F0716) was filed with the Food and Drug Administration by