

In 71.181 (34 F.R. 7961) the description of the Rifle, Colo., transition area is amended by deleting " * * * latitude 39°24'00" N. * * *" in the 17th line and substituting " * * * 39°24'30" N. * * *" therefor.

Effective date. This amendment is effective upon publication in the *FEDERAL REGISTER*.

Issued in Los Angeles, Calif., on June 12, 1969.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 69-7342; Filed, June 20, 1969;
8:48 a.m.]

[Airspace Docket No. 69-SO-24]

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

Designation and Alteration of Transition Areas; Correction

On May 2, 1969, F.R. Doc. 69-5253, effective June 26, 1969, was published in the *FEDERAL REGISTER* (34 F.R. 7221, 7222), amending Part 71 of the Federal Aviation Regulations by designating the Marion, S.C., transition area and altering the Florence, S.C., transition area.

Subsequent to publication of the rule, Coast and Geodetic Survey refined the final approach radial of the VOR instrument approach from the Florence VORTAC 100° to the 101° radial. Accordingly, it is necessary to alter the Marion, S.C., transition area description to reflect this change.

Since this amendment is minor in nature, notice and public procedure hereon are unnecessary and action is taken herein to amend the rule accordingly.

In consideration of the foregoing, effective immediately, F.R. Doc. 69-5253 is amended as follows:

In line five of the Marion, S.C., transition area description " * * * Florence VORTAC 100° * * *" is deleted and " * * * Florence VORTAC 101° * * *" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in East Point, Ga., on June 16, 1969.

GORDON A. WILLIAMS, JR.,
Acting Director, Southern Region.

[F.R. Doc. 69-7344; Filed, June 20, 1969;
8:48 a.m.]

[Airspace Docket No. 69-WE-21]

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

PART 73—SPECIAL USE AIRSPACE

Designation of Restricted Areas and Alteration of Continental Control Area

On April 29, 1969, a notice of proposed rule making was published in the *FEDERAL REGISTER* (34 F.R. 7030) stating that the Federal Aviation Administration was considering amendments to Parts 71

and 73 of the Federal Aviation Regulations that would designate three temporary joint use restricted areas in the vicinity of Camp Hale, Colo., and that would alter the description of the continental control area to reflect the designation of these areas.

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

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., August 21, 1969, as hereinafter set forth.

1. In § 73.26 (34 F.R. 4819) the following is added:

R-2603 CAMP HALE, COLO.

Boundaries:

A—LAUNCH SITE

A circle with a five-mile radius centered at lat. 39°26'30" N., long. 106°19'30" W.

B—NORTH IMPACT AREA

Beginning at lat. 39°45'41" N., long. 106°28'55" W.; to lat. 39°45'01" N., long. 106°30'46" W.; to lat. 39°52'54" N., long. 106°35'51" W.; to lat. 39°53'46" N., long. 106°33'26" W.; thence to point of beginning.

C—SOUTH IMPACT AREA

Beginning at lat. 38°50'30" N., long. 106°01'20" W.; to lat. 38°51'10" N., long. 106°59'15" W.; to lat. 38°59'20" N., long. 106°03'10" W.; to lat. 38°58'40" N., long. 106°05'15" W.; thence to point of beginning.

Designated altitudes: Surface to FL 240. Time of designation: 0001 to 0900 daily, September 2, 1969, to October 11, 1969, and January 5, 1970, to February 10, 1970.

Controlling agency: FAA, Denver ARTC Center.

Using agency: Atmospheric Sciences Officer, Atmospheric Sciences Laboratory, U.S. Army Electronics Command, White Sands Missile Range, N. Mex.

2. In § 71.151 (34 F.R. 4546) "R-2603 Camp Hale, Colo." is added.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 16, 1969.

WILLIAM M. FLENER,
Director, Air Traffic Service.

[F.R. Doc. 69-7343; Filed, June 20, 1969;
8:48 a.m.]

[Docket No. 9113; Amdt. 93-17]

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

High Density Traffic Airports; Arrival and Departure Reservations and VFR Flight Plans

The purpose of this amendment is to permit operations at airports designated as high density traffic airports without obtaining an arrival or departure reservation, or filing a VFR flight plan, where appropriate.

Under the provisions of the high density traffic airport rules prescribed in Subpart K (Amdt. 93-15; 34 F.R. 2603), an arrival or departure reservation and an IFR or VFR flight plan, as appropriate,

are required for operations conducted at the airports involved. Since the effective date of those rules, the number of operations at the airports involved that are conducted between the hours of midnight and 6 a.m., local time, is extremely small and does not justify the need for an arrival or departure reservation during those hours. Accordingly, the requirement for an arrival or departure reservation is hereby deleted from the provisions of § 93.125 for all operations between midnight and 6 a.m., local time.

Inasmuch as reservations will no longer be required between the hours of midnight and 6 a.m., local time, the provisions of § 93.125 are further amended to provide that pilots operating VFR during those hours need not file a VFR flight plan.

If operational experience indicates that the demand for use of the affected airports between the hours of midnight and 6 a.m. begins to exceed the maximum hourly limitation specified in § 93.123, the FAA will take further regulatory action to restore the original terms of § 93.125 to operations conducted during those hours.

Since this amendment provides relief from procedural requirements, compliance with further notice and procedure is unnecessary and it is made effective upon publication in the *FEDERAL REGISTER*.

In consideration of the foregoing, § 93.125 is amended, effective June 21, 1969, by adding a flush paragraph at the end of that section to read as follows:

§ 93.125 Arrival or departure reservation and flight plan.

The arrival or departure reservations prescribed in paragraph (a) of this section and the VFR flight plan prescribed in paragraph (b) of this section are not required for an operation conducted to or from a high density traffic airport between 12 midnight and 6 a.m., local time.

(Secs. 103, 307 (a), (b), (c), 313(a), 601, Federal Aviation Act of 1958 (49 U.S.C. 1303, 1348 (a), (b), (c), 1354(a), 1421); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 1.4(b), (2), Part 1, Regulations of the Office of the Secretary)

Issued in Washington, D.C., on June 19, 1969.

J. H. SHAFER,
Administrator.

[F.R. Doc. 69-7404; Filed, June 20, 1969;
8:50 a.m.]

[Docket No. 9466; Amdt. 151-33]

PART 151—FEDERAL AID TO AIRPORTS

Land Acquisition Costs for Approach Lighting Systems; U.S. Share

The purpose of this amendment to Part 151 of the Federal Aviation Regulations is to provide, for projects under the Federal-aid Airport Program, that the U.S. share of the acquisition costs of land needed for the installation of approach lighting systems is 75 percent regardless of the intensity of the lights involved.

This amendment was proposed in Notice 69-8, issued on March 4, 1969, and published in the FEDERAL REGISTER on March 12, 1969 (34 F.R. 5111). Seven public comments were received on the notice, all of which concurred in the proposal. One comment suggested that the 75 percent Federal participation in acquisition costs for a parcel of land within a clear zone should also apply to any excess portion of that parcel lying outside the clear zone boundary. However, this comment is outside the scope of the notice.

As proposed in the notice, this amendment provides for the same percent of Federal participation in the acquisition costs of land needed for medium intensity approach lighting systems and like systems with runway alignment indicator lights that are now incorporated into the National Airspace System, as has been previously applied to high intensity approach lighting systems.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, § 151.13 of the Federal Aviation Regulations is amended, effective July 21, 1969, by striking out the words "high intensity" from the flush sentence at the end of paragraph (a) of that section.

(Secs. 9, 10, Federal Airport Act; 49 U.S.C. 1108, 1109; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c); § 1.4(b) (2), Regulations of the Office of the Secretary of Transportation)

Issued in Washington, D.C., on June 16, 1969.

J. H. SHAFFER,
Administrator.

[F.R. Doc. 69-7336; Filed, June 20, 1969;
8:47 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in the Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

CARBARSONE (Not U.S.P.)

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition (10-285V) filed by Whitmoyer Laboratories, Inc., Myerstown, Pa. 17067, and other relevant material, concludes that § 121.310 should be amended to provide for the safe use of a lower level of carbarson (not U.S.P.) in the feed of turkeys for the prevention of blackhead.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c) (1), 72 Stat. 1786; 21 U.S.C. 348(c) (1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.310 *Carbarson (not U.S.P.)*

is amended in the second column of the table in paragraph (b) by changing "340.5 (0.0375%)" to read "227-340.5 (0.025-0.375%)."

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. 409(c) (1), 72 Stat. 1786; 21 U.S.C. 348(c) (1))

Dated: June 13, 1969.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 69-7321; Filed, June 20, 1969;
8:46 a.m.]

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

CLOPIDOL; CORRECTION

In F.R. Doc. 69-5588 appearing at page 7612 in the issue of Tuesday, May 13, 1969, the text under "Limitations" for item 3 of the table in § 121.325 (b) is corrected to read: "For replacement chickens intended for use as caged layers; do not feed to laying chickens; do not feed to chickens over 16 weeks of age."

Dated: June 13, 1969.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 69-7322; Filed, June 20, 1969;
8:46 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

SUBCHAPTER C—AGE DISCRIMINATION IN EMPLOYMENT

PART 860—INTERPRETATIONS

Miscellaneous Amendments

Pursuant to the Age Discrimination in Employment Act of 1967 (81 Stat. 602; 29 U.S.C. 620) and Secretary's Orders

No. 10-68 (33 F.R. 9729) and No. 11-68 (33 F.R. 9690), 29 CFR Part 860 is amended as set forth below.

As these are interpretive rules and are not substantive, the provisions of 5 U.S.C. 553 concerning notice of proposed rule making, public participation therein, and delay in effective date do not apply. I do not believe such procedure and delay will serve a useful purpose here. Accordingly, these rules shall be effective immediately.

1. A new § 860.30 is added to read as follows:

§ 860.30 Definitions.

Considering the purpose of the proviso to section 7(c) of the Act as indicated in the reports of both the Senate and House Committees (see S. Rept. No. 723, 90th Cong., 1st Sess., and H. Rept. No. 805, 90th Cong., 1st Sess.) it was clearly the intent of Congress that the term "employee" in that proviso should apply to any person who has a right to bring an action under the Act, including an applicant for employment.

2. Paragraph (b) of § 860.92 is revised to read as follows:

§ 860.92 Help wanted notices or advertisements.

(b) When help wanted notices or advertisements contain terms and phrases such as "age 25 to 35," "young," "boy," "girl," "college student," "recent college graduate," or others of a similar nature, such a term or phrase discriminates against the employment of older persons and will be considered in violation of the Act. Such specifications as "age 40 to 50," "age over 50," or "age over 65" are also considered to be prohibited. Where such specifications as "retired person" or "supplement your pension" are intended and applied so as to discriminate against others within the protected group, they too are regarded as prohibited, unless one of the exceptions applies.

3. In § 860.95, the existing language is designated as paragraph (a), and a new paragraph (b) is added to read as follows:

§ 860.95 Job applications.

(b) An employer may limit the active period of consideration of an application so long as he treats all applicants alike regardless of age. Thus, for example, if the employer customarily retains employment applications in an active status for a period of 60 days, he will be in compliance with the Act if he so retains those of individuals in the 40 to 65 age group for an equal period of consideration as those of younger persons. Further, there is no objection to the employer advising all applicants of the above practice by means of a legend on his application forms as long as this does not suggest any limitation based on age. If it develops, however, that such a legend is used as a device to avoid consideration of the applications of older persons, or otherwise discriminate against them because of age, there would

then appear to be a violation of the Act. It should be noted that this position in no way alters the recordkeeping requirements of the Act which are set forth in Part 850 of this chapter.

4. In § 860.104, a new paragraph (c) is added to read as follows:

§ 860.104 Differentiations based on reasonable factors other than age—Additional examples.

(c) *Refusal to hire relatives of current employees.* There is no provision in the Act which would prohibit an employer, employment agency, or labor organization from refusing to hire individuals within the protected age group not because of their age but because they are relatives of persons already employed by the firm or organization involved. Such a differentiation would appear to be based on "reasonable factors other than age."

5. Section 860.110 is revised to read as follows:

§ 860.110 Involuntary retirement before age 65.

(a) Section 4(f) (2) of the Act provides that "It shall not be unlawful for an employer, employment agency, or labor organization * * * to observe the terms of * * * any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this Act, except that no such employee benefit plan shall excuse the failure to hire any individual * * *." Thus, the Act authorizes involuntary retirement irrespective of age, provided that such retirement is pursuant to the terms of a retirement or pension plan meeting the requirements of section 4(f) (2). The fact that an employer may decide to permit certain employees to continue working beyond the age stipulated in the formal retirement program does not, in and of itself, render an otherwise bona fide plan invalid insofar as the exception provided in section 4(f) (2) is concerned.

(b) This exception does not apply to the involuntary retirement before 65 of employees who are not participants in the employer's retirement or pension program. It should be noted that section 5 of the Act directs the Secretary of Labor to undertake an appropriate study of institutional and other arrangements giving rise to involuntary retirement, and report his findings and any appropriate legislative recommendations to the President and to Congress.

6. Section 860.120 is revised to read as follows:

§ 860.120 Costs and benefits under employee benefit plans.

(a) Section 4(f) (2) of the Act provides that it is not unlawful for an employer, employment agency, or labor organization "to observe the terms of * * * any bona fide employee benefit plan such

as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this Act, except that no such employee benefit plan shall excuse the failure to hire any individual * * *." Thus, an employer is not required to provide older workers who are otherwise protected by the law with the same pension, retirement or insurance benefits as he provides to younger workers, so long as any differential between them is in accordance with the terms of a bona fide benefit plan. For example, an employer may provide lesser amounts of insurance coverage under a group insurance plan to older workers than he does to younger workers, where the plan is not a subterfuge to evade the purposes of the Act. A retirement, pension, or insurance plan will be considered in compliance with the statute where the actual amount of payment made, or cost incurred, in behalf of an older worker is equal to that made or incurred in behalf of a younger worker, even though the older worker may thereby receive a lesser amount of pension or retirement benefits, or insurance coverage. Further, an employer may provide varying benefits under a bona fide plan to employees within the age group protected by the Act, when such benefits are determined by a formula involving age and length of service requirements.

(b) Profit-sharing plans: Not all employee benefit plans but only those similar to the kind enumerated in section 4(f) (2) of the Act come within this provision and a profit-sharing plan as such would not appear to be within its terms. However, where it is the essential purpose of a plan financed from profits to provide retirement benefits for employees, the exception may apply. The "bona fides" of such plans will be considered on the basis of all the particular facts and circumstances.

(c) Forfeiture clauses in retirement programs: Clauses in retirement programs which state that litigation or participation in any manner in a formal proceeding by an employee will result in the forfeiture of his rights are unlawful insofar as they may be applied to those who seek redress under the Act. This is by reason of section 4(d) which provides that it "shall be unlawful for an employer to discriminate against any of his employees * * * because such individual * * * has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under this Act."

(81 Stat. 602; 29 U.S.C. 620; Secretary's Order No. 10-68, 33 F.R. 9729; Secretary's Order No. 11-68, 33 F.R. 9690)

Signed at Washington, D.C., this 17th day of June 1969.

ROBERT D. MORAN,
Administrator, Wage and Hour
and Public Contracts Divisions.

[F.R. Doc. 69-7374; Filed, June 20, 1969;
8:50 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER B—SALES AND SERVICE

PART 813—SCHEDULE OF FEES FOR COPYING, CERTIFYING AND SEARCHING RECORDS AND OTHER DOCUMENTARY MATERIAL

Part 813 is revised to read as follows:

Sec.	Purpose.
813.0	Policy on fees.
813.2	Restrictions on copying.
813.4	Services provided without charge.
813.6	Reviewing schedule of fees.
813.10	Schedule of fees and rates.

AUTHORITY: The provisions of this Part 813 issued under sec. 8012, 70A Stat. 483; 10 U.S.C. 8012.

SOURCE: AFR 12-32, April 28, 1969.

§ 813.0 Purpose.

This part establishes the schedule of fees to be collected by the Air Force for copying, certifying, and searching records and other documentary material.

§ 813.2 Policy on fees.

The Air Force collects fees for copying, certifying, and searching records and other documentary materials to make these services as self-sustaining as possible. (Services and fees are listed in § 813.10.) Requests for information and copies of records are subject to AFR 11-30 (Disclosure of Unclassified Records and Use of the Term "For Official Use Only"). When the fee can be determined in advance, the activity concerned will collect it before performing the service. However, exceptions may be made for unusual requests.

§ 813.4 Restrictions on copying.

The copying or sale of copyright material contained in Air Force documents may violate exclusive rights granted to a copyright owner. See AFR 110-8 (Inventions, Patents, Copyright, and Trademarks) prior to copying or sale. For other restrictions on the copying or reproduction of material, see AFR 6-1 (Policies and Procedures Governing AF Printing and Duplicating).

§ 813.6 Services provided without charge.

Fees are not collected when requests for the following types of services are received from the sources specified: (The term "Armed Forces" includes the Air Force, Army, Navy, Marine Corps, and their civilian components.)

(a) Any service requested by members of the Armed Forces who require the document or information in their capacity as members of the Armed Forces of the United States.

(b) Any service requested by members of the Armed Forces who are in a casualty status, or by their next of kin