§ 982.222 **Free and restricted percentages for merchantable filberts during the 1972–73 fiscal year.**

The following percentages are established for merchantable filberts for the fiscal year beginning August 1, 1972:

Free percentage	67
Restricted percentage	33

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said amended marketing agreement and this part require that free and restricted percentages designated for a particular fiscal year shall be applicable to all inshell filberts handled during such year; and (2) the current fiscal year began on August 1, 1972, and the percentages established herein will automatically apply to all such filberts beginning with such date.

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

Dated: October 12, 1972.

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

[FR Doc.72-17768 Filed 10-17-72;8:51 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Released From Quarantine

Pursuant to the provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

1. In § 82.3, in paragraph (a)(1) relating to the State of California, subdivision (vii) relating to San Francisco County is deleted.

2. In § 82.3, the references to Alabama and Missouri in the introductory portion of paragraph (a) and paragraphs (a)(3) relating to the State of Alabama and paragraph (a)(6) relating to the State of Missouri are deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments exclude a portion of Jefferson County in Alabama, a portion of San Francisco County in California, and a portion of St. Louis City County in Missouri from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas. No areas in Alabama and Missouri remain under quarantine.

The amendments relieve certain restrictions presently imposed but no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to the affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 12th day of October 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-17721 Filed 10-17-72;8:47 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 269—POLICY ON UNIONIZATION AND COLLECTIVE BARGAINING FOR THE FEDERAL RESERVE BANKS

Objections to Election Procedure

By notice of proposed rule making published in the FEDERAL REGISTER of November 4, 1971 (36 F.R. 21212), which revised an earlier proposal published August 6, 1971 (36 F.R. 14479), the Board of Governors proposed to amend Part 269, "Policy on Unionization and Collective Bargaining for the Federal Reserve Banks". As indicated in its proposal, the purpose of the amendment is: (1) To protect employees from any interference with their making a fair and free choice in selecting or rejecting a bargaining representative even if such interference does not constitute an unfair labor practice within the meaning of § 269.6 and (2) to authorize the Federal Reserve System Labor Relations Panel to establish an expedited procedure for processing charges of interference, to promulgate rules to guide the conduct of all parties, and to provide appropriate remedies when interference has been found to have affected the outcome of the election.

Following consideration of the comments received the Board has determined that adoption of the proposed amendments would be in the best interests of the labor organizations, the Federal Reserve Bank employees, and Federal Reserve Bank management.

To implement its decision, the Board has amended § 269.5 by adding paragraph (f) to read as follows:

§ 269.5 **Elections.**

* * * * *

(f)(1) If at any time prior to an election, an appreciable number of employees evidence substantial interest in representation by one or more labor organizations, whether or not a 30 percent interest has yet been shown, it shall be incumbent on the Bank, labor organizations, and all others to refrain from any conduct, action, or policy that interferes with or restrains employees from making a fair and free choice in selecting or rejecting a bargaining representative.

(2) A Bank, labor organizations, or employees are not precluded from exercise of the free speech privileges of § 269.6(c) but such exercise may properly be held to be contrary to the intent of this section even if the conduct, action, or policy in question does not constitute an unfair labor practice under § 269.6 (a) (1), (2), or (3), or § 269.6(b) (1) or (2) of this policy.

(3) The Panel may promulgate expedited procedures for prompt disposition of allegations that a violation of this section has affected the outcome of the election.

(4) The Panel may determine whether there has been a violation of this section, may render appropriate interpretations of this section, and may set forth as guidelines the circumstances the Panel believes necessary for a fair and free election by a Code of Preelection Conduct or by decision in specific cases.

(5) In the event of a proven violation of this section by a Bank, by labor organizations, or by other individuals or organizations, found sufficient to affect the outcome of an election, the Panel may take appropriate remedial action such as the setting aside of the results of an election and the ordering of a new election: *Provided, however,* That the Panel may not require a Bank to recognize a labor organization without an election unless the violation is found to be

an unfair labor practice under § 269.6 that would make a free election unlikely.

Effective date: November 20, 1972.

By order of the Board of Governors, October 5, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17696 Filed 10-17-72;8:47 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 12317, Amdt. 91-105]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Flights Over Cuba; Rescission of Certain Requirements

The purpose of this amendment to Part 91 of the Federal Aviation Regulations is to rescind the application of § 91.101 to flights overflying Cuba.

Federal Aviation Regulation § 91.101 was originally issued as Special Civil Air Regulations SR-437 on October 30, 1959. It was issued during a period of international tension to provide for the proper coordination and clearance of all civil aircraft (with exceptions) departing the United States for flights "to or over" Cuba.

Many civil pilots, who overfly Cuba, believe that the applicability of § 91.101 to overflights is now no longer necessary and have requested its revocation with respect to overflights. The Department of State has advised that even though it still believes that the regulation should continue to be applied to flights "to" Cuba, there is no strong objection to rescinding the regulation with respect to flights, to other countries, passing "over" Cuba. The Department of Defense has advised that it concurs in this because the DVFR or IFR flight plan filed in accordance with FAR Part 99 satisfies air defense requirements. The Immigration and Naturalization Service and the U.S. Customs Service have also advised that they have no objection.

Section 91.101 now requires that no person may operate a civil aircraft (except the operation of aircraft by a scheduled air carrier over routes authorized in operations specifications issued by the Administrator) from the United States to, or over, Cuba unless—

(1) Departure is from an international airport of entry;

(2) The pilot has filed a DVFR or IFR flight plan; and

(3) The pilot has filed a written statement containing specified information with the Office of Immigration and Naturalization Service.

Rescission of the application of § 91.101 to flights overflying Cuba will grant relief and eliminate an unnecessary inconvenience to pilots by permitting departure from any airport and by eliminating the need for filing the written statement with the Immigration and Naturalization Service.

Rescission of the application of § 91.101 to flights "over" Cuba does not in any way affect other requirements relating to flights over Cuba. Other procedures and regulations are still in effect which provide for aircraft safety, and also provide assurance that the Cuban Government will be informed before any civil aircraft of the United States overflies Cuban territory. These other procedures and regulations include the following:

1. The "International Flight Information Manual" procedures for flights entering and overflying Cuban territory.

2. Federal Aviation Regulation § 99.11, which requires that an aircraft operating in or penetrating a coastal ADIZ must file a flight plan with an appropriate aeronautical facility.

3. Paragraph 3.3.1.1.2, Chapter 3, of the "International Standards, Rules of the Air," (Annex 2 to ICAO), which provides for a flight plan to be filed for operations across international borders.

4. Federal Aviation Administration Order 7110.10A, "Flight Services," paragraphs 790 and 1180, directing controllers to use ICAO procedures and docu-
other messages.
ments for handling flight plans and

5. ICAO Document No. 4444-RAC/501/10, "Rules of the Air and Air Traffic Services," Part VII, Coordination, providing for flight plans submitted under Annex 2 to be forwarded to the adjacent Flight Information Region.

6. Section 91.1(b)(1) of the Federal Aviation Regulations, which requires compliance with Annex 2 to ICAO over the high seas.

The entry procedures for Cuba stated in the "International Flight Information Manual" provide for a notification, by the overflying operator, by means of a cablegram addressed to AEROCIVIL, Habana, not less than 48 hours in advance of the anticipated time of departure.

These procedures provide for specific information (such as name, nationality, and official address of the operator, name of pilot in command, air corridor to be used under the flight plan, and date of the overflight) to be included in the cablegram. Under these procedures, this information is sent to AEROCIVIL, and the reply from AEROCIVIL insures that the notification has been received, and communicates its decision in the matter. Any aircraft which is authorized to make an overflight transmits its flight plan to the Habana air traffic control center not less than 1 hour before it enters the Flight Information Region assigned to the Republic of Cuba. Finally, these procedures provide for overflying aircraft to furnish the position reports prescribed by the areonautical authority for the area of its jurisdiction, and to make use of any services and facilities for aid to navigation that have been established or that are required under regional agreements of the ICAO or for reasons of safety.

It should be clearly noted that rescinding the applicability of § 91.101 to aircraft overflying Cuba does not eliminate the requirement of filing a flight plan for such flights. As stated above, § 99.11(a) of the Federal Aviation Regulations provides that "no person may operate an aircraft in or penetrating a coastal or domestic ADIZ unless he has filed a flight plan with an appropriate aeronautical facility." Any flight from the United States to Cuba that penetrates an ADIZ involves the required filing of a flight plan. Also, as stated above, paragraph 3.3.1.1.2, Chapter 3, of the "International Standards, Rules of the Air" (Annex 2 to ICAO), provides for a flight plan to be filed when operating across international borders. The United States, being a member of ICAO, complies with this provision.

The mere filing of a flight plan does not insure that the Cuban Government is informed that a United States civil aircraft will overfly Cuban territory. However, FAA Order 7110.10A "Flight Services," paragraphs 790 and 1180, directs a controller to use ICAO procedures for handling flight plans and flight plan information. Therefore, pursuant to ICAO Document No. 4444-RAC/501/10 "Rules of the Air and Air Traffic Services," Part VII, "Coordination" and Part VII, "Air Traffic Messages," controllers forward flight plans to adjacent Flight Information Regions. This procedure does assure that the Cuban Government will receive necessary prior information relating to overflights.

The safe operation of U.S. civil aircraft overflying Cuba is further achieved through § 91.1(b) of the Federal Aviation Regulations. This regulation requires, with certain exceptions, that each person operating a civil aircraft of U.S. registry outside of the United States, when over high seas, shall comply with Annex 2 (Rules of the Air) to the Convention on International Civil Aviation, and, when within a foreign country, comply with the regulations relating to the flight and maneuver of aircraft there in force.

Based upon the above discussion, and for the reasons stated, the FAA believes that the applicability of § 91.101 to flights overflying Cuba should be rescinded.

Since this amendment is minor in nature, and relieves the public of a burden that was imposed in response to an international situation that no longer requires that burden, it is found that notice and public procedure hereon would serve no useful purpose and are not necessary.

In consideration of the foregoing, Part 91 of the Federal Aviation Regulations is amended, effective October 18, 1972, as hereinafter set forth.

The introductory sentence of § 91.101 is amended to read as follows:

§ 91.101 Operations to Cuba.

No person may operate a civil aircraft from the United States to Cuba unless—

* * * * *

(Secs. 307(a), 313(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a), 1354(a); and sec.

6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 11, 1972.

J. H. SHAFFER,
Administrator.

[FR Doc.72-17716 Filed 10-17-72;8:48 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Hexachlorophene as a Component in Drug and Cosmetic Products for Human Use; Correction

In F.R. Doc. 72-16442 appearing at page 20160 in the FEDERAL REGISTER of Wednesday, September 27, 1972, the reference to "§ 135.9(d)" in the last line of § 3.91(c)(4)(ii) should read "§ 130.9(d)".

Dated: October 12, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner for Compliance.

[FR Doc.72-17713 Filed 10-17-72;8:46 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

COPPER

A notice was published by the Environmental Protection Agency in the FEDERAL REGISTER of February 15, 1972 (37 F.R. 3366), proposing establishment of a food-additive tolerance (21 CFR Part 121) of 1 part per million for residues of copper in potable water. Such residues would result from the use of the algicides or herbicides copper sulfate pentahydrate and basic copper carbonate (malachite) to control aquatic plants in reservoirs, lakes, ponds, irrigation ditches, and other potential sources of potable water. No requests for referral to an advisory committee were received. However, "copper sulfate pentahydrate" was changed to "copper sulfate" in response to a comment that the degree of hydration of the copper sulfate is not important. It is concluded that the amended proposal should be adopted.

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 F.R. 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 346a, and 348).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Program (36 F.R. 9038), Part 121 is amended by adding the following new section to Supart D:

§ 121.1241 Copper.

A tolerance of 1 part per million is established in potable water for residues of copper resulting from the use of the algicides or herbicides copper sulfate and basic copper carbonate (malachite) to control aquatic plants in reservoirs, lakes, ponds, irrigation ditches, and other potential sources of potable water.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto 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 its date of publication in the FEDERAL REGISTER (10-18-72).

(Sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d))

Dated: October 6, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-17705 Filed 10-17-72;8:46 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7213]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Bonds and Other Evidences of Indebtedness

On July 22, 1971, a notice of proposed rule making with respect to the amendments of the Income Tax Regulations (26 CFR Part 1) under section 1232 to conform the regulations to changes made by section 413 of the Tax Reform Act of 1969 (83 Stat. 609) was published in the FEDERAL REGISTER (36. F.R. 13605). On December 28, 1971, Treasury Decision 7154, published in the FEDERAL REGISTER on December 28, 1971 (36 F.R. 24995), adopted with modifications certain of the proposed changes and reserved certain of the items. After consideration of all relevant matters as were presented by interested persons regarding the rules proposed, the amendment of the regulations with respect to such proposed rules reserved in Treasury Decision 7154, and certain other of such relevant matters, are hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 1.163-4 is amended by revising paragraph (a) to read as set forth below.

PAR. 2. Section 1.1001-1 is amended by adding a new paragraph (g) immediately after paragraph (f) to read as set forth below.

PAR. 3. Section 1.1012-1 is amended by revising paragraph (f) to read as set forth below.

PAR. 4. Paragraph (b) of § 1.1232-3, as set forth in paragraph 15 to the notice of proposed rule making, is amended by revising subparagraphs (1)(iv) and (2)(iii)(*b*) and (*c*) to read as set forth below.

PAR. 5. Paragraph (a)(2)(iii) and Example (4) of paragraph (d) of § 1.1232-3A, as set forth in paragraph 16 to the notice of proposed rule making, are adopted without change.

PAR. 6. Paragraph (e) of § 1.1232-3A is amended by revising subparagraph (5)(ii), by redesignating subparagraph (5)(ii) as (5)(iii), and by adding a new subparagraph (7), to read as set forth below.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: October 7, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

§ 1.163-4 Deduction for original issue discount on certain obligations issued after May 27, 1969.

(a) *In general.* (1) If an obligation is issued by a corporation with original issue discount, the amount of such discount is deductible as interest and shall be prorated or amortized over the life of the obligation. For purposes of this section the term "obligation" shall have the same meaning as in § 1.1232-1 (without regard to whether the obligation is a capital asset in the hands of the holder) and the term "original issue discount" shall have the same meaning as in section 1232(b)(1) (without regard to the one-fourth of 1 percent limitation in the second sentence thereof). Thus, in general, the amount of original issue discount equals the excess of the amount payable at maturity over the issue price of the bond (as defined in paragraph (b)(2) of § 1.1232-3), regardless of whether that amount is less than one-fourth of 1 percent of the redemption price at maturity multiplied by the number of complete years to maturity. For the rule as to whether there is original issue discount in the case of an obligation issued in an exchange for property other than money, and the amount therof, see paragraph (b)(2)(iii) of § 1.1232-3. In any case in which original issue discount is carried over from one corporation to another corporation under section 381(c)(9) or from an obligation exchanged to an obligation received in any exchange under paragraph (b)(1)(iv) of § 1.1232-3, such discount shall be carried over for purposes of this section. The amount of original issue discount carried over in an exchange of obligations under the preceding sentence shall be prorated or amortized over the life of the obligation issued in such exchange. For computation of issue price and the amount of original issue discount in the case of serial obligations, see paragraph (b)(2)(iv) of § 1.1232-3.

* * * * *

§ 1.1001-1 Computation of gain or loss.

* * * * *

(g) *Certain exchanges involving original issue discount.* In the case of certain obligations or investment units exchanged for property, involving original issue discount under the provisions of section 1232(b), the amount realized will be determined in accordance with the rules of paragraph (b)(2)(iii)(*b*) of § 1.1232-3.

§ 1.1012-1 Basis of property.

* * * * *

(f) *Special rules.* For special rules for determining the basis for gain or loss in the case of certain vessels acquired through the Maritime Commission (or its successors) or pursuant to an agreement with the Secretary of Commerce, see sections 510, 511, and 607 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1160, 1161) and Parts 2 and 3 of this Chapter. For special rules for determining the unadjusted basis of property recovered in respect of war losses, see section 1336. For special rules with respect to taxable years beginning before January 1, 1964, for determining the basis for gain or loss in the case of a disposition of a share of stock acquired pursuant to the timely exercise of a restricted stock option where the option price was between 85 percent and 95 percent of the fair market value of the stock at the time the option was granted, see paragraph (b) of § 1.421-5. See section 423(c)(1) or 424(c)(1), whichever is applicable, for special rules with respect to taxable years ending after December 31, 1963, for determining the basis for gain or loss in the case of the disposition of a share of stock acquired pursuant to the timely exercise of a stock option described in such sections. See section 422(c)(1) for special rules with respect to taxable years ending after December 31, 1963, for determining the basis for gain or loss in the case of an exercise of a qualified stock option. For special rules with respect to certain exchanges creating original issue discount under the provisions of section 1232(b), see paragraph (b)(2)(iii)(*b*) of § 1.1232-3.

§ 1.1232-3 Gain upon sale or exchange of obligations issued at a discount.

* * * * *

(b) *Definitions*—(1) *Original issue discount.* * * *

(iv) *Carryover of original issue discount.* If in pursuance of a plan of reorganization an obligation is received in an exchange for another obligation, and if gain or loss is not recognized in whole or in part on such exchange of obligations by reason, for example, of section 354 or 356, then the obligation received shall be considered to have the same original issue discount as the obligation surrendered reduced by the amount of gain (if any) recognized as ordinary income upon such exchange of obligations, and by the amount of original issue discount with respect to the obligation surrendered which was included as interest income under the ratable inclusion rules of sections 1232(a)(3) and 1.1232-3A. If inclusion as interest of the ratable monthly portion of original issue discount is required under section 1232(a)(3) with respect to the obligation received, see paragraph (a)(2)(iii) of § 1.1232-3A for computation of the ratable monthly portion of original issue discount. For special rules in connection with certain exchanges of U.S. obligations, see section 1037.

(2) *Issue price defined.* * * *

(iii) *Issuance for property after May 27, 1969*—(*a*) *In general.* Except as provided in (*b*) of this subdivision, if an obligation or an investment unit is issued for property other than money, the issue price of such obligation shall be the stated redemption price at maturity and, therefore, no original issue discount is created as a result of the exchange. However, in such case, there may be an amount treated as interest under section 483. In the case of certain exchanges of obligations of the United States for other such obligations, see section 1037 for the determination of the amount of original issue discount on the obligation acquired in the exchange. For carryover of original issue discount in the case of certain exchanges of obligations, see subparagraph (1)(iv) of this paragraph.

(*b*) *Exceptions for original issue discount.* If an obligation or investment unit is issued for property in an exchange which is not pursuant to a plan of reorganization referred to in (*d*) of this subdivision, and if—

(*1*) The obligation, investment unit, or an element of the investment unit is part of an issue a portion of which is traded on an established securities market, or

(*2*) The property for which such obligation or investment unit is issued is stock or securities which are traded on an established securities market,

then the issue price of the obligation or investment unit shall be the fair market value of the property for which such obligation or investment unit is issued, as determined under (*c*) of this subdivision. Such issue price shall control for purposes of determining the amount realized by the person exchanging the property for the obligation or unit issued and the bases of the property acquired by the holder and issuer.

(*3*) An obligation which is not traded on an established securities market and which is not part of an issue or investment unit a portion of which is so traded shall not be treated as property decribed in (*1*) of this (*b*) even though the obligation is convertible into property so traded. For purposes of this (*b*), an obligation, investment unit, or element of an investment unit shall be treated as traded on an established securities market if it is so traded on or within 10 "trading" days after the date it is issued. "Trading" days shall mean those days on which an established securities market is open. For purposes of this subdivision (iii), the term "established securities market" shall have the same meaning as in paragraph (d)(4) of § 1.453-3 (relating to limitations on installment method for purchaser evidences of indebtedness payable on demand or readily tradable).

(*c*) *Determination of fair market value in cases to which (b) of this subdivision applies.* In general, for purposes of (*b*) of this subdivision, the fair market value of property for which an obligation or investment unit is issued shall be deemed to be the same as the fair market value of such obligation or investment unit, determined by reference to the fair market value of that portion of the issue, of which such obligation or unit is a part, which is traded on an established securities market. The fair market value of such obligation or unit shall be determined as of the first date after the date of issue (within the meaning of section 1232(b)(3)) that such obligation or unit is traded on an established securities market. If, however, the obligation or investment unit is not part of an issue a portion of which is traded on an established securities market, but the property for which the obligation or investment unit is issued is stock or securities which are traded on an established securities market, the fair market value of such property shall be the fair market value of such stock or securities on the date such obligation or unit is issued for such property. The fair market value of property for purposes of this (*c*) shall be determined as provided in § 20.2031-2 of this chapter (Estate Tax Regulations) but without applying the blockage and other special rules contained in paragraph (e) thereof.

(*d*) *Not in reorganization.* An exchange which is not pursuant to a reorganization referred to in this subdivision (*d*) is an exchange in which the obligation or investment unit is not issued pursuant to a plan of reorganization within the meaning of section 368(a)(1) or pursuant to an insolvency reorganization within the meaning of section 371, 373, or 374. Thus, for example, no original issue discount is created on an obligation issued in a recapitalization within the meaning of section 368(a)(1)(E). Similarly, no original issue discount is created on an obligation issued in an exchange, pursuant to a plan of reorganization, to which section 361 applies regardless of the income tax consequences to any person who pursuant to such plan is the ultimate recipient of the obligation. The application of section 351 shall not preclude the creation of original issue discount. For carryover of original issue discount in the case of an exchange of obligations pursuant to a plan of reorganization, see subparagraph (1)(iv) of this paragraph.

(*e*) *Effective date.* Determinations with respect to obligations issued on or before May 27, 1969, or pursuant to a written commitment which was binding on that date and at all times thereafter, shall be made without regard to this subdivision (iii).

* * * * *

§ 1.1232–3A Inclusion as interest of original issue discount on certain obligations issued after May 27, 1969.

(a) *Ratable inclusion as interest.* * * *

(2) *Ratable monthly portion of original issue discount.* * * *

(iii) *Ratable monthly portion upon carryover to new obligation.* In any case in which there is a carryover of original issue discount under paragraph (b)(1)(iv) of § 1.1232–3 from an obligation exchanged to an obligation received in such exchange, the ratable monthly portion of original issue discount in respect of the obligation received shall be computed by dividing the amount of original issue discount carried over by the sum of the number of complete months (plus any fractional part of a month) beginning on the date of the exchange and ending the day before the stated maturity date of the obligation received.

* * * * *

(4) *Examples.* * * *

Example (4). On January 1, 1968, D, a calendar year taxpayer, purchases at original issue, for cash of $8,000, P Corporation's 20-year, 6 percent bond which has a stated redemption price of $10,000 and which will mature on January 1, 1988. The original issue discount with respect to such bond is $2,000. However, the ratable inclusion rules of section 1232(a)(3) do not apply to D, since the bond was issued by P before May 28, 1969. On January 1, 1973, pursuant to a plan of reorganization as defined in section 368(a)(1)(E), and in which no gain or loss is recognized by D under section 354, D's 20-year bond is exchanged for a 10-year, 6 percent bond which also has a stated redemption price of $10,000 but will mature on January 1, 1983. Under paragraph (b)(1)(iv) of § 1.1232–3, the $2,000 of original issue discount is carried over to the new 10-year bond received in such exchange. Since the new bond is an obligation issued after May 27, 1969, D is required to begin ratable inclusion of the $2,000 of discount as interest in his gross income for 1973. The ratable monthly portion of original issue discount, as determined under section 1232(a)(3) to be included as interest in gross income is computed as follows:

Amount of original issue discount carried over	$2,000
Divide by: Number of complete months beginning on January 1, 1973, and ending on December 31, 1982	120 months
Ratable monthly portion	$16.67

§ 1.1232–3A Inclusion as interest of original issue discount on certain obligations issued after May 27, 1969.

* * * * *

(e) *Application of section 1232 to certain deposits in financial institutions and similar arrangements.* * * *

(5) *Time deposit open account arrangements.* * * *

(ii) *Obligations redeemed before maturity.* In the event of a partial redemption of a time deposit open account before maturity, the following rules, in addition to subparagraph (2) of this paragraph, shall apply:

(*a*) If, pursuant to the terms of the withdrawal, the amount received by the depositor is determined with reference to the principal amount of a specific deposit and interest earned from the date of such deposit, then such terms shall control for the purpose of determining which deposit was withdrawn.

(*b*) If (*a*) of this subdivision (ii) does not apply, then the withdrawal shall be deemed to be of specific deposits together with interest earned from the date of such deposits, on a first-in, first-out basis.

(iii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). (i) F is a cash method taxpayer who uses the calendar year as his taxable year. On December 1, 1970, F enters into a 5-year deposit open account arrangement with M Savings and Loan Corp. The terms of the arrangement provide that F will deposit $100 each month for a period of 5 years, and that interest will be compounded semiannually (on June 1 and December 1) at 6 percent, but will be paid only at maturity. Thus, assuming F makes deposits of $100 on the first of each month beginning with December 1, 1970, the account will have a stated redemption price of $6,998.20 at maturity on December 1, 1975. Since, however, section 1232 applies only to deposits made after December 31, 1970 (see paragraph (d) of § 1.1232–1), the $34.39 of compound interest to be earned on the first deposit of $100 over the term of the arrangement will not be subject to the ratable inclusion rules of section 1232(a)(3). F must include such $34.39 of interest in his gross income on December 1, 1975, the date it is paid.

(ii) For 1971, F must include $44.19 of original issue discount as interest in gross income, to be computed as follows:

(1) Date of $100 deposit	(2) Months to maturity	(3) Redemption price at maturity	(4) Original issue discount (col. 3—$100)	(5) Ratable monthly portion (col. 4÷col. 2)	(6) Months on deposit in 1971	(7) 1971 original issue discount (col. 5×col. 6)
1-1-71	59	$133.73	$33.73	$0.5717	12	$6.86
2-1-71	58	133.07	33.07	.5702	11	6.27
3-1-71	57	132.42	32.42	.5688	10	5.69
4-1-71	56	131.77	31.77	.5673	9	5.11
5-1-71	55	131.12	31.12	.5658	8	4.53
6-1-71	54	130.48	30.48	.5644	7	3.95
7-1-71	53	129.84	29.84	.5630	6	3.38
8-1-71	52	129.20	29.20	.5615	5	2.81
9-1-71	51	128.56	28.56	.5600	4	2.24
10-1-71	50	127.93	27.93	.5586	3	1.68
11-1-71	49	127.30	27.30	.5571	2	1.11
12-1-71	48	126.68	26.68	.5558	1	0.56
Total original issue discount to be included as interest in F's gross income for 1971						44.19

Example (2). (i) G is a cash method taxpayer who uses the calendar year as his taxable year. On February 1, 1971, G enters into a 4-year deposit open account arrangement with T Bank, a corporation. The terms of the deposit arrangement provide that G may deposit any amount from time to time in multiples of $50 for a period of 4 years. The terms also provide that G may not redeem any amount until February 1, 1975, except in an emergency as defined in, and subject to the qualifications provided by, Regulation Q of the Board of Governors of the Federal Reserve System. See 12 CFR § 217.4(d). Interest will be compounded semiannually (on February 1 and August 1) at 6 percent, providing there is no redemption prior to February 1, 1975. However, if there is a redemption prior to such date, interest will be compounded semiannually at 5½ percent.

(ii) The schedule of deposits made by G pursuant to the arrangement, and computation of ratable monthly portion for each deposit, is set forth in the table below:

(1) Date of deposit	(2) Months to maturity	(3) Amount of deposit	(4) Redemption price at maturity	(5) Original issue discount (col. 4—col. 3)	(6) Ratable monthly portion (col. 5÷col. 2)
2-1-71	48	100	$126.68	$26.68	$0.5558
6-1-71	44	200	248.42	48.42	1.1005
12-1-71	38	500	602.95	102.95	2.7092
2-1-72	36	800	955.24	155.24	4.3122
3-1-72	35	800	950.56	150.56	4.3017
7-1-72	31	600	699.00	99.00	3.1933
8-1-72	30	250	289.82	39.82	1.3275

(iii) With respect to amounts on deposit pursuant to the arrangement, the amounts of original issue discount G must include as interest in his gross income for 1971 and 1972 are computed in the table below:

(1) Date of deposit	(2) Ratable monthly portion	(3) Months on deposit in 1971	(4) 1971 original issue discount (Col. 2 × Col. 3)	(5) Months on deposit in 1972	(6) 1972 original issue discount (Col. 2 × Col. 5)
2-1-71	$0.5558	11	$6.11	12	$6.67
6-1-71	1.1005	7	7.70	12	13.21
12-1-71	2.7092	1	2.71	12	32.51
2-1-72	4.3122			11	47.43
3-1-72	4.3017			10	43.02
7-1-72	3.1935			6	19.16
8-1-72	1.3273			5	6.64
Total original issue discount includible as interest in gross income for taxable year			16.52		168.64

(7) *Contingent interest arrangements other than those described in subparagraph* (6)—(i) *In general.* If under the terms of a deposit arrangement, contingent interest may be earned and credited to a depositor's account, but is neither actually or constructively received before a fixed maturity date nor treated under subparagraph (6)(i) of this paragraph as creating a separate obligation, then the redemption price shall include the amount which would be credited to such account assuming the issuer, during the term of such account, credits contingent interest at the greater of the rate—

(*a*) Last credited on a similar account, or

(*b*) Equal to the average rate credited for the preceding 5 calendar years on a similar account.

(ii) *Adjustments for additional interest.* The rate taken into account under this subparagraph in computing the redemption price shall be treated as the guaranteed minimum rate for purposes of applying subparagraph (6) of this paragraph in the event the rate at which contingent interest is actually credited to the depositor's account exceeds such rate previously taken into account. If for any period the actual rate at which contingent interest is credited to the account exceeds by more than 1 percentage point the rate for the previous period taken into account under this subparagraph in computing the redemption price, a new computation shall be made to determine the ratable monthly portion of original issue discount to be included as interest in the gross income of the depositor over the remaining term of the account. For purposes of such computation, the date that interest is first so credited to the account shall be treated as the issue date, the adjusted basis of the account on such date shall be the issue price, and the redemption price shall equal the amount actually on deposit in the account on such date plus the amount which would be credited to such account assuming the issuer, during the remaining term of such account, continues to credit contingent interest at the new rate.

(iii) *Adjustment for reduced interest.* If for any period the actual rate of interest at which contingent interest is credited to the depositor's account is less than the rate for the previous period taken into account under this subparagraph in computing the redemption price, the difference between the amount of interest which would have been credited to the account at the rate for such previous period and the amount actually credited shall be allowed as a deduction against the amount of original issue discount with respect to such account required to be included in the gross income of the depositor. If an account is redeemed for a price less than the adjusted basis of the account, the depositor shall be allowed as a deduction, in computing adjusted gross income, the amount of the original issue discount he included in gross income but did not receive.

[FR Doc.72-17604 Filed 10-17-72;8:51 am]

Title 32—NATIONAL DEFENSE

Chapter XIV—Renegotiation Board

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

PART 1472—CONDUCT OF RENEGOTIATION

Miscellaneous Amendments to Chapter

Correction

In F.R. Doc. 72-16816 appearing at page 20690 of the issue for Tuesday, October 3, 1972, in § 1472.3(j)(4), the third complete sentence, reading, "In the event of the issuance of an order, as the case may be, will be followed", should be deleted. In addition, the phrase "the co will be entitled, upon request,", which appears in the fourth sentence, should be deleted.

Title 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent Office, Department of Commerce

PART 1—RULES OF PRACTICE IN PATENT CASES

Formula and Table Format

On February 2, 1972, notice of proposed rule making regarding the amendment of §§ 1.52 and 1.75 and the addition of a new § 1.58 of Title 37, Code of Federal Regulations, dealing with Formula and Table Format, was published in the FEDERAL REGISTER (37 F.R. 2520). Interested persons were given until April 30, 1972, to submit written comments, suggestions, or objections. Full and careful consideration was given to all written comments received. In view of these comments the proposed rule language has been revised. The revised rules do not now require that the formulas and tables be presented on separate bristolboard sheets but simply require them to be presented in the specification in a form suitable for photographic reproduction.

These rule changes are intended to facilitate the microfilming of application papers and the printing of patents which contain formulas and tables in the text.

Under the new rules the text of printed patents would continue to be typeset, with formulas and tables being photographically reproduced and appearing at their proper location in the text. This procedure should result in a reduction of printing errors and costs.

This rule change also makes more liberal the size of paper permissible in patent applications.

In consideration of the comments received and pursuant to the authority contained in section 6 of the Act of July 19, 1952 (66 Stat. 793; 35 U.S.C. 6), Part 1 of Title 37, Code of Federal Regulations, is hereby amended as follows:

1. Section 1.52 is revised to read as follows:

§ 1.52 Language, paper, writing, margins.

(a) The specification and oath or declaration must be in the English language. All papers which are to become a part of the permanent records of the Patent Office must be legibly written or printed in permanent ink or its equivalent in quality. All of the application papers must be presented in a form having sufficient clarity and contrast between the paper and the writing or printing thereon to permit the production of readily legible copies in any number by use of photographic, electrostatic, photo-offset, and microfilming processes. If the papers are not of the required quality, substitute typewritten or printed papers of suitable quality may be required.

(b) The application papers (specification, including claims, oath, or declaration, papers as provided for in §§ 1.42, 1.43, 1.47, etc.) and also papers subsequently filed, must be plainly written on but one side of the paper. The size of all sheets of paper should be 8 to 8½ by 10½ to 13 inches (20.3 to 21.6 cm. by 26.6 to 33.0 cm.). A margin of 1½ inches (3.8 cm.) must be reserved on the left-hand side and on the top of each page of the specification, including claims. The lines must not be crowded too closely together; typewritten lines should be double spaced. The pages of the specification, including claims, should be numbered consecutively, starting with 1, the numbers being placed in the center of the bottom margins.

(c) Any interlineation, erasure, or cancellation or other alteration of the application papers as filed must have been made before the application was signed and sworn to or declaration made, and should be dated and initialed or signed by the applicant in a marginal note or footnote on the same sheet of paper to indicate such fact. No such alterations are permissible after execution of the application papers. (See § 1.56.)

2. A new § 1.58 is added to read as follows:

§ 1.58 Chemical and mathematical formulas and tables.

(a) The specification, including the claims, may contain chemical and mathematical formulas, but shall not contain drawings or flow diagrams. The description portion of the specification may contain tables; claims may contain tables only if necessary to conform to 35 U.S.C. 112.

(b) All tables and chemical and mathematical formulas in the specification, including claims, and amendments thereto, must be on pure white durable paper, the surface of which is calendered and smooth, in order to permit use as camera copy when printing any patent which may issue. A good grade of bond paper is acceptable; watermarks should not be prominent. India ink or its equivalent, or solid black typewriter ribbon must be used to secure perfectly black solid lines.

(c) To facilitate camera copying when printing, the width of formulas and tables as presented should be limited normally to 5 inches (12.7 cm.) so that it may appear as a single column in the printed patent. If it is not possible to limit the width of a formula or table to 5 inches (12.7 cm.), it is permissible to present the formula or table with a maximum width of 10¾ inches (27.3 cm.) and to place it sideways on the sheet, in which case the formula or table will appear printed across both columns of the page in the printed patent. Typewritten characters used in such formulas and tables must be from a block (nonscript) type font or lettering style having capital letters which are at least 0.085 inch (2.2 mm.) high (elite type). Hand lettering must be neat, clean, and have a minimum character height of 0.085 inch (2.2 mm.). A space at least ¼ inch (6.4 mm.) high should be provided between the formulas and tables and the text. Tables should have the lines and columns of data closely spaced to conserve space, consistent with high degree of legibility.

§ 1.75 [Amended]

3. Section 1.75 is amended by adding at the end of paragraph (d)(1) the expression "(See § 1.58(a).)".

Effective date. These amendments shall become effective on January 1, 1973, and will apply to applications filed after that date.

RICHARD A. WAHL,
Acting Commissioner of Patents.

Approved: October 12, 1972.

RICHARD O. SIMPSON,
Acting Assistant Secretary for Science and Technology.

[FR Doc.72-17727 Filed 10-17-72;8:48 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

2-Chloro-1-(2,4-Dichlorophenyl) Vinyl Diethyl Phosphate

A notice (PP 1E1082) was published by the Environmental Protection Agency in the FEDERAL REGISTER of August 19, 1972 (37 F.R. 16812), proposing establishment of tolerances for residues of the insecticide 2-chloro-1-(2,4-dichlorophenyl) vinyl diethyl phosphate in the raw agricultural commodities fat of cattle and sheep at 0.15 part per million to control ectoparasites on foreign animals (spray or dip application). A minimum 3-day preslaughter interval is usually observed after application. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 F.R. 9038), Part 180 is amended as follows:

1. In § 180.3(e)(5), by alphabetically inserting in the list of cholinesterase-inhibiting pesticides a new item, as follows:

§ 180.3 Tolerances for related pesticide chemicals.

* * * * *

(e) * * *

(5) * * *

2-Chloro-1-(2,4-dichlorophenyl) vinyl diethyl phosphate.

* * * * *

2. In Subpart C, by adding a new section as follows:

§ 180.322 2-Chloro-1-(2,4-dichlorophenyl)vinyl diethyl phosphate; tolerances for residues.

A tolerance of 0.15 part per million is established for residues of the insecticide 2-chloro-1-(2,4-dichlorophenyl) vinyl diethyl phosphate from dermal application to animals (minimum preslaughter interval 3 days) in or on the raw agricultural commodity fat of cattle and sheep.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto 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 its date of publication in the FEDERAL REGISTER (10-18-72).

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e).

Dated: October 6, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-17707 Filed 10-17-72;8:46 a.m.]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O-Ethyl S,S-Dipropylphosphorodithioate

A petition (PP 2F1250) was filed by Mobil Chemical Co., Industrial Chemicals Division, Post Office Box 677, Richmond, VA 23208, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances (40 CFR Part 180) for negligible residues of the insecticide *O*-ethyl *S,S*-dipropylphosphorodithioate in or on the raw agricultural commodities brussels sprouts and cabbage at 0.02 part per million.

Subsequently, the petitioner amended the petition by withdrawing the proposed tolerance on brussels sprouts.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The insecticide is useful for the purpose for which the tolerance is being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.262 is revised to read as follows to establish the new tolerance:

§ 180.262 *O*-Ethyl *S,S*-dipropylphosphorodithioate; tolerances for residues.

Tolerances are established for negligible residues of the insecticide *O*-ethyl *S,S*-dipropylphosphorodithioate in or on the raw agricultural commodities bananas, cabbage, corn grain, corn fodder and forage, fresh corn including sweet corn (kernels plus cob with husk removed), peanuts, peanut hay, pineapples, pineapple fodder and forage, soybeans, soybean forage and hay, sugarcane, sugarcane fodder and forage, and sweet potatoes at 0.02 part per million.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto 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 its date of publication in the FEDERAL REGISTER (10-18-72).

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

Dated: October 6, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-17706 Filed 10-17-72;8:46 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19074; FCC 72-882]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Certain Cities in Kentucky, Tennessee, and Virginia

Memorandum opinion and order. In the matter of amendment of § 73.202(b), Table of assignments, FM Broadcast Stations (Greenville, Ky.; Burnside, Greensburg, and Jamestown, Ky.; Oak Ridge and Jamestown, Tenn.; Pineville, Barbourville, and Middlesboro, Ky.; and Big Stone Gap, Va.), Docket No. 19074.

1. The Commission here considers the Petition for Reconsideration filed by Veer Broadcasting Co., Inc., from that portion of the report and order, adopted January 12, 1972, denying the proposal for allocating Channel 276A to Greensburg, population 1,990, the seat and largest community of Green County, population 10,350, to be used 1 mile or more northeast of the city. 32 FCC 2d 937, 938-940.

2. In denying the assignment to Greensburg, we relied primarily on the fact that the petitioners Messrs. Milby and Price had not commented in the proceeding thus "evidencing a present lack of interest" (32 FCC 2d at 939), while Welby Hoover, doing business as Lake Cumberland Broadcasters (Lake Cumberland, the licensee of Station WJRS-FM, Jamestown, Ky., had opposed the assignment (primarily on the basis of considerations of reimbursement). As to reimbursement, it is "well settled" law that operating stations are entitled to reasonable payment; see paragraph 15 of the notice; paragraph 11 of the Second Report and Order in Docket No. 18476, 26 FCC 2d 162, 166 (1970); paragraph 14 of the report and order in this docket (32 FCC 2d at 942-3). In this respect, Lake Cumberland's claim for loss of listeners and good will, money and time expended for programing, and jingles to promote its current frequency are not reimbursable costs under the cited cases. We also rejected Lake Cumberland's other contentions—that service from its station to Greensburg (a distance of 30 miles) especially public service and public affairs programings and that WJRS-FM earns some revenue from Greensburg—were not reasons for rejecting an allocation to Greensburg under section 307(b) of the Act. While we stated that there was no presumption because of such failure, we speculated that petitioners' interest had waned because of the financial burden of building AM Station WGRK and the need to reimburse Station WJRS-FM to change from Channel 276A to 285A.

3. In fact, it appears that Messrs. Milby and Price had lost interest in radio service at Greensburg. They had relinquished their interest in Veer Broadcasting Co., Inc. (Veer Broadcasting) to Robert L. Towers and James M. Hay. Veer Broadcasting was granted AM Station WGRK at Greensburg. Veer Broadcasting then filed a petition for reconsideration in this proceeding.

4. We deferred action on the petition for reconsideration pending an agreement between Veer Broadcasting and Lake Cumberland as to reimbursement. The parties have now negotiated such an agreement, although Lake Cumberland will recover only from the successful applicant for Channel 276A. Accordingly, we deem it in the public interest to allocate a channel to Greensburg and change the assignment at Jamestown. Authority for adoption of the amendment proposed herein is contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended.

5. In accordance with the foregoing: *It is ordered,* That, effective November 20, 1972, the FM Table of Assignments (§ 73.202(b) of the rules) is amended, with respect to the cities listed below, as follows:

City	*Channel No.*
Greensburg, Kentucky	276A
Jamestown, Kentucky	285A

6. *It is further ordered,* That, effective November 20, 1972, and pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Lake Cumberland Broadcasters for Station WJRS-FM, Jamestown, Ky., is modified to specify operation on Channel 285A in lieu of Channel 276A subject to the following conditions:

(a) The licensee shall inform the Commission in writing by no later than November 20, 1972, of its acceptance of this modification.

(b) The licensee shall submit to the Commission by December 11, 1972, all necessary information complying with the applicable technical rules for modification of authorization to cover the operation of Station WJRS-FM on Channel 285A at Jamestown, Ky.

(c) The licensee may continue to operate on Channel 276A under its outstanding authorization until it is ready to operate on the new frequency or until 45 days after a construction permit has been granted for Channel 276A at Greensburg, Ky. Within 30 days of commencing operation on Channel 285A, the licensee shall submit measurement data of the sort normally required in an application for an FM broadcast station license.

(d) Lake Cumberland Broadcasters shall not commence operation on Channel 285A until the Commission specifically authorizes it to do so.