Rules and Regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of the Treasury

Section 213.3305 is amended to show that one position of Special Assistant to the Secretary is excepted under schedule C.

Effective on April 20, 1973, § 213.3305 (a) (44) is added as set out below.

§ 213.3305 **Treasury Department.**

(a) *Office of the Secretary.* * * *

(44) Special Assistant to the Secretary.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.73-7699 Filed 4-19-73;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 582]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period April 22–28, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.882 **Lemon Regulation 582.**

(a) *Findings.*—(1) Pursuant to the marketing agreement, as amended, and order No. 910, as amended (7 CFR part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons continues to weaken, with volume of sales projected as 10 percent below last week, and price is off 29 cents. The industry will lose nearly 2 full day's sales this week due to the Passover Observance and Good Friday. Average f.o.b. price was $4.92 per carton the week ended April 14, 1973, compared to $5.12 per carton the previous week. Track and rolling supplies at 158 cars were up 5 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 17, 1973.

(b) *Order.*—(1) The quantity of lemons grown in California and Arizona which may be handled during the period April 22, 1973, through April 28, 1973, is hereby fixed at 200,000 cartons.

(2) As used in this section, "handled," and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated April 19, 1973.

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

[FR Doc.73-7865 Filed 4-19-73;1:59 pm]

Title 9—Animals and Animal Products

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION), DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 305—OFFICIAL NUMBERS; INAUGURATION OF INSPECTION WITHDRAWAL OF INSPECTION; REPORTS OF VIOLATIONS

Suspension of Assignment of Inspectors for Threats of Forcible Assault, or Forcible Assault, Intimidation, or Interference

On August 11, 1972, the Department published a notice in the FEDERAL REGISTER (37 FR 16199) of a proposal to amend part 305 of the Federal meat inspection regulations (9 CFR part 305) to provide for the suspension of assignment of inspectors for threats of forcible assault, or forcible assault, intimidation, or interference with any program inspector.

Statement of considerations.—There were 14 comments received and of those commenting, 6 opposed the amendment. Five of those opposing the amendment were persons representing official

establishments, and one represented a trade organization.

Those opposing the amendment felt that program employees would abuse their authority by withholding inspection without justification. Some questioned a need for such a regulation on the grounds that such assaults or threats of assault are not sufficiently numerous to warrant such action. Three individuals requested clarification of the proposal. One desired to have the suspension provisions removed; one desired to require the suspension of program officials when it was determined that they willfully contributed to causing the suspension; and one wanted to clarify what constituted intimidation or harassment. One individual requested that all regulations be clarified. Four comments received favored the amendment. Two of those were from individuals, one was from an inspectors' employee organization, and one represented a State inspection program. All of these were in favor since they felt that in many cases the need for such an amendment existed.

The Secretary of Agriculture has the responsibility under the act to provide inspection for cattle, sheep, swine, goats, and equines and carcasses, parts of carcasses, and meat food products thereof intended for human food and prepared for distribution interstate or otherwise in "commerce" as defined in the act. This vital function can only be carried out when inspection personnel work under circumstances where they can concentrate fully on their inspection duties without having their attention diverted. This situation cannot exist where tension and other mental distractions occur. There is no intent on the part of the Department to deny inspection service to any official establishment without reasonable cause.

The Department carefully considered the comments, as previous careful study and consideration had been given to a like amendment in the poultry products inspection regulations. The Department follows a general practice of recognizing the right of the management of an official establishment to appeal any decision of a program employee to that employee's superior. If abuse or misuse of authority on the part of a program employee has occurred, appropriate steps are taken to rectify such a situation and to insure against recurrences. Although assaults on program employees are not numerous, there are many threats, instances of intimidation or interference with inspection. There is a need for a rule governing the action to be taken when such problems arise. The temporary suspension of assignment provision must necessarily be an option as a part of the possible action. It would be impracticable, if not impossible, for the Department to identify every possible action which could constitute a threat of forcible assault, forcible assault, or intimidation of, or interference with, program employees. The Department believes the regulations are sufficiently clear to fairly inform the affected persons of the possible consequences of actions within the terminology used. Further the regulation provides a means by which the affected persons may challenge the application of a suspension in any specific factual circumstances.

Accordingly, the Department has determined to adopt the amendment as proposed, except to delete the words "inspection service" and insert the word "program" in three places to conform the language with the terminology used elsewhere in the meat inspection regulations.

Therefore § 305.5(b) of the regulations is amended to read as follows:

§ 305.5 Withdrawal of inspection; statement of policy.

* * * * * *

(b) The assignment of inspectors may be temporarily suspended, in whole or in part, by the Administrator to the extent it is determined necessary to avoid impairment of the effective conduct of the program when the operator of any official establishment or any subsidiary therein, or any officer, employee, or agent of any such operator or any subsidiary therein, acting within the scope of his office, employment, or agency, threatens to forcibly assault or forcibly assaults, intimidates, or interferes with any program employee in or on account of the performance of his official duties under the act, unless promptly upon the incident being brought by an authorized supervisor of the program employee to the attention of the operator of the establishment the operator (1) satisfactorily justifies the incident, (2) takes effective steps to prevent a recurrence, or (3) provides acceptable assurance that there will not be any recurrences. Such suspension shall remain in effect until one of such actions is taken by the operator: *Provided*, That upon request of the operator he shall be afforded an opportunity for an expedited hearing to show cause why the suspension should be terminated.

* * * * * *

(Sec. 21, 34 Stat. 1264, as amended, 21 U.S.C. 621; 37 FR 28464, 28477.)

It does not appear that further public participation in rulemaking proceedings on the amendment would make additional information available to the Department. This amendment must be made effective as soon as possible in order to accomplish its objectives in the public interest.

Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice and other public rulemaking procedure on the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

The amendment shall become effective April 20, 1973.

Done at Washington, D.C., on April 16, 1973.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.73-7605 Filed 4-19-73;8:45 am]

SUBCHAPTER C—MANDATORY POULTRY PRODUCTS INSPECTION

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Facilities for Inspection

On February 5, 1972, there was published for comment in the FEDERAL REGISTER (37 FR 2778), a proposal to amend the poultry inspection regulations under the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) by adding the requirement that operators of official establishments provide laundry service for inspectors' outer work garments. The comment period ended March 6, 1972.

After due consideration of the comments received and all other relevant matters, and under the authority of the Poultry Products Inspection Act, § 381.36(a) of the regulations is amended as set forth below.

Statement of considerations.—To insure as sanitary a processing environment as possible, the outer work garments of inspectors must be kept clean. Such garments are cleaned better in commercial laundries than in most home laundries.

During the comment period, several questions were raised as to the utilization of uniform rental service garments in lieu of laundry service. Since this type of service provides adequate commercially laundered work garments, it is a reasonable and acceptable alternative, which is adopted.

One comment questioned whether disposable, one-time use only garments, would be acceptable. Since these types of garments are not reused, they also are allowed. Accordingly, § 381.36 is amended by adding a sentence at the end of paragraph (a) as follows:

§ 381.36 Facilities required.

(a) * * *. Each official establishment shall provide commercial laundry service for inspectors' outer work clothing, or disposable outer work garments designed for one-time use, or uniform rental service garments which are laundered by the rental service.

* * * * * *

(Sec. 14, 71 Stat. 447, as amended, 21 U.S.C. 463; 37 FR 28464, 28477.)

The amendment differs in certain respects from the proposed amendment in the notice of rulemaking. The difference is due primarily to the consideration given to comments received from interested parties. It does not appear that further public rulemaking proceedings concerning the amendment would make additional information available to this Department. Therefore, in accordance with administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further public participation in rulemaking proceedings on the amendment is impracticable and unnecessary.

This amendment shall become effective June 18, 1973.

Done at Washington, D.C., on April 16, 1973.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.73-7604 Filed 4-19-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 12631; Amdt. No. 139-1]

PART 139—CERTIFICATION AND OPERATIONS: LAND AIRPORTS SERVING CAB-CERTIFICATED AIR CARRIERS

Broadened Applicability

The purpose of this amendment to part 139 of the Federal Aviation regulation is to: (1) Broaden the applicability of part 139 to make it applicable to all airports serving air carriers certificated by the Civil Aeronautics Board; (2) provide for the issuance of airport operating certificates to airport operators that would be required by this amendment to comply with part 139; and (3) provide certain certification and operations rules for heliports that are required by the nature of those airports.

This amendment is based on a "Notice of Proposed Rule Making" (notice No. 73-8) issued March 7, 1973, and published in the FEDERAL REGISTER on March 12, 1973 (38 FR 6692). Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all comments received in response to that notice.

As originally promulgated, part 139 was applicable to land airports regularly serving scheduled air carriers that hold certificates of public convenience and necessity issued by the Civil Aeronautics Board (CAB) and operate large aircraft (other than helicopters) into those airports. In order to serve air carriers after May 20, 1973, airports to which part 139 is applicable must comply with part 139 and be issued an FAA airport operating certificate. The preamble to part 139, issued June 12, 1972 (37 FR 12278; June 21, 1972), stated that further rules would be developed to comply with the legislative mandate of section 612 of the Federal Aviation Act of 1958, as amended, as to all other airports serving air carriers certificated by the CAB. This amendment is issued to accomplish that purpose.

Airports that do not regularly serve CAB-certificated scheduled air carriers operating large aircraft, but do provide service to CAB-certificated air carriers, include airports that serve: (1) Certificated supplemental air carriers; (2) certificated air carriers operating small aircraft (12,500 lb. or less maximum certificated takeoff weight); (3) certificated certificated air carriers operating helicopters. This amendment enlarges the applicability of part 139 to include these airports, in addition to those airports regularly serving scheduled air carriers operating large aircraft. Thus, all airports serving certificated air carriers will be required to comply with part 139 and to have an airport operating certificate in order to serve these air carriers after May 20, 1973. This includes provisional and refueling airports serving certificated air carriers as provided for in parts 121 and 127.

Comments received in response to notice 73-8 were generally opposed to broadening the applicability of part 139. It was asserted that compliance with the standards and equipment requirements of part 139 was, in many cases, not feasible, and that the financial burden of compliance was disproportionate to the air service and safety benefits that might be realized. Several comments noted that budgeting and funding cycles for many State and local governments required as much as 2 years advance planning and that full compliance within the 1-year period contemplated by the notice was not possible.

The FAA recognizes that full compliance with part 139 may, in many cases, impose an undue burden and be economically unreasonable, particularly for airports that only serve infrequent charter operations and those in remote and isolated areas of sparse population. In such cases, considerations of the public interest may outweigh the requirement for full compliance. Section 612 of the Federal Aviation Act specifically provides such exemption authority and § 139.19 and part 11 set forth the procedures for applying for exemptions. In this regard, it should be noted that the FAA will carefully review all factors related to an airports operation to determine whether an exemption should be granted. Although the standards and equipment requirements now contained in part 139 are considered to be minimum requirements, they are the subject of continuing study, and where that study, or information brought to the attention of the FAA, shows that adjustment of those requirements is feasible, rulemaking action will be taken.

The proposal in notice 73-8 for certification of those additional airports to which part 139 is now made applicable has been changed in the light of comments received. That proposal contemplated issuance of an airport operating certificate based on assurances of compliance with part 139 within 1 year from the effective date of the certificate. The FAA recognizes that supplemental and charter air carrier operations are typically responsive to short-term or short-notice demands and that the random and unscheduled character of these operations prevents accurate forecasting of the additional airports that may be included in the applicability of part 139 by this amendment. Thus, the number of airports desiring to service their operations may not be as great as anticipated. In any event, in view of the difficulties that have been encountered by some airports now being certificated, the FAA believes that, for the airports that would be required to comply with part 139 by virtue of this amendment, it is desirable to provide for the issuance of airport operating certificates to those airports that may not be able to comply with all of the requirements of part 139 before May 21, 1973.

The FAA has a substantial body of knowledge and data, based on documentation and operating experience, relating to those additional airports to which part 139 will now be applicable. The FAA obtains data relating to all airports open to the public. Data relating to all airports serving air carrier aircraft, including those in the National Airport System Plan, is gathered by FAA field personnel, general aviation inspectors, air carrier inspectors, and flight inspection personnel who visit public airports and observe airport and operating conditions in the routine discharge of their duties. Additionally, where traffic control towers or flight service stations are located on or near airports, FAA personnel assigned to those facilities have an opportunity and duty to observe and report conditions. An air carrier conducting cargo flights, charter flights and other special services under part 121 is required to determine that any airport it intends to use is properly equipped and adequate for the proposed operation.

Based on this body of data and in view of the operating experience of those additional airports to which part 139 will now be applicable, the FAA has determined that they are able to conduct a safe operation in accordance with the requirements of the act, and that provisional airport operating certificates, subject to such terms, conditions and limitations as the Administrator finds are reasonably necessary to assure safety in air transportation, may be issued to those airports pending their compliance with part 139.

Accordingly, a new § 139.12 has been added to part 139 which provides for provisional certification, effective May 21, 1973, for a period of 45 days. That certification may be extended to May 21, 1974, if the airport operator, together with a request for such extension and request for delivery of the certificate, furnishes the name and address of the airport, the airport owner, and the airport operator, and his assurances that safety will be maintained at least at the level current on May 21, 1973. Holders of these provisional airport operating certificates would then be required to submit to the appropriate regional director before September 1, 1973, a schedule showing how compliance with each requirement will be achieved, except as to those requirements with which the operator believes compliance is not feasible or in the public interest and for which an exemption is requested. Thereafter, the certificate holder would be required to submit, before January 15, 1974, a report showing to what extent compliance with part 139 has been achieved. If the airport operator does not request extension of the 45-day provisional certificate before July 5, 1973, the certificate expires on that date.

It was asserted in several comments that in the enactment of section 612 of the Federal Aviation Act that Congress did not intend that airports other than airports regularly serving scheduled air carriers that hold certificates of public convenience and necessity issued by the CAB and operate large aircraft into those airports be certificated. The FAA believes that section 612 of the Federal Aviation Act applies to all airports that

serve CAB-certificated air carriers, and that this rulemaking action is reasonable and necessary to comply with the Congressional mandate stated in the act. In this connection, it should be noted that section 610(a)(8) makes it unlawful for any person to operate an airport serving air carriers certificated by the CAB without an airport operating certificate, or in violation of the terms of any such certificate. By this amendment, part 139 is broadened to be made applicable to those four categories of air carrier operations listed above in this preamble in order to cover all airports serving CAB-certificated air carriers. However, it is not intended that part 139 be applicable to airports at which air carrier training, ferry, check, or test operations are conducted, by reason of these operations. These airports are not by reason of these operations considered to be "serving" air carriers.

One comment was received relating to the proposal to issue airport operating certificates that expire in 1 year to those additional airports. The commentator suggested that these certificates be issued for a longer period. With respect to these certificates, the FAA feels that the 1-year duration of provisional airport operating certificates will enable the FAA to work out problems and programs with airport operators, to determine to what extent any exemption requested may be justified, and at the end of the 1-year period issue regular certificates for the provisional certificates.

Another comment objected to the requirement in present §§ 139.13 and 139.31 for airport operations manuals and recommended that this requirement be applicable only to airports which have more than 500 air carrier departures annually. The FAA does not agree. The airport operations manual is an essential document showing how compliance is to be achieved, and serves as a guide and reference for airport operators and other airport personnel.

A criticism of present § 139.19, relating to petitions for exemption from safety equipment requirements was made to the effect that the section was redundant and unduly restrictive in view of the provisions in part 11 providing for petitions for exemptions. It should be noted that § 139.19 provides for exemptions from certain specified requirements based on a finding that compliance would be contrary to the public interest, in accordance with the requirements of section 612 of the act, whereas part 11 provides for general exemptions based on a finding that the exemption would be in the public interest.

One comment recommended that the fire fighting equipment requirement under § 139.49 be applicable, at airports which serve only small aircraft, only if such requirement is stated on its operating certificate. The FAA believes that the fire fighting equipment requirement applicable to index A is the minimum general standard for an airport. However, if an operator believes that compliance is not feasible or reasonable and that public interest considerations justify an exemption, he may file a petition for an exemption. Such petitions will be given full and due consideration by the FAA.

In connection with § 139.49, it should be noted that for the purpose of identifying fire fighting and rescue equipment and service requirements, an airport, including heliports, which serves fewer than five scheduled departures per day of large aircraft by air carriers would fall in index A. Thus, index A would be applicable to airports and heliports serving only unscheduled operations by CAB-certificated air carriers (supplemental air carriers and charter operations by air carriers), or operations with small aircraft (scheduled or unscheduled), or both. Where an index has been established, based on scheduled large aircraft departures, additional unscheduled or small aircraft operations would not increase or affect index selection.

Another comment suggested that § 139.89, relating to actions to be taken when firefighting or rescue equipment becomes inoperable, be completely redrafted because the "down-time" allowance was an impractical limit in remote areas. It should be noted that the requirements of this section are, to a certain extent, variable as authorized by the Administrator. In some cases, petitions for exemption may be justified by the circumstances.

Based on further consideration in view of comments received in response to the notice, the FAA has concluded that airports that serve air taxi operations conducted pursuant to a route substitution agreement with an air carrier are not "serving" a CAB-certificated air carrier. It appears from the legislative history of section 612 of the act that the airport certification requirements do not apply to those airports serving air taxis as a result of these agreements. In this respect it should be noted that an air taxi operator operates under an exemption issued by the CAB and therefore is not an air carrier certificated by the CAB.

The FAA does not agree with another comment that part 139 should not apply to airports that are used for "refueling" by a CAB-certificated air carrier. These airports come within the purview of section 612, since they are rendering definite services to the air carriers and as such are serving CAB-certificated air carriers and are required to comply with part 139.

Finally, it should be noted that part 139 is limited to land airports. The FAA is aware that there are a few CAB-certificated air carriers operating seaplanes (or float planes) in Alaska. These operations are conducted in small aircraft into remote unattended water bodies without delineated landing areas on an infrequent basis where land airports and facilities cannot be justified or maintained. If there are any facilities at all, they consist of nothing more than a floating dock or ramp which are used by both boats and aircraft. Furthermore, many of the water bodies are in the public domain and there is no identifiable operator. The FAA does not believe such airports come within the intent of the airport certification requirements of the Federal Aviation Act.

In consideration of the foregoing, part 139 of the Federal Aviation regulations is amended, effective May 21, 1973, as follows:

1. By amending the title to read "Part 139—Certification and Operations: Land Airports Serving CAB-certificated Air Carriers."

2. By amending § 139.1 to read as follows:

§ 139.1 Applicability.

(a) This part prescribes rules governing the certification and operation of land airports serving air carriers that hold certificates of public convenience and necessity issued by the Civil Aeronautics Board and operate aircraft into those airports.

(b) As used in this part—

(1) "Air operations area" means an area of the airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft;

(2) "Air carrier user" means an air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board; and

(3) "Certificated airport" means an airport that is certificated under subpart B of this part.

3. By amending § 139.3 to read as follows:

§ 139.3 Certification: General.

(a) After May 20, 1973, no person may operate a land airport serving any CAB-certificated air carriers operating aircraft into that airport, in any State of the United States, the District of Columbia, or any territory or possession of the United States, without or in violation of an airport operating certificate for that airport, or in violation of this part or the approved airport operations manual for that airport.

4. By amending § 139.11 to read as follows:

§ 139.11 Issue of certificate.

An applicant for the issue of an airport operating certificate under this subpart is entitled to a certificate if—

(a) It serves or is expected to serve scheduled air carrier users; and

(b) The Administrator, after investigation, finds that the applicant is properly and adequately equipped and able to conduct a safe operation in accordance with this part, and approved the airport operations manual submitted with and incorporated in the application.

5. By adding a new § 139.12 to read as follows:

§ 139.12 Issue of certificates for airports serving only unscheduled operations, or operations with small aircraft.

(a) Notwithstanding any other provision of this part, a person who on May 20, 1973, operates an airport or heliport which serves CAB-certificated air carriers conducting only unscheduled operations or operations with small aircraft may continue to serve such air carriers

and is certificated under this part until July 5, 1973.

(b) An airport operator may obtain an extension of the termination date of the certificate to May 21, 1974, if together with a request for such extension and for delivery of the certificate, it submits to the appropriate Regional Director:

(1) The name and address of the airport, the airport owner, and the airport operator; and

(2) Its assurances that at least the level of safety current at the airport on May 21, 1973, will be maintained.

(c) An airport operating certificate issued under this section shall—

(1) Contain a provision that at least the current level of safety will be maintained at the airport, and such other terms, conditions, or limitations that the Administrator may find necessary; and

(2) Be effective until May 21, 1974, unless sooner surrendered, suspended, revoked, or otherwise terminated for violation of the terms of the certificate.

(d) If a request for extension and delivery of an airport operating certificate issued under this section is not made before July 5, 1973, the certificate terminates on that date.

(e) The holder of a certificate issued under this section shall—

(1) Maintain at least the level of safety current at the airport on May 21, 1973;

(2) Submit to the appropriate regional director before September 1, 1973, a schedule for compliance, showing how compliance with each requirement of this part will be achieved, and any requests for exemptions from any of those requirements in accordance with part 11 of this chapter or § 139.19; and

(3) Submit a status report to the appropriate regional director before January 15, 1974, showing to what extent compliance has been achieved.

6. By amending paragraph (a) of § 139.13 to read as follows:

§ 139.13 Application for certificate.

(a) Each applicant for the issue of an airport operating certificate under this subpart must submit its application on a form and in the manner prescribed by the Administrator, accompanied by and incorporating its airport operations manual prescribed by subpart C of this part, to the appropriate FAA airport field office in whose area the applicant proposes to establish or has established its airport. Each applicant should submit its application at least 120 days before the intended date of operation.

* * * * *

7. By amending paragraphs (a) and (b) of § 139.19 to read as follows:

§ 139.19 Exemptions: safety equipment.

(a) Any person required to apply for an airport operating certificate under this part may petition the Administrator, under § 11.25 of part 11 of this chapter (general rulemaking procedures), for an exemption from the safety equipment requirements of § 139.49, § 139.53, § 139.65, § 139.105, § 139.109, or § 139.111, on the grounds that compliance would be contrary to the public interest.

(b) Each petition filed under paragraph (a) of this section must be submitted in duplicate to the appropriate FAA airport field office in whose area the applicant proposes to establish or has established its airport.

* * * * *

8. By inserting the phrase "or G" after the phrase "Subpart E" in the first sentence in § 139.21.

9. By striking out the phrase "Subpart D of this part," in paragraph (a)(1) of § 139.33, and inserting the phrase "Subpart D or F of this part, as applicable," in place thereof.

10. By striking out the phrase "Subpart E of this part" in paragraph (a)(2) of § 139.33, and inserting the phrase "Subpart E or G of this part, as applicable," in place thereof.

11. By amending the heading of subpart D to read as follows:

Subpart D—Certification Eligibility: Airports Other Than Heliports

12. By amending the lead-in language in § 139.41 to read as follows:

§ 139.41 Eligibility requirements: General.

To be eligible for an airport operating certificate for an airport other than a heliport, an applicant must—

* * * * *

13. By amending the heading of subpart E to read as follows:

Subpart E—Operations: Airport Other Than Heliports

14. By amending the lead-in language in § 139.81 to read as follows:

§ 139.81 Operation rules: General.

Each person operating an airport, other than a heliport, for which an airport operating certificate has been issued under subpart B of this part shall—

* * * * *

15. By adding new subparts F and G to read as follows:

Subpart F—Certification eligibility: Heliports

Sec.

AUTHORITY: Sec. 313(a), 609, 610(a), and 612, Federal Aviation Act, 1958; 49 U.S.C. 1354(a), 1429, 1430, PL 91-258, 84 Stat. 234, 235, PL 92-174, 85 Stat. 492.

Subpart F—Certification Eligibility: Heliports

§ 139.101 Eligibility requirements: General.

To be eligible for an airport operating certificate for a heliport, an applicant must—

(a) Comply with the applicable requirements of subparts A, B, and C of this part;

(b) Comply with each applicable section of this subpart; and

(c) Comply with the requirements of §§ 139.51, 139.55 through 139.63, and 139.67.

§ 139.103 Marking and lighting.

(a) The applicant for an airport operating certificate must show that any items of airport lighting are in operable condition. An airport lighting item is considered inoperable if, during periods of use, it fails to adequately illuminate its area or creates a lighting effect that misleads or confuses the user.

(b) The applicant must show that all vehicle parking, roadway, and building illumination lighting on its airport is so designed, adjusted, or shielded as not to blind or hinder air traffic control or aircraft operations.

(c) The applicant must show that any markings that it has on its airport are clearly visible and in good condition.

§ 139.105 Heliport firefighting and rescue equipment and service.

Except to the extent that the Administrator determines under § 139.19 that it would be contrary to the public interest, the applicant for an airport operating certificate must show that it has, and will have, available during helicopter operations, at least the airport firefighting and rescue equipment with the vevehicle response-time capability and trained personnel prescribed in this section.

(a) The applicant must show that it has at least the required firefighting and rescue equipment assigned for index A aircraft by § 139.49(b)(1), with the 3-minute response time prescribed by § 139.49(e)(1). A fixed installation, a wheeled vehicle (other than self-propelled), or off-airport firefighting and rescue equipment may be used if the prescribed 3-minute response time is met.

(b) The applicant must show that it has the capability to—

(1) Operate and maintain all required firefighting and rescue equipment owned by it in operable condition; and

(2) Alert by siren or equivalent alarm the firefighting and other personnel having a need to know of any existing or impending emergency that requires, or might require, their use.

(c) The applicant must show that it has available appropriately clothed and sufficiently qualified firefighting and rescue personnel to insure at least 85 percent of the required maximum agent discharge rate of firefighting equipment.

(d) The applicant must show that the firefighting and rescue personnel are familiar with the operation of the firefighting and rescue equipment and understand the basic principles of firefighting and rescue techniques.

§ 139.107 Traffic and wind direction indicators.

Except to the extent that the Administrator determines under § 139.19 that

it would be contrary to the public interest, the applicant for an airport operating certificate must show that it has on its airport a wind direction indicator, installed to provide appropriate wind direction information, and lighted during the conduct of night operations.

§ 130.109 Public protection.

Except to the extent that the Administrator determines under § 139.19 that it would be contrary to the public interest, the applicant for an airport operating certificate must show that it has on its airport appropriate safeguards against inadvertent entry of persons into any air operations area.

§ 139.111 Airport condition assessment and reporting.

(a) The applicant for an airport operating certificate must show that it has appropriate procedures for identifying, assessing, and disseminating information to air carrier users of its airport, by Notices to Airmen or other means acceptable to the Administrator, concerning conditions on and in the vicinity of its airport that affect, or may affect, the safe operation of aircraft.

(b) The procedures prescribed by paragraph (a) of this section must cover the following conditions:

(1) Construction or maintenance work on pavement areas.

(2) The presence and depth of snow on pavement areas.

(3) The presence of parked aircraft or other objects on, or next to, runways, taxiways, or helicopter landing surface.

(4) The failure or irregular operation of all or part of the airport lighting system, including the approach, threshold, and obstruction lights operated by the operator of the airport.

(5) The presence of a large number of birds.

§ 139.113 Identifying, marking, and reporting construction and other unserviceable areas.

(a) The applicant for an airport operating certificate must show that it has appropriate procedures for the following items when on or adjacent to any air operations area:

(1) Conspicuously identifying all construction areas and other unserviceable pavement areas by marking and lighting them.

(2) Identifying and marking the location of all utilities in construction areas that, if interrupted, could cause failure of a facility or navaid.

(b) Identifying and marking any areas adjacent to navaids that, if traversed, could cause emission of false signals or failure of the navaids.

Subpart G—Operations: Heliports

Sec.
139.121 Operational rules: General.
139.123 Pavement areas.
139.125 Snow removal and positioning.
139.127 Airport firefighting and rescue equipment and service.

AUTHORITY.—Secs. 313(a), 609, 610(a), and 612, Federal Aviation Act, 1958; 49 U.S.C. 1354(a), 1429, 1430, Public Law 91-258, 84 Stat. 234, 235, Public Law 92-174, 85 Stat. 492.

Subpart G—Operations: Heliports

§ 139.121 Operations rules: General.

Each person operating an airport for which an airport operating certificate has been issued under subpart B of this part shall—

(a) Operate, maintain, and provide facilities, equipment, systems, and procedures at least equal in condition, quality, and quantity to the standards currently required for the issue of the airport operating certificate for that airport;

(b) Have sufficient personnel available, and require that personnel comply with its approved airport operations manual in the performance of their duties;

(c) Comply with the additional rules of this subpart; and

(d) Comply with the requirements of §§ 139.87, 139.91, and 139.93.

§ 139.123 Pavement areas.

The operator of each certificated airport shall comply with the following requirements:

(a) It shall promptly repair each crack or hole in the landing area that exceeds 3 inches across or 3 inches deep.

(b) It shall promptly, and as completely as practicable, remove from the landing areas, snow, ice, slush, standing water, mud, dust, sand, loose aggregate, or other contaminants as required by operational considerations.

(c) Where sand is used on ice on the pavement areas, it shall use only sand, free of corrosive salts, that adheres to the snow or ice sufficiently to minimize aircraft engine ingestion of the sand.

(d) It shall promptly prevent ponding on any pavement area on the airport that has a depth or other dimension that would obscure markings.

§ 139.125 Snow removal and positioning.

The operator of each certificated airport shall move any drifted or piled snow off the usable landing pad (except as otherwise authorized in its approved airport operations manual). When unable to comply with this requirement, the operator shall promptly notify the users.

§ 139.127 Airport firefighting and rescue equipment and service.

The operator of each certificated airport shall at all times comply with the following:

(a) Except as provided in paragraph (b) of this section, it shall provide the required firefighting and rescue equipment and service prescribed in § 139.105 during all periods of scheduled aircraft operations.

(b) When any required firefighting or rescue vehicle becomes inoperable, it shall provide appropriate replacement equipment within 8 hours thereafter. However, if appropriate replacement equipment is not available within that period, it shall promptly issue a notice to airmen to that effect. When the equipment is inoperable and the notice has been issued, and the service level is not restored within 10 calendar days, air carrier operations on the airport must be discontinued.

(Secs. 313(a), 609, 610(a), and 612 Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1429, 1430; Public Law 91-258, 84 Stat. 234, 235; Public Law 92-174, 85 Stat. 492.)

Issued in Washington, D.C., on April 17, 1973.

ALEXANDER P. BUTTERFIELD,
Administrator.

[FR Doc.73-7708 Filed 4-19-73;2:00 pm]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2364]

PART 13—PROHIBITED TRADE PRACTICES

Atlantic Carpet Corp. and Walter A. Tinsley

Subpart—Importing, manufacturing, selling, or transporting flammable wear: § 13.106 *Importing, manufacturing, selling or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191.) [Cease and desist order, Atlantic Carpet Corp. et al., Calhoun, Ga., docket No. C-2364, Mar. 16, 1973.]

In the Matter of Atlantic Carpet Corp., a Corporation, and Walter A. Tinsley, Individually and as an Officer of the Corporation

Consent order requiring a Calhoun, Ga., manufacturer and seller of carpets and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act, as amended.

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

It is ordered, That respondent Atlantic Carpet Corp., a corporation, its successors and assigns, and its officers, and respondent Walter A. Tinsley, individually and as an officer of said corporation and respondents' agents, representatives, and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric, or related material fails to conform to an applicable