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PROCLAMATION 4183

Quantitative Limitation on the Importation of Certain Meats into the United States

By the President of the United States of America

A Proclamation

WHEREAS section 2(a) of the act of August 22, 1964 (78 Stat. 594, 19 U.S.C. 1202 note) (hereinafter referred to as "the act"), declares that it is the policy of the Congress that the aggregate quantity of the articles specified in item 106.10 (relating to fresh, chilled, or frozen cattle meat) and item 106.20 (relating to fresh, chilled, or frozen meat of goats and sheep (except lambs)) of the Tariff Schedules of the United States (hereinafter referred to as "meat") which may be imported into the United States in any calendar year beginning after December 31, 1964, shall not exceed a quantity to be computed as prescribed in that section (hereafter referred to as "adjusted base quantity"); and

WHEREAS section 2(b) of the act provides that the Secretary of Agriculture for each calendar year after 1964 shall estimate and publish the adjusted base quantity for such calendar year and shall estimate and publish quarterly the aggregate quantity of meat which in the absence of the limitations under the act would be imported during such calendar year (hereafter referred to as "potential aggregate imports"); and

WHEREAS the Secretary of Agriculture, pursuant to sections 2(a) and (b) of the act, estimated the adjusted base quantity of meat for the calendar year 1973 to be 1,046.8 million pounds and estimated the potential aggregate imports of meat for 1973 to be 1,450 million pounds; and

WHEREAS the potential aggregate imports of meat for the calendar year 1973, as estimated by the Secretary of Agriculture, exceed 110 percent of the adjusted base quantity of meat for the calendar year 1973 estimated by the Secretary of Agriculture; and

WHEREAS no limitation under the act is in effect with respect to the calendar year 1973; and

WHEREAS section 2(c)(1) of the act requires the President in such circumstances to limit by proclamation the total quantity of meat which

may be entered, or withdrawn from warehouse, for consumption, during the calendar year, to the adjusted base quantity estimated for such calendar year by the Secretary of Agriculture pursuant to section 2(b)(1) of the act; and

WHEREAS section 2(d) of the act provides that the President may suspend the total quantity proclaimed pursuant to section 2(c) of the act if he determines and proclaims that such action is required by overriding economic or national security interests of the United States, giving special weight to the importance to the Nation of the economic well-being of the domestic livestock industry; and

WHEREAS section 2(d) of the act further provides that such suspension shall be for such period as the President determines and proclaims to be necessary to carry out the purposes of section 2(d);

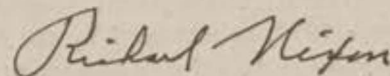
NOW, THEREFORE, I, RICHARD NIXON, President of the United States, acting under and by virtue of the authority vested in me as President and pursuant to section 2 of the act, do hereby proclaim as follows:

(1) In conformity with and as required by section 2(c)(1) of the act, the total quantity of the articles specified in item 106.10 (relating to fresh, chilled, or frozen cattle meat) and item 106.20 (relating to fresh, chilled, or frozen meat of goats and sheep (except lambs)) of part 2B, schedule 1 of the Tariff Schedules of the United States which may be entered, or withdrawn from warehouse, for consumption during the calendar year 1973, is limited to 1,046.8 million pounds.

(2) It is hereby determined pursuant to section 2(d) of the act that the suspension of the limitation proclaimed in paragraph (1) is required by overriding economic interests of the United States, giving special weight to the importance to the Nation of the economic well-being of the domestic livestock industry.

(3) The limitation proclaimed in paragraph (1) is suspended during the calendar year 1973 unless because of changed circumstances it becomes necessary to take further action under the act. It is hereby determined necessary that such suspension shall be for such period in order to carry out the purposes of section 2(d) of the act.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of January, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninety-seventh.



[FR Doc.73-1997 Filed 1-29-73;4:57 pm]

PROCLAMATION 4184

Save Your Vision Week, 1973

By the President of the United States of America

A Proclamation

Like many precious possessions, eyesight is usually taken for granted until it is lost. Yet the preservation of vision—one of life's greatest blessings—need not be left to chance. There are steps all of us can take to help keep our eyes healthy for a lifetime of useful service.

Simple safety precautions can substantially reduce the number of accidents which cause loss of vision. Potential sources of eye injury in the home, at work, and at school can be sought out and eliminated.

However, most blindness in the United States is the result not of injury, but of disease. Proper attention to hygiene, good nutrition, and, most important, regular professional eye examinations can minimize the risk of visual disability.

Glaucoma, one of the most common eye diseases, can be detected through a simple and painless test and, if detected early, can usually be arrested and controlled.

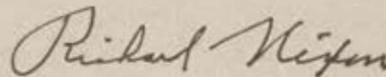
Many elderly Americans are unnecessarily blind because of cataracts. It is tragic that unwarranted fear of cataract surgery—successful in 95 percent of the cases—keeps many of our older citizens from regaining their sight.

For visual loss that can now neither be prevented nor cured, research such as that conducted by the Federal Government through the National Eye Institute offers new hope.

To encourage greater awareness of the importance of preserving sight, the Congress, by a joint resolution approved December 30, 1963 (77 Stat. 629), requested the President to proclaim the first week in March of each year as Save Your Vision Week.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim the week of March 4, 1973, as Save Your Vision Week. I invite the Governors of the States and appropriate local government officials to issue similar proclamations, and I call upon the Nation's mass communications media to join in bringing to the attention of all Americans the importance of preventive vision care.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of January, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninety-seventh.



[FR Doc.73-1998 Filed 1-29-73;4:57 pm]

PROCLAMATION 4185

National Safe Boating Week, 1973

By the President of the United States of America

A Proclamation

As more and more Americans in all parts of our Nation turn to boating as a leisure time activity, we need to give increasing attention to the safety requirements of the millions who participate in this healthy, challenging outdoor sport.

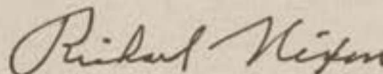
Aware of this need, the Congress approved a joint resolution on June 4, 1958 (72 Stat. 179) requesting that the President proclaim an annual National Safe Boating week during the week including July 4th of each year.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week beginning July 1, 1973, as National Safe Boating Week.

I urge all Americans who use our waterways to take advantage of the numerous boating safety courses offered by governmental and private organizations to help make their stay afloat as safe as it is enjoyable. These courses, sponsored by the United States Coast Guard, the Coast Guard Auxiliary, the United States Power Squadrons, the American Red Cross and various State agencies, provide the average citizen with the information needed for the safe operation of recreational boats. I particularly urge the novice and the occasional boatman, the one who operates a small boat on only a few weekends of the year, to consider his own and his family's safety and to be prepared for the unexpected by taking advantage of the sound safety information such courses offer.

I also invite the Governors of the States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and the Commissioner of the District of Columbia to provide for the observance of this week.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of January, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninety-seventh.



[FR Doc.73-1996 Filed 1-29-73;4:57 pm]

STATE OF NEW YORK

In SENATE,

January 10, 1923.

REPORT

OF THE

COMMISSIONERS OF THE LAND OFFICE

IN RESPONSE TO A RESOLUTION

PASSED BY THE SENATE

APRIL 10, 1922.

ALBANY:

THE UNIVERSITY OF THE STATE OF NEW YORK

1923.

PRINTED BY THE UNIVERSITY OF THE STATE OF NEW YORK

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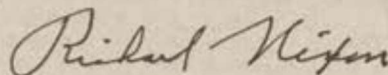
EXECUTIVE ORDER 11702

Relative to the Executive Office of the President

Under and by virtue of the authority vested in me by section 301 of title 3 of the United States Code and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. The Office of Consumer Affairs, established by Executive Order No. 11583 of February 24, 1971, as amended by Executive Order No. 11595 of May 26, 1971, together with its functions, is hereby transferred from the Executive Office of the President to the Department of Health, Education, and Welfare. The Director of the Office of Consumer Affairs shall continue as the Special Assistant to the President for Consumer Affairs.

SEC. 2. In view of the establishment of the Council on Economic Policy, the Cabinet Committee on Economic Policy, together with its functions, is hereby abolished and Executive Order No. 11453 of January 24, 1969, is hereby revoked.



THE WHITE HOUSE,
January 25, 1973.

[FR Doc.73-2000 Filed 1-29-73;5:06 pm]

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLUMBIA

Case No. 1:12-cv-00001-AMC

Filed: 01/12/12

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Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Action

Section 213.3359 is amended to show that one position of Staff Assistant to the Associate Director for Domestic and Anti-Poverty Operations is excepted under Schedule C.

Effective on January 31, 1973, paragraph (h) of § 213.3359 is added as set out below.

§ 213.3359 ACTION.

(h) One Staff Assistant to the Associate Director for Domestic and Anti-Poverty Operations.

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,

Executive Assistant to the Commissioners.

[FR Doc.73-1815 Filed 1-30-73;8:45 am]

Title 7—Agriculture

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

[Navel Orange Reg. 284, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation increases the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period January 19-25, 1973. The quantity that may be shipped is increased due to improved market conditions for Navel oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907.

(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, 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 Navel Orange 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 Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Navel Orange Regulation 284 (38 FR 1728). The marketing picture now indicates that there is a greater demand for Navel oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Navel oranges to fill the current market demand thereby making a greater quantity of Navel oranges available to meet such increased demand, the regulation should be amended, as herein after 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 rule making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Navel oranges grown in Arizona and designated part of California.

(b) Order, as amended. The provisions in paragraph (b) (1) (i), and (ii) of § 907.584 (Navel Orange Regulation 284) (38 FR 1728), are hereby amended to read as follows:

§ 907.584 Navel Orange Regulation 284.

- (b) Order. (1)
(i) District 1: 922,000 cartons;
(ii) District 2: 203,000 cartons.

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

Dated: January 24, 1973.

CHARLES R. BRADER,
Acting Deputy Director, Fruit
and Vegetable Division, Agri-
cultural Marketing Service.

[FR Doc.73-1818 Filed 1-30-73;8:45 am]

[Papaya Reg. 3, Amdt. 1]

PART 928—PAPAYAS GROWN IN HAWAII

Regulation by Grades and Sizes

This proposal would extend the currently effective grade and size requirements for Hawaiian papayas through December 31, 1973, which are as follows. For interstate shipments, Hawaii No. 1 with a 10-ounce minimum size. For intrastate shipments, Hawaii No. 2 with a 12-ounce minimum size, except Hawaii No. 1, and Hawaii Fancy, which have a 14- and 16-ounce minimum size, respectively.

Notice was published in the FEDERAL REGISTER issue of January 12, 1973 (38 FR 1395) that the Department was giving consideration to a proposal to amend § 928.303 (Papaya Regulation 3; 37 FR 28410) pursuant to the applicable provisions of the marketing agreement, and Order No. 928 (7 CFR 928) regulating the handling of papayas grown in Hawaii. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal was submitted by the Papaya Administrative Committee, established pursuant to said marketing agreement and order. Interested persons were afforded opportunity to file written data, views, or arguments thereon. None were filed.

The proposal, as recommended by the committee, would amend § 928.303 (Papaya Regulation 3; 37 FR 28410) to continue the effective period of said regulation to include all papaya shipments during 1973. The recommended action is based upon an appraisal of the prevailing supply and market situation for papayas. It is deemed necessary in order to assure consumers of an appropriate supply of quality fruit during the balance of the 1973 season and is in keeping with the objective of maintaining grower returns at a level consistent with the public interest.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendations and information submitted by the Papaya Administrative Committee, established under the said marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such papayas, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give further preliminary notice to engage in further

public rule making procedure and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of such papayas are currently in progress and this amendment should be applicable to all papaya shipments occurring on and after the effective date as specified herein in order to effectuate the declared policy of the act; (2) the effective period specified herein is the same as that specified in the notice, to which no exceptions were submitted; and (3) compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order. In § 928.303 (Papaya Regulation 3; 37 FR 28410) the provisions of paragraph (a) preceding subparagraph (1), will read as follows:

§ 928.303 Papaya Regulation 3.

(a) *Order.* During the period January 1, 1973, through December 31, 1973, no handler shall ship any container of papayas:

Dated January 24, 1973, to become effective February 1, 1973.

CHARLES R. BRADER,
Acting Deputy Director, Fruit
and Vegetable Division, Agri-
cultural Marketing Service.

[FR Doc.73-1905 Filed 1-30-73;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order 65]

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

Deferral of Effective Date of Certain Provisions

This order defers to March 1, 1973, the effective date of the following provisions of the order amending the order regulating the handling of milk in the Nebraska-Western Iowa marketing area issued December 15, 1972 (37 FR 28126) pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.):

The terms of the Class I base plan—§§ 1065.90 through 1065.98.

STATEMENT OF CONSIDERATION

An order amending the Nebraska-Western Iowa milk marketing order to provide a Class I base plan was issued by the Assistant Secretary, December 15, 1972 (37 FR 28126) to become effective February 1, 1973. As provided in the Agricultural Marketing Agreement Act, the purpose of such plan is "equitably to apportion the total value of milk purchased by all handlers among producers on the basis of their marketings of milk * * * during a representative period * * *".

The specified representative period in the order is comprised of the two years, 1971 and 1972.

It is implicit in the operation of the plan that a complete record of each producer's milk deliveries be obtained and used in the computation of his history of production. Difficulties in obtaining complete records for a substantial number of producers, primarily because their marketings during the representative period include milk deliveries to numerous unregulated manufacturing plants, have delayed computation of the histories of production. The scattered nature of the data and problems in ascertaining accurately the deliveries of each producer require extensive searching of records at such plants. In addition, the histories of production for these and other producers involve many instances of changes in production facilities or changes in partnership operations which affect the computation of production history bases.

It is hereby determined that the time needed to obtain complete records of producers' marketings during the representative period, or to ascertain whether such complete data are available, and to determine production history bases of all producers, prevents effectuation of the Class I base plan on February 1, 1973.

The two cooperative associations in the market (Mid-America Dairymen, Inc., and Associated Milk Producers, Inc.) have been advised by the market administrator of the circumstances delaying the computation of production history bases. The Board of Directors of the Central States Division of Mid-America Dairymen, in a resolution, requests that in the event the Department determines that the Class I base plan cannot be made effective February 1, 1973, the effective date be delayed until March 1, 1973. The latter cooperative association represents a large majority of producers on the market.

It is therefore ordered, That the effective date with respect to the above designated order provisions is March 1, 1973. (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Signed at Washington, D.C., on January 24, 1973.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.73-1819 Filed 1-30-73;8:45 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; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

[Docket No. 73-505]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

This amendment quarantines an additional portion of Southampton County in

Virginia because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined area.

Therefore, pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, paragraph (e)(10) relating to the State of Virginia is amended to read:

(e) * * *

(10) *Virginia.* That portion of Southampton County bounded by a line beginning at the junction of the Virginia-North Carolina State line and Secondary Road 701; thence, following Secondary Road 701 in a northerly direction to State Highway 195; thence, following State Highway 195 in a northeasterly direction to State Highway 35; thence, following State Highway 35 in a southerly direction to Secondary Road 670; thence, following Secondary Road 670 in a southeasterly direction to Secondary Road 743; thence, following Secondary Road 743 in a southeasterly direction to Secondary Road 716; thence, following Secondary Road 716 in a northeasterly, then northwesterly direction to Secondary Road 665; thence, following Secondary Road 665 in an easterly direction to Secondary Road 672; thence, following Secondary Road 672 in a northeasterly direction to Secondary Road 673; thence, following Secondary Road 673 in a northwesterly direction to Secondary Road 671; thence, following Secondary Road 671 in a northeasterly direction to Secondary Road 749; thence, following Secondary Road 749 in a northeasterly direction to Secondary Road 731; thence, following Secondary Road 731 in a southeasterly direction to Secondary Road 674; thence, following Secondary Road 674 in a northeasterly direction to Secondary Road 680; thence, following Secondary Road 680 in a southeasterly direction to Secondary Road 671; thence, following Secondary Road 671 in a northeasterly direction to U.S. Highway 258; thence, following U.S. Highway 258 in a northeasterly direction to U.S. Highway 258, U.S. Highway 58; thence, following U.S. Highway 258, U.S. Highway 58 in a northeasterly direction to the west bank of the Blackwater River; thence, following the west bank of the Blackwater River in a generally southeasterly direction to the Virginia-North Carolina State line; thence, following the Virginia-North Carolina State line in a westerly direction to its junction with Secondary Road 701.

(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; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 37 F.R. 28464, 28477)

Effective date. The foregoing amendment shall become effective January 24, 1973.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera, and must be made effective immediately to accomplish its purpose in the public interest. 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 amendment are impracticable, unnecessary and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 24th day of January 1973.

G. H. WISE,
Acting Administrator, Animal
and Plant Health Inspection
Service.

[FR Doc.73-1820 Filed 1-30-73;8:45 am]

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Cattle From Mexico

On May 9, 1972, there was published in the FEDERAL REGISTER (37 FR 9328), a notice of proposed rule making with respect to an amendment of the regulations contained in Part 92, Title 9, Code of Federal Regulations, relating to the importation of cattle from Mexico. The purpose of the amendment is to require a negative tuberculin test for steers offered for entry into the United States from Mexico not more than 60 days before the date such animals are offered for entry, or in lieu thereof, to require a negative tuberculin test to be conducted at the time such animals are presented at the port of entry.

After due consideration of all relevant material, including that submitted in connection with such notice, and pursuant to the provisions of sections 6, 7, 8, and 10 of the Act of August 30, 1890, as amended, section 2 of the Act of February 2, 1903, as amended, and sections 2, 3, 4, 5, and 11 of the Act of July 2, 1962 (21 U.S.C. 102-105, 111, 134a, 134b, 134c, 134d, and 134f), the amendment is adopted as proposed, with the exception that tuberculin testing to be done at the port of entry may be done under the

supervision of the port veterinarian instead of by him as proposed. This change from the proposal is made to expedite the movement of cattle through ports of entry into the United States from Mexico. Therefore, paragraph (b)(1) of § 92.35 is amended to read:

§ 92.35 Cattle from Mexico.

(b) *Tuberculosis.* (1) In addition to the provisions required in the certificate under paragraph (a) of this section, such certificate shall also show, with respect to all cattle from Mexico except cattle certified in accordance with § 92.40, that a review of the available herd history, including any tuberculin test results, traceback slaughter reports and post-mortem record, and any other available records or information do not indicate evidence of tuberculosis or exposure thereto during the preceding 60 days. The certificate shall also show, with respect to all cattle, except cattle certified in accordance with § 92.40 and steers, that the herd or herds from which the animals proceed have been tuberculin tested with negative results not more than 12 months nor less than 3 months before the date the animals are offered for entry into the United States and that the animals presented for entry, excepting only the natural increase in the herd, were included in the herd or herds of origin at the time of said herd test. The certificate shall further show, with respect to steers, that each animal has been tested with negative results by a salaried veterinarian of the National Government of Mexico not more than 60 days before the date the animals are offered for entry into the United States; *Provided*, That for steers not so tested and certified, the importer may elect to have the tuberculin test completed at the port of entry under the supervision of the port veterinarian. The said certificate shall give the date and place of inspection, the date and place and results of the tuberculin test if applicable, the name of the herd owner, the name of the consignor and consignee, and an individual description of each animal including breed, age, sex, and tattoo or ear tag number.

(Secs. 6, 7, 8, and 10, 26 Stat. 416, 417, as amended; sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, 5, and 11, 76 Stat. 129, 130, 132; 21 U.S.C. 102-105, 111, 134a, 134b, 134c, 134d, 134f; 37 FR 28464, 28477)

Effective date. The foregoing amendment shall become effective on March 1, 1973.

The change reflected herein from the proposal in the notice of rule making was made pursuant to comments from interested persons. It does not appear that public participation in rule making proceedings concerning the change would make additional information available to the Department. Therefore under the administrative procedure provisions in 5 U.S.C. 553 it is found upon good cause that such public proceedings are impracticable and unnecessary.

Done at Washington, D.C., this 26th day of January 1973.

G. H. WISE,
Acting Administrator, Animal
and Plant Health Inspection
Service.

[FR Doc.73-1895 Filed 1-30-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 72-EA-124; Amdt. 39-1589]

PART 39—AIRWORTHINESS DIRECTIVES

Avco Lycoming Aircraft Engines

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to amend and revise AD 71-5-2. Experience since the issuance of the airworthiness directive establishes a basis for relieving the 25-hour repetitive inspection to a 50-hour inspection. It appears that where no evidence of shifting of the center main bearing exists the extended inspection period will not derogate air safety. In view of certain editorial changes as well as clarifying paragraphs, the AD will be revised to permit printing of the full context.

Since the foregoing is a relaxation of a rule, notice, and public procedure hereon are unnecessary and the amendment and revision may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 FR 13697] § 39.13 of Part 39 of the Federal Aviation Regulations is amended so as to amend and revise AD 71-5-2 as follows:

AVCO LYCOMING. Applies to all IO-360-A and -C series engines except S/N 7100-51A and subsequent and except all engines overhauled (also known as remanufactured) by Lycoming after January 26, 1970, except S/N 354-51, 1049-51A, 3003-51A, 3281-51A, 6526-51A.

To prevent shifting and possible failures of the crankcase main bearings, perform the following:

(a) Engines that have accumulated less than 500 hours in service since new or overhaul must have the lubrication system inspected for metal contaminants within the next 10 hours in service after the effective date of this AD and every 25 hours in service until 525 hours in service are accumulated, at which time compliance with (d) or (f) is required. Inspection of the lubrication system consists of visual examination for minute particles of metal suspended in the oil, examination of the engine oil suction screen for presence of metal particles and the inspection of the external full flow oil filter for metal particles by cutting it open so that the pleated element can be unfolded and examined.

(b) Engines that have accumulated 500 hours or more in service since new or overhaul must have the lubrication system inspected for metal contaminants within the next 10 hours in service after the effective

date of this AD. Further, compliance with (d) or (f) is required within 25 hours in service after the effective date of this AD.

(c) Compliance with (d) or (f) is required if metal contaminants are detected during the above inspections.

(d) Remove No. 2 position cylinder and examine visually the position of the center main bearing for shifting in accordance with the inspection procedure of Avco Lycoming Service Bulletin No. 327B or equivalent inspection approved by Chief, Engineering and Manufacturing Branch, FAA, Eastern Region. Should shifting be detected, comply with paragraph (f). If the bearing has not shifted and no metal contaminants are detected after compliance with paragraph (a) or (b) the engine can be returned to service and the lubrication system must be inspected for contaminants every 50 hours in service thereafter.

(e) Unless already accomplished, compliance with paragraph (f) is required within 50 hours in service after the effective date of this AD on engines that have accumulated 1,150 hours or more in service since new or last overhaul.

(f) Modify the crankcase as described in Lycoming Service Instructions No. 1123A or repair the crankcase as described in Lycoming Service Instructions No. 1112C, whichever is applicable, and install straight crankcase bearing dowels per Lycoming Service Bulletin No. 326 or equivalent repair or alteration approved by Chief, Engineering and Manufacturing Branch, FAA, Eastern Region. Compliance with the provisions of this paragraph eliminates the inspection requirements of this AD.

NOTE: The inspection of the lubrication system required by this AD constitutes preventive maintenance.

This amendment is effective February 13, 1973.

(Secs. 313(a), 601, and 603 Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423; sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on January 22, 1973.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.73-1774 Filed 1-30-73; 8:45 am]

[Docket No. 72-NE-29; Amdt. 39-1590]

PART 39—AIRWORTHINESS DIRECTIVES

Avco Lycoming Aircraft Engines

There have been reports of failures of the second stage gas producer cylinder retaining bolts on Avco Lycoming T5313A and T5313B turboshaft engines which could result in the shank sections becoming loose with a possible failure of the turbines. Since this condition is likely to exist or develop in other engines of the same type, an airworthiness directive is being issued to require replacement of the present second stage gas producer cylinder retaining bolts with new bolts (P/N MS9705-08) made from higher strength alloy.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

AVCO LYCOMING ENGINES. Applies to all Avco Lycoming T5313A and T5313B turboshaft engines. Compliance required as indicated.

To prevent hazards in flight due to failure of the second stage gas producer cylinder retaining bolts, accomplish the following:

(a) Within the next 100 hours time in service after the effective date of this airworthiness directive, remove all P/N MS9060-08 retaining bolts and replace with new P/N MS9705-08 retaining bolts in accordance with the instructions set forth in Avco Lycoming Service Bulletin, Product Support No. 0028, Revision 1, dated 30 October 1972, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

(b) Equivalent methods of compliance must be approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

This amendment becomes effective February 13, 1973.

(Secs. 313(a), 601 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421 and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Burlington, Mass., on January 22, 1973.

FERRIS J. HOWLAND,
Director, New England Region.

[FR Doc.73-1900 Filed 1-30-73; 8:45 am]

[Airspace Docket No. 72-GL-56]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CON- TROLLED AIRSPACE, AND REPORTING POINTS

Designation of Control Zone

On page 23925 of the FEDERAL REGISTER dated November 10, 1972, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to designate a control zone at Ann Arbor, Mich.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., March 29, 1973.

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

Issued in Des Plaines, Ill., on January 8, 1973.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

In § 71.171 (38 FR 351), the following control zone is added:

ANN ARBOR, MICH.

Within a 5-mile radius of the Ann Arbor, Mich. Airport (latitude 42°13'22" N., longitude 83°44'40" W.); excluding that portion which overlies the Detroit, Mich., Willow Run Airport control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

[FR Doc.73-1764 Filed 1-30-73; 8:45 am]

[Airspace Docket No. 72-GL-68]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CON- TROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Cleveland, Ohio, control zone.

Since designation of the control zone at the Cleveland-Hopkins International Airport, Cleveland, Ohio, the instrument approach procedures have been revised. A review of these procedures and the zone indicate the control zone extensions are no longer required for protection of the procedures.

Since this change is minor in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the change may be accomplished by final rule action.

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

In § 71.171 (38 FR 351), the following control zone is amended to read:

CLEVELAND, OHIO (CLEVELAND-HOPKINS INTL. AIRPORT)

Within a 5-mile radius of the Cleveland-Hopkins International Airport (latitude 41°24'37" N., longitude 81°50'56" W.).

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

Issued in Des Plaines, Ill., on January 8, 1973.

HAROLD W. POGGEMEYER,
Acting Director,
Great Lakes Region.

[FR Doc.73-1765 Filed 1-30-73; 8:45 am]

[Airspace Docket No. 72-GL-57]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CON- TROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On pages 23924 and 23925 of the FEDERAL REGISTER dated November 10, 1972, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Detroit, Mich.

Interested persons were given 30 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., March 29, 1973.

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

Issued in Des Plaines, Ill., on January 8, 1973.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

In § 71.181 (38 FR 435), the following transition areas are deleted:

Port Huron, Mich. Detroit City, Mich.
Mount Clemens, Mich. Ann Arbor, Mich.
Pontiac, Mich.

In § 71.181 (38 FR 435), the following transition area is amended to read:

DETROIT, MICH.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 43°00'00" N., longitude 82°25'00" W., on the Canadian boundary to latitude 43°04'00" N., longitude 82°30'00" W., to latitude 42°53'00" N., longitude 83°00'00" W., to latitude 42°45'00" N., longitude 83°50'00" W., to latitude 42°30'00" N., longitude 83°50'00" W., to latitude 42°10'00" N., longitude 84°00'00" W., to latitude 42°00'00" N., longitude 83°30'00" W., thence east along the 42d parallel to the Canadian boundary, thence along the Canadian boundary to point of beginning.

[FR Doc.73-1766 Filed 1-30-73;8:45 am]

[Airspace Docket No. 72-RM-32]

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

Alteration of Control Zone and Transition Area

On December 5, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 FR 25854) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the description of the Missoula, Mont., control zone and transition area.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. These amendments shall be effective 0901 G.m.t., March 29, 1973.

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

Issued in Aurora, Colo., on January 12, 1973.

M. M. MARTIN,
Director, Rocky Mountain Region.

In § 71.171 (38 FR 351) the description of the Missoula, Mont. control zone is amended to read:

MISSOULA, MONT.

Within a 5-mile radius of Johnson-Bell Airport (latitude 46°54'54" N., longitude 114°05'14" W.); within 3 miles each side of the Missoula ILS localizer northwest course extending from the 5-mile radius zone to 2 miles northwest of the Kona COMLO; within 5 miles each side of the Missoula VORTAC 302° radial extending from the VORTAC to 11 miles northwest; within 2 miles each side of the Missoula VORTAC 170° radial extending from the 5-mile radius zone to 10.5 miles southeast of the VORTAC.

In § 71.181 (38 FR 435) the description of the Missoula, Mont. transition area, as amended (37 FR 24657), is further amended to read as follows:

MISSOULA, MONT.

That airspace extending upward from 700 feet above the surface within 8 miles southwest of the Missoula VORTAC 296° radial extending from the VORTAC to 21 miles northwest; within 8.5 miles southwest and 5.5 miles northeast of the Missoula VORTAC 311° radial extending from the VORTAC to 38 miles northwest; within 3 miles each side of the Missoula VORTAC 170° radial extending from the VORTAC to 19.5 miles southeast; and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius of the Missoula VORTAC; within a 32-mile radius of the Missoula VORTAC extending clockwise from the Missoula 256° radial to the Missoula 357° radial; within 9.5 miles southwest to the Missoula VORTAC 298° radial extending from the VORTAC to 38 miles northwest; within a 23.5-mile radius of the Missoula VORTAC extending from the Missoula 072° radial clockwise to the Missoula 170° radial; within 5 miles west and 9.5 miles east of the Missoula VORTAC 170° radial extending from the 13-mile radius area to 30 miles southeast of the VORTAC.

[FR Doc.73-1768 Filed 1-30-73;8:45 am]

[Airspace Docket No. 72-NE-22]

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

Alteration of Transition Area

On page 26532 of the FEDERAL REGISTER dated December 13, 1972, the Federal Aviation Administration published a notice of proposed rule making which would designate a Danbury, Conn., Control Zone and alter the Danbury, Conn., Transition Area (37 FR 26532).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

The effective hours of the new Danbury Control Zone were proposed in the notice to be from 0700 to 2300 hours local time. It has now been determined that the effective hours for the Control Zone will be from 0700 to 1900 hours local time. Since this modification from the notice is less restrictive and minor in nature, further notice and public procedure is considered unnecessary.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., March 29, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; 6(c), Department of Transportation Act, 49 U.S.C. 1655 (c))

Issued in Burlington, Mass., on January 17, 1973.

FERRIS J. HOWLAND,
Director, New England Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to designate a Danbury, Conn., control zone described as follows:

Within a 5-mile radius of the center 41°22'15" N., 73°29'00" W., of the Danbury Airport, Danbury, Conn., and within 2 miles each side of the Carmel VORTAC 088° radial extending from the 5-mile radius area to the Carmel VORTAC. This control zone is effective from 0700 to 1900 hours local time daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airmen's Information Manual.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Danbury, Conn., 700-foot transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center 41°22'15" N., 73°29'00" W. of Danbury Airport, Danbury, Conn., extending clockwise from the 018° bearing from the center of the airport to the 288° bearing and within a 13-mile radius from the 288° bearing clockwise to the 018° bearing and within 3.5 miles each side of the Carmel VORTAC 218° radial extending from the 9-mile radius area to 11.5 miles southwest of the Carmel VORTAC, excluding that airspace which coincides with the Bridgeport, Conn., and White Plains, N.Y., 700-foot floor transition areas.

[FR Doc.73-1767 Filed 1-30-73;8:45 am]

[Docket No. 11437; Amdt. 91-110]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Subpart D—Large and Turbine-Powered Multiengine Airplanes

The purpose of these amendments to § 91.217 of Part 91 of the Federal Aviation Regulations is to permit continued operation of certain airplanes after January 22, 1973, for which required inspection programs cannot be approved by that date.

Section 91.217, effective October 23, 1972, provides that no person may operate a large or turbine-powered multiengine airplane after January 22, 1973, unless that airplane is inspected in accordance with an inspection program selected under the provisions of that section. The section further provides that the required inspection program must meet one of five criteria set forth therein. The acceptability of programs under four of the five criteria may be determined without FAA assistance, and an owner or operator selecting such a program has merely to notify the FAA of his choice. For a program to be acceptable under

the fifth criterion, however, the section requires that it be approved by the FAA prior to its use. Due to the number of such programs that have been submitted to the FAA for approval action may not be possible on all such programs before January 22, 1973. Nevertheless, under present § 91.217 no person would be permitted to operate an airplane for which such action is pending, notwithstanding the fact that the owner or operator had complied with the rule. At the time the rule was adopted the FAA did not anticipate any difficulties in meeting the compliance time established. However, it now appears that the FAA will be unable to process all of the pending applications prior to January 22, 1973. Furthermore, the FAA has determined that such airplanes can continue to be operated without compromising safety, pending FAA action on the programs, provided they continue to be inspected in accordance with their present inspection programs. Accordingly, § 91.217 is being amended to provide that an airplane for which the owner or operator has submitted, on or before January 22, 1973, an inspection program requiring FAA approval, may be operated pending FAA action on the program, as long as the aircraft continues to be inspected in accordance with Subpart C of Part 91.

Since this amendment is an extension of the effective date of a new requirement and imposes no additional burden on any person, I find that notice and public procedure hereon are unnecessary and that good cause exists for making this amendment effective on less than 30 days' notice.

In consideration of the foregoing, § 91.217 of Part 91 of the Federal Aviation Regulations is amended, effective January 22, 1973, by amending paragraphs (a) and the lead-in statement of paragraph (b), and adding a new paragraph (f) to read as follows:

§ 91.217 Inspection program.

(a) No person may operate a large airplane, or a turbojet, or turbopropeller-powered multiengine airplane, unless the replacement times for life-limited parts specified in the aircraft data sheets or other documents approved by the Administrator are complied with, and after January 22, 1973, except as provided in paragraph (f) of this section, the airplane, including the airframe, engines, propellers, appliances, survival equipment, and emergency equipment is inspected in accordance with an inspection program selected under the provisions of this section.

(b) The registered owner or operator of each airplane governed by this subpart must select and after January 22, 1973, except as provided in paragraph (f) of this section, must use one of the following programs for the inspection of that airplane:

(f) An airplane for which a program, selected in accordance with paragraph (b) (5) of this section, has been submitted for FAA approval in accordance with paragraph (e) of this section on or before

January 22, 1973, may be operated pending notification by the FAA of its approval or disapproval of the program as long as the airplane is inspected in accordance with the applicable provisions of Subpart C of this Part.

(Secs. 313(a) and 601, Federal Aviation Act of 1958, 49 U.S.C. 1354(a) and 1421; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on January 22, 1973.

J. H. SHAFFER,
Administrator.

[FR Doc.73-1769 Filed 1-30-73;8:45 am]

[Docket No. 12533, Amdt. 849]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of \$150 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for \$30 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAP's, effective March 15, 1973.

Ainsworth, Nebr.—Ainsworth Municipal Airport, VOR-A, Amdt. 2.
Augusta, Kans.—Augusta Municipal Airport, VOR/DME-A, Amdt. 1.
Austin, Tex.—Tims Airpark, VORTAC-A, Amdt. 2.
Bay City, Tex.—Municipal Airport, VORTAC-A, Amdt. 1.
Chandler, Ariz.—Stellar City Airpark, VOR Runway 17, Original.
Chanute, Kans.—Chanute Martin Johnson Airport, VOR-A, Amdt. 5.
Christiansted, St. Croix, V.I.—Alexander Hamilton Airport, VOR Runway 27, Amdt. 8.
Duluth, Minn.—Duluth International Airport, VOR Runway 3, Amdt. 11.
Duluth, Minn.—Duluth International Airport, VOR/DME Runway 21, Amdt. 6.
Fayetteville, Ark.—Drake Field, VOR-A, Amdt. 12.
Garden City, Kans.—Municipal Airport, VOR Runway 17, Amdt. 8.
Garden City, Kans.—Municipal Airport, VOR Runway 35, Amdt. 4.
Hawthorne, Calif.—Hawthorne Municipal Airport, VOR Runway 7, Amdt. 8.
Hawthorne, Calif.—Hawthorne Municipal Airport, VOR Runway 25, Amdt. 9.
Hickory, N.C.—Hickory Municipal Airport, VOR Runway 24, Amdt. 14.
Jackson, Tenn.—McKellar Field, VOR Runway 2, Amdt. 7.
Killeen, Tex.—Killeen Municipal Airport, VOR-A, Amdt. 6.
Marshall, Minn.—Marshall Municipal-Ryan Field, VOR Runway 12, Amdt. 1.
Nome, Alaska—Nome Airport, VOR/DME Runway 9, Amdt. 2.
Pasco, Wash.—Tri-Cities Airport, VOR-A, Amdt. 2.
Pasco, Wash.—Tri-Cities Airport, VOR Runway 29, Amdt. 1.
Prairie du Chien, Wis.—Prairie du Chien Municipal Airport, VOR/DME Runway 29, Original.
Stephenville, Tex.—Clark Field Municipal Airport, VORTAC-A, Original.
Traverse City, Mich.—Cherry Capital Airport, VOR-A (TAC), Amdt. 11.
Wichita, Kans.—Wichita Municipal Airport, VOR Runway 1L, Amdt. 1, canceled.
Wichita, Kans.—Wichita Municipal Airport, VOR Runway 14, Amdt. 9.

* * * effective March 8, 1973.

Kansas City, Mo.—Kansas City International Airport, VOR Runway 9, Amdt. 3.

* * * effective February 1, 1973.

Northbrook, Ill.—Sky Harbor Airport, VOR-A, Amdt. 7, canceled.

* * * effective January 19, 1973.

Memphis, Tenn.—Memphis International Airport, VOR Runway 35R, Amdt. 26.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAP's, effective March 15, 1973.

Chicago, Ill.—Chicago Midway Airport, LOC Runway 4R, Amdt. 1.

Chicago, Ill.—Chicago Midway Airport, LOC Runway 31L, Amdt. 3.

Duluth, Minn.—Duluth International Airport, LOC (BC) Runway 27, Amdt. 7.

Fayetteville, Ark.—Drake Field, LOC Runway 16, Amdt. 1.

St. Louis, Mo.—Spirit of St. Louis Airport, LOC (BC) Runway 25, Original.

* * * effective March 8, 1973.

Kansas City, Mo.—Kansas City International Airport, LOC (BC) Runway 19, Amdt. 2.

* * * effective January 9, 1973.

Detroit, Mich.—Detroit City Airport, LOC (BC) Runway 33, Original, canceled.

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAP's, effective March 15, 1973.

Chicago, Ill.—Chicago Midway Airport, NDB Runway 4R, Amdt. 3.
Chicago, Ill.—Chicago Midway Airport, NDB Runway 13R, Amdt. 3.
Chicago, Ill.—Chicago Midway Airport, NDB Runway 31L, Amdt. 2.
Clarksburg, W. Va.—Benedum Airport, NDB Runway 21, Amdt. 2.
Coffeyville, Kans.—Coffeyville Municipal Airport, NDB Runway 35, Amdt. 3.
Duluth, Minn.—Duluth International Airport, NDB Runway 9, Amdt. 14.
Garden City, Kans.—Municipal Airport, NDB Runway 12, Amdt. 7.
Hawthorne, Calif.—Hawthorne Municipal Airport, NDB-A, Amdt. 2.
Kerrville, Tex.—Kerrville Municipal Louis Schreiner Field, NDB-A, Amdt. 2.
Killeen, Tex.—Killeen Municipal Airport, NDB-A, Amdt. 1.
Phillipsburg, Kans.—Phillipsburg Municipal Airport, NDB Runway 31, Amdt. 2.
Versailles, Ohio.—Darke County Airport, NDB Runway 9, Original.
Wichita, Kans.—Wichita Municipal Airport, NDB Runway 1L, Amdt. 1, Canceled.

* * * effective February 15, 1973.

Smyrna, Tenn.—Smyrna Airport, NDB Runway 32, Original.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAP's, effective March 15, 1973.

Chicago, Ill.—Chicago Midway Airport, ILS Runway 13R, Amdt. 30.
Duluth, Minn.—Duluth International Airport, ILS Runway 9, Amdt. 8.
Hibbing, Minn.—Chisholm-Hibbing Airport, ILS Runway 31, Amdt. 2.
Pasco, Wash.—Tri-Cities Airport, ILS Runway 20R, Amdt. 3.
Clarksburg, W. Va.—Benedum Airport, ILS Runway 21, Amdt. 3.

* * * effective February 15, 1973.

Paducah, Ky.—Barkley Airport, ILS Runway 4, Original.

* * * effective January 23, 1973.

Missoula, Mont.—Johnson-Bell Field, ILS Runway 11, Amdt. 2.

5. Section 97.31 is amended by originating, amending, or canceling the following radar SIAP's effective March 15, 1973.

Chicago, Ill.—Chicago Midway Airport, Radar-1, Amdt. 17.
Duluth, Minn.—Duluth International Airport, Radar-1, Amdt. 8.

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAP's effective March 15, 1973.

Davenport, Iowa.—Davenport Municipal Airport, RNAV Runway 14, Original.
Davenport, Iowa.—Davenport Municipal Airport, RNAV Runway 32, Original.
Hawthorne, Calif.—Hawthorne Municipal Airport, RNAV Runway 25, Amdt. 1.
Kansas City, Kans.—Fairfax Municipal Airport, RNAV Runway 17, Original.
Omaha, Nebr.—Eppley Airfield, RNAV Runway 32L, Original.
Topeka, Kans.—Phillip Billard Municipal Airport, RNAV Runway 17, Original.

CORRECTIONS

In Docket No. 12495, Amendment 847, to Part 97 of the Federal Aviation Regulations, published in the FEDERAL REGISTER dated Friday, January 19, 1973, under § 97.23 effective March 1, 1973, it should read in part " * * * Long Beach, Calif.—Long Beach (Daugherty Field), VOR Runway 30 (TAC), Original, vice VORTAC Runway 30."

In Docket No. 12458, Amendment 845, to Part 97 of the Federal Aviation Regulations, published in the FEDERAL REGISTER dated Friday, January 5, 1973, under § 97.23 effective February 15, 1973, it should read in part " * * * Albany, N.Y.—Albany County Airport, VOR/DME Runway 1, Amdt. 2, vice VOR/DME-1."

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on January 24, 1973.

JAMES F. RUDOLPH,
Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20, 35 FR 5610 approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.73-1901 Filed 1-30-73;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER E—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS OTHER THAN THE FOOD, DRUG, AND COSMETIC ACT

PART 132—REGISTRATION OF PRODUCERS OF DRUGS

PART 273—BIOLOGICAL PRODUCTS

Registration of Blood Banks and Other Firms Collecting, Manufacturing, Preparing, or Processing

A notice of proposed rule making concerning the registration of blood banks and other firms collecting, manufacturing, preparing, or processing human blood or blood products was published in the FEDERAL REGISTER of August 26, 1972 (37 FR 17419). Interested persons were invited to submit comments on the proposal within 60 days. In response, 104 comments were received from individuals, firms and organizations.

1. Many comments, although not objecting to the proposed registration of blood banks, strongly urged that such blood banks voluntarily participating in the inspection accreditation of the American Association of Blood Banks (AABB) be exempt from inspection by the Food and Drug Administration. These comments indicated that for the last 15 years, the AABB has operated a comprehensive inspectional program utilizing highly qualified inspectors, and that the Food and Drug Administration would simply be wasting public funds by duplicating such a program. Many of these

comments made reference to programs operating under the Clinical Laboratories Improvement Act and the Social Security Act, for in both these cases provision is made for accepting inspections and accreditations by qualified organizations in lieu of governmental inspection.

The Food and Drug Administration recognizes the valuable contribution to blood banking made by the AABB. Nonetheless, the Commissioner of Food and Drugs concludes that the Food and Drug Administration should conduct its own inspection pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), in addition to any inspection by private organizations. It is anticipated that there will be close cooperation between the FDA and the AABB and that a dual inspection system will substantially increase public protection.

2. Numerous comments questioned whether it was the intent of Congress to classify blood as a drug. An analysis of the section 201(g)(1) definition of drug in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), reveals that blood and related blood products fall clearly within that definition. That section states "The term 'drug' means (A) articles recognized in the official United States Pharmacopeia * * *; and (B) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; * * *." Blood is covered by both parts of this definition. Human blood was first recognized in the United States Pharmacopeia (USP), XV Edition (Dec. 15, 1955), and has been included in each USP since that edition. Indications for use of blood products also fall directly within the broad therapeutic scope of the definition. While it is, of course, true that blood is human living tissue, it is incorrect to assume that it must be either a living human tissue or a drug. That human blood and blood products may be characterized as living human tissue for some purposes, and as biologics for purposes of regulation under the Public Health Service Act (sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262) in no way alters the fact that blood is also a drug subject to regulation under applicable provisions of the Federal Food, Drug, and Cosmetic Act. Those federal courts which have had occasion to consider the issue have held without equivocation that human blood is a drug within the meaning of the Federal Food, Drug, and Cosmetic Act. For these reasons, the Commissioner finds that human blood and blood products are drugs within the meaning of the Federal Food, Drug, and Cosmetic Act, and subject to regulation pursuant to its provisions.

3. Several comments stated that all aspects of blood banking were within the practice of medicine, and therefore not subject to regulation by the Food and Drug Administration. These comments indicated that since Food and Drug Administration regulations issued pursuant to section 351 of the Public Health Service Act require that licensed blood banks be under the direction of a physician,

blood banking, from donor interrogation through the actual blood transfusion, constitutes the practice of medicine. The simple fact, however, that donor qualification and blood collection are performed under the direction of a physician does not mean that blood banking constitutes the practice of medicine. To the contrary, since the licensing of the first blood bank in 1946, the collection of blood from suitable donors, its processing, storage, and distribution for sale in interstate commerce has been considered the manufacture of a biologic drug, and has been regulated by the Division of Biologics Standards, National Institutes of Health (which was transferred on July 1, 1972 to the Food and Drug Administration where it is now the Bureau of Biologics (37 FR 12865)). The prescribing of blood, however, is considered the practice of medicine, and consequently has not been regulated by the Federal Government. It is therefore clear that Federal regulation of the manufacture, preparation, and processing of human blood and blood products in no sense regulates the practice of medicine.

4. Several comments indicated confusion or misunderstanding as to what blood bank activities will constitute manufacture, preparation, propagation, compounding, or processing requiring a blood bank to register. It is the Commissioner's intention that any facility, which by chemical, physical, biological, or other procedures makes human blood or blood products, be subject to registration and inspection. This includes the manipulation, sampling, testing, or utilization of control procedures, whether applied to the final product or to any part of the manufacturing process. It also includes repackaging or otherwise changing the container, wrapper, or labeling of any blood or blood products package in furtherance of distribution of the product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer. It thus includes both processing and any other work that is performed on the human blood or blood products themselves, including such testing as grouping and typing as well as compatibility testing when performed in conjunction with a transfusion of blood or blood components. For purposes of determining eligibility for blood bank registration, blood components are defined as red blood cells, platelet concentrates, platelet poor blood, leukocyte poor blood, or leukocyte filtered blood, single donor plasma, cryoprecipitated antihemophilic, or any product which may be derived from whole blood or plasma by blood bank laboratory personnel.

To illustrate, if a blood bank processes all or even part of the blood which it collects, or prepares any blood component from blood or blood products received from other banks, it would be required to register. Furthermore, if a blood bank does not collect or process any blood, but receives its entire supply from other banks and then cross-matches and transfuses such whole blood or components without any further processing,

it is also required to register. Registration is also required of blood banks or other establishments that collect or supply blood cells, serum, or plasma for the manufacture of a drug, or as a component in the manufacture of laboratory reagents and controls, including those establishments that supply outdated pooled plasma to manufacturers of fractionation products or laboratory control reagents. Finally, all establishments that manufacture plasma by plasmapheresis will be required to register, regardless of whether the plasma so manufactured is to be used for fractionation, unlicensed laboratory control reagents, licensed blood grouping and typing serums, hepatitis associated antibody, or any other diagnostic reagents made from plasma.

5. One comment stated that registration under section 510 of the Federal Food, Drug, and Cosmetic Act was being confused with licensing under section 351 of the Public Health Service Act. There should be no confusion if it is understood that:

a. The licensing procedure under section 351 of the Public Health Service Act involves the submission of a license application for both an establishment and a product detailing all phases of manufacture, and requires a prelicensing inspection as well as annual inspections thereafter. So long as a license meets the prescribed standards, the license remains in effect and the licensee may ship licensed biologics in interstate commerce.

b. Registration, on the other hand, involves the submission of a form containing ownership and location information on an annual basis and requires a biennial inspection, but does not permit the registrant to ship blood or other biological products out of the State in which they are registered.

6. Several comments indicated that no reasons were given in the initial FEDERAL REGISTER proposal as to why the Commissioner had decided to require the registration of intrastate blood banks, nor was there any indication as to what was expected to be accomplished by such a proposal. Many recent surveys of the blood banking system have indicated that that system has been unable to provide American consumers with sufficient quantities of high quality, safe human blood and blood products. These surveys have also indicated that one of the major problems associated with the blood banking system is that very little information is even available about the vast majority of manufacturers and distributors of this vitally needed lifesaving drug. It is clear that uniform national regulation may be required with respect to the manufacturing, processing, and distribution of blood and blood products, not only because blood is a commodity of national significance, but also because there has been little or no State regulatory activity in this area. The purpose of the blood bank registration proposal, therefore, is to provide a comprehensive survey of a large sector of the blood delivery system. This survey will provide useful information for implementing necessary programs

and standards for improvement of the Nation's blood delivery system. Presently, there is no organization or agency, either public or private, that has accurate and up-to-date information concerning the amount of blood collected in this country, the number and location of collection facilities, or the volume of blood components that is transfused annually. This blood bank registration and inspection program should provide this kind of essential information, especially when utilized in conjunction with the Drug Listing Act of 1972 and the implementing regulations proposed in the FEDERAL REGISTER of December 12, 1972 (37 FR 28431).

7. Several comments inquired if registration was a prelude to licensing. As there currently is no statutory authority to license intrastate blood banking, the registration of such blood banking under section 510 of the Federal Food, Drug, and Cosmetic Act can in no sense be considered a prelude to licensing. Licensing is of course authorized under section 351 of the Public Health Service Act for the purpose of permitting shipment of biological products in interstate commerce, but many of the blood banks that will be required to register will have no reason to ship blood or blood products in interstate commerce, and therefore will not need or desire to be licensed. It should be noted in this connection, however, that intrastate blood banking, although not subject to licensure, is nevertheless subject to regulation under other provisions of the Public Health Service Act, and that the interstate controls under both acts impinge directly upon intrastate commerce.

8. One comment expressed concern that registration would make the collection of a unit of blood illegal in the case of an emergency. These comments, however, misconceive the intent and purpose of registration. The Food and Drug Administration does not desire to question the medical judgment of a physician prescribing treatment for a patient during a medical emergency, and registration will not operate to make blood collected during such circumstances illegal.

9. A question has been raised about the intent of § 273.237 (21 CFR 273.237) as it appeared in the August 26, 1972, proposal, in that it could have been interpreted to mean that all firms licensed under section 351 of the Public Health Service Act for any biologic product were exempt from the registration requirement. In light of the recently proposed implementing regulations for the Drug Listing Act of 1972, which would remove the exemption for all section 351 licensees, the Commissioner has determined that confusion will be minimized through the implementation of the registration requirement for all blood banks immediately, regardless of whether or not they are section 351 licensees. All blood banking facilities, without exception, are therefore required to register pursuant to the provisions of the new § 273.237.

10. At such time as 21 CFR Part 132 is revised to implement regulations for

the Drug Listing Act of 1972, blood banking facilities registered pursuant to the new § 273.237 (21 CFR 273.237) will be expected to fully comply with the requirements of the revised Part 132.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 510, 701, 52 Stat. 1040-1042, as amended, 76 Stat. 794, as amended by 79 Stat. 231-232 and 84 Stat. 1282, 52 Stat. 1055-1056, as amended by 70 Stat. 948, 21 U.S.C. 321, 360, 371), the Public Health Service Act (sec. 351, 58 Stat. 702 as amended; 42 U.S.C. 262), and the Administrative Procedure Act (secs. 4 and 10, 60 Stat. 238 and 243, as amended; 5 U.S.C. 553, 702, 703, 704), and under authority delegated to the Commissioner (21 CFR 2.120), 21 CFR Parts 132 and 273 are amended as follows:

1. In Part 132, paragraph (b) of § 132.51 is revised to read as follows:

§ 132.51 Exemptions for domestic establishments.

(b) Hospitals, clinics, and public health agencies which maintain establishments in conformance with any applicable local laws regulating the practices of pharmacy and medicine and which are regularly engaged in dispensing prescription drugs, other than human blood or blood products, upon prescription of practitioners licensed by law to administer such drug for patients under the care of such practitioners in the course of their professional practice.

2. In Part 273, the following new § 273.237 is added.

§ 273.237 Registration of blood banks and other firms collecting, manufacturing, preparing, or processing human blood or blood products.

(a) All owners or operators of establishments that engage in the collection, manufacturing, preparation, propagation, compounding, or processing of human blood or blood products are required to register, pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act. Registration and listing of products shall comply with 21 CFR Part 132. Registration does not permit any blood bank or similar establishment to ship blood or blood products in interstate commerce.

(b) Forms for registration of an establishment are obtainable on request from the Bureau of Biologics (BI-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852, or at any of the Food and Drug Administration district offices.

(c) The completed form should be mailed to Blood Bank Registration (BI-7), Bureau of Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Effective date. This order shall become effective April 3, 1973. All affected blood banks and other firms collecting, manufacturing, preparing, or processing human blood or blood products shall submit their registration form within that time.

(The Federal Food, Drug, and Cosmetic Act, secs. 201, 510, 701, 52 Stat. 1040-1042, as amended, 76 Stat. 794, as amended by 79 Stat. 231-232 and 84 Stat. 1282, 52 Stat. 1055-1056, as amended by 70 Stat. 948, 21 U.S.C. 321, 360, 371; the Public Health Service Act, sec. 351, 58 Stat. 702, as amended, 42 U.S.C. 262; and the Administrative Procedures Act; secs. 4 and 10, 60 Stat. 238 and 243, as amended, 5 U.S.C. 553, 702, 703, 704)

Dated: January 17, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.
[FR Doc.73-1706 Filed 1-30-73;8:45 am]

Title 24—Housing and Urban Development CHAPTER III—GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

SUBCHAPTER A—INTRODUCTION

[Docket No. R-73-210]

PART 300—GENERAL

Power of Attorney

Paragraph (c) of § 300.11 is amended by bringing current the list of attorneys-in-fact authorized to act on behalf of the Association.

Notice and public procedure on this amendment are dispensed with because it does not adversely affect any existing rights and it is necessary to carry out the day to day business of the Association. Part 300 is amended as follows:

1. Section 300.11(c) is revised to read:
§ 300.11 Power of attorney.

(c) The persons appointed attorneys-in-fact by paragraph (a) of this section are:

- (1) Federal National Mortgage Association, a Government-sponsored private corporation.
- (2) Margaret M. Ake, of Los Angeles, Calif.
- (3) Allan E. Arneson, of Los Angeles, Calif.
- (4) Robert P. Atkinson, of Chicago, Ill.
- (5) Walter T. Ausfeld, of Atlanta, Ga.
- (6) Lawrence S. Banks, of Dallas, Tex.
- (7) Frank L. Barczewski, of Los Angeles, Calif.
- (8) Gordon C. Bell, of Dallas, Tex.
- (9) Donald E. Berg, of Dallas, Tex.
- (10) Norman Camber, of Los Angeles, Calif.
- (11) Howard S. Carnes, of Atlanta, Ga.
- (12) Russell B. Clifton, of Washington, D.C.
- (13) W. D. Cornwell, of Atlanta, Ga.
- (14) Thomas G. Dawson, of Dallas, Tex.
- (15) John J. Deisher, of Philadelphia, Pa.
- (16) Joseph R. Eldred, of Philadelphia, Pa.
- (17) Ray M. Evans, Jr., of Dallas, Tex.
- (18) Leon Fine, of Philadelphia, Pa.
- (19) H. J. Flewharty, of Dallas, Tex.
- (20) Norbert C. Greene, of Philadelphia, Pa.
- (21) John J. Hagerty, of Philadelphia, Pa.
- (22) Eugene J. Hansen, of Chicago, Ill.

(23) Charles W. Harvey, Jr., of Philadelphia, Pa.

(24) John R. Hayes, of Chicago, Ill.

(25) J. W. Hester, Jr., of Atlanta, Ga.

(26) Elwyn V. Hopkins, of Washington, D.C.

(27) George L. Huckabee, of Dallas, Tex.

(28) Fred J. Jankowski, of Chicago, Ill.

(29) Harry E. Johnson, of Washington, D.C.

(30) Hughes A. King, of Dallas, Tex.

(31) John F. Kurth, of Chicago, Ill.

(32) Louis Lane, of Los Angeles, Calif.

(33) C. James Larkin, of Los Angeles, Calif.

(34) Oliver J. McCarron, of Philadelphia, Pa.

(35) James A. McClellan, of Chicago, Ill.

(36) Hugh J. McConville, of Dallas, Tex.

(37) James L. McKnight, of Los Angeles, Calif.

(38) Frank E. Moll, of Los Angeles, Calif.

(39) Howard A. Morton, of Chicago, Ill.

(40) James D. Nelson, of Dallas, Tex.

(41) Vincent H. Nelson, of Atlanta, Ga.

(42) Phillip R. Nichols, Jr., of Philadelphia, Pa.

(43) Albert D. Oltman, of Los Angeles, Calif.

(44) Sam Pampalone, of Chicago, Ill.

(45) Joseph T. F. Quinn, of Philadelphia, Pa.

(46) Norman M. Reid, of Los Angeles, Calif.

(47) Harry Rode, of Dallas, Tex.

(48) Edward N. Sambol, of Chicago, Ill.

(49) Richard Stern, of Chicago, Ill.

(50) Marvin F. Strattman, of Los Angeles, Calif.

(51) T. J. Swanson, Jr., of Atlanta, Ga.

(52) Keller D. Thormahlen, of Dallas, Tex.

(53) Jack Tuggle, of Los Angeles, Calif.

(54) Esther O. Walder, of Philadelphia, Pa.

(55) Walter B. Williams, of Atlanta, Ga.

Effective date. This amendment shall be effective on January 31, 1973.

WOODWARD KINGMAN,
President, Government National
Mortgage Association.

[FR Doc.73-1817 Filed 1-30-73;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DE- PARTMENT OF LABOR

PART 1915—SAFETY AND HEALTH REG- ULATIONS FOR SHIP REPAIRING

Deletion of Regulations Establishing Penalties and Requiring Notification of Accidents

Pursuant to authority in sections 6(b) and 8(g), of the Williams-Steiger Occupational Safety and Health Act of 1970 (OSHA) (29 U.S.C. 655, 657), section 41

of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1444, as amended; 33 U.S.C. 941), Secretary of Labor's Order No. 12-71 (36 FR 8754), and the regulations in 29 CFR 1911.5 (37 FR 8664), Part 1915 of Title 29 of the Code of Federal Regulations is hereby amended by the deletion of §§ 1915.3 and 1915.6 as set forth below.

The ship repairing standards in Part 1915 have been incorporated by reference under the Occupational Safety and Health Act (29 U.S.C. 651 et seq.). The incorporation is published in § 1910.13 of the aforementioned title. Section 1915.3 does not contain a standard. It describes a statutory penalty for violations of section 41 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 941). However, to avoid possible confusion to persons following the reference under the Occupational Safety and Health Act, § 1915.3 is hereby deleted. The deletion, of course, does not derogate from the statutory penalty.

Section 1915.6 requires an employer to follow special reporting procedures when an accident results in a fatality or serious injury. The same information must be reported under § 1904.8 of the aforementioned title, a rule issued under the Occupational Safety and Health Act which applies concurrently with § 1915.6. Under these circumstances, § 1915.6 is deleted as being unnecessary.

Notice and public procedure under 5 U.S.C. 553 concerning the deletion of § 1915.6 are found unnecessary because of the minor rulemaking involved. The deletion of § 1915.3 is essentially an editorial change.

Accordingly, the amendments to Part 1915 are as follows:

1. Section 1915.3 *Penalty* is deleted.
2. Section 1915.6 *Notification of accidents resulting in fatalities or serious injuries*, is deleted.

(Secs. 6(b), 8(g), 84 Stat. 1593, 1598 (29 U.S.C. 655, 657); Sec. 41, 44 Stat. 1444 (33 U.S.C. 941); Secretary of Labor's Order No. 12-71, 36 FR 8754)

Effective date. This amendment shall become effective January 29, 1973.

Signed at Washington, D.C. this 23d day of January 1973.

CHAIN ROBBINS,
Acting Assistant Secretary
of Labor.

[FR Doc. 73-1824 Filed 1-30-73; 8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 50—PUBLIC CONTRACTS, DEPARTMENT OF LABOR

PART 50-250—VETERANS' EMPLOYMENT EMPHASIS UNDER FEDERAL CONTRACTS

Part 50-250 of Title 41, Code of Federal Regulations, is hereby revised to implement the provisions of 38 U.S.C. section 2012 as enacted by the Veterans' Employment and Readjustment Act of 1972 (Public Law 92-540).

Executive Order No. 11598 promulgated on June 16, 1971 (36 FR 11711), was designed to facilitate the employ-

ment of returning veterans by requiring Federal agencies and Federal contractors and their subcontractors to list certain employment openings with the employment service system. Regulations implementing that Executive Order were promulgated on September 14, 1971 (36 FR 18398), and are published at 41 CFR Part 50-250. Affected Government agencies issued implementing regulations including those amending the Federal Procurement Regulations (37 FR 2769) and those amending the Armed Services Procurement Regulations (Defense Procurement Circular No. 95, November 29, 1971).

The above-mentioned Veterans' Employment and Readjustment Act of 1972 provides and makes effective on January 24, 1973, a veterans' employment emphasis under Federal contracts which is similar to that of Executive Order 11598 and directs the President to promulgate implementing regulations.

Executive Order No. 11701 (38 FR 2675), authorizes and directs the Secretary of Labor to issue regulations as may be necessary to carry out the provisions of section 2012 of title 38 of the United States Code, and that Order.

Notice of proposed rule making procedures would involve delay in compliance with the implementation requirements of Public Law 92-540. Accordingly, the revised regulations shall become effective January 24, 1973.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the provisions of 5 U.S.C. 553. See 29 CFR 2.7. In accordance with the spirit of the public policy set forth in the above-mentioned section, interested parties may submit written comments, suggestions, data, or arguments to the Manpower Administrator, U.S. Department of Labor, Washington, D.C., within 30 days of the publication of the regulations contained in this part. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal.

The Federal Procurement Regulations clause at 41 CFR 1-12.1102-3 and the Armed Services Procurement Regulations clause at ASPR 7-103.27 may be used by procuring agencies which are governed by those regulations until such time as those regulations are amended to conform with the revised 41 CFR Part 50-250.

41 CFR Part 50-250 is revised to read as follows:

- Sec.
- 50-250.1 Purpose and scope.
 - 50-250.2 Required clause in Federal contracts and subcontracts.
 - 50-250.3 Veteran priority in referrals.
 - 50-250.4 Obligations of executive departments and agencies.
 - 50-250.5 Deviations.
 - 50-250.6 Failure to comply—enforcement.
 - 50-250.7 Manpower Administration Regional Offices.
 - 50-250.8 Federal departments and agencies.

AUTHORITY: Section 503, 86 Stat. 1097, 38 U.S.C. section 2012; and E.O. 11701, 38 FR 2675.

§ 50-250.1 Purpose and scope.

This part contains the Department of Labor rules and regulations requiring listing of employment vacancies with the Federal-State Employment Service system by Federal contractors and subcontractors pursuant to section 503, title V of the Veterans' Employment and Readjustment Act of 1972 and Executive Order 11701, 38 FR 2675.

§ 50-250.2 Required clause in Federal contracts and subcontracts.

In every contract for \$2,500 or more, for the procurement of personal property and nonpersonal services (including construction) for the United States made and entered into by any department or agency of the Federal Government or any federally owned corporation and every subcontract entered into by the prime contractor in carrying out such contract, the contracting officer shall include, either directly or by reference, the following contract clause in (a) all invitations for bids and requests for proposals, and (b) all contracts, including contracts resulting from unsolicited proposals. The contract clauses prescribed by the Federal Procurement Regulations and by the Armed Services Procurement Regulations may be used instead of the clause set forth herein. The contract clause is as follows:

LISTING OF EMPLOYMENT OPENINGS

(This clause is applicable pursuant to 41 CFR 50-250 if this contract is for \$2,500 or more.)

(a) The contractor, to provide special emphasis to the employment of qualified disabled veterans and veterans of the Vietnam era, agrees that all suitable employment openings of the contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be offered for listing at an appropriate local office of the State employment service system wherein the opening occurs and to provide such reports to such local office regarding employment openings and hires as may be required: *Provided*, That if the contract is for less than \$10,000 or if it is with a State or local government the reports set forth in paragraphs (c) and (d) of this clause are not required.

(b) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment service or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and non-veterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Contractor from any requirements in any Executive Orders or regulations regarding nondiscrimination in employment.

(c) The reports required by paragraph (a) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the contractor has more than

one establishment in a State, with the central office of that State employment service. Such reports shall indicate for each establishment (1) the number of individuals who were hired during the reporting period, (2) the number of those hired who were disabled veterans, and (3) the number who were nondisabled veterans of the Vietnam era. The contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract. The contractor shall maintain copies of the reports submitted until the expiration of 1 year after final payment under the contract, during which time they shall be made available, upon request, for examination by any authorized representatives of the contracting officer or of the Secretary of Labor.

(d) Whenever the contractor becomes contractually bound to the listing provisions of this clause, he shall advise the employment service system in each State wherein he has establishments of the name and location of each such establishment in the State. As long as the contractor is contractually bound to these provisions and has so advised the State system there is no need to advise the State system of subsequent contracts. The contractor may advise the State systems when it is no longer bound by this contract clause.

(e) This clause does not apply to the listing of employment openings which occur and are filled outside of the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(f) This clause does not apply to openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

(g) As used in this clause:

(1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and nonproduction; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings which are compensated on a salary basis of less than \$18,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment. It does not include openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

(2) "Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(3) "Openings which the contractor proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings

which the contractor proposes to fill from regularly established "recall" or "rehire" lists.

(4) "Openings which the contractor proposes . . . to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings for which no consideration will be given to persons outside of a special hiring arrangement, including openings which the contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the contractor and representatives of his employees.

(5) "Disabled veteran" means a person entitled to disability compensation under laws administered by the Veterans' Administration for disability rated at 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.

(6) "Veteran of the Vietnam era" means a person (1) who (i) served on active duty for a period of more than 180 days, any part of which occurred after August 5, 1964, and was discharged or released therefrom with other than a dishonorable discharge, or (ii) was discharged or released from active duty for service-connected disability if any part of such duty was performed after August 5, 1964, and (2) who was so discharged or released within the 48 months preceding his application for employment covered under this part.

(h) The contractor agrees to place this clause (excluding this paragraph (h)) in any subcontract of \$2,500 or more directly under this contract. This clause shall apply to any subcontract entered into by the contractor in carrying out any contract for the procurement of personal property and nonpersonal services (including construction) for the United States.

§ 50-250.3 Veteran priority in referrals.

The local offices of the Federal-State employment service shall give priority in referral to disabled veterans and veterans of the Vietnam era to such employment openings listed by contractors and subcontractors pursuant to this part.

§ 50-250.4 Obligation of executive departments and agencies.

Executive departments and agencies shall issue amendments or additions to their procurement rules and regulations as may be necessary to conform those rules and regulations to the requirements of the Vietnam Era Veterans' Readjustment Assistance Act of 1972, Executive Order 11701, and these regulations. Such amendments or additions shall be issued in consultation with the Secretary of Labor. Requests for consultation may be made to the Assistant Secretary for Manpower, U.S. Department of Labor, Washington, D.C. 20210.

§ 50-250.5 Deviations.

Under the most compelling circumstances, deviation from the provisions of this part may be made, subject to the approval of the Secretary of Labor. Requests for any such deviations shall be addressed to the Secretary of Labor, U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington, D.C. 20210, or to the Regional Manpower Administrator of the U.S. Department of Labor of the region wherein the contract is to be signed, and shall set forth the reasons for the request.

§ 50-250.6 Failure to comply—enforcement.

(a) Upon receipt of notice of failure of a contractor or subcontractor to comply with the provisions of this Part, the cognizant Government agency or agencies shall take such action as may be appropriate in consonance with the default provision of the contracts concerned.

(b) If any disabled veteran or veteran of the Vietnam era believes any contractor or subcontractor has failed or refuses to comply with the provisions of his contract with the United States relating to giving special emphasis in employment to veterans, such veteran may file a complaint with the veterans' employment representative at a local State employment service office who will attempt to informally resolve the complaint and then refer the complaint with a report on the attempt to resolve the matter to the State office of the Veterans' Employment Service of the Department of Labor. Such complaint shall then be promptly referred through the Regional Manpower Administration to the Secretary of Labor who shall investigate such complaint and shall take such action thereon as the facts and circumstances warrant consistent with the terms of such contract and the laws and regulations applicable thereto.

§ 50-250.7 Manpower Administration Regional Offices.

Following are the addresses of the regional offices of the Manpower Administration of the Department of Labor, together with a list of the States and territories in each region. The addresses of the State and local offices of the various State employment services can be obtained at the office of the appropriate Regional Manpower Administrator.

Region I—Room 1703, J. F. Kennedy Federal Building, Government Center, Boston, Mass. 02203. (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.) Region II—Room 716, 341 Ninth Avenue, New York, NY 10001. (New York, New Jersey, Puerto Rico, and the Virgin Islands.) Region III—Post Office Box 8796, Philadelphia, Pa. 19101. (5000 Wissahickon Avenue, do not use street address for mailing purposes). (Delaware, Maryland, Pennsylvania, Virginia, and West Virginia.) Region IV—Room 405, 1371 Peachtree Street NE., Atlanta, GA 30309. (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.) Region V—Room 2402, Federal Office Building, 219 South Dearborn Street, Chicago, IL 60604. (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.) Region VI—7th Floor, Federal Center, 1100 Commerce Street, Dallas, TX 75201. (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.) Region VII—Room 3000, Federal Building, 911 Walnut Street, Kansas City, MO 64106. (Iowa, Kansas, Missouri, and Nebraska.) Region VIII—Room 16015, Federal Office Building, 1961 Stout Street, Denver, CO 80208. (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.) Region IX—Room 10064, Federal Building, 450 Golden Gate Avenue, San Francisco, CA 94102. (Arizona, California, Guam, Hawaii, and Nevada.) Region X—Arcade Plaza, 1321 Second Avenue, Seattle, WA 98101. (Alaska, Idaho, Oregon, and Washington.) District of Columbia—Room 341, 555 Pennsylvania

Avenue NW., Washington, DC 20212. (District of Columbia.)

§ 50-250.8 Federal departments and agencies.

Federal executive departments and agencies in order to implement the Federal executive policy of assistance to Veterans in obtaining employment, shall list all of their employment openings, for which they have direct-hire authority or which are in the service excepted, with the appropriate office of the Federal-State Employment Service. They shall also furnish to the Secretary of Labor such reports and information as he may require in carrying out his responsibilities under the Veterans' Employment and Readjustment Act of 1972, and Executive Order 11701.

The effective date of this revision is January 24, 1973.

Signed at Washington, D.C. this 24th day of January 1972.

J. D. HOGSON,
Secretary of Labor.

[FR Doc.73-1852 Filed 1-30-73;8:45 am]

CHAPTER 60—OFFICE OF FEDERAL CONTRACT COMPLIANCE, EQUAL EMPLOYMENT OPPORTUNITY, DEPARTMENT OF LABOR

PART 60-2—AFFIRMATIVE ACTION PROGRAMS

Agency Action

On August 31, 1972, notice of proposed rule making was published in the *FEDERAL REGISTER* (37 FR 17765) with regard to amending § 60-2.2 of Chapter 60 of Title 41 of the Code of Federal Regulations. Interested persons were given 30 days in which to submit written comments, suggestions, or objections.

Having considered all relevant material submitted, I have decided to, and do hereby amend § 60-2.2 of Chapter 60 of Title 41 of the Code of Federal Regulations as follows:

§ 60-2.2 Agency action.

(a) (1) Any contractor required by § 60-1.40 of this chapter to develop an affirmative action program at each of his establishments who has not complied fully with that section is not in compliance with Executive Order 11246, as amended (30 FR 12319). Until such programs are developed and found to be acceptable in accordance with the standards and guidelines set forth in §§ 60-2.10 through 60-2.32, the contractor is unable to comply with the employment opportunity clause. An affirmative action plan shall be deemed to have been accepted by the Government at the time appropriate compliance agency has accepted such plan unless within 45 days thereafter the Office of Federal Contract Compliance has disapproved such plan.

(2) The appropriate compliance agency shall notify the contractor and the Office of Federal Contract Compliance when it has accepted an affirmative action plan.

(b) If, in determining such contractor's responsibility for an award of a

contract it comes to the contracting officer's attention, through sources within his agency or through the Office of Federal Contract Compliance or other Government agencies, that the contractor has not developed an acceptable affirmative action program at each of his establishments or has substantially deviated from such an approved affirmative action program, the contracting officer shall notify the Director and declare the contractor-bidder nonresponsible unless he can otherwise affirmatively determine that the contractor is able to comply with his equal employment obligations or, unless upon review, it is determined by the Director that substantial issues of law or fact exist as to the contractor's responsibility to the extent that a hearing is, in his sole judgment, required prior to a determination that the contractor is nonresponsible: *Provided*, That during any preaward conferences every effort shall be made through the processes of conciliation, mediation and persuasion to develop an acceptable affirmative action program meeting the standards and guidelines set forth in §§ 60-2.10 through 60-2.32 so that, in the performance of his contract, the contractor is able to meet his equal employment obligations in accordance with the equal opportunity clause and applicable rules, regulations, and orders: *Provided further*, That when the contractor-bidder is declared nonresponsible more than once for inability to comply with the equal employment opportunity clause a notice setting a timely hearing date shall be issued concurrently with the second nonresponsibility determination in accordance with the provisions of § 60-1.26 proposing to declare such contractor-bidder ineligible for future contracts and subcontracts.

(c) Immediately upon finding that a contractor has no affirmative action program or has deviated substantially from an approved affirmative action program or that his program is not acceptable, the contracting officer, the compliance agency representative or the representative of the Office of Federal Contract Compliance, whichever has made such a finding, shall notify officials of the appropriate compliance agency and the Office of Federal Contract Compliance of such fact. The compliance agency shall issue a notice to the contractor giving him 30 days to show cause why enforcement proceedings under section 209(b) of Executive Order 11246, as amended, should not be instituted.

(1) If the contractor fails to show good cause for his failure or fails to remedy that failure by developing and implementing an acceptable affirmative action program within 30 days, the compliance agency, upon the approval of the Director, shall immediately issue a notice of proposed cancellation or termination of existing contracts or subcontracts and debarment from future contracts and subcontracts pursuant to § 60-1.26 (b) of this chapter, giving the contractor 14 days to request a hearing. If a request for hearing has not been received within 14 days from such notice, such contractor will be declared ineligible for future con-

tracts and current contracts will be terminated for default.

(2) During the "show cause" period of 30 days every effort shall be made by the compliance agency through conciliation, mediation, and persuasion to resolve the deficiencies which led to the determination of nonresponsibility. If satisfactory adjustments designed to bring the contractor into compliance are not concluded, the compliance agency, with the prior approval of the Director, shall promptly commence formal proceedings leading to the cancellation or termination of existing contracts or subcontracts and debarment from future contracts and subcontracts under § 60-1.26(b) of this chapter.

(d) During the "show cause" period and formal proceedings, each contracting agency must continue to determine the contractor's responsibility in considering whether or not to award a new or additional contract.

Effective date. This amendment shall be effective January 31, 1973.

Signed at Washington, D.C., this 23d day of January 1973.

J. D. HOGSON,
Secretary of Labor.

[FR Doc.73-1829 Filed 1-30-73;8:45 am]

Title 47—Telecommunication CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18397; FCC 73-90]

PART 76—CABLE TELEVISION SERVICES

Memorandum opinion and order. In the matter of amendment of Part 74, Subpart K,¹ of the Commission's rules and regulations relative to community antenna television systems; and inquiry into the development of communications technology and services to formulate regulatory policy and rule making and/or legislative proposals, Docket No. 18397.

1. On June 24, 1970, we adopted the Second Report and Order in Docket No. 18397, 23 FCC 2d 816, in which we adopted § 74.1131—now § 76.501—of our cable television rules. Petitions for reconsideration and other pleadings have been filed, and we now address the objections.

2. Petitions and informal requests for reconsideration of the second report were received, during the regular filing period, from—

American Broadcasting Co. (ABC);
Central California Communications Corp. (CCCC);
Carter Publications, Inc.;
Columbus Cablevision, Inc.;
Fetzer Broadcasting Co.;
Gill Industries;
Gross Telecasting, Inc.;
Hazard Television Co., Inc.;
King Broadcasting Co.;
Liberty Television, Inc.;
McClatchy Newspapers;

¹ Redesignated as Part 76, in issue of February 12, 1972; 37 FR 3252.

Midcontinent Broadcasting Co.;
Monroe Cablesvision, Inc.;
Morris, Lloyd P.;
National Association of Broadcasters (NAB);
National Association of Educational Broad-
casters (NAEB);
National Broadcasting Co., Inc. (NBC);
Newhouse Broadcasting Corp.;
Post Co.;
Stauffer Publications, Inc., and Tribune Pub-
lishing Co., filing jointly (Stauffer);
Susquehanna Broadcasting Corp.;
Triangle Broadcasting Corp.; and
Vincennes University.

Subsequently, late-tendered pleadings were received from Connecticut Television, Inc. (CTI), and Broadcast-Plaza, Inc. (BPI), and supplementary pleadings were tendered by Columbus, Fetzer, Liberty, NAB, NAEB, Newhouse, and Stauffer. All of these are accepted for filing, and, in addition we have considered, in this context, a related rule making petition by Roanoke Telecasting Corp.

SUMMARY OF PLEADINGS

3. The respondents variously request that the Commission: (1) Rescind § 76.501 entirely, or with particular respect to television networks or stations (all stations, or UHF or educational stations), either permanently or pending further study; (2) postpone the effective date of the rule; (3) rescind or modify the divestiture requirements, or lengthen the 3-year divestiture period, or articulate standards for case-by-case waiver of the rule; or (4) with respect to station-system cross-relationships, substitute some other measure (geographic, economic, audience size et al.) of co-location for the present predicted-Grade-B-contour standard; or (5) expressly preempt the subject of cross-ownership, to prevent States and local governments from adopting standards more stringent than those adopted by the Commission.

4. Full rescission of § 76.501 is urged by CCCC, Columbus, Fetzer, Gill, Monroe, NAB, and Newhouse. Monroe and Newhouse contend that, as a matter of law (section 4 of the Administrative Procedure Act, 5 U.S.C. 553(c)) and policy, the record on which the Commission relied in adopting § 76.501 was inadequate, in that the rule is justified in the second report primarily on the basis of theories and speculations unsupported by facts, and that the facts cited in that document are irrelevant. Specifically, Newhouse contends that the statement therein that 46 percent of the cable systems started in 1966 were "owned by radio or television stations" is irrelevant because it (i) doesn't indicate what percentage was owned by television stations, and (ii) indicates no trend toward domination of cable by broadcasters when considered together with the fact that, as of the date of issuance of the second report, fewer than 400,000 cable subscribers were served by systems within the Grade B contours of co-owned television stations. Moreover, Newhouse argues, the Commission, having made no determination

as to what constitutes adequate communications media competition, cannot properly evaluate the need for remedial, or even preventative, action.

5. NAB cites the "Seiden Report" ("Mass Communications in the United States," filed in Docket No. 18110 in January 1972, 6 months after adoption of the second report herein) as proof that "there is a very large diversity of media available to the public, in virtually every market regardless of size," to such extent that (apart from unique situations which could be dealt with on an ad hoc basis) "co-located cable television cross-ownership could not and would not significantly affect it." Newhouse and Fetzer cite data regarding some specific cable localities as evidence that adequate media competition exists.

6. Newhouse contends that, if broadcasters are excluded from cable system operation, other large corporations will move in without the broadcasters' record of public service, and it suggests that certain multiple-system operators favor § 76.501 because it "enables" them to increase their share of the CATV market by eliminating a strong source of competition for local markets." In response to the argument that cable-broadcast cross-ownership of the sorts dealt with in § 76.501 would encourage subordination of local-interest cablecasting to more profitable broadcast operations, Newhouse cites the voluntary importation of non-Newhouse TV broadcast signals by a Newhouse system within the Grade B contour of a co-owned television station.

7. Cross-ownership doesn't conflict with the Commission's "many voices" objective, Newhouse contends, since: (1) a cable system brings so many additional "voices" to the television set that any offsetting effects of local-cross ownership become insignificant; (2) a cable system conducting origination cablecasting will presumably focus on very local news and public service programming, something a TV broadcaster cannot do, and so station and system programming will not reinforce each other but rather concentrate on different subjects; and (3) cable systems can be (and, Gill notes, under the 1972 cable rules, in many cases are) required to provide access channels for programming not under the system operator's control. Newhouse, Columbus, and NAB assert that the Commission's primary basis for adoption of § 76.501 was the expectation that cable systems would originate cablecast programming to a significant extent in compliance with the program-origination rule (now § 76.201(a)), and claim that that basis has been invalidated by the Commission's stay-of-implementation of the program-origination requirement.³

³ The stay was ordered by the Commission after the U.S. Court of Appeals, Eighth Circuit, declared the program-origination requirement null and void. *Midwest Video Corp. v. U.S.*, 441 F. 2d 1322 (1971). Subsequently, the Supreme Court reversed that Eighth Circuit decision (406 U.S. 649 (1972)), but the Commission has not yet acted to terminate the stay.

8. The Commission's contention, in footnote 2 of the second report, that "diversification rules would be desirable even if CATV operations were limited to carriage of broadcast signals and common carrier activities, in view of the limited number of broadcast and newspaper media in all communities, and the potential importance of cable facilities in providing many communications services," is dispute by Newhouse and Columbus on the ground that it "represents an arbitrary assumption of antitrust jurisdiction using patently wrong antitrust theories," since (1) cable and broadcasting are different industries in separate markets, and (2) there is an ample supply of media voices. Moreover, Newhouse argues, the future shape of cable television cannot be foreseen with certainty, and regulatory policies should not be based upon speculative prediction.

9. NAB contends that, as a result of our adoption of the Cable Television Report and Order in Docket No. 18397 (37 FR 3251, February 12, 1972), enough is now known about the future shape of cable to warrant rescission of § 76.501. Specifically, NAB says, under the new rules: (1) The TV broadcast signal carriage by cable systems is now predetermined more than ever by detailed rules, and hence the cable operator is, for the most part, unable to favor a co-owned local television station (or disadvantage a competing local TV station) by his distant-signal-carriage choices; and (2) the emphasis is now on access rather than origination cablecasting (with the cable operator rewired in the top 100 markets to provide at least three access channels beyond his programming control).

10. Newhouse contends that the provisions of § 76.501 lie beyond the Commission's statutory authority. It argues that nothing in the Communications Act prohibits a broadcast licensee from engaging in any proper type of business; cites a judicial decision for the proposition that the Commission lacks statutory authority to adopt a rule barring newspaper publishers from broadcast station ownership; and from that infers that the § 76.501 ban on television-cable cross-ownership also exceeds the Commission's statutory authority. Newhouse further argues that the Commission's power to regulate cable is limited to that reasonably ancillary to regulation of broadcasting, and questions whether cable system ownership may be included under that rubric.

11. Rescission of § 76.501(a)(1), regarding cross ownership et al. of cable systems with national television networks, is urged by two of the three national TV broadcast networks, ABC and NBC. In support of this request, they argue that: (1) Absent evidence of illegality or wrongdoing, adoption of the network cross-ownership ban is unfair to the networks and contrary to legal tradition in that (i) without good cause it bars an industry from experimenting with or adopting a new technology in developments related to its normal function of program distribution, and (ii) it

² Or let UHF stations hold noncontrolling interests in co-located cable systems.

is unheard of in American law (under such circumstances) to impose per se disqualifications from future business interests and require divestiture of a business lawfully acquired or engaged in (NBC). (2) The Commission's Notice * * * in Docket No. 18397 did not inform parties that the question of network ownership of cable systems would be decided, and thus the rulemaking "notice" requirements in the Administrative Procedure Act have not been met; although some respondents to the notice commented on the network question, only 1 month (April 3 to May 12, 1969) was allowed for reply comment; and the question of TV broadcast network cross-ownership with cable systems is a major one which warrants full investigation and full opportunity for comment (ABC). (3) The Commission's fear that television network ownership of cable systems might inhibit cable development is contradicted by the fact that the television industry itself was developed to a large degree by radio broadcast licensees and networks, and newspaper and theater owners (ABC, NBC). And (4) the prohibition against network ownership of cable systems is premature, and could hamper cable growth, since (i) only a few cable subscribers are served by network-owned systems (ABC, NBC); (ii) cable television is at too early a stage of development, and its expansion and innovation needs and risks are too great for the Commission to deny ownership to those whose natural interest and communications innovation history may be the greatest; (iii) exclusion of TV network investment in cable systems will be without any justification if cable systems become essentially common carriers as a result of the Commission's rulemaking decisions designed to promote program diversity; and (iv) there is no problem of overconcentration of network ownership in cable television now, and there will be time enough to deal with the problem, if it is one, when the Commission knows what the role of cable is to be (ABC).

12. Rescission of § 76.501(a)(2), regarding cross-ownership et al. of cable systems with co-located television broadcast stations, is urged specifically by BPI, Carter, Columbus, CTI, Gill, McClatchy, and Midcontinent; and implicitly by Fetzer, Hazard, Liberty, and Monroe. Monroe objects to the local station-system cross-ownership ban on the ground that it prevents station licensees, who receive no compensation from cable systems for television broadcast carriage, from at least getting indirect compensation via ownership of cable systems in their own areas. Monroe further contends that the station-system cross-ownership ban reverses the Commission position expressed in Docket No. 15415; that the Commission's rationale for that reversal (i.e., that its previous view had not taken local cablecasting and other potential nonbroadcast communications services by cable systems) since, during the pendency of Docket No. 15415, the Commission could not have been unaware of these potentialities; and that

the Commission's attempt, via § 76.501(a)(2), to foster competition between cable systems and co-located TV stations, is inconsistent with its claim of jurisdiction over cable on the ground that cable regulation is necessary to protect TV stations from cable system competition.

13. CTI contends that the station-system cross-ownership ban is insufficiently supported in the record because it is based not on allegations or evidence of any existing pattern of abuse, but rather on unjustified fear of potential anticompetitive abuse and unwarranted expectations that cable would play a pivotal role as an opinion molder; Liberty notes that the second report contains no findings regarding the degree of local cross-ownership in the United States; and Gill notes that no showing was made of any abuses in system operators' control of origination cablecast channels. McClatchy states that, as of January 1, 1970, fewer than 150 operating cable systems, serving 380,000 subscribers (6 percent of the number of systems, and 8.4 percent of the number of subscribers, at that time) were owned by parties with an interest in a co-located system, and that these 380,000 subscribers constituted only 0.6 percent of the then 62,213,900 TV homes in the United States; and concludes, in the light of these figures, that the alleged problem is de minimis. CTI contends that the station-system local-cross-ownership ban reflects a mere mechanical transference of existing broadcast principles to the emerging cable industry (as evidenced, it says, by the across-the-board application of the ban to UHF and VHF stations, commercial and noncommercial stations, and majority and minority interests, all without regard to the number and kinds of communications media serving a particular area). Such "mechanical transference" is inappropriate, CTI says, because of the "fundamental technical and competitive distinctions between broadcasting and cable communications."

14. Such alleged "mechanical transference" is particularly inappropriate, CTI argues, in the light of developments subsequent to the issuance of the second report. In particular, CTI contends, it is becoming increasingly unlikely that cable operators will play a significant role in the influencing of opinion. Rather, it asserts, there is a growing probability that cable operators will have little control over their systems' nonbroadcast programming, and that even major systems may not be required to originate cablecast programming at all. This last point raises an important threshold question, CTI says, in that the Commission's adoption of § 76.501 was strongly influenced by the expectation that most major cable systems would be under a regulatory obligation to act as significant programming media. Monroe asserts that, in any event, cable operators have no interest in opinion influencing, and that their cable origination would affect public opinion mainly by providing access to multiple voices in the com-

munity. Gill comments that a cable system's ability to influence its subscribers' opinions is restricted by, inter alia, the existence of competing media, the limited amount of cable origination (as a result of cost considerations), and the application of "political broadcast" and "fairness doctrine" rules to origination cablecasting. BPI urges the Commission to permit TV broadcasters to take part in the development of co-located systems, both because doing so would be consistent with the Commission's desire to foster cable growth in the Nation's largest market areas and because it would benefit viewers for television broadcasters who know their own areas' needs and interests, and who know how to do programming, to have a role in local cable development.

15. Exemption of UHF television stations from the scope of § 76.501(a)(2) is favored by CTI and Roanoke⁴ and opposed by BPI. In support of an exemption for UHF stations, CTI states that: (1) Over the years, the Commission and Congress have adopted several measures to foster UHF in view of the technical and competitive disparities between UHF and VHF television, and the courts have regularly viewed such actions as valid exercises of Commission and congressional discretion; (2) but UHF and VHF are still far from competitive equals and there is continuing a need to foster UHF development; and (3) exemption of UHF television stations from the purview of § 76.501(a)(2) would materially foster the development of UHF television and would be fully consistent with regulatory policies previously adopted for that purpose. (As alternatives, if necessary, to full exemption of UHF stations from the local-cross-ownership ban, CTI urges that § 76.501(a)(2) be amended to permit a financially marginal UHF station to hold a minority interest in a co-located cable system, and to provide that UHF station-cable system cross-ownership shall be dealt with on a case-by-case basis.) Roanoke urges the Commission to allow UHF stations to have ownership interests in co-located cable systems on the grounds that (4) a UHF station with an ownership interest in a co-located cable system can supply it with program origination facilities and expertise, and, (5) if the cable system is successful, it can bring added revenues to a financially straitened UHF station which has an interest in it.

16. BPI, on the other hand, contends that a special exemption for UHF stations would be unsound because: (1) It would confer an undue competitive advantage upon certain UHF stations (e.g., profitable network-affiliated stations in such top-50 markets as Hartford-New Haven, which is served by only two VHF stations); (2) even in the case of marginal UHF stations, it is not clear that cable system local cross-ownership would

⁴ Also, in July 1972, the All-Channel Television Society filed a rulemaking petition requesting amendment of § 76.501 to permit a UHF station to hold an ownership interest in a co-located cable system.

improve the UHF station's financial condition or public service comparability; indeed it is equally likely that the cable system adjunct would be a drain on the UHF station's resources; (3) an exemption predicated on the plight of struggling UHF stations would in no way further the Commission's cable television objectives, and should therefore not be allowed. BPI argues that: (i) The case for relaxing the cross-ownership ban rests largely on the contribution that broadcasters can make to the development of cable in their service areas; (ii) judged in that light, a rule which would permit the class of ETV stations with the least to contribute to enter cable business locally, but which would preclude entry by those TV licensees with the most to contribute, is hardly calculated to maximize the benefits of cable service to the public; (iii) to the extent that UHF stations are in a position to provide such assistance to cable television in an ownership capacity, they stand on no different footing than available VHF stations, and there is no reason why such UHF stations should be accorded preferential treatment.

17. Exemption of educational television stations from the terms of § 76.501 (a)(2) is urged by NAEB, "Vincennes University," and an individual educator, Mr. Lloyd P. Morris of Elwood Park, Ill. Their arguments are analogous in many respects to those contained in comments on the subject filed in response to the Notice of Proposed Rule-Making and of Inquiry in Docket No. 18891 (35 FR 11042, July 9, 1970), pursuant to footnote 1 of that document. NAEB asserts, first, that the original notice . . . in Docket No. 18397 did not discuss the need for or desirability of a prohibition against educational television station-cable system local cross-ownership; and that the second report sets forth no reasons for such a prohibition. However, NAEB continues, it is clear that the thrust of the Commission's comments and attention, with respect to TV station-cable system, concerned commercial stations. Second, NAEB cites the Commission's acknowledgement (in footnote 1 of our notice . . . in Docket No. 18397) that cross-ownership with a cable system may be financially beneficial to an ETV station. These financial opportunities alone warrant deletion of the present ETV-cable local cross-ownership ban. NAEB urges, because "most of the difficulties confronting educational television stations are directly traceable to the lack of adequate funding . . ." In response to the Commission's observation that other potential sources of funds are available to ETV stations, NAEB replies that the operation of a local cable system would (i) be directly available to a local ETV station, (ii) be based on its own industry and initiative, and (iii) avoid the "often-times tortuous delays involved in secur-

ing funds from more traditional sources." Third, NAEB argues, ETV stations, as owners of cable systems, would make good use of cable's potentialities for educational and public service programming, in that: (i) They would make full use of the cable's broadband and two-way capabilities; (ii) they could coordinate the programming activities of the ETV station and the cable system so that (a) imported signals would not have an adverse effect on the ETV station's offerings, and (b) distant ETV signals could supplement local ETV station offerings but harmful duplication would be avoided; and (iii) ETV stations have good knowledge of local tastes, needs, and desires by virtue of their deep and broad-based roots in the community. Fourth, Vincennes notes that the Commission used a "multiple voices" argument in support of its adoption of both § 76.501(a)(2) and recent amendments to the broadcast multiple-ownership rules (in the first report and order in Docket No. 18110, 22 FCC 2d 293 released Apr. 6, 1970), but that it specifically excluded ETV stations from the applicability of the Docket No. 18110 amendments. (Also, some of the comments filed in Docket No. 18891 argue that the "multiple voices" argument does not properly apply to ETV stations because, in the typical case, ETV station governing boards memberships have been deliberately chosen to represent a broad range of community interests.)

18. A stay of implementation of § 76.501 is urged by Gill, Hazard, NAB, and Triangle. Gill, Hazard, and Triangle contend that it is unfair to single out TV broadcast-cable cross-ownership for early disposition because the Commission cannot logically isolate the questions pertaining to such cross-ownership from the questions pertaining to cross-ownership of cable systems with other mass-communications-media entities. The NAB urged deferral of the effective date of section 76.501 until the true nature of cable is clarified and until pertinent questions raised in the Commission's broadcast-multiple-ownership docket (No. 18110) are clarified.

19. Rescission or modification of the divestiture requirement: Most of the petitioners urge (1) rescission of the divestiture requirement of § 76.501, either (i) totally, or insofar as that requirement applies to (ii) networks or (iii) television stations; (2) extension of the present 3-year divestiture grace period; or (3) enunciation of appropriate standards for (i) general exceptions to, or (ii) case-by-case waivers of, the divestiture requirement.

20.—Rescission: NAB, urging total rescission of the divestiture requirement, cites a series of Commission actions which, in NAB's view, encouraged a number of broadcasters to enter the cable television field in the mistaken belief that subsequent divestiture would not be required. In the light of that history, NAB believes, the imposition of a divestiture requirement constitutes "a lack of elemental fairness." NBC criticizes the divestiture requirement, insofar

as it applies to the networks, as unfair, invalid, and contrary to the public interest in view of an absence of findings of wrongdoing, illegality, or monopoly, and failure to consider the networks' contributions to cable television during cable's experimental period.

21.—Re co-located television stations: Several of the petitioners (CCCC, Carter, Columbus, CTI, Fetzer, Gill, Liberty, McClatchy, Midcontinent, Newhouse, NAB, Post, and Stauffer) urge rescission of the divestiture requirement insofar as it applies to co-located television broadcast stations. In support of such rescission it is argued that (i) procedural requirements have been violated; (ii) Commission precedent has been ignored; (iii) the divestiture requirement is injurious to present owners; (iv) the record is insufficient to justify the requirement; (v) mandatory divestiture is an extreme and unlawfully harsh remedy; (vi) it is discriminatorily ill-timed; and (vii) this timing forces cable operators to make "gambling" decisions regarding divestitures.

22. The procedural requirements of section 316(a) of the Communications Act were violated in the adoption of the mandatory-divestiture requirement, according to Columbus, McClatchy, Midcontinent, and Newhouse. They argue that: (1) The Commission asserts, in paragraphs 17 and 18 of the Second Report, that, in banning certain cross-ownership with cable systems, it is exercising a licensing function with respect to cable; but (2) section 316(a) prohibits modification of "Any station license . . . by the Commission . . . until the holder of the license . . . [has] been given reasonable opportunity to show cause why such order of modification should not issue, and section 316(b) provides that the burdens of proof and of proceeding with the introduction of evidence are on the Commission; and yet (3) cable operators with interests in co-located television stations have been afforded an opportunity for a public hearing. Although (4) it is conceded that the Commission through rule making change the operating requirements of existing licensees (California Citizens Association v. United States, 375 F. 2d 43 (9th Cir. 1967), (5) that does not mean that the Commission may use the rule making to negate the provisions of section 316(a) (id., p. 51), e.g., by the adoption of a rule which is (as in the case of the mandatory-divestiture provisions of § 76.501) individual in impact and condemnatory in purpose—(6) The divestiture provision modifies the existing license of certain television stations by conditioning the continuance of that license upon their divestiture of co-located cross-owned cable systems—(7) The individual-impact character of this is heightened by the fact that only 400,000 homes, fewer than 0.07 percent of all TV homes, are served by cable systems within the predicted grade B contours of co-owned TV stations.

23. The divestiture requirement is contrary to Commission precedent, argue Columbus, Fetzer, McClatchy, Newhouse,

* Licensee of ETV Station WVUT, Vincennes, Ind., and operator of cable systems at Vincennes and Washington, Ind., and Bridgeport and Lawrenceville, Ill.

and Stauffer; and (Fetzer adds) it is particularly harsh treatment of broadcasters who had been led to expect otherwise, acted in reasonable reliance thereon, and are now threatened as a result with great financial loss.

24. NAB urges the Commission to "grandfather" local cross-ownerships in being prior to the adoption of § 76.501 on the ground that the economic losses and uncertainties resulting from the divestiture requirement are of a far higher magnitude than damage caused by a prospective application of the rule. Several of the petitioners (CCCC, Carter, Columbus, Gill, Newhouse, and Post) cite the impact of the divestiture requirement on their own business operations as examples of the injury broadcasters with local cable interests. They refer to the long leadtime between capital investment and fully profitable operation, and the unlikelihood of recovering their investments in disposing of cable systems which have not matured to the point of fully demonstrating their potential profitability. They express little confidence in the Commission's hope that broadcasters will be able to negotiate exchanges of cable systems with broadcasters in other areas.

25. Petitioners contending that the evidence in the record is insufficient to warrant mandatory divestiture of cross-relationships between co-located cable systems and television systems state essentially the following: (1) The record includes no evidence of abuses of existing such cross-ownerships; nor is there any evidence of anticompetitive effects of existing cross-ownership situations, or of a reduction in the number of opinion-influencing voices available to people in communities served by cable systems within the grade A or B contour of a jointly owned television station. Moreover, cable systems will have "access" channels over which diverse opinions may be expressed without the control of cable operator (Columbus, McClatchy, Midcontinent, Newhouse). (2) The Commission adopted the cross-ownership ban on the basis of its "expertise" and in the light of its new requirement of program origination (id.). However, "expertise" is not an adequate basis for requiring divestiture of investments made in reliance upon previous Commission policies (Midcontinent); and the Commission's hope that it may foster program origination by means of the divestiture requirement is purely speculative since (i) most cable systems (whether station-owned or not) do not engage in program origination, and (ii) the program-origination rule provides no standard as to the types and amount of origination required (Fetzer). (3) The lack of record evidence supporting divestiture is all the more glaring when compared with the Commission's approach in adopting rules restricting broadcast-ownership combinations: (i) The broadcast duopoly policy gradually developed case by case. (ii) The chain-broadcast rules were adopted following a 6-year process, including extensive hearings before a five-member special committee (Columbus, McClatchy, Midcontinent, Newhouse). (iii) In

the present proceeding, the Commission did not give affected parties a reasonable opportunity to supply data, unlike broadcast Docket No. 18110, in which the Commission gave parties 6 months additional time for filing of comments (Stauffer).

(4) The Commission made no effort to demonstrate that the alleged problem is not de minimis. It fails to ascertain and show (i) the extent of broadcast-cable cross-ownership, and (ii) the impact of the Second Report within grade B contours of cross-owned stations (it has given no indication whether the new cross-ownership prohibition will affect 10 percent or 90 percent of the cable systems and/or subscribers in the United States). In contrast, in Docket No. 18110, the Commission published an exhaustive abstract, "Newspaper-Broadcast Joint Interests as of November 1, 1969". (Id.) (5) In fact, the available data (see paragraph 13 supra) indicates that the "problem" is, at most, de minimis (id.).

26. But, even assuming the existence of a problem, several petitioners argue, mandatory divestiture is a harsh remedy which is unwarranted where, as here, lesser remedies would do. In *Timken Roller Bearing Co. v. United States*, 341 U.S. 593, 603 (1951), they note, the U.S. Supreme Court ruled that "divestiture . . . is not to be used . . . without regard to the type of violation or whether other effective remedies, less harsh, are available". How, they ask, can the Commission impose mandatory divestiture upon cable operators who are innocent of misconduct in light of the Supreme Court's indication in *Timken* that it would not require divestiture in most cases in which actual wrongdoing was shown? They suggest, as less drastic measures sufficient to serve the Commission's purposes: (1) Application of the broadcast "fairness doctrine" and "political election" rules to cablecasting; (2) mandatory operation of a "common-carrier" cablecast channel; and (3) reliance upon prospective application of the cross-ownership ban, since future sales of stations and systems would gradually eliminate "grandfathered" cross-ownerships. (CCCC, Columbus, Fetzer, McClatchy, Midcontinent, Newhouse, and Stauffer.)

27. Finally, petitioners contend that the divestiture requirement is discriminatorily ill-timed in that (i) the Commission "prematurely" ordered a break-up of the "most insignificant" of the media combinations, cable-broadcast, just after postponing action on other cross-ownership proposals in Docket No. 18110 to permit further study (McClatchy and Midcontinent); and (ii) it is inconsistent and unfair to require the licensee of a TV station in a community to dispose of his interest in a cable system there while permitting the owner of a newspaper and AM and FM stations in that community to acquire a cable system there (Gill). Gill also argues that this nonsimultaneity of Commission action on the various cable cross-ownership questions unreasonably compels an entrepreneur with cable, TV, and AM and FM radio interests in the same area to

gamble in deciding whether to divest himself of his TV station or the cable system—in that subsequent Commission rule making decisions may force him to divest himself of more of these interests than he would have had to if he could have anticipated those later decisions.

28.—*Modification of the divestiture requirement*: CCCC notes that the Commission has mentioned the possibility of divestiture-requirement waivers, but has not generally articulated its criteria for grant of such waivers; and it urges the Commission to reduce the time and expense involved in the waiver process by public announcement of specified waiver criteria. Gill urges a stay of the divestiture requirement in view of the little time remaining of the originally specified 3-year divestiture period, and the Commission's inaction to date on petitions for reconsideration. Without such a stay, Gill argues, "a cross-owner must soon determine which of his properties he will divest, and diligently seek a buyer, notwithstanding his lack of firm knowledge as to whether divestiture will be required after the Commission's reconsideration." If a specified divestiture period is deemed necessary, Gill says, it should be of 5 years' duration beginning when the Commission has resolved all of the communications media cross-ownership questions—5 years duration to avoid needless injury to present owners and to be consistent with Commission decisions in other, comparable situations, and the delayed starting time for reasons indicated in paragraph 27 supra. In addition, Gill urges that a cable operator be allowed to complete development of his cable facility pursuant to his pre-July 1970 plan even if that involves franchises acquired after July 1, 1970, because failure to do so will prevent numerous communities islanded within a cable facility's general service area from obtaining cable service for some time and will needlessly depress the resale value of the cable system, and because, "So long as it is understood that expanded portions of the system are to be divested along with the rest, there is no reason why the operator should not be permitted to . . . construct and operate newly franchised segments of his system until such time as the whole system is sold."

29. *Cross-interest*: The Commission is requested by CTI,* King, and Post to permit television station licensees to have a minority interest in colocated cable systems, on the grounds that prohibition of such cross-relationships is unprecedented and unnecessary to achieve the Commission's purposes (Post, King), that it denies a source of revenue that financially marginal stations may need in order to continue their broadcast service (CTI), and that it deprives cable systems of investment funds from television licensees who may wish to assist a cable capable of increasing their station's audience. If the Commission's aim is arm's-length competition, King asks, would it

* With particular reference to financially marginal UHF stations.