

(3) Model A300 B4–605R and B4–622R airplanes.

(4) Model A300 F4–605R and F4–622R airplanes.

(5) Model A300 C4–605R Variant F airplanes.

(6) Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by a report of yellow hydraulic system failure, including both braking accumulators, due to failure of the parking brake operated valve (PBOV). We are issuing this AD to address failure of the PBOV, which could result in no braking capability during ground operations, possibly leading to damage to the airplane and injury to people on the ground.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) PBOV Replacement

Within 60 months after the effective date of this AD, replace the PBOV having part number (P/N) A25315–1 with a PBOV having P/N A25315020–2, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–32–0467, dated July 4, 2017; Airbus Service Bulletin A300–32–6117, dated July 4, 2017; or Airbus Service Bulletin A310–32–2151, dated July 4, 2017; as applicable.

(h) Parts Prohibition

(1) After modification of an airplane as required by paragraph (g) of this AD, do not install any PBOV having P/N A25315–1 on that airplane.

(2) For an airplane that, as of the effective date of this AD, has a PBOV having P/N A25315020–2 installed: As of the effective date of this AD, do not install any PBOV having P/N A25315–1 on that airplane.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must

be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC)*: If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0153, dated August 17, 2017, for related information. This MCAI may be found in the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2018–0301.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Airbus Service Bulletin A300–32–0467, dated July 4, 2017.

(ii) Airbus Service Bulletin A300–32–6117, dated July 4, 2017.

(iii) Airbus Service Bulletin A310–32–2151, dated July 4, 2017.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email account.airworth-eas@airbus.com; internet <http://www.airbus.com>.

(4) You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Des Moines, Washington, on August 30, 2018.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

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FEDERAL TRADE COMMISSION

16 CFR Part 410

Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (“Commission”) has completed its regulatory review of its Trade Regulation Rule Concerning the Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets (“Picture Tube Rule” or “Rule”), as part of its systematic review of all current Commission regulations and guides. Pursuant to that review, the Commission now determines that the Rule is no longer necessary to prevent deceptive claims regarding the size of television screens and to encourage uniformity and accuracy in their marketing. The Commission, therefore, repeals the Rule.

DATES: This rule is effective January 7, 2019.

ADDRESSES: Relevant portions of the record of this proceeding, including this document, are available at <https://www.ftc.gov>.

FOR FURTHER INFORMATION CONTACT: John Andrew Singer, Attorney, (202) 326–3234, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, CC–9528, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission promulgated the Picture Tube Rule in 1966¹ to prevent deceptive claims regarding the size of television screens and to encourage uniformity and accuracy in marketing. When the Commission adopted the Rule, it expressed concern about consumer confusion regarding whether a television's advertised screen dimension represented the actual viewable area of a convex-curved cathode ray tube (CRT) or included the viewable area of the picture tube plus non-viewable portions of the tube, such

¹ 31 FR 3342 (Mar. 3, 1966).

as those behind a casing. In addition, the Commission concluded that most consumers perceived the sizes of rectangular shaped objects, like television screens, in terms of their length or width, not their diagonal dimension.²

Based on these concerns, the Rule sets forth the means to non-deceptively advertise the dimensions of television screens.³ Thus, marketers must base any representation of screen size on the horizontal dimension of the actual, viewable picture area unless they disclose the alternative method of measurement (such as the diagonal dimension) clearly, conspicuously, and in close connection and conjunction to the size designation.⁴ The Rule also directs marketers to base the measurement on a single plane, without taking into account any screen curvature,⁵ and includes examples of both proper and improper size representations.⁶

II. Regulatory Review

The Commission reviews its rules and guides periodically to seek information about their costs and benefits, regulatory and economic impact, and general effectiveness in protecting consumers and helping industry avoid deceptive claims. These reviews assist the Commission in identifying rules and guides that warrant modification or repeal. The Commission last reviewed the Rule in 2006, leaving it unchanged.⁷

A. 2017 Advance Notice of Proposed Rulemaking (ANPR)

In its 2017 ANPR initiating the current Rule review, the Commission solicited comment on, among other things: The economic impact of and the continuing need for the Rule; the Rule's benefits to consumers; and the burdens it places on industry, including small businesses.⁸

The Commission further solicited comment regarding how consumers understand dimension claims for television screens, including: Whether consumers understand the stated dimensions; whether the dimensions are limited to the screen's viewable portion; and whether the dimensions are based on a single-plane measurement that does not include curvature in the screen. The Commission also solicited input on whether advances in broadcasting and television technology,

such as the introduction of curved screen display panels and changing aspect ratios (e.g., from the traditional 4:3 to 16:9), create a need to modify the Rule. Finally, the Commission requested comment regarding whether the Rule should address viewable screen size measurement reporting tolerances and rounding.⁹

The Commission received two comments in response, both urging the Commission to repeal the Rule.¹⁰ Both commenters characterized the Rule as an unnecessary relic from when televisions used curved CRTs. For example, the Consumer Technology Association (CTA), a trade association representing the U.S. consumer technology industry, commented that televisions with fully viewable, single plane, flat screens have become ubiquitous, and that the use of the diagonal measurement to represent screen size, both for televisions and for products with viewing screens not within the scope of the Rule, has become standard.¹¹

Commission staff observations confirmed that virtually all televisions in the marketplace have flat screens. Moreover, staff observed that marketers uniformly advertise the diagonal screen measurement for televisions, as well as for devices with screens not subject to the Rule, such as computer monitors, tablets, and cellphones.¹²

B. 2018 Notice of Proposed Rulemaking (NPR)

Based upon the comments to the ANPR and staff's observations, the Commission's 2018 NPR proposed repealing the Rule.¹³ In the NPR, the Commission observed that the record suggested that the Rule has not kept up with changes in the marketplace. The Commission noted that there have been substantial changes in television screen technology since the Rule's adoption, particularly in the past decade. In 1966, television screens had CRTs,¹⁴ portions of which did not provide a viewable image.¹⁵ Today, virtually all televisions have flat screens where the viewable image covers the entire surface.¹⁶ Consequently, a television screen's viewing area is easy to ascertain and,

therefore, claims regarding viewing area are not likely to deceive consumers.¹⁷ The Commission also stated that mandatory screen measurements appear to no longer be necessary to prevent consumer deception because the industry standard for representing screen size is a screen's diagonal dimension.¹⁸ Finally, the Commission concluded that the record lacked evidence of deception supporting retaining the Rule. In response to the ANPR, the Commission received no comments advocating for the Rule's retention or submitting information indicating that manufacturers are making deceptive screen size claims.

Accordingly, in its 2018 NPR, the Commission preliminarily concluded that the Rule is outdated and no longer necessary to protect consumers and stated that, "[n]othing in the record suggests that repealing the Rule would likely result in any consumer deception."¹⁹ It also sought further comment on the costs, benefits, and market effects of repealing the Rule, and particularly the cost on small businesses.²⁰

III. Issues Raised by Commenters to the 2018 NPR

The Commission received four comments in response to the NPR.²¹ CTA reiterated that the Commission should repeal the Rule. Three individual consumers argued the Commission should retain the Rule, but did so without submitting any evidence to support their position.

In support of repeal, CTA repeated its contention that the state of technology for televisions—flat screens extending to virtually the end of any casing—make it unlikely that any manufacturer would use any measurement other than the diagonal dimension of the screen to represent its size.²² CTA reiterated that even manufacturers of consumer products with screens not subject to the Rule, such as monitors, smartphones and tablets, uniformly use the diagonal measurement to represent screen size.²³ Consequently, CTA stated that keeping the Rule would not provide any

¹⁷ See, e.g., 60 FR 65529 (Dec. 20, 1995) (Commission repealed Binocular Rule, former 16 CFR part 402, finding technological improvements rendered it obsolete).

¹⁸ 83 FR at 17119.

¹⁹ *Id.*

²⁰ *Id.* at 17119–20.

²¹ These comments are located at: <https://www.ftc.gov/policy/public-comments/2018/03/initiative-744>. John Stover (#2), Georgianne Giese (#3), Frank Muenzer (#4), and CTA (#5) submitted comments. CTA's comment to the NPR is cited herein as "CTA-II."

²² CTA-II at 4–5.

²³ *Id.* at 5.

² *Id.* at 3342–43.

³ 16 CFR 410.1.

⁴ *Id.*

⁵ *Id.*, Note 1.

⁶ *Id.*, Note 2.

⁷ 71 FR 34247 (June 14, 2006).

⁸ 82 FR 29256 (June 28, 2017).

⁹ *Id.* at 29257–58.

¹⁰ The comments are located at: <https://www.ftc.gov/policy/public-comments/2017/07/initiative-707>. Jonathan Applebaum (#3) and Consumer Technology Association ("CTA") (#4) submitted comments. CTA's comment to the ANPR is cited herein as "CTA-I."

¹¹ 83 FR 17117, 17118 (Apr. 18, 2018).

¹² *Id.* at 17118.

¹³ *Id.* at 17118–19.

¹⁴ CTA-I at 4.

¹⁵ *Id.*

¹⁶ *Id.* at 5; 83 FR at 17119.

meaningful benefit to consumers because market forces will continue to make a screen's diagonal measurement the industry standard for televisions.²⁴ CTA also noted that the Commission has not brought an enforcement action to compel compliance with the Rule in the more than 50 years since its adoption.²⁵ Repealing the Rule, according to CTA, would not create any significant costs for manufacturers since they already use the diagonal screen measurement, and there is nothing to suggest that this would change after repeal.²⁶

CTA also asserted that the Commission previously repealed trade regulation rules under similar circumstances, including when rules became obsolete due to changing technology;²⁷ decades had passed without any enforcement actions;²⁸ and any problems with deception arising after a rule repeal could be addressed on a case-by-case basis in the absence of an industry-wide rule.²⁹

Finally, CTA requested that, in addition to repealing the Rule, the Commission affirmatively declare that all "state regulations akin to the Rule—including interpretations of state laws prohibiting unfair or deceptive acts or practices—are in conflict with federal policy and are therefore preempted."³⁰ CTA contended that a decision by the Commission not to regulate television screen measurement by repealing the Rule creates a federal policy that no entity may regulate television screen measurement. Therefore, according to CTA, the Commission's decision not to regulate an issue has the identical preemptive effect as the issuance of an affirmative regulation on an issue.³¹

Three individual consumers urged the Commission to retain the Rule unchanged. John Stover stated the Rule should remain in effect because its retention "does no harm." Georgianne Giese commented the Rule should remain in effect because, "if it ain't broke, don't fix it," and because the Rule standardizes television screen measurement. Finally, Frank Muenzer stated that the proposed repeal of the Rule "appears to be a politically

motivated completely unnecessary removal of a useful regulation."³²

IV. Basis for Repealing the Rule

Section 18 of the FTC Act, 15 U.S.C. 57a, authorizes the Commission to promulgate, amend, and repeal trade regulation rules that define with specificity acts or practices that are unfair or deceptive in or affecting commerce within the meaning of section 5(a)(1) of the FTC Act, 15 U.S.C. 45(a)(1). The Commission regularly reviews its rules to ensure they are up-to-date, effective, and not overly burdensome, and has repealed a number of trade regulation rules after finding they were no longer necessary to protect consumers.³³

The additional comments received in response to the NPR affirm the Commission's preliminary conclusion³⁴ that current conditions support repealing the Rule. As explained in detail below, the record indicates that: (1) The Rule has not kept up with changes in the marketplace; (2) mandatory screen measurement instructions are no longer necessary to prevent consumer deception; and (3) manufacturers are not making deceptive screen size claims. Therefore, based on the record, the Commission now repeals the Rule.

First, the record indicates that the Rule has not kept up with changes in the marketplace. Specifically, as both CTA's comments and Commission staff's observations confirm, virtually all televisions now have flat screens where the viewable image covers the entire surface.³⁵ Moreover, these televisions are surrounded by thin bezels, not casings or console walls, which do not obscure any of the screens. Thus, in contrast to technology at the time the Commission promulgated the Rule, there currently is no ambiguity regarding a television screen's viewing area. Screen size claims, therefore, no

longer are fertile ground for widespread deceptive claims.

Second, to the extent lack of uniformity in screen size measurements (*i.e.*, diagonal vs. horizontal) increases the chances of deception, the Rule is not now necessary to create that uniformity. CTA's comments confirm staff's observation that, although the Rule mandates a single plane horizontal measurement of a television screen's viewable portion as the default measurement,³⁶ the industry universally measures television screen sizes using the diagonal dimension.³⁷ The record further demonstrates that manufacturers universally use a screen's diagonal dimension to represent sizes for screens contained in the many consumer devices outside the scope of the Rule.³⁸ The ubiquity of the diagonal dimension indicates that consumers expect to compare screens' diagonal dimensions when purchasing televisions. Thus, the market has created the uniformity the Rule originally sought.

Finally, the record lacks evidence of any deception in the marketplace that supports a continuing need for the Rule. No commenter submitted information indicating that manufacturers are making deceptive screen size claims. Additionally, the Commission has received no complaints about manufacturers making such claims over the past 5 years.³⁹

Accordingly, the Commission concludes that the Rule is no longer necessary to protect consumers from deceptive representations of screen size or to encourage uniformity and accuracy in marketing televisions. Nothing in the record suggests that repealing the Rule would likely result in any consumer deception. Therefore, any minimal costs associated with the Rule for businesses now outweigh any benefits to consumers.⁴⁰ The Commission can address any deceptive marketing on a case-by-case basis through enforcement actions brought under Section 5(a) of the FTC Act, 15 U.S.C. 45(a), rather than by imposing an industry-wide trade regulation rule.⁴¹

³² See n. 21, *supra*.

³³ See, e.g., 16 CFR part 419 (games of chance) (61 FR 68143 (Dec. 27, 1996) (rule outdated; violations largely non-existent; and rule has adverse business impact); 16 CFR part 406 (used lubricating oil) (61 FR 55095 (Oct. 24, 1996)) (rule no longer necessary, and repeal will eliminate unnecessary duplication); 16 CFR part 405 (leather content of waist belts) (61 FR 25560 (May 22, 1996)) (rule unnecessary and duplicative; rule's objective can be addressed through guidance and case-by-case enforcement); and 16 CFR part 402 (binoculars) (60 FR 65529 (Dec. 20, 1995)) (technological improvements render rule obsolete). These prior rule repeals demonstrate that the Commission has a long-standing practice of repealing certain trade regulation rules when, as here, they are no longer necessary to prevent consumer deception.

³⁴ 83 FR at 17119.

³⁵ CTA-I at 4-5; CTA-II at 4-5; 83 FR at 17118.

³⁶ 31 FR 3342, 3343 (Mar. 3, 1966) (former 16 CFR 4.103(b)); 16 CFR 410.1. Manufacturers may use an alternative method of measurement if they disclose this method clearly, conspicuously, and in close connection and conjunction to the size designation. 16 CFR 410.1.

³⁷ CTA-I at 5-6; CTA-II at 5-6; 83 FR at 17118.

³⁸ CTA-II at 5-6; 83 FR at 17118.

³⁹ The Commission retains complaint data for five years. The data reported above is based on a search of Consumer Sentinel conducted on July 18, 2018.

⁴⁰ See CTA-I at 7-8; CTA-II at 7.

⁴¹ 15 U.S.C. 45(a). See CTA-I at 3 and CTA-II at 7-8. See also, e.g., 61 FR 25560, 25560-61 (May 22, 1996) (in repealing Leather Content in Waist Belts Rule due, in part, to lack of the need for

²⁴ *Id.* at 5-6.

²⁵ *Id.* at 6.

²⁶ *Id.* at 7.

²⁷ *Id.* at 7-8 (citing Commission's 1995 repeal of the Binocular Rule).

²⁸ *Id.* (citing Commission's 1996 repeal of Games of Chance Rule).

²⁹ *Id.* (citing Commission's 1996 repeal of Leather Belt Rule).

³⁰ *Id.* at 11.

³¹ *Id.* at 10.

V. The Repeal of the Rule Is Not Intended To Preempt State Action for Deceptive or Unfair Acts or Practices Regarding Television Screen Size

To prevent what CTA characterized as the potential for “a complicated patchwork quilt of inconsistent [state law] mandates,”⁴² it asked the Commission to issue an affirmative statement that by repealing the Rule it intends to preempt any state regulatory or enforcement actions regarding representations of television screen size.⁴³ The Commission declines to issue such a statement.

While the Commission concludes that a trade regulation rule for television screen measurement is no longer necessary, it retains its authority to address future unfair or deceptive practices relating to television screen measurement on a case-by-case basis.⁴⁴ Similarly, states have authority under analogous state laws. Therefore, the Commission’s repeal of the Rule is not intended to preempt the states from taking regulatory or enforcement actions to prevent deception or unfairness concerning television screen measurement.

VI. Regulatory Flexibility Act and Regulatory Analysis

Under Section 22 of the FTC Act, 15 U.S.C. 57b–3, the Commission must issue a final regulatory analysis for a proceeding to amend a rule only when it: (1) Estimates that the amendment will have an annual effect on the national economy of \$100 million or more; (2) estimates that the amendment will cause a substantial change in the cost or price of certain categories of goods or services; or (3) otherwise determines that the amendment will have a significant effect upon covered entities or upon consumers. The Commission determines that the repeal of the Rule will not have such effects on the national economy; on the cost of televisions; or on covered parties or consumers. The Rule repeal, rather than imposing any costs on covered parties or consumers, will eliminate any costs associated with complying with the Rule. Accordingly, the repeal of the Rule is exempt from Section 22’s final regulatory analysis requirements.

The Regulatory Flexibility Act (“RFA”), 5 U.S.C. 601–612, requires that the Commission conduct an analysis of

the anticipated economic impact of the amendment of a rule on small entities. The purpose of a regulatory flexibility analysis is to ensure that an agency considers the impacts on small entities and examines regulatory alternatives that could achieve the regulatory purpose while minimizing burdens on small entities. Section 605 of the RFA, 5 U.S.C. 605, provides that such an analysis is not required if the agency head certifies that the regulatory action will not have a significant economic impact on a substantial number of small entities. The Commission concludes that the repeal of the Rule will not have a significant economic impact upon small entities because the Rule’s repeal will eliminate any costs associated with complying with the Rule. Therefore, in the Commission’s view, the repeal of the Rule will not have a significant or disproportionate impact on the costs of small entities that sell televisions. These entities appear to provide consumers with the screen size as measured by a television’s manufacturer and that typically appears on a television’s packaging. In addition, the Commission is not aware of any existing federal laws or regulations that address the measurement of television screens and that would conflict with the repeal of the Rule. Therefore, based on available information, the Commission certifies that repealing the Rule will not have a significant economic impact on a substantial number of small entities.

VII. Repeal of Rule

For the reasons stated in the preamble, and under the authority of 15 U.S.C. 57a, the Commission removes 16 CFR part 410.

List of Subjects in 16 CFR Part 410

Advertising, Electronic funds transfer, Television, and Trade practices.

By direction of the Commission,
Commissioner Wilson not participating.

Donald S. Clark,
Secretary.

PART 410—[REMOVED]

■ Accordingly, under the authority of 15 U.S.C. 57a, the Commission removes 16 CFR part 410.

[FR Doc. 2018–21803 Filed 10–5–18; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. FDA–2016–F–1444]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Styrene

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is amending the food additive regulations to no longer provide for the use of styrene as a flavoring substance and adjuvant for use in food because these uses have been abandoned. We are taking this action in response to a food additive petition submitted by the Styrene Information and Research Center (SIRC).

DATES: This rule is effective October 9, 2018. See section VIII for further information on the filing of objections. Submit either electronic or written objections and requests for a hearing on the final rule by November 8, 2018.

ADDRESSES: You may submit objections and requests for a hearing as follows. Please note that late, untimely filed objections will not be considered. Electronic objections must be submitted on or before November 8, 2018. Objections received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic objections in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Objections submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your objection will be made public, you are solely responsible for ensuring that your objection does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your

enforcement, the Commission stated that should it find any future deception of the type that the Rule was intended to prevent, the Commission could address this deception through case-by-case enforcement).

⁴² CTA–II at 9.

⁴³ CTA–II at 9–11.

⁴⁴ See n. 41, *supra*.