federal register

WEDNESDAY, APRIL 19, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 76

Pages 7681–7756

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FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1972, and specifies how they are affected.

Rules and Regulations

Title 7—AGRICULTURE

Chapter II—Food and Nutrition Service, Department of Agriculture

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Implementation

Section 271.1(s) of Title 7, Chapter II, Code of Federal Regulations, is amended to require State agencies to implement revised FSP notices specifying purchase requirements, coupon allotments, and household income eligibility standards on the date prescribed in such notices published in the FEDERAL REGISTER.

In view of the need for placing notice FSP No. 1972–1 into effect on July 1, 1972, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rule making with respect to this amendment.

Section 271.1(s)(1) is amended by revising subdivision (iv) to read as follows and by adding thereto a new subdivision (vii) to read as follows:

§ 271.1 General terms and conditions for State agencies.

* * * * *

(s) *Implementation.* (1) Each State agency shall:

* * * * *

(iv) Put into effect the coupon allotments, purchase requirements, and household income eligibility standards prescribed in notice FSP No. 1971–1, as amended, notice FSP No. 1971–2, as amended, and notice FSP No. 1971–3, as amended, not later than April 1, 1972.

* * * * *

(vii) Put into effect the purchase requirements, coupon, allotments, and household income eligibility standards contained in revised FSP notices issued subsequent to the notices specified in subdivision (iv) for all new applications and household recertifications on the respective effective date(s) prescribed in such revised notices, and for all other eligible households not later than 120 days after such date(s).

* * * * *

(78 Stat. 703, as amended; 7 U.S.C. 2011–2025)

Effective date. This amendment shall be effective on the date of its publication in the FEDERAL REGISTER (4–19–72).

RICHARD LYNG,
Assistant Secretary.

APRIL 13, 1972.

[FR Doc.72–5882 Filed 4–18–72;8:45 am]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 3]

PART 728—WHEAT

Subpart—Wheat Set-Aside Program for Crop Years 1971–73

1973 NATIONAL DOMESTIC WHEAT ALLOTMENT

On March 17, 1972, notice of proposed rule making regarding determinations with respect to the 1973 national domestic allotment for wheat was published in the FEDERAL REGISTER (37 F.R. 5625). Interested persons were invited to submit written data, views, and recommendations regarding the determinations. No comments were received in response to such notice.

A new § 728.5 is issued in accordance with the Agricultural Adjustment Act of 1938, as amended, to determine and proclaim the 1973 national domestic allotment for wheat.

Pursuant to section 379c(a)(1) of the Act, as amended, the Secretary is required to determine and proclaim a national domestic allotment for the 1972 and 1973 crops of wheat not later than April 15 of each calendar year for the crop harvested in the next succeeding calendar year. (Since April 15, 1972, falls on a Saturday, the final date for determining and proclaiming the 1973 domestic allotment is April 17, 1972.) The national domestic allotment for any crop of wheat shall be the number of acres which the Secretary determines on the basis of the estimated national yield will result in marketing certificates being issued to producers participating in the set-aside program in an amount equal to the amount of wheat which he estimates will be used for food products for consumption in the United States during the marketing year for the crop but not less than 535 million bushels. The determination in § 728.5 of the 1973 national domestic allotment for wheat is based on the estimated participation, acreage, yield, and usage set out therein.

The findings and determinations contained in § 728.5 have been made on the basis of the latest available statistics of the Federal Government as required by section 301(c) of the Act.

Part 728 is amended by adding a new § 728.5 to read as follows:

§ 728.5 1973 national domestic allotment for wheat.

Based on (a) an estimated national average yield of 31 bushels of wheat per acre and an estimated average yield on participating farms of 30.6 bushels per acre, (b) estimated producer participation in the 1973 wheat set-aside program of 95 percent, and (c) the use of 535 million bushels of wheat for food products for consumption in the United States during the marketing year beginning July 1, 1973, the 1973 national domestic allotment for wheat is determined to be 18.7 million acres, and a 1973 national domestic allotment of that amount is hereby proclaimed. The quantity of wheat estimated to be used for food products for consumption in the United States during the 1973 marketing year is 520 million bushels. Since this is less than the minimum quantity of 535 million bushels required under section 379c(a)(1) of the Agricultural Adjustment Act of 1938, as amended, to be used in determining the national domestic allotment, the quantity of 535 million bushels of wheat was used in the foregoing determination.

(Secs. 301, 375, 379c, 52 Stat. 38, as amended, 52 Stat. 66, as amended, 84 Stat. 1364; 7 U.S.C. 1301, 1375, 1379c)

Effective date. This amendment shall be effective upon filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on April 17, 1972.

J. PHIL CAMPBELL,
Under Secretary.

[FR Doc.72–6021 Filed 4–17–72;3:31 pm]

Chapter IX—Agricultural Marketing Service [1] (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Grapefruit Reg. 12, Amdt. 1]

PART 944—FRUITS; IMPORT REGULATIONS

Requirements

Pursuant to the provisions of section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the provisions of paragraph (a) of Grapefruit Regulation 12 (§ 944.108, 36

[1] Formerly Consumer and Marketing Service. Name changed to Agricultural Marketing Service effective April 2, 1972, 37 F.R. 6327.

F.R. 20883) are hereby amended to read as follows:

§ 944.108 Grapefruit Regulation 12.

(a) On and after April 14, 1972, the importation into the United States of any grapefruit is prohibited unless such grapefruit is inspected and meets the following requirements:

(1) Seeded grapefruit shall grade at least U.S. No. 1 and be of a size not smaller than $3^{15}/_{16}$ inches in diameter except that a tolerance of 10 percent, by count, of seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Grapefruit;

(2) Seedless grapefruit shall grade at least Improved No. 2 ("Improved No. 2" shall mean grapefruit grading at least U.S. No. 2 and also meeting the requirements of the U.S. No. 1 grade as to shape (form) and color.); and

(3) Seedless grapefruit shall be not smaller than $3^{7}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of seedless grapefruit smaller than such minimum size shall be permitted which tolerance shall be applied in accordance with the provisions for the application of tolerances as specified in the U.S. Standards for Florida Grapefruit.

* * * * *

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective time of this amendment beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such regulation mandatory; (b) such regulation imposes the same restrictions on imports of all grapefruit as the grade and size restrictions being made applicable to the shipment of all grapefruit grown in Florida under amended Grapefruit Regulation 71 (§ 905.535); (c) compliance with this amended import regulation will not require any special preparation which cannot be completed by the effective time hereof; and (d) this amendment relieves restrictions on the importation of grapefruit.

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

Dated April 13, 1972, to become effective April 14, 1972.

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

[FR Doc.72–5953 Filed 4–18–72;8:52 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection [1] Service, Department of Agriculture

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

[Docket No. 72–513]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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:

1. In § 76.2, a new paragraph (e)(6) relating to the State of New Jersey is added to read:

(e) * * *

(6) *New Jersey.* That portion of Ocean County comprised of Lakewood Township.

2. In § 76.2, in paragraph (e)(3) relating to the State of North Carolina, subdivision (i) relating to Hoke County and subdivision (iv) relating to Moore County are deleted.

3. In § 76.2, the reference to the State of Ohio in paragraph (f) is deleted, and paragraph (g) is amended by adding thereto the name of the State of Ohio.

(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; 29 F.R. 6210, as amended; 37 F.R. 6327, 6505)

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

The amendments quarantine a portion of Ocean County in New Jersey 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.

[1] The functions prescribed in Part 76 of Chapter I, 9 CFR, have been transferred from the Animal and Plant Health Service, U.S. Department of Agriculture, to the Animal and Plant Health Inspection Service of the Department (37 F.R. 6327, 6505).

The amendments exclude portions of Hoke and Moore Counties in North Carolina from the areas quarantined because of hog cholera. Therefore, 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 not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the areas excluded from quarantine.

The amendments delete Ohio from the list of hog cholera eradication States in § 76.2(f), and add Ohio to the list of hog-cholera-free States in § 76.2(g). The special provisions pertaining to the interstate movement of swine and swine products from eradication and free States remain applicable to Ohio.

Insofar as the amendments impose certain further restrictions necessary to prevent the spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as they relieve restrictions, they should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department.

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

Done at Washington, D.C., this 14th day of April 1972.

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

[FR Doc.72–5954 Filed 4–18–72;8:52 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72–SO–16]

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

Alteration of Control Zone and Transition Area

On March 4, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 4721), stating that the Federal Aviation Administration was

considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Fayetteville, N.C., control zone and transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 22, 1972, as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the Fayetteville, N.C., control zone is amended to read:

FAYETTEVILLE, N.C.

Within a 5-mile radius of Fayetteville Municipal Airport (Grannis Field) (lat. 34°59'-22" N., long. 78°52'52" W.); within 3 miles each side of Fayetteville VOR 015°, 080°, and 233° radials, extending from the 5-mile-radius zone to 8.5 miles north, east, and southwest of the VOR; excluding the portion within Simmons AAF control zone.

In § 71.181 (37 F.R. 2143), the Fayetteville, N.C., transition area is amended as follows:

"* * * (latitude 34°59'35" N., longitude 78°52'50" W.) * * *" is deleted and "* * * (latitude 34°59'22" N., longitude 78°52'52" W.) * * *" is substituted therefor.

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

Issued in East Point, Ga., on April 10, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-5899 Filed 4-18-72;8:47 am]

[Airspace Docket No. 72-SO-17]

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

Alteration of Transition Area

On March 4, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 4722), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Charleston, S.C., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable except those submitted by the Air Transport Association of America (ATA). ATA objected on the basis that the instrument approach procedure to Johns Island Airport would interfere with the basic operation into Charleston AFB/Municipal Airport because simultaneous approaches could not be conducted. ATA recommended that the procedure be established from the south in lieu of from over Charleston VORTAC.

A review of the proposal, in light of comments received, disclosed that the anticipated volume of IFR operations into Johns Island Airport is light and that an approach from the south is objectionable because, in addition to restricting the approach to DME equipped aircraft only (would exceed the criteria for VOR equipped aircraft only), it would require a large portion of the procedure to be conducted within Warning Area W-132. Since radar control will be exercised, we do not anticipate any appreciable delays to IFR operations at Charleston AFB/Municipal Airport.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 22, 1972, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Charleston, S.C., transition area is amended as follows:

"* * * northwest of the VORTAC * * *" is deleted and "* * * northwest of the VORTAC; within a 6.5-mile radius of Johns Island Airport (lat. 32°42'00" N., long. 80°00'00" W.) * * *" is substituted therefor.

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

Issued in East Point, Ga., on April 11, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-5900 Filed 4-18-72;8:47 am]

[Airspace Docket No. 72-WE-17]

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

Revocation of Control Zone and Alteration of Transition Area

The purpose of these amendments to Part 71 of the Federal Aviation Regulations is to revoke the Crows Landing, Calif., control zone and alter the description of the Crows Landing transition area.

The air traffic utilizing the Crows Landing ALF operates on an irregular weekly schedule. The effective hours of the control zone are part time and designated by NOTAM. Weather observations are taken by naval tower personnel and due to the irregular hours of activity the actual effective hours of the control zone cannot be accurately advertised and charted within the intent of the NOTAM, therefore the Department of the Navy has requested that the control zone be canceled. In order to provide controlled airspace above 700 feet above the surface for aircraft executing prescribed instrument procedures at Crows Landing ALF, additional 700-foot transition area is required to replace the control zone.

Since these amendments would be less restrictive than the currently designated airspace and would pose no additional burden on any person, notice and public procedure hereon is unnecessary.

In consideration of the foregoing in § 71.171 (37 F.R. 2056) the Crows Landing, Calif., control zone is revoked.

In § 71.181 (37 F.R. 2143) the description of the Crows Landing, Calif., transition area is amended to read as follows:

CROWS LANDING, CALIF.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Crows Landing ALF (latitude 37°24'35" N., longitude 121°06'40" W.), excluding the portion within a 1-mile radius of Patterson Field, Patterson, Calif. (latitude 37°28'05" N., longitude 121°10'06" W.), and that airspace extending upward from 1,200 feet above the surface bounded on the north by latitude 37°38'00" N., on the east by the west edge of V-109, on the southwest by the northeast edge of V-107 and on the west by longitude 121°31'00" W.

Effective date. These amendments shall be effective 0901 G.m.t., June 22, 1972.

(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 Los Angeles, Calif., on April 11, 1972.

ARVIN O. BASNIGHT,
Director, Western Region.

[FR Doc.72-5901 Filed 4-18-72;8:48 am]

[Airspace Docket No. 72-WA-21]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Area High Route

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to change the name of the "Carlos, Ohio" waypoint in route J882R, to "Dayton, Ohio."

The "Carlos, Ohio" waypoint is coincident with the location of the Dayton, Ohio VORTAC. Thus, "Carlos" should be changed to "Dayton" in conformance with agency fix-naming practices and to preclude potential misunderstandings by pilots.

Accordingly, action is taken herein to change the "Carlos, Ohio," waypoint to "Dayton, Ohio." Since this amendment is minor in nature and no substantive change in the regulations is effected, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., May 25, 1972, as hereinafter set forth.

Section 75.400 (37 F.R. 2400) is amended as follows:

In J882R (Atlanta, Ga., to Detroit, Mich.), delete third waypoint information "Carlos, Ohio, 40°00'59" N., 84°23'49" W., Fort Wayne, Ind." and substitute "Dayton, Ohio 40°00'59,, N., 84°23'49" W., Fort Wayne, Ind." therefor.

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

Issued in Washington, D.C., on April 12, 1972.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-5902 Filed 4-18-72;8:48 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Releases IC-7113, IA-315]

PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND RULES AND REGULATIONS THEREUNDER

PART 276—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT ADVISERS ACT OF 1940 AND RULES AND REGULATIONS THEREUNDER

Factors To Be Considered in Connection With Investment Company Advisory Contracts Containing Incentive Arrangements

The Securities and Exchange Commission today called the attention of all registered investment companies, their officers and directors, and their investment advisers to certain factors which must be considered in connection with investment company incentive fee arrangements in view of the provisions of the Investment Company Amendments Act of 1970, Public Law 91-547 (1970 Act) (84 Stat. 1314).

Section 205 of the Advisers Act was amended by the 1970 Act in order to provide protection against performance fee arrangements which are unfair to investment companies (Sec. 25, 84 Stat. 1432, 1433). It prohibits all performance fees unless compensation under them increases and decreases proportionately with the investment performance of the company over a specified period in relation to the investment record of an appropriate index of securities prices or such other measure of investment performance as the Commission by rule, regulation, or order may specify. The point from which increases and decreases in incentive compensation are measured must be the fee which is paid or earned when the investment performance of the company is equivalent to that of the index or other measure of performance.

Section 15 (15 U.S.C. 80a-15) of the Investment Company Act (the Act) sets forth the requirements for approval of advisory contracts of registered investment companies. Section 15(c), as amended (Sec. 8, Public Law 91-547, 84 Stat. 1418), requires investment company directors to request and evaluate, and the investment adviser to furnish, such information as may reasonably be necessary to evaluate the terms of the advisory contract.[1]

Prior to the amendment of section 205 many investment company performance fee arrangements were unfair to investment companies. Many incentive fees did not decrease for poor performance, or if they did, decreases were disproportionate to the increases. In addition, in some cases, the index against which investment company performance was measured was inappropriate and prejudicial to investment companies.

The Commission has surveyed the performance fee arrangements of registered investment companies in effect as of January 3, 1972, in order to evaluate such arrangements in view of the requirements of amended section 205 of the Advisers Act and the fiduciary standards of the Investment Company Act. Of 999 management open-end and closed-end investment companies, 103 had performance fee arrangements on that date. The survey indicated that although many of the unfair features of previous performance fee arrangements have been eliminated, some performance fee arrangements still contain features which create bias against investment companies and do not conform to the provisions of section 205 of the Advisers Act or the fiduciary standards of the Investment Company Act. These features include selection of an inappropriate index, computation of investment company average net assets and performance over different intervals and failure to reflect the reinvestment of dividends paid from investment income in computing investment company investment performance and of all cash distributions in computing the investment record of the index.[2] As is explained below, these practices result in measuring investment company performance on a basis that is unfair to the investment company, and which does not relate to the investment record of the index.

The Commission is also concerned with incentive fee arrangements which permit significant fee adjustments based on random or insignificant differences rather than meaningful differences in the performance of the investment company and the index. This may occur, for example, where the maximum incentive fee or penalty is paid for the slightest performance difference or where significant performance fee adjustments are based on random or insignificant performance differences.

The fairness of the fulcrum fee. Any consideration of the fairness of a performance fee arrangement must start with the midpoint or "fulcrum fee" (the fee paid when the investment company's performance equals that of the index). The maximum and minimum incentive fee rates and all performance increments are measured from the fulcrum fee. Thus, the selection of a fair fulcrum fee is a critical prerequisite to a fair performance fee. This means that the same factors should be considered in arriving at a fair fulcrum fee as are taken into account in establishing the proper fee under advisory contracts which do not involve incentive compensation.[3]

Selection of an appropriate index. As indicated above, section 205 requires that the investment performance of the investment company be measured against the investment record of an appropriate index of securities prices. In determining whether an index is appropriate for a particular investment company, directors should consider factors such as the volatility, diversification of holdings, types of securities owned and objectives of the investment company. For example, for investment companies that invest in a broad range of common stocks, a broadly based market value weighted index of common stocks ordinarily would be an appropriate index,[4] but an index based upon a relatively few large "blue chip" stocks would not. For investment companies that invest exclusively in a particular type of security or industry, either a specialized index that adequately represents the performance of that type of security or a broadly based market value weighted index ordinarily would be considered appropriate.[5] Of course, if an investment company invests in a particular type of security an index which measures the performance of another particular type of security would not be appropriate.[6]

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[1] The Commission has previously issued a release setting forth certain of its views with respect to the approval of advisory contracts under the 1970 Act (IC Release No. 6336, February 2, 1971 (36 F.R. 3867)) and another release setting forth certain views of its Division of Corporate Regulation respecting the fiduciary duties of directors under section 36(a) of the 1970 Act (IC Release No. 640, May 10, 1971 (36 F.R. 9627)).

[2] Reinvestment means treating amounts distributed by an investment company as invested in shares of the investment company at the record dates of the distributions and treating amounts distributed by the companies which comprise the index as invested in the securities which comprise the index as soon as possible after their ex-dividend or record dates, rather than at the end of the measurement period. Such treatment gives proper effect to dividends and distributions during the measurement period.

[3] The Report of the Committee on Interstate and Foreign Commerce of the House of Representatives on the 1970 Act states that "(T)he fiduciary duty with respect to management compensation contained in * * * new section 36(b) of the Act would apply to compensation received pursuant to a performance-related contract permitted by section 205 to the same extent as it does to other types of investment advisory contracts." H. Rep. 91-1382, p. 41 (91st Cong., 2d Sess., August 7, 1970). See also S. Rep. 91-184, p. 45 (91st Cong., 1st Sess., May 21, 1969).

[4] See the Institutional Investor Study, Vol. 2, H. Doc. 92-64, 92d Cong., 1st Sess. Pt. 2, March 10, 1971, p. 408.

[5] An index may be computed on a weighted or unweighted basis, but in no event should the index be weighted by fortuitous considerations such as the price per share. Certain averages which are weighted by price give greater weight to the stocks in the index having higher market prices: An effect of this is to give proportionately less weight to stocks after price appreciation leads to a stock split. These completely fortuitous considerations penalize growth and make such averages inappropriate, regardless of the type of securities held by the investment company, as a basis for comparison with investment company investment performance.

[6] Technical methods for specifying incentive fees based upon risk or volatility adjusted returns are now being explored by the staff and a number of industry and academic groups as well as commercial enterprises. However, the Commission has not, at this time, arrived at any conclusions with respect to these methods.

Variations in periods used for computing average asset values and performance. In computing compensation for incentive fee arrangements, variations in the time interval over which average asset value and investment performance are computed can make a significant difference. The larger the asset base, the greater the amount of compensation which will be added or deducted for performance and the more volatile performance compensation will be. For example, if average assets are based upon average daily assets over the last 3 months of a 36-month performance period (or the last month of an annual performance period), it is possible that, as a result of accumulated sales, there would be greater average assets than there would be if assets were averaged over the entire period. Thus, the amount of assets to which the performance fee rate would be applied would be greater. In effect, the use of the shorter period will have raised the "performance ante." Ironically, it will also cause the amount of compensation, which supposedly is paid for "performance", to be related significantly to the amount of sales.[7]

Section 205 of the Advisers Act requires that compensation be based on the asset value of the company averaged over a specified period and increasing and decreasing proportionately with the investment performance of the company over a specified period in relation to the investment record of an appropriate index of securities prices. The use of different periods for averaging assets and computing investment performance would be unfair to the investment company and would violate section 205.[8]

Length of period over which performance is computed. Although section 205 of the Advisers Act does not require that performance be measured over a period of any particular length, there is a fiduciary obligation to use an interval sufficiently long to provide a reasonable basis for indicating the adviser's performance. All 103 investment companies surveyed measured their performance over a period of at least 1 year. Use of at least a 1 year interval minimizes the possibility that payments will be based upon random or short term fluctuations.

Computation of performance over a "rolling period". Over 43 percent of the companies surveyed (45 companies) measured their performance on the basis of a rolling period, a moving average of the number of subperiods (i.e., months or quarters) included in the full period over which performance is measured. Section 205 of the Advisers Act does not specify that either a rolling period or a flat period be used. However, there are a number of advantages, both from the shareholders' and the adviser's point of view, in using a rolling average.

For example, since section 205 requires that performance be measured over a "specified period," in the absence of a specified fixed or rolling period, compensation cannot be precisely computed or paid until that period has expired and the investment company's performance for the entire period is known. In other words, interim payments based upon interim performance are not permissible under section 205.[9] Use of a rolling period for computation of a performance fee avoids the problem of interim payments. It permits payments based upon performance to be made more frequently than annually, since each payment would be based upon performance over the preceding 12 months or longer period adopted.

Rule 2a–4 under the Investment Company Act (17 CFR 270.2a–4), requires that investment company shares be sold at their approximate net asset value. To do this, amount reflecting the performance fee must be accrued on a daily basis. Use of a rolling period avoids accruing a performance fee on the basis of periods of substantially less than 1 year and smooths out accruals resulting from short term fluctuations in performance. For contracts computed on the basis of a period of 1 year or more, but without the use of a rolling period, accruals for the performance fee near the beginning of the period would be based upon periods of substantially less than a year. Under a rolling period contract, accruals for the performance fee can be computed on the basis of a period of at least 11 months or three quarters of a year (the time elapsed, depending upon the subperiods adopted, when the daily accrual in the current computation period commences) and thus the effects on accruals of short-term performance would be minimized and accruals would better reflect overall performance and the fee ultimately payable.

Performance fee transitional periods. A difficulty arises in connection with the "startup" or transitional period for performance fees when a performance fee is based upon a period for which investment results are already known or for which the adviser has already received compensation under the previous contract. To the extent that performance during the earlier period adds to the adviser's compensation, in essence he will be compensated twice for the same period and the same performance. Moreover, the investment company's positive performance during the period prior to adoption of the performance fee gives the adviser a "running start" on the index. If such an arrangement were permitted, the investment company would not have to outperform the index during the balance of the period covered by the performance fee in order that its adviser collect a performance fee. If the investment company merely maintained its relative performance for the balance of the specified period, the adviser nevertheless would collect a fee for "outperforming" the index. For example, if a 36-month rolling performance fee were adopted which included 18 months for which performance results were already known, and during which the performance of the investment company was greater than that of the index, the investment performance of the investment company could be the same as that of the index over the next 18 months but the adviser, nevertheless, would receive a performance fee for "outperforming" the index. Elementary fiduciary standards require that performance compensation be based only upon results obtained after such contracts take effect. In other words, a performance fee contract may be instituted on a prospective basis only.[10]

A transitional problem may also result if a contract containing an investment company performance fee arrangement is canceled before its expiration date and the same adviser is rehired under a straight percentage of assets contract. Assume, for example, that an investment company's performance over the first half of the period specified in its contract is significantly worse than the investment record of the index and that it appears unlikely that the adviser will earn any incentive fee, or even the fulcrum fee, over the full term of the contract. It may be to the adviser's advantage to attempt to renegotiate his contract and to substitute a contract without a performance fee, but at a fee higher than that which it could earn under the original contract. Such substitution would be unfair to the investment company. If an adviser could cancel a performance contract during a period for which a performance fee is to be computed and recontract on a percentage of assets basis, such contracts would once again amount to the kind of "one way street" that existed prior to the enactment of section 205. To prevent this, such a new contract should provide that the fee payable until the end of the performance fee computation period of the original contract shall be the lesser of the amount which would have been paid under the original contract or the amount payable under the new contract.

Similarly, cancellation of a "rolling" performance fee contract during a period of substandard performance could be unfair to the investment company if a percentage of assets or different performance fee contract with the same ad-

[7] On the other hand, if performance has been poor, the impact of declining asset values and decreased sales could be greatest at the end of the period. This would tend to lower the asset base for investment companies which have had poor performance.

[8] Similarly, if the period over which net asset values are averaged for computing the fulcrum fee differs from the period over which net asset values are averaged for computing the performance related portion of the fee, it could result in incentive payments having a disproportionate relationship to the fulcrum fee. The section 205 requirement that "compensation" be based upon the asset value of the company "averaged over a specified period" means that the same period must be used for computing average assets for the fulcrum fee and the performance fee segments of the adviser's compensation.

[9] Of course, if a fee schedule provides for the payment of a minimum fee regardless of performance, interim payments based solely on the minimum fee would be permissible.

[10] Of course, under any performance fee arrangement incentive compensation is based upon results achieved over an earlier period. However, those results have not been determined before the contract is adopted.

viser were substituted. The appropriate method of "winding down" a rolling performance fee contract would be to give the investment company substantial advance notice, (i.e., not less than half of the fee computation period specified in the contract) of the adviser's intention to cancel the contract and to provide that the fee payable during such "winding down" period shall be the lesser of the amount which would have been due under the original contract or the fee payable under the new contract.

Computation of the "investment performance" of the investment company and the "investment record" of the index with respect to payment of dividends from investment income and distributions of realized capital gains. As indicated in the Institutional Investor Study, the best measure of the total benefits received by investment company shareholders during a specified period is one that reflects changes in net asset value of the company's shares with adjustments to compensate for the payment of any realized capital gains distributions and dividends from investment income during the evaluation period. This measure gives effect to all increments in value received by stockholders and has been widely used without any serious challenge to its propriety.[11]

Section 205 of the Advisers Act requires that compensation increase and decrease proportionately based upon investment performance of the investment company in relation to the investment record of the index, as distinguished from the index price. In 93 percent of investment companies with performance fee arrangements capital gains distributions were treated as reinvested in computing investment performance. Such reinvestment is necessary in order that investment company performance be computed on the same basis as the index, since capital gains are neither realized nor distributed with respect to the companies comprising the index. Unless investment company capital gains distributions are treated as reinvested in computing investment company investment performance, such performance would not relate to the investment record of the index.

Similarly, dividends paid from investment income on investment company shares and cash distributions on the securities which comprise the index are significant factors which cannot be overlooked in computing the "investment record" of the index and in relating investment company investment performance to that investment record. On the average, the dividends paid from investment income by investment companies with performance fee arrangements have been less than the cash dividends paid on the securities of the companies which comprise the indices used in performance comparisons. Thus, in many cases, ignoring dividends and any other cash distributions in relating investment company investment performance to the investment record of the index can give investment advisers a substantial advantage.

To correct this, the Commission, pursuant to its authority under sections 205 and 211 of the Advisers Act, has proposed rules defining the terms "investment performance" and "investment record" as they are used in section 205 of that Act[12] to make clear that such provision requires inclusion of dividends paid from investment income and realized capital gains distributions of the investment company and of cash distributions on the securities of companies which comprise the index.

Avoid basing significant fee adjustments upon random or insignificant differences. In structuring incentive fee arrangements it is important to build in a degree of confidence that any significant incentive payments (or penalties) are attributable to the adviser's skill, or lack of skill, rather than to random fluctuations. Most investment company incentive fee contracts have "step rates."[13] Generally, these contracts have recognized the principle that small performance differences should not result in significant fee adjustments by providing a "null zone" (an interval around the point at which the performance of the investment company equals the performance of the index in which no performance fee adjustment, up or down, is payable). Other performance fee contracts decrease the significance of the payments made for slight performance differences through the use of continuous fees.[14] Only four contracts failed to include either a null zone or a continuous fee.

Despite the recognition of the principle that significant fee adjustments should not be based upon small performance differences, the survey revealed several instances where the maximum fee adjustment (i.e., the amount added to the fulcrum fee which yields the largest total fee payable under the contract) could result from insignificant performance differences. Under a number of contracts the maximum fee adjustment resulted from any difference, no matter how slight, in performance between the fund and the index. Under other contracts performance differences were measured in terms of a percent of the investment performance of the index rather than in terms of percentage point differences. Using percent differences may result in a maximum fee adjustment for small absolute differences in performance.[15] Similarly, under a substantial number of contracts the maximum fee adjustment may result from a performance difference of less than 10 percentage points. Under other incentive fee arrangements, a significant portion of the maximum fee adjustment may also result from insignificant performance differences.

As a matter of elementary fairness the performance differences from which the maximum fee adjustment results should be set so as to preclude such maximum fee adjustment resulting from insignificant or random differences. Through a statistical analysis of the performance of the investment company relative to the performance of the index throughout the year, it is possible to determine whether or not the investment performance of the investment company differs significantly from the investment record of the index. Ideally, under any particular performance fee contract there should be at least a 90 percent probability that the maximum fee adjustment will not result from random fluctuations in performance.

Although the appropriate performance difference may vary from one investment company to another and from time to time, preliminary studies of the Division of Corporate Regulation indicate that as a "rule of thumb," the performance difference should be at least ± 10 percentage points in order to provide a 90 percent probability that the maximum fee adjustment will not result from random fluctuations or insignificant differences between the performance of the investment company and the index.[16]

Because of the preliminary nature of these studies, the Commission is not recommending, at this time, that any particular performance difference exist before the maximum fee adjustment may be made.[17] However, investment company directors should consider what a significant performance difference would be under the incentive fee contracts of the investment companies they serve, taking into account the company's size, volatility (i.e., how the investment company's

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[11] Institutional Investor Study Report, Vol. 2, H. Doc. 92-64, 92d Cong., 1st Sess. Part 2, March 10, 1971, p. 409.

[12] See Investment Advisers Act Release No. 316 (37 F.R. ------).

[13] Under such contracts fee adjustments occur only after whole percentage point performance differences.

[14] Under contracts with continuous fees, payments increase or decrease with slight performance differences and fractional differences are usually prorated.

[15] The percent method may tend to be a misleading indicator of small differences. For example, if the index increased by 1 percent, an investment company whose net asset value increased by 3 percent would outperform the index by 200 percent. This may be confusing since persons may tend to associate a much larger difference with a 200 percent difference. On the other hand, when there are large changes in the index, measuring differences in percents may prevent a performance fee adjustment even where a performance difference, expressed in percentage points, is substantial.

[16] A somewhat lower performance difference may be significant for large, well-diversified, investment companies. For investment companies which are small or are not well diversified a significantly higher performance difference than ± 10 percentage points would be required. This "rule of thumb" is based upon a measuring period of one year and the "investment record" of the S&P 500 Stock Composite Index.

[17] The Division's studies applied standard statistical tests of significance to incentive fee contracts. The formula used by the Division will be made available to interested persons upon written request. The Commission would appreciate receiving comments with respects to it from interested persons, particularly those with technical expertise.

performance has changed in relation to that of the index over long and short term periods), diversification and variability of performance differences. They should satisfy themselves that the maximum performance adjustment will be made only for performance differences that can reasonably be considered significant.

Of course, similar considerations are required for fee adjustments that are less than the maximum. In other words, meaningful fee adjustments may occur at levels which are less than the maximum and therefore, like maximum adjustments, they should be based upon significant performance differences.[18] This may be accomplished by the use of null zones of appropriate size or of a fee structure under which the effect of small performance differences is not proportionally greater than the effect of large performance differences.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

APRIL 6, 1972.

[FR Doc.72-5936 Filed 4-18-72;8:50 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 149d—NAFCILLIN

Recodification

Correction

In F.R. Doc. 72-3285 appearing at page 4907 in the issue of Tuesday, March 7, 1972, the following changes should be made:

1. In § 149d.1(b)(6) the 18th line should read "maximum at 280±3 nanometers (The ex-".

2. The third line of § 149d.2(b)(1)(ii) should read "however, the results obtained from".

3. The second word in the sixth line of § 149d.13(a)(1) is "sodium".

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter II—Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration), Department of Housing and Urban Development

[Docket No. R-72-161]

PART 203—MUTUAL MORTGAGE INSURANCE AND HOME IMPROVEMENT LOANS

Contract Rights and Obligations

A proposal was issued on January 6, 1972 (37 F.R. 144) to amend Part 203 of the Department's regulations governing contract rights and obligations for mutual mortgage insurance and insured home improvement loans on one- to four-family dwellings. The present regulation requires that, when a mortgage is assigned, the title evidence be extended to include the assignment of the mortgage to the Commissioner. The amended regulation deletes this requirement. The amendment shall be effective upon publication in the interest of making the amended procedure available as soon as possible.

Interested persons were given an opportunity to participate in the rule making through the submission of comments. No objections were received. Accordingly, 24 CFR Part 203 is amended as follows:

1. In § 203.351, a new paragraph (a)(8) is added. This section as amended reads as follows:

§ 203.351 Application for insurance benefits and fiscal data.

* * * * *

(a) * * *

(8) *Title evidence.* All title evidence held by the mortgagee. It need not be extended to include the recordation of the assignment. If a mortgagee's title policy is furnished, the Commissioner shall be a named insured under such policy.

* * * * *

§ 203.352 [Revoked]

2. Section 203.352 *Title evidence upon assignment*, is revoked.

(Sec. 204(a)(1), 48 Stat. 1249, as amended; 12 U.S.C. 1710(a)(1))

Effective date. This amendment of Part 203 shall become effective upon publication in the FEDERAL REGISTER (4-19-72).

EUGENE A. GULLEDGE,
Assistant Secretary-Commissioner.

[FR Doc.72-5918 Filed 4-18-72;8:49 am]

Title 29—LABOR

Chapter I—National Labor Relations Board

PART 102—RULES AND REGULATIONS, SERIES 8

Service of Papers

Section 102.112 is amended to read as follows:

§ 102.112 Same; by parties; proof of service.

Service of papers by a party on other parties shall be made by registered mail, or by certified mail, or in any manner provided for the service of papers in a civil action by the law of the State in which the hearing is pending. Except for charges, petitions, exceptions, briefs, and other papers for which a time for both filing and response has been otherwise established, service on all parties shall be made in the same manner as that utilized in filing the paper with the Board, or in a more expeditious manner; however, when filing with the Board is accomplished by personal service the other parties shall be promptly notified of such action by telephone, followed by service of a copy by mail or telegraph. When service is made by registered mail, or by certified mail, the return post office receipt shall be proof of service. When service is made in any manner provided by the law of a State, proof of service shall be made in accordance with such law. Failure to comply with the requirements of this section relating to timeliness of service on other parties shall be a basis for either (a) a rejection of the document or (b) withholding or reconsidering any ruling on the subject matter raised by the document until after service has been made and the served party has had reasonable opportunity to respond.

This amendment is effective upon publication in the FEDERAL REGISTER (4-19-72).

GEORGE A. LEET,
Associate Executive Secretary, National Labor Relations Board.

[FR Doc.72-5883 Filed 4-18-72;8:46 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGD 72-76N]

PART 92—ANCHORAGE AND NAVIGATION REGULATIONS; ST. MARYS RIVER, MICH.

Temporary Speed Limits for Vessels of 50 Gross Tons or Over

The purpose of these amendments to the anchorage and navigation regulations for the St. Marys River, Mich., is to establish temporary speed limits effective on April 19, 1972, and terminating on January 15, 1973, unless sooner amended, revoked, or extended.

The temporary speed limits are established to reduce damage to the coastal region. During the periods when the water level of the river is higher than the normal level, small boats and piers along the river have been damaged, acreage bordering the river has been destroyed by erosion, and unprotected structures have been undermined. The Coast Guard found that excessive water action during these periods of high water levels constitutes a hazard to persons and property along the shore and to small boats while underway. Some of the damage and the hazard results from the action of waves generated by passing vessels.

For the past 2 years, numerous complaints have been received by the Coast Guard and by a Member of Congress from the littoral proprietors. In order to reduce the damage and hazard to persons and property, the Coast Guard promulgated temporary speed limits in 1971 which terminated on December 15, 1971 (36 F.R. 7474 and 18526).

[18] The level of confidence that such lesser fee adjustments are based upon meaningful performance differences may be less than 90 percent.

On the basis of the foregoing, the Coast Guard again finds that an emergency exists and temporary reduced speed limits are necessary to protect lives and property during a presently existing high water level. Accordingly, it is hereby found that notice and public procedures thereon are contrary to public interest, and the reduced speed limits are made effective in less than 30 days.

In consideration of the foregoing § 92.49 of Title 33, Code of Federal Regulations is amended by adding temporary paragraphs (d)(1), (d)(2), (e), and (f) to read as follows:

§ 92.49 Speed limits for vessels of 50 gross tons or over.

* * * * *

(d) * * *

(1) Between April 19, 1972, and January 16, 1973, speed limits in statute miles per hour over the ground are temporarily reduced from 10 to 9 between Everens Point and Johnson Point, from 12 to 9 between Johnson Point and Mirre Point, from 12 to 10, between Mirre Point and Middle Neebish Channel Light 50, from 15 to 10 between Nine-Mile Point and Six-Mile Point, from 12 to 8 upbound between Six-Mile Point and Mission Point, from 12 to 10 downbound between Mission Point and Six-Mile Point, and from 12 to 10 between West Neebish Channel Light 25 and Moon Island. Unless a direction of travel is indicated, each speed limit applies to both upbound and downbound vessels.

(2) Upbound and downbound vessels may pass vessels bound in the same direction between Nine-Mile Point and Six-Mile Point. The passing vessel must not exceed the temporarily reduced speed limit fo 10 statute miles per hour over the ground.

(e) No upbound or downbound vessel may exceed a speed of 17 statute miles per hour over the ground between Detour Reef Light and Sweets Point Light.

(f) No upbound or downbound vessel may exceed a speed of 14 statute miles per hour over the ground between Round Island Light and Point Aux Frenes Lighted Buoy 24.

(Sec. 1–3, 29 Stat. 54–55, as amended, sec. 6(b)(1), 80 Stat. 937; 33 U.S.C. 474; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Effective date. The temporary reduced speed limits shall become effective on April 19, 1972, and terminate on January 15, 1973.

Dated: April 13, 1972.

C. R. BENDER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc.72–5939 Filed 4–18–72;8:51 am]

[CGFR 72–165]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Newton Creek, N.Y.

This amendment revokes the regulations for the City of New York highway bridge across Newton Creek at Vernon Avenue because this bridge has been removed.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking paragraph (a) of § 117.165.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(c)(4))

Effective date. This revision shall become effective on the date of publication in the FEDERAL REGISTER (4–19–72).

Dated: April 13, 1972.

J. M. AUSTIN,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.72–5940 Filed 4–18–72;8:51 am]

[CGFR 72–166]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Skagit River, South Fork, Wash.

This amendment revokes the regulations for the Skagit County drawbridge at Fir across the Skagit River, South Fork because this bridge has been replaced by a fixed bridge.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking subparagraph (2) of paragraph (f) of § 117.810.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(c)(4))

Effective date. This revision shall become effective on the date of publication in the FEDERAL REGISTER (4–19–72).

Dated: April 13, 1972.

J. M. AUSTIN,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.72–5941 Filed 4–18–72;8:51 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

REVISED PROCEDURES FOR PROCESSING NEW EDITION OF GSA FORM 1584

Part 5A–16 is amended as follows:

PART 5A–16—PROCUREMENT FORMS

1. The table of contents for Part 5A–16 is amended by the addition of the following new entry:

Sec.
5A–16.950–1584–1 Instructions on completing GSA Form 1584, Contract Summary.

2. New § 5A–16.950–1584–1 is added to read as follows:

§ 5A–16.950–1584–1 Instructions on completing GSA Form 1584, contract summary.

NOTE: The instructions identified in § 5A–16.950–1584–1 are filed with the original document.

PART 5A–72—REGULAR PURCHASE PROGRAMS OTHER THAN FEDERAL SUPPLY SCHEDULE

Subpart 5A–72.1—Procurement of Stores Stock Items

Section 5A–72.105–23(a) is amended as follows:

§ 5A–72.105–23 Preparation and distribution of contractual information.

(a) *Term contracts.* (1) In order to simplify the administrative work involved when issuing orders under national or zone indefinite delivery type contracts, contracting officers shall summarize all pertinent contract information for each contract on GSA Form 1584, Contract Summary, and GSA Form 1584A, Contract Summary—Continuation, when required.

(2) GSA Form 1584 shall be prepared in accordance with the instructions set forth in § 5A–16.950–1584–1. (See §§ 5A–16.950–1584 and 5A–16.950–1584A.)

(3) To provide advance information, one copy of each solicitation for offers shall be forwarded to each regional procurement activity at the time solicitations are distributed to prospective bidders.

* * * * *

PART 5A–76—EXHIBITS

§ 5A–76.306 [Deleted]

Section 5A–76.306 is deleted and reserved.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5–1.101(c))

Effective date. These regulations are effective on the date shown below.

Dated: April 6, 1972.

M. S. MEEKER,
Commissioner, Federal Supply Service.

[FR Doc.72–5927 Filed 4–18–72;8:49 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER N—DANGEROUS CARGOES

[CGFR 71–154a]

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES AND COMBUSTIBLE LIQUIDS ON BOARD CARGO VESSELS

Methylacetylene–Propadiene, Stabilized

This amendment to Title 46, Code of Federal Regulations, changes the ship-

ping name for methylacetylene-15 to 20 percent propadiene mixture and authorizes its shipment in portable tanks and motor vehicle tank trucks on cargo vessels.

On Tuesday, November 30, 1971, a notice of proposed rule making was published on this matter. A public hearing was held on this proposal on January 18, 1972. Three written comments were received on this notice.

Two of the commentors noted the following differences between the notice and the amendment published by the Hazardous Materials Regulations Board on June 2, 1971:

(a) The shipping name was not in agreement,

(b) Tank cars were proposed to be deleted in this notice where they are not deleted by the Hazardous Materials Regulations Board amendment.

Point (a) is taken up in the Hazardous Materials Regulations Board amendment as to why the shipping name was changed and the Coast Guard agrees with the Board's reasons. Point (b) was an oversight and tank cars should not have been proposed to be deleted in this notice and will be included in this amendment. The third commentor proposed changes to the italicized words in the shipping name which are being deleted for reasons stated in the Board's document.

In consideration of the foregoing Part 146 of Title 46 of the Code of Federal Regulations is amended as follows:

1. In § 146.04–5 "List of explosives and other dangerous articles and combustible liquids" delete the words "Methylacetylene-15 to 20 percent propadiene mixture" and insert in place thereof the words "Methylacetylene-propadiene, stabilized."

2. In § 146.24–100 "Table G—Classification: Compressed Gases" in column 1 delete the words "Methylacetylene-15 to 20 percent propadiene mixture" and insert in place thereof the words "Methylacetylene-propadiene stabilized" and in column 4 for the same article insert directly following the words "Tank cars complying with DOT regulations (trailerships only)" the following:

Portable tanks (DOT–51) not over 20,000 pounds gross weight.

Motor vehicle tank trucks complying with DOT regulations (trailerships and trainships only).

(R.S. 4472, as amended; R.S. 4417a, as amended; sec. 1, 19 Stat. 252, 49 Stat. 1889, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 170, 391a, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

This amendment shall become effective on July 24, 1972.

Dated: April 11, 1972.

T. R. SARGENT,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc.72–5151 Filed 4–18–72;8:45 am]

Chapter IV—Federal Maritime Commission

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[Docket No. 72–11; General Order 5, Amdt. 6]

PART 511—REPORTS BY COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES

Uniform System of Accounts for Maritime Carriers

On March 14, 1972, the Federal Maritime Commission published in the FEDERAL REGISTER (37 F.R. 5303) a notice in which the adoption of the "Uniform System of Accounts for Maritime Carriers" was proposed.

The purpose of this amendment is to facilitate the preparation and analysis of the financial and operating form to which the Interstate Commerce Commission, the Maritime Administration, and the Federal Maritime Commission are joint parties. The composition of the accounts employed in the execution of this common form must conform to the "Uniform System of Accounts for Maritime Carriers" in order to provide for accurate and uniform reporting to the Federal Maritime Commission.

Written comments on the proposed amendment were invited and received. Two comments were received, both in favor of the amendment. One commentator, however, referred to Docket No. 67–57, a proposed rule making to revise the Reports of Rate Base and Income Account required by the Commission's General Order 11. This comment urged that preferential consideration not be given to this proceeding which would delay or prejudice the disposition of Docket No. 67–57. The adoption of the proposed amendment in the instant proceeding in no way delays, prejudices, or otherwise affects the proceeding in Docket No. 67–57.

Accordingly, pursuant to the authority of the Shipping Act, 1916 (46 U.S.C. 801, et seq.) and sections 3 and 4 of the Administrative Procedure Act (5 U.S.C. 552, 553), Title 46 CFR, Chapter IV, Part 511 is amended by adding the following sentence to § 511.5:

"* * * For purposes of filing FMC–64 Reports only, the Uniform System of Accounts found in Part 282 of this title is prescribed."

This amendment, being only a procedural matter, shall become effective upon publication in the FEDERAL REGISTER (4–19–72).

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–5911 Filed 4–18–72;8:49 am]

[Exemption Applications 12, 13, 14]

PART 531—PUBLICATION, POSTING, AND FILING OF FREIGHT RATES AND CHARGES IN THE DOMESTIC OFFSHORE TRADE

Exemptions

Applications for exemption from the Intercoastal Shipping Act, 1933 and the Shipping Act, 1916, and regulations applicable thereto, for miscellaneous cargoes, including liquid in bulk, transported between Seattle, Wash., on the one hand and on the other the Arctic Coast of Alaska between Beechey Point and Tigvariak Island (Prudhoe Bay), via the Gulf of Alaska, the Bering Sea, and the Arctic Ocean; and for miscellaneous cargoes, excepting liquid in bulk, transported between Houston, Tex., on the one hand and on the other the Arctic Coast of Alaska between Beechey Point and Tigvariak Island (Prudhoe Bay), via the Gulf of Alaska, the Bering Sea, and the Arctic Ocean, were filed in the FEDERAL REGISTER.

The effect of such exemption would be to permit movements by barge to the area involved with freedom from tariff filing requirements and regulation with respect to the reasonableness of rates.

The proposed operations are radically different from that usually associated with common carriage. No sailing schedules can be maintained because of the timing operations dictated by the ice conditions in Prudhoe Bay. Much of the operation will be in the nature of proprietary carriage since in most instances the full capacity of a given barge will be chartered by a single company. The specialized outfit of the vessels designated for certain cargoes will make it impractical for the carriers to provide uniform service for all shippers. Finally, special contracts as to the risk of loss and damage will be required due to the extraordinary hazards involved.

The conditions under which the operation is conducted make rate and tariff regulation an unnecessary and undue burden. However, as the building of the North Slope progresses there may be a demand for a fully diversified type of common carrier service which will require full regulatory surveillance by this Commission. In view of this, the exemption is limited to a 3-year period to expire December 31, 1974.

Any carriers indicating a desire to perform a service similar to that proposed by the applicants may file similar applications for exemption which will be expeditiously considered.

The exemption will not substantially impair effective regulation by the Federal Maritime Commission, be unjustly discriminatory or be detrimental to commerce. Therefore, pursuant to section 4 of the Administrative Procedure Act, 5 U.S.C. 533 and section 35 and 43 of the

Shipping Act, 1916, 46 U.S.C. 833(a) and 841(a);

Part 531 of Title 46 CFR is amended as follows:

Section 531.26 is amended by revising paragraph (c) to read as follows:

§ 531.26 Exemptions.

* * * * *

(c) The provisions of the Intercoastal Shipping Act, 1933 and the Shipping Act, 1916, as amended, shall not apply to direct service by water between Seattle, Wash. and Prudhoe Bay, Alaska of miscellaneous cargoes including liquid in bulk provided by Foss Launch & Tug Co., Foss Alaska Line, Inc., Puget Sound Tug & Barge Co. and Alaska Barge & Transport, Inc. for a 3-year period ending December 31, 1974; nor to direct service by water between Houston, Tex. and Prudhoe Bay, Alaska of miscellaneous cargoes not including liquid in bulk provided by Puget Sound Tug & Barge Co. for a 3-year period ending December 31, 1974. Any exemption granted to a specific carrier is applicable only to the so specified carrier and may not be used by another carrier, either by merger, change of name or adoption by another carrier. These exemptions will be subject to the submission of the following information 30 days after each voyage begins:

(1) Each contract of carriage entered into between the carriers and the shippers, indicating the services provided by the carriers and the charges assessed;

(2) If not included in the contract furnished under subparagraph (1) of this paragraph, any contractual arrangements and charges therefor for other service to shippers, such as storage, warehousing, handling charges, or any other special services provided to the shippers in connection with the movement of this cargo;

(3) To the extent not included in subparagraphs (1) and (2) of this paragraph, any contractual arrangements for liability for loss or damage and responsibility for insurance coverage;

(4) An identification of all commodities carried, the tonnage for each commodity, and the names of shippers of each such commodity;

(5) An indication of the amount of barge space contracted to each such shipper, i.e., was he chartered the full reach of a barge or merely part capacity of a barge.

* * * * *

Effective date. The exemption granted herein shall become effective upon publication of this order in the FEDERAL REGISTER (4–19–72).

Dated: April 4, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–5959 Filed 4–18–72;8:52 am]

Title 6—ECONOMIC STABILIZATION

Chapter II—Pay Board

PART 201—STABILIZATION OF WAGES AND SALARIES

Merit and Deferred Pay Increases

On March 22, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 5833) to provide for the treatment of merit and deferred pay increases under the authority of the Economic Stabilization Act of 1970, as amended (Public Law 91–379, 84 Stat. 799; Public Law 91–558, 84 Stat. 1468; Public Law 92–8, 85 Stat. 13; Public Law 92–15, 85 Stat. 38; Public Law 92–210, 85 Stat. 743), Executive Order No. 11627 (36 F.R. 20139, October 16, 1971, as amended), Executive Order No. 11640 (37 F.R. 1213, January 27, 1972, as amended), Executive Order No. 11660 (37 F.R. 6175, March 25, 1972), and Cost of Living Council Order No. 3 (36 F.R. 20202, October 16, 1971, as amended). After consideration of all such relevant comments and suggestions that were submitted by interested persons, pertaining to the proposed rules, the amendment of the regulations as proposed is hereby adopted, as set forth below.

Effective date. These amendments shall be effective on and after April 19, 1972.

GEORGE H. BOLDT,
Chairman of the Pay Board.

PARAGRAPH 1. Section 201.11 is amended by adding a new subparagraph (5) to paragraph (a) and by revising paragraphs (b) and (c). These added and revised provisions read as follows:

§ 201.11 Criteria for exceptions.

(a) *In general.* * * *

(5) *Merit increases*—(i) *Exception for qualified merit plans contained in successor employment contracts or successor pay practices.* Wages and salary increases granted pursuant to a qualified merit plan (as defined in subdivision (ii) of this subparagraph), provided for in an employment contract or pay practice previously set forth which existed prior to November 14, 1971, and which is continued in a successor employment contract or successor pay practice effective after November 13, 1971, without any changes of terms or administrative practice shall (subject to the provisions of paragraphs (b) and (c) of this section) constitute an exception to the general wage and salary standard. For purposes of the preceding sentence, a change in the maximum or minimum terminal points of a pay rate range in a qualified merit plan shall not be deemed a change of terms if the ratio of such maximum to such minimum terminal point is not increased. For purposes of this subparagraph, a qualified merit plan provided for in a pay practice which meets all of the criteria set forth in the first sentence of this subdivision, except that such pay practice is not "previously set forth" within the meaning of § 201.14(b) because the aggregate amount to be expended cannot be documented as being finally and formally decided prior to November 14, 1971, shall be treated as a successor pay practice otherwise eligible for the exception provided in this subparagraph.

(ii) *Qualified merit plan defined.* For purposes of subdivision (i) of this subparagraph, the term "qualified merit plan" means a merit plan which, prior to November 14, 1971, was reduced to writing and communicated either to the management personnel responsible for implementing the plan or to the employees covered by the plan, and which written plan—

(*a*) Applies to particular jobs, job classifications, or positions with respect to which the duties and responsibilities of employees are specified,

(*b*) Specifies merit pay rate ranges with respect to such jobs, job classifications, or positions,

(*c*) Clearly defines policies and establishes practices (with respect to review of an employee's performance) for determining merit pay and the size and frequency of merit pay increases with respect to such jobs, job classifications, or positions, and

(*d*) Establishes a system of administrative control.

(iii) *Special rules.* With respect to an appropriate employee unit, wage and salary increases granted pursuant to a merit plan provided for in an employment contract existing prior to November 14, 1971, and continued in a successor employment contract effective prior to April 19, 1972 shall (notwithstanding the provisions of paragraphs (b) and (c) of this section) be excluded from the computation of aggregate wage and salary increases. Such merit plan may continue to operate according to the following rules: Any increases applied to a rate range under such merit pay plan shall be considered a general increase in wages and salaries under the regulations in this chapter. However, individual increases within the rate range under such plans shall not be considered a wage and salary increase under such regulations.

(b) *Overall limitation on exceptions.* Except as provided in paragraph (a) (4), (5)(iii), (6), and (7) of this section, the maximum permissible annual aggregate wage and salary increase with respect to an appropriate employee unit, whether any or all of the above exceptions are applicable, shall not exceed 7 percent.

(c) *Procedures for exceptions.* Exceptions pursuant to subparagraphs (1), (2), (6), and (7) of paragraph (a) of this section shall require prior approval of the Pay Board (or its delegate). Exceptions pursuant to subparagraphs (3), (4), and (5) of paragraph (a) of this section shall be self-executing for Cate-

gory II and III wage and salary increases, but reports of all such wage and salary increases shall be made to the Pay Board (or its delegate). Category I wage and salary increases, including those pursuant to subparagraphs (3), (4), and (5) of paragraph (a) of this section shall require prior approval of the Pay Board (or its delegate).

* * * * *

PAR. 2. Section 201.14 is revised to read as follows:

§ 201.14 Wage and salary increases effective after November 13, 1971.

(a) *In general.* Employment contracts and pay practices previously set forth which existed prior to November 14, 1971, will be allowed to operate according to their terms. However, any such specific contract or pay practice, when challenged by a party at interest or by two or more members of the Pay Board, is subject to a review to determine whether any wage and salary increase granted pursuant to such contract or pay practice is unreasonably inconsistent with the criteria established by the Board. In the event of a challenge, these terms shall be allowed to remain in effect unless and until the Pay Board rules otherwise. Notwithstanding any other provision of this chapter a pay practice which does not by its own terms, or by applicable provisions of paragraph (c) of this section, expire earlier, will be deemed to expire on November 13, 1972.

(b) *"Previously set forth" defined.* Except as provided in Subpart D of this part, for purposes of this section, a pay practice shall be "previously set forth" only if it can be documented that prior to November 14, 1971, an adjustment to wages and salaries, or, in the case of a merit plan, the aggregate amount to be expended, was—

(1) Decided finally and formally in accordance with established procedures, and

(2) Communicated to the management personnel responsible for implementing the pay adjustment or to the employees affected.

For purposes of the preceding sentence, a formula for determining general adjustments to wages and salaries is not a pay practice previously set forth.

(c) *Merit plans.* A merit plan provided for in an employment contract or a pay practice, referred to in paragraph (a) of this section, will be allowed to operate according to its terms in accordance with such paragraph, until such contract or pay practice expires. For purposes of this section, a merit plan contained in a pay practice previously set forth, will be deemed to expire on the day before the effective date of any of the following changes or modifications to the merit plan—

(1) An increase or change in the rates or rate ranges from those in effect on November 13, 1971;

(2) An increase in the aggregate amount to be expended for merit increases above the aggregate amount as determined prior to November 14, 1971;

(3) A change in the job classifications to which the rates or rate ranges apply; or

(4) A change in the terms or conditions of the plan with respect to any job classification to which it applies, or a change in any policy for determining the size and frequency of merit pay adjustments or a change in any administrative controls.

Expiration of a pay practice under this paragraph shall not disqualify a pay practice from being a successor pay practice under § 201.11(a)(5)(i) if it otherwise qualifies under that section.

(d) *Board review.* For purposes of the review referred to in paragraph (a) of this section, the Pay Board will consider such factors as changes in productivity and the cost of living, on-going collective bargaining and pay practices, the equitable position of the employees involved, and such other factors as are necessary to foster economic growth and to prevent gross inequities, hardships, serious market disruptions, domestic shortages of raw material, localized shortages of labor, and windfall profits.

(e) *Notice requirement.* In addition to the provisions of Part 202 of this chapter, notice shall be given to the Pay Board at least 60 days prior to the scheduled date of any increase to be paid pursuant to an employment contract or pay practice referred to in this section when such increase would affect an appropriate employee unit of 1,000 or more employees and would cause the total of such increases to be in excess of seven percent (unless such increase has been otherwise prenotified or reported pursuant to Part 202 of this chapter). However, in the case of any increase scheduled to take effect before (90 days after date of publication in FEDERAL REGISTER), with respect to which a notice would be required pursuant to the preceding sentence, such notice shall instead be given to the Pay Board before (30 days after date of publication in FEDERAL REGISTER). For purposes of the notice requirement of this paragraph, a fair and reasonable estimate shall be used in determining whether wage and salary adjustments required pursuant to contract or pay practices which are contingent (such as cost-of-living adjustments) will cause the total of such increases to exceed 7 percent.

(f) *Notification instructions.* The notice required by paragraph (e) of this section shall be submitted on forms provided by the Pay Board. Such notice shall be accompanied by a full statement of facts prepared by a party at interest showing good cause as to why such increase is not unreasonably inconsistent with the standard, exceptions, or the review criteria referred to in paragraph (d) of this section.

PAR. 3. Appendix B following Part 201 is amended by deleting therefrom item (6), and by revising item (2) to read as follows:

Appendix B—Interpretive Decisions Adopted by the Pay Board

(2) *Agreements in the construction industry (Adopted November 12, 1971.)* Wage increases under existing or future agreements in the construction industry require prenotification and approval by the Construction Industry Stabilization Committee before they can be put into effect.

[FR Doc.72-6101 Filed 4-18-72;12:44 pm]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 153]

ANTIDUMPING ACT

Proposed Procedures

A notice was published in the FEDERAL REGISTER of April 13, 1971 (36 F.R. 7012), that the Treasury Department was reviewing its regulations (19 CFR Part 153) relating to procedures under the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.). Interested persons were invited to submit suggestions for improving the regulations to the Commissioner of Customs not later than 60 days after the publication of the notice in the FEDERAL REGISTER. On June 15, 1971, the time for submissions was extended until June 30, 1971 (36 F.R. 11526).

After consideration of all of the suggestions received pursuant to the notice, it has been concluded that certain amendments to the regulations should be proposed.

The primary purpose of the proposed amendments is to insure that the Antidumping Act continues to be administered with a view to defending U.S. industry effectively against unfair international trade practices in the dumping area, while at the same time providing for complete fairness in the antidumping investigations. To this end, the proposed amendments call, among other things, for more expeditious processing of antidumping investigations.

Notice is hereby given that it is proposed to amend certain sections of Part 153 of the Customs Regulations (19 CFR Part 153), and to add certain other sections.

1. Sections 153.30 and 153.31 are proposed to be amended to establish limits on the time within which an Antidumping Proceeding Notice normally will be published subsequent to the receipt, in satisfactory form, of information alleging injurious sales at less than fair value and on the time within which a Withholding of Appraisement Notice, a Notice of Tentative Negative Determination, or a Notice of Tentative Discontinuance of Antidumping Investigation normally will be published following the publication of an Antidumping Proceeding Notice.

2. Section 153.8 is proposed to be amended by deleting the word "reasonably" wherever it appears before the words "direct relationship" in order to make it clear that only circumstances of sale which are directly related to the sales of the merchandise under consideration will be taken into account. Under the proposal, such items as bad debts and general advertising will no longer be allowed as differences in circumstances of sale.

3. Section 153.15 is proposed to be amended to provide for the reopening of discontinued antidumping investigations by the publication, forthwith, of a Withholding of Appraisement Notice when the Secretary, subsequent to the discontinuance, has reason to believe or suspect that merchandise which was the subject of the discontinued investigation, is being, or is likely to be, sold at less than fair value. Additionally, it is proposed to amend paragraph (a) of § 153.15, by deleting the word "changed" before the word "circumstances" so as to make clear that circumstances which were not known at the time of the initiation of the investigation may be taken into account.

4. Sections 153.33 and 153.37 are proposed to be amended to provide that all requests for an opportunity to make an oral presentation be accompanied by a statement outlining the issues which the person making the request wishes to discuss, and to provide, further, that if the request is granted, the Secretary or his delegate will advise the persons involved as to which issues are appropriate for discussion.

5. In addition, a number of other technical amendments are proposed.

Based on the foregoing, it is proposed that the following amendments be made to Part 153 of the Customs Regulations (19 CFR Part 153):

PART 153—ANTIDUMPING

Section 153.8 is amended by deleting the word "reasonably" before "direct relationship" in paragraphs (a) and (b). Section 153.8, as amended, will read as follows:

§ 153.8 Fair value; circumstances of sale.

(a) *General.* In comparing the purchase price or exporter's sales price, as the case may be, with the sales, or other criteria applicable, on which a determination of fair value is to be based, reasonable allowances will be made for bona fide differences in circumstances of sale if it is established to the satisfaction of the Secretary that the amount of any price differential is wholly or partly due to such differences. Differences in circumstances of sale for which such allowances will be made are limited, in general, to those circumstances which bear a direct relationship to the sales which are under consideration.

(b) *Examples.* Examples of differences in circumstances of sale for which reasonable allowances generally will be made are those involving differences in credit terms, guarantees, warranties, technical assistance, servicing, and assumption by a seller of a purchaser's advertising or other selling costs. Reasonable allowances will also generally be made for differences in commissions. Except in those instances where it is clearly established that the differences in circumstances of sale bear a direct relationship to the sales which are under consideration, allowances generally will not be made for differences in research and development costs, production costs, and advertising and other selling costs of a seller unless such costs are attributable to a later sale of merchandise by a purchaser: *Provided*, That reasonable allowances for selling expenses generally will be made in cases where a reasonable allowance is made for commissions in one of the markets under consideration and no commission is paid in the other market under consideration, the amount of such allowance being limited to the actual selling expense incurred in the one market or the total amount of the commission allowed in such other market, whichever is less.

(c) *Relation to market value.* In determining the amount of the reasonable allowances for any differences in circumstances of sale, the Secretary will be guided primarily by the effect of such differences upon the market value of the merchandise but, where appropriate, may also consider the cost of such differences to the seller, as contributing to an estimate of market value.

Section 153.13 is amended by adding a new sentence at the end thereof reading: "If there is not a clear preponderance of the merchandise sold at the same price and weighted averages of the prices of the merchandise sold are determined by the Secretary to be inappropriate, the Secretary may use any method for determining fair value which he deems appropriate." Section 153.13, as amended, will read as follows:

§ 153.13 Fair value; sales at varying prices.

Where the prices in the sales which are being examined for a determination of fair value vary (after allowances provided for in §§ 153.7, 153.8, and 153.9), determination of fair value will take into account the prices of a preponderance of the merchandise thus sold or weighted averages of the prices of the merchandise thus sold. Unless there is a clear preponderance of merchandise sold at the same price, weighted averages of the prices of the merchandise sold normally will be used. If there is not a clear preponderance of the merchandise sold at the same price and weighted averages of the prices of the merchandise sold are determined by the Secretary to be inappropriate, the Secretary may use any method for determining fair value which he deems appropriate.

Section 153.15 is amended by substituting *"Discontinuance of antidumping*

Investigation." for *"Fair value; revision of prices or other changed circumstance."* in the main heading; by substituting *"Price assurances, termination of sales or other circumstances."* for *"Discontinuance of investigation."* in the heading of paragraph (a); by inserting the words "and assurances have been received to this effect" after "revision" in subparagraph (1) and after "resumed" in subparagraph (2), by deleting the word "changed" before "circumstances," and by substituting "Notice of Tentative Discontinuance of Antidumping Investigation" for "notice to this effect" in paragraph (a); by substituting *"Notice of Tentative Discontinuance of Antidumping Investigation."* for *"Notice."* in the heading of paragraph (b); by providing that the "Notice of Tentative Discontinuance of Antidumping Investigation" shall set forth a description of the merchandise involved, that interested persons shall be given an opportunity to present their views under a procedure similar to that set forth in § 153.33(b), by substituting "discontinuance" for "termination" in the first sentence and "discontinuing" for "terminating" in the second sentence, by adding the words "or assurances of termination of sales to the United States, and price revisions" after the phrase "price assurances" in the third sentence, and by substituting "will" for "shall" wherever the latter occurs in paragraph (b); by adding a new paragraph (c), relating to the form of a statement of assurances; by adding a new paragraph (d) providing for the publication of a "Discontinuance of Antidumping Investigation" notice in the FEDERAL REGISTER; by adding a new paragraph (e) to provide for final discontinuance after withholding of appraisement or notice of tentative negative determination; by adding a new paragraph (f) to provide for periodic reports by foreign exporters; and by adding a new paragraph (g), relating to the reopening of a discontinued investigation. Section 153.15, as amended, will read as follows:

§ 153.15 Discontinuance of antidumping investigation.

(a) *Price assurances, termination of sales or other circumstances.* Whenever the Secretary of the Treasury is satisfied during the course of an antidumping investigation that either:

(1) Price revisions have been made which eliminate the likelihood of sales at less than fair value and that there is no likelihood of resumption of the prices which prevailed before such revision, and assurances have been received to this effect; or

(2) Sales to the United States of the merchandise have terminated and will not be resumed, and assurances have been received to this effect;

or whenever the Secretary concludes that there are other circumstances on the basis of which it may no longer be appropriate to continue an antidumping investigation, the Secretary may publish a "Notice of Tentative Discontinuance of Antidumping Investigation" in the FEDERAL REGISTER.

(b) *Notice of tentative discontinuance of antidumping investigation.* The notice will set forth a description of the merchandise involved and state the facts relied upon by the Secretary in publishing the notice and that those facts are considered to be evidence warranting the discontinuance of the investigation. The notice will also state that interested persons shall be given the opportunity to present their views under a procedure similar to that set forth in § 153.33(b), and unless persuasive evidence or argument to the contrary is presented within such period as is specified in the notice the Secretary will publish a final notice discontinuing the investigation. The tentative acceptance of price assurances or assurances of termination of sales to the United States, and price revisions or the termination of sales to the United States will not prevent the Secretary from making a determination of sales at less than fair value in any case where he considers such action appropriate.

(c) *Statement concerning assurances.* Assurances provided for in paragraph (a) of this section shall be in substantially the following form:

I hereby certify that I am (*an officer*) (*attorney-in-fact*) of (*name of foreign manufacturer, producer, or exporter*) and am authorized, on behalf of (*name of foreign manufacturer, producer, or exporter*), to give assurances that:

(Select the applicable provision.)

1. All future sales of (*commodity*) by (*name of foreign manufacturer, producer, or exporter*) for exportation to the United States shall be made at prices which are not less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) and that (*name of manufacturer, producer, or exporter*) shall make a report to the Commissioner of Customs which shall contain or be accompanied by the information required by § 153.15(f), Customs Regulations (19 CFR 153.15(f)), for such period of time and at such intervals as the Secretary may deem appropriate; or

2. All sales of (*commodity*) by (*name of foreign manufacturer, producer, or exporter*) for exportation to the United States have terminated and shall not be resumed.

(Officer or attorney-in-fact)

(d) *Final discontinuance.* As soon as possible after the publication of a "Notice of Tentative Discontinuance of Antidumping Investigation" the Secretary will determine whether final discontinuance is warranted and, if he so determines, publish a "Discontinuance of Antidumping Investigation" notice in the FEDERAL REGISTER.

(e) *Final discontinuance after withholding of appraisement or notice of tentative negative determination.* The procedure specified in paragraphs (b) and (d) in this section will not apply if the decision to discontinue an antidumping investigation is made by the Secretary after a withholding of appraisement notice or notice of tentative negative determination has been published and interested parties have already been afforded an opportunity to present their views pursuant to the provisions of §§ 153.37 or 153.33(b). In lieu thereof, a "Discontinuance of Antidumping Investigation" notice will be published in the FEDERAL REGISTER. The notice will set forth a description of the merchandise involved and state the reasons upon which the discontinuance is based.

(f) *Periodic reports by foreign exporters.* Whenever an investigation has been discontinued by the Secretary on the basis of price assurances, the foreign manufacturer, producer, or exporter of the merchandise which was the subject of the discontinued investigation shall thereafter make a report to the Commissioner of Customs for such period of time and at such intervals as the Secretary may deem appropriate. The periodic reports to the Commissioner of Customs generally shall, as determined by the Secretary, contain or be accompanied by the following:

(1) Prices at, and the terms and conditions on which, the merchandise is being sold for export to the United States and in the applicable foreign market (or information regarding constructed value as set forth in section 206 of the Antidumping Act, 1921, as amended (19 U.S.C. 165));

(2) Published price lists, if any;

(3) Information regarding discounts, quantities involved on a per sale basis, shipping charges, packing costs, and other circumstances of sales in the two markets under consideration;

(4) Information regarding differences in cost of manufacture where similar merchandise is compared pursuant to § 153.9; and

(5) Such other information which the Secretary deems appropriate.

(g) *Reopening of discontinued investigation.* In the event that the Secretary determines, subsequent to the discontinuance of an investigation pursuant to paragraph (d) of this section, that there are reasonable grounds to believe or suspect that there are or are likely to be sales to the United States at less than fair value, he will reopen the investigation by publishing forthwith in the FEDERAL REGISTER a "Withholding of Appraisement Notice" with respect to the merchandise. If prior to the discontinuance of the investigation, importers and exporters concerned had requested a 6-month withholding of appraisement pursuant to § 153.34(b), when the investigation is reopened the Secretary may withhold appraisement for 6 months. If no such requests have been received, the Secretary may withhold appraisement pursuant to § 153.34(a). The withholding of appraisement may be made effective with respect to merchandise entered, or withdrawn from warehouse, for consumption not more than 90 days before the date of publication. Whenever an investigation is reopened, interested persons will be given the opportunity to present their views pursuant to § 153.37.

A new § 153.17, relating to fair value determinations in exporter's sales price situations involving merchandise not resold in the same condition as imported, is added to read as follows:

§ 153.17 Fair value; merchandise not resold in the same condition as imported.

If exporter's sales price (as defined in section 204 of the Antidumping Act, 1921 (19 U.S.C. 163)), is applicable and the imported merchandise is not resold to an unrelated U.S. purchaser in the condition in which it was imported, the Secretary may use such reasonable basis as he deems appropriate to determine exporter's sales price.

A new § 153.18, relating to fair value comparison, which would provide for a comparison between purchase price or exporter's sales price and the applicable home market price or price to third countries at the same level of trade, is added to read as follows:

§ 153.18 Fair value; level of trade.

The comparison of the purchase price or exporter's sales price (as defined in sections 203 and 204, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. 162, 163)), as the case may be, with the applicable price in the home market of the country of exportation (or, as the case may be, price to third country markets) will generally be made at the same level of trade. However, if the Secretary finds that the sales of the merchandise to the United States or in the applicable foreign market are insufficient in number to permit an adequate comparison, the comparison will be made at the nearest comparable level of trade and appropriate adjustments shall be made for differences affecting price comparability.

Section 153.23 is amended by adding to subparagraph (3) of paragraph (c) the following: "(v) Disclose the names of particular persons from whom confidential information was obtained, if nondisclosure of the names has been requested." So that the subparagraph, as amended, reads as follows:

§ 153.23 Availability of information in antidumping proceedings.

* * * * *

(c) * * *

(3) *Information ordinarily regarded as confidential.* Information will ordinarily be regarded as confidential if its disclosure would:

(i) Disclose business or trade secrets;

(ii) Disclose production costs;

(iii) Disclose distribution costs, except to the extent that such costs are accepted as justifying allowances for quantity or differences in circumstances of sale;

(iv) Disclose the names of particular customers or the price or prices at which particular sales were made; or

(v) Disclose the names of particular persons from whom confidential information was obtained, if nondisclosure of the names has been requested (5 U.S.C. 552).

Section 153.30 is amended by inserting "(a) Publication of Antidumping Proceeding Notice." before the first sentence of the section; by substituting "Secretary" for "Commissioner", by deleting the phrase ", with the approval of the Secretary,"; by substituting "to" for "which may", and by substituting "will" for "shall" in the first sentence of paragraph (a); redesignating present paragraphs (a), (b), (c), and (d), as subparagraphs, respectively, (2), (3), (4), and (5); by adding a new subparagraph (1), reading "(1) A description of the merchandise involved."; by substituting "proceeding" for "information" in redesignated subparagraph (2); and by adding a new paragraph (b). Section 153.30, as amended, will read as follows:

§ 153.30 Antidumping proceeding notice.

(a) *Publication of antidumping proceeding notice.* If the case has not been closed under § 153.29, the Secretary will publish a notice in the FEDERAL REGISTER that information in an acceptable form has been received pursuant to § 153.25 or § 153.26. This notice to be referred to as the "Antidumping Proceeding Notice," will specify—

(1) A description of the merchandise involved.

(2) Whether the proceeding relates to all shipments of the merchandise in question from an exporting country, or only to shipments by certain persons or firms; in the latter case, the names of such persons and firms will be specified.

(3) The date on which information in an acceptable form was received and that date shall be the date on which the question of dumping was raised or presented for purposes of §§ 201(b) and 202(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b) and 161(a)).

(4) The fact that there is some evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

(5) A summary of the information received. If a person outside the Customs Service raised or presented the question of dumping, his name may be included in the notice unless a determination under § 153.23 requires that his name not be disclosed.

(b) *Time limit on publication.* Generally, antidumping proceeding notices issued pursuant to § 153.30 shall be published in the FEDERAL REGISTER within 30 days after the date that information was received pursuant to § 153.25 or § 153.26 in a form acceptable to the Commissioner.

* * * * *

Section 153.31 is amended by deleting present paragraph (b) and substituting a new paragraph (b) to read as follows:

§ 153.31 Full-scale investigation.

* * * * *

(b) *Pricing Information.* Ordinarily the Commissioner will require the foreign manufacturer, producer, or exporter to submit pricing information covering a period of at least 120 days prior to the date that information in a form acceptable to the Commissioner was received pursuant to §§ 153.25 or 153.26. The Commissioner may, however, require the submission of pricing information for such longer period as he dems necessary; and he may also require the submission of pricing information on a current basis during the course of the investigation.

Section 153.32 is amended by adding a new paragraph (c), relating to time limits on investigations, to read as follows:

§ 153.32 Determination as to fact or likelihood of sales at less than fair value.

* * * * *

(c) *Time limit on investigations.* Generally, within 6 months, or in more complicated investigations, within 9 months, after the date of the publication of an antidumping proceeding notice, the Secretary will publish in the FEDERAL REGISTER a "Withholding of Appraisement Notice" (§ 153.34), a "Notice of Tentative Negative Determination" (§ 153.33), or a "Notice of Tentative Discontinuance of Antidumping Investigation" (§ 153.15), as appropriate. However if the Secretary decides that the appropriate tentative decision cannot satisfactorily be made within the 9-month period, he will publish a notice of that fact in the FEDERAL REGISTER, together with the reasons therefor. The notice also will announce the length of additional time, usually not more than 3 months, within which the appropriate action will be taken.

Section 153.33 is amended by adding "a description of the merchanlise involved and" after "include" in paragraph (a); by adding a new sentence reading "All such requests shall be accompanied by a statement outlining the issues which the person wishes to discuss." after the first sentence in subparagraph (2) of paragraph (b); and by substituting the words "in regard to those issues which the Secretary or his delegate has determined to be appropriate for discussion" for "and to supply such further information or argument as may be of assistance in leading to a conclusion as to the accuracy of the information in question" in the penultimate sentence of subparagraph (2) of paragraph (b). Section 153.33, as amended, will read as follows:

§ 153.33 Negative determination.

(a) *Notice of tentative negative determination.* If it appears to the Secretary that on the basis of information before him a determination of sales at not less than fair value may be required, he will publish in the FEDERAL REGISTER a "Notice of Tentative Negative Determination," which will include a description of the merchandise involved and a statement of the reasons upon which the tentative determination is based.

(b) *Opportunity to present views*—(1) *Written.* Interested persons may make such written submissions as they desire, within a period which will be specified in the notice, with respect to the contemplated action. Appropriate consideration will be given to any new or additional information or argument submitted.

(2) *Oral.* If any person believes that any information obtained by the Bureau of Customs in the course of the antidumping proceeding is inaccurate or that for any other reason the tentative determination is in error, he may request in writing that the Secretary of the Treasury afford him an opportunity to present his views in this regard. All such requests shall be accompanied by a statement outlining the issues which the person wishes to discuss. Upon receipt of such a request, the Secretary will notify the person who supplied any information, the accuracy of which is questioned and such other person or persons, if any, as he in his discretion may deem to be appropriate. If the Secretary is satisfied that the circumstances so warrant, an opportunity will be afforded by the Secretary or his delegate for all such persons to appear, through their counsel or in person, accompanied by counsel if they so desire, to make known, their respective points of view in regard to those issues which the Secretary or his delegate has determined to be appropriate for discussion. The Secretary or his delegate may at any time invite any person or persons to supply him orally with information or argument.

(c) *Final determination.* As soon as possible thereafter, the Secretary will make a final determination and publish his determination in the FEDERAL REGISTER.

(d) *Negative determination after issuance of a withholding of appraisement notice.* The procedure specified in paragraphs (a), (b), and (c) of this section will not apply if the decision to issue a negative determination is made by the Secretary after a withholding of appraisement notice has been issued and thereafter he has afforded interested parties an opportunity to be heard pursuant to the provisions of § 153.37. In lieu thereof a final negative determination will be published setting forth the statement of reasons.

Section 153.34 is amended by substituting "Secretary" for "Commissioner" and by deleting the phrase ", with the approval of the Secretary," wherever either occurs in paragraphs (a) and (b); by redesignating subparagraphs (1) and (2) of paragraph (a) as (2) and (3), respectively, and adding a new subparagraph (1) reading "(1) a description of the merchandise involved;"; by substituting the phrase "withholding of appraisement notice" for "investigation" in redesignated subparagraph (2) of paragraph (a); by deleting the words "by the importer and the exporter" in new subparagraph (3) of paragraph (a); by deleting the phrase "from importers and exporters concerned" in paragraph (b); by substituting "the Secretary's" for "his" and "each" for "the" preceding "district director of Customs" in paragraph (c); and by deleting paragraph (d). Section 153.34, as amended, will read as follows:

§ 153.34 Withholding of appraisement.

(a) *Three-month period.* If the Secretary determines during the course of his investigations that there are reasonable grounds to believe or suspect that any merchandise is being, or is likely to be, sold at less than its foreign market value (or, in the absence of such value, then its constructed value) under the Antidumping Act, and if there is evidence on record concerning injury or likelihood of injury to or prevention of establishment of an industry of the United States, he shall publish notice of these facts in the FEDERAL REGISTER in a "Withholding of Appraisement Notice" indicating:

(1) A description of the merchandise involved;

(2) That the belief or suspicion relates only to certain shippers or producers, if this is the case and that the withholding of appraisement notice is limited to the transactions of such shippers or producers; and

(3) The expiration date of the notice (which shall be no more than 3 months from the date of publication of the notice in the FEDERAL REGISTER, unless a longer period of withholding of appraisement has been requested pursuant to paragraph (b) of this section and has been approved by the Secretary). This withholding of appraisement notice will be issued concurrently with the Secretary's determination pursuant to § 153.3, unless appraisement is being withheld pursuant to paragraph (b) of this section.

(b) *Six-month period.* At any time prior to the issuance of the withholding of appraisement notice referred to in paragraph (a) of this section, importers and exporters concerned may request that the period of withholding of appraisement extend for a period longer than months, but in no case longer than 6 months. Upon receipt of such a request than 3 months, but in no case longer than the Secretary will decide whether appraisement should be withheld for a period longer than 3 months. If the Secretary decides that a period of withholding of appraisement longer than 3 months is justified, he will publish a withholding of appraisement notice upon the same basis and containing information of the same type as is required by paragraph (a) of this section, except that the expiration date of the notice may be 6 months from the date of publication of the notice in the FEDERAL REGISTER.

(c) *Advice to District Directors of Customs.* The Commissioner shall advise all district directors of Customs of the Secretary's action. Upon receipt of such advice each district director of Customs shall proceed to withhold appraisement in accordance with the pertinent provisions of § 153.48.

Section 153.35 is amended by deleting the word "adequate" in paragraph (a) and by adding the word "involved" at the end of that paragraph; and by substituting "exporter or exporters or producer or producers, if the determination covers shipments by less than all of the exporters or producers" for "suppliers, or suppliers, if practicable" in paragraph (c). Section 153.35, as amended, will read as follows:

§ 153.35 Affirmative determination; general.

If it appears to the Secretary on the basis of the information before him that a determination of sales at less than fair value is required, unless the withholding of appraisement notice was issued pursuant to § 153.34(b), he will publish in the FEDERAL REGISTER his determination of sales at less than fair value. This determination will include:

(a) A description of the merchandise involved;

(b) The name of each country of exportation;

(c) The name of the exporter or exporters or producer or producers, if the determination covers shipments by less than all of the exporters or producers;

(d) The date of the receipt of the information in an acceptable form;

(e) Whether the appropriate basis of comparison is purchase price or exporter's sales price; and

(f) A statement of reasons upon which the determination is based.

Section 153.37 is amended by substituting "Withholding of Appraisement Notice" for "Affirmative Determination" in the heading; by adding a new sentence following the first sentence to read: "All such requests shall be accompanied by a statement outlining the issues which the person wishes to discuss."; by substituting "in regard to those issues which the Secretary or his delegate has determined to be appropriate for discussion" for "and to supply such further information or argument as may be of assistance in consideration of the matter" in the third from last sentence; and by substituting "will" for "shall" in the next to last sentence. Section 153.37, as amended, will read as follows:

§ 153.37 Withholding of appraisement notice; opportunity to present views.

As soon as possible after the publication of the withholding of appraisement notice if any person believes that for any reason the withholding action is in error, he may request that the Secretary of the Treasury afford him an opportunity to present his views in this regard. All such requests shall be accompanied by a statement outlining the issues which the person wishes to discuss. Upon receipt of such a request the Secretary will notify each person who supplied any information, relied upon in connection with the withholding action, and such other person or persons, if any, as he may deem to be appropriate. If the Secretary is satisfied that the circumstances so warrant, an opportunity will be afforded by the Secretary or his delegate for all interested persons to appear, through their counsel or in person, accompanied by counsel if they so desire, to make known their respective points of view in regard to those issues which the Secretary or his delegate has determined to be appropriate for discussion. Unless for unusual reasons it is clearly impracticable, such meeting will be held within 3 weeks of the date of the publication of the notice of withholding, unless such notice was issued pursuant to § 153.34(b), when

it will be held within 5 weeks of such publication. Reasonable notice of the meeting will be given.

Section 153.39 is amended by inserting "set forth a description of the merchandise involved and" after "which notice will" in the first sentence and by substituting "will" for "shall" in the last sentence. Section 153.39, as amended, will read as follows:

§ 153.39 Revocation of determination of sales at less than fair value; determination of sales at not less than fair value.

If the Secretary is persuaded from information submitted or arguments received that his determination of sales at less than fair value was in error, and if the Tariff Commission has not yet issued a determination relating to injury, he will publish a notice of "Revocation of Determination of Sales at Less Than Fair Value; Determination of Sales at Not Less Than Fair Value," or, if appropriate, a notice of "Modification of Determination of Sales at Less Than Fair Value," which notice will set forth a description of the merchandise involved and state the reasons upon which it was based. He will notify the Tariff Commission of his action.

Section 153.41 is amended by substituting a new paragraph (c), with the heading "Notice of Tentative Determination to Modify or Revoke Dumping Finding," for the present paragraph (c) and by adding a new paragraph (d). Paragraphs (c) and (d) of § 153.41, as amended, will read as follows:

§ 153.41 Modification or revocation of finding.

* * * * *

(c) *Notice of tentative determination to modify or revoke dumping finding.* If it appears to the Secretary that a modification or revocation of an existing dumping finding may be appropriate, he will publish in the FEDERAL REGISTER a "Notice of Tentative Determination to Modify or Revoke Dumping Finding," which will include a description of the merchandise involved and a statement of the reasons upon which the tentative determination is based. The notice will also state that interested parties will be given the opportunity to present their views under a procedure similar to that set forth in § 153.33(b), and unless persuasive evidence or argument to the contrary is presented within such period as is specified in the notice the Secretary shall publish a final determination to modify or revoke dumping finding.

(d) *Final determination.* As soon as possible after publication of a "Notice of Tentative Determination to Modify or Revoke Dumping Finding," the Secretary will make a final determination and will publish his determination in the FEDERAL REGISTER.

Section 153.48 is amended by substituting "Secretary's" for "Commissioner's" in the first sentence of paragraph (a). Paragraph (a) of § 153.48, as amended, will read as follows:

§ 153.48 Action by the district director of Customs.

(a) *Appraisement withheld; notice to importer.* Upon receipt of advice from the Commissioner of Customs pursuant to § 153.34, the district director of Customs shall withhold appraisement as to such merchandise entered, or withdrawn from warehouse, for consumption, after the date of publication of the "Withholding of Appraisement Notice," unless the Secretary's withholding of appraisement notice specifies a different effective date. Each district director of Customs shall notify the importer, consignee, or agent immediately of each lot of merchandise with respect to which appraisement is so withheld. Such notice shall indicate: (1) The rate of duty of the merchandise under the applicable item of the Tariff Schedules of the United States if known; and (2) the estimated margin of the special dumping duty that could be assessed. Upon advice of a finding made in accordance with § 153.40, the district director of Customs shall give immediate notice thereof to the importer when any shipment subject thereto is imported after the date of finding and information is not on hand for completion of appraisement of such shipment.

§§ 153.49, 153.50, 153.51 [Deleted]

Sections 153.49, 153.50, and 153.51 are deleted. Sections 153.52 through 153.59 are renumbered, consecutively, §§ 153.49 through 153.56, and the reference in renumbered § 153.50 (presently § 153.53) to § 153.54 is amended to read § 153.51. Renumbered § 153.50, as amended, will read as follows:

§ 153.50 Release of merchandise; bond.

When the district director of Customs in accordance with § 153.34(c) has received a notice of withheld appraisement or when he has been advised of a finding provided for in § 153.40, and so long as such notice or finding is in effect, he shall withhold release of any merchandise of a class or kind covered by such notice or finding which is then in his custody or is thereafter imported, unless an appropriate bond is filed or is on file, as specified hereafter in § 153.51, or unless the merchandise covered by a specified entry will be appraised without regard to the Antidumping Act 1921, as amended.

Renumbered section 153.51 (presently § 153.54) is amended by deleting "and the importer or his agent has filed a certificate on Form 3 (§ 153.49)" and substituting "and the resale price in the United States is unknown" in the first sentence of paragraph (b) thereof. Paragraph (b) of renumbered § 153.51, as amended, will read as follows:

§ 153.51 Type of bond required.

* * * * *

(b) *Bond on Customs Form 7591.* If the merchandise is of a class or kind covered by a finding provided for in § 153.40 and the resale price in the United States is unknown, the bond required by section 208 of the Antidumping Act, 1921 (19 U.S.C. 167), shall be on Customs Form 7591. In such case, a separate bond shall be required for each entry or withdrawal, and such bond shall be in addition to any other bond required by law or regulation. The record of sales required under the condition of the bond of Customs Form 7591 shall identify the entry covering the merchandise and show the name and address of each purchaser, each selling price, and the date of each sale. The face amount of such bond shall be equal to the estimated value of the merchandise covered by the finding.

Renumbered § 153.56 (presently § 153.59) is amended by inserting "where purchase price is less than foreign market value," before "the special dumping duty", and by inserting "or agreement to purchase" after "date of purchase" in the first sentence thereof; and by inserting "where exporter's sales price is less than foreign market value," after "section 207," in the second sentence thereof. Section 153.56, as amended, will read as follows:

§ 153.56 Method of computing dumping duty.

If it appears that the merchandise has been purchased by a person not the exporter within the meaning of section 207, Antidumping Act, 1971 (19 U.S.C. 166), where purchase price is less than foreign market value, the special dumping duty shall equal the difference between the purchase price and the foreign market value on the date of purchase, or agreement to purchase, or, if there is no foreign market value, between the purchase price and the constructed value, any foreign currency involved being converted into U.S. money as of the date of purchase or agreement to purchase. If it appears that the merchandise is imported by a person who is the exporter within the meaning of such section 207, where the exporter's sales price is less than foreign market value, the special dumping duty shall equal the difference between the exporter's sales price and the foreign market value on the date of exportation, or, if there is no foreign market value, between the exporter's sales price and the constructed value, any foreign currency involved being converted into U.S. money as of the date of exportation.

It is proposed that these amendments shall apply to all antidumping proceedings with respect to which neither a decision, final or tentative, nor a notice of withholding of appraisement has been published as of the date the amendments become effective.

(Secs. 201, 202, 203, 204, 205, 206, 207, 208, 209, 212, 213, 42 Stat. 11, as amended, 12, 13, as amended, 14, 15, as amended, 18, as amended; secs. 406, 407, 72 Stat. 585; sec. 486, 46 Stat. 725, as amended; 19 U.S.C. 160, 161, 162, 163, 164, 165, 166, 167, 168, 171, 172, 173, 1486)

Prior to final adoption of the proposed amendments, consideration will be given to all relevant data, views, or arguments which are summitted in writing to the

Commissioner of Customs, Washington, D.C. 20226, not later than 60 days from the date of publication of this notice in the FEDERAL REGISTER. Written material or suggestions submitted will be available for public inspection in accordance with section 103(b) of the Customs regulations (19 CFR 103.3(b)) at the Bureau of Customs, Washington, D.C.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: April 16, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-5996 Filed 4-18-72;8:52 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 221]

FLATHEAD IRRIGATION PROJECT

Proposed Operation and Maintenance Rates

APRIL 10, 1972.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938), and by virtue of the authority delegated by the Commissioner of Indian Affairs to the Area Director (10 BIAM-3; 34 F.R. 637), and by authority delegated to the Project Engineer and to the Superintendent by the Area Director June 11, 1969, Release 10-2, 10 BIAM 7.0, sections 2.70-2.75.

Notice is hereby given that it is proposed to revise §§ 221.24, 221.26, and 221.28, Subchapter T, Chapter 1, of Title 25 of the Code of Federal Regulations. This revision is proposed pursuant to the authority contained in the Acts of August 1, 1914 (38 Stat. 583), May 18, 1916 (39 Stat. 142), and March 7, 1928 (45 Stat. 210).

The purpose of this amendment is to establish the lump sum assessments against the Flathead, Mission, and Jocko Valley Irrigation Districts within the Flathead Irrigation Project for the 1973 season.

Since this revision will change the basic rate of operation and maintenance charges of lands within an Irrigation District, public comment and expression are deemed advisable. Accordingly, interested persons may submit written comments, suggestions, or arguments with respect to the proposed amendment to the Project Engineer, Flathead Irrigation Project, St. Ignatius, Mon. 59865, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

Sections 221.24, 221.26, and 221.28 are amended to read as follows:

§ 221.24 Charges.

Pursuant to a contract executed by the Flathead Irrigation District, Flathead Indian Irrigation Project, Montana, on May 12, 1928, as supplemented and amended by later contracts dated February 27, 1929, March 28, 1934, August 26, 1936, and April 5, 1950, there is hereby fixed for the season of 1973 an assessment of $391,445.50 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Flathead Irrigation District. This assessment involves an area of approximately 85,468.45 acres, which does not include any land held in trust for Indians and covers all proper general charges and project overhead.

§ 221.26 Charges.

Pursuant to a contract executed by the Mission Irrigation District, Flathead Indian Irrigation Project, Montana, on March 7, 1931, approved by the Secretary of the Interior on April 21, 1931, as supplemented and amended by later contracts dated June 2, 1934, June 6, 1936, and May 16, 1951, there is hereby fixed, for the season of 1973 an assessment of $69,589.16 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Mission Irrigation District. This assessment involves an area of approximately 16,373.92 acres, which does not include any land held in trust for Indians and covers all proper general charges and project overhead.

§ 221.28 Charges.

Pursuant to a contract executed by the Jocko Valley Irrigation District, Flathead Indian Irrigation Project, Montana, on November 13, 1934, approved by the Secretary of the Interior on February 26, 1935, as supplemented and amended by later contracts dated August 26, 1936, April 18, 1950, and August 24, 1967, there is hereby fixed for the season of 1973 an assessment of $29,197.04 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Jocko Valley Irrigation District. This assessment involves an area of approximately 7,525.01 acres, which does not include any lands held in trust for Indians and covers all proper general charges and project overhead.

GEORGE L. MOON,
Project Engineer.

[FR Doc.72-5888 Filed 4-18-72;8:46 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 67]

[CGD 72-74N]

GENERAL REQUIREMENTS FOR FOG SIGNALS

Proposed Loudness Levels and Testing Procedures

The Coast Guard is considering amending the Aids to Navigation regulations to revise the minimum loudness levels and establish testing procedures for fog signals on artificial islands and structures that are erected on or over the outer Continental Shelf or in U.S. waters for the purpose of exploring for, developing, removing, and transporting resources from the seabed and subsoil. This proposal also clarifies and makes other minor changes to Part 67 of Title 33 of the Code of Federal Regulations.

The requirements for fog signals in the present regulations are based on an assumed audible threshold of 55 phone loudness level on typical ships underway and on atmospheric attenuation data available in 1958. Since 1958, two significant improvements in technical information have been achieved.

First, actual background noise levels have been measured on large and small vessels underway so that a more accurate knowledge of audible thresholds is available, and second, more accurate and complete measurements have been made to describe the attenuation effect of foggy atmospheres on fog signals.

The regulations proposed in this notice are derived from standards recommended by the International Association of Lighthouse Authorities (IALA). The fog signal sound pressure level required for an "audible range" of 2 miles is that prescribed by IALA for a "usual range" of 2 miles. The sound pressure level required for an "audible range" of one-half mile is similarly derived except that the background noise level for smaller vessels is incorporated into the sound pressure level calculations.

To agree with IALA standards the proposed regulations would change the reference distance for sound pressure levels from 25 feet to 1 meter.

The existing regulations prescribe a minimum fog signal frequency of 100 Hertz. Although the existing sound pressure level curves extend only to 800 Hertz, no maximum frequency is explicitly stated in the existing regulations. The proposed regulations would require fog signals marking artificial islands and structures to have their maximum intensity in the 100 to 1,100 Hertz range to reduce annoyance and risk of hearing damage to nearby personnel and so that higher frequencies may later be utilized for buoy fog signals should such a distinction prove desirable.

The existing regulations require that fog signals be located not more than 100 feet above the water. The proposed regulations would extend this distance to 150 feet.

The proposed regulations would limit the size of fog signals to insure an adequate vertical sound pattern and to enable testing in anechoic chambers.

The Coast Guard considers that existing fog signals, the installation of which has been previously authorized, adequately protect maritime navigation so long as they are maintained in good operating condition, produce the minimum sound pressure level required by the present regulations, and are operated in accordance with the applicable regulations. Therefore the Coast Guard will not, at this time, apply the new testing

and sound pressure level requirements to such signals. Under this proposal, after December 31, 1972, the Coast Guard would not authorize the installation of a new or replacement fog signal manufactured after December 31, 1972, unless it has been approved under the proposed regulations.

Interested persons are invited to submit written data, views, arguments, or comments regarding this proposal to the U.S. Coast Guard (CMC/82), 400 Seventh Street SW., Washington, DC 20590. Communications received on or before May 15, 1972, will be considered before final action is taken on this proposal. Copies of this proposal are available upon request to the address above, and will be available for examination at that office as well as the offices of the Coast Guard District Commanders.

Each communication received within the specified time period will be considered and evaluated before final action is taken on this proposal. Copies of written communications received will be available for examination in Room 8234, U.S. Coast Guard Headquarters, 400 Seventh Street SW., Washington, DC. The proposal contained in this document may be amended as a result of comments received.

In consideration of the foregoing, it is proposed that Part 67 of Title 33 of the Code of Federal Regulations be amended as follows:

1. By revising the title of Part 67 and the sections in Subpart 67.10 in the list of sections to read as follows:

PART 67—AIDS TO NAVIGATION ON ARTIFICIAL ISLANDS AND FIXED STRUCTURES

Subpart 67.10—General Requirements for Fog Signals

Sec.

§ 67.01–25 [Revoked]

2. By revoking § 67.01–25.

3. By revising Subpart 67.10 to read as follows:

Subpart 67.10—General Requirements for Fog Signals

§ 67.10–1 Apparatus requirements.

The fog signal required by §§ 67.20–10, 67.25–10, and 67.30–10 must—

(a) Have its maximum intensity at a frequency between 100 and 1,100 Hertz;

(b) Sound a 2-second blast every 20 seconds (2-second sound, 18-second silence) unless otherwise authorized by the District Commander;

(c) Have the audible range required by § 67.20–10, 67.25–10, or 67.30–10;

(d) Have a height not exceeding 25 feet;

(e) Have a height not exceeding eight times the wavelength of the fundamental frequency;

(f) Be approved by the Coast Guard under § 67.10–15; and

(g) Be permanently marked with—

(1) The date of Coast Guard approval;

(2) The manufacturer;

(3) A model designation not previously used on any other apparatus;

(4) The approved audible range; and

(5) The power necessary to comply with the provisions of paragraph (c) of this section.

§ 67.10–5 Location requirements.

The fog signal required by §§ 67.20–10, 67.25–10, and 67.30–10 must—

(a) Be located on the structure so that the sound signal produced is audible over 360° in a horizontal plane at all ranges up to and including the required audible range; and

(b) Be located at least 10 feet but not more than 150 feet above mean high water.

§ 67.10–10 Operating requirements.

(a) Fog signals required by §§ 67.20–10, 67.25–10, and 67.30–10 shall be operated continuously, regardless of visibility, unless the fog signal is controlled—

(1) By an attendant on the structure;

(2) Remotely by an attendant on a nearby structure; or

(3) By a fog detection device capable of activating the fog signal when the visibility in any direction is reduced to the range at which fog signal operation is required by this part.

(b) During construction and until such time as a fog signal is installed and operating on a platform, the whistle of an attending vessel moored alongside the platform may be used to sound the signal required for the structure by this part.

§ 67.10–15 Approval of fog signals.

(a) The Coast Guard approves a fog signal if—

(1) It meets the requirements for fog signals in § 67.10–1 (a), (b), (c), (d), and (e) when tested under § 67.10–20; or

(2) It is similar to a fog signal which was tested and approved under the provisions of this section and the Coast Guard has approved all variations in design, construction, production, and manufacture from the fog signal tested.

(b) A fog signal that is an identical production model of a fog signal which has been approved under paragraph (a) of this section is a Coast Guard approved fog signal.

§ 67.10–20 Fog signal tests.

(a) Fog signal tests must—

(1) Be made by the applicant in the presence of a Coast Guard representative, who certifies the test if the procedures comply with the requirements of this section;

(2) Be made with Coast Guard supplied and calibrated sound level meters and power meters; and

(3) Be made in an anechoic chamber large enough to accommodate the entire fog signal, as if installed for actual use.

(b) The sound pressure level must be measured as a function of—

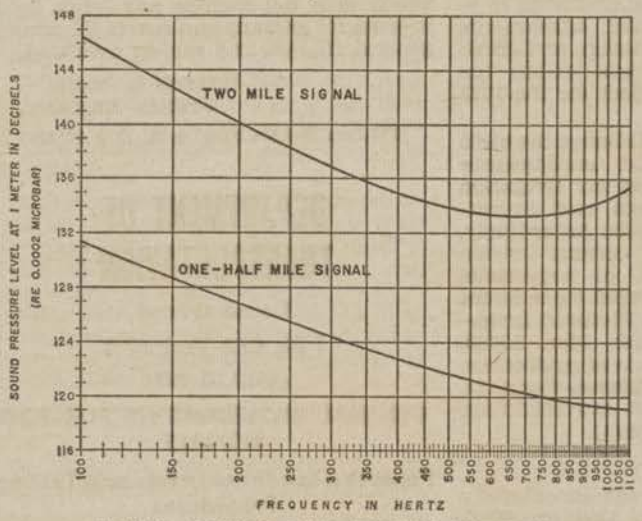
(1) Distance by using a sufficient number of points to allow a far-field extrapolation of the sound pressure level;

(2) Power at outputs up to and including the approximate power level necessary to comply with § 67.10–1(c);

(3) Horizontal angle at increments not greater than 30°; and

(4) Harmonic content to at least the third harmonic.

(c) In analyzing the test data to determine the minimum power necessary to produce the sound pressure level specified in Table A of this section the Coast Guard follows the procedures prescribed by the International Association of Lighthouse Authorities (IALA) in Supplement No. 3 to the IALA Bulletin of February 1969 for analysis of harmonic components and does not consider components above 1,100 Hertz as adding to the audible range.



FREQUENCY (Hz)	1/2 MILE (dB)	2 MILE (dB)
100	131.3	146.4
150	128.8	142.5
200	126.8	140.1
250	125.4	138.2
300	124.4	136.8
350	123.4	135.7
400	122.7	134.9
450	122.1	134.2
500	121.6	133.8
550	121.2	133.5
600	120.8	133.3
650	120.5	133.2
700	120.2	133.2
750	120.0	133.3
800	119.8	133.4
850	119.6	133.6
900	119.4	133.8
950	119.3	134.2
1000	119.2	134.5
1050	119.1	134.9
1100	119.0	135.4

TABLE A: REQUIRED SOUND PRESSURE LEVELS AT 1 METER FOR 1/2 AND 2 MILE FOG SIGNALS

§ 67.10–25 Application for tests.

A person requesting a Coast Guard representative at a test of a fog signal must—

(a) Direct a written request to U.S. Coast Guard (WAN), 400 Seventh Street SW., Washington, DC 20590, including:

(1) His name, address, and telephone number;

(2) A description of the fog signal;

(3) Audible range for which approval is requested;

(4) Location of the anechoic chamber; and

(5) Proposed test dates.

(b) Bear all the expenses of conducting the test conducted in accordance with § 67.10–20 including all expenses of the U.S. Government in sending a Coast Guard representative to the test.

§ 67.10–30 Withdrawal of approval.

The Coast Guard may withdraw approval of a fog signal if it fails to meet the requirements of § 67.10–1 (a), (b), and (c).

§ 67.10–35 Notice of approval and withdrawal of approval.

(a) The Coast Guard publishes a notice of the approval or withdrawal of approval of a fog signal in the Local Notice to Mariners.

(b) A listing of approved fog signals may be obtained from any District Commander.

§ 67.10–40 Fog signals authorized for use prior to January 1, 1973.

Any fog signal authorized for use by the Coast Guard and manufactured prior to January 1, 1973, is excepted from the requirements in this subpart, except §§ 67.10–1 (b) and (c), 67.10–5 and 67.10–10, if the fog signal has a minimum sound pressure level as specified in Table A of this subpart in effect on December 31, 1972, for the audible range required by § 67.20–10, § 67.25–10, or § 67.30–10.

4. By revising § 67.20–10 to read as follows:

§ 67.20–10 Fog signal.

(a) The owner of a class "A" structure shall—

(1) Install a fog signal with an audible range of at least 2 miles in accordance with Subpart 67.10 of this chapter, and,

(2) Operate the fog signal when the visibility in any direction is less than 5 miles.

(b) The District Commander may waive any requirements in paragraph (a) of this section if he finds that a structure is so close to other structures and so enveloped by the fog signals on other structures that it is not a hazard to navigation.

5. By revising § 67.25–10 to read as follows:

§ 67.25–10 Fog signal.

(a) The owner of a class "B" structure shall—

(1) Install a fog signal with an audible range of at least one-half mile in accordance with Subpart 67.10 of this part, except that the District Commander may—

(i) Prescribe a greater audible range, not to exceed 2 miles, under the provisions of paragraph (b) of this section; or

(ii) Exempt the structure from the requirements of this paragraph, under the provisions of paragraph (c) of this section;

(2) Operate the fog signal when the visibility in any direction is less than 3 miles, unless the District Commander establishes a greater or lesser distance of visibility, not to exceed 5 miles, under the provisions of paragraph (b) or (c) of this section.

(b) The owner of a class "B" structure shall install a fog signal with a greater audible range or operate it at times of greater visibility than required in paragraph (a) of this section if—

(1) The structure is erected on or adjacent to the edge of a—

(i) Navigable channel;

(ii) Fairway; or

(iii) Line of demarcation; and

(2) The District Commander decides a greater audible range or operation of the fog signal at times of greater visibility is necessary for the safety of marine commerce.

(c) The District Commander may waive or relax the provisions of paragraph (a) of this section, if he finds that a structure is—

(1) So close to other structures and so enveloped by the fog signals on other structures that it is not a hazard to navigation; or

(2) So located in a shoal area that it is not a hazard to navigation.

6. By revising § 67.30–10 to read as follows:

§ 67.30–10 Fog signals.

(a) The owner of a class "C" structure shall install a fog signal in accordance with Subpart 67.10 of this part if—

(1) The structure is erected on or adjacent to the edge of a—

(i) Navigable channel,

(ii) Fairway, or

(iii) Line of demarcation; and

(2) The District Commander decides it is necessary for the safety of marine commerce.

(b) Fog signals required by paragraph (a) of this section must have an audible range of at least one-half mile, unless the District Commander prescribes a greater audible range, not to exceed 2 miles.

(c) The owner of the structure shall operate the fog signal required by paragraph (a) of this section whenever the visibility in any direction is less than 3 miles, unless the District Commander establishes a greater or lesser distance of visibility, not to exceed 5 miles.

(d) Class "C" structures may have fog signals if—

(1) Authorized by the District Commander under the provisions of Subpart 66.01 of this subchapter; and

(2) The fog signal meets the requirements of § 67.10–1 (a) and (b).

(Sec. 1, 70 Stat. 226, sec. 4, 67 Stat. 462, sec. 6 (b)(1), 80 Stat. 938; 14 U.S.C. 85, 43 U.S.C. 1333, 49 U.S.C. 1655(b); 49 CFR 1.46(b))

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

APRIL 11, 1972.

[FR Doc.72–5752 Filed 4–18–72;8:45 am]

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 72–SW–26]

MOONEY MODEL M20 SERIES AIRCRAFT

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Mooney Model M20 series airplanes. There have been failures of the flight control system and landing gear system on the Mooney M20 series airplanes due to inadequate lubrication which could result in loss of control or collapse of the landing gear. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require lubrication at specified intervals and the addition of specific grease fittings on Mooney M20 series airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in triplicate to the Federal Aviation Administration, Regional Counsel, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments will be available, both before and after the closing date for comments, at the office of the Regional Counsel, Southwest Region, Fort Worth, Tex., for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of the Federal Aviation Regulations by adding the following new airworthiness directive:

MOONEY. Applies to Mooney Models M20, M20A, M20B, M20C, M20D, M20E, M20F, and M20G airplanes.

Compliance required as indicated.

To prevent corrosion in the flight control and landing gear systems which may result in binding or seizure of the joints and loss of flight control or collapse of the landing gear, accomplish the following:

(a) Within the next 25 hours' time in service after the effective date of this A.D. unless already accomplished within the last 25 hours' time in service and thereafter at intervals not to exceed 100 hours' time in service or at each annual inspection whichever comes first, lubricate all flight control system and landing gear system rod end bearings with a silicone spray lubricant.

(b) Within the next 50 hours' time in service after the effective date of this A.D. unless already accomplished, install grease fittings in the landing gear system in accordance with Mooney Service Bulletin No. M20–155 or an equivalent method approved by the Chief, Engineering and Manufacturing Branch, Southwest Region, FAA, Fort Worth, Tex.

NOTE: Mooney Service Bulletin No. M20–155 does not cover the Models M20 and M20A. Grease fittings are to be added to these models. Mooney Service Bulletin No. M20–155 may be used as a guide for installation of the fittings on the Models M20 and M20A.

Issued in Fort Worth, Tex., on April 6, 1972.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.72–5903 Filed 4–18–72;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 87]

GRANTS FOR RESEARCH AND DEMONSTRATIONS RELATING TO OCCUPATIONAL SAFETY AND HEALTH

Proposed Conditions and Procedures

Notice is hereby given that the Administrator, Health Services and Mental Health Administration, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Title 42, Code of Federal Regulations by adding a new Part 87, as set forth below, which sets forth the conditions and procedures for awarding grants for research and demonstration projects relating to occupational safety and health under section 20(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(1)).

It is proposed that these regulations be effective on the date of their republication in the FEDERAL REGISTER. The Secretary has determined that the purposes of the Act will be achieved in a more effective and expeditious manner if grants under this part are limited to public and private nonprofit agencies and institutions.

Interested persons may submit comments concerning the proposed regulations to the National Institute for Occupational Safety and Health, Room 10A–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20852. All relevant material received within 30 days after publication of this notice will be considered. All comments in response to this proposal will be available for public inspection during normal business hours at the foregoing address.

Dated: March 23, 1972.

VERNON E. WILSON,
Administrator, Health Services and Mental Health Administration.

Approved: April 12, 1972.

ELLIOT L. RICHARDSON,
Secretary.

Chapter I of Title 42 is amended by adding a new Part 87, to read as follows:

PART 87—GRANTS FOR RESEARCH AND DEMONSTRATIONS RELATING TO OCCUPATIONAL SAFETY AND HEALTH

Subpart A—Applicability and Definitions

Sec.
87.1 Applicability.
87.2 Definitions.

Subpart B—Eligibility, Award, and Termination

87.10 Nature and purpose of grant.
87.11 Eligibility.
87.12 Application for grant.
87.13 Evaluation and disposition of applications.
87.14 Grant awards.
87.15 Termination and withholding of payments.

Subpart C—Grant Conditions—Obligations of Grantee

87.20 Use of funds; changes in project and project period.
87.21 Principal investigators; project directors.
87.22 Inventions or discoveries.
87.23 Publications and copyright.
87.24 Records, reports, inspections.
87.25 Nondiscrimination.
87.26 Other conditions.

Subpart D—Grantee Accountability

87.30 Date of final accounting.
87.31 Accounting for grant award payments.
87.32 Accounting for equipment.
87.33 Accounting for grant related income.
87.34 Final settlement.

AUTHORITY: The provisions of this Part 87 issued under sec. 8(g), 84 Stat. 1600; 29 U.S.C. 657(g).

Subpart A—Applicability and Definitions

§ 87.1 Applicability.

The regulations of this part apply to grants awarded pursuant to section 20(a)(1) of the Occupational Safety and Health Act of 1970 for the support of research, experiments, demonstrations, and studies related to occupational safety and health.

§ 87.2 Definitions.

Any term defined in the Occupational Safety and Health Act of 1970 and not defined below shall have the meaning given it in the Act. As used in this part—

(a) "Act" means the Occupational Safety and Health Act of 1970.

(b) "Nonprofit agency or institution" means an agency, corporation, or association no part of the net earnings of which inures or may lawfully inure to the benefit of any shareholder or individual.

(c) "Principal investigator" for a research project or the "project director" for a demonstration project means a single individual designated by the grantee in the grant application and approved by the Secretary who is responsible for the scientific and technical direction of the project.

(d) "Project period" means the period of time, not exceeding 7 years in the case of a research project, or 5 years in the case of a demonstration project, which the Secretary finds is reasonably required to initiate and conduct a project meriting support by means of one or more grants within the scope of § 87.10, except that such period may be extended by the Secretary beyond 7 or 5 years respectively, solely to permit continuation or completion of the same approved project by use of funds previously awarded but remaining unencumbered by the grantee at the end of such years. The project period may include the time required for initial staffing and acquisition of facilities and for the preparation and publication of the results of the project. The approval and support of a research or demonstration project for the maximum project period shall not preclude additional support of that project beyond such period if such support of the continued project is requested, evaluated and approved on the same basis as a new or initial application in accordance with §§ 87.12 and 87.13.

(e) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved may be delegated.

Subpart B—Eligibility, Award, and Termination

§ 87.10 Nature and purpose of grant.

(a) A research project grant is the award by the Secretary of funds to an eligible institution or organization hereinafter called the "grantee," to assist in meeting the costs of conducting an identified activity or program hereinafter termed the "project" that is intended and designed to establish, discover, develop, elucidate, or confirm information or the underlying mechanisms relating to occupational safety or health, including studies of psychological factors involved, and relating to innovative methods, techniques, and approaches for dealing with occupational safety or health problems.

(b) A demonstration project grant is the award by the Secretary of funds to an eligible institution or organization hereinafter called the "grantee," to assist in meeting the costs of conducting an identified activity or program hereinafter termed the "project" that is intended and designed to demonstrate, either on a pilot or full-scale basis, the technical or economic feasibility or application of: (1) A new or improved occupational safety or occupational health procedure, method, technique, or system; or (2) an innovative method, technique,

or approach for dealing with occupational safety or health problems.

§ 87.11 Eligibility.

(a) *Eligible applicants.* Any public or nonprofit private agency or institution is eligible to apply for a grant under this part, except Federal agencies or institutions not specifically authorized by law to receive such a grant.

(b) *Projects eligible for research grants.* Any project found by the Secretary to be a research project within the meaning of § 87.10(a) shall be eligible for a grant award. Eligible projects may consist of laboratory, clinical, population, field, statistical, basic, applied, or other types of investigations, studies or experiments, or combinations thereof, and may either be limited to one, or a particular aspect of a, problem or subject, or may consist of two or more related problems or subjects for concurrent or consecutive investigation and involving multiple disciplines, facilities, and resources.

(c) *Projects eligible for demonstration grants.* Any project found by the Secretary to be a demonstration project within the meaning of § 87.10(b) shall be eligible for a grant award. Eligible projects may consist of, but are not limited to, feasibility studies, design, operation, maintenance, evaluations of a new or improved procedure, method, technique, or system, and plans and specifications in connection therewith.

§ 87.12 Application for grant.

(a) An application for a grant under this part shall be submitted to the Secretary at such time and in such form and manner as the Secretary may prescribe.[1] Such application shall set forth the nature, duration, purpose, and plan of the research or demonstration project, the name and qualifications of the principal investigator or project director and the qualifications of the principal staff members to be responsible for the project, the total facilities and resources that will be available, a justification of the amount of grant funds requested, and such other pertinent information as the Secretary may require.

(b) The application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this part.

§ 87.13 Evaluation and disposition of applications.

(a) *Evaluation.* All applications filed in accordance with § 87.12 shall be evaluated by the Secretary through such officers and employees and such experts or consultants engaged for this purpose as he determines are specially qualified in the areas of research or demonstration involved in the project. The Secretary's evaluation shall take into account, among other pertinent factors, the scientific merit and significance of the project, the competency of the proposed staff in relation to the type of research or demonstration involved, the feasibility of the project, the likelihood of its producing meaningful results, the proposed project period, the adequacy of the applicant's resources available for the project and the amount of grant funds necessary for completion.

(b) *Disposition.* On the basis of his evaluation of an application pursuant to paragraph (a) of this section the Secretary shall (1) approve, (2) defer because of either lack of funds or a need for further evaluation, or (3) disapprove, support of the proposed project in whole or in part. With respect to approved projects, the Secretary shall determine the project period during which the project may be supported. Any deferral or disapproval of an application shall not preclude its reconsideration or a reapplication.

§ 87.14 Grant awards.

(a) General: Within the limits of funds available for such purpose, the Secretary shall award a grant to those applicants whose approved projects will in his judgment best promote the purposes of § 87.10 on the basis of his evaluation under § 87.13(a). The date specified by the Secretary as the beginning of the project period shall be no later than 9 months following the date of any initial or new award statement unless the Secretary finds that because of the nature of a project or the grantee's particular circumstances earlier assurance of grant support is required to initiate the project. All amounts awarded, whether provisional or otherwise, remain subject to accountability as provided under Subpart D of this part.

(b) The amount of any award shall be determined by the Secretary on the basis of his estimate of the sum necessary for all or a designated portion of direct project costs plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either (1) on the basis of his estimate of the actual indirect costs reasonably related to the project, or (2) on the basis of a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary: *Provided, however,* That no grant shall be made for an amount equal to the total cost as found necessary by the Secretary for the carrying out of the project. In determining the grantee's share of the project costs, (i) costs for which Federal grants from other sources have been or may be claimed or received, or (ii) costs used to match other Federal grants (except as may be otherwise provided by law), or (iii) costs to be met from the Federal share of grant related income (except as may be permitted by chapter 1–420 of the Department of Health, Education, and Welfare Grants Administration Manual[2]), may not be included.

(c) Except as may otherwise be provided by the regulations of this part, the identification of direct and indirect costs will be consistent with the generally accepted and established accounting practices that the grantee applies to its own activities and in conformance with the applicable principles set forth in chapters 1–76, 2–65, 2–66, and 5–60 of the Department of Health, Education, and Welfare Grants Administration Manual.

(d) All grant awards shall be in writing and shall set forth the amount of funds granted and the period for which support is recommended.

(e) Neither the approval of any project nor any grant award shall commit or obligate the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved project or portion thereof.

(f) Multiple, concurrent, initial awards: Whenever a project involves a number of different but related problems, activities or disciplines so as to require evaluation by different groups, or whenever support for a project could be more effectively administered by separate handling of separate aspects of the project, the Secretary may evaluate and approve two or more concurrent applications each dealing with one or more specified aspects of the project, and he may make two or more concurrent grant awards with respect to such a project.

(g) Supplemental and continuation awards: The Secretary may from time to time within the project period make additional grant awards with respect to any approved project continued without change except as provided in § 87.20 (b) and (c) where he finds, on the basis of such progress and accounting reports as he may require, either that (1) the amount of any prior award was less than the amount necessary to carry out the approved project within the period used for estimating the amount of such prior award (a supplemental grant), or (2) the progress made within the period with respect to which any prior awards were made justifies support for an additional, specified portion or the remainder of the project period (a continuation grant). The amount of any supplemental or continuation grant shall be determined as provided in paragraph (b) of this section.

(h) Payments: The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement for expenses to be incurred or incurred in the project period, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project. All such payments shall be recorded by the grantee in account-

[1] Applications are available upon request to the Office of Extramural Activities, NIOSH Room 8145, Federal Office Building, 550 Main Street, Cincinnatti, Ohio 45202.

[2] The Department Grants Administration Manual is available for inspection at the Public Information Office of the Several Department Regional Offices and available for purchase at the Government Printing Office, GPO document No. 894–523.

ing records separate from all other fund accounts, including funds derived from other grant awards. Amounts paid shall be available for expenditure by the grantee in accordance with the regulations of this part throughout the project period subject to such limitations as the Secretary may prescribe.

§ 87.15 Termination and withholding of payments.

(a) *Discontinuance by agreement.* Whenever in the judgment of the Secretary and the grantee, continuation of an approved project would produce results of no value in furthering the purposes of § 87.10, grant support shall be terminated.

(b) *Termination by Secretary.* Whenever the Secretary finds that a grantee has failed in a material respect to comply with the regulations of this part or the terms of the grant, he may, after affording the grantee reasonable notice and an opportunity to present its views and evidence, withhold further payments and take such other action, including the termination of the grant, as he finds appropriate to carry out the purposes of the regulations of this part. The views and evidence of the grantee shall be (1) presented in writing unless the Secretary determines that an oral presentation is desirable, and (2) confined to matters relevant to whether the grantee has failed in a material respect to comply with the regulations of this part or the terms of the grant.

(c) *Termination by the grantee.* A grantee may at any time terminate or cancel its conduct of an approved project by notifying the Secretary in writing setting forth the reasons for such termination.

(d) *Accounting.* Upon any termination or transfer of a grant from a grantee under § 87.21, the grantee shall render an accounting pursuant to Subpart D of this part: *Provided, however,* That to the extent the termination is due in the judgment of the Secretary to no fault of the grantee, credit shall be allowed for the amount required to settle at minimum costs any noncancellable obligations properly incurred by the grantee prior to receipt of notice of termination.

Subpart C—Grant Conditions—Obligations of Grantee

§ 87.20 Use of funds; changes in project and project period.

(a) *Use of funds.* Any funds granted pursuant to § 87.14 shall be expended by the grantee solely for carrying out the approved project in accordance with the regulations of this part, and, except as otherwise may be provided in this part, the applicable cost principles set forth in the Department of Health, Education, and Welfare Grants Administration Manual. The grantee may not in whole or in part delegate or transfer this responsibility for the use of such funds to any other person.

(b) *Changes in project.* The permissible changes by the principal investigator or the project director in the approved project shall be limited to changes in methodology, approach, or other aspects of the project that would expedite achievement of the project's objectives, including changes that grow out of the approved project and serve the best scientific strategy. Whenever the grantee and the principal investigator or project director are uncertain as to whether a change complies with these provisions, the question shall be referred to the Secretary for a final determination. Other changes in the project may be made only with the prior approval of the Secretary.

(c) *Changes in project period.* The project period determined pursuant to § 87.13(b) may be extended by the Secretary, with or without additional grant support, for such an additional period as he determines may be required to complete, or fulfill the purposes of the approved project provided the total period as extended does not exceed 7 years, in the case of a research project or 5 years in the case of a demonstration project, except with respect to the grantee's unencumbered balances as provided in § 87.2(d).

§ 87.21 Principal investigators; project directors.

All grant awards shall be subject to the condition that the principal investigator or project director designated in the application as responsible for the conduct of the approved project shall continue responsible for the duration of the project period. Whenever any such investigator or director shall become unavailable for any reason to discharge this responsibility, the grant shall be terminated unless (a) the grantee replaces such investigator or director with another person found by the Secretary to be qualified to direct and conduct the approved project, or (b) the Secretary, upon application in accordance with the provisions of § 87.12, transfers the grant to any agency or institution eligible under § 87.11 for continuation of the currently supported project provided he finds that the change in the conduct of the project is consonant with the previous evaluation and approval of the project under § 87.13.

§ 87.22 Inventions or discoveries.

Any grant award pursuant to § 87.14 is subject to the regulations of the Department of Health, Education, and Welfare as set forth in 45 CFR Parts 6 and 8, as amended. Such regulations shall apply to any activity for which grant funds are in fact used whether within the scope of the project as approved or otherwise. Appropriate measures shall be taken by the grantee and by the Secretary to assure that no contracts, assignments, or other arrangements inconsistent with the grant obligation are continued or entered into and that all personnel involved in the supported activity are aware of and comply with such obligation. Laboratory notes, related technical data and information pertaining to inventions or discoveries shall be maintained for such periods, and filed with or otherwise made available to the Secretary or those he may designate at such times and in such manner, as he may determine necessary to carry out such Department regulations.

§ 87.23 Publications and copyright.

Except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a research or demonstration project supported by a grant under this part, subject, however, to a royalty-free, nonexclusive license or right in the Government to reproduce, translate, publish, use, disseminate, and dispose of such materials and to authorize others to do so.

§ 87.24 Records, reports, inspections.

(a) *Records and reports.* Each grant award pursuant to § 87.14 shall be subject to the condition that the grantee shall maintain such progress and fiscal records, and file with the Secretary such progress and fiscal reports relating to the conduct and results of the approved project and the use of grant funds as the Secretary may prescribe. Such records shall be retained, as follows:

(1) Records may be destroyed 3 years after the end of the budget period if the grantee has been notified of the completion of the Federal audit by such time.

(2) If the grantee has not been so notified, such records shall be retained until the grantee is notified of the completion of the Federal audit or until 5 years following the end of the budget period, whichever comes first.

(3) In all cases where audit questions have arisen before the expiration of such 5-year period, records shall be retained until resolution of all such questions.

(b) *Inspection and audit.* Any application for a grant award filed pursuant to § 87.12 shall constitute the consent of the applicant to inspections at reasonable times by persons designated by the Secretary of the facilities, equipment and other resources of the applicant and to interviews with principal staff members to the extent such resources and personnel will be, or are, involved in the project. In addition, the acceptance of any grant award under § 87.14 shall constitute the consent of the grantee to inspections and fiscal audit by such persons of the supported activity and of progress and fiscal records relating to the approved project.

§ 87.25 Nondiscrimination.

Attention is called to the requirements of title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) and in particular section 601 of such act which provides that no person in the United States shall, on account of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Regulations implementing title VI have been issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80) and apply with respect to research or demonstra-

tion project grants awarded under this part.

§ 87.26 Other conditions.

The Secretary may with respect to any grant award or class of awards impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project or the conservation of grant funds.

Subpart D—Grantee Accountability

§ 87.30 Date of final accounting.

In addition to such other accounting as the Secretary may require, a grantee shall render, with respect to each approved project, a full accounting as provided herein, as of a termination date which shall be either (a) the end of the project period as determined pursuant to § 87.13(b) or its extension as provided in § 87.20 (c), or (b) the date of any termination of grant support as provided in § 87.15, whichever first occurs.

§ 87.31 Accounting for grant award payments.

With respect to each approved project the grantee shall account for the sum total of all amounts paid under § 87.14(h) by presenting or otherwise making available vouchers or any other evidence satisfactory to the Secretary of expenditures for direct and indirect costs meeting the requirements of § 87.14: *Provided, however,* That where the amount awarded for indirect cost was based on a predetermined fixed-percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total, or a selected element thereof, of the reimbursable direct costs incurred.

§ 87.32 Accounting for Equipment.

As used in this section the term "equipment" means an article of property procured or fabricated which is complete in itself, is of a durable nature, and has an expected service life of more than 1 year. Equipment on hand on the date of termination for which accounting is required in accordance with the procedures set forth in chapter 1–410–50 of the Department of Health, Education, and Welfare Grants Administration Manual shall be identified and reported by the grantee in accordance with such procedures, and, accounted for, or accountability waived, by one or a combination of the following methods, as determined by the Secretary:

(a) *Retention of equipment for other occupational safety and health projects.* Equipment may be used, without adjustment of accounts, on other grant supported projects (whether or not federally supported) within the scope of the Act, and no other accounting for such equipment shall be required; *Provided, however,* (1) That during such period of use no charge for depreciation, amortization or for other use of the equipment shall be made against any existing or future Federal grant or contract, and (2) if, within the period of its useful life, the equipment is transferred by sale or otherwise for use outside the scope of the Act, the Federal portion of the fair market value at the time of transfer shall be refunded to the Federal Government.

(b) *Sale or other disposition of equipment, crediting of proceeds or value.* The equipment may be sold by the grantee and the net proceeds of the sale credited to the grant account for project use, or they may be used or disposed or in any manner by the grantee by crediting to the grant account the Federal share of the fair market value on the termination date. To the extent equipment purchased from grant funds is used for credit or trade-in on the purchase of new equipment, the accounting obligation shall apply to the same extent to such new equipment.

(c) *Return or transfer of equipment.* The equipment may be returned to the Federal Government by the grantee or, in accordance with the provisions of chapter 1–410–50B of the Department of Health, Education, and Welfare Grants Administration Manual, may be transferred to another grantee for the purpose of continuing the project for which the equipment was purchased.

(d) *Waiver of equipment accountability.* Where the grantee is an organization within the terms of the Act of September 6, 1958 (72 Stat. 1793; Public Law 85–934), the obligation to account for the value of any equipment may be waived by the Secretary as provided by such Act.

§ 87.33 Accounting for grant related income.

(a) *Interest.* Pursuant to section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), a State will not be held accountable for interest earned on grant funds, pending their disbursement for grant purposes. A State, as defined in section 102 of the Intergovernmental Cooperation Act, means any one of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State. All grantees other than a State, as defined in this subsection, must return all interest earned on grant funds to the Federal Government.

(b) *Royalties.* Royalties earned from publications or similar material produced from a grant must first be used to reduce the Federal share of the grant to cover the costs of publishing or producing the materials. Royalties in excess of the costs of publishing or producing the materials shall be distributed as in paragraph (c) of this section.

(c) *Other income.* Other income earned by the grantee shall be disposed of in accordance with one of the alternatives specified in Chapter 1–420 of the Grants Administration Manual as determined by the Secretary in the grant award.

§ 87.34 Final settlement.

There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(a) Any amount not accounted for pursuant to § 87.31;

(b) Any credits for material on hand as provided in § 87.32;

(c) Any credits for earned interest pursuant to § 87.33(a);

(d) Any other settlements required pursuant to § 87.33 (b) and (c).

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by set off or other action as provided by law.

[FR Doc.72–5910 Filed 4–18–72;8:48 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 230, 239, 240, 249]

[Release 34–9555; File 57–436]

NONMEMBER BROKER-DEALERS

Offering of Securities to the Public

The Securities and Exchange Commission has announced a proposal to adopt, pursuant to section 15(b)(10) of the Securities Exchange Act of 1934 (the "Act"), Rules 15b10–8 (17 CFR 240.-15b10–8) and 15b10–9 (17 CFR 240.-15b10–9) thereunder. Section 15(b)(10) of the Act authorizes the Commission to adopt rules for those registered broker-dealers who are not members of a registered national securities association [1] (nonmember broker-dealers) which are designed "* * * to promote just and equitable principles of trade, to promote safeguards against unreasonable profits or unreasonable rates of commissions or other charges, and in general to protect investors and the public interest and to remove impediments to and perfect the mechanism of a free and open market." Proposed Rule 15b10–8 would establish standards for nonmember broker-dealers who propose to make public offerings of their securities while proposed Rule 15b10–9 would set forth specific requirements for the underwriting or participation by such nonmembers in the distribution of their own securities or those of their affiliates.

The Commission for some time has had under consideration the adoption of appropriate regulations to govern: (1) Broker-dealers "going public"; and (2) their underwriting or participation in the distribution of their own or affiliate's securities. Indeed, it had been the concern with respect to the issues of lack of arm's length bargaining and the conflicts of interest in "self-underwritings" which led the NASD and the Commission in its administration of its SECO program in the last few years to generally prohibit distributions by broker-dealers of their own or affiliate's securities. After considerable experience with this policy

[1] The National Association of Securities Dealers, Inc. (NASD) is the only such association registered with the Commission under section 15A of the Act.

and in view of the need of many broker-dealers to improve their capital resources, the Commission has concluded that it would be more appropriate to permit such distributions if safeguards are provided to protect the investing public.[2] The NASD has had frequent discussions with the Commission on this matter and has, for similar reasons, adopted basically comparable regulations with respect to such distributions by members of the Association. The details of these proposed regulations for nonmembers of the NASD are set forth below:

SUMMARY OF PROPOSED RULES

1. Under proposed Rule 15b10–8 the following general criteria would apply to all public offerings, whether or not self-underwritten, of securities of nonmember broker-dealers.

A. *Submission of financial statements.* Every nonmember broker-dealer would be required to file and disclose in the prospectus, offering circular, or other comparable document financial statements (i.e., balance sheet, profit and loss statement, or statement of income and expense, a statement of source and application of funds and statement of retained earnings) for the immediately preceding 3 years. In those situations where the nonmember broker-dealer issuer has not been in existence for 3 years the financial statements filed would have to cover the entire period of its existence. The most recent financial statements would also be required to be as of a date not more than 90 days prior to the filing of the registration statement and 6 months prior to the effective date of the offering. Finally, the financial statements for the last calendar or fiscal year, as the case may be, or less if the nonmember broker-dealer has not been in existence for 1 year, would be required to contain an independently audited and certified balance sheet. If there was an updated balance sheet covering a period in excess of 6 months subsequent to the last full calendar or fiscal year, it would also be required to be independently audited and certified.

B. *Sales by insiders.* The rule would provide that (except for the prohibition in Rule 15b10–9 on sales by associated persons and their immediate family), no more than 25 percent of the equity interest of the owners as of the filing of the registration statement could be offered as a part of the issue.[3]

All remaining securities held by the ownership group would be restricted, except in the case of a bona fide gift or transfer by operation of law as to sale or transfer for a period of at least 1 year after the termination of the offering. The rule would also provide that generally any associated person could not offer any of his securities as a part of the offering unless they were owned by him for a period of at least 1 year prior to the filing of the registration statement.[4] Generally, these provisions, as those relating to subsequent public offerings by nonmember broker-dealers (see paragraph C below), are designed to reduce the potential for manipulation and to minimize the possibility for issuance of "cheap stock" to insiders on the eve of a public offering. Exemptions from these requirements could be granted, however, in special circumstances where the purposes of the rule are not applicable (e.g. the sale by an estate or by a person whose financial circumstances taking into consideration all relevant factors require earlier sale).

C. *Subsequent public offering by a* nonmember broker-dealer. After the nonmember broker-dealer has made an initial public offering of its securities, it would be precluded from making another offering to the public of its securities for at least 1 year after the termination of the offering. This provision would not, however, prohibit subsequent offerings within 1 year made solely to employees to effectuate employee stock options, stock purchases, or other similar types of offerings.

D. *Net worth test.* This standard would preclude a nonmember from going to the public to obtain funds to finance its broker-dealer operations in excess of three times the broker-dealer's net worth (exclusive of subordinated borrowings), as reflected in the most recent independently audited and certified balance sheet. In determining the maximum dollar amount of the distribution secondary offerings by selling stockholders would not be included.

E. *Net capital standards.* Under this standard, as of the date the distribution has been completed, the offering terminated, and settlement effected, the nonmember's net capital ratio as computed pursuant to Rule 15c3–1 (17 CFR 240.15c3–1) under the Act could not exceed 10 to 1. Provision has been made in the rule to indicate that a nonmember would comply with this provision if it had obtained a specific exemption from the net capital rule pursuant to Rule 15c3–1 (b) (1) (17 CFR 240.15c3–1(b)(1)) or (3) (17 CFR 240.15c3–1(b)(3)) thereunder.[5] To insure that the 10 to 1 net capital ratio would be met the rule would require that all proceeds of the offering be placed in an escrow account. Additionally, notice of the termination and settlement of the offering along with a computation of its net capital ratio as of the settlement date would have to be immediately provided the Commission. If the required ratio was not achieved within 60 days of the effective date of the offering all monies received from the offering would be withdrawn. These provisions, as well as the net worth standard requiring a significant capital commitment by management in relation to that of the public, are designed to provide additional "suitability" protection to the investing public.

F. *Financial reporting.* Finally, the rule would require that after a nonmember has made a distribution to the public of an issue of its securities, it must send to each of its shareholders: (1) Quarterly, a statement of its operations; and (2) annually, independently audited and certified financial statements.[6] Additionally, the Commission has under consideration amendments to Form X–17A–10 (17 CFR 249.618) under Rule 17a–10 (17 CFR 240.17a–10) of the Act to require that all publicly held nonmember broker-dealers file part III of Form X–17A–10.[7]

2. Under proposed Rule 15b10–9 a nonmember broker or dealer would generally be permitted to underwrite or participate in the distribution of its own securities (subject to meeting the requirements in proposed Rule 15b10–8) or those of an affiliate[8] if it obtained two independent underwriters to certify to the fairness of the offering price. These firms would each have to participate in the preparation of the registration statement and be subject to standards of due

[2] The Commission has also had under consideration the promulgation of standards relating to the distribution by broker-dealers of tax-sheltered programs (e.g. oil and gas programs, limited partnership interests in real estate syndications, cattle programs, etc.). However, in view of current studies in this area by the NASD and the Commission's staff and the possibility of future congressional action in certain related areas the Commission has determined to defer proposing regulations on the subject of tax-sheltered offerings at this time.

[3] Where an active independent market existed (as defined in the rule) for the nonmember broker-dealer's securities, there would be no percentage limitation on the stockholders' equity interest which could be distributed. However, in such a situation shares not sold by such stockholders, if requiring a registration statement to be subsequently sold, could not be offered for at least 3 months after the termination of the offering.

[4] For this purpose, there would be no fungibility concept. Thus, if the person owned 2,000 shares, 1,000 of which had been purchased more than a year ago, the 1,000 shares could be sold on a "FIFO" basis.

[5] If the nonmember is exempt from Rule 15c3–1 by reason of subparagraph (b)(2) thereunder, the net capital ratio may be computed in accordance with the exchange's net capital rule to which the nonmember is subject. In such situations, however, the computation must either be made by the exchange or certified by it as being correct.

[6] It should be noted that the Commission has under consideration amendments to its rules under the Exchange Act to require all broker dealers to submit specified financial information to customers. See Securities Exchange Act Release No. 9404 (Dec. 3, 1971) and the FEDERAL REGISTER of Dec. 30, 1971, 36 F.R. 25236.

[7] Rule 17a–10 requires exchange members and broker-dealers to file annual income and expense reports with the Commission or with a registered self-regulatory organization which will transmit the reports to the Commission. Part III of that report is a long form financial statement generally required of New York Stock Exchange members and firms with gross securities income exceeding $1 million.

[8] An affiliate would be defined as a company: (1) Which controls, is controlled by, or is under common control with a nonmember broker-dealer; (2) which directly or indirectly owns, controls or holds with power to vote 10 percent or more of the outstanding voting securities of a nonmember broker-dealer; or (3) in which a nonmember broker-dealer or person associated therewith, directly or indirectly owns, controls or holds with power to vote 10 percent or more of the outstanding securities. The term affiliate would not include, however, an investment company registered pursuant to the provisions of the Investment Company Act of 1940, a real estate investment trust as defined in sec. 856 of the Internal Revenue Code, or a tax-sheltered program.

diligence in their examination of the offering. Additionally, these firms would carry out the responsibilities of a usual underwriter in evaluating the terms of the offering and would thus serve to protect the investing public at least partially from the lack of arm's length bargaining present in such situations. Accordingly, the rule would provide that these underwriters must undertake to assume the full legal responsibilities and liabilities of an underwriter under the Securities Act of 1933.[9]

The rule provides, however, for exemptions from the two underwriter requirements in special circumstances where compliance with this standard is not feasible. It is contemplated that in all such situations, a suitable alternative plan[10] shall be submitted with the exemption request. Of course, if the nonmember or its associated persons recommended the purchase of such securities to its customers the firm would have to maintain in its records (pursuant to Commission Rule 15b10–6 (17 CFR 240.15b10–6) under the Act) any information it relied upon in determining that such a purchase was not unsuitable in light of the customer's investment needs and objectives.

As an additional safeguard a "seasoning" requirement has been included under which both the nonmember broker-dealer issuer (or affiliated nonmember broker-dealer underwriter) and the independent underwriters and a majority of the directors of their respective boards would have to have been in the investment banking or securities business for at least 5 years, Additionally, at least 3 of those 5 years would have to have resulted in operational profits for the nonmember issuer and independent underwriters.[11]

An exception to these standards has been provided so as to permit a nonmember broker-dealer to underwrite or participate in the distribution of its or an affiliate's securities without the pricing recommendations of two qualified independent underwriters if the offering is for a class of securities for which a "bona fide active independent market" exists. Here there would normally be less need for the independent pricing underwriters since the price at which the issue would be offered to the public would generally be reflective of the current market price for the issuer's securities. In such a situation, however, the nonmember would have to meet the seasoning and profitability requirements.

Another exception would permit a nonmember broker-dealer to participate in a distribution of its or an affiliate's securities which is the subject of a firm commitment underwriting without having to obtain an additional pricing underwriter. Since a firm commitment underwriter commits its own funds, if needed, there is a greater likelihood that the terms of the offering (e.g. the price) will be fair. Such participation could not, however, be in an amount exceeding 10 percent of the total dollar amount of the issue since a greater participation might endanger the independence of the underwriter. In addition, in order for the nonmember broker-dealer to so participate it would have to meet the seasoning and profitability requirements set forth above.[12]

Finally, if pursuant to the rule a nonmember participated in the distribution of its or an affiliated broker-dealer's securities for which there was no bona fide active independent market, the nonmember-issuer's associated persons and their immediate family[13] would not be permitted to sell in the offering any portion of their ownership interest. Exemptions from this provision may be granted but only in exceptional or unusual circumstances.

Text of Proposed Rules

The Commission acting pursuant to the provisions of the Securities Exchange Act of 1934, and more particularly sections 15(b)(10) and 23(a) thereof propose to amend Part 240 of Title 17 of the Code of Federal Regulations by adopting §§ 240.15b10–8 and 240.15b10–9 as follows:

§ 240.15b10–8 Standards for public offering of the securities of nonmember broker-dealers.

(a) No nonmember broker or dealer shall make a public offering of an issue of its securities, whether or not exempt from the registration requirements of the Securities Act of 1933, unless the following conditions are met:

(1) *Financial statements.* The nonmember broker or dealer has filed therewith and disclosed in the prospectus, offering circular or other comparable document financial statements for the immediately preceding 3 years. If such nonmember broker or dealer has not been in existence for 3 years, financial statements for the entire period of its existence must be so filed and disclosed. In either situation the most recent financial statements must be as of a date not more than 90 days prior to the filing of the registration statement and not more than 6 months prior to the effective date of the offering. The financial statements for the last calendar or fiscal year, as the case may be, or less if the nonmember has not been in existence for 1 year, must contain an independently certified balance sheet. If there is an updated balance sheet covering a period in excess of 6 months subsequent to the last full calendar or fiscal year, such must also be independently audited and certified.

(2) *Sales by stockholder of the nonmember broker or dealer.* (i) In addition to the restrictions contained in paragraph (b) of § 240.15b10–9 relating to sales by associated persons and their immediate families, in any public offering of the securities of the nonmember broker or dealer where there is no bona fide active independent market for the class of securities being offered, no more than 25 percent of the equity interest of the stockholders thereof as of the date of the filing of the registration statement may be offered as part of the issue. The remaining equity interest held by such persons shall, except in the case of a bona fide gift or transfer by operation of law, be restricted as to sale or transfer for a period of at least 1 year after the termination of the offering.

(ii) In all other public offerings for a class of securities of a nonmember broker or dealer there shall be no limitation on the percentage of stockholders' equity which may be distributed: *Provided, however,* That those securities owned by associated persons of the nonmember broker or dealer, which are not made a part of the public offering and which require a registration statement to be filed and to become effective before being sold to the public shall, except in the case of a bona fide gift or transfer by operation of law, be restricted as to sale or transfer for a period of at least 3 months after the termination of the offering. In the case of a bona fide gift or transfer by operation of law the prohibitions on sale or transfer referred to in subparagraphs (2) (i) and (ii) of this paragraph shall apply to the donee or transferee and shall be measured as of the date of the termination of the offering.

(3) *Holding period required prior to sales by associated persons of the nonmember broker or dealer.* (i) A stockholder who is an associated person of a nonmember broker or dealer, may not offer any of his securities as part of an offering if they have not been owned by him for a period of at least 1 year prior to the filing of the registration statement unless (*a*) they were acquired during the referred to 1-year period as a result of the formation of a successor corporation to a preexisting sole proprietorship or partnership in respect to which he was either the sole proprietor or a partner prior to the previous 1-year period, or (*b*) they were acquired during the referred to 1-year period as a result of a bona fide stock dividend, stock split, recapitalization, merger, or some other like event.

(4) *Exemptions.* The Commission upon written request may, in exceptional and unusual circumstances (such as, but not necessarily limited to, a sale by an estate or by a person whose financial circumstances, taking into consideration all relevant factors, requires such), exempt a broker or dealer unconditionally or on specified terms from the provisions of

[9] The NASD has submitted to its membership an amendment to its rules to require that such an undertaking must be given by its members.

[10] Possibilities in this regard might be the use of experienced independent financial consulting firms or other financial experts to certify to the fairness of the offering price and to discharge the other responsibilities of an underwriter. In these situations it would, of course, be expected that the firms would agree to undertake responsibilities and liabilities under sec. 11 of the 1933 Act.

[11] The above seasoning and profitability requirements would not apply, however, to an affiliated non-broker-dealer issuer.

[12] It should be noted that the firm commitment underwriter would also have to meet these requirements.

[13] Immediate family is defined as a parent, mother- or father-in-law, husband or wife, brother or sister, brother- or sister-in-law, children or any relative to whose support such persons contribute directly or indirectly.

subparagraphs (2) and (3) of this paragraph.

(5) *Subsequent public offerings by the nonmember broker or dealer.* After an initial offering has been made by a nonmember broker or dealer to the public of an issue of its securities, no other offering to the public can be made by that nonmember of its securities for a period of at least 1 year after the termination of the offering: *Provided, however,* That offerings made solely to employees during that period, such as employee stock option, stock purchase, or other similar type offerings, shall not be prohibited.

(6) *Net worth.* The total dollar amount of an offering by a nonmember broker or dealer of its securities (exclusive of those securities attributable to selling stockholders) shall be no greater than three times the net worth (exclusive of subordinated borrowings) of the nonmember as reflected in the most recent balance sheet as of a date not more than 90 days prior to the filing of the registration statement and 6 months prior to the date of the offering.

(7) *Net capital.* As of the date the distribution has been completed, the offering terminated, and settlement effected, the nonmember broker or dealer shall not have "aggregate indebtedness" in excess of 10 times his "net capital" as those terms are defined in § 240.15c3–1 unless it has obtained a specific exemption pursuant to § 240.15c3–1(b) (1) or (3): *Provided, however,* That if the nonmember is exempt from that section by reason of § 240.15c3–1(b)(2), the ratio of aggregate indebtedness to net capital (net capital ratio) may be computed under the rule of the national securities exchange to which the nonmember is subject. In such circumstances, however, the net capital ratio shall be computed by the national securities exchange or certified by it as being correct. Notice of the termination and settlement of the offering along with a computation of the net capital ratio as of the settlement date shall be immediately provided the Commission. In addition, all proceeds of any offering of a nonmember broker or dealer's securities shall be placed in an escrow account until, and shall not be paid over to or used by the nonmember unless, such 10 to 1 net capital ratio has been met. If these requirements have not been met within 60 days after the date of the offering, all monies received from sales of securities of the offering and held in the escrow account must be returned in full to the purchasers thereof and the offering withdrawn.

(8) *Subsequent disclosures by the nonmember broker or dealer.* After a nonmember has made a distribution to the public of an issue of its securities, it shall send to each of its record security holders: Quarterly, a summary statement of its operations; and, annually, independently audited and certified financial statements.

(b) Definitions: For the purpose of this section:

(1) The term "nonmember broker or dealer" shall mean any broker or dealer registered under section 15 of the Act, who is not a member of a national securities association registered with the Commission under section 15A of the Act.

(2) The term "associated person" shall mean any officer, director, or branch manager of a nonmember broker or dealer (or any person occupying a similar status or performing similar functions), or any person directly or indirectly controlling or controlled by such nonmember broker or dealer, and shall include any employee of such nonmember broker or dealer.

(3) The term "bona fide active independent market" shall mean a market in a class of securities of a company which:

(i) Is registered pursuant to the provisions of section 12(b) or section 12(g) of the Act; unless the company, or an industry of which such company is part, has been specifically exempted from the registration provisions of those sections of the Act;

(ii) Has a minimum trading volume for the immediately preceding 12 months of 100,000 shares;

(iii) Has outstanding 250,000 publicly-held shares of the class of securities being offered; and

(iv) In the case of over-the-counter securities, has had at least three bona fide independent market makers for a period of at least the immediately preceding 30 business days.

(4) The term "bona fide independent market maker" shall mean a market maker which:

(i) The nonmember broker or dealer reasonably believes continually maintains net capital as determined by § 240.15c3–1 of $50,000 or $5,000 for each security in which it makes a market, whichever is less, and stands ready, willing, and able to effect transactions in reasonable amounts, and at his quoted prices, with other brokers and dealers;

(ii) Regularly publishes bona fide competitive bid and offer quotations in a recognized interdealer quotation system; and

(iii) Furnishes bona fide competitive bid and offer quotations to other brokers and dealers on request.

(5) The term "financial statements" shall mean a balance sheet, profit and loss statement, or statement of income and expense, a statement of source and application of funds, and a statement of retained earnings.

(6) The term "settlement date" shall mean the date on which the distribution of the net proceeds from an offering is made to the nonmember broker or dealer issuer and/or selling stockholder.

§ 240.15b10–9—Standards for the underwriting of participation by nonmember broker-dealers in the public distribution of their own or affiliate's securities.

(a) No nonmember broker or dealer may underwrite or otherwise participate in a public offering of its own securities or those of an affiliate unless:

(1) The price at which the issue is to be distributed to the public is no higher than that recommended jointly by two qualified independent underwriters who shall each also participate in the preparation of the registration statement and the prospectus, offering circular or other comparable document; shall each exercise the usual standards of due diligence in respect thereto; and shall each otherwise agree to undertake the full legal responsibilities and liabilities of an underwriter under the Securities Act of 1933. The two qualified independent underwriters shall also be represented by a legal counsel independent of the nonmember broker or dealer and/or affiliated issuer who shall review the information contained in the registration statement and the prospectus, offering circular, or other comparable document, and issue an opinion as to whether they conform to all requirements of the Federal securities laws and, in case of an intrastate offering, whether they conform to all of the requirements of the State having jurisdiction: *Provided, however,* That in unusual or special circumstances, where compliance with this subparagraph is not feasible, the Commission may exempt a nonmember broker or dealer, upon an appropriate written request which contains therein an acceptable alternative.

(2) The nonmember broker or dealer (or its predecessor if the nonmember is a newly formed corporation) or nonmember broker or dealer affiliate, as the case may be, has been actively engaged in the investment banking or securities business for at least 5 years immediately preceding the filing of the registration statement; the nonmember in at least 3 of the 5 years immediately preceding the filing of the registration statement has had a profit from its operations; and the majority of the board of directors holding office, or general partners if the nonmember is a partnership, as of the date of the filing of the registration statement and as of the date of the offering have been actively engaged in the investment banking or securities business for the 5-year period immediately preceding the filing of the registration statement. If the nonmember is a sole proprietorship, then the proprietor must have been actively engaged in the investment banking or securities business for the 5-year period immediately preceding the filing of the registration statement.

(3) In the distribution of the securities of an affiliated nonbroker or dealer issuer:

(i) The financial statements of the issuer conform in all respects with the provisions of § 240.15b10–8; and

(ii) The issuer represents that it will after the distribution to the public send to each of its security holders quarterly, a summary statement of its operations; and, annually, financial statements certified by an independent public accountant.

(b) If pursuant to the requirements of paragraphs (a) (1) and (2) of this section, a nonmember broker or dealer distributes its or an affiliated broker or dealer's securities then the nonmember-issuer's associated persons and their immediate families may not sell, as a part of the offering, any part of their ownership interest: *Provided, however,* That an unusual or special circumstances, upon an appropriate written request, the Commission may grant an exemption from this provision.

(c) Exceptions: (1) In cases where the provisions of paragraph (a)(1) of this section have not been complied with, a nonmember broker or dealer who meets the requirements of paragraph (a)(2) of this section, may nevertheless participate as a member of the selling group in the distribution of an issue of its own securities or an issue of an affiliate-issuer's securities if the distribution is the subject of a firm commitment underwriting, managed by an underwriter who is a qualified independent underwriter and such participation does not exceed 10 percent of the total dollar amount of the offering.

(2) In cases where the provisions of paragraph (a)(1) of this section have not been complied with, a nonmember broker or dealer who meets the requirements of paragraph (a)(2) of this section may nevertheless underwrite or participate in the distribution of an issue of its own securities or an issue of an affiliate-issuer's securities if the offering is for a class of securities for which a bona fide active independent market exists as of the date of the filing of the registration statement for the current offering and as of the effective date thereof.

(d) Definitions: For the purposes of this section:

(1) The term "nonmember broker or dealer" shall mean any broker or dealer registered under section 15 of the Act, who is not a member of a national securities association registered with the Commission under section 15A of the Act.

(2) The term "associated person" shall have the same meaning as in § 240.15b10–8.

(3) The term "affiliate" shall mean a company:

(i) Which controls, is controlled by, or is under common control with a nonmember;

(ii) Which directly or indirectly owns, controls, or holds with power to vote 10 percent or more of the outstanding voting securities of a nonmember; or

(iii) In which a nonmember, or a person associated with a nonmember directly or indirectly owns, controls, or holds with power to vote 10 percent or more of the outstanding securities: *Provided, however,* That the term "affiliate" shall not be deemed to include an investment company registered under the Investment Company Act of 1940, a real estate investment trust as defined in section 856 of the Internal Revenue Code or a tax sheltered program.

(4) The term "bona fide active independent market" shall have the same meaning as in § 240.15b10–8.

(5) The term "bona fide independent market maker" shall have the same meaning as in § 240.15b10–8.

(6) The term "financial statements" shall have the same meaning as in § 240.15b10–8.

(7) The term "qualified independent underwriter" shall mean a broker or dealer which:

(i) Has been actively engaged in the investment banking or securities business for at least 5 years immediately preceding the filing of the registration statement;

(ii) In at least 3 of the 5 years immediately preceding the filing of the registration statement has had a profit from its operations;

(iii) As of the date of the filing of the registration statement and as of the date of the offering:

(*a*) If a corporation has a majority on its board of directors of persons who have been actively engaged in the investment banking or securities business for the 5-year period immediately preceding the filing of the registration statement;

(*b*) If a partnership, the majority of its general partners has been actively engaged in the investment banking or securities business for the 5-year period immediately preceding the filing of the registration statement;

(*c*) If a sole proprietorship, the proprietor has been actively engaged in the investment banking or securities business for the 5-year period immediately preceding the filing of the registration statement.

(iv) Has actively engaged in the underwriting of public offerings of securities for at least the 5-year period immediately preceding the filing of the registration statement; and

(v) Is not an affiliate of the nonmember broker or dealer and/or affiliated issuer.

(8) The term "tax-sheltered program" shall mean a program in which flow-through tax benefits are a material factor regardless of the structure of the legal entity or vehicle for distribution including, but not limited to, oil and as programs, real estate syndications (except real estate investment trusts), citrus grove developments, cattle programs and all other programs of a similar nature, regardless of the industry represented by the program, or any combination thereof.

(9) The term "registration statement" shall mean a statement provided for in section 6 of the Securities Act of 1933 and includes any amendment thereto and any report, document, or memorandum filed as a part of such statement or incorporated therein by reference: *Provided, however,* That such term shall also include a notification on Form 1–A (§ 239.90 of this chapter) filed with the Commission pursuant to the provisions of § 230.255 of this chapter under the Securities Act of 1933 and, in the case of intrastate offering, any document, by whatever name known, initiating the registration or similar process for an issue of securities which is required to be filed by the laws or regulations of the State where the offering is to be made.

(10) The term "immediate family" shall mean parents, mother-in-law, father-in-law, husband or wife, brother or sister, brother-in-law or sister-in-law, children, or any relative to whose support such persons contribute directly or indirectly.

All interested persons are invited to submit their views and comments on the proposed rules. Written statements of views and comments should be submitted to the Securities and Exchange Commission, Washington, D.C. 20549, on or before June 5, 1972. All communications with respect to the proposed rules should refer to File No. S7–436 and all such communications will be available for public inspection.

(Sec. 15(b)(10), 48 Stat. 895, as amended 78 Stat. 565; sec. 6, 15 U.S.C. 78o.; sec. 23(a), 48 Stat. 901, as amended 49 Stat. 1379; sec. 8, 15 U.S.C. 78w)

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

APRIL 12, 1972.

[FR Doc.72-5889 Filed 4-18-72;8:46 am]

[17 CFR Part 275]

[Release IA-316]

"INVESTMENT PERFORMANCE" OF AN INVESTMENT COMPANY AND "INVESTMENT RECORD" OF AN APPROPRIATE INDEX OF SECURITIES PRICES

Proposed Definitions

Notice is hereby given that the Securities and Exchange Commission has under consideration the adoption of a rule under the Investment Advisers Act of 1940 (the "Act") (15 U.S.C. 80b–1 et seq.), as amended by the Investment Company Amendments Act of 1970 (the "1970 Act") (Public Law 91–547, 84 Stat. 1413). The proposed rule is designed to make clear that amended section 205 of the Act (15 U.S.C. 80b–5, 84 Stat. 1432, 1433), which became effective on December 14, 1971, requires that (a) realized capital gains distributions and dividends from investment income paid by investment companies, and (b) all cash distributions paid on the stocks of the companies which comprise the index of securities prices chosen to measure the relative performance of the investment company, shall be treated as reinvested in computing "investment performance" of the investment company and the "investment record" of the index. The rule would be adopted pursuant to the authority granted to the Commission under sections 205 and 211 of the Act (15 U.S.C. 80b–5, 80b–11).

Prior to the amendment of section 205 many investment company performance fee arrangements were unfair to investment companies. Many such fees did not decrease for poor performance; or, if they did, decreases were disproportionate to increases. The amendments to section 205 were designed to align, as nearly as possible, the interests of the adviser and the investment company by correcting imbalances in incentive fees arrangements. Thus, under the section, as amended, all performance fees are prohibited unless compensation under them increases and decreases proportionately with investment performance of the company over a specified period in relation to the investment record of an appropriate index of securities prices or such other measure of investment performance as the Commission by rule, regulation or order may specify. The point from

which increases and decreases in compensation are measured must be the fee which is paid or earned when the investment performance of the company is equivalent to that of the index.

Section 211 of the Act gives the Commission authority to issue such rules and regulations as are necessary or appropriate to the exercise of the functions and powers conferred upon it under the Act.

For investment company "investment performance" to be comparable to the "investment record" of an index within the meaning of section 205 all increments, both in the performance of the investment company and of the index, must be taken into account. A survey of existing investment company performance fee arrangements indicates that while substantially all investment companies treat realized capital gains distributions as reinvested in computing their performance, most do not accord similar treatment to dividends paid out of their investment income and to cash dividends and distributions of the companies which comprise the index of securities prices. On the average, the dividends paid by the companies whose stocks comprise an index have exceeded the dividends from investment income paid by investment companies with incentive fee arrangements. This practice of not including dividends and distributions in measuring performance has resulted in an advantage to investment advisers and is unfair to investment companies and their stockholders.

The attached rule proposal makes clear that the "investment record" of the index differs from the index price. The rule would require that in computing the "investment performance" of the investment company and the "investment record" of the index, dividends paid by the investment company out of its investment income and all cash distributions of the companies whose stocks comprise the index shall be treated as reinvested. In computing the "investment-performance" of investment companies realized capital gains shall also be treated as reinvested.

Ideally, cash dividends and any other cash distributions on the securities of the companies which comprise the index should be treated as reinvested on their ex-dividend dates or record dates. Information with which to calculate such reinvestments in this manner may not be readily available for the companies which comprise the index. To assure that such dividends and distributions are accorded appropriate weight, the rule requires that the value, computed consistently with the index, of cash distributions made by companies whose securities comprise the index, shall be included in the "investment record" of the index and shall be treated as reinvested in the index at least as frequently as the end of each quarter following the payment of the dividend.[1] Investment company capital gains distributions and dividends may be treated as reinvested at the net asset value at the close of business on the record date for the payment of such distributions or dividends.

The text of the proposed rule is as follows:

Commission action: The Commission proposes to amend Part 275 of Chapter II of Title 17 of the Code of Federal Regulations by adding a new § 275.205–1 reading as follows:

§ 275.205–1 Definition of "investment performance" of an investment company and "investment record" of an appropriate index of securities prices.

(a) "Investment performance" of an investment company for any period shall mean the sum of:

(1) The change in its net asset value per share during such period; and

(2) The value of its cash distributions per share accumulated to the end of such period;

expressed as a percentage of its net asset value per share at the beginning of such period. For this purpose, distributions by an investment company of realized capital gains and of dividends paid from investment income shall be treated as reinvested at the net asset value per share in effect at the close of business on the record date for the payment of such distributions or dividends.

(b) "Investment record" of an appropriate index of securities prices for any period shall mean the sum of:

(1) The change in the level of the index during such period; and

(2) The value, computed consistently with the index, of cash distributions made by companies whose securities comprise the index accumulated to the end of such period;

expressed as a percentage of the index level at the beginning of such period. For this purpose cash distributions on the securities which comprise the index shall be treated as reinvested in the index at least as frequently as the end of each calendar quarter following the payment of the dividend.

[1] For example, the latest quarterly dividends of the companies whose stocks comprise the Standard & Poor's 500 Stock Composite Index, are published monthly under "Dividends per share, 12 months moving total adjusted to index" in Standard & Poor's Trade and Securities Statistics: Current Statistics. An illustration of the manner in which this index may be adjusted for 1971 by the use of this data is set forth as an exhibit to this release.

EXHIBIT I

METHOD OF COMPUTING THE INVESTMENT RECORD OF THE STANDARD & POOR'S 500 STOCK COMPOSITE INDEX FOR CALENDAR 1971

Quarter ending—	Index value [1]	Quarterly dividend yield-composite index	
		Annual percent [2]	Quarterly percent [3] (¼ of annual)
Dec. 1970	92.15		
Mar. 1971	100.31	3.10	0.78
June 1971	99.70	3.11	.78
Sept. 1971	98.34	3.14	.79
Dec. 1971	102.09	3.01	.75

Change in index value for 1971: 102.09−92.15=9.94

Accumulated value of dividends for 1971:

Quarter ending:	March	June	Sept.	Dec.
Percent yield	1.0078	×1.0078	×1.0079	×1.0075−1.00

=.0314

[1] Source: Standard & Poor's Trade and Securities Statistics, January 1972, p. 33.

[2] *Id.* See Standard & Poor's Trade and Securities Statistics Security and Price Index Record—1970 Edition, p. 133, for explanation of quarterly dividend yield.

[3] Quarterly percentages have been rounded to two decimal places.

Aggregate value of dividends paid, assuming quarterly reinvestment and computed consistently with the index:

(Percent yield as computed above)
× (ending index value)
= Aggregate value dividends paid

For 1971:

$$.0314 \times 102.09 = 3.21$$

Investment record of Standard & Poor's 500 stock composite index assuming quarterly reinvestment dividends:

$$\text{Investment record} = \frac{9.94 + 3.21}{92.15} = 14.27 \text{ percent}$$

The same method can be extended to cases where an investment company's fiscal quarters do not coincide with the fiscal quarters of the S & P dividend record or to instances where a "rolling period" is used for performance comparisons as indicated by the following example of the calculation of the investment record of the Standard & Poor's 500 Stock Composite Index for the 12 months ended November 1971:

Index value Nov. 30, 1971	93.99
Index value Nov. 30, 1970	87.20
Change in index value	6.79

Quarter ending—	Dividend yield		Rate for each month of quarter (⅓ of annual)
	Annual rate	¼ of annual	
Dec. 1970	3.41	0.85	0.28
March 1971	3.10	.78	.26
June 1971	3.11	.78	.26
Sept. 1971	3.14	.79	.26
Dec. 1971	3.01	.75	.25

Accumulated value of dividends reinvested:

December	=1.0028
January–March	=1.0078
April–June	=1.0078
July–September	=1.0079
October–November	=1.0053 [4]

[4] The rate for October and November would be two-thirds of the yield for the quarter ended Sept. 30 (i.e. .667×.79=5269) since the yield for the quarter ended Dec. 31 would not be available as of Nov. 30.

Dividend yield:

$$1.0028 \times 1.0078 \times 1.0078 \times 1.0079 \times 1.0053 - 1.00 = .0320$$

Aggregate value of dividends paid computed consistently with the index:

$$.0320 \times 93.99 = 3.01$$

Investment record of the Standard & Poor's 500 Stock Composite Index for the 12 months ended November 30, 1971:

$$\frac{6.79 + 3.01}{87.20} = 11.24 \text{ percent}$$

(Secs. 205, 211, 54 Stat. 852, 74 Stat. 887, 15 U.S.C 80b-205, 80b-211; Sec. 25, 84 Stat. 1432, 1433, Public Law 91-547)

All interested persons are invited to submit their written views and comments on the proposed rule to Ronald F. Hunt, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before May 15, 1972. All communications to the Secretary in this regard should refer to File No. S7-437, and will be available for public inspection.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

APRIL 6, 1972.

[FR Doc.72-5937 Filed 4-18-72;8:52 am]

PAY BOARD

[6 CFR Part 201]

TREATMENT OF CERTAIN PRODUCTIVITY INCENTIVE PROGRAMS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth below are proposed to be prescribed by the Chairman of the Pay Board. Since the rules set forth in Part 201 are essential to the expeditious implementation of the Economic Stabilization Act of 1970, as amended, the Board finds that the time for the submission of comments or suggestions by interested persons in accordance with usual rule making procedures is impracticable and that good cause exists for promulgating them in less than 30 days. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate to the Chairman of the Pay Board, Attention: Office of General Counsel, 2000 M Street NW., Washington, DC 20508, by April 29, 1972. Any written comments or suggestions not specifically designated as confidential may be inspected by any person upon written request.

The proposed regulations are to be issued pursuant to the authority vested in the Pay Board by the Economic Stabilization Act of 1970, as amended (Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8; 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Public Law 92-210, 85 Stat. 743), Executive Order No. 11640 (37 F.R. 1213, January 27, 1972) as amended; and Cost of Living Council Order No. 3 (36 F.R. 20202, October 16, 1971) and No. 6 (37 F.R. 2727, February 4, 1972).

GEORGE H. BOLDT,
Chairman of the Pay Board.

In order to conform the regulations relating to the Stabilization of Wages and Salaries (6 CFR Part 201) to the Pay Board Policy decision of February 23, 1972, announced in News Release PB-50, such regulations are amended as follows:

PARAGRAPH 1. Section 201.57 is amended by adding a new paragraph (j) to read as follows:

§ 201.57 Exclusions from adjustment computations.

* * * * *

(j) *Certain productivity incentive programs.* Increases attributable to the operation of certain productivity incentive programs described in § 201.59.

* * * * *

PAR. 2. A new § 201.59 is added immediately after § 201.58 to read as follows:

§ 201.59 Productivity incentive programs.

(a) *Existing productivity incentive programs.* A productivity incentive program (as defined in paragraph (d) of this section) in existence, or prepared for installation and communicated to employees, prior to November 14, 1971, will be allowed to operate according to its terms. Thus, any increases attributable to the operation of such a program may be excluded from adjustment computations pursuant to § 201.57(j). This paragraph shall apply to productivity incentive programs on either a plant-wide or less than plant-wide basis. In the case of a substantial revision of such a program, the provisions of paragraph (b) or (c) of this section (whichever is applicable), shall apply.

(b) *New or revised productivity incentive programs on a plant-wide basis.* Increases attributable to the operation of a new or substantially revised existing plant-wide productivity incentive program (as defined in paragraph (d) of this section) may be excluded from adjustment computations pursuant to § 201.57 (j) if—

(1) Within 30 days of the installation of such a program, or revision thereof, the employer has filed with the Pay Board (or its delegate) a certification of such installation or revision which shall include a full description of the program and (if applicable) its revision, and

(2) Increases under such program, or revisions thereof, actually reflect and are directly related to increaes in productivity.

(c) *New or revised productivity incentive programs on less than a plant-wide basis.* If, on less than a plant-wide basis, the installation of a new productivity incentive program (as defined in paragraph (d) of this section) or the installation of changes to an existing productivity incentive program which would substantially revise the terms of such program, would cause the annual aggregate wage and salary increase of an appropriate employee unit to exceed the maximum permissible annual aggregate, increases attributable to the operation of such program may be excluded from adjustment computations pursuant to § 201.57(j); provided that increases under such program, or revisions thereof, actually reflect and are directly related to increases in productivity. Prior to the installation of such a program or the implementation of revisions thereto, the employer shall provide the Pay Board with a description of such program and shall certify to the Board that the program, or revisions thereto, will substantially meet criteria appropriate for such plans or practices. Among the factors which may be considered are that the plan or practice—

(1) Provides employees the expectation of a level of earnings above base rates which will vary in relationship to changes in productivity, but which will not result in increased unit labor costs for the employer;

(2) Is designed to provide earnings opportunities sufficient to motivate the participants;

(3) Contains standards of performance and provisions for revising such standards to reflect changes in equipment, methods, quality requirements and other factors related to the basis for standards development;

(4) Contains guarantees of wages and earnings for such contingencies as downtime for reasons beyond the control of participants and for nonstandard work; and

(5) Defines the employees included and their relationship to increased productivity.

(d) *Productivity incentive program defined.* For the purposes of this part, the term "productivity incentive program" means a plan or practice which establishes a formal system whereby, in accordance with predetermined formulas, wage and salary payments to an employee or a group of employees increase as the measured productivity of such employee or group increases; provided, that where a single plan or practice is plant-wide and includes all or substantially all of the employees in a plant or firm, payments may be based on the measured increase in productivity for such plant or firm as a whole.

(e) *Discontinuance.* If a productivity incentive program is discontinued and such action results in an increase in wages and salaries to the employees affected, the employer shall certify to the Pay Board within 30 days of discontinuance that such action was taken in good faith and not for the purpose of circumventing the intent of the economic stabilization program.

(f) *Variable compensation.* Notwithstanding any other provision of this section, any plan or practice providing for the payment or award of "incentive compensation" as defined in § 201.72(e) of this part shall be governed by subpart D of this part. Plans or practices described in § 201.77 which do not meet the defini-

tion of productivity incentive programs (as defined in paragraph (d) of this section) are governed by subpart D of this part.

PAR. 3. Section 201.77(b) of this part is amended to read as follows and a new paragraph (c) is added:

§ 201.77 Sales, commission, and production incentive plans or practices.

* * * * *

(b) *Changes in method of calculating earnings.* Except as provided in §§ 201.57 (j) and 201.59 (with respect to certain productivity incentive programs), if any change in the method of calculating the earnings of any employee in a plan or practice unit under a plan or practice described in paragraph (a) of this section results in an increase in the aggregate amount of compensation of such plan or practice unit, the amount of such increase shall be deemed to be an increase in wages and salaries for the wage year earned with respect to the covered plan or practice unit. Such increase shall be apportioned to the appropriate employee units of the employees participating in the plan or practice unit. The amount of such increase which shall be apportioned to each such appropriate employee unit shall be determined as follows: The number of employees in an appropriate employee unit who are participating in such a plan or practice unit multiplied by a fraction, the numerator of which is the amount of the increase and the denominator of which is the number of employees in the plan or practice unit.

(c) *New productivity incentive plan or practice.* Notwithstanding the provisions of this section and the provisions of §§ 201.78 and 201.79, any plan or practice described in § 201.59 shall be governed by the provisions of that section and shall be subject to the certification requirements set forth therein.

§ 201.80 [Deleted]

PAR. 4. Section 201.80 is deleted.

[FR Doc.72-6100 Filed 4-18-72;12:44 pm]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

HAND PALLET TRUCKS FROM FRANCE

Withholding of Appraisement Notice

Information was received on March 22, 1971, that hand pallet trucks from France were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice," which was published in the FEDERAL REGISTER of May 11, 1971, on page 8700. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)) notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price (section 203 of the Act; 19 U.S.C. 162) of hand pallet trucks from France is less, or likely to be less, than the foreign market value (section 205 of the Act; 19 U.S.C. 164).

Customs officers are being directed to withhold appraisement of hand pallet trucks from France in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

In accordance with §§ 153.32(b) and 153.37, Customs Regulations (19 CFR 153.32(b), 153.37), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 7 days from the date of publication of this notice in the FEDERAL REGISTER.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than 14 days from the date of publication of this notice in the FEDERAL REGISTER.

This notice, which is published pursuant to § 153.34(a), Customs Regulations, shall become effective upon publication in the FEDERAL REGISTER (4–19–72). It shall cease to be effective at the expiration of 3 months from the date of this publication, unless previously revoked.

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: April 13, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72–5905 Filed 4–18–72;8:48 am]

HAT BODIES OF FUR, NOT ON THE SKIN, FROM CZECHOSLAVAKIA

Withholding of Appraisement Notice

Information was received on June 24, 1970, that hat bodies of fur, not on the skin, from Czechoslovakia were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of August 6, 1971, on page 14483. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price (sec. 203 of the Act; 19 U.S.C. 162) of hat bodies of fur, not on the skin, from Czechoslovakia is less, or is likely to be less, than the constructed value (sec. 206 of the Act; 19 U.S.C. 165).

Statement of reasons. The information currently before the Bureau tends to indicate that the probable basis of comparison for fair value purposes will be between purchase price and constructed value.

Purchase price will probably be based the ex-factory packed price.

Since the merchandise under consideration was produced in a controlled economy country, constructed value will probably be based on the home market price at which such or similar merchandise is sold by a noncontrolled economy country. The country chosen for this purpose will probably be Italy.

The home market price in Italy will probably be based on the f.o.b., delivered, packed price to wholesalers in the Italian market. Deductions will probably be made for discounts and inland freight. Adjustments will probably be made for differences in the merchandise compared and for commissions.

Using the above criteria, there are reasonable grounds to believe or suspect that purchase price will be lower than the constructed value.

Customs officers are being directed to withhold appraisement of hat bodies of fur, not on the skin, from Czechoslovakia in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

In accordance with §§ 153.32(b) and 153.37, Customs Regulations (19 CFR 153.32(b), 153.37), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 10 calendar days from the date of publication of this notice in the FEDERAL REGISTER.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

This notice, which is published pursuant to § 153.34(b), Customs Regulations, shall become effective upon publication in the FEDERAL REGISTER (4–19–72). It shall cease to be effective at the expiration of 6 months from the date of this publication, unless previously revoked.

[SEAL] G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: April 13, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72–5908 Filed 4–18–72;8:48 am]

SULPHUR FROM CANADA

Amendment of Antidumping Proceeding Notice

An "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of February 24, 1972 (37 F.R. 3922, F.R. Doc. 72–2844), indicating a possibility that sulphur, including elemental sulphur and nonelemental sulphur, from Canada, is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

The purpose of this amendment is to restrict the application of that notice to elemental sulphur from Canada.

Accordingly, the "Antidumping Proceeding Notice" referred to above is amended by inserting the word "ELEMENTAL" before the word "SULPHUR"

in the caption and by substituting the words "elemental sulphur" for the words "sulphur, including elemental sulphur and nonelemental sulphur," in the first paragraph.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: April 13, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-5909 Filed 4-18-72;8:48 am]

WELDED-WIRE MESH FROM BELGIUM

Withholding of Appraisement Notice

Information was received on November 23, 1970, that welded-wire mesh for concrete reinforcement from Belgium was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice," which was published in the FEDERAL REGISTER of March 3, 1971, on page 4073. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)) notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price (section 203 of the Act; 19 U.S.C. 162) of welded-wire mesh for concrete reinforcement from Belgium is less, or likely to be less, than the foreign market value (section 205 of the Act; 19 U.S.C. 164).

Customs officers are being directed to withhold appraisement of welded-wire mesh for concrete reinforcement from Belgium in accordance with § 153.48, Customs Regulations (19 U.S.C. 153.48).

In accordance with §§ 153.32(b) and 153.37, Customs Regulations (19 CFR 153.32(b), 153.37), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 7 days from the date of publication of this notice in the FEDERAL REGISTER.

Any written views of arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than 14 days from the date of publication of this notice in the FEDERAL REGISTER.

This notice, which is published pursuant to § 153.34(a), Customs Regulations, shall become effective upon publication in the FEDERAL REGISTER (4-19-72). It shall cease to be effective at the expiration of 3 months from the date of this publication, unless previously revoked.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: April 13, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-5906 Filed 4-18-72;8:48 am]

Internal Revenue Service

[Price Commission Ruling 1972-128]

PRINCIPAL PLACE AT ABODE OF A NONTRANSIT OCCUPANT

Price Commission Ruling

Facts. A lessor of Florida beach cottages proposes to increase the monthly rent for several of the cottages. The monthly rent for all of the cottages for the past several years has been $300 per month during the winter and $175 per month during the summer. Part 301 of the Economic Stabilization Regulations sets forth rules for determining the base rent of "residences or other real property" and provides for certain allowable adjustments to that base rent. Economic Stabilization Regulations, 6 CFR 301.2, 36 F.R. 25386 (December 30, 1971), defines a residence as a, "unit of housing normally occupied as a dwelling place," and states, "Whether property is used as a residence depends upon all the facts and circumstances in each case. For example, a seasonal or vacation dwelling * * * is included in the term residence if it is the principal place of abode of nontransient occupants."

Issue. Whether the lessor's cottages are seasonal or vacation dwellings. If so, whether any of those cottages is a "residence" thereby making the lessor subject to the rent regulations?

Ruling. All of the lessor's cottages are seasonal or vacation dwellings. Depending upon the facts, some cottages may be "residences" for purpose of the regulations.

A dwelling is a seasonal or vacation dwelling if, under all the facts and circumstances it is rented primarily for vacation purposes or its pattern of rental use or the rent charged is closely related to the seasons of the year. However, any particular cottage of the lessor is a "residence" for the purposes of the rent regulations only if it is the, "principal place of abode of nontransient occupants." Whether a cottage is the principal place of abode of nontransient occupants is determined on the basis of the following principles.

A person's place of abode which is his address of legal residency is always a "residence" for the purposes of § 301.2 of the regulations. With respect to that place of abode, whatever type of dwelling it might be, a person is a resident and not merely an occupant. Therefore, if any of the lessor's cottages are being rented by persons who make that place of abode the address of their legal residency, the lessor is subject to the rent regulations in Part 301.

With respect to all other places of abode which are not the address of legal residency of the person and which are seasonal or vacation dwellings, houseboats, hotel or motel-type housing units or mobile homes, a person is considered a nontransient occupant if his use of the housing unit is more than temporary. Price Commission Ruling 1972-43, 37 F.R. 3062 (February 11, 1972). Use is considered more than temporary if the tenant rents a housing unit by the month. Price Commission Ruling 1972-57, 37 F.R. 3453 (February 16, 1972).

Likewise, if the term of the rental agreement is for a time period of less than 1 month but a continuous right to possession by the lessee exceeds 1 month under a series of new agreements or renewals, then the use of the housing unit is also considered more than temporary. Such a housing unit is a residence. A hiatus in the right to possession made with the intent to change the status of a housing unit from what would be a residence into a temporary lodging is not considered to interrupt an otherwise continuous right of possession.

If a person has a right of possession of more than one place of abode, other than his address of legal residency, for more than a month at the same time, he is a nontransient occupant of all such housing units. However, only that housing unit in this group which is his "principal" place of abode is considered a residence for the purposes of the rent regulations. The housing unit which is the lessee's principal place of abode is that housing unit which he or his family physically occupy for the most days during the common period of possession.

Those housing units used for temporary occupancy, which do not fall under the rent regulations may be subject to the price regulations in part 300 of this chapter.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: April 11, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel.

Approved: April 11, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-5894 Filed 4-18-72;8:47 am]

[Price Commission Ruling 1972-129]

STATUS OF HEALTH MAINTENANCE ORGANIZATIONS

Price Commission Ruling

Facts. A new Health Maintenance Organization consists of an organizational and management unit, a medical unit, and has contractual relations with a hospital to provide inpatient hospital care. It desires to adjust the rates in the contract with the hospital based on allowable costs under Economic Stabilization

Regulations, 6 CFR 300.18, 36 F.R. 25384 (December 30, 1971), for institutional providers rather than under § 300.19 for noninstitutional providers of health services.

Issue. Are Health Maintenance Organizations classified as institutional or noninstitutional providers?

Ruling. The Price Commission has defined a Health Maintenance Organization as follows: "Health Maintenance Organization means a private or public organization: (a) Which provides either directly or indirectly through arrangements with others, reasonably comprehensive health services to individuals enrolled in such organizations on a per capita prepayment basis; and (b) in which the providers of health care share in the financial risk of the health plan." Whether or not the Health Maintenance Organization actually owns the hospital, it still is responsible for the care of its members and is required to lead its members through the medical care processes whether outpatient or inpatient. The same risk requirements apply to a Health Maintenance Organization whether it does nor does not own an inpatient hospital facility. Institutional providers of health services include hospitals and any other organizations which operate 24-hour inpatient health care facilities. Economic Stabilization Regulations, Appendix I, 6 CFR Part 300, 36 F.R. 25384 (December 30, 1971). Health Maintenance Organizations, for the purposes of the Commission's health services regulations, shall be considered institutional providers and subject to the provisions of § 300.18 of the regulations.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: April 13, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: April 13, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-5895 Filed 4-18-72;8:47 am]

[Price Commission Ruling 1972-130]

CONNECTION TO SEWER SYSTEM AS A CAPITAL IMPROVEMENT

Price Commission Ruling

Facts. Lessor L owned five residences on land recently annexed by City A. Subsequent to August 15, 1971, the city required the lessor to connect the residences to the local sanitation district's sewer system and to cease using septic tanks. To make the required connection L made the following expenditures:

Connection fees (paid the sanitation district)	$1,625.00
Excavation	1,204.37
New interior piping	2,226.32
Total	6,155.69

L wishes to increase rents as a result of these expenditures. The previous monthly rent was $135.

Issue 1. Whether any of these expenditures constitute costs of a capital improvement because the improvement made is subject to an allowance for depreciation under the Internal Revenue Code of 1954?

Issue 2. If so, how much may the monthly rent for these residences be increased under Economic Stabilization Regulations, 6 CFR 301.103, 36 F.R. 25386 (December 30, 1971)?

Ruling. All of the expenditures constitute the costs of a capital improvement and can be used to increase the monthly rent of the residences by $18 under § 301.103 of the regulations.

Issue 1. The improvement clearly meets the first three tests of the definition of a capital improvement in Economic Stabilization Regulations, 6 CFR 301.2, 36 F.R. 25386 (December 30, 1971). The use of that improvement will continue beyond a 12-month period after its completion. The improvement does benefit the residences. The benefit did commence, i.e. the improvement first became operational, after August 15, 1971. See Price Commission Ruling 1972-58, 37 F.R. 3454 (February 16, 1972).

A deduction for depreciation is allowed under the Internal Revenue Code of 1954 (The Code) for property held for the production of income. Section 167(a) of the Code. Because the allowance is for "exhaustion, wear, tear," and "obsolescence," the depreciable property must not have an indefinite useful life. The basis on which depreciation is allowed is the adjusted basis for determining the gain or loss from the sale of the property. Section 167(g) of the Code. This basis is the cost of the property, section 1012 of the Code, plus adjustments for expenditures, "property chargeable to capital account." Section 1016(a) of the Code. Expenditures "property chargeable to capital account," include the costs of improvements and betterments to the property; but no adjustment, i.e. increase in the basis, may be made for items allowable as a deduction in computing net or taxable income for the taxable year. Section 1.1016-2 of the regulations under the Code.

Capital expenditures are "properly chargeable to capital account." They may not be dedutced in computing net or taxable income for the taxable year. Section 263(a) of the Code. Capital expenditures include amounts paid out for new buildings or for any permanent improvements or betterments, the amounts being paid or incurred to add to the value, or substantially prolong the useful life of the property or to adapt that property to a new or different use. Section 1.263(b) of the regulations under the Code.

Costs incurred to provide sewer service to unimproved lots held for sale are capital expenditures. Henry v. United States, 362 F. 2d 640 (5th Cir. 1966). Provision of sewer service to the rental residences in this case is not distinguishable. The connection with the sewer system was made to substantially prolong the useful life of the residences because without this improvement, the residences' useful life as rental property probably would have ceased. Absent a connection to the sewer system the plumbing was legally not operable, and without plumbing it is unlikely that the residences could be rented. Furthermore, for this same reason, the improvement did add to the value of the property. By maintaining the rentable status of the property, the improvement increased the value for use in the taxpayer's business activity of renting this property to gain income. Hotel Sulgrave 21 TC 619 (1954).

It is true that the cost of incidental repairs which neither materially add to the value of the property nor appreciably prolong its life, but keep it in an ordinarily efficient operating condition, may be deducted as an expense, § 1.162-4 of the regulations under the Code. However, for the reasons stated previously the costs incurred in this case did materially add to the value of the property and did appreciably prolong its useful life.

Issue 2. All of the costs enumerated in the facts were necessary to make the improvement operational. Therefore all of these costs are considered the costs of a capital improvement and a rent increase under § 301.103 can be based on these costs.

Capital improvement costs which benefit only a particular residence shall be allocated to that residence. Capital improvement costs which benefit several residences in common shall be allocated equally to each residence unless the benefits are clearly distributed unequally or the costs are clearly incurred unequally.

There are no facts in this case indicating that the costs should be allocated unequally to the residences. Therefore, the amount of rent increase is limited to 1½ percent per month of the cost of the capital improvement allocated to each residence. That increase would be $6,155.69/5 a 1½ percent or $18 per month rounded in accordance with Economic Stabilization Regulations, 6 CFR 301.102 (b), 37 F.R. 25387 (December 30, 1971). The rent increase exceeds 10 percent of the monthly rent previously charged, but since the improvement is required by local law, the rent may be increased by that amount without IRS approval, § 301.103(a), (c) of the regulations.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: April 13, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel.

Approved: April 13, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-5896 Filed 4-18-72;8:47 am]

[Price Commission Ruling 1972–131]

[Cost of Living Council Ruling 1972–43]

DEFINITION OF U.S. TERRITORY

Price Commission and Cost of Living Council Ruling

Facts. Company A is primarily engaged in providing marine transportation to the offshore petroleum industry on a worldwide basis with principal operations in the Gulf of Mexico.

Specifically, Company A primarily moves offshore drillings rigs from one location to another and transports various supplies to the offshore drilling rigs. A charges its customers for the service of its tug boats on a per hour basis for short term operations and by the day or month on longer contracts.

In excess of 90 percent of Company A's operations are conducted in international waters (outside the 3-mile limit of the U.S. coast) or within the waters of foreign countries along the eastern shore of Central and South America. In many instances, these tugs may operate for days or months without entering U.S. waters.

Issue 1. Is the Company A subject to price controls?

2. Does the definition of the United States as stated in § 300.5 of the Price Commission Regulations include under certain circumstances the waters referred to above, and if so, is there a 3- or 2-mile limit?

Ruling. The activities of Company A will have to be divided in a minimum of three categories: First, the services it performs wholly within U.S. territory; second, services performed partially within the United States and partially without; third, services performed wholly outside the United States. By doing this we are faced with only one question: "What is to be considered the United States?"

U.S. territory extends to a point described by the Outer Continental Shelf Lands Act, 43 U.S.C.A. 1331 et seq., 67 Stat. 462 (August 7, 1953). This act covers areas outside the 3-mile seaward boundary (43 U.S.C.A. section 1301 et seq., 67 Stat. 29 (May 22, 1953)), which "* * * the subsoil and seabed * * * appertain to the United States and are subject to its jurisdiction, control, and power" (43 U.S.C.A. 1332(a)).

Further, section 1333(a) (43 U.S.C.A. 1333(a)) provides that the Constitution and laws of the United States extended to "* * * all artificial islands and fixed structures which may be erected thereon (the seabed) for the purpose of exploring for developing, removing, and transporting resources therefrom, to the same extent as if the Outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State." This section is applicable only if a mineral lease was issued or maintained under this subchapter. Therefore, there is no geographical limit, such as the 3-mile boundary, on the jurisdiction and control of the United States.

Under the above act drilling platforms in waters beyond the 3-mile limit are considered under U.S. jurisdiction. As such, services involving these platforms are considered to be performed within the United States and the companies performing such services are subject to control. Services originating in the United States but to be completed within coastal waters of a foreign country (as recognized by the United States) are partially performed in the United States and are subject to controls. Service performed wholly outside the United States are exempt. Economic stabilization Regulation 300.1(c), 6 CFR 300.1(c), 36 F.R. 23974 (December 16, 1971). Specifically, moving a drilling platform from one position from, to, or within the Outer Continental Shelf Area is a service either partially or wholly performed within the United States.

This ruling has been approved by the General Counsel's of the Price Commission and the Cost of Living Council.

Dated: April 13, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel.

Approved: April 13, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72–5897 Filed 4–18–72;8:47 am]

[Price Commission Ruling 1972–132]

[Cost of Living Council Ruling 1972–44]

EXEMPTION—SINGLE-FAMILY DWELLING UNITS

Price Commission and Cost of Living Council Ruling

Facts. An owner L, of one single-family dwelling X, offers X for rent. Under the freeze regulations the rent was held at $150 per month. T leased X from L on October 1, 1971, under a yearly lease which called for $200 per month rent. However, under § 300.407(b) of the Economic Stabilization Regulations, L was prohibited from collecting more than $150 rent per month after November 13, 1971. 6 CFR 300.407(b), 36 F.R. 23974 (December 16, 1971). On February 3, 1972, X became exempt from the Economic Stabilization Regulations.

Issue. May L collect $200 rent per month from T after February 2, 1972?

Ruling. Yes. Section 101.34(a)(2)(iv) provides in part that single-family dwelling units which were rented for a term longer than month to month on January 19, 1972, are exempt: *Provided,* That the owner of such units and members of his family do not own or have an interest, directly or indirectly, in more than an aggregate of four such units. 6 CFR 101.34(a)(2)(iv), 37 F.R. 2678 (February 4, 1972). This exemption became effective when the amendment which added subsection (iv) to the regulation was filed with the FEDERAL REGISTER. The amendment was filed on February 3, 1972. 37 F.R. 2678 (February 4, 1972). Thus, on February 3, 1972 any provision of the Economic Stabilization Regulations which prevented the collection of the full amount of a rent specified in a valid lease between a lessor and lessee became ineffective in regard to the exempted rental property. Thus, L may collect $200 rent per month from T after February 2, 1972.

This ruling has been approved by the General Counsels of the Price Commission and Cost of Living Council.

Dated: April 13, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: April 13, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72–5898 Filed 4–18–72;8:47 am]

Office of the Secretary

HAND PALLET TRUCKS FROM FRANCE

Determination of Sales at Less Than Fair Value

Information was received on March 22, 1971, that hand pallet trucks from France were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A "Withholding of Appraisement Notice" issued by the Commissioner of Customs is being published concurrently with this notice.

I hereby determine that for the reasons stated below, hand pallet trucks from France are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Act.

Statement of reasons on which this determination is based. The information currently before the Bureau indicates that the proper basis of comparison is between purchase price and home market price.

Purchase price was based on published price list prices, f.o.b. factory, less a discount. Appropriate adjustments were made for taxes not collected by reason of exportation.

Home market price was based on published price list prices. A deduction was made for transportation charges. Adjustments were made for differences in packing, discounts and selling expenses. Adjustments were also made for differences in the merchandise.

Comparisons between purchase price and home market price revealed that purchase price was lower than home market price.

The U.S. Tariff Commission is being advised of this determination.

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

APRIL 13, 1972.

[FR Doc.72–5904 Filed 4–18–72;8:48 am]

WELDED-WIRE MESH FROM BELGIUM

Determination of Sales at Less Than Fair Value

Information was received on November 23, 1970, that welded-wire mesh for concrete reinforcement from Belgium was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A "Withholding of Appraisement Notice" issued by the Commissioner of Customs is being published concurrently with this notice.

I hereby determine that welded-wire mesh for concrete reinforcement from Belgium is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of reasons. The information currently before the Bureau reveals that the proper basis of comparison for fair value purposes is between purchase price and the adjusted home market price of such or similar merchandise.

Purchase price was calculated by deducting from the f.o.b. port price for exportation to the United States the included inland freight charges and by adding internal taxes rebated or not collected by reason of exportation to the United States and export taxes.

Home market price was based on the weighted average delivered price of similar merchandise. Deductions were made for inland freight charges. Adjustments were made for internal taxes and differences in production costs, as appropriate.

Comparison between purchase price and the adjusted home market price revealed the adjusted home market price to be higher than purchase price.

The U.S. Tariff Commission is being advised of this determination.

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

APRIL 13, 1972.

[FR Doc.72-5907 Filed 4-18-72;8:48 am]

DEPARTMENT OF THE INTERIOR

National Park Service

PLATT NATIONAL PARK

Notice of Intention To Issue Concession Permit

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Platt National Park proposes to issue a concession permit to Tribes of the Arbuckle Indian Arts and Crafts Association, Sulphur, Okla., authorizing it to sell genuine Indian handicraft to the public at Platt National Park for a period of eight (8) months from May 1, 1972 through December 31, 1972.

The foregoing concessioner has performed its obligations under an existing permit to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the issuance of a new permit. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the date of publication of this notice. Interested parties should contact the Superintendent, Platt National Park, Post Office Box 201, Sulphur, OK 73086, for information as to the requirements of the proposed permit.

Dated: March 21, 1972.

JOHN C. HIGGINS,
Superintendent of Platt National Park.

[FR Doc.72-5930 Filed 4-18-72;8:50 am]

YOSEMITE NATIONAL PARK

Notice of Intention To Extend Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to authorize David L. Vaughn, Jack W. Vaughn, and Sharon Martha Vaughn to continue to provide food, beverage, and merchandising services and facilities for the public at the El Portal Administrative Site, Yosemite National Park, for a period of seven (7) years from January 1, 1972, through December 31, 1978, pursuant to an amendment to the concession contract under which they also operate the El Portal Market in the El Portal Administrative Site, Yosemite National Park.

The foregoing concessioners have performed their obligations under the expired contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, are entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: April 7, 1972.

LAWRENCE C. HADLEY,
Assistant Director, National Park Service.

[FR Doc.72-5931 Filed 4-18-72;8:50 am]

YOSEMITE NATIONAL PARK

Notice of Intention To Extend Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Dr. Charles A. Woessner, authorizing him to provide dental services for the public at Yosemite National Park, Calif., for a period of one (1) year from January 1, 1972, through December 31, 1972.

The foregoing concessioner has performed his obligations under the expired contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: April 7, 1972.

LAWRENCE C. HADLEY,
Assistant Director, National Park Service.

[FR Doc.72-5932 Filed 4-18-72;8:50 am]

[Order 5]

SUPERINTENDENTS ET AL., SOUTHEAST REGION

Delegation of Authority

SECTION 1. *Superintendents.* The National Park Service Superintendents of the Southeast Region, in the administration, operation, and development of the areas under their supervision, are authorized to exercise all of the authority now or hereafter delegated to the Director, Southeast Region, by the Director, National Park Service, except with respect to the following:

(a) Approval of master plans.

(b) Acceptance of an offer in settlement of a timber trespass unless (1) the trespass is an innocent one, (2) the damages therefrom do not exceed $5,000, and (3) payment of the full amount of the damages is offered.

(c) Sales of timber pursuant to the Federal Property and Administrative Services Act of 1949, and the Federal Property Management Regulations when the fair market value of the timber involved in any single transaction exceeds $1,000.

(d) Approval of programs for destruction and disposition of wild animals which are damaging the land or its vege-

tative cover, and of permits to collect rare or endangered species.

(e) Acceptance of donations of personal property valued in excess of $10,000, and acceptance of donations of money in excess of $10,000.

(f) Authority to designate areas at which recreation fees will be charged as specified by sections 1, 2, and 3 of Executive Order 11200.

(g) Authority to select from the fees established by 43 CFR Part 18, the specific fees to be charged at the designated areas in accordance with section 5(a) of Executive Order 11200.

(h) Authority to execute, approve, and administer contracts and to issue purchase orders for equipment, supplies, and services as follows:

(1) Superintendents, Grade GS–12 and below—in excess of $2,000.

(2) Superintendents, Grade GS–13—in excess of $50,000.

(3) Superintendents, Grade GS–14—in excess of $100,000.

(4) Superintendents, Grade GS–15—in excess of $200,000.

The limitations in this paragraph (h) apply only to open market or nonmandatory sources of supply. Each office may continue to issue orders to GSA Centers and sources under established Federal Supply Schedules of Contracts in amounts exceeding $2,000.

(i) Authority with respect to the preservation of historical and archeological data (including relics and specimens) which might otherwise be lost as a result of the construction of a dam.

(j) Authority to approve land acquisition priorities.

(k) Authority to execute the land acquisition program, including contracting for acquisition of lands and related property, and options and offers to sell related thereto.

(l) Authority to issue revocable special use permits having a term of more than 10 years.

(m) Authority to hire, rent, or purchase personal property from employees.

SEC. 2. *Delegation*—(a) *Regional Chief, Office of Finance and Control.* The Regional Chief, Office of Finance and Control is authorized to exercise all the procurement and contracting authority now or hereafter vested in the Director, Southeast Region, except authority relating to land acquisition as hereinafter delegated to Regional Chief, Division of Lands.

(b) *Regional Chief, Division of Property Management and General Services.* The Regional Chief, Division of Property Management and General Services, is authorized to exercise all the procurement and contracting authority now or hereafter vested in the Director, Southeast Region, except authority relating to land acquisition as hereinafter delegated to Regional Chief, Division of Lands.

(c) *Procurement Agent.* The Procurement Agent may execute and approve orders not in excess of $2,000.

(d) *Chief Archeologist, Southeast Archeological Center.* The Chief Archeologist, Southeast Archeological Center may execute and approve orders not in excess of $2,000.

(e) *Director, Florida-Caribbean District.* The Director, Florida-Caribbean District may execute and approve orders not in excess of $2,000.

(f) *Regional Chief, Division of Lands.* The Regional Chief, Division of Lands is authorized to:

(1) Approve and accept offers to sell to or exchange with the United States, lands or interests in lands and to execute all necessary agreements and conveyances incident thereto.

(2) Accept deeds conveying to the United States, lands or interests in lands.

(3) Approve on behalf of the National Park Service offers of settlement in condemnation cases.

(g) The Land Acquisition Officers stationed at Everglades National Park and Gulf Islands National Seashore are authorized to exercise authority with respect to the following:

(1) Approval and acceptance of offers to sell to, or exchange with the United States, lands or interests in lands when the amount involved does not exceed $100,000.

(2) Acceptance of deeds conveying to the United States lands or interests in lands.

SEC. 3. *Redelegation.* The authority delegated in this Order No. 5 may not be redelegated, except that a Superintendent may, in writing, redelegate to any officer or employee the authority delegated to him by this order and may authorize written redelegation of such authority. Each redelegation shall be published in the FEDERAL REGISTER.

SEC. 4. *Revocation.* This order supersedes Southeast Office Order No. 4, dated April 28, 1966, and published in 31 F.R. 3135 (National Park Service Order No. 66 (36 F.R. 21218), dated November 4, 1971), as amended (37 F.R. 4001) dated February 25, 1972.

Dated: March 17, 1972.

DAVID D. THOMPSON, Jr.,
Director, Southeast Region.

[FR Doc.72–5928 Filed 4–18–72;8:50 am]

[Order No. 5]

SUPERINTENDENTS ET AL., SOUTHWEST REGION

Delegation of Authority

SECTION 1. *Superintendents.* The National Park Service Superintendents of the Southwest Region, in the administration, operation, and development of the areas under their supervision, are authorized to exercise all of the authority now or hereafter delegated to the Director, Southwest Region, by the Director, National Park Service, except with respect to the following:

(a) Approval of master plans.

(b) Acceptance of an offer in settlement of a timber trespass unless (1) the trespass is an innocent one, (2) the damages therefrom do not exceed $5,000, and (3) payment of the full amount of the damages is offered.

(c) Sales of timber pursuant to the Federal Property and Administrative Services Act of 1949, and the Federal Property Management Regulations when the fair market value of the timber involved in any single transaction exceeds $1,000.

(d) Approval of programs for destruction and disposition of wild animals which are damaging the land or its vegetative cover, and of permits to collect rare or endangered species.

(e) Acceptance of donations of personal property valued in excess of $10,000, and acceptance of donations of money in excess of $10,000.

(f) Authority to designate areas at which recreation fees will be charged as specified by sections 1, 2, and 3 of Executive Order 11200.

(g) Authority to select from the fees established by 43 CFR Part 18, the specific fees to be charged at the designated areas in accordance with section 5(a) of Executive Order 11200.

(h) Authority to execute, approve, and administer contracts and to issue purchase orders for equipment, supplies, and services as follows:

(1) Superintendents, Grade GS–12 and below— in excess of $2,000

(2) Superintendents, Grade GS–13—in excess of $50,000

(3) Superintendents, Grade GS–14—in excess of $100,000

(4) Superintendents, Grade GS–15—in excess of $200,000

The limitations in this paragraph (h) apply only to open market or nonmandatory sources of supply. Each office may continue to issue orders to GSA Centers and sources under established Federal Supply Schedules of Contracts in amounts exceeding $2,000.

(i) Authority with respect to the preservation of historical and archeological data (including relics and specimens) which might otherwise be lost as a result of the construction of a dam.

(j) Authority to approve land acquisition priorities.

(k) Authority to execute the land acquisition program, including contracting for acquisition of lands and related property, and options and offers to sell related thereto.

(l) Authority to issue revocable special use permits having a term of more than 10 years.

(m) Authority to hire, rent, or purchase personal property from employees.

SEC. 2. *Delegation.*—(a) *Regional Chief, Office of Finance and Control.* The Regional Chief, Office of Finance and Control is authorized to exercise all the procurement and contracting authority now or hereafter vested in the Director, Southwest Region, except authority to contract for acquisition of land and related property, and options and offers to sell related thereto.

(b) *Regional Chief, Division of Property Management and General Services.* The Regional Chief, Division of Property Management and General Services, is authorized to exercise all the procurement and contracting authority now or hereafter vested in the Director, Southwest Region, except authority to contract for

acquisition of land and related property, and options and offers to sell related thereto.

(c) *Regional Procurement and Property Management Assistant.* The Regional Procurement and Property Management Assistant may execute and approve purchase orders not in excess of $2,000.

(d) *Chief, Land Acquisition Officer.* The Chief, Land Acquisition Officer, is authorized to execute the land acquisition program, including contracting for acquisition of lands and related property, and options and offers to sell related thereto.

SEC. 3. *Redelegation.* The authority delegated in this Order No. 5 may not be redelegated, except that a Superintendent may, in writing, redelegate to any officer or employee the authority delegated to him by this order and may authorize written redelegation of such authority. Each redelegation shall be published in the FEDERAL REGISTER.

SEC. 4. *Revocation.* This order supersedes Southwest Region Order No. 4, dated April 18, 1966, and published in 31 F.R. 8134 (National Park Service Order No. 66) (36 F.R. 21218) as amended (37 F.R. 4001 dated February 25, 1972).

Dated: March 22, 1972.

FRANK F. KOWSKI,
Director, Southwest Region.

[FR Doc.72-5929 Filed 4-18-72;8:50 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; Changes in Lists of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 381.1, the lists (37 F.R. 2795 and 6143) of establishments which are operated under Federal inspection pursuant to the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.) and which use humane methods of slaughter and incidental handling of livestock are hereby amended as indicated in the following table listing species at additional establishments and additional species at a previously listed establishment that have been reported as being slaughtered and handled humanely.

ESTABLISHMENTS SLAUGHTERING HUMANELY

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equin
Sam Kane Packing Co.	337	(*)	(*)				
American Pork, Inc.	6906					(*)	
Farmer's Meat Produce, Inc.	7972	(*)				(*)	
New establishments reported: 3.							
Karler Packing Co.	767				(*)		
Species added: 1.							

Done at Washington, D.C., on April 13, 1972.

FRED J. FULLERTON,
Acting Associate Administrator, Meat and Poultry Inspection Program.

[FR Doc.72-5859 Filed 4-18-72;8:45 am]

Commodity Credit Corporation

GRAINS AND SIMILARLY HANDLED COMMODITIES

Notice of Extension of Warehouse-Storage Loans for 1970 and 1971 Crops

Pursuant to the provisions of § 1421.6 of the General Regulations Governing Price Support for the 1970 and Subsequent Crops of Grains and Similarly Handled Commodities, as amended, CCC hereby gives notice that, unless earlier demand for payment is made, the loan maturity dates for loans on 1971-crop grain sorghum and wheat and 1970-crop wheat are extended for an additional 1-year period from the current maturity dates for such loans, as provided below, with respect to producers who, prior to the current original maturity dates of loans secured by the 1971 crops of such commodities, or the current extended maturity date of loans secured by 1970-crop wheat, or such later date that may be authorized for good cause by the Deputy Administrator, State and County Operations, ASCS, notify in writing the county ASCS office through which they obtained such loans that they wish to have such maturity dates extended; loans with respect to which no requests for extension are received will mature on the current original and extended maturity dates of loans secured by the 1970 and 1971 crops of the commodities designated in this notice.

	From current maturity date	To extended maturity date
	1972	*1973*
Grain sorghum in the following counties in Texas and all counties in Texas south thereof: Austin, Bexar, Caldwell, Colorado, Comal, Galveston, Gonzales, Harris, Hays, Kinney, Lavaca, Medina, Uvalde, Val Verde, and Waller.	Apr. 30	Apr. 30.
Grain sorghum in Oklahoma and all counties in Texas north of the counties with a maturity date of Apr. 30 listed above.	June 30	June 30.
Grain sorghum in all other States	July 31	July 31.
Wheat in Idaho, Minnesota, Montana, North Dakota, Oregon, Washington, and Wyoming.	May 31	May 31.
Wheat in all other States	Apr. 30	Apr. 30.

The maturity date for crops of certain commodities will occur in the near future. It is determined to be impracticable and against the public interest to comply with the public participation provisions prescribed by 5 U.S.C. 553 (b) and (c). Therefore, this notice shall be effective upon publication in the FEDERAL REGISTER (4-19-72).

(Secs. 4, 5, 62 Stat. 1070, as amended; secs. 101, 401, 403, 405, 63 Stat. 1051, as amended; 15 U.S.C. 714 b and c; 7 U.S.C. 1421, 1423, 1425, 1441)

Signed at Washington, D.C. on April 11, 1972.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[FR Doc.72-5867 Filed 4-18-72;8:45 am]

GRAINS AND SIMILARLY HANDLED COMMODITIES

Notice of Final Date for Redemption of Warehouse-Storage Loans Made Under 1970-Crop Commodity Loan Programs

Unless demand is made earlier by CCC, extended warehouse-storage loans secured by 1970-crop barley, oats, grain sorghum, and wheat are due and payable on the dates indicated.

Unless, on or before the final date for repayment specified below, such loans are repaid, title to the unredeemed collateral shall immediately vest in CCC, without a sale thereof, on the date next succeeding the final date for repayment specified below: *Provided*, That, CCC will not acquire title to any such commodity for which repayment has been mailed to the county ASCS office by letter postmarked (not patron postage meter date stamped) not later than the applicable maturity date indicated below. CCC shall have no obligation to pay for any market value which any unredeemed commodity may have in excess of the loan indebtedness; i.e., the unpaid amount of the note plus interest and charges. Nothing herein shall preclude making payment to a pro-

ducer of any amount by which the settlement value of a pledged commodity may exceed the principal amount of the loan. The settlement value as used herein is the loan value of the pledged commodity determined on the basis of the weight, grade, and other quality factors shown on the warehouse receipts or accompanying documents in accordance with the applicable loan rate provided in the program regulations. Notwithstanding the foregoing provisions, if the producer has made a fraudulent representation in obtaining the loan or in settlement or deliveries under the loan or has converted all or any part of the loan collateral, the producer shall remain personally liable for the amounts specified in the Warehouse Storage Note and Security Agreement and in the loan program regulations. Amounts due the producer will be paid by the appropriate county ASCS office.

	Maturity date	Final date of repayment
Barley:	*1972*	*1972*
In Alaska, Idaho, Minnesota, Montana, North Dakota, Oregon, South Dakota, Washington, Wisconsin, and Wyoming.	May 31	May 31.
In all other States	Apr. 30	May 1.
Grain Sorghum:		
In the following counties in Texas and all counties south thereof: Austin, Bexar, Caldwell, Colorado, Comal, Galveston, Gonzales, Harris, Hays, Kinney, Lavaca, Medina, Uvalde, Val Verde, and Waller.	do	Do.
In Oklahoma and in counties in Texas north of those with an April 30 maturity date listed above.	June 30	June 30.
In all States except Texas and Oklahoma.	July 31	July 31.
Oats:		
In Alaska, Idaho, Maine, Michigan, Minnesota, Montana, North Dakota, Oregon, South Dakota, Washington, Wisconsin, and Wyoming.	May 31	May 31.
In all other States	Apr. 30	May 1.
Wheat: [1]		
In Idaho, Minnesota, Montana, North Dakota, Oregon, Washton, and Wyoming.	May 31	May 31.
In all other States	Apr. 30	May 1.

[1] This notice does not apply to loans on wheat with respect to such producers, prior to the above maturity date, have given written notice to the county ASCS office through which they obtained such loans that they wish to have such maturity date extended.

(Secs. 4 and 5, 62 Stat. 1070, as amended; secs. 101, 105, 107, 301, 401, 405, 63 Stat. 1051, as amended; 15 U.S.C. 1421, 1425, 1441, 1447)

Effective upon publication in the FEDERAL REGISTER (4–19–72).

Signed at Washington, D.C., on April 11, 1972.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.72–5868 Filed 4–18–72;8:45 am]

Food and Nutrition Service

[FSP No. 1972–1]

FOOD STAMP PROGRAM

Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance; 48 States and District of Columbia

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted annually to reflect changes in the prices of food published by the Bureau of Labor Statistics. Therefore, notice FSP No. 1971–1, which is a part of Subchapter C—Food Stamp Program, under Title 7, Chapter II, Code of Federal Regulations, is superseded, effective July 1, 1972, by this notice FSP No. 1972–1.

In view of the need for placing this notice into effect on July 1, 1972, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rule making with respect to this notice. Notice FSP No. 1972–1 reads as follows:

MAXIMUM MONTHLY ALLOWABLE INCOME STANDARDS AND BASIS OF COUPON ISSUANCE; 48 STATES AND DISTRICT OF COLUMBIA

As provided in § 271.3(b), households in which all members are included in the federally aided public assistance or general assistance grant shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally aided public assistance or general assistance, in any State other than Alaska or Hawaii or in the District of Columbia, shall be the higher of:

(1) The maximum allowable monthly income standards for each household size which were in effect in such State or the District of Columbia prior to July 29, 1971, or

(2) The following maximum allowable monthly income standards:

Household size:	*Maximum Allowable Monthly Income Standards—48 States and District of Columbia*
1	$178
2	233
3	307
4	373
5	440
6	507
7	573
8	640
Each additional member	+53

"Income" as the term is used in the notice is as defined in paragraph (b) of § 271.3 of the Food Stamp Program Regulations.

Pursuant to section 7 (a) and (b) of the Food Stamp Act, as amended (7 U.S.C. 2016, Public Law 91–671), the face value of the monthly coupon allotment which State agencies are authorized to issue to any household certified as eligible to participate in the Program and the amount charged for the monthly coupon allotment in the 48 States and the District of Columbia are as follows:

MONTHLY COUPON ALLOTMENTS AND PURCHASE REQUIREMENTS—48 STATES AND DISTRICT OF COLUMBIA

Monthly net income	For a household of—							
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
	The monthly coupon allotment is—							
	$36	$64	$92	$112	$132	$152	$172	$192
	And the monthly purchase requirement is—							
0–$19.99	0	0	0	0	0	0	0	0
$20–$29.99	$1	$1	0	0	0	0	0	0
$30–$39.99	4	4	$4	$4	$5	$5	$5	$5
$40–$49.99	6	7	7	7	8	8	8	8
$50–$59.99	8	10	10	10	11	11	12	12
$60–$69.99	10	12	13	13	14	14	15	16
$70–$79.99	12	15	16	16	17	17	18	19
$80–$89.99	14	18	19	19	20	21	21	22
$90–$99.99	16	21	21	22	23	24	25	26
$100–$109.99	18	23	24	25	26	27	28	29
$110–$119.99	20	26	27	28	29	31	32	33
$120–$129.99	22	29	30	31	33	34	35	36
$130–$139.99	24	31	33	34	36	37	38	39
$140–$149.99	26	34	36	37	39	40	41	42
$150–$169.99	26	36	40	41	42	43	44	45
$170–$189.99	26	42	46	47	48	49	50	51
$190–$209.99		44	52	53	54	55	56	57
$210–$229.99		44	58	59	60	61	62	63
$230–$249.99		44	64	65	66	67	68	69
$250–$269.99			70	71	72	73	74	75
$270–$289.99			74	77	78	79	80	81
$290–$309.99			74	82	84	85	86	87
$310–$329.99				86	90	91	92	93
$330–$359.99				86	94	97	98	99
$360–$389.99				88	98	104	107	108
$390–$419.99					102	108	116	117
$420–$449.99					104	112	122	126
$450–$479.99						116	126	130
$480–$509.99						120	130	134
$510–$539.99							134	138
$540–$569.99							136	142
$570–$599.99							136	146
$600–$629.99								150
$630–$659.99								152

For issuance to households of more than eight persons use the following formula:

A. *Value of the total allotment.* For each person in excess of eight, add $16 to the monthly coupon allotment for an eight-person household.

B. *Purchase requirement.* 1. Use the purchase requirement shown for the eight-person household for households with income of $599.99 or less per month.

2. For households with monthly incomes of $600 or more, use the following formula: For each $30 worth of monthly income (or portion thereof) over $599.99, add $4 to the monthly purchase requirement shown for an eight-person household with an income of $599.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add $12 for each person over eight to the maximum purchase requirement shown for an eight-person household.

Effective date. The provisions of this notice shall become effective on July 1, 1972.

RICHARD LYNG,
Assistant Secretary.

APRIL 13, 1972.

[FR Doc.72-5881 Filed 4-18-72;8:45 am]

Office of the Secretary

ORGANIZATION AND DELEGATIONS

Statement Regarding Redelegations on Temporary Basis

The notice published in 36 F.R. 21529 with respect to delegations of authority within the Department of Agriculture stated that delegations of authority to those agencies and offices reporting directly to the Secretary or Under Secretary had been reconfirmed for a 90-day period, effective October 20, 1971. The notice published in 37 F.R. 888 extended that period for an additional 90 days. Such period, as extended, is hereby further extended for an additional 90 days.

Dated: April 14, 1972.

EARL L. BUTZ,
Secretary of Agriculture.

[FR Doc.72-5952 Filed 4-18-72;8:51 am]

DEPARTMENT OF COMMERCE

Office of Import Programs

INDIANA UNIVERSITY MEDICAL CENTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00249-00-46040. Applicant: Indiana University Medical Center, 630 West New York Street, Indianapolis, IN 46202. Article: Anticontamination device. Manufacturer: Siemens AG, West Germany.

Intended use of article: The article is an accessory to be used with an existing Elmiskop I electron microscope used for research purposes.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to an accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-5919 Filed 4-18-72;8:49 am]

UNIVERSITY OF GEORGIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00228-00-77000. Applicant: University of Georgia, Department of Chemistry, Athens, Ga. 30601. Article: Computer interface No. DS-100. Manufacturer: AEI, Ltd., United Kingdom.

Intended use of article: The article is an accessory for an existing electron spectrometer.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to an accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-5920 Filed 4-18-72;8:49 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-72-167]

ACTING REGIONAL ADMINISTRATOR, ET AL., REGION VII (KANSAS CITY)

Designations

The officers appointed to the following listed positions in Region VII (Kansas City) are hereby designated to serve as Acting Regional Administrator, Region VII, during the absence of the Regional Administrator, with all the powers, functions, and duties redelegated or assigned to the Regional Administrator: *Provided*, That no officer is authorized to serve as Acting Regional Administrator unless all other officers whose titles precede his in this designation are unable to act by reason of absence:

1. Deputy Regional Administrator.
2. Regional Counsel.
3. Assistant Regional Administrator for Administration.

Effective date. These designations shall be effective as of March 6, 1972.

(Sec. 7(d), Department of Housing and Urban Development Act 42, U.S.C. 3535(d))

ELMER E. SMITH,
Regional Administrator.

[FR Doc.72-5945 Filed 4-18-72;8:51 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 72-70N]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed

structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from August 31, 1971, to March 3, 1972 (List No. 7–72). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United State Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

BUOYS, LIFE, RING, CORK, OR BALSA WOOD FOR MERCHANT VESSELS AND MOTORBOATS

The Tapatco, Inc., Post Office Box 49, Fairfield, CA 94533, no longer manufactures certain cork ring life buoys and Approval No. 160.009/32/0 was therefore terminated effective March 3, 1972.

LINE - THROWING APPLIANCE, IMPULSE-PROJECTED ROCKET TYPE (AND EQUIPMENT), FOR MERCHANT VESSELS

The Kilgora Corp., Toone, Tenn. 38381, Approval No. 160.040/1/5 expired and was terminated effective August 31, 1971.

BUOYS, LIFE, RING, UNICELLULAR PLASTIC

The Tapatco, Inc., Post Office Box 49, Fairfield, CA 94533, no longer manufactures certain unicellular plastic ring life buoys and Approvals Nos. 160.050/26/0, 160.050/27/0, and 160.050/28/0 were therefore terminated effective March 3, 1972.

BUOYANT VESTS, UNICELLULAR POLYETHYLENE FOAM, ADULT AND CHILD

NOTE: Approved for use on motorboats of classes A, 1, or 2 not carrying passengers for hire.

The Tapatco, Inc., Post Office Box 49, Fairfield, CA 94533, no longer manufactures certain unicellular polyethylene foam buoyant vests and Approvals Nos. 160.060/10/0, 160.060/11/0, and 160.060/12/0 were therefore terminated effective March 3, 1972.

Dated: April 10, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72–5944 Filed 4–18–72;8:51 am]

[CGD 71–167N]

ELIZABETH RIVER, NORFOLK HARBOR, VA.

Security Zone Closed to Navigation During Transit of the U.S.S. "Independence"

By virtue of the authority vested in the Commandant, U.S. Coast Guard, by Executive Order 10173, as amended (33 CFR Part 6), section 6(b)(1), 80 Stat. 937, 49 U.S.C. 1655(b)(1), 49 CFR 1.46(b) and the redelegation of authority to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters as contained in the FEDERAL REGISTER of September 30, 1971 (36 F.R. 19160), I hereby affirm for publication in the FEDERAL REGISTER the order of H. E. Steel, Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads Area, who has exercised authority as Captain of the Port, such order reading as follows:

PORTION OF THE ELIZABETH RIVER, NORFOLK HARBOR, VA., CLOSED TO NAVIGATION DURING TRANSIT OF THE U.S.S. "INDEPENDENCE"

SECURITY ZONE

Under the present authority of section 1 of title II of the Espionage Act of June 15, 1917, 40 Stat. 220, as amended, 50 U.S.C. 191, and Executive Order 10173, as amended, I declare that from 0830R April 21, 1972, until 1030R April 21, 1972, the following area is a Security Zone and I order it be closed to any person or vessel due to transit of the U.S.S. *Independence*.

The waters of the Elizabeth River, Norfolk Harbor, Va., within the area between Elizabeth River Channel lighted horn buoy 1 LL 2939 at latitude 36°59'06" N. and the Norfolk and Portsmouth Beltline Railroad Bridge which crosses the Southern Branch of the Elizabeth River at latitude 36°48'41" N.

No person or vessel shall remain in or enter this security zone without permission of the Captain of the Port, 393–9611, Extension 220.

The Captain of the Port, Hampton Roads Area, shall enforce this order. In the enforcement of this order, the Captain of the Port may utilize, by appropriate agreement, personnel and facilities of any other Federal agency, or of any State or political subdivision thereof.

For violation of this order, section 2 of title II of the Espioage Act of June 15, 1917 (40 Stat. 220 as amended, 50 U.S.C. 192), provides:

If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or obstructs or interferes with the exercise of any power conferred by this chapter, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be punished by imprisonment for not more than 10 years and may, in the discretion of the court, be fined not more than $10,000.

(a) If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or knowingly obstructs or interferes with the exercise of any power conferred by this chapter, he shall be punished by imprisonment for not more than 10 years and may, at the discretion of the court, be fined not more than $10,000.

Dated: April 14, 1972.

J. M. AUSTIN,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.72–5943 Filed 4–18–72;8:51 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50–329A, 50–330A]

CONSUMERS POWER CO.

Notice of Antitrust Hearing on Application for Construction Permits

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held, at a time and place to be set in the future by an Atomic Safety and Licensing Board (Board) designated herein, to consider the antitrust aspects of the application filed under the Act by Consumers Power Co. (the applicant), for construction permits for two pressurized water nuclear power reactors, designated as the Midland Plant, Units 1 and 2 (the facilities), which are each designed to operate at approximately 2,452 megawatts (thermal). The proposed facilities are to be located on the applicant's site adjacent to the Tittabawasee River in Midland County, Mich.

The hearing will be conducted by an Atomic Safety and Licensing Board (Board) designated by the Atomic Energy Commission (Commission) consisting of Dr. Leonard W. Weiss, Hugh K. Clark, Esq., and Jerome Garfinkel, Esq., Chairman.

On September 4, 1971, the Commission published in the FEDERAL REGISTER a letter from the Attorney General dated June 28, 1971, advising the Commission that certain antitrust aspects of the application of Consumers Power Co. required a hearing. A notice published with the Attorney General's letter provided that, within 30 days, any person whose interest may be affected by the proceeding could file a petition for leave to intervene and request for an antitrust hearing. Petitions for leave to intervene were thereafter timely filed by the Wolverine Electric Cooperative, Inc., and jointly by the following: City of Traverse City, Mich., and the Traverse City Light and Power Department; City of Grand Haven, Mich., Board of Light and Power; City of Holland, Mich., Board of Public Works; City of Zeeland, Mich., and the Zeeland Board of Public Works; City of Coldwater, Mich., Board of Public Utilities; the Michigan Municipal Electric Association; and the Northern Michigan Electric Cooperative, Inc.

Answers to these petitions were filed by the applicant and the AEC regulatory staff.

The Commission has determined that the pending petitions should be ruled upon by the Board in regard to their respective requests for intervention.

A prehearing conference will be held by the Board, at a date and place to be set by it, to consider pertinent matters in accordance with the Commission's rules of practice (10 CFR Part 2). The date and place of the hearing will be set by the Board at or after the prehearing conference. Notices as to the dates and places of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

The issue to be considered at the hearing is whether the activities under the permits in question would create or maintain a situation inconsistent with the antitrust laws as specified in subsection 105a of the Act. In its initial decision, the Board will decide those matters relevant to that issue which are in controversy among the parties and make its findings on the issue.

A cardinal prehearing objective will be to establish, on as timely a basis as possible, a clear and particularized identification of those matters related to the issue in this proceeding which are in controversy. As a first step in this prehearing process, the Board shall obtain from the parties a detailed specification of the matters which they seek to have considered in the ensuing hearing.

In the event the Board finds that the activities under the permits would create or maintain a situation inconsistent with the antitrust laws, it will also consider, in determining whether construction permits should be issued, continued,[1] modified or conditioned, such other factors, including the need for power in the affected area, as the Board in its judgment deems necessary to protect the public interest. The Board's consideration in the latter regard shall be based on the record submissions by the parties relevant to that matter.

The application and the Attorney General's letter have been placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC. As they become available, the transcripts of the prehearing conference and of the hearing will also be placed in the Commission's Public Document Room, where they will be available for inspection by members of the public. Copies of all of the foregoing documents will also be available at the Grace Dow Memorial Library, 1710 West Street, Andrews Road, Midland, MI.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified, but who has not filed a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified hereinabove. A member of the public does not have the right to participate in the proceeding unless he has been granted the right to intervene as a party or the right of limited appearance.

In the event that the Board grants either or both pending petitions to intervene, persons permitted to intervene shall become parties to the proceeding, and shall have all the rights of the applicant and the regulatory staff to participate fully in the conduct of the hearing.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's rules of practice, must be filed by the applicant not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, 1717 H Street NW., Washington, DC. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's rules of practice, an original and 20 conformed copies of each such paper with the Commission.

With respect to this proceeding, the Commission has delegated to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission has established the Appeal Board pursuant to 10 CFR 2.785 of the Commission's rules of practice, and has made the delegation pursuant to paragraph (a)(1) of that section. The Appeal Board for this proceeding will be composed of the Chairman and two members designated in a subsequent Commission notice (10 CFR 2.787).

Dated at Germantown, Md., this 11th day of April, 1972.

UNITED STATES ATOMIC ENERGY COMMISSION,
F. T. HOBBS,
Acting Secretary of the Commission.

[FR Doc.72-5942 Filed 4-18-72;8:51 am]

[1] The instant application is covered by section 105c(8) of the Act pursuant to which a construction permit may be issued for certain applications filed with the Commission prior to Dec. 19, 1970, subject to subsequent antitrust review under section 105c.

[Docket No. 50-406]

TUSKEGEE INSTITUTE

Notice of Receipt of Application for Construction Permit and Facility License

The Tuskegee Institute in Tuskegee, Ala., has filed an application dated March 14, 1972, pursuant to section 104.c of the Atomic Energy Act of 1954, as amended, for the necessary licenses to receive, construct, and operate the AGN-201 (Serial No. 102) nuclear reactor presently located at the Oklahoma State University in Stillwater, Okla., and to receive the fuel for the facility. The reactor will be constructed on Tuskegee's campus in Tuskegee, Ala., and is proposed for operation at a power level of 100 milliwatts for educational training and research.

A copy of the application is available for public inspection in the Atomic Energy Commission's Public Document Room at 1717 H Street NW., Washington, DC.

Dated at Bethesda, Md., this 10th day of April 1972.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[FR Doc.72-5887 Filed 4-18-72;8:46 am]

[Docket No. 50-267]

PUBLIC SERVICE COMPANY OF COLORADO

Notice of Availability of Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Atomic Energy Commission ("the Commission") in 10 CFR Part 50, Appendix D, notice is hereby given that a Draft Environmental Statement related to the proposed issuance of an operating license to the Public Service Company of Colorado for the Fort St. Vrain Nuclear Generating Station located near Platteville in Weld County, Colo., has been prepared and has been made available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the Greeley Public Library, City Complex Building, Greeley, Colo. 80631. The Draft Environmental Statement is also being made available to the public at the Office of the Executive Director, Department of Local Affairs, Room 208, 1550 Lincoln Street, Denver, Colo. 80203.

Notices of the availability of the applicant's Environmental Report and Supplement No. 1 thereto were published in the FEDERAL REGISTER on June 22, 1971 (36 F.R. 11878) and on January 7, 1972 (37 F.R. 236), respectively.

Copies of the Commission's Draft Environmental Statement may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washing-

ton, D.C. 20545, Attention: Director, Division of Radiological and Environmental Protection.

Pursuant to Appendix D to 10 CFR Part 50, interested persons may, within seventy-five (75) days from the date of publication of this notice in the FEDERAL REGISTER, submit comments for the Commission's consideration on the Environmental Report, Supplement No. 1, the Draft Environmental Statement, and on the proposed issuance of an operating license for the Fort St. Vrain Nuclear Generating Station. In addition, interested persons may, within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, submit comments for the Commission's consideration on the Environmental Report, Supplement No. 1, the Draft Environmental Statement, and on whether the construction permit authorizing construction of Fort St. Vrain Nuclear Generating Station should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

Federal and State agencies are being provided with copies of the Draft Environmental Statement (local agencies may obtain these documents on request); and when comments of the Federal, State, and local officials are received, they will be made available for public inspection at the above-designated locations. Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Radiologican and Environmental Protection.

Dated at Bethesda, Md., this 17th day of April 1972.

For the Atomic Energy Commission.

ROGER S. BOYD,
Assistant Director for Boiling Water Reactors, Division of Reactor Licensing.

[FR Doc.72-6024 Filed 4-18-72;8:53 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24402; Order 72-4-49]

EASTERN AIR LINES, INC.

Order of Investigation and Suspension Regarding Weekend Excursion Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of April 1972.

By tariff revisions [1] marked to become effective April 14, 1972, Eastern Air Lines, Inc. (Eastern) proposes to extend its North to Florida weekend excursion fares to an additional 21 points, to permit travel on Saturday and Sunday (as well as Friday and Monday), and to provide discounts for youths 12 through 18 years of age. Eastern also proposes to establish somewhat similar weekend fares in approximately 200 markets not involving Florida points (which it calls "nonvacation" markets).[2]

The proposed North to Florida weekend excursion fares are essentially the same as existing weekend excursion fares applicable during the spring and fall from selected northeast points to Florida—common fared at $92.59 (plus tax),[3] and result in discounts ranging from 17 to 50 percent below regular round-trip coach fares, as compared to 17 to 40 percent for existing weekend excursion fares from northeast points to Florida. The additional fares are applicable only during the spring (April 14–July 3) and fall (September 1–December 18) seasons, whereas the existing fares from east coast points are also applicable during July and August at a slightly higher level. The proposed discount for accompanied children 12 to 18 years is 75 percent of the adult excursion fare (children 2–12 years would continue to pay 50 percent of the adult fare).

The nonvacation weekend excursion fares are proposed from Boston, New York, Philadelphia, Baltimore/Washington, Atlanta, and Chicago, on the one hand, to numerous other cities (except points in Florida) on the other. The proposed fares were constructed by taking 50 percent of the regular round-trip coach fare and adding $9.26 ($10 tax inclusive). The resulting discounts range from 21 percent in short-haul markets up to 47 percent in transcontinental markets, with the corresponding yields ranging from 13.8 to 3.2 cents per mile. The conditions of travel are the same as those which would apply to the North to Florida weekend fares. However, the nonvacation market fares would apply during the peak summer period at the same level as during the spring and fall periods, whereas the North to Florida fares are blacked out during the peak summer period from midwest points, and are approximately 10 percent higher from eastern U.S. points.

In justification of the proposed revisions in its North to Florida weekend tariff Eastern alleges that the fares were a great success during the fall of 1971. The carrier claims that during the 12 weekend periods the fares were in effect 24,010 passengers (or 2,000 per weekend) used the fares, and that based on a 60/40 percent generation/diversion ratio, this resulted in a revenue increase of $926,584 and a net contribution of $638,464.

Based on its experience in 1971, Eastern estimates that 45,700 adult passengers and 2,513 children passengers will be carried during the spring and fall periods of 1972. Assuming the same 60/40 generation/diversion ratio experienced in 1971, the proposed fares will allegedly produce revenues of $2.1 million and a net contribution of $1.5 million. The carrier also estimates that there will be an additional revenue increase of $500,000 and a net contribution of $350,000 from summer weekend fares in the northeast to Florida markets.

Braniff Airways, Inc. (Braniff), National Airlines, Inc. (National), and Northwest Airlines, Inc. (Northwest), have filed complaints requesting suspension and investigation.[4] All three complainants oppose the 25-percent discount (from the weekend fare) for children 12–18 years of age; Braniff and National oppose the expansion of applicable travel days to include Saturday and Sunday; and Braniff also opposes the expansion of the fares to additional markets and the common faring principle applied.

One or more of the complainants allege that the proposed 25-percent discount for children 12 through 18 years of age is a discount on a discount which produces uneconomic yields; challenge the reliability of Eastern's in-flight survey of its 1971 North to Florida passengers; and question the validity of applying the same generation/diversion ratio to the proposed fares since Eastern proposes to double the applicable travel days. Braniff alleges that on 3 of the 4 weekend days it experiences its highest load factor, and that if the fares are as successful as Eastern predicts regular-fare passengers will be displaced.

In answer to the complaints, Eastern alleges that the 1971 survey on which it relies was not an on-board survey as assumed by the complainants, but a telephone interview similar in structure to that conducted by Eastern in Phase 5 of the Domestic Passenger-Fare Investigation; that the addition of Saturday and Sunday as travel days will not significantly increase usage over that previously experienced because nearly any weekend round-trip traveler would have found Friday/Saturday and Sunday/Monday interchangeable travel days; and that if a Saturday morning traveler, for example, was going to be diverted to the fare he would already have been diverted by the availability of the fare on Friday evening.

In support of the nonvacation market weekend fares Eastern alleges that the proposal is an experiment to extend a proven, successful concept to a heretofore untapped source of incremental revenue. The carrier states that information from its survey indicates that a major component (55 percent) of weekend fare passengers travel for personal reasons, i.e., to visit with friends and relatives. The carrier contends that, inasmuch as its weekend fare program to Florida has been so successful, it can be assumed that the weekend fares in nonvacation markets will be generative as well. Eastern estimates that 30,334 adult and 1,682 children passengers will use the proposed fares, or approximately 2 percent of the round-trip coach traffic in applicable markets, and that assuming 55/45 generation/diversion ratio a net revenue increase of $638,506 and a net contribution of $267,826 will result.

American Airlines, Inc. (American), Braniff, Delta, Northwest, Trans World

[1] Revisions to Eastern's Tariff CAB No. 373.

[2] Various carriers have filed defensive tariffs.

[3] The proposed fares for Minneapolis and Omaha are slightly higher.

[4] Delta Air Lines, Inc. (Delta), filed an answer in support of these complaints.

Airlines, Inc. (TWA),[5] and United Air Lines, Inc. (United), have filed complaints against the proposal requesting suspension and investigation.[6] In summary, one or more of the complainants allege that use of the North to Florida experience as a basis for projecting traffic generation in entirely different types of markets is not necessarily valid; that Eastern's estimate of the impact of the fares is unrealistic; that the proposal is inconsistent with Eastern's position in the passenger-fare investigation, particularly with respect to the favorable generation/diversion ratio and the fact that the fares would apply in many short haul markets; that the fares will require the addition of capacity or will result in the displacement of full fare traffic; and that the fares are unreasonably low, and not reasonably related to other discount fares now in effect. The complainants also allege that Eastern is a minimal participant in many of the markets, and that they will bear the risk of the experiment. Finally, the complainants allege that Eastern's traffic submission in Phase 6 indicates that it experiences its worst peaking problems at the major hubs on Fridays and Sundays, where it now proposes to implement the low fares.

Eastern has answered the complaints alleging that its estimate of traffic generation/diversion is rationally constructed from a reliable passenger survey and constitutes a reasonable marketing forecast; that the forecast usage of the fares is based on its actual experience under an identical fare concept, adjusted to reflect the different nature of the markets, and taking into consideration the greater discounts, and the short-haul markets involved; and that the suggestions that its survey is unreliable because a different generation level was found in the survey conducted by Eastern in Phase 5 of the fare investigation are misleading since the proposed fares are quite different from those surveyed in the investigation.

Eastern also contends that the deep discounts proposed are specifically related to the type of travel sought to be generated and result in reasonable fares; that the test of illegality is not availability on peak days but whether the generated traffic is likely to result in additional capacity requirements; and that its proposed fares will not affect capacity in any way. Finally, Eastern alleges that it will be bearing the risk in nearly every one of the markets involved.

Upon consideration of the tariff proposals, the complaints and answers thereto, and other relevant matters, the Board finds that the proposed "nonvacation" market weekend excursion fares and the proposed 25-percent discount from the adult weekend fare for children 12 through 18 years of age may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board has also concluded that the fares should be suspended pending investigation. The Board finds that on the basis of the facts and information before us, the complaints do not set forth sufficient facts to warrant investigation of the other proposed revisions to the North to Florida weekend tariff and the requests therefor, and consequently the requests for suspension will be denied and the complaints dismissed.

With respect to the North to Florida weekend fares, we believe there may be merit to the proponent's contention that many weekend travelers would find Friday/Saturday and Sunday/Monday to be interchangeable travel days, and that most potential diversion of weekend travelers will probably occur with or without the Saturday/Sunday applicability. To the extent this is true, the extended application should tend to spread the newly generated travel over more flights and alleviate traffic peaking. The proposed expansion to the additional markets appears warranted in light of the successful results of these fares last fall. Regarding the proposed 25-percent discount for children 12 through 18, we believe there is a sufficient question of reasonableness of the fares which would result to warrant suspension pending investigation. Although the tariffs presently provide for a discount of 50 percent of the weekend fare for children 2 through 11, the proposal would expand the concept of discounts on already greatly discounted fares (up to 50 percent of the normal coach fare) to a potentially substantial number of passengers.

Turning to the fares in the nonvacation markets, our decision to suspend is based on the cumulative impact of a number of factors. First, over the years the carriers have frequently reiterated that Florida markets differ from other markets in a number of allegedly significant respects, and have used the unique nature of the market in justification for a number of special Florida fares. Nevertheless, Eastern now justifies its "nonvacation" fares substantially on the basis of its experience in the Florida market, although by characterizing the markets as nonvacation it would appear to recognize their different nature. It is true that Eastern made some adjustment in estimating the generative versus diversionary impact of the fares in the nonvacation markets. However, in our opinion, there is considerable doubt that the diversion factor in nonvacation markets will be as similar to Eastern's experience in the highly tourist Florida markets as the carrier assumes.

Additionally, the fares are proposed to apply during the summer months which constitute the peak season for at least some carriers who would be competitively affected by Eastern's proposal. While some of the particular markets involved may not be subject to the degree of traffic peaking as is experienced in a truly vacation oriented market, the summer period is generally acknowledged to be the industry's peak season (except in the Florida markets). Moreover, while the summer may be off-season from the standpoint of Eastern's domestic system as a whole, the carrier has not demonstrated that it is off-season in the particular markets involved in the proposal. In the absence of adequate load factor data from either the proponent or the complainants, the Board is unable to state with certainty that the fares would create pressure on capacity, were they permitted to become effective. By the same token, we are unable to reach a contrary conclusion.

The Board has previously questioned the soundness over the longer term of encouraging discount fare travel of the very low yield type here involved during peak seasons. Traffic peaking is an inherent problem in the domestic airline industry today, with or without the stimulus of discount fares. To the extent that a significant volume of discount fare traffic can be accommodated on peak demand services, a very real question may be raised as to the volume of capacity being offered. In any event, the carriers have a clear responsibility, which in our opinion has not been met here, to demonstrate that traffic generated by fares of the type here proposed will in fact be accommodated on existing frequencies, particularly considering the very low level of the fares, the extent to which the fares differ from the historical pattern of fares in the markets, and the possible substantial impact on competing carriers.

All of Eastern's major competitors strongly protest the proposal on the ground that each will stand to be exposed to substantial financial risk if the experiment is permitted to become effective. Although the potential risk to competing carriers does not appear as extreme as in the case of an earlier proposal which was suspended by the Board,[7] it nevertheless can be expected to be substantial, notwithstanding Eastern's allegations to the contrary. While we do not mean to place undue emphasis on market share, per se, we would be reluctant to subject the competing carriers to significant financial risk from a proposal we have found may be unreasonable.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions described in Appendix A hereto,[8] and rules, regulations, or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and

[5] TWA's complaint was limited to the application of the fares in selected transcontinental markets, all of which have been withdrawn.

[6] American also filed a complaint against a defensive tariff filed by Delta which Delta has answered, and Southern Airways, Inc. (Southern), filed an answer in support of the various complaints.

[7] Order 71-1-145, Jan. 29, 1971.

[8] Partial dissenting statement of Minetti and Murphy, members, and Appendix A filed as part of the original document.

prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix A hereto [2] are suspended and their use deferred to and including July 12, 1972, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaints in Dockets 24294, 24295, 24296, 24299, 24302, 24304, 24307, and 24330 are hereby dismissed;

4. The proceeding ordered herein be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

5. Copies of this order be filed in the aforesaid tariffs and be served upon American Airlines, Inc., Braniff Airways, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., National Airlines, Inc., Northeast Airlines, Inc., Northwest Airlines, Inc., Southern Airways, Inc., Trans World Airlines, Inc., and United Air Lines, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-5948 Filed 4-18-72;8:51 am]

[Docket No. 24409; Order 72-4-67]

EASTERN AIR LINES, INC., ET AL.

Order of Investigation and Suspension Regarding Advance Ticketing Rule

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of April 1972.

By tariff revisions [1] marked to become effective April 15, 1972, Eastern Air Lines, Inc. (Eastern), National Airlines, Inc. (National), and Northeast Airlines, Inc. (Northeast), have filed tariff revisions proposing to reestablish advance ticketing requirements in the northeast U.S.-Florida market for the 1972/1973 Christmas/New Year holiday season. The proposed rules require tickets to be purchased from 1 hour to 12 weeks in advance of departure depending on how far in advance reservations are made. The only justification in support of the filings is a statement that the proposed rule is the same as that approved last year.

No complaints have been filed.

Upon consideration of the tariff filings and other relevant matters the Board concludes that the proposed advance ticketing rule may be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or otherwise unlawful, and should be investigated. We further conclude that they should be suspended pending investigation.

We recognize that the proposed advance ticketing rule is the same as has been utilized for the past 2 years. Nevertheless, the carriers have made substantial improvements in their reservations systems, and have improved their ability to eliminate duplicate bookings.[2] The carriers have not made any showing as to the extent of protection bookings that may still exist, nor that there continues to be any necessity to have such stringent provisions as proposed—particularly the 8- and 12-week prepayment requirements. Finally, the Board has previously stated that it expects the carriers to continue to explore other means of resolving the peak-period reservation problem that would be less burdensome to persons who are not responsible for the problem, and there is no showing that any effort to do so has been made.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204, 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the provisions of Rule 65 on Original Page 20-A of Airline Tariff Publishers, Inc., agent's SAB No. 142, and rules, regulations, or practices affecting such provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful provisions, and rules, regulations, or practices affecting such provisions;

2. Pending hearing and decision by the Board, Rule 65 on Original Page 20-A of Airline Tariff Publishers, Inc., agent's CAB No. 142 is suspended and its use deferred to and including July 13, 1972, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The investigation ordered herein be assigned before an Examiner of the Board at a time and place hereafter to be designated; and

4. Copies of this order be filed with the aforesaid tariff and be served upon Eastern Air Lines, Inc., National Airlines, Inc., and Northeast Airlines, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-5949 Filed 4-18-72;8:52 am]

[Docket No. 23333; Order 72-4-28]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority April 7, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA). The agreement, which has been assigned the above-designated CAB agreement number, was adopted by the 30th Meeting of the TC1 Specific Commodity Rates Board held in New York on February 8, 1972.

The agreement proposes revisions to the specific commodity rate structure applicable within the Western Hemisphere. As set forth in the attachments hereto, these revisions, insofar as they would affect air transportation, encompass numerous additional rates under new or existing commodity descriptions; reductions in several existing commodity rates; and the cancellation of three commodity rates.

Pursuant to authority duly delegated by the Board in the Board's Economic Regulations, 14 CFR 385.14, it is not found, on a tentative basis, that the subject agreement is adverse to the public interest or in violation of the Act: *Provided*, That approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

Action on Agreement CAB 22972 [1] be and hereby is deferred with a view toward eventual approval: *Provided*, That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication; *Provided further*, That tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Economic Regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-5951 Filed 4-18-72;8:51 am]

[Docket No. 23333; Order 72-4-37]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Cargo Rate Matters

Issued under delegated authority April 10, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA). The agreement, which was adopted by mail

[1] Revisions to Airline Tariff Publishers, Inc., agent, Tariff CAB No. 142.

[2] Also, Eastern claims that its conditional reservation rule has proven to be successful in alleviating the no-show problem.

[1] Filed as part of the original document.

vote, has been assigned the above-designated CAB agreement number.

The agreement would extend through September 30, 1973, the effectiveness of the following resolutions, which govern certain Western Hemisphere cargo rates and related matters and which would otherwise expire on September 30, 1972:

Resolution 014b—Construction rule for cargo rates.
Resolution 014z—Computer constructed rates.
Resolution 045c—Involuntary change of routing of cargo from Chartered Aircraft to Scheduled Service.
Resolution 502—Low density cargo.
Resolution 507b—Use of surface transportation.
Resolution 521—Use of unit load devices.
Resolution 531—TC1 bulk unitization charges.
Resolution 551—TC1 general cargo rates.

Pursuant to authority duly delegated by the Board, in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that Resolution 100 (Mail 891) 002x, which is incorporated in Agreement CAB 22970, is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

Action on Agreement CAB 22970 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days from the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-5950 Filed 4-18-72;8:51 am]

[Docket No. 24404; Order 72-4-53]

5 STAR AIR FREIGHT CORP.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of April 1972.

By tariff revisions filed March 14, and marked to become effective April 14, 1972, 5 Star Air Freight Corp. (5 Star), an air freight forwarder, proposes, inter alia, to increase its fees for collecting and remitting sums resulting from c.o.d. shipments. The forwarder's current fees are 1 cent per dollar subject to a minimum charge of $2 per c.o.d. collection, which applies to amounts collected of $200 or less. The proposed minimum is $2.50 for collecting $40 or less. For larger collections, the proposed fees would increase in accordance with a schedule based upon the amount to be collected, which vary by increments ranging from $2 to $50, a sample of which is presented below:

When the amount to be collected is—	The c.o.d. fee will be—	
	Under the current formula	Under the proposed table
$40 or less	$2.00	$2.50.
100	2.00	3.75.
200	2.00	6.00.
300	3.00	6.50.
500	5.00	7.50.
700	7.00	8.50.
950	9.50	9.75.
1,000 and over	1 cent per dollar or fraction thereof.	$10 per $1,000 or fraction thereof.

The proposed fees would range to as much as 200 percent above the currently applicable fees.

Upon consideration of all relevant factors, the Board finds that the fees proposed by 5 Star may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposed rates should not be permitted to become effective pending investigation, and the tariff filing will be suspended.[1]

The forwarder's proposal would result in c.o.d. fees considerably above those in effect for most other freight forwarders, as well as all direct carriers. At present, most freight forwarders quote a minimum charge of $2 per collection, which applies variously to amounts up to and including $100 and $200. For above-minimum collections certain of these forwarders charge 1 cent per dollar (identical to 5 Star's current fees) and other forwarders charge according to designated fee schedules, higher than the above fees but lower than those proposed by 5 Star. All direct carriers have a minimum of $1 per collection and a fee of $0.50 per $100 or fraction thereof.

5 Star's justification of its higher fees is altogether inadequate. The forwarder does not present any factual support of its proposal, merely stating that it is intended "to increase c.o.d. to a reasonable and compensatory basis, and to clarify the c.o.d. rules," and to make the service competitive and nondiscriminatory. Neither does the forwarder make any showing that the current c.o.d. fees are unduly low and that the proposed rates would be reasonable.[2] Furthermore, the Board does not consider the fact that a carrier has domestic c.o.d. fees lower than international fees a significant factor justifying increasing the domestic level.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the charges and provisions in Rule No. 105 on Second Revised Page 10 and Second Revised Page 11 of CAB No. 1 and Rule No. 80 on Second Revised Page 8 and Second Revised Page 9 of CAB No. 2 issued by 5 Star Air Freight Corp., and rules, regulations, or practices affecting such charges and provisions, are, or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful charges and provisions and rules, regulations, or practices affecting such charges and provisions;

2. Pending hearing and decision by the Board, Rule No. 105 of Second Revised Page 10 and Second Revised Page 11 of CAB No. 1 and Rule No. 80 on Second Revised Page 8 and Second Revised Page 9 of CAB No. 2 issued by 5 Star Air Freight Corp., are suspended and their use deferred to and including July 12, 1972, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein, designated Docket 24404, be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

4. A copy of this order shall be filed with the tariff and served upon 5 Star Air Freight Corp., which is hereby made a party to Docket 24404. This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-5858 Filed 4-18-72;8:45 am]

[1] The carrier also proposes to revise its rules for collecting c.o.d. fees, with respect to such matters as documentation and exclusion of service for such items as shipments moving under assembly and distribution service, shipments on which the total amount to be collected on delivery exceeds $50,000, etc. The revised rules are essentially the same as those of the direct carriers and do not appear, prima facie, unreasonable.

[2] See Order 70-6-26, June 3, 1970, and Order 69-9-50, September 9, 1969, in which the Board suspended increased c.o.d. charges proposed by Shulman Air Freight and Scott Air Freight, Inc., respectively, on the ground of lack of justification. See also Increased Valuation and C.O.D. Charges Proposed by Railway Express Agency, Inc., 27 C.A.B. 542 (1958), in which the Board, after investigation, held the proposed increases in c.o.d. and other charges unjust and unreasonable, chiefly on the ground that the Railway Express Agency had failed to sustain the burden of coming forward with evidence justifying the proposed increases.

FEDERAL MARITIME COMMISSION

CALIFORNIA ASSOCIATION OF PORT AUTHORITIES

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary,

Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. C. R. Nickerson, Executive Secretary, California Association of Port Authorities, 9 First Street, San Francisco, CA 94105.

Agreement No. 7345–16, between the members of the California Association of Port Authorities, modifies the basic agreement which provides for the establishment and maintenance of just and reasonable rates, rules, and regulations at members' terminals at ports in the State of California. The modification provides for (1) the amending of Articles 10, 14, 16, 18, and 20 of the agreement to change the title of "Secretary" to "Executive Secretary"; (2) the addition of a new subparagraph (e) to Article 3 of the agreement to provide that all actions, including tariff changes, taken by the committee on Tariffs and Practices and by the Traffic Committee of Operating Members shall be in accordance with the agreement and with procedures adopted by the Committees, approved by the Association, and filed with the Commission; (3) the addition of a new subparagraph (e) to Article 18 of the agreement to provide that the two traffic committees shall conduct their business in regular or special meetings, or in meetings by telephone or by correspondence in accordance with procedures adopted by the committees, approved by the Association, and filed with the Commission; (4) the amending of Article 19 of the agreement to provide that a quorum of the two traffic committees shall consist of not less than two-thirds of the entire membership of the respective committees; and (5) the amending of Article 20 of the agreement to provide that the vote of a member of the Association shall be cast at a meeting of the Association or at a committee meeting by the accredited delegate or alternate representative or by the holder of a written proxy from such member.

Dated: April 12, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–5912 Filed 4–18–72;8:49 am]

HELLENIC MEDITERRANEAN LINES CO., LTD.

Notice of Issuance of Casualty Certificate

Security for the protection of the public financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following have been issued a certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages pursuant to the provisions of section 2, Public Law 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Hellenic Mediterranean Lines Co., Ltd., Electric Railway Station Building, Post Office Box 57, Piraeus, Greece.

Dated: April 14, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–5957 Filed 4–18–72;8:52 am]

HELLENIC MEDITERRANEAN LINES CO., LTD.

Notice of Issuance of Performance Certificate

Security for the protection of the public indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following have been issued a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation pursuant to the provisions of section 3, Public Law 89–777 (80 Stat 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Hellenic Mediterranean Lines Co., Ltd., Electric Railway Station Building, Post Office Box 57, Piraeus, Greece.

Dated: April 14, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–5958 Filed 4–18–72;8:52 am]

FEDERAL POWER COMMISSION

[Project 2570]

OHIO POWER CO.

Notice of Availability of Environmental Statement for Inspection

APRIL 14, 1972.

Notice is hereby given that on February 3, 1972, as required by § 2.81(b) of Commission regulations under Order 415–B (36 F.R. 22738, November 30, 1971) a draft environmental statement containing information comparable to an agency draft statement pursuant to section 7 of the Guidelines of the Council on Environmental Quality (36 F.R. 7724, April 23, 1971) was placed in the public files of the Federal Power Commission. This statement deals with an application for license by Ohio Power Co. for unconstructed hydroelectric Racine Project No. 2570 filed pursuant to the Federal Power Act.

This statement is available for public inspection in the Commission's Office of Public Information, Room 2523, General Accounting Office, 441 G Street NW., Washington, DC. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

The project which would be located on the Ohio side of the U.S. Racine Locks and Dam in Meigs County, Ohio, and Mason County, W. Va., on the Ohio River and would consist of an intake canal; a concrete powerhouse section containing 2–20 mw generating units; a tailrace; a 3.5-mile long double circuit 69-kv. transmission line; recreational facilities consisting of an overlook area with parking facilities, comfort station, picnic area, and fishing pier; and appurtenant facilities.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–5984 Filed 4–18–72;8:52 am]

[Dockets Nos. CP72–33 and RP70–42]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Amended Application

APRIL 17, 1972.

Take notice that on April 10, 1972, Natural Gas Pipeline Company of America (applicant), 122 South Michigan Avenue, Chicago, IL 60603, filed in Docket No. CP72–33 an amended application for a certificate of public convenience and necessity authorizing a 40,000 Mcf per day increase of service under applicant's FPC Rate Schedule S–2 and a one time sale of 3 Bcf of natural gas to Northern Illinois Gas Co., all as more fully set forth in the application which is on file with the Commission and open to public inspection. The resale customers receiving the additional storage service will relinquish 6 Bcf to Natural, of which 3 Bcf will be resold to NI, and 3 Bcf injected into Natural's storage fields.

Specifically, applicant and Northern Illinois have entered into an agreement whereby Northern Illinois agreed to reduce its withdrawal quantity under applicant's FPC Rate Schedule S–1 by 100,000 Mcf per day in return for additional sales to Northern Illinois of 3 Bcf above its curtailed level for the period of April through October 1972. The effect of this agreement is to allow both applicant and Northern Illinois to continue to fully develop and maximize their storage facilities. Through prudent storage programing, applicant will be able to offer to all of its customers except Northern Illinois additional Rate Schedule S–2 storage service equivalent to one hundred (100) days of service at 40,000 Mcf per day, thereby allowing its customers to attach additional firm space heating loads to which service is presently being denied.

Applicant's original application herein was filed on August 9, 1971, and was noticed on August 23, 1971. This amended application results from a conference of all parties hereto.

Good cause has been shown for a shorter than normal notice period. Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before April 28, 1972.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-6016 Filed 4-18-72;8:52 am]

FEDERAL RESERVE SYSTEM

BANK SECURITIES, INC.

Acquisition of Bank

Bank Securities, Inc., Alamogordo, N. Mex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Liberty National Bank, Lovington, N. Mex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 4, 1972.

Board of Governors of the Federal Reserve System, April 13, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-5922 Filed 4-18-72;8:49 am]

FEDERAL OPEN MARKET COMMITTEE

Continuing Authority Directive With Respect to Domestic Open Market Operations

In accordance with § 271.5 of its rules regarding availability of information, notice is given that at its meeting on January 11, 1972, the Committee ratified the action taken by the members on December 23, 1971, to suspend, until close of business on the day of the next meeting, the lower limit (specified in paragraph 1(c) of the continuing authority directive with respect to domestic open market operations) on interest rates on repurchase agreements arranged by the Federal Reserve Bank of New York with nonbank dealers. The suspended provision specified that such repurchase agreements were to be made "at rates not less than (1) the discount rate of the Federal Reserve Bank of New York at the time such agreement is entered into, or (2) the average issuing rate on the most recent issue of 3-month Treasury bills, whichever is lower." (See 37 F.R. 3392.)

By order of the Federal Open Market Committee, February 3, 1972.

MURRAY ALTMANN,
Assistant Secretary.

[FR Doc.72-5923 Filed 4-18-72;8:49 am]

FEDERAL OPEN MARKET COMMITTEE

Current Economic Policy Directive of January 11, 1972

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Current Economic Policy Directive issued at its meeting held on January 11, 1972.[1]

The information reviewed at this meeting suggests that real output of goods and services increased more rapidly in the fourth quarter than it had in the third quarter, but the unemployment rate remained high. In recent weeks wage and price developments have reflected some increases that had been deferred under the 90-day freeze. The narrowly defined money stock, which had not grown on balance from August to November, rose somewhat in December, while both the broadly defined money stock and the bank credit proxy increased substantially. Market interest rates, particularly short-term rates, have declined in recent weeks. After international agreement was reached in December on new central exchange rates and on wider margins of permissible variation, market exchange rates for major foreign currencies against the dollar initially moved to levels a little above their new lower limits. The volume of capital reflows to the United States has been modest, however, and the underlying U.S. balance of payments remains in deficit. In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions consistent with the aims of the new governmental program, including sustainable real economic growth and increased employment, abatement of inflationary pressures, and attainment of reasonable equilibrium in the country's balance of payments.

To implement this policy, while taking account of international developments and the forthcoming Treasury financing, the Committee seeks to promote the degree of ease in bank reserve and money market conditions essential to greater growth in monetary aggregates over the months ahead.

The Committee ratified the action taken by the members on December 20, 1971, adding the clause "while taking account of international developments" at the end of the final sentence of the current economic policy directive then in effect (see 37 F.R. 3393).

By order of the Federal Open Market Committee, February 3, 1972.

MURRAY ALTMANN,
Assistant Secretary.

[FR Doc.72-5924 Filed 4-18-72;8:49 am]

[1] The Record of Policy Actions of the Committee for the meeting of January 11, 1972, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SOUTHWEST BANCSHARES, INC.

Acquisition of Bank

Southwest Bancshares, Inc., Houston, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 51 percent or more of the voting shares of Denton County National Bank, Denton, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 4, 1972.

Board of Governors of the Federal Reserve System, April 13, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-5925 Filed 4-18-72;8:49 am]

SECURITIES AND EXCHANGE COMMISSION

[File 500-1]

APPLIED DEVICES CORP.

Order Suspending Trading

APRIL 12, 1972.

The common stock, $0.50 par value, of Applied Devices Corp., being traded on the American Stock Exchange, and otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such security

on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period April 13, 1972 through April 22, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-5890 Filed 4-18-72;8:46 am]

[File 500-1]

DASHEW BUSINESS MACHINES, INC.

Order Suspending Trading

APRIL 13, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $1 par value, of Dashew Business Machines, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 12:30 p.m., e.s.t., April 13, 1972, through April 22, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-5933 Filed 4-18-72;8:50 am]

[File 500-1]

ECOLOGICAL SCIENCE CORP.

Order Suspending Trading

APRIL 12, 1972.

The common stock, 2 cents par value, of Ecological Science Corp. being traded on the American Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange and the Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Ecological Science Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such security on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period April 13, 1972, through April 22, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-5891 Filed 4-18-72; 8:46 am]

[70-5181]

NATIONAL FUEL GAS CO. ET AL.

Notice of Proposed Issue and Sale of Debentures at Competitive Bidding by Holding Company and Related Intrasystem Transactions

APRIL 13, 1972.

Notice is hereby given that National Fuel Gas Co., 30 Rockefeller Plaza, New York, NY 10020 (National), a registered holding company, three of its gas utility subsidiary companies, Iroquois Gas Corp. (Iroquois), United Natural Gas Co. (United), and Pennsylvania Gas Co. (Penn), and a nonutility subsidiary company of National, The Sylvania Corp. (Sylvania), have filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 6(b), 7, 9(a), 10, 12(b), and 12(f) of the Act and Rules 43, 45, and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

National proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 promulgated under the Act, $23,500,000 principal amount of __ percent Debentures, series due May 1997. The interest rate of the debentures (which shall be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest, to be paid to National (which shall be not less than 99 percent nor more than 102 percent of the principal amount thereof) will be determined by the competitive bidding. The debentures will be issued under an indenture dated as of August 15, 1968, between National and Manufacturers Hanover Trust Co. as Trustee, as heretofore supplemented and as to be further supplemented by a Fourth Supplemental Indenture dated as of May 15, 1972. The debentures may not be redeemed prior to May 15, 1977, if such redemption is for the purpose or in anticipation of their refunding through the use, directly or indirectly, of funds borrowed by the company at an effective interest cost of less than the effective interest cost of the debentures. The proposed debentures are subject to a sinking fund of $587,500 on June 15 of each year from 1977 to 1996, inclusive.

National purposes to use the net proceeds from the sale of its debentures to acquire for cash $23,500,000 principal amount of unsecured long-term promissory notes from Iroquois ($18,400,000), Penn ($1,500,000) and Sylvania ($3,600,000). Concurrently, two of the subsidiary companies will prepay $13,500,000 of their outstanding short-term notes payable to National maturing December 31, 1972, as follows: Iroquois, $11 million; and Sylvania, $2,500,000. National will use the proceeds of these subsidiaries' note prepayments to prepay $13,500,000 of its notes payable to The Chase Manhattan Bank (N.A.), maturing December 31, 1972. The long-term notes to be issued and sold to National will mature on May 15, 1997, and will bear interest, payable semiannually, at a rate per annum equal to the effective cost of money incurred by National on its proposed sale of debentures, rounded up or down to the nearest one-tenth of 1 percent. The net proceeds derived from the sale of these long-term notes, together with funds available from current operations, will be used by the respective subsidiary companies to make additions to utility plant, to prepay short-term notes to National aggregating $13,500,000, and to increase and replenish working capital. The total cost of the 1972 plant expansion programs are estimated at $14,380,000 by Iroquois, $3,585,000 by Penn and $867,000 by Sylvania.

Iroquois, Penn, Sylvania, and United propose to issue and sell from time to time to the banks named below short-term promissory notes up to $8 million aggregate amount for Iroquois, $4 million for Penn, $2 million for Sylvania, and $7 million for United. Each such note will be dated as of the date of issue, will mature not later than 9 months thereafter, will bear interest at the prime commercial rate in effect on the issue date, and will be prepayable at any time, in whole or in part, without penalty or premium. Such 9 months' notes will amount to the following percentages of the principal amount and par value of the respective four companies' other securities outstanding as of December 31, 1971: Iroquois, 5.3 percent; United, 13.2 percent; Penn, 14.9 percent; and Sylvania, 50 percent. The proceeds derived from the sale of such short-term notes to banks will be used by Iroquois, United, Penn, and Sylvania to finance the cost of gas purchased and stored underground for current inventory purposes, and it is stated that such borrowings are expected to be repaid early in 1973 as gas is withdrawn from storage and sold.

The banks from which each company proposes to borrow, and the maximum amount to be outstanding with each bank, are as follows:

By Iroquois:	
Marine Midland Bank-Western, Buffalo, N.Y.	$3,760,000
Manufacturers & Traders Trust Co., Buffalo, N.Y.	3,600,000
Liberty National Bank & Trust Co., Buffalo, N.Y.	640,000
Total	8,000,000

By United:	
Bradford National Bank, Bradford, Pa.	300,000
Du Bois Deposit National Bank, Du Bois, Pa.	340,000
Elk County Bank & Trust Co., St. Marys, Pa.	300,000
Emporium Trust Co., Emporium, Pa.	170,000
First National Bank of Mercer County, Greenville, Pa.	200,000
First Seneca Bank & Trust Co., Oil City, Pa.	1,125,000
McDowell National Bank, Sharon, Pa.	750,000
Northwest Pennsylvania Bank & Trust Co., Oil City, Pa.	1,250,000
The Pennsylvania Bank & Trust Co., Titusville, Pa.	700,000
Producers Bank & Trust Co., Bradford, Pa.	70,000
Mellon National Bank & Trust Co., Pittsburgh, Pa.	1,795,000
Total	7,000,000
By Sylvania:	
Northwest Pennsylvania Bank & Trust Co., Oil City, Pa.	1,000,000
First Seneca Bank & Trust Co., Oil City, Pa.	1,000,000
Total	2,000,000
By Penn:	
Warren National Bank, Warren, Pa.	700,000
The First National Bank of Pennsylvania, Erie, Pa.	1,750,000
Marine National Bank, Erie, Pa	700,000
Marine Midland Chautauqua National Bank, Jamestown, N.Y.	500,000
The Pennsylvania Bank & Trust Co., Warren, Pa.	350,000
Total	4,000,000

By Order dated December 31, 1968 (Holding Company Act Release No. 16237), the Commission authorized National to issue and sell from time to time up to December 31, 1969 its commercial paper in amounts aggregating up to a maximum of $4 million at any one time outstanding, at an effective cost not to exceed the cost of equivalent borrowings from commercial banks; and on July 17, 1969 (Holding Company Act Release No. 16429), this authorization was extended to December 31, 1972. The proceeds of these commercial paper sales were loaned to Iroquois at National's actual cost of securing the funds pursuant to an Agreement between National and Iroquois, dated August 28, 1968. National now requests that the said authorization to issue and sell its commercial paper be extended through December 31, 1974, and Iroquois proposes to amend the Agreement of August 28, 1968 so as to extend the maturity date of its related Note to National from December 31, 1972 to December 31, 1974. The proposed $4 million of commercial paper amounts to approximately 2 percent of the principal amount and par value of National's other outstanding securities at December 31, 1971.

National also proposes that the certificates of notification under Rule 24, relating to the short-term borrowings, be filed on a quarterly basis.

The estimated fees and expenses to be paid by National in connection with the proposed debentures are $69,000, including counsel fees of $12,250. The fees and expenses of independent counsel for the underwriters, which are to be paid by the successful bidder, are estimated at $15,500. The fees and expenses in connection with the proposed notes are estimated at $4,150 for National, $5,440 for Iroquois, and $210 for Penn.

It is stated that the proposed issue and sale of long-term notes by Iroquois are subject to the jurisdiction of the Public Service Commission of New York; that the proposed issue and sale of long-term notes by Penn are subject to the jurisdiction of the Pennsylvania Public Utility Commission; and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 4, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-5935 Filed 4-18-72;8:50 am]

[70-5160]

OHIO EDISON CO.

Notice of and Order for Hearing Regarding Proposed Acquisition of Utility Assets from Village of Hiram, Ohio

APRIL 13, 1972.

On March 20, 1972, the Commission issued a notice (Holding Company Act Release No. 17503) of an application filed by Ohio Edison Company, 47 North Main Street, Akron, OH 44308 (Ohio Edison), a registered holding company and an electric utility company, pursuant to sections 9(a) and 10 of the Public Utility Holding Company Act of 1935 (Act), regarding a proposal of Ohio Edison to acquire from the Village of Hiram, Ohio (Hiram), the electric utility system owned and operated by Hiram. Ohio Edison bid $675,000, plus the cost of net plant additions after April 1, 1971, for the Hiram system, such bid price having been submitted and accepted pursuant to an advertisement inviting bids for the Hiram utility system. The notice gave any interested person an opportunity to file a request in writing for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted.

Certain citizens of Hiram have filed in the form of a motion to intervene, a timely petition in opposition to the acquisition by Ohio Edison. It appears to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a public hearing be held with respect to the proposed transactions and that the application should not be granted except pursuant to further order of the Commission:

It is ordered, That a hearing be held herein on May 23, 1972, at 10 a.m., at the offices of the Securities and Exchange Commission, 500 North Capitol Street NW., Washington, DC 20549. On such date the Hearing Room Clerk will advise as to the room in which the hearing will be held.

It is further ordered, That a Hearing Examiner, hereafter to be designated, shall preside at said hearing. The officer so designated is hereby authorized to exercise all powers granted to the Commission under section 18(c) of the Act and to a hearing officer under the Commission's rules of practice.

It is further ordered, That particular attention be directed in the hearing to the following matters, without prejudice, however, to the presentation of additional matters upon further examination:

(a) Whether the proposed acquisition by Ohio Edison of the electric utility system of Hiram meets the standards of section 10 of the Act, and particularly the requirements of sections 10(b)(1), 10(b)(2), and 10(c)(2).

(b) Whether the accounting entries to be made in connection with the proposed transactions are proper and in accord with sound accounting principles.

(c) Whether the fees, commissions and other expenses to be incurred are for necessary services and reasonable in amount.

(d) What terms or conditions, if any, the Commission's order should contain.

(e) Generally, whether the proposed transactions are in all respects compatible with the provisions and standards of the applicable sections of the Act and of the rules and regulations promulgated thereunder.

It is further ordered, That particular attention be directed at said hearing to the foregoing matters and questions.

It is further ordered, That any person, other than the applicant or those persons heretofore having filed a petition to intervene, desiring to be heard in connection with this proceeding or proposing to intervene therein shall file with the Secretary of the Commission on or before May 19, 1972, a written request relative thereto as provided in Rule 9 of the Commission's rules of practice. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. Persons filing an application to participate or be heard will receive notice of any adjournment of the hearing as well as other actions of the Commission involving the subject matter of these proceedings.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing copies of this order by certified mail to Ohio Edison, to those persons heretofore having filed a petition to intervene, the City Council of Hiram, the Public Utilities Commission of Ohio, the U.S. Department of Justice, and the Federal Power Commission; and that notice to all other interested persons shall be given by a general release of the Commission and by publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-5934 Filed 4-18-72;8:50 am]

SMALL BUSINESS ADMINISTRATION

[MESBIC License Application 04/04-5104]

URBAN VENTURES, INC.

Notice of Application for a License as a Minority Enterprise Small Business Investment Company

An application for a license to operate as a minority enterprise small business investment company (MESBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Urban Ventures, Inc. (applicant), with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA rules and regulations governing small business investment companies (13 CFR § 107.102 (1971)).

The officers and directors of the applicant are as follows:

William A. Wynn, Jr., 1261 Little River Drive, Miami, FL 33147, President, Director.
Edward I. H. Bennett, 2451 Brickell Avenue, Miami, FL 33129, Secretary-Treasurer.
Charles E. Clark, c/o Knight Foundation, 1 Herald Plaza, Miami, FL 33132, Director.
Maurice Ferre, c/o Maule Industries, 100 North Biscayne Boulevard, Miami, FL 33132, Director.
Roy A. Perry, c/o City National Bank of Miami, Post Office Box 3280, Miami, FL 33101, Director.
Julius W. Phoenix, c/o Haskins & Sells, 100 Biscayne Tower, Miami, FL 33132, Director.
Charles Potter c/o Burdine's, 22 East Flagler Street, Miami, FL 33131, Director.
Garth Reeves, c/o National Industrial Bank, 6013 Northwest Seventh Avenue, Miami, FL 33127, Director.
James A. Ryder, c/o Ryder Systems, Inc., 2701 South Bayshore Drive, Miami, FL 33133, Director.
Bernard Shumate, c/o First National Bank of Miami, 100 South Biscayne Boulevard, Miami, FL 33131, Director.
Howard J. Trinz, c/o General Development Corp., 1111 South Bayshore Drive, Miami, FL 33131, Director.
Leonard Usina, c/o Peoples Group of Banks, 9499 Northeast Second Avenue, Miami, FL 33138, Director.
S. H. Wills, c/o Stuyvesant Insurance Co., 1105 Hamilton Street, Allentown, PA 18104, Director.
Sonny Wright, c/o Universal Real Estate, 4600 Northwest Seventh Avenue, Miami, FL 33127, Director.

The applicant, a Florida corporation with its principal place of business located at 825 South Bayshore Drive, Miami, FL 33131, will begin operations with $152,500 of paid-in capital, consisting of 152,500 shares of common stock issued to the following stockholders:

Burdine's, 22 East Flagler Street, Miami, FL 33131.
City National Bank of Miami, Post Office Box 3280, Miami, FL 33101.
First National Bank of Miami, 100 South Biscayne Boulevard, Miami, FL 33131.
General Development Corp., 1111 South Bayshore Drive, Miami, FL 33131.
Haskins & Sells, 100 Biscayne Tower, Miami, FL 33132.
Knight Foundation, 1 Herald Plaza, Miami, FL 33132.
Miami Times, 6530 Northwest 15th Avenue, Miami, FL 33127.
Maule Industries, 100 North Biscayne Boulevard, Miami, FL 33132.
National Industrial Bank, 6013 Northwest Seventh Avenue, Miami, FL 33127.
Peoples Group of Banks, 9499 Northeast Second Avenue, Miami, FL 33138.
Ryder Systems, Inc., 2701 South Bayshore Drive, Miami, FL 33133.
Stuyvesant Insurance Co., 1105 Hamilton Street, Allentown, PA 18104.

None of the foregoing stockholders owns 10 percent or more of the outstanding stock.

Applicant will not concentrate its investments in any particular industry. According to the company's stated investment policy, its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA rules and regulations.

Any interested person may, not later than 15 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed MESBIC. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

Dated: April 17, 1972.

A. H. SINGER,
Associate Administrator for Investment.

[FR Doc.72-6073 Filed 4-18-72;10:10 am]

TARIFF COMMISSION

[337-L-49]

ELECTRONIC PIANOS

Extension of Time for Filing Written Views

On March 30, 1972, the U.S. Tariff Commission published notice of the receipt of a complaint under section 337 of the Tariff Act of 1930, filed by Wurlitzer Co., Chicago, Ill., alleging unfair methods of competition and unfair acts in the importation and sale of certain electronic pianos (37 F.R. 6797). Interested parties were given until May 1, 1972, to file written views pertinent to the subject matter of a preliminary inquiry into the allegations of the complaint. The Commission has extended the time for filing written views until the close of business on May 11, 1972.

Issued: April 14, 1972.

By order of the Commission:

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-5938 Filed 4-18-72;8:50 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

APRIL 14, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 107295 Sub 562, Pre-Fab Transit Co., now assigned May 15, 1972, at Washington, D.C., hearing canceled and application dismissed.
MC 60014 Sub 30, Aero Trucking, Inc., now being assigned hearing May 16, 1972, at Columbus, Ohio, in a hearing room to be later designated.
MC 1872 Sub 70, Ashworth Transfer, Inc., now assigned May 22, 1972, at Washington, D.C., hearing canceled and application dismissed.
MC 51146 Sub 210, Schneider Transport & Storage, Inc., now assigned April 17, 1972, at Washington, DC., postponed to June 5, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 133146 Sub 5, International Transportation Service, Inc., now assigned May 25, 1972, at Washington, D.C., hearing postponed indefinitely.
MC 116073 Sub 185, Barrett Mobile Home Transport, now assigned May 1, 1972, at Washington, D.C., postponed to June 5, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.
No. 35380, National Electrical Manufacturers Association et al. V—Aberdeen and Rockfish Railroad Co., et al., now assigned May 31, 1972, at Washington, D.C., postponed to July 24, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.
W-497 Sub 7, United States Lines, Inc., continued to July 10, 1972, at San Francisco, Calif., in a hearing room to be later designated.
MC 61592 Sub 231, Jenkins Truck Line, now assigned April 18, 1972, at Washington, D.C., hearing canceled and application dismissed.
FD 27045, St. Louis Southwestern Railway Co. and St. Louis-San Francisco Railway Co. to purchase properties of each carrier, and FD 27060, St. Louis Southwestern Railway Co.—Construction—Gideon, New Madrid County, Mo., now being assigned hearing May 17, 1972 (3 days), at Malden, Mo., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-5962 Filed 4-18-72;8:52 am]

ASSIGNMENT OF HEARINGS

APRIL 14, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

Correction. No. MC 56679 Sub. Nos. 41, 48, 50, and 62, Brown Transport Corp. ext. Florida points, MC-F-11345, Brown Transport Corp.—Investigation of control—Pool Freight Line, Inc., now being assigned hearing, on June 6, 1972, in Room 305, 1252 West Peachtree Street NW., Atlanta, GA, on June 14, 1972, in Holiday Inn Downtown, 175 Piedmont Avenue NE., Atlanta, GA, on July 10, 1972, Holiday Inn I-85, I-85 and Parkins Mill Road Exit, Greenville, SC, and on July 17, 1972, Holiday Inn Downtown 2300 Phillips Highway (junction I-95 and U.S. Highway 1 South), Jacksonville, FL.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-5963 Filed 4-18-72;8:52 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

APRIL 14, 1972.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by § 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Montana docket number unknown, filed March 28, 1972. Applicant: THORM R. FORSETH, 2547 Burlington, Billings, MT 59102. Applicant's representative: Hugh Sweeney, 301 Mutual Benefit Life Building, 2720 Third Avenue North, Billings, MT. Certificate of public convenience and necessity sought to operate a service as follows: Transportation of *Passengers, baggage, express, and newspapers* in the same vehicle with passengers between Billings, Mont., and Helena, Mont., over Highway 3 to the junction of said Highway with U.S. Highway 12, 1 mile to the north of Lavina; thence over U.S. Highway 12 to Helena, Mont., and return over the same route, with service to and from all intermediate points. Both intrastate and interstate authority sought.

HEARING: Date, time, and place unknown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Public Service Commission of the State of Montana, 1227 11th Avenue, Helena, MT, and should not be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC 4470 (Sub-No. 9), filed March 24, 1972. Applicant: POTTER FREIGHT LINES, INC., Post Office Box 428, Sparta, TN 38583. Applicant's representative: James Clarence Evans, 1800 Third National Bank Building, Nashville, Tenn. 37219. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities,* excluding used household goods and commodities in bulk, in intrastate commerce and coextensively in interstate commerce as follows: Route description: Between Chattanooga and Knoxville, Tenn., over the following described routes: (1) Via U.S. Highway 11, and (2) via Interstate Highway 75, using such access routes as may be convenient between those portions of Interstate Highway 75 which are completed and U.S. Highway 11. Restricted against picking up or delivering at any intermediate point, but with this authority to be used in conjunction with all of applicant's other authority, present or future, by joinder or tacking. Applicant seeks coextensive interstate authority. Both intrastate and interstate authority sought.

Hearing: August 16, 1972, 9:30 a.m., Commission's Courtroom, C-1-110 Cordell Hull Building, Nashville, Tenn. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Tennessee Public Service Commission, Cordell Hull Building, Nashville, Tenn. 37219 and should not be directed to the Interstate Commerce Commission.

Virginia Docket No. CC-7122, filed March 31, 1972. Applicant: INTERCITY BUS LINES, INC., Roanoke, Va. Applicant's representative: Calvin F. Major, 200 West Grace Street, Richmond, VA 23220. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities,* between Roanoke and Clifton Forge, via Fincastle and Eagle Rock, Va. (Abbott Bus Lines, Inc., Roanoke, Va., seeks authority to transfer its certificate containing the above authority to Intercity Bus Lines, Inc., Roanoke, Va.) Both intrastate and interstate authority sought.

HEARING: June 14, 1972, 10 a.m., courtroom, State Corporation Commission, Richmond, Va. Requests for procedural information including the time for filing protests concerning this application should be addressed to the State Corporation Commission of Virginia, Commonwealth of Virginia, Box 1197, Richmond, VA 23209 and should not be addressed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-5960 Filed 4-18-72;8:52 am]

[Notice 29]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

APRIL 14, 1972.

The following publications[1] are governed by the new § 1100.247 of the Com-

[1] Except as otherwise specifically noted, each applicant (on applications filed after Mar. 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

mission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

WATER CARRIER

No. W-78 (Sub-No. 11), THE VALLEY LINE COMPANY EXTENSION—COASTWISE, filed April 7, 1972. Applicant: THE VALLEY LINE COMPANY, a corporation, 411 North Seventh Street, St. Louis, MO 63101. Applicant's representative: Harry C. Ames, Jr., 666 11th Street NW., Washington, DC 20001. By application filed April 7, 1972, applicant seeks revision of certificate (No. W-78), to cover the following proposed changes in service: Operation as a common carrier by water in interstate or foreign commerce by non-self-propelled vessels with the use of separate towing vessels and by towing vessels in the performance of towage in the transportation of *articles* exceeding 19 feet in height, 12 feet in width, 90 feet in length or 100 tons in weight, *component parts thereof, and related equipment*, between ports and points along the Atlantic Coast and tributary waterways, on the one hand, and, on the other, ports and points within Valley's existing authority and ports and points along the Gulf of Mexico and tributary waterways.

Prehearing conference: June 2, 1972, at the offices of the Interstate Commerce Commission, Washington, D.C.

MOTOR CARRIERS OF PROPERTY

No. MC 8989 (Sub-No. 216) (Republication), filed June 14, 1971, published in the FEDERAL REGISTER, issues of July 15, 1971, and September 16, 1971, and republished this issue. Applicant: HOWARD SOBER, INC., 2400 West St. Joseph Street, Lansing, MI 48904. Applicant's representative: Albert F. Beasley, 311 Investment Building, 1511 K Street NW., Washington, DC 20005. An order of the Commission, Operating Rights Board, dated January 24, 1972, and served March 13, 1972, finds, that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of automobiles, trucks, and buses as described in *Descriptions in Motor Carriers Certificates*, 61 M.C.C. 209 and 766, in initial movements, in truckaway service, (1) from the plantsites of the General Motors Corp. at Linden, N.J., and Wilmington, Del., to Lansing, Mich.; and (2) from the plantsites of the General Motors Corp. at Linden, N.J., and Wilmington, Del., to points in Illinois, Indiana, Michigan, Ohio, and Wisconsin, restricted in (2) above to the transportation of traffic moving through Lansing, Mich. That because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 51018 (Sub-No. 8) (Republication), filed August 5, 1970, published in the FEDERAL REGISTER, issue of September 3, 1970, September 17, 1970, November 3, 1971, and republished this issue. Applicant: THE BESL TRANSFER COMPANY, a corporation, 5550 East Avenue, Cincinnati, OH 45232. Applicant's representative: A. Alvis Layne, 915 Pennsylvania Building, Washington, D.C. 20004. An order of the Commission, Division 1, acting as an Appellate Division, dated March 24, 1972, and served March 28, 1972, finds: That the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, (1) of commodities which, because of their size or weight require the use of special equipment, (2) of self-propelled articles, each weighing 15,000 pounds or more (restricted to commodities which are transported on trailers), and (3) of related machinery, tools, parts, and supplies moving in connection with the commodities described in (2), (a) between points in Hamilton County, Ohio, and points in that part of Ohio on and south of Interstate highway 70 and on and west of Interstate Highway 75, on the one hand, and, on the other, points in Ohio, points in Dearborn County, Ind., and points in that part of Kentucky within 10 miles of the southern limits of Cincinnati, Ohio, and (b) between points in Ohio within 25 miles of Cincinnati, points in that part of Ohio on and south of Interstate Highway 70 and on and west of Interstate Highway 75, and points in Indiana and Kentucky within 25 miles of Cincinnati, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan, Missouri, New York, Pennsylvania, and West Virginia, with the provision that applicant may join the authorities contained in (a) and (b) above to provide a through service. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the appendix to the order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition seeking leave to intervene in this proceeding showing in specific detail the manner in which it has been materially adversely affected by the grant of this authority.

No. MC 117815 (Sub-No. 162) (Republication), filed June 18, 1970, published in the FEDERAL REGISTER, issue of July 9, 1970, and republished this issue. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: William L. Fairbank, 610 Hubbell Building, Des Moines, Iowa 50309. A report and order of the Commission, Division 1, acting as an Appellate Division, decided March 24, 1972, and served April 6, 1972, finds: That the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of cleaning, buffing, and polishing compounds, pesticides, varnish, shaving cream, soap, household cleaning equipment and supplies, and industrial lubricating compounds, from the plantsites and storage facilities of S. C. Johnson & Son, Inc., at Racine and Waxdale, Wis., to Omaha, Nebr., Kansas City, Mo., and points in Iowa (except Clinton and Cedar Rapids, Iowa, and those points in Iowa in the Davenport, Iowa-Rock Island and Moline, Ill., commercial zone), restricted (1) against the transportation of commodities in bulk, and (2) to the transportation of traffic originating at the above-named plantsites and storage facilities and destined to the named destination points, and subject to the condition that to the extent such authority duplicates applicant's existing authority it shall not be construed as conferring more than a single operating right. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 136007 (Republication), filed August 18, 1971, published in the FEDERAL REGISTER issue of October 7, 1971, and republished this issue. Applicant: EDWARD BORKOWSKI, doing business as BORKOWSKI TOWING, Post Office Box 868, 4010 Seventh Street, Winona, MN 55987. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55987. An order of the Commission, op-

erating rights board, dated March 10, 1972, and served April 5, 1972, finds, that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of wrecked, disabled, and repossessed motor vehicles and replacement vehicles therefor, between points in Fillmore, Houston, Olmstead, Wabasha, and Winona Counties, Minn., on the one hand, and, on the other, points in Illinois, Iowa, North Dakota, South Dakota, and Wisconsin, restricted to transportation of traffic either by use of wrecker equipment or in truck-away service. Since it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority without the requested limitation in the findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 60186 (Sub-No. 26) (Correction) (Notice of Filing of Petition for Modification of Certificate), filed February 15, 1972, published in the FEDERAL REGISTER issue of March 15, 1972, and republished as corrected this issue. Petitioner: NELSON FREIGHTWAYS, INC., Rockville, Conn. 06066. Petitioner's representative: Vernon V. Baker, 1250 Connecticut Avenue NW., Washington, DC 20036. NOTE: The purpose of this republication is to show the correct number of the New York Highway set forth in previous publication incorrectly as New York Highway 122. The highway referred to should have read New York Highway 112. The rest of the notice remains as previously published.

No. MC 107299 (Notice of Filing of Petition for Modification of Authority), filed March 15, 1972. Petitioner: ROBERTS CARTAGE COMPANY, 3200 South Archer Avenue, Chicago, IL 60603. Petitioner's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Petitioner states it is a motor common carrier of specialized commodities authorized to operate in interstate commerce pursuant to authority issued to it by the Interstate Commerce Commission in Docket No. MC 107299 on October 26, 1949. The specific authority which petitioner seeks to have modified by this petition presently reads as follows: "Irregular routes: *Store, restaurant, and bar fixtures and equipment*, uncrated, between Chicago, Ill., on the one hand, and, on the other, points in the United States. *Store fixtures*, from Chicago, Ill., to points in Illinois, Wisconsin, Minnesota, Iowa, Nebraska, Missouri, Indiana, Michigan, Ohio, Pennsylvania, New York, West Virginia, Tennessee, and Kentucky." By the instant petition, petitioner requests that the foregoing commodity descriptions be modified so as also to permit the transportation of store, restaurant, and bar fixtures and equipment when moving as displays or display materials to and from conventions, shows, expositions, and similar gatherings for exhibition purposes. NOTE: Petitioner has also stated that it has pending before the Commission in Docket No. 107299 (Sub-No. 8), an application seeking authority to transport exhibits, exhibit materials, displays and display materials, between Chicago, Ill., on the one hand, and, on the other, points in the United States; and that the modification sought in the instant petition either be granted on the basis of the evidence it has submitted herewith or, if the Commission deems an oral hearing to be necessary, that it be consolidated with its application in No. MC 107299 (Sub-No. 8). Petition states that the said application in MC 107299 (Sub-No. 8) is now set for hearing on May 15, 1972, in Chicago, Ill. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 109637 (Sub-No. 288), (Notice of Filing of Petition to Extend Expiration Date of Certificate), filed March 22, 1972. Petitioner: SOUTHERN TANK LINES, INC., Lansdowne, Pa. Petitioner's representative: Harry C. Ames, Jr., and Gerald K. Gimmel, 666 11th Street, NW., Washington, DC 20001. Petitioner holds a certificate in No. MC 109637 (Sub-No. 288) to transport liquefied petroleum gas, in bulk, in tank vehicles, from Crossville, Ill., to Central City, Henderson, and Owensboro, Ky., to expire on June 9, 1971. By the instant petition, petitioner requests that the expiration date of its certificate be extended for 5 years to June 9, 1976, to permit the continuation of operations by it in service to the public. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 116810 (Notice of Filing of Supplemental Petition for Alternate Gateway and Elimination of Gateways), filed February 16, 1972. Petitioner: BAIR TRANSPORT, INC., Riverside, N.J. Petitioner's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Petitioner states that it previously filed a petition to amend its general commodity operating authority by requesting alternate gateways or the elimination of gateways. Notice of petition was published in the FEDERAL REGISTER issue of August 4, 1971. The matter was set for handling under the modification procedure by Order of the Commission served September 21, 1971. Petitioner further states that publication in the FEDERAL REGISTER was disclosed to be faulty. The Commission's attention was drawn to the fact, after which order served September 21, 1971 was vacated and set aside. Petitioner states that by letter dated October 13, 1971, additional information was requested by the Commission. This is the purpose of the instant supplemental petition. Petitioner states that the petition, as originally submitted, requested amendment on three (3) counts. When published, notice of two (2) counts, No. 1 and No. 3 were made. That not published reads as follows: "Petitioner requests the elimination of the gateway of Bergen County, N.J., observing the New York, N.Y. Gateway only in connection with shipments moving between the Massachusetts and Connecticut territory described in paragraph 4 and points on Long Island, N.Y., within 150 miles of Newark, N.J., authorized in paragraph (2)." Petitioner states that its requests for amendment was only relative to that portion of its authority authorizing the transportation of general commodities (with certain exceptions) which are not pertinent here.

Petitioner further states that after modification, its authority will read as follows: *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, films, silk, tobacco, new automobiles, commodities requiring tank trucks or refrigeration and those injurious or contaminating to other lading, between Delanco, N.J., on the one hand, and, on the other, points in that part of New Jersey and Maryland on and east of U.S. Highway 1; between Delanco, N.J., on the one hand, and, on the other, points in that part of Massachusetts on and east of U.S. Highway 5 and that part of Connecticut on and east of U.S. Highway 5 and those on U.S. Highway 1 between the Connecticut-New York State line and New Haven, Conn. Restriction: Service at Delanco, N.J., restricted to tacking of the above two paragraphs only. *General commodities*, except those of unusual value, classes A and B explosives, liquor, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between New York, N.Y., on the one hand, and, on the other, points in that part of Massachusetts on and east of U.S. Highway 5, and that part of Connecticut on and east of U.S. Highway 5, and those on U.S. Highway 1 between the Connecticut-New York State line and New Haven, Conn., between New York, N.Y., on the one hand, and, on the other, points on Long Island, N.Y., within 150 miles of Newark, N.J.

Restriction: Service at New York, N.Y., restricted to tacking of the above two paragraphs only. General commodities, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, films, silk, tobacco, new automobiles,

commodities requiring tank trucks or refrigeration, and those injurious or contaminating to other lading, between Philadelphia, Pa., on the one hand, and, on the other, points in that part of Pennsylvania east of the Susquehanna River, north of U.S. Route 309; between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey and Maryland, on and east of U.S. Highway 1. Restriction: Service at Philadelphia, Pa., restricted to tacking of the above two paragraphs only. Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 116822 (Notice of Filing of Petition To Add an Additional Contracting Shipper), filed March 1, 1972. Petitioner: ROBERT KRINGEN, doing business as KRINGEN TRUCK LINE, Grand Forks, N. Dak. 58201. Petitioner's representative: E. J. Hanson, Box 1177, Grand Forks, ND 58201. Petitioner states that it holds authority in its Permit No. MC 116822, issued April 29, 1970, authorizing operations as a motor contract carrier in the transportation over irregular routes, of: *Manufactured dry fertilizer, in bulk or in bags, and insecticides*, from Grand Forks, N. Dak., to points in Kittson, Marshall, Polk, Norman, Clay, Roseau, Pennington, Red Lake, Mahnmen, Becker, Clearwater, Beltrami, Lake of the Woods, and Wilkin Counties, Minn., with no transportation for compensation on return except as otherwise authorized. Restrictions: The above-described operations are limited to a transportation service to be performed under a continuing contract, or contracts, with the following: Occidental Chemical Co., Grand Forks, N. Dak.; and Agsco Distributors, Inc., Grand Forks, N. Dak. Petitioner further states that there is located at Grand Forks, N. Dak., another fertilizer company by the name of Cominco American, Inc., which is engaged in the same type of business as are the above-referred to Occidental Chemical Co., and Agsco Distributors, Inc., and that Cominco American, Inc., is desirous of having made available to it, the contract authority which is now authorized to petitioner for the account of the other two above-said contracting shippers. By the instant petition, petitioner seeks to add the name of Cominco, Inc., as an additional contracting shipper on the same terms and conditions as Occidental Chemical Co., and Agsco Distributors, Inc. Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments, in support of, or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER.

Nos. MC 117391 and MC 117391 (Sub-No. 8) (Notice of Filing of Petition for Modification of Permits by Changing Shipper Designations and Other Relief), filed March 22, 1972. Petitioner: E. L. REDDISH TRANSPORTATION, INC., Springdale, Ark. Petitioner's representative: A. Alvis Layne and Leo C. Franey, 915 Pennsylvania Building, Washington, D.C. 20004. Petitioner states that it presently holds authority over irregular routes, as a motor contract carrier under its lead Permit No. 117391 issued August 20, 1963, and Permit No. MC 117393 (Sub-No. 8), issued October 11, 1967, as follows: No. MC 117963, *Canned goods*, from Springdale, Lowell, and Fort Smith, Ark., and Westville, Okla., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois (except Chicago), Indiana, Iowa, Kansas (except Wichita), Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri (except St. Louis, Kansas City, Springfield, and Joplin), Maryland, Nebraska, New Jersey, New Mexico, North Carolina, South Carolina, North Dakota, South Dakota, Ohio, Oklahoma (except Oklahoma City and Tulsa), Pennsylvania, Tennessee (except Memphis), Texas (except Dallas and Fort Worth), Virginia, West Virginia, and Wisconsin, with no transportation for compensation on return except as otherwise authorized; *Canned goods, and materials and supplies* used in manufacturing, labeling, packing, and transporting canned goods, from points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois (except Chicago), Indiana, Iowa, Kansas, (except Wichita), Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri (except St. Louis, Kansas City, Springfield, and Joplin), Maryland, Nebraska, New Jersey, New Mexico, North Carolina, South Carolina, North Dakota, South Dakota, Ohio, Oklahoma (except Oklahoma City and Tulsa), Pennsylvania, Tennessee (except Memphis), and Texas (except Dallas and Fort Worth), to Springdale, Lowell, and Fort Smith, Ark., and Westville, Okla., with no transportation for compensation on return except as otherwise authorized;

Tin cans and lids, from Chicago, Ill., to Springdale, Lowell, and Fort Smith, Ark., and Westville, Okla., with no transportation for compensation on return except as otherwise authorized; *Corrugated fiberboard boxes*, from Memphis, Tenn., to Springdale, Lowell, and Fort Smith, Ark., and Westville, Okla., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized hereinabove are limited to a transportation service to be performed, under a continuing contract, or contracts, with the following shippers: Steele Canning Co., of Springdale, Ark., Keystone Packing Co., of Fort Smith, Ark. (restricted to traffic moving from and to Fort Smith), Cain Canning Co., Inc., of Springdale, Ark. (restricted to traffic moving from and to Springdale); and No. MC 117391 (Sub-No. 8), *Canned goods*, from Springdale, Lowell, and Fort Smith, Ark., and Westville, Okla., to Chicago, Ill., Wichita, Kans., St. Louis, Kansas City, Springfield, and Joplin, Mo., Oklahoma City and Tulsa, Okla., Memphis, Tenn., and Dallas and Fort Worth, Tex., with no transportation for compensation on return except as otherwise authorized; from Haskell, Stigler, and Spiro, Okla., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Maryland, Nebraska, New Jersey, New Mexico, North Carolina, South Carolina, North Dakota, South Dakota, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, with no transportation for compensation on return except as otherwise authorized;

Canned goods and materials and supplies used in manufacturing, packing, labeling, and transporting canned goods, from points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Maryland, Nebraska, New Jersey, New Mexico, North Carolina, South Carolina, North Dakota, South Dakota, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, to Springdale, Lowell, and Fort Smith, Ark., and Westville, Haskell, Stigler, and Apiro, Okla., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized under MC 117981 Sub 8 herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Steele Canning Co. of Springdale, Ark. Petitioner further states that Keystone Packing Co., of Fort Smith, Ark., and Cain Canning Co., Inc., of Springdale, Ark., are no longer in business, The Steele Canning Co. of Springdale, Ark., has recently been purchased by Pioneer Food Industries, Inc., and its name has been changed to Steele Canning Co., Inc. Petioner requests therefore that its lead permit and Sub 8 permit be changed to show that service is being rendered under contracts with Steele Canning Co., Inc., of Springdale, Ark. By the instant petition, petitioner seeks to modify its existing permits in three ways. The first modification would eliminate the names of the above-said shippers no longer in business, the second would change the name of a shipper which has recently been purchased by another company, and the third would authorize the transportation of agricultural commodities otherwise exempt under section 203(b)(6) of the Act but for the fact that they are to be moving at the same time and in the same vehicle presently authorized and regulated commodities transported by petitioner.

Upon modification, petitioner will be serving only one shipper. In order to meet the transportation needs of this shipper in a complete and satisfactory way, it is necessary for it to be authorized to transport exempt agricultural commodities. Since these commodities will be moving both as inbound and outbound traffic, each and every commodity description presently contained in its lead and Sub 8 permit must be changed to reflect the new service required by the shipper. Any interested person desiring

to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 118803 and No. MC 118803 (Sub-No. 5) (Notice of Filing of Petition for Reconsideration and Modification of Permits), filed February 28, 1972. Petitioner: ATLANTIC TRUCK LINES, INC., Paterson, N.J. Petitioner's representative: Arthur H. Priest, 71–23 Austin Street, Forest Hills, NY. Petitioner states it holds authority as a motor contract carrier, over irregular routes, in its lead permit No. MC 118803 and MC 118803 Sub 5, both issued July 14, 1971, as follows: *"MC 118803, Roofing materials,* from Clark, N.J., Philadelphia, Pa., Charleston, S.C., Birmingham, Ala., and Shreveport, La., to points in Florida south and east of the Suwannee River; and *Sheet metal, sheet metal products, and sheet metal working tools* other than power; *air conditioning and heating ducts, pipes, elbows, fittings, vents, dampers, flues, grills, registers, insulating materials and adhesives; rain carrying gutters, downspouts, eaves, valleys, elbows and fittings and roof ventilators,* from the plantsite of L. Bieler & Sons, Inc., and National Elbow and Fitting Corp. located at Hauppauge, Suffolk County, Long Island City and Rochester, N.Y., Newark, N.J., Philadelphia, Lancaster, and Pittsburgh, Pa., Martins Ferry, Ohio, Chicago, Ill., Baltimore, Md., Atlanta, Ga., and Birmingham and Gadsden, Ala., to points in Florida south and east of the Suwannee River; and *Returned shipments* of the commodities specified above, from points in Florida south and east of the Suwannee River, to their respective origin points. Restriction: The operations authorized above are limited to a transportation service to be performed, under a continuing contract, or contracts, with the following shippers: Southern Metal Products, Inc., of Miami, Fla., Bieler National Industries, Inc., of Hauppauge, Suffolk County, N.Y. *Floor coverings,* from New York, N.Y., South Plainfield, N.J., Chicago, Ill., and Jackson, Miss., to points in Florida south and east of the Suwannee River; and *Returned shipments* of floor coverings, from points in Florida south and east of the Suwannee River, to New York, N.Y., South Plainfield, N.J., Chicago, Ill., and Jackson, Miss. Restriction: The operations authorized in the two paragraphs next above are limited to a transportation service to be performed, under a continuing contract, or contracts, with Southern Tile Supply Corp., of Miami, Fla.

Air conditioning and heating ducts, pipes, elbows, fittings, vents, dampers, flues, grills, registers, and rain carrying gutters, downspouts, eaves, valleys, elbows and fittings and roof ventilators, from the plantsite of L. Bieler & Sons, Inc., and National Elbow and Fitting Corp. located at Hauppauge, Suffolk County, and Long Island City, N.Y., and from the plantsite of Bieler International Corp., and Southern Diversified Industries, Inc., located at Hauppauge, Suffolk County, N.Y., to points in Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Ohio, Delaware, Maryland, Virginia, North Carolina, Georgia, Alabama, and that part of New Jersey south of U.S. Highway 30; and *Returned shipments* of the commodities specified immediately above, from points in the destination States named above to the plantsite of L. Bieler & Sons, Inc., and National Elbow and Fitting Corp. located at Hauppauge, Suffolk County, and N.Y. Restriction: No authority is Long Island City, N.Y., and to the plantsite of Bieler International Corp., and Southern Diversified Industries, Inc., located at Hauppauge, Suffolk County, granted hereinabove to transport commodities in bulk, in tank vehicles. *Air conditioning and heating ducts, pipes, elbows, fittings, vents, dampers, grills, registers, rain carrying gutters, downspouts, eaves, valleys, elbows and fittings and roof ventilators,* from the plantsite of L. Bieler & Son, Inc., and National Elbow and Fitting Corp. located at Hauppauge, Suffolk County, and Long Island City, N.Y., and from the plantsite of Bieler International Corp., and Southern Diversified Industries, Inc., located at Hauppauge, Suffolk County, N.Y., to points in Kentucky, Tennessee, Iowa, Indiana, West Virginia, Illinois, South Carolina, New Hampshire, Maine, Michigan, Mississippi, Vermont, Wisconsin, points in Florida north and west of the Suwannee River, points in New Jersey north of U.S. Highway 30, and points in Audrain, Callaway, Crawford, Franklin, Gasconade, Jefferson, Lincoln, Monroe, Montgomery, Perry, Pike, Ralls, St. Charles, St. Francois, St. Louis, St. Louis City, Ste Genevieve, Warren, and Washington Counties, Mo.; and

Returned shipments of the commodities described immediately above, from the immediately above-described destination points, to the plantsite of L. Bieler & Sons, Inc., and National Elbow and Fitting Corp. located at Hauppauge, Suffolk County, and Long Island City, N.Y., and the plantsite of Bieler International Corp., and Southern Diversified Industries, Inc., located at Hauppauge, Suffolk County, N.Y. Restriction: The operations authorized under the four commodity descriptions next above are limited to a transportation service to be performed, under a continuing contract, or contracts, with the following shippers: L. Bieler & Sons, Inc., of Long Island City, N.Y., National Elbow and Fitting Corp. of Long Island City, N.Y.; Bieler International Corp., of Hauppauge, Suffolk County, N.Y.; Southern Diversified Industries, Inc., of Hauppauge, Suffolk County, N.Y.; and Bieler National Industries, Inc., of Hauppauge, Suffolk County, N.Y. *Air conditioning and heating ducts, pipes, elbows, fittings, vents, dampers, flues, grills, registers, rain carrying gutters, downspouts, eaves, valleys, elbows and fittings and roof ventilators,* from Hauppauge, Suffolk County, N.Y., and Long Island City, N.Y., to points in Arkansas, Kansas, Louisiana, Nebraska, Oklahoma, Texas, and Missouri (except points in Audrain, Callaway, Crawford, Franklin, Gasconade, Jefferson, Lincoln, Monroe, Montgomery, Perry, Pike, Ralls, St. Charles, St. Francois, St. Louis, St. Louis City, Ste. Genevieve, Warren, and Washington Counties), with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized next above are limited to a transportation service to be performed, under a continuing contract, or contracts, with the following shippers: L. Bieler & Sons, Inc., of Hauppauge, Suffolk County, N.Y., and Long Island City, N.Y., National Elbow and Fitting Corp., of Hauppauge, Suffolk County, N.Y., and Long Island City, N.Y., Bieler International Corp., of Hauppauge, Suffolk County, N.Y., Southern Diversified Industries, Inc., of Hauppauge, Suffork County, N.Y., and *No. MC 118803 (Sub-No. 5).*

Manufactured sheet metal roofing components, roofing materials accessories, sheet metal working and roofing tools (other than power), and *related hand tools and working supplies* for use at construction sites, *metal manufactured ventilating, air conditioning and heating components and parts, metal sheets, coils, tubing, wire, bars, forgings, castings, and extrustions,* and *metal structural and ornamental building elements, accessories and materials, and related components,* from the plantsite of L. Bieler & Sons, Inc., National Elbow and Fitting Corp., Bieler International Corp. and Southern Diversified Industries, Inc., at Hauppauge (Suffolk County), N.Y., to points in the United States (except Alaska and Hawaii); and *Returned shipments* of the commodities specified above, and *materials and related products* for use in the manufacture, fabrication, distribution and sales of the commodities described above, from points in the United States (except Alaska and Hawaii), to the plantsite of L. Bieler & Sons, Inc., National Elbow and Fitting Corp., Bieler International Corp., and Southern Diversified Industries, Inc., at Hauppauge (Suffolk County), N.Y. Restriction: The service authorized in MC 118803 Sub-No. 5 hereinabove is subject to the following conditions: The operations authorized herein are restricted against the transportation of commodities in bulk. The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with the following shippers: L. Bieler & Sons, Inc., of Hauppauge, N.Y.; National Elbow and Fitting Corp., of Hauppauge, N.Y.; Bieler International Corp., of Hauppauge, N.Y.; Southern Diversified Industries, Inc., of Hauppauge, N.Y.; and Bieler National Industries, Inc., of Hauppauge, Suffolk County, N.Y.

Petitioner states that by the instant petition it seeks to ADD the following contracting shipper: Sevojno-Bieler Trading Co., with offices at 45 Gilpin Avenue, Suffolk County, NY 11787. The basis for the reconsideration and, modification of the permits, supra, is the request made by L. Bieler & Sons, Inc., National Elbow and Fitting Corp., Bieler International Corp., Southern Diversified

Industries, Inc., and Bieler National National Industries, Inc., all of Hauppauge, Suffolk County, N.Y., to include as contracting shipper their affiliate Sevojno-Bieler Trading Co., in accordance with the projected expansion of the products to be manufactured, sold, and shipped by the six named shippers. The Sevojno-Bieler Trading Co., is an affiliate of L. Bieler & Sons, Inc., National Elbow and Fitting Corp., Bieler International Corp., Southern Diversified Industries, Inc., and Bieler National Industries, Inc. Petitioner desires to perform and conduct motor carrier operations for Sevojno-Bieler Trading Co., from points in Alabama, Georgia, Illinois, Louisiana, Maryland, Mississippi, New Jersey, New York, Ohio, Pennsylvania, and South Carolina, to points in Florida south and east of the Suwannee River, also from Hauppauge, Suffolk County, N.Y., to points in the United States (except Alaska and Hawaii), transporting the considered commodities and serving the territory set forth in permits No. MC 118803 and Sub 5, at the earliest possible date. Petitioner states it is not seeking through this petition any additional commodities or territory. Petitioner is only seeking to add the one named shipper as a contracting shipper to its permits No. 118803 and Sub 5, otherwise the permits remain unchanged. Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 123160 (Notice of Filing of Petition for Removal of Territorial Restriction in Certificate MC 123160), filed March 27, 1972. Petitioner: C. A. BUCK MOVING & STORAGE COMPANY, a corporation, 391 Foster Boulevard, Post Office Box 5066, San Mateo, CA. Petitioner states it is a common carrier of household goods and presently holds a certificate in No. MC 123160 issue June 13, 1961, authorizing operations over irregular routes, in the transportation of "Household goods, as defined by the Commission, between points in Contra Costa, San Francisco, Alameda, San Mateo, and Santa Clara Counties, Calif. Restrictions: The service authorized herein shall be restricted to points located in said counties which are situated on and within 5 miles of (1) that part of California Highway 17 which extends from Albany, Calif., to its intersection with U.S. Highway 101 Bypass near San Jose, Calif., and (2) that portion of U.S. Highway 101 which extends from San Francisco to Morgan Hill, Calif., including the terminal points named. Petitioner further states it has been operating under its certificate as restricted. However, it finds its inability to provide an efficient and complete service to the public is impeded because of the territorial restriction therein. Petitioner states its operations is further impeded by this restriction as its application in a given situation is often unclear. By the instant petition, Petitioner seeks removal of the said territorial restriction from its certificate. An interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 127769 (Sub-No. 3) (Notice of Filing of Petition to Modify Permit by Including an Additional Shipper), filed March 10, 1972. Petitioner: SAM L. PALMER, 415 West Seventh Street, Cheyenne, WY 82001. Petitioner states that he presently holds a permit in No. MC 127769 (Sub-No. 3) which authorizes petitioner to conduct the following described motor carrier operations: "Transportation of repossessed automobiles and trucks, in driveaway service, over irregular routes, (1) between points in Colorado, Kansas, Nebraska, New Mexico, South Dakota, and Wyoming, and (2) between points in the States named in (1) above, on the one hand, and, on the other, points in the United States, except Alaska and Hawaii. The operations described hereinabove are limited to a transportation service to be performed under a continuing contract, or contracts, with General Motors Acceptance Corp. (Denver, and Cheyenne, Wyo. branches), Cheyenne Credit Bureau and Globe Finance Co." Petitioner further states that subsequent to acquiring the above-described authority in MC 127769 (Sub-No. 3). Petitioner became associated with Allied Finance Adjusters Conference, and, on or about January 1, 1971, purchased a franchise with said company and now conducts a majority of his repossession activities in the name of Allied Service Bureau, of which he is the sole owner. Petitioner further states that following discussion of his for-hire transportation and repossession of motor vehicles it has been concluded that in order to avoid any possibility of illegal or conflicting operations that Petitioner should enter into a bilateral contract with his company, Allied Service Bureau. By the instant petition, Petitioner requests the Interstate Commerce Commission to enter and order authorizing and permitting the addition of contract with Allied Service Bureau and for such other, further or different relief as may be just and equitable in the premises. Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 128217 (Notice of Filing of Petition To Add Additional Contracting Shipper), filed April 7, 1972. Petitioner: REINHARDT MAYER, doing business as MAYER TRUCK LINE, Jamestown, N. Dak. Petitioner's representative: Thomas J. Van Osdel, 502 First National Bank Building, Fargo, N. Dak. 58102. Petitioner holds a Permit in No. MC 128217 authorizing motor carrier operations as a contract carrier in interstate or foreign commerce, over irregular routes, transporting: Iron and steel articles, as described in Group III of Appendix V to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from Broadview, Chicago, Chicago Heights, Granite City, and Sterling, Ill., and Duluth and Minneapolis, Minn., to points in Montana, limited to a transportation service that is performed under a continuing contract or contracts with LeFevre Sales, Inc., and Haybuster Manufacturing, Inc., both of Jamestown, N. Dak., and Joseph T. Ryerson & Sons, Inc., Chicago, Ill. By the instant petition, petitioner seeks to add Pacific Hide and Fur Depot, Great Falls, Mont., as an additional contracting shipper. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATION FOR CERTIFICATES OF PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE.

No. MC 106051 (Sub-No. 46), filed March 29, 1972. Applicant: OLD COLONY TRANSPORTATION CO., INC., 676 Dartmouth Street, South Dartmouth, MA 02748. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment or handling). Regular routes: (1) Between Malone, N.Y., and Rouses Point, N.Y., over U.S. Highway 11, serving all intermediate points and the off-route point of Burke; (2) between Malone and Lake Placid, N.Y., from Malone over New York Highway 30 to junction of New York Highway 86, thence over New York Highway 86 to Lake Placid, and return over the same route, serving all intermediate points and the off-route points of Bloomingdale, Vermontville, and Gabriels; (3) between Malone and Piercefield, N.Y., from Malone over New York Highway 30 to junction New York Highway 3, thence over New York Highway 3 to Piercefield, and return over the same route, serving all intermediate points and the off-route point of Conifer; (4) between Malone and St. Regis Falls, N.Y., from Malone over U.S. Highway 11 to junction New York Highway 95, thence over New York Highway 95 and unnumbered highway passing through Dickinson and Dickinson Center to St. Regis Falls, and return over the same route, serving all intermediate points and the off-route point of South Bangor;

(5) between Malone and Plattsburg, N.Y., from Malone over U.S. Highway 11 to junction unnumbered highway, thence over said unnumbered highway via Bellmont Center to junction New York Highway 374, thence over New York Highway 374 to junction New York Highway 3,

thence over New York Highway 3 to Plattsburg, and return over the same route, serving all intermediate points; (6) between Piercefield and Gouverneur, N.Y., from Piercefield over New York Highway 3 to junction New York Highway 58, thence over New York Highway 58 to Gouverneur, and return over the same route, serving all intermediate points and the off-route point of Newton Falls; (7) between Dickinson and Gouverneur, N.Y., from Dickinson over New York Highway 11B, thence over New York Highway 11 to Gouverneur, and return over the same route, serving all intermediate points and the off-route point of Parishville; (8) between Dickinson and Ogdensburg, N.Y., from Dickinson over New York Highway 11B to junction U.S. Highway 11, thence over U.S. Highway 11 to junction New York Highway 68, thence over New York Highway 68 to Ogdensburg, and return over the same route, serving all intermediate points; (9) between Ogdensburg and Gouverneur, N.Y., from Ogdensburg over New York Highway 87 to junction U.S. Highway 11, thence over U.S. Highway 11 to Gouverneur, and return over the same route, serving all intermediate points, and the off-route points of Hermon and Russell; (10) between Hogansburg and Ogdensburg, N.Y., over New York Highway 37, and return over the same route, serving all intermediate points; (11) between Moira and Ogdensburg, N.Y., from Moira over U.S. Highway 11 to junction New York Highway 68, thence over New York Highway 68 to Ogdensburg, and return over the same route, serving all intermediate points; (12) between Moira and Gouverneur, N.Y., over U.S. Highway 11, and return over the same route, serving all intermediate points; (13) between Winthrop and Massena, N.Y., over New York Highway 420, and return over the same route, serving all intermediate points;

(14) between Potsdam and Massena, N.Y., over New York Highway 56, and return over the same route, serving all intermediate points and the off-route points of Hanna Falls, Colton, and South Colton; (15) between Canton and junction New York Highways 37 and 345 over New York Highway 345, and return over the same route, serving all intermediate points and the off-route points of Chase Mills and Louisville; (16) between Syracuse and Ogdensburg, N.Y., from Syracuse over U.S. Highway 11 to junction New York Highway 37, thence over New York Highway 37 to Ogdensburg; also from Watertown over U.S. Highway 11 to junction New York Highway 68 and thence over New York Highway 68 to Ogdensburg; also from Watertown over U.S. Highway 11 to junction New York Highway 87, thence over New York Highway 87 to Ogdensburg, and return over the same route, serving all intermediate points and the off-route points of Potsdam, Madrid, Winthrop, and Hailesboro; and (17) between Ogdensburg and Malone, N.Y., from Ogdensburg over New York Highway 37 to Malone; also from Ogdensburg over New York Highway 68 to junction U.S. Highway 11, thence over U.S. Highway 11 to Malone, and return over the same route, serving only between Ogdensburg on the one hand, and, on the other, all intermediate points. Irregular routes: From Malone, N.Y., to points in Franklin and St. Lawrence Counties, N.Y. NOTE: This application is a matter directly related to MC–F–11503, published in the FEDERAL REGISTER issue of April 5, 1972. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Albany, N.Y.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

No. MC–F–11257 (Amendment) (WATKINS MOTOR LINES, INC.—Purchase (Portion)—ALTERMAN TRANSPORTATION LINES, INC.), published in the August 11, 1971, issue of the FEDERAL REGISTER. By petition filed April 3, 1972, BILL WATKINS, join in as party applicant in control of the application. Report and order of review board No. 5, dated February 17, 1972, and served March 9, 1972, denied the application. A petition of applicant was filed April 10, 1972, seeking reconsideration and for oral hearing and/or modified procedure.

No. MC–F–11508. Authority sought for purchase by LES JOHNSON CARTAGE, 611 South 28th Street, Milwaukee, WI 53246, of a portion of the operating of C W TRANSPORT, INC., 610 High Street, Wisconsin Rapids, WI 54494, and for acquisition by SCHWERMAN TRUCKING CO., also of Milwaukee, Wis. 53246, of control of such rights through the purchase. Applicants' attorneys: David Axelrod, 39 South La Salle Street, Chicago, IL 60603, and James R. Ziperski, 611 South 28th Street, Milwaukee, WI 53246. Operating rights sought to be transferred: *Petroleum products* in bulk, in tank trucks, as a *common carrier* over irregular routes, from Green Bay, Wis., to points in a defined area of Michigan, and return with *rejected shipments; petroleum and petroleum products* (except residual fuel oils), as described in appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, in bulk, in tank vehicles, from Escanaba, Mich., and points within 15 miles thereof, to points in Wisconsin; *jet fuel*, in bulk, in tank vehicles, from the terminal facilities of the American Oil Co. at or near Elk Grove Village, Ill., to points in the Upper Peninsula of Michigan. Vendee is authorized to operate as a *common carrier* in Wisconsin, Michigan, Illinois, Indiana, Iowa, North Dakota, South Dakota, Minnesota, Missouri, Ohio, Kentucky, Kansas, and Nebraska. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11510. Authority sought for purchase by BOSS-LINCO LINES, INC., 1 West Genesee Street, Buffalo, NY 14240, of the operating rights and property of BITER FREIGHT SYSTEM, INC., 1800 North Olden Avenue, Trenton, NJ 08638, and for acquisition by NOVO CORPORATION, 733 Third Avenue, New York, NY 10017, of control of such rights and property through the purchase. Applicants' attorney: Albert Stark, 143 East State Drive, Trenton, NJ 08620. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between Hoboken, N.J., and Springfield, Mass., serving the intermediate points of a defined area of Connecticut and New York, N.Y.; and the off-route points of a defined area of New Jersey and Connecticut; *sulphur*, except in bulk, from Warners, N.J., to Stamford, Conn., serving no intermediate points and return with *empty sulphur containers; magnesia* and *whiting*, except such commodities in bulk, from Philadelphia, Pa., to Stamford, Conn., serving no intermediate points; and return with *empty magnesia and whiting containers; litharge*, except in bulk, from Trenton, N.J., to Stamford, Conn., serving no intermediate points; and return with *empty litharge containers; vegetable oil fibre*, solid or liquid, and *lead oleate and leather dressing*, except such commodities in bulk, from Stamford, Conn., to Philadelphia, Pa., and Providence, R.I., serving the intermediate and off-route points of Trenton, N.J., Yonkers, N.Y., Conshohocken, Pa., and Briston, Pawtucket, and Warren, R.I. restricted to delivery only; and return with *empty vegetable oil fibre, lead oleate, and leather dressing containers; wines and liquors*, except in bulk, and empty containers therefor, between Hartford, Conn., and Providence, R.I., serving the intermediate points of Putnam, Willimantic, and Danielson, Conn., between New Haven, Conn., and Boston, Mass., serving the intermediate points of Providence and Pawtucket, R.I., and the off-route point of Cranston, R.I., between East Hartford, Conn., and New London, Conn., serving the intermediate points of Glastonbury, Colchester, Norwich, and Yantic, Conn., and the off-route point of Amston, Conn.;

General commodities, with exceptions, over irregular routes: (A) Between Philadelphia, Pa., on the one hand, and, on the other, Lansdowne, Allentown, and Bethlehem, Pa., and points and places in a defined area of Pennsylvania, between Philadelphia, Lansdowne, Allentown, and Bethlehem, Pa., and points and places in the above-described area in Pennsylvania, on the one hand, and, on the other, points and places in a defined area of New Jersey, between Trenton, N.J., on the one hand, and, on the other, points in a defined area of New Jersey, between New York, N.Y., on the one hand, and, on the other, Philadelphia, Pa., and points and places in a defined area of New Jersey; (B) between

New York, N.Y., and points and places in New Jersey within 30 miles of City Hall, New York, N.Y., on the one hand, and, on the other, points and places in Mercer, Hunterdon, and Warren Counties, N.J.; (C) between points in (B) on the one hand, and, on the other, points in (A), between East Port Chester, Conn., and Port Chester, N.Y., on the one hand, and, on the other, points in Connecticut and New York within 15 miles of Port Chester, N.Y.; *such commodities* as are dealt in by chain retail and mail order department stores, the business of which is the sale of general merchandise (except in bulk), between Danbury, Conn., on the one hand, and, on the other, points in a defined area of New York, restricted to the performance of retail delivery service; *vegetable oil fibre,* solid or liquid, and *lead oleate and leather dressing,* except such commodities in bulk, from Stamford, Conn., to Cherry Valley, Mass., and points in a defined area of Massachusetts, and return with *empty containers; castor, corn, soybean, rapeseed, chinawood, linseed, mustard seed, cottonseed, sunflower, tea seed, and rubber seed oils, in tank trucks,* from Jersey City, Guttenberg, and Bayway, N.J., to Stamford, Conn.;

Contractors' supplies (except in bulk), *and equipment, and heavy machinery,* between Stamford, Conn., and points in Connecticut within 15 miles of Stamford, on the one hand, and, on the other, points in Massachusetts, New Jersey, New York, and Rhode Island; *boats and materials* (except in bulk), used in the repair and construction of boats, between Stamford, Conn., and points in Connecticut within 15 miles of Stamford, on the one hand, and, on the other, Lake George, N.Y., points in New Jersey, and those in the New York, N.Y., commercial zone as defined by the Commission; *scrap metals,* between Stamford, Conn., and points in Connecticut within 15 miles of Stamford, on the one hand, and, on the other, points in Massachusetts and Rhode Island, those in Westchester County, N.Y., and those in the New York, N.Y., commercial zone as defined by the Commission; *such commodities* as are dealt in or sold by retail mail-order houses (except commodities in bulk, in tank vehicles), from points in Connecticut, to Norwalk, Conn.; and return with *repossessed shipments.* Vendee is authorized to operate as a *common carrier* in New Jersey, New York, Maryland, Pennsylvania, Delaware, Virginia, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11511. Authority sought for control and merger by MILLER TRANSFER & RIGGING CO., Post Office Box 6077, Akron, OH 44312, of the operating rights and property of NEW ENGLAND TRANSFER & RIGGING CO., Post Office Box 6118, and for acquisition by JACK A. RODGERS, 2155 Ridgewood Road, Akron, OH 44313, and JOHN J. BRUTVAN, 2366 Short Hills Drive, Akron, OH 44313, of control of such rights and property through the transaction. Applicants' attorneys: A. David Millner, and Edward F. Bowes, 744 Broad Street, Newark, NJ 07102. Operating rights sought to be controlled and merged: *Heavy machinery, equipment, and other articles* which by reason of size or weight require the use of special devices for handling, as a *common carrier* over irregular routes, between Pittsfield, Mass., and points within 25 miles thereof, on the one hand, and, on the other, points in Massachusetts, Rhode Island, Connecticut, and New York; *prefabricated buildings,* knocked down or in sections, and *fixtures and equipment* to be installed therein, when transported in connection with the movement of the building in which such fixtures and equipment are to be installed, from Nashua, N.H., to points in Maine, Vermont, Massachusetts, Rhode Island, Connecticut, New York, and New Jersey. MILLER TRANSFER & RIGGING CO. is authorized to operate as a *common carrier* in Pennsylvania, Ohio, New York, West Virginia, Maryland, Illinois, Indiana, New Jersey, Alabama, Minnesota, Oklahoma, California, Massachusetts, Connecticut, and the District of Columbia, and as a *contract carrier* in all of the States in the United States except Alaska and Hawaii. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11512. Authority sought for purchase by YELLOW FREIGHT SYSTEM, INC., 92d Street at State Line Road, Kansas City MO 64114, of a portion of the operating rights of EAZOR EXPRESS, INC., Eazor Square, Pittsburgh, PA 15201, and for acquisition by GEORGE E. POWELL, 801 West 64th Terrace, Kansas City, MO 64113, and GEORGE E. POWELL, JR., 1040 West 57th Street, Kansas City, MO 64113, of control of such rights through the purchase. Applicants' attorney: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be transferred: *General commodities,* excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between Parkersburg, W. Va., and Cincinnati, Ohio, serving all intermediate points, and serving the off-route points of Covington, Ky., those in Hamilton, Ohio, and a defined area of West Virginia, with service to and from points in Roane, Tyler, and Wetzel Counties restricted to perishable commodities in any quantity, and other commodities in truckload lots, between Chillicothe and Cincinnati, Ohio, serving the intermediate points of Dayton and Reading, Ohio, between Mineral Wells, and Huntington, W. Va., serving all intermediate points, and serving the off-route points of Ravenswood, W. Va., and those within 5 miles of Huntington, between Wheeling and Parkersburg, W. Va., serving all intermediate points, between Marietta, Ohio, and Huntington, W. Va., serving all intermediate points, and serving the off-route points of Racine and Minersville, Ohio, Mason City, Hartford, and Point Pleasant, W. Va., and points in a defined area of West Virginia, over one alternate route for operating convenience only. Vendee is authorized to operate as a *common carrier* in Illinois, Kansas, Oklahoma, Texas, Missouri, Indiana, Kentucky, Michigan, Ohio, Minnesota, Iowa, Nebraska, Colorado, Arizona, California, New Mexico, Georgia, Tennessee, South Carolina, Wyoming, South Dakota, Utah, Wisconsin, Pennsylvania, Maryland, Virginia, Alabama, New Jersey, Arkansas, Delaware, New York, Massachusetts, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11513. Authority sought for control by WEST NEBRASKA EXPRESS, INC., Post Office Box 952, Scottsbluff, NE 69361, of WILSON BROTHERS TRUCK LINE, INC., Post Office Box 636, Carthage, MO 64836, and for acquisition by CHESTER H. FLIESBACH, and CLARK N. WILLIAMS, both of Scottsbluff, Nebr. 69361, of control of WILSON BROTHERS TRUCK LINE, INC., through the acquisition by WEST NEBRASKA EXPRESS, INC. Applicants' attorney: Truman A. Stockton, Jr., the 1650 Grant Street Building, Denver, CO 80203. Operating rights sought to be controlled: *Numerous specified commodities,* as a *common carrier,* over irregular routes, from, to, and between specified points in the States of Kansas, Missouri, Oklahoma, Louisiana, Mississippi, Alabama, Nebraska, Iowa, South Dakota, Wyoming, Florida, Georgia, South Carolina, Texas, Wisconsin, Arkansas, North Dakota, Minnesota, North Carolina, Tennessee, Arizona, California, Colorado, Nevada, New Mexico, Utah, Montana, Illinois, Michigan, Indiana, and Kentucky, with certain restrictions, serving various intermediate and off-route points, as more specifically described in Docket No. MC–116544 and subnumbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating in full, the entirety, thereof. WEST NEBRASKA EXPRESS, INC., is authorized to operate as a *common carrier* in Nebraska, Colorado, Wyoming, Kansas, Iowa, Minnesota, Missouri, North Dakota, Wisconsin, South Dakota, Michigan, Indiana, Ohio, and Illinois. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–5961 Filed 4–18–72;8:52 am]

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federal register

WEDNESDAY, APRIL 19, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 76

PART II

DEPARTMENT OF TRANSPORTATION

Coast Guard

■

OPERATION OF VESSELS

Notice of Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 173]

[CGD 72-71]

ESPECIALLY HAZARDOUS CONDITIONS

Notice of Proposed Rule Making

The Coast Guard is considering issuing regulations establishing the criteria under which a Coast Guard Boarding Officer, when he observes a boat being used in an unsafe condition and in his judgment such use creates an especially hazardous condition, may direct the boat operator to take whatever immediate steps are necessary for the safety of those aboard, including returning to a mooring as authorized in section 13 of the Federal Boat Safety Act of 1971. Any interested person may submit written data, views, comments, suggestions, and arguments to the U.S. Coast Guard (CMC/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590. All communications received within 45 days after the date of publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed regulations. Each person submitting comments should include his name and address, identify this notice [CGD 72-71], and give reasons and supporting data for his recommendations. All comments will be available for examination in Room 8234.

On May 17, 1972, at 9:30 a.m. a public hearing to receive the views of interested persons on the proposed regulations will be held in Room 8332, 400 Seventh Street SW., Washington, DC. Each person who wishes to make an oral statement is requested to notify the U.S. Coast Guard (CMC/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590, before May 15, 1972, and indicate the amount of time required for initial statement. The hearing will be an informal hearing conducted by a designated representative of the U.S. Coast Guard. It will not be a judicial or evidentiary type hearing, so there will be no cross-examination of persons presenting statements. After all initial statements have been completed, those persons who wish to make rebuttal statements will be given an opportunity to do so in the same order in which they made their initial statements.

Section 13 of the Federal Boat Safety Act of 1971 defines an unsafe condition as a boat being used without sufficient lifesaving devices or firefighting devices, or being used in an overloaded or other unsafe condition as defined in regulations. The effect of these proposed rules would be to define the other unsafe conditions.

Coast Guard Boating Statistics, published in Coast Guard Publication CG-357, summarizes the major causes of boating accidents, property damage, injuries, and deaths. The Coast Guard considers the majority of these casualties preventable and proposes that casualty causes that can be shown to be significant contributors to deaths, injuries, or property damage, be listed in § 173.07 as unsafe conditions.

It is recognized that under certain circumstances some of these unsafe conditions may not be especially hazardous. For this reason, the judgment of the Boarding Officer that continued use of the boat creates an especially hazardous condition is a precondition for requiring that corrective steps be taken.

Section 173.07(a) makes improper display of navigation lights between sunset and sunrise an unsafe condition. The requirement that boats shall be equipped with navigation lights is presently contained in 46 CFR 25.05.

Section 173.07 (b), (c), (d), and (e) deals with the prevention of boat fires and explosions. Section 173.07 (b) and (c) concerns the leakage of fuel, which is one of the basic elements of a fire or explosion. Section 173.07 (d) and (e) refers to existing requirements from 46 CFR 25.40 and 46 CFR 25.35 respectively.

Section 173.05 requires operators to comply with the instructions of the Boarding Officer to correct or end the hazardous condition. Section 173.09 provides that operators who fail to comply with the Boarding Officer's directions are subject to the provisions and penalties of section 34 and 35(b) of the Federal Boat Safety Act of 1971. The Boarding Officer's authority to arrest is contained in Title 14 of the United States Code, section 89.

The Boating Safety Advisory Council has been consulted and its opinions and advice have been considered in the formulation of these proposed regulations. The transcript of the proceedings of the meeting of the Boating Safety Advisory Council at which these regulations were discussed is available for examination in Room 6240, U.S. Coast Guard Headquarters, Department of Transportation Headquarters Building, 400 Seventh Street SW., Washington, DC 20590. The minutes of the meeting are available from the Executive Director, Boating Safety Advisory Council at this address.

These regulations are proposed under the authority of the Federal Boat Safety Act of 1971 (85 Stat. 213). The authority and responsibilities vested in the Secretary of the Department of Transportation by this Act were delegated to the Commandant of the Coast Guard on October 5, 1971 (36 F.R. 19593).

In consideration of the foregoing, the Coast Guard proposes to amend Chapter I of Title 33 of the Code of Federal Regulations by adding a new Part 173 to read as follows:

PART 173—CORRECTION OF ESPECIALLY HAZARDOUS CONDITIONS

Sec.

AUTHORITY: The provisions of this Part 173 issued under the Act of August 10, 1971, Public Law 92-75, section 13, 85 Stat. 213, 49 CFR 1.46(o)(1) (36 F.R. 19593).

§ 173.01 Purpose and applicability.

This part prescribes rules to implement section 13 of the Federal Boat Safety Act of 1971 which governs the correction of especially hazardous conditions on boats using waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for boats owned in the United States, except operators of—

(a) Foreign boats temporarily using waters subject to U.S. jurisdiction;

(b) Military or public boats of the United States, except recreational-type public boats;

(c) A boat whose owner is a State or subdivision thereof, which is used principally for governmental purposes and which is clearly identifiable as such;

(d) Ship's lifeboats.

§ 173.03 Definitions.

As used in this part:

(a) "Act" means the Federal Boat Safety Act of 1971 (85 Stat. 213).

(b) "Boat" means any vessel—

(1) Manufactured or used primarily for noncommercial use; or

(2) Leased, rented, or chartered to another for the latter's noncommercial use; or

(3) Engaged in the carrying of six or fewer passengers.

(c) "Coast Guard Boarding Officer" means a commissioned, warrant, or petty officer of the Coast Guard having authority to board any vessel under the Act of 4 August 1949, 63 Stat. 502, as amended (14 U.S.C. 89).

(d) "Operator" means the person who is in control or in charge of a boat while it is in use.

(e) "Use" means operate, navigate, or employ.

(f) "Vessel" includes every description of watercraft, other than a seaplane on the water, used or capable fo being used as a means of transportation on the water.

§ 173.05 Action to correct an especially hazardous condition.

An operator of a boat who is directed by a Coast Guard Boarding Officer to take immediate and reasonable steps necessary for the safety of those aboard the vessel, under section 13 of the Act, shall follow the direction of the Boarding Officer, which may include direction to—

(a) Correct the especially hazardous condition immediately;

(b) Proceed to a mooring, dock, or anchorage; or

(c) Suspend further use of the boat until the especially hazardous condition is corrected.

§ 173.07 Other unsafe conditions.

For the purpose of section 13 of the Act, "other unsafe condition" means a boat—

(a) Does not display the navigation lights prescribed by 46 CFR 25.05 between sunset and sunrise;

(b) Has fuel leakage from either the fuel system or engine;

(c) Has an accumulation of fuel in the bilges or a compartment other than a fuel tank;

(d) Does not meet the ventilation requirements for tanks and engine spaces prescribed by 46 CFR 25.40; or

(e) Does not meet the requirements for backfire flame control prescribed by 46 CFR 25.35.

§ 173.09 Penalties.

An operator of a boat who does not follow the directions of a Coast Guard Boarding Officer prescribed in § 173.05 is, in addition to any other penalty prescribed by law, subject to—

(a) The criminal penalties of section 34 of the Federal Boat Safety Act of 1971 which provides that "Any person who willfully violates section 12(c) of this Act or the regulations issued thereunder shall be fined not more than $1,000 for each violation or imprisoned not more than 1 year, or both," and

(b) The civil penalties of subsection 35(b) of the Federal Boat Safety Act of 1971 which provides "In addition to any other penalty prescribed by law any person who violates any other provision of this Act or the regulations issued thereunder shall be liable to a civil penalty of not more than $500 for each violation. If the violation involves the use of a vessel, the vessel, except as exempted by subsection 4(c) of this Act, shall be liable and may be proceeded against in the district court of any district in which the vessel may be found."

This proposal is made under the authority of the Federal Boat Safety Act of 1971 (Public Law 92–75, 85 Stat. 213 (Aug. 10, 1971)); 49 CFR 1.46(o)(1) (36 F.R. 19593).

Dated: April 12, 1972.

A. C. WAGNER,
Rear Admiral, U.S. Coast Guard, Chief, Office of Boating Safety.

[FR Doc.72-5829 Filed 4-18-72;8:45 am]

[46 CFR Parts 170, 171]

[CGD 72-54PH]

VESSEL NUMBERING AND CASUALTY AND ACCIDENT REPORTING

Notice of Proposed Rule Making

The Coast Guard is considering issuing new regulations on the numbering of vessels and reporting of vessel casualties under the Federal Boat Safety Act of 1971. The proposed regulations would establish a standard numbering system for vessels required to be numbered under the Act and a uniform vessel casualty and accident reporting system for vessels required to be numbered under the Act and for recreational vessels.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed rule to the Commandant (CMC), Headquarters, U.S. Coast Guard, Washington, D.C. 20590. The comments should refer to this notice number CGD 72-54PH, and should give the reasons upon which any recommended changes are based, any specific wording recommended, and the name, address, and organization if any, of the commentator.

The Coast Guard will hold an informal hearing on May 17, 1972, at 9:30 a.m. in Conference Room 8332, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. Interested persons are invited to attend the hearing and present oral or written statements on this proposal.

All written comments received on or before May 31, 1972, will be considered before final action is taken on this proposal. The proposed rule may be changed in the light of comments received.

Copies of all written comments received will be available for examination in Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC, both before and after the closing date for the receipt of written comments.

On December 6, 1971, the Boating Safety Advisory Council, established under the authority of section 33 of the Federal Boat Safety Act of 1971, was consulted concerning the reasonableness and appropriateness of the proposed rule.

The proposed rule was provided to each State for review and comment. The Coast Guard considered the comments received in preparing the proposed rule which was brought before the Executive Committee of the Boating Safety Advisory Council on February 28, 1972, and the full Council on March 28, 1972. The Council advised that the rule should be published in the FEDERAL REGISTER as a notice of proposed rule making.

The need for the proposed rule is to establish a standard numbering system as prescribed by subsection 18(a) of the Federal Boat Safety Act. The proposed rules would replace rules in Subchapter S of Title 46 of the Code of Federal Regulations.

The proposed standard numbering system is based on present numbering regulations, which have been rewritten to bring them into conformity with the Federal Boat Safety Act of 1971. The Act expands jurisdiction to cover (1) waters subject to Federal jurisdiction; and (2) the "State" of American Samoa. The Act expands the applicability to require the numbering of any undocumented vessel equipped with propulsion machinery.

The effect of this proposed amendment would be to require numbers on all undocumented vessels equipped with propulsion machinery of any type, for example, canoes or sailboats with engines of less than 10 horsepower.

The proposed numbering rules would apply to undocumented vessels that are "equipped with propulsion machinery." This is a change from the Federal Boat Act of 1958. The language "equipped with propulsion machinery of any type" replaced previous language "propelled by machinery." This change in the law was made to obviate any questions concerning whether a boat not being operated at the moment by machinery comes within the numbering requirements of the Act.

Certain classes of vessels are exempted from the numbering requirements under the authority prescribed in subsection 19(a) of the Act.

Racing vessels are exempted from the requirement for numbering as they are under present numbering rules. These vessels are usually identified by the racing associations. The special construction or configuration and limited use of such vessels to organized and supervised racing events also justifies continuing the exemption of racing vessels.

Vessels used as yacht tenders are exempted from rules requiring application for a number, payment of a fee, and carriage of a certificate of number in those States where the Coast Guard is the numbering authority, if they display an identification number and meet certain other requirements.

Under this proposal, States with approved numbering systems and the Coast Guard in States without approved numbering systems would issue vessel numbers conforming to a prescribed format of alphabetic and numeric characters. The requirements for obtaining a certificate of number and for the information contained on an application and the certificate of number would be uniform. The information contained on an application for a number would be expanded to include the manufacturer's hull identification number, if assigned, and the type of vessel. The information would be included on a certificate of number.

Section 170.75 would change present § 171.15–11(a) to provide a uniform period of validity of not more than 60 days for any temporary certificate that is issued under a standard numbering system.

Section 170.29 would change requirements in present §§ 171.15–20 and 171.15–21 by adding a requirement for notice by an owner to the issuing authority when a vessel is stolen or recovered.

Present Part 173, under the authority of the Federal Boat Act of 1958, prescribes reports and statistical information required on boating accidents. The Federal Boat Safety Act of 1971 requires a uniform vessel casualty reporting system. The Federal Boat Safety Act of 1971 affects the casualty and accident reporting regulations as follows:

(a) The applicability is expanded to include recreational-type public vessels of the United States.

(b) Jurisdiction is expanded by the Act. In addition to jurisdiction on navigable waters of the United States, jurisdiction is expanded to cover all waters subject to Federal jurisdiction. This includes waters on land over which the United States has enforcement jurisdiction due to ownership or other proprietary interest, placing the waters under Federal jurisdiction.

The Federal Boat Safety Act of 1971 provides that the Secretary may issue regulations and standards for boats and associated equipment when determined to be necessary and contribute to boating safety. Statistics are required to establish the need for regulations and standards. The casualty reporting system prescribed in the proposed regulations is intended to be a source of information from which a determination may be made that a new standard or regulation is necessary.

Most of the information prescribed in the proposed regulations is presently required and was incorporated in the Coast

Guard Boating Accident Report Form (CG-3865). Specifying this information in the regulations will achieve uniformity in State vessel casualty report forms and will provide authority to require reports to be filled in.

Vessel accidents or casualties that would be required to be reported by proposed § 170.55 are presently required to be reported by existing regulation 46 CFR 173.01-5, except reportable injuries which would be broadened to meet the needs of the States that desire that lesser injuries be reported.

Proposed § 170.55 would require a report when a person loses consciousness or receives medical attention or is disabled for more than 24 hours. Existing regulations require reports when a person is incapacitated for a period in excess of 72 hours.

A vessel subject to the reporting requirement in proposed § 170.55 is unchanged from existing regulation 46 CFR 173.01-5(c) which states in part—

A vessel subject to this subpart is considered to be involved in a "boating accident" whenever the occurrence results in damage by or to the vessel or its equipment, in injury or loss of life to any person, or in the disappearance of any person from on board under circumstances which indicate the possibility of death or injury.

Proposed § 170.53 would require immediate notification in casualties involving death to enable investigations to be conducted while witnesses, survivors, and vessels are at the scene.

Proposed § 170.57 would increase the present information requirements in § 173.01-10 on the written report so as to include a vessel's hull identification number to provide for specific identification of vessels involved in casualties.

Part 171 of the proposal is new and sets forth procedures not previously in the regulations for a State to follow to obtain approval of a numbering system. It also prescribes the requirements to be met by a State in obtaining approval of a numbering system and a vessel casualty reporting system. A State having an approved vessel casualty reporting system would be required to have a State agency to review vessel casualty reports for completeness and accuracy, to determine the cause or causes of casualties reported, and to provide written notification when problem areas in boating safety peculiar to a State are determined. Subpart D of Part 171 would require the State to forward a copy of each casualty or accident report to the Coast Guard. This requirement although not previously in the regulations reflects current practice.

These regulations are proposed under the authority of the Federal Boat Safety Act of 1971 (Public Law 92-75, 85 Stat. 213). The authority and responsibilities vested in the Secretary by this Act were delegated to the Commandant of the Coast Guard by the Secretary of Transportation on October 5, 1971 (36 F.R. 19593).

In consideration of the foregoing, it is proposed to revise Subchapter S, Title 46 of the Code of Federal Regulations to read as follows:

SUBCHAPTER S—VESSEL NUMBERING AND CASUALTY AND ACCIDENT REPORTING; NUMBERING AND CASUALTY REPORTING SYSTEMS

PART 170—VESSEL NUMBERING AND CASUALTY AND ACCIDENT REPORTING

Subpart A—General

Sec.
170.1 Purpose.
170.3 Definitions.

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170.23 Inspection of certificate.
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170.27 Numbers: Display; size; color.
170.29 Notification to issuing authority.
170.31 Surrender of certificate of number.
170.33 Removal of number.
170.35 Coast Guard validation sticker.

Subpart C—Casualty and Accident Reporting

170.51 Applicability.
170.53 Immediate notification of death or disappearance.
170.55 Report of casualty or accident.
170.57 Casualty or accident report.
170.59 Where to report.

Subpart D—Issue of Certificate of Number

170.71 Application for certificate of number.
170.73 Duplicate certificate of number.
170.75 Temporary certificate.
170.77 Validity of certificate of number.
170.79 Expiration of Coast Guard certificate of number.
170.81 Coast Guard forms for numbering and casualty reporting.
170.83 Availability of Coast Guard forms.
170.85 Coast Guard fees.

Appendix A—Issuing authorities and reporting authorities.

AUTHORITY: The provisions of this Part 170 issued under secs. 18 and 37 of the Federal Boat Safety Act of 1971, Public Law 92-75, 85 Stat. 213, 220, 227 (Aug. 10, 1971); 49 CFR 1.46(o)(1) (36 F.R. 19593).

Subpart A—General

§ 170.1 Purpose.

This part prescribes requirements for numbering vessels and for reporting casualties and accidents to implement sections 17, 18, and 37 of the Federal Boat Safety Act of 1971.

§ 170.3 Definitions.

As used in this part:

(a) "Act" means the Federal Boat Safety Act of 1971 (Public Law 92-75, 85 Stat. 213).

(b) "Issuing authority" means a State that has a numbering system approved by the Coast Guard or the Coast Guard where a numbering system has not been approved. Issuing authorities are listed in Appendix A of this part.

(c) "Operator" means the person who is in control or in charge of a vessel while it is in use.

(d) "Owner" means a person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles him to such possession.

(e) "Person" means an individual, firm, partnership, corporation, company, association, joint-stock association, or governmental entity and includes a trustee, receiver, assignee, or similar representative of any of them.

(f) "Reporting authority" means a State that has a numbering system approved by the Coast Guard or the Coast Guard where a numbering system has not been approved. Reporting authorities are listed in Appendix A of this part.

(g) "State" means a State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

(h) "State of principal use" means the State on whose waters a vessel is used or to be used most during a calendar year.

(i) "Use" means operate, navigate, or employ.

Subpart B—Numbering

§ 170.11 Applicability.

This subpart applies to each vessel equipped with propulsion machinery of any type used on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for vessels owned in the United States except—

(a) Foreign vessels temporarily using waters subject to U.S. jurisdiction;

(b) Military or public vessels of the United States, except recreational-type public vessels;

(c) A vessel whose owner is a State or subdivision thereof, which is used principally for governmental purposes, and which is clearly identifiable as such;

(d) Ships' lifeboats;

(e) A vessel which has or is required to have a valid marine document as a vessel of the United States.

§ 170.13 Exemptions.

Where the Coast Guard issues numbers, the following classes of vessels are exempt, under section 19(a) of the Act, from the numbering provisions of the Act and this part:

(a) A vessel that is used exclusively for racing.

(b) A vessel equipped with propulsion machinery of less than 10 horsepower that—

(1) Is owned by the owner of a vessel for which a valid certificate of number has been issued;

(2) Displays the number of that numbered vessel followed by the suffix "1" in the manner prescribed in § 170.27; and

(3) Is used as a tender for direct transportation between that vessel and the shore and for no other purpose.

§ 170.15 Vessel number required.

(a) Except as provided in § 170.17, no person may use a vessel to which this part applies unless—

(1) It has a number issued on a certificate of number by the issuing authority in the State in which the vessel is principally used; and

(2) The number is displayed as described in § 170.27.

(b) This section does not apply to a vessel for which a valid temporary cer-

tificate has been issued to its owner by the issuing authority in the State in which the vessel is principally used.

§ 170.17 Reciprocity.

(a) Subsection 18(c) of the Act states:

When a vessel is actually numbered in the State of principal use, it shall be considered as in compliance with the numbering system requirements of any State in which it is temporarily used.

(b) Subsection 18(d) of the Act states:

When a vessel is removed to a new State of principal use, the issuing authority of that State shall recognize the validity of a number awarded by any other issuing authority for a priod of at least 60 days before requiring numbering in the new State.

§ 170.19 Other numbers prohibited.

No person may use a vessel to which this part applies that has any number that is not issued by an issuing authority for that vessel on its forward half.

§ 170.21 Certificate of number required.

(a) Except as provided in §§ 170.13 and 170.17, no person may use a vessel to which this part applies unless it has on board—

(1) A valid certificate of number or temporary certificate for that vessel issued by the issuing authority in the State in which the vessel is principally used; or

(2) For a vessel described in paragraph (b) of this section, a copy of the lease or rental agreement, signed by the owner or his authorized representative and by the person leasing or renting the vessel, that contains at least—

(i) The vessel number that appears on the certificate of number; and

(ii) The period of time for which the vessel is leased or rented.

(b) Section 20(a) of the Act states in part:

The certificate of number for vessels less than 26 feet in length and leased or rented to another for the latter's noncommercial use of less than 24 hours may be retained on shore by the vessel's owner or his representative at the place from which the vessel departs or returns to the possession of the owner or his representative.

§ 170.23 Inspection of certificate.

Each person using a vessel to which this part applies shall present the certificate or lease or rental agreement required by § 170.21 to any Federal, State, or local law enforcement officer for inspection at his request.

§ 170.25 Location of certificate of number.

No person may use a vessel to which this part applies unless the certificate or lease or rental agreement required by § 170.21 is carried on board in such a manner that it can be handed to a person authorized under § 170.23 to inspect it.

§ 170.27 Numbers: Display; size; color.

(a) Each number required by § 170.15 must—

(1) Be painted on or permanently attached to each side of the forward half of the vessel except as allowed by paragraph (b) or required by paragraph (c) of this section;

(2) Be in plain vertical block characters of not less than 3 inches in height;

(3) Contrast with the color of the background and be distinctly visible and legible;

(4) Have spaces or hyphens that are equal to the width of a letter other than "I" or a number other than "1" between the letter and number groupings (DC 5678 EF) (DC–5678–EF); and

(5) Read from left to right.

(b) When a vessel is used by a manufacturer or by a dealer for testing or demonstrating, the number may be painted on or attached to removable plates that are temporarily but firmly attached to each side of the forward half of the vessel, or be available to be shown upon demand.

(c) On vessels so configured that a number on the hull or superstructure would not be easily visible, the number must be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the number is visible from each side of the vessel.

(d) Each number displayed on a tender exempted under § 170.13 must meet the requirements of paragraph (a) of this section and have a space or hyphen that is equal to the width of a letter other than "I" or a number other than "1" between the suffix and the number. (Examples: (DC 5678 EF 1) (DC–5678–EF–1)).

§ 170.29 Notification to issuing authority.

A person whose name appears as the owner of a vessel on a certificate of number shall, within 15 days, notify the issuing authority in a manner prescribed by the issuing authority of—

(a) Any change in his address;

(b) The theft or recovery of the vessel;

(c) The loss or destruction of a valid certificate of number;

(d) The transfer of all or part of his interest in the vessel; and

(e) The destruction or abandonment of the vessel.

§ 170.31 Surrender of certificate of number.

A person whose name appears as the owner of a vessel on a certificate of number shall surrender the certificate in a manner prescribed by the issuing authority within 15 days after it becomes invalid under paragraph (b), (c), or (d) of § 170.77.

§ 170.33 Removal of number.

The person whose name appears on a certificate of number as the owner of a vessel shall remove the number from the vessel when—

(a) The vessel is documented by the Coast Guard;

(b) The certificate of number is invalid under paragraph (c) of § 170.77; or

(c) The vessel is no longer principally used in the State where the certificate was issued.

§ 170.35 Coast Guard validation sticker.

No person may use a vessel except a vessel exempted by § 170.13 that has a number issued by the Coast Guard unless it has the validation stickers issued with the certificate of number displayed within 3 inches aft of the number and in line with the number.

Subpart C—Casualty and Accident Reporting

§ 170.51 Applicability.

(a) This subpart applies to each vessel used on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for vessels owned in the United States that—

(1) Is used by its operator for recreational purposes; or

(2) Is required to be numbered under this part.

(b) This subpart does not apply to a vessel required to have a certificate of inspection under this chapter.

§ 170.53 Immediate notification of death or disappearance.

(a) When, as a result of an occurrence that involves a vessel or its equipment, a person dies or disappears from a vessel, the operator shall, without delay, by the quickest means available, notify the nearest reporting authority listed in Appendix A of this part of—

(1) The date, time, and exact location of the occurrence;

(2) The name of each person who died or disappeared;

(3) The number and name of the vessel; and

(4) The names and addresses of the owner and operator.

(b) When the operator of a vessel cannot give the notice required by paragraph (a) of this section, each person on board the vessel shall notify the casualty reporting authority or determine that the notice has been given.

§ 170.55 Report of casualty or accident.

(a) The operator of a vessel shall submit the casualty or accident report prescribed in § 170.57 to the reporting authority prescribed in § 170.59 when, as a result of an occurrence that involves the vessel or its equipment—

(1) A person dies;

(2) A person loses consciousness or receives medical treatment or is disabled for more than 24 hours;

(3) Damage to the vessel and other property damage totals more than $100; or

(4) A person disappears from the vessel under circumstances that indicate death or injury.

(b) A report required by this section must be made—

(1) Within 48 hours of the occurrence if a person dies within 24 hours of the occurrence;

(2) Within 48 hours of the occurrence if a person loses consciousness or receives medical treatment or is disabled for more than 24 hours or disappears from a vessel; and

(3) Within 5 days of the occurrence or death if an earlier report is not required by this paragraph.

(c) When the operator of a vessel cannot submit the casualty or accident report required by paragraph (a) of this section, the owner shall submit the casualty or accident report.

§ 170.57 Casualty or accident report.

Each report required by § 170.55 must be in writing, dated upon completion, and signed by the person who prepared it and must contain, if available, at least the following information about the casualty or accident:

(a) The numbers and names of each vessel involved.

(b) The name and address of each owner of each vessel involved.

(c) The name of the nearest city or town, the county, the State, and the body of water.

(d) The time and date of the casualty or accident occurred.

(e) The location on the water.

(f) The visibility, weather, and water conditions.

(g) The estimated air and water temperatures.

(h) The name, address, age or date of birth, telephone number, vessel operating experience, and boating safety training of the operator making the report.

(i) The name and address of each operator of each vessel involved.

(j) The number of persons on board or towed on skis by each vessel.

(k) The name, address, and date of birth of each person injured or killed.

(l) The cause of each death.

(m) Weather forecasts available to, and weather reports used by, the operator before and during the use of the vessel.

(n) The name and address of each owner of property involved.

(o) The availability and use of personal flotation devices.

(p) The type and amount of each fire extinguisher used.

(q) The nature and extent of each injury.

(r) A description of all property damage and vessel damage with an estimate of the cost of all repairs.

(s) A description of each equipment failure that caused or contributed to the cause of the casualty.

(t) A description of the vessel casualty or accident.

(u) The type of vessel operation (cruising, drifting, fishing, hunting, or other), and the type of accident (capsizing, sinking, fire, or explosion or other).

(v) The opinion of the person making the report as to the cause of the casualty.

(w) The make, model, type (open, cabin, house, or other), beam width at widest point, length, depth from transom to keel, horsepower, propulsion (outboard, inboard, inboard outdrive, sail, or other), fuel (gas, diesel, or other), construction (wood, steel, aluminum, plastic, fiberglass, or other), and year built (model year), of the reporting operator's vessel.

(x) The name, address, and telephone number of each witness.

(y) The manufacturer's hull identification number, if any, of the reporting operator's vessel.

(z) The name, address, and telephone number of the person submitting the report.

§ 170.59 Where to report.

A report required by § 170.55 must be submitted to—

(a) The reporting authority listed in Appendix A of this part where the vessel number was issued or, if the vessel has no number, where the vessel is principally used; or

(b) The reporting authority where the casualty or accident occurred, if it occurred outside the State where the vessel is numbered or principally used.

Subpart D—Issue of Certificate of Number

§ 170.71 Application for certificate of number.

Any person who is the owner of a vessel to which § 170.11 applies may apply for a certificate of number for that vessel by submitting to the issuing authority, listed in Appendix A of this part, where the vessel will principally be used—

(a) An application on a form and in a manner prescribed by the issuing authority; and

(b) The fee required by the issuing authority.

§ 170.73 Duplicate certificate of number.

If a certificate of number is lost or destroyed, the person whose name appears on the certificate as the owner may apply for a duplicate certificate by submitting to the issuing authority that issued the certificate—

(a) An application on a form or in a manner prescribed or the issuing authority; and

(b) The fee required by the issuing authority, if any.

§ 170.75 Temporary certificate.

A temporary certificate valid for not more than 60 days after it is issued may be issued by an issuing authority pending the issue of a certificate of number. A temporary certificate is not valid after the date that the owner receives the certificate of number from the issuing authority.

§ 170.77 Validity of certificate of number.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, a certificate of number is valid until the date of expiration prescribed by the issuing authority.

(b) A certificate of number issued by an issuing authority is invalid after the date upon which—

(1) The vessel is documented or required to be documented under Part 67 of this chapter;

(2) The person whose name appears on the certificate of number as owner of the vessel transfers all of his ownership in the vessel; or

(3) The vessel is destroyed or abandoned.

(c) A certificate of number issued by an issuing authority is invalid if—

(1) The application for the certificate of number contains a false or fraudulent statement; or

(2) The fees for the issuance of the certificate of number are not paid.

(d) A certificate of number is invalid 60 days after the day on which the vessel is no longer principally used in the State where the certificate was issued.

§ 170.79 Expiration of Coast Guard certificate of number.

A certificate of number issued by the Coast Guard expires 3 years from the date it is issued.

§ 170.81 Coast Guard forms for numbering and casualty reporting.

(a) In a State where the Coast Guard is the issuing authority, the following Coast Guard forms must be used:

(1) Each application for a certificate of number or renewal must be made on two-part Form CG–3876 and 3876A, Application for Number and Temporary Certificate.

(2) Each notifiaction required by § 170.29(b) must be made on Form CG–2921, Notification of Change in Status of Vessel.

(3) Each notification required by § 170.29(a) must be made on Form CG–3920, Change of Address Notice.

(4) Each notification required by § 170.29(c) must be made in writing.

(5) Each application for a duplicate certificate of number must be made on two-part Form CG–3919 and CG–3919A, Application for Duplicate Certificate of Number and Temporary Duplicate Certificate.

(6) Each vessel casualty required to be reported by § 170.55 must be made on Form CG–3865.

(b) Each surrender of a certificate of number required by § 170.31 may be made in any form but must contain a written statement as to why the certificate is being surrendered.

§ 170.83 Availability of Coast Guard forms.

In a State where the Coast Guard is the issuing authority, forms required by § 170.81 are available at all manned Coast Guard shore units, except light and loran stations and, except for Form CG–3865, at all first- and second-class and some third- and fourth-class post offices.

§ 170.85 Coast Guard fees.

(a) In a State where the Coast Guard is the issuing authority the fees for numbering are—

(1) Original number and two validation stickers—$6;

(2) Renewal of number and two validation stickers—$6;

(3) Duplicate certificate of number—$1; and

(4) Replacement of lost or destroyed validation sticker—$0.25 each.

(b) Fees must be paid by check or money order made payable to the "U.S. Coast Guard," except when the application is made in person by the owner, the fee may be paid in cash.

APPENDIX A

ISSUING AUTHORITIES AND REPORTING AUTHORITIES

(a) The State is the issuing authority and reporting authority in:

STATE	STATE
Alabama—AL.	Nebraska—NB.
Arizona—AZ.	Nevada—NV.
Arkansas—AR.	New Jersey—NJ.
California—CF.	New Mexico—NM.
Colorado—CL.	New York—NY.
Connecticut—CT.	North Carolina—NC.
Delaware—DL.	North Dakota—ND.
Florida—FL.	Ohio—OH.
Georgia—GA.	Oklahoma—OK.
Hawaii—HA.	Oregon—OR.
Idaho—ID.	Pennsylvania—PA.
Illinois—IL.	Puerto Rico—PR.
Indiana—IN.	Rhode Island—RI.
Iowa—IA.	South Carolina—SC.
Kansas—KA.	South Dakota—SD.
Kentucky—KY.	Tennessee—TN.
Louisiana—LA.	Texas—TX.
Maine—ME.	Utah—UT.
Maryland—MD.	Vermont—VT.
Massachusetts—MS.	Virginia—VA.
Michigan—MC.	Virgin Islands—VI.
Minnesota—MN.	West Virginia—WV.
Mississippi—MI.	Wisconsin—WS.
Missouri—MO.	Wyoming—WY.
Montana—MT.	

(b) The Coast Guard is the issuing authority and reporting authority in:

STATE	STATE
Alaska—AK.	Guam—GM.
American Samoa—AS.	New Hampshire—NH
District of Columbia—DC.	Washington—WN.

(c) The abbreviations following the names of the States listed in paragraphs (a) and (b) are the two capital letters that must be used in the number format to denote the State of principal use as prescribed in § 171.29.

PART 171—STATE NUMBERING AND CASUALTY REPORTING SYSTEMS

Subpart A—General

Subpart B—Numbering System Requirements

Subpart C—Casualty Reporting System Requirements

Subpart D—State Reports

AUTHORITY: The provisions of this Part 171 issued under sec. 18 and 37 of the Federal Boat Safety Act of 1971, Public Law 92-75, 85 Stat. 213, 220, 227 (Aug. 10, 1971); 49 CFR 1.46(o)(1) (36 F.R. 19593).

Subpart A—General

§ 171.1 Applicability.

This part establishes a standard numbering system for vessels and a uniform vessel casualty reporting system for vessels by prescribing requirements applicable to the States for the approval of State numbering systems.

§ 171.3 Definitions.

As used in this part:

(a) "Act" means the Federal Boat Safety Act of 1971 Public Law 92-75, 85 Stat. 213.

(b) "Operator" means the person who is in control or in charge of a vessel while it is in use.

(c) "Owner" means a person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles him to such possession.

(d) "Reporting authority" means a State where a numbering system has been approved by the Coast Guard or the Coast Guard where a numbering system has not been approved. Reporting authorities are listed in Appendix A of Part 170 of this chapter.

§ 171.5 Requirements for approval.

The Commandant approves a State numbering system if he finds, after examination of the information submitted by a State, that the State numbering system and vessel casualty reporting system meet the requirements in this part and the provisions of sections 18 through 24 and section 37 of the Act relating to numbering and casualty reporting.

§ 171.7 Approval procedure.

To obtain approval by the Commandant of a numbering system or of any revision to a numbering system, an authorized representative of the State must submit three copies of the State laws, regulations, forms, and policy statements, if any, that pertain to the numbering system or revision to U.S. Coast Guard (BL/62), 400 Seventh Street SW., Washington, DC 20590.

Subpart B—Numbering System Requirements

§ 171.11 Applicability of State number system.

(a) Except as allowed in paragraph (c) of this section, a State numbering system must require the numbering of vessels to which § 170.11 of this chapter applies.

(b) A State numbering system may require the numbering of any vessel subject to the jurisdiction of the State unless prohibited by the regulations in Part 170 of this chapter.

(c) A State numbering system may exempt from its numbering requirements any vessel or class of vessels to which § 170.13 of this chapter applies.

§ 171.13 Owner or operator requirements.

A State numbering system must contain the requirements applicable to an owner or a person operating a vessel that are prescribed in the following sections of Part 170 of this chapter:

(a) Paragraph (a) of § 170.15 Vessel number required.
(b) Section 170.19 Other numbers prohibited.
(c) Paragraph (a) of § 170.21 Certificate of number required.
(d) Section 170.23 Inspection of certificate.
(e) Section 170.25 Location of certificate of number.
(f) Section 170.29 Notification to issuing authority.
(g) Section 170.31 Surrender of certificate of number.
(h) Section 170.33 Removal of number.
(i) Section 170.71 Application for certificate of number.
(j) Section 170.73 Duplicate certificate of number.

§ 171.15 Validation stickers.

(a) If a State issues validation stickers, its numbering system must contain the requirements that stickers must be displayed aft of the number and the stickers must meet the requirements in paragraphs (b) and (c) of this section.

(b) Validation stickers must be approximately 3 inches square.

(c) The year in which each validation sticker expires must be indicated by the colors blue, international orange, green, and red, in rotation beginning with blue for stickers that expire in 1973.

§ 171.17 Contents of application for certificate of number.

(a) Each form for application for a certificate of number must contain the following information:

(1) Name of the owner.
(2) Address of the owner, including ZIP code.
(3) Date of birth of the owner.
(4) Citizenship of the owner.
(5) State in which vessel is or will be principally used.
(6) The number previously issued by an issuing authority for the vessel, if any.
(7) Whether the application is for a new number, renewal of a number, or transfer of ownership.
(8) Whether the vessel is used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying, commercial fishing, or other commercial use.
(9) Make of vessel.
(10) Year vessel was manufactured.
(11) Manufacturer's hull identification number, if any.
(12) Overall length of vessel.
(13) Type of vessel (open, cabin, house, or other).
(14) Whether the hull is wood, steel, aluminum, fiberglass, plastic, or other.
(15) Whether the propulsion is inboard, outboard, inboard-outdrive, or sail and name of engine manufacturer if available.
(16) Whether the fuel is gasoline, diesel, or other.
(17) The signature of the owner.

(b) An application made by a manufacturer or dealer for a number that is to be temporarily affixed to a vessel for demonstration or test purposes may omit items 9 through 16 of paragraph (a) of this section.

(c) An application made by a person who intends to lease or rent the vessel without propulsion machinery may omit items 15 and 16 of paragraph (a) of this section.

§ 171.19 Contents of a certificate of number.

(a) Except as allowed in paragraph (b) of this section, each certificate of number must contain the following information:

(1) Number issued to the vessel.
(2) Expiration date of the certificate.
(3) State of principal use.
(4) Name of the owner.
(5) Address of owner, including zip code.
(6) Whether the vessel is used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying, commercial fishing or other commercial use.
(7) Manufacturer's hull identification number (if any).
(8) Make of vessel.
(9) Year vessel was manufactured.
(10) Overall length of vessel.
(11) Whether the vessel is an open boat, cabin cruiser, houseboat, or other type.
(12) Hull material.
(13) Whether the propulsion is inboard, outboard, inboard-outdrive, or sail.
(14) Whether the fuel is gasoline, deisel, or other.
(15) A quotation of the State regulations pertaining to change of ownership or address; documentation, loss, destruction, abandonment, theft, or recovery of vessel; carriage of the certificate of number on board when vessel is in use; rendering aid in a boat accident; and reporting of vessel casualties and accidents.

(b) A certificate of number issued to a vessel that has a manufacturer's hull identification number assigned, may omit items 8 through 14 of paragraph (a) of this section if the manufacturer's hull identification number is plainly marked on the certificate.

(c) A certificate of number issued to a manufacturer or dealer to be used on a vessel for test or demonstration purposes may omit items 7 through 14 of paragraph (a) of this section if the word "manufacturer" or "dealer" is plainly marked on the certificate.

(d) A certificate of number issued to a vessel that is to be rented or leased without propulsion machinery may omit items 13 and 14 of paragraph (a) of this section if the words "livery vessel" are plainly marked on the certificate.

§ 171.21 Contents of temporary certificate.

A temporary certificate issued pending the issuance of a certificate of number must contain the following information:

(a) Make of vessel.
(b) Length of vessel.
(c) Type of propulsion.
(d) State in which vessel is principally used.
(e) Name of owner.
(f) Address of owner, including zip code.
(g) Signature of owner.
(h) Date of issuance.
(i) Notice to the owner that the temporary certificate is invalid after 60 days from the date of issuance.

§ 171.23 Form of number.

(a) Each number must consist of two capital letters denoting the State of the issuing authority, as specified in Appendix A of Part 170 of this chapter, followed by—

(1) Not more than four numerals followed by not more than two capital letters (NH 1234 BD); or
(2) Not more than three numerals followed by not more than three capital letters (WN 567 EFG).

(b) A number suffix must not include the letters "I," "O," or "Q," which letters may be mistaken for numerals.

§ 171.25 Size of certificate of number.

Each certificate of number must be approximately 2½ by 3½ inches.

§ 171.27 Duration of certificate of number.

A certificate of number must not be valid for more than 3 years.

§ 171.29 Temporary certificate of number.

A State may issue a temporary certificate of number that is effective for not more than 60 days.

§ 171.31 Terms and conditions for vessel numbering.

A State numbering system may condition the issuance of a certificate of number on—

(a) Title to, or other proof of ownership of a vessel except a recreational-type public vessel of the United States; or
(b) The payment of State or local taxes, except for a recreational-type public vessel of the United States.

Subpart C—Casualty Reporting System Requirements

§ 171.101 Applicability of State casualty reporting system.

(a) A State casualty reporting system must require the reporting of vessel casualties and accidentc involving vessels to which § 170.51 of this chapter applies.

(b) The State casualty reporting system may require vessel casualty or accident reports resulting in property damage of less than $100.

§ 171.103 Administration.

The State casualty reporting system must be administered by a State agency that—

(a) Will provide for the reporting of all casualties and accidents prescribed by § 170.55 of this chapter.
(b) Receives reports of vessel casualties or accidents required by § 171.101;
(c) Reviews accident and casualty reports to assure accuracy and completeness of reporting;
(d) Determines the cause of casualties and accidents reported;
(e) Notifies the Coast Guard, in writing, when a problem area in boating safety peculiar to the State is determined, together with corrective measures instituted or recommended; and
(f) Reports on vessel numbering and vessel casualties and accidents as required in Subpart D of this part.

§ 171.105 Owner or operator casualty reporting requirements.

A State vessel casualty reporting system must contain the following requirements of Part 170 of this chapter applicable to an owner or a person operating a vessel:

(a) Section 170.55 Report of casualty or accident.
(b) Section 170.59 Where to report.
(c) Section 170.53 Immediate notification of death or disappearance.
(d) Section 170.57 Casualty or accident report.
(e) Section 170.61 Rendering of assistance in casualties.

§ 171.107 Contents of casualty or accident report form.

Each form for reporting a vessel casualty or accident must contain the information required in § 170.57 of this chapter.

Subpart D—State Reports

§ 171.121 Forwarding of casualty or accident reports.

Within 30 days of the receipt of a casualty or accident report, each State that has an approved numbering system must forward a copy of that report to the Commander of the Coast Guard District in which the State Capitol is located, except that Ohio and Minnesota must forward reports to the Commander, Ninth Coast Guard District, and Vermont to the Commander, Third Coast Guard District.

§ 171.123 Annual report of numbered vessels.

Before March 1 of each year, each State that has an approved numbering system must prepare and submit Coast Guard Form CGHQ–3923, Report of Certificates of Number Issued to Boats, to the Coast Guard.

§ 171.125 Coast Guard address.

The report required by § 171.123 must be sent to U.S. Coast Guard (BD/62) 400 Seventh Street SW., Washington, DC 20590.

This proposal is made under the authority of sections 18 and 37 of the Federal Boat Safety Act of 1971, Public Law 92–75, 85 Stat. 213, 220, 227 (Aug. 10, 1971); 49 CFR 1.46(0)(1) (36 F.R. 19593).

Dated: April 9, 1972.

A. C. WAGNER,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Boating Safety.

[FR Doc.72-5753 Filed 4-18-72;8:45 am]

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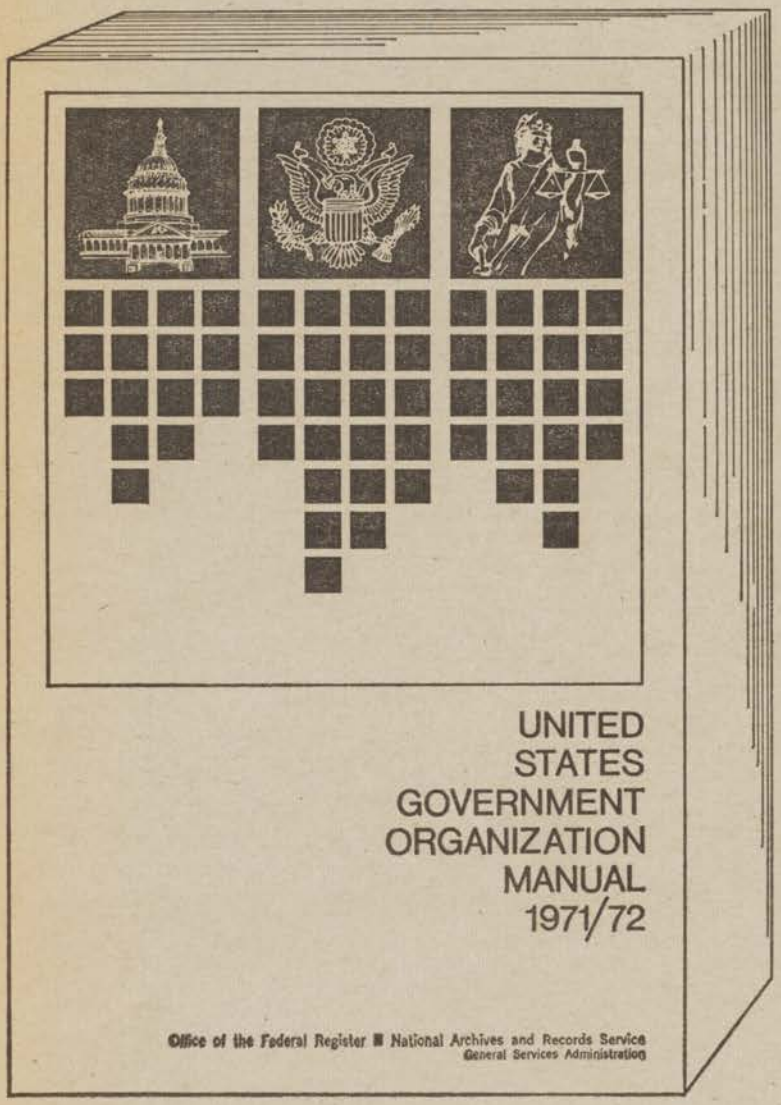

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