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PART I

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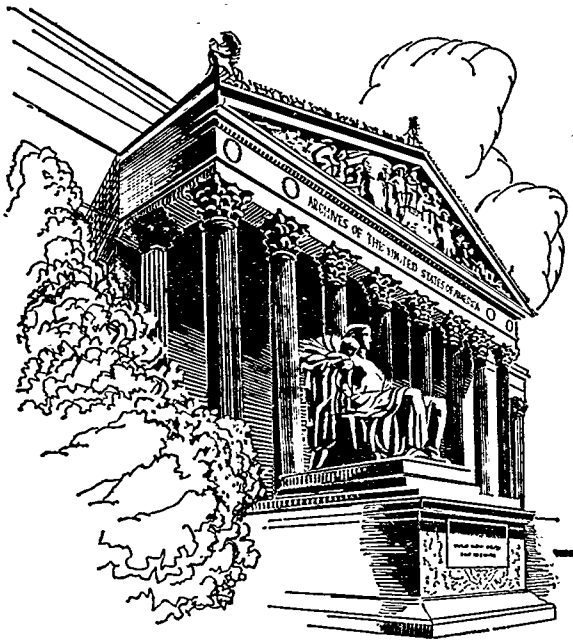

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SUBCHAPTER A—GENERAL PROCEDURES

PART 6—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Part 6 is revised in its entirety as follows:

Subpart A—General Provisions

Subpart B—Regulations Governing Ethical and Other Conduct and Responsibilities of Employees

Subpart C—Regulations Governing Ethical and Other Conduct and Responsibilities of Special Government Employees

Subpart D—Prohibited Activities by Former Employees

Subpart E—Regulations Governing Statements of Employment and Financial Interests

AUTHORITY: This Part 6 issued under sec. 311, 42 Stat. 25, as amended, 31 U.S.C. 52. Interpret or apply 18 U.S.C. 201–218.

Subpart A—General Provisions

§ 6.1 Purpose of part.

The Government service requires the maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees to assure the proper performance of Government business and the maintenance of confidence by citizens in their Government. This is especially true of service in the U.S. General Accounting Office because of the unique functions and special trust placed upon the Office. General Accounting Office employees and special Government employees are therefore expected and required to exercise informed judgments to avoid misconduct and conflicts of interest and the appearance of conflicts of interest. In accordance with these concepts, this part sets forth the regulations and policies of the General Accounting Office which prescribe standards of conduct and responsibilities including requirements for reporting employment and financial interests for its employees and special Government employees.

§ 6.2 Definitions.

In this part:

(a) "Employee" means an officer or employee of the General Accounting Office other than a special Government employee.

(b) "Special Government employee" means an officer or employee who is retained, designated, appointed, or employed to perform, with or without compensation, for a period not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis (18 U.S.C. 202).

(c) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(d) "Former employee" means a former General Accounting Office employee or former special Government employee, as defined in paragraph (b) of this section.

(e) Words importing the masculine gender include the feminine as well, and words importing the plural include the singular.

§ 6.3 Interpretation and advisory service.

The General Counsel, with the approval of the Comptroller General, shall designate a counselor for the General Acounting Office who shall be responsible for the coordination of counseling service provided under § 6.4 and for assuring, that counsel and interpretations on questions of conflicts of interest matters covered by this part are available to deputy counselors designated under § 6.4.

§ 6.4 Appointment of deputy counselors.

Subject to the approval of the Comptroller General, the counselor named in § 6.3 may designate, when appropriate and needed, deputy counselors to assist General Accounting Office employees and special Government employees. Deputy counselors designated under this paragraph shall be qualified and in a position to give authoritative advice and guidance to employees and special Government employees who seek advice and guidance on conflicts of interest questions. In those divisions where no deputy counselor has been designated, the counselor for the General Accounting Office will be available to assist the employees and special Government employees.

§ 6.5 Compliance.

The heads of divisions and offices shall be responsible for seeing that this part is fully complied with in their respective divisions or offices and for issuing whatever supplementary instructions are deemed desirable. Except as otherwise specifically provided, any matter coming within the provisions of this part arising in the General Accounting Office will be referred immediately by the head of division or office or other official concerned to the Director of Personnel for appropriate disposition.

§ 6.6 Disciplinary and other remedial action.

(a) A violation of any of these regulations by an employee or special Government employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law.

(b) When, after consideration of the explanation of the employee or special Government employee provided by § 6.53, the Comptroller General decides that remedial action is required, he shall take immediate steps to end the conflicts of interest or the appearance of conflicts of interest. Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the employee or special Government employee of his conflicting interest;

(3) Disciplinary action; or

(4) Disqualification for a particular assignment.

§ 6.7 Effecting disciplinary and remedial actions.

Remedial action, whether disciplinary or otherwise, shall be effected in accordance with applicable laws and regulations.

§ 6.8 Distribution of regulations.

A copy of these regulations shall be furnished each employee and special Government employee.

§ 6.9 Access to pertinent laws and related materials.

Copies of pertinent laws, the Executive order, Comptroller General's Orders, and Civil Service Regulations and instructions relating to ethical and other conduct will be made available in the Office of Personnel upon request by employees and special Government employees.

Subpart B—Regulations Governing Ethical and Other Conduct and Responsibilities of Employees

§ 6.10 General policy on conduct.

The personal demeanor of employees of the General Accounting Office is subject to the closest public and official scrutiny and as representatives of the Office they are judged by their personal associates and activities as well as by their official actions and conduct. In all their dealings, employees of the General Accounting Office shall so conduct themselves as to permit no reasonable basis for suspicion of unethical conduct or practices. The obligation to protect fully the interests of the Government as a whole and the General Accounting Office as an agency of the Congress, demands the avoidance of circumstances which invite conflict between self-interest and the integrity of employment with the General Accounting Office. Loyalty to the Office and its programs and purposes is a necessary attribute.

§ 6.11 Proscribed actions.

An employee shall avoid any action, whether or not specifically prohibited by this part, which might result in, or create the appearance of:

(a) Using public office for private gain;

(b) Giving improper preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government or its operations.

§ 6.12 Gifts, entertainment, and favors.

Except as provided in § 6.13 and § 6.16, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

(a) Has, or is seeking to obtain, contractual or other business or financial relations with the Federal Government;

(b) Conducts operations or activities that are subject to audit, investigation, decision, or regulation by the General Accounting Office; or

(c) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duty.

§ 6.13 Permissible gifts, entertainment, and favors.

Despite the limitations established by §6.12, the following exceptions are made:

(a) A gift, gratuity, favor, entertainment, loan, or other similar favor of monetary value may be accepted by the employee when it or they stem from a family or personal relationship, such as those between the employee and his parents, children, or spouse, and when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors.

(b) Food and refreshments of nominal value may be accepted on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where the employee may properly be in attendance.

(c) Loans from banks and other financial institutions may be accepted on customary terms to finance the proper and usual activities of employees, such as home mortgage loans.

(d) Unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value may be accepted.

§ 6.14 Gifts to superiors.

An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior or accept a gift presented as a contribution from an employee receiving less pay than himself (5 U.S.C. 7351).

§ 6.15 Gifts from foreign governments.

An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the United States Constitution and in Public Law 89–673, 80 Stat. 952.

§ 6.16 Reimbursement of travel and living expenses.

Neither § 6.12 nor § 6.27 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part when not engaged on official business. However, this section does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits. When traveling on official business, no reimbursement may be accepted from private sources.

NOTE: Notwithstanding this section, the requirements relating to the acceptance of contributions and awards, travel, subsistence, and other expenses in section 4111(a), title 5, United States Code, and the regulations thereunder in Subpart G, Part 410, Book III, Supplement 990–1, Federal Personnel Manual, continue to apply.

§ 6.17 Indebtedness of employees.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purposes of this paragraph, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which the General Accounting Office determines does not, in the circumstances, reflect adversely on the Office as his employer. In the event of a dispute between an employee and an alleged creditor, this paragraph does not require the General Accounting Office to determine the validity of the disputed debt.

§ 6.18 Reports on indebtedness.

While the General Accounting Office will not become a collection agency for private creditors of an employee, each complaint of nonpayment of a debt will be referred to the employee concerned and the employee will be requested to report in writing as to what he proposes to do about the debt.

§ 6.19 Gambling, betting, and lotteries.

An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

§ 6.20 Use of Government property.

An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him.

§ 6.21 Misuse of information.

For the purpose of furthering a private interest, an employee shall not, except as provided in § 6.27(b), directly or indirectly use, or allow the use of, official information obtained through or

in connection with his Government employment which has not been made available to the general public.

§ 6.22 Prohibited financial interests.

An employee shall not:

(a) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Government duties and responsibilities.

(b) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.

§ 6.23 Bribery, graft, and conflicts of interest.

An employee shall not engage in acts prohibited by chapter 11 of title 18, United States Code, relating to bribery, graft, and conflicts of interest as appropriate to the employee concerned. Three of the more important "conflict of interest" provisions are summarized as follows:

(a) An employee may not, except as provided by law for the proper discharge of his official duties, ask or seek any compensation for services by him or another in connection with any proceeding, request for a ruling or other determination before any Government agency or officer in which the United States is a party or has a direct and substantial interest (18 U.S.C. 203).

(b) An employee may not, except in the discharge of his official duties, represent anyone else (with or without compensation) before a court or Government agency on a matter in which the United States is a party or has a direct or substantial interest (18 U.S.C. 205).

(c) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his services to the Government (18 U.S.C. 209).

§ 6.24 Conflicts resulting from assignments.

An employee will not participate in any audit, investigation, survey, examination, ruling, decision or determination, contract, claim, controversy, or other matter before the General Accounting Office in which he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest with the following execptions:

(a) The employee need not disqualify himself if his financial holdings are in shares of widely held diversified mutual funds or regulated investment companies in which he does not serve as director, officer, partner, or advisor. The indirect interest in business entities which the holder of shares in a widely diversified mutual fund or regulated investment company derives from ownership by the fund or investment company of stocks in business entities is hereby exempted from the provisions of 18 U.S.C. 208(a) in accordance with the provisions of 18 U.S.C. 208(b)(2) as being too remote or inconsequential to affect the integrity of the employee's services.

(b) If the employee first informs the Comptroller General through his head of division or office, in writing, of the nature and circumstances of the audit, investigation, survey, examination, ruling, decision or determination, contract, claim, controversy, or other matter in which he is participating and makes full disclosure of the financial interest and receives in advance a written determination made by the Comptroller General that the interest is not so substantial as to be deemed likely to affect the integrity of the employee's services, the employee need not consider himself disqualified (18 U.S.C. 208(b)).

§ 6.25 Disqualification procedure.

Where the employee, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner, or employee, or any person with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest in any matter in which he is participating as part of his official duties, he will so inform the Comptroller General through his head of division or office in writing, and he will thereupon be relieved of his duties and responsibilities in that particular matter unless the head of division or office, after consultation with and approval of the Comptroller General, finds that pursuant to § 6.24(b) of this part, the interest is too remote or too inconsequential to affect the integrity of the employee's services in which case the Comptroller General will notify the employee in writing. In cases of disqualification of the employee, the assignment of the employee will be changed or the matter will be reassigned to another employee. A memorandum of disqualification will be made and forwarded by the Comptroller General to the employee with copies to the head of the division or office concerned, the Director of Personnel, and the Counselor for the General Accounting Office.

§ 6.26 Nondisqualifying interests.

This subpart does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by applicable law or regulations.

§ 6.27 Outside employment and other activity.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, a conflict of interest; or

(2) Outside employment which tends to impair his mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner.

(b) Employees may (subject to the provisions of paragraph (d)(3) of this section) engage in teaching, lecturing, and writing that is not prohibited by law or these regulations. An employee shall not, however, either with or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the Comptroller General gives written authorization for the use of nonpublic information on the basis that such use is in the public interest. In addition, the Comptroller General shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the General Accounting Office, or which draws substantially on official data or ideas which have not become part of the body of public information.

(c) An employee shall not engage in outside employment under a State or local government, except in accordance with Part 734, Book III, Supplement 990–1, Federal Personnel Manual.

(d) This section does not preclude an employee from:

(1) Participation in the activities of national or State political parties not precluded by law.

(2) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit, educational and recreational, public service, or civic organization.

(3) Outside employment when permission has been granted in advance by the Director of Personnel and the employee has been notified in writing of the approval. This permission will be granted in accordance with the following policies, procedures, and limitations:

(i) In considering requests for outside employment, the following criteria will be applied—the provisions of applicable law; the regulations and policies incorporated in this part including the possibility of conflicts of interests; the general attendance record of the employee; the nature of his official duties in relation to the nature of the duties which will comprise the outside employment; the financial need or other justification for such outside employment; and the amount of time and hours of work required by the outside employment.

(ii) An employee will request permission to engage in outside employment by executing, in full, Form GAO 256 (Rev. 10/67) and forwarding it through his immediate supervisor to the head of his division or office.

(iii) The head of division or office will upon receipt of a fully executed Form GAO 256 (Rev. 10/67) evaluate the request in light of existing law, and policies

and regulations provided by this part. Should the request be found proper and in the best interests of the office and not in violation of law, regulations, and policies, the head of the division or office will transmit the request with his favorable recommendation to the Director of Personnel. If the head of division or office finds otherwise, he will recommend that the request be denied, record his reasons, and transmit the request and related papers to the Director of Personnel.

(iv) The Director of Personnel, or his designee, will review requests to engage in outside employment including the recommendation of the head of division or office for proper, fair, and uniform application of this part. If the head of division or office and the Director of Personnel, or his designee, agree, the request may be officially approved or disapproved and the employee will be notified. If they do not agree, the request and all recommendations will be submitted to the Comptroller General for ultimate determination. The Comptroller General will thereupon consider the entire record, make the final determination, and cause the employee to be notified.

(v) Grants of permission to engage in outside employment will normally expire 3 calendar years from the date of last issue, unless sooner revoked or modified. Permission to engage in outside employment, which is about to expire, will be considered for renewal upon receipt of a request on Form GAO 256 (Rev. 10/67). Procedures for renewal will be the same as those for original application and should be made, if continuity of permission is desired, from 30 to 60 days before the expiration of current permission.

(vi) Permission to engage in outside employment extends only to the specific employment described in the request considered. New requests must be made in writing in accordance with these procedures to cover any changes or modifications in outside employment.

(vii) An employee with permission to engage in outside employment will not hold himself out to the public as an attorney or accountant by such means as placing his name on an office door; or having his name listed in the classified section of the telephone directory; or using business stationery with his name on letterheads or envelopes.

(viii) Permission to engage in outside employment will not be granted for the purpose of representing clients in court or before Government agencies except in rare cases when permission may be granted for specific appearances.

(ix) An employee may be permitted to engage in income tax work and to sign income tax returns as a preparer provided: The taxpayer has no Government contracts and has no business with the U.S. Government; the employee does not in any manner intercede with or appear for the taxpayer before the Internal Revenue Service, the courts, or other Government body; and the employee is not engaged in the audit of the Internal Revenue Service by the General Accounting Office.

(x) An employee may not use his employment with the General Accounting Office as a means of soliciting or obtaining outside employment.

(xi) An employee may not engage in outside employment while he is on sick leave from his duties. Deviations from this policy may be permitted in rare instances when prior approval is obtained from the Director of Personnel upon favorable recommendation from the head of division or office involved.

(xii) Employees in grades GS–13 and higher will not, normally, be given permission to engage in outside employment. Exceptions will be made for good and sufficient reasons, such as where a critical need exists for additional income by the employee or where the employment is found to be in the public interest in terms of opportunity for valuable experience benefical both to the employee and to the General Accounting Office. Each request for an exception under this paragraph shall be in sufficient detail to permit a judgment that it is merited. If an exception is made for employees in grade GS–13 and higher, permission will be granted for one-year intervals.

§ 6.28 Articles and speeches.

Employees who prepare, with or without compensation, articles for publication and speeches for delivery shall submit drafts thereof to their respective heads of division or office prior to publication or delivery when:

(a) Any reference is made or to be made to the employee's employment by the General Accounting Office, or

(b) The subject of the article or speech concerns the work of the General Accounting Office.

Drafts of articles and speeches relating to the work of the accounting and auditing divisions shall also be referred to the Director, Office of Policy and Special Studies, prior to delivery. For other subjects, other than legal matters, the drafts shall be referred to the Assistant to the Comptroller General.

§ 6.29 File of articles and speeches.

The General Accounting Office Library maintains a permanent file of all published articles and speeches by employees of the General Accounting Office. In order that this file be complete and current, each employee who has had an article published or has made a speech, shall send two copies thereof to the Office of the Comptroller General. This office will forward both copies to the Library for filing through the Office of Policy and Special Studies.

§ 6.30 General conduct prejudicial to the Government.

An employee shall not engage in criminal, infamous, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government nor shall he conduct himself in such a manner as to give rise to a reasonable belief that he is engaging in criminal, infamous, immoral, or notoriously disgraceful conduct.

§ 6.31 Miscellaneous statutory provisions.

Each employee will acquaint himself with each statute that relates to his ethical and other conduct as an employee of the General Accounting Office with particular reference to the following:

(a) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. Part II, B12, the "Code of Ethics for Government Service."

(b) Chapter 11 of title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned.

(c) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(d) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(e) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).

(f) The prohibitions against (1) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (2) the disclosure of confidential information (18 U.S.C. 1905).

(g) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(h) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(i) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(j) The prohibition against interference with civil service examinations (18 U.S.C. 1917).

(k) The prohibition against fraud or false statement in a Government matter (18 U.S.C. 1001).

(l) The prohibition against multilating or destroying a public record (18 U.S.C. 2071).

(m) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(n) The prohibitions against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(o) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(p) The prohibition against proscribed political activities—in subchapter III of chapter 73 of title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

(q) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

Subpart C—Regulations Governing Ethical and Other Conduct and Responsibilities of Special Government Employees

§ 6.32 Use of Government employment.

A special Government employee shall not use his Government employment for

a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

§ 6.33 Use of inside information.

A special Government employee shall not use inside information obtained as a result of his Government employment for private gain for himself or another person either by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. For the purposes of this paragraph, "inside information" means information obtained by reason of his Government employment which has not become part of the body of public information.

§ 6.34 Teaching, lecturing, and writing.

A special Government employee may, without prior approval, teach, lecture, or write in a manner not otherwise inconsistent with § 6.21 of this part.

§ 6.35 Coercion.

A special Government employee shall not use his Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

§ 6.36 Gifts, entertainment, and favors.

Except as provided in § 6.13 (as in the case of employees), a special Government employee, while so employed or in connection with his employment, shall not receive or solicit, either for himself or another person, particularly one with whom he has family, business, or financial ties, anything of value as a gift, gratuity, loan, entertainment, or favor from a person who:

(a) Has, or is seeking to obtain, contractural or other business or financial relations with the General Accounting Office.

(b) Has interests that may be substantially affected by the performance or nonperformance of his official duties.

§ 6.37 Miscellaneous statutory provisions.

Each special Government employee shall acquaint himself with each statute that relates to his ethical and other conduct as a special Government employee of the General Accounting Office and the Government with particular reference to the statutes cited in § 6.31 and the following:

(a) A special Government employee may not, otherwise than as provided by law for the proper discharge of his official duties, receive or agree to receive, or solicit any compensation for any services by himself or another; and may not, except in the proper discharge of his duties, represent or assist anyone, with or without compensation, before a department, agency, court, court-martial, officer, or any civil, military, or naval commission, in connection with a particular matter in which the United States is a party or has a direct or substantial interest: *Provided, however,* That these restrictions apply to a special Government employee only in relation to a particular matter involving a specific party or parties:

(1) In which he has at any time participated personally and substantially as a Government employee or special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or

(2) Which is pending in the department or agency of the Government in which he is serving, except that this provision (§ 6.37(a)(2)) shall not apply when he has served in such department or agency no more than 60 days during the immediately preceding period of 365 consecutive days. He is bound by the restraint of this provision (§ 6.37(a)(2)) despite the fact that the matter is not one in which he has ever participated personally and substantially (18 U.S.C. 203, 205).

(b) A special Government employee shall not participate in his governmental capacity in any matter in which to his knowledge he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest (18 U.S.C. 208).

(c) After his Government employment has ended, a special Government employee is subject to the prohibition pertaining to a "former employee" in matters connected with his former duties (18 U.S.C. 207).

Subpart D—Prohibited Activities by Former Employees

§ 6.38 Prohibited activities.

A former employee shall not:

(a) At any time after his Government employment has ended, knowingly represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

(b) For 1 year after his Government employment has ended, appear personally before any court or Government agency as agent or attorney for anyone other than the Government in connection with a matter in which the Government is a party or has a substantial interest and which was under his official responsibility as an employee of the Government at any time during the last year of his Government employment (18 U.S.C. 202(b) and 207(b)).

Subpart E—Regulations Governing Statements of Employment and Financial Interests

§ 6.39 Form and content of statements.

The statements of employment and financial interests required by this part to be submitted by employees and special Government employees shall contain, as a minimum, the information required by GAO Form 310 (Rev. Sept. 67) and GAO Form 311 (Rev. Sept. 67) respectively.

§ 6.40 Employees required to submit statements.

Except as otherwise provided in this part, statements of employment and financial interests (GAO Form 310, Rev. Sept. 67) will be required from the following employees:

(a) The Comptroller General of the United States, the Assistant Comptroller General of the United States, and the General Counsel of the U.S. General Accounting Office.

(b) Employees in positions in grades GS–15 or above.

§ 6.41 Employees not required to submit statements.

Employees in positions in grades GS–14 and below are excluded from the reporting requirement of § 6.40. The likelihood of their involvement in a conflicts-of-interest situation is remote or the degree of supervision over them and the review of their work is such that the integrity of the Government is protected. This section does not in any way modify or limit any employee's responsibilities under §§ 6.22, 6.23, 6.24, and 6.25.

§ 6.42 Employee's complaint on filing requirement.

An employee who feels that his position has been improperly included by this part as one requiring the submission of a statement of employment and financial interests may obtain a review of that decision by filing a grievance with the Comptroller General under paragraphs 7 and 8 of Comptroller General's Order No. 1.27.

§ 6.43 Where to submit statements.

(a) The Comptroller General will file a statement of employment and financial interests (GAO Form 310) with the Director of Personnel who will retain it with other such statements. The Assistant Comptroller General, the Assistant to the Comptroller General, the Information Officer, and the heads of divisions or offices will submit their statements of employment and financial interests (GAO Form 310) to the Comptroller General.

(b) Each employee required to submit a statement of employment and financial interests below the level of head of division or office will submit his statement (GAO Form 310) to the head of his division or office.

§ 6.44 When to submit statements.

Each employee required to submit a statement of employment and financial interests shall submit that statement to the appropriate officer designated in § 6.43 of this part:

(a) Ninety days after the effective date of this part if employed on or before that effective date (unless the employee has already submitted a statement as required by this part and that statement continues to be accurate); or

(b) Thirty days after his entrance on duty in or after his promotion to a position subject to this part.

§ 6.45 Supplementary statements.

Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 of each year in which the changes occur. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result in taking an action that would result in a violation of the conflicts-of-interest provisions of section 208 of title 18, United States Code, or Subpart B of this part.

§ 6.46 Interests of employees' relatives.

The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this section, "member of an employee's immediate household" means those relatives by blood who are residents of the employee's household.

§ 6.47 Information not known by employees.

If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his behalf.

§ 6.48 Information not required.

(a) This part does not require an employee to submit on a statement of employment and financial interests or supplementary statement any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, education and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

(b) An employee need not report on his statements of employment and financial interests shares of widely held diversified mutual funds or regulated investment companies in which he does not serve as director, officer, partner, or advisor. The indirect interest in business entities which the holder of shares in a widely diversified mutual fund or regulated investment company derives from ownership by the fund or investment company of stocks in business entities is considered too remote or inconsequential to effect the integrity of the employee's services.

§ 6.49 Confidentiality of statements.

Statements of employment and financial interests and supplementary statements shall be retained in a confidential file secured in an appropriate manner by the Director of Personnel. No persons other than the Comptroller General, the Assistant Comptroller General, the head of division or office as to employees or special Government employees under his direction, the counselor for the General Accounting Office, or the Director of Personnel shall have access to such statements and then only to carry out the purposes of this part. No disclosure of information shall be made from such statements except as specifically authorized by the Comptroller General for good cause shown.

§ 6.50 Review of statements by the Comptroller General.

The Comptroller General together with the counselor for the General Accounting Office will review each statement of employment and financial interests and each supplementary statement submitted directly to the Comptroller General by reason of § 6.43(a), as well as all relevant information from other sources incident thereto to determine whether there are any conflicts of interest or apparent conflicts of interest. Where no conflicts of interest, or apparent conflicts of interest, are found, the cases will be considered resolved until other pertinent information becomes available. If questions of conflicts of interest or apparent conflicts of interest arise, pertinent procedures established for employees and special Government employees elsewhere in this part will be followed.

§ 6.51 Review of statements by heads of divisions or offices.

The head of each division or office, for employees or special Government employees in his division, together with the counselor for the General Accounting Office will review each statement of employment and financial interests, each supplementary statement, and all relevant information from other sources, if any, to determine whether there are any conflicts of interest or apparent conflicts of interest on the part of the employee or special Government employee submitting the statement. If it is pertinent to a conflict-of-interest decision, the head of division or office, or the counselor for the General Accounting Office, may request the employee or special Government employee to supplement the information on GAO Form 310 or GAO Form 311 by stating the number or amount of shares, stock options, bonds, and other securities owned by him, his spouse, minor child, or other member of his immediate household.

§ 6.52 Findings of no conflict of interest.

If the head of division or office and the counselor for the General Accounting Office agree that there are no conflicts of interest or apparent conflicts of interest in individual cases, the matter will be considered resolved until other information on the case becomes available or circumstances change.

§ 6.53 Findings of conflict of interest.

When either the head of division or office or the counselor for the General Accounting Office believes that the statement of employment and financial interests or information from other sources discloses a conflict of interest or an apparent conflict of interest, the employee or special Government employee concerned will be asked to explain the conflict or appearance of conflict. If his explanation is satisfactory to both the head of division or office and the counselor for the General Accounting Office and they both agree that there is no conflict or apparent conflict, the case will be considered closed until further information or changed circumstances reactivate it. If they fail to agree or if both agree that there is a conflict or apparent conflict of interest on the part of the employee or special Government employee, a report will be made of the case to the Comptroller General for final disposition. This report will contain the views of the head of division or office and those of the counselor for the General Accounting Office; will point out specifically the areas of conflict or apparent conflict and the reasons why it is felt that a conflict or apparent conflict exists or does not exist; and will be signed by both these officials. The report will also contain a summary of the employee's explanation signed by him. The Comptroller General will then consider the matter, afford the employee or special Government employee concerned an opportunity to explain the conflict or apparent conflict, make a final decision and take appropriate action in accordance with §§ 6.6(b) and 6.7.

§ 6.54 Effect of employees' statements on other requirements.

The statement of employment and financial interests and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement of employment and financial interests or supplementary statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation.

§ 6.55 Specific provisions for special Government employees.

Except as provided in § 6.56, each special Government employee, by the use of GAO Form 311 (Rev. Sept. 67), shall submit a statement of employment and financial interests which reports:

(a) All other employment; and

(b) The financial interests of the special Government employee as indicated on GAO Form 311. Special employees need not report financial interests in widely held diversified mutual

funds or regulated investment companies in which they do not serve as director, officer, partner, or advisor.

§ 6.56 Waiver of statements from certain special Government employees.

(a) The provisions of § 6.55 are waived for special Government employees who are employed for the purpose of rendering advice, counsel, or expert services on recruiting and staff development including CPA review courses, because such employment is of a nature and at such a level of responsibility that any financial interests that they may have would be too remote to affect the integrity of their services in the General Accounting Office and the submission of statements would be unnecessary.

(b) In addition, the Comptroller General may waive the requirement of § 6.55 for the submission of a statement of employment and financial interests in the case of a special Government employee when he finds that the duties performed by that special Government employee are of a nature and at such a level of responsibility that the submission of the statement by the special Government employee is not necessary to protect the integrity of the General Accounting Office.

§ 6.57 Time for submission of statements by special Government employees.

A statement of employment and financial interests required to be submitted under § 6.55 shall be submitted not later than the time of employment of the special Government employee. Each special Government employee shall keep his statement current throughout his employment with the General Accounting Office by submission of supplementary statements covering changes in, or additions to, the information contained in his statement of employment and financial interests every 90 days after his appointment until he is no longer subject to § 6.55. Upon reappointment immediately following separation, the special Government employee shall file a new statement or certify that the latest statement on file is currently correct, whichever is proper.

§ 6.58 Circumstances requiring statements from special Government employees.

In all cases where the employment of a special Government employee to work on a specific audit, legal, or other problem is contemplated or where a special Government employee already employed to render advice, counsel, or expert services on recruitment and staff development is to be assigned work on a specific audit, legal, or other problem, procedures outlined in §§ 6.51, 6.55, and 6.57 will be followed.

[SEAL] ELMER B. STAATS,
Comptroller General of the United States.

[F.R. Doc. 68-1149; Filed, Jan. 30, 1968; 8:46 a.m.]

Title 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

[Amdt. 1]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

BARLEY ENDORSEMENT

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the above-identified regulations are amended effective beginning with the 1969 crop year in the following respects:

The following section is added:

§ 401.125 The barley endorsement.

The provisions of the barley endorsement for the 1969 and succeeding crop years are as follows:

1. *Insured crop.* The crop insured shall be barley seeded for harvest as grain, as determined by the Corporation, except that in counties where so provided on the county actuarial table, a mixture of barley with oats or wheat or both seeded for harvest as grain (hereinafter called "mixture") shall be insurable and the production from such mixture shall be counted as barley on a weight basis. Insurance shall not attach on acreage on which it is determined by the Corporation that the barley was seeded with vetch or flax or other small grains, except as otherwise provided herein.

2. *Production guarantee.* The production guarantee per acre shown on the county actuarial table (hereinafter called "actuarial table") shall be increased by 2 bushels for any harvested acreage on which the amount harvested is 2 or more bushels per acre.

3. *Insurance period.* Insurance on any insured acreage shall attach at the time the barley is seeded and shall cease upon threshing or removal from the field, whichever occurs first, but in no event shall insurance remain in effect later than October 31 of the calendar year in which the barley is normally harvested.

4. *Claims for loss.* (a) Any claim for loss on an insurance unit (hereinafter called "unit") shall be submitted to the Corporation, on a form prescribed by the Corporation, not later than 60 days after the time of loss. The Corporation reserves the right to provide additional time if it determines that circumstances beyond the control of either party prevent compliance with this provision.

(b) It shall be a condition precedent to the payment of any loss that the insured establish the production of the insured crop on the unit and that such loss has been directly caused by one or more of the hazards insured against during the insurance period for the crop year for which the loss is claimed, and furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(c) Losses shall be determined separately for each unit. The amount of loss with respect to any unit shall be determined by (1) multiplying the insured acreage of barley on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in (3) by the insured interest: *Provided,* That if for the unit the insured fails to report all of his interest or insurable acreage the amount of loss shall be determined with respect to all of his interest and insurable acreage, but in such cases or otherwise, if the premium computed on the basis of the insurable acreage and interest exceeds the premium on the reported acreage and interest, or the acreage and interest when determined by the Corporation under section 3 of the policy, the amount of loss shall be reduced proportionately.

The total production to be counted for a unit shall be determined by the Corporation and, subject to the provisions hereinafter, shall include all threshed production and any appraisals made by the Corporation for unthreshed, unharvested, or potential production, poor farming practices, uninsured causes of loss, or for acreage abandoned or put to another use without the consent of the Corporation: *Provided,* That the total production to be counted on any acreage of barley (1) which, with the consent of the Corporation, is seeded in the current crop year, before harvest becomes general, to any other crop insurable in the county for the current crop year under the regulations of the Corporation, shall be 50 percent of the production guarantee for such acreage or the appraised production whichever is greater; (2) which is unharvested or from which the production harvested is less than 2 bushels per acre shall be the appraised production and the harvested production in excess of 2 bushels per acre, except as to the acreage referred to in the following items (3) and (4); (3) which is abandoned or put to another use without prior written consent of the Corporation shall be the production guarantee provided for such acreage; or (4) which is damaged solely by an uninsured cause shall be not less than the production guarantee provided for such acreage.

(d) The total production to be counted shall include any harvested production from acreage initially seeded for purposes other than for harvest as grain as determined by the Corporation.

(e) In determining total production, volunteer small grains and volunteer vetch growing with the seeded barley crop, and small grains seeded in the growing barley crop on acreage on which the Corporation has not given its consent to be put to another use shall be counted as barley on a weight basis.

(f) Notwithstanding the provisions of paragraph (c) of this section for determining production to be counted, the production to be counted of any threshed barley which does not grade No. 4 or better (determined in accordance with Official Grain Standards of the United States), because of poor quality due to insurable causes occurring within the insurance period and would not meet this grade requirement if properly handled, shall be adjusted by (1) dividing the value per bushel of the damaged barley as determined by the Corporation, by the market price per bushel at the local market for barley grading No. 4 (at the time the loss is adjusted, and (2) multiplying the result thus obtained by the number of bushels of such damaged barley. There shall be no adjustment in the production to be counted of any threshed mixtures because of poor quality.

5. *Meaning of terms.* For the purpose of insurance on barley the term:

(a) "Harvest" means the mechanical severance from the land of matured barley for threshing.

6. *Cancellation and termination for indebtedness dates.* For each year of the contract the cancellation date and the termination date for indebtedness are the following

applicable dates immediately preceding the beginning of the crop year for which the cancellation or the termination is to become effective: *Provided, however,* That for the purposes of determining the applicable cancellation and termination dates only, and notwithstanding section 19(c) of the policy, the crop year for spring planted barley insured in all counties with a March 15 or June 30 cancellation date shall be considered to mean that period in which the winter barley crop in such counties is normally planted and normally harvested and shall be designated by reference to the calendar year in which the crop is normally harvested.

State and county	Cancellation date	Termination date for indebtedness
Arizona and Washington	June 30	Oct. 31
California:		
Modoc and Siskiyou Counties	Dec. 31	Apr. 15
All other California counties	Mar. 15	Aug. 31
Colorado and Wyoming	Dec. 31	Mar. 31
Delaware, Maryland, and Pennsylvania.	June 30	Sept. 30
Idaho:		
Idaho County and all Idaho counties lying north thereof.	do	Oct. 31
All other Idaho counties	Dec. 31	Apr. 15
Oregon:		
Klamath and Malheur Counties	do	Do.
All other Oregon counties	June 30	Oct. 31
All other States	Dec. 31	Apr. 15

7. *Barley, oat, or wheat mixtures.* The provisions of this section 7 shall be a part of the barley endorsement of any contract of insurance in any county in which the actuarial table for that county provides insurance on a mixture of barley, with oats or wheat or both. The words "barley or mixture" shall be substituted for the word "barley" wherever it appears in section 3, 4(c), and 5 of this endorsement.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

Adopted by the Board of Directors on January 22, 1968.

[SEAL] EARLL H. NIKKEL,
Secretary,
Federal Crop Insurance Corporation.

Approved on January 26, 1968.

JOHN A. SCHNITTKER,
Under Secretary.

[F.R. Doc. 68-1175; Filed, Jan. 30, 1968; 8:48 a.m.]

[Amdt. 102]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1961 and Succeeding Crop Years

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the above-identified regulations are amended effective beginning with the 1968 crop year in the following respects:

1. Subsection 5(c) of the corn grain-silage endorsement shown in § 401.44 of this chapter is amended effective beginning with the 1968 crop year to read as follows:

(c) The following provisions are applicable to corn grain-silage crop insurance contracts:

The provisions of this paragraph shall be applicable to all corn grain-silage crop insurance contracts in all counties and States except Douglas and Todd Counties, Minn. Notwithstanding the provisions of subsection (a) of this section, in determining the production of corn, other than the corn harvested for silage or appraised for silage referred to in subsection (b) above, to be counted, the Corporation shall, where appropriate when due to insurable causes occurring within the insurance period, first adjust such production as follows: The production shall be reduced 2 percent for each full 1 percent of moisture in excess of 16 percent up to and including 40 percent, or shall be reduced for damaged kernels as follows: For damage of 7 or 8 percent—1 percent; for damage of 9 or 10 percent—2 percent; for damage of 11 or 12 percent—3 percent; for damage of 13 or 14 percent—4 percent; and for each full 1 percent of damage in excess of 14 percent up to and including 35 percent—an additional 2 percent. If, however, reductions for both moisture and kernel damage are applicable the percent of production to be counted shall be the product (rounded to the nearest whole percent) of the percentages remaining after the respective percentage reductions are made as herein provided. If, however, the Corporation determines that the moisture content is above 40 percent, or if the kernel damage is above 35 percent, or if the test weight of shelled corn is below 40 pounds per bushel, the percent of production to be counted shall be that as agreed upon by the Corporation and the insured, or in the absence of agreement as appraised by the Corporation.

The provisions of this paragraph shall be applicable only to corn grain-silage crop insurance contracts in Douglas and Todd Counties, Minnesota. Notwithstanding the provisions of subsection (a) of this section, in determining the production of corn with a moisture content of 26 percent or more, other than the corn harvested for silage or appraised for silage referred to in subsection (b) above, to be counted, the Corporation shall, where appropriate when due to insurable causes occurring within the insurance period, first adjust such production as follows: The production of any such corn with a moisture content of: (1) 26 percent through 30 percent shall be adjusted by multiplying the number of bushels by 95 percent, (2) 30.1 percent through 35 percent shall be adjusted by multiplying the number of bushels by 90 percent, (3) 35.1 percent through 40 percent shall be adjusted by multiplying the number of bushels by 85 percent. If the Corporation determines that the moisture content is over 40 percent or if the test weight of shelled corn is below 40 pounds per bushel, the percent of the production to be counted shall be that as agreed upon by the Corporation and the insured, or in the absence of agreement as appraised by the Corporation: *Provided, however,* That the percent of the gross production of corn by weight harvested for grain to be counted shall not be less than 50 percent.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

Adopted by the Board of Directors on January 22, 1968.

[SEAL] EARLL H. NIKKEL,
Secretary,
Federal Crop Insurance Corporation.

Approved on January 26, 1968.

JOHN A. SCHNITTKER,
Under Secretary.

[F.R. Doc. 68-1177; Filed, Jan. 30, 1968; 8:48 a.m.]

[Amdt. 2]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

WHEAT ENDORSEMENT

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the above-identified regulations are amended effective beginning with the 1969 crop year in the following respects:

The following section is added:

§ 401.126 The wheat endorsement.

The provisions of the wheat endorsement for the 1969 and succeeding crop years are as follows:

1. *Insured crop.* The crop insured shall be wheat seeded for harvest as grain, as determined by the Corporation. Insurance shall not attach on acreage on which it is determined by the Corporation that wheat was seeded with Flax or other small grains, vetch, Austrian winter peas, or dry edible peas.

2. *Annual premium.* (a) There will be a reduction in the annual wheat premium for each insurance unit of 4 percent for the first full 200 acres of insured wheat acreage on the insurance unit (hereinafter called "unit") and an additional 2 percent reduction for each additional full 100 acres: *Provided, however,* That the total reduction shall not exceed 20 percent.

(b) Whether or not the insured is eligible for the reduction provided in section 6(b) of the policy, the insured's annual wheat premium may be reduced in lieu thereof for any year by not to exceed 50 percent if it is determined by the Corporation that the accumulated balance (expressed in bushels) of premiums over indemnities on consecutively insured wheat crops preceding the current crop year equals or exceeds his total production guarantee based on the amount per acre shown on the county actuarial table (hereinafter called "actuarial table").

3. *Production guarantee.* The production guarantee per acre shown on the actuarial table shall be increased by 1.5 bushels for any harvested acreage on which the amount harvested is 1.5 or more bushels per acre.

4. *Insurance period.* Insurance on any insured acreage shall attach at the time the wheat is seeded and shall cease upon threshing or removal from the field, whichever occurs first, but in no event shall insurance remain in effect later than October 31 of the calendar year in which the wheat is normally harvested.

5. *Claims for loss.* (a) Any claim for loss on a unit shall be submitted to the Corporation, on a form prescribed by the Corporation, not later than 60 days after the time of loss. The Corporation reserves the right to provide additional time if it determines that circumstances beyond the control of either party prevent compliance with this provision.

(b) It shall be a condition precedent to the payment of any loss that the insured establish the production of the insured crop on the unit and that such loss has been directly caused by one or more of the hazards insured against during the insurance period for the crop year for which the loss is claimed, and furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(c) Losses shall be determined separately for each unit. The amount of loss with respect to any unit shall be determined by

(1) multiplying the insured acreage of wheat on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in (3) by the insured interest: *Provided,* That if for the unit the insured fails to report all of his interest or insurable acreage the amount of loss shall be determined with respect to all of his interest and insurable acreage, but in such cases or otherwise, if the premium computed on the basis of the insurable acreage and interest exceeds the premium on the reported acreage and interest, or the acreage and interest when determined by the Corporation under section 3 of the policy, the amount of loss shall be reduced proportionately.

The total production to be counted for a unit shall be determined by the Corporation and, subject to the provisions hereinafter, shall include all threshed production and any appraisals made by the Corporation for unthreshed, unharvested, or potential production, poor farming practices, uninsured causes of loss, or for acreage abandoned or put to another use without the consent of the Corporation: *Provided,* That the total production to be counted on any acreage of wheat (1) which, with the consent of the Corporation, is seeded in the current crop year, before harvest becomes general, to any other crop insurable in the county for the current crop year under the regulations of the Corporation, shall be 50 percent of the production guarantee for such acreage or the appraised production whichever is greater; (2) which is unharvested or from which the production harvested is less than 1.5 bushels per acre shall be the appraised production and the harvested production in excess of 1.5 bushels per acre, except as to the acreage referred to in the following items (3) and (4); (3) which is abandoned or put to another use without prior written consent of the Corporation shall be the production guarantee provided for such acreage; or (4) which is damaged solely by an uninsured cause shall be not less than the production guarantee provided for such acreage.

(d) The total production to be counted shall include any harvested production from acreage initially seeded for purposes other than for harvest as grain as determined by the Corporation.

(e) In determining total production, volunteer small grains, volunteer Austrian winter peas, volunteer dry edible peas, and volunteer vetch growing with the seeded wheat crop, and small grains seeded in the growing wheat crop on acreage on which the Corporation has not given its consent to be put to another use, shall be counted as wheat on a weight basis.

(f) Notwithstanding the provisions of paragraph (c) of this section for determining production to be counted, the production to be counted of any threshed wheat which does not grade No. 3 or better, and in addition, does not grade No. 4 or 5 on the basis of test weight only but otherwise grades No. 3 or better (determined in accordance with Official Grain Standards of the United States) because of poor quality due to insurable causes occurring within the insurance period and would not meet these grade requirements if properly handled, shall be adjusted by (1) dividing the value per bushel of the damaged wheat as determined by the Corporation, by the market price per bushel at the local market at the time the loss is adjusted for wheat grading No. 3, and (2) multiplying the result thus obtained by the number of bushels of such damaged wheat.

6. *Meaning of terms:* For purposes of insurance on wheat the term:

(a) "Harvest" means the mechanical severance from the land of matured wheat for threshing.

7. *Cancellation and termination for indebtedness dates.* For each year of the contract the cancellation date and termination date for indebtedness are the following applicable dates immediately preceding the beginning of the crop year for which the cancellation or the termination is to become effective: *Provided, however,* That for purposes of determining the applicable cancellation and termination dates only, and notwithstanding section 19(c) of the policy, the crop year for spring planted wheat insured in all counties with a March 15 or June 30 cancellation date shall be considered to mean that period in which the winter wheat crop in such counties is normally planted and normally harvested, and shall be designated by reference to the calendar year in which the crop is normally harvested:

State and county	Cancellation date	Termination date for indebtedness
California:		
Modoc and Siskiyou Counties	June 30	Oct. 31
All other California counties	Mar. 15	Aug. 31
Colorado, Kansas, New Mexico, Oklahoma, Texas, and Wyoming.	do	Do.
Idaho:		
Idaho County and all Idaho counties lying north thereof.	June 30	Oct. 31
All other Idaho counties	do	Sept.15
Kentucky, North Carolina, South Carolina, and Tennessee.	do	Oct. 15
Minnesota	Dec. 31	Apr. 15
Nebraska	Mar. 15	Sept.15
North Dakota:		
Adams, Bowman, Golden Valley, and Slope Counties.	June 30	Do.
All other North Dakota counties	Dec. 31	Apr. 15
Oregon and Washington	June 30	Oct. 31
South Dakota:		
Bennett, Dewey, Faulk, Haakon, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Potter, Stanley, Sully, Tripp, and Walworth Counties.	do	Sept.15
All other South Dakota counties	Dec. 31	Apr. 15
Utah	June 30	Sept.15
All other States	do	Sept.30

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

Adopted by the Board of Directors on January 22, 1968.

[SEAL] EARLL H. NIKKEL,
Secretary,
Federal Crop Insurance Corporation.

Approved on January 26, 1968.

JOHN A. SCHNITTKER,
Under Secretary.

[F.R. Doc. 68-1176; Filed, Jan. 30, 1968; 8:48 a.m.]

Chapter VI—Soil Conservation Service, Department of Agriculture

PART 601—GREAT PLAINS CONSERVATION PROGRAM

Subpart—General Program Provisions

The regulations governing the Great Plains Conservation Program, 22 F.R. 6851, as amended, are further amended as provided herein.

Section 601.11 *Eligible Conservation Practices* is amended by changing paragraph (a) (24) to read as follows:

§ 601.11 Eligible conservation practices.

(a) * * *

(24) GP-24 *Constructing permanent fences as a means of protecting vegetative cover and structures.* This practice shall be used for all protective fencing needed in connection with any approved GP practice. It shall also be used when fencing is required for better distribution of livestock and for seasonal use of forage.

* * * * *

(Sec. 4, 49 Stat. 164, as amended, 16 U.S.C. 590d)

Done at Washington, D.C., this 25th day of January 1968.

[SEAL] JOHN A. BAKER,
Assistant Secretary.

[F.R. Doc. 68-1145; Filed, Jan. 30, 1968; 8:46 a.m.]

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

SUBCHAPTER A—AGRICULTURAL CONSERVATION PROGRAMS

[Amdt. 2]

PART 701—NATIONAL AGRICULTURAL CONSERVATION

Subpart—1968 and Subsequent Years

Section 701.2 is amended by revising paragraph (c) to read as follows:

(c) The allocation of funds among the States for 1968 is as follows:

Alabama	$5,132,000
Alaska	60,000
Arizona	1,539,000
Arkansas	4,231,000
California	4,920,000
Colorado	3,604,000
Connecticut	402,000
Delaware	271,000
Florida	3,165,000
Georgia	6,165,000
Hawaii	157,000
Idaho	1,901,000
Illinois	7,393,000
Indiana	4,843,000
Iowa	8,096,000
Kansas	6,221,000
Kentucky	5,982,000
Louisiana	3,889,000
Maine	972,000
Maryland	1,144,000
Massachusetts	469,000
Michigan	4,306,000
Minnesota	5,702,000
Mississippi	5,520,000
Missouri	7,597,000
Montana	4,660,000
Nebraska	5,389,000
Nevada	610,000
New Hampshire	451,000
New Jersey	627,000
New Mexico	2,176,000
New York	4,318,000
North Carolina	5,506,000
North Dakota	4,879,000
Ohio	5,093,000
Oklahoma	6,130,000
Oregon	2,308,000
Pennsylvania	4,090,000
Puerto Rico	725,000
Rhode Island	67,000
South Carolina	3,083,000
South Dakota	3,896,000

Tennessee	$4,629,000
Texas	17,611,000
Utah	1,214,000
Vermont	931,000
Virginia	3,822,000
Virgin Islands	12,000
Washington	2,460,000
West Virginia	1,420,000
Wisconsin	4,975,000
Wyoming	1,897,000
Total	186,660,000

(Sec. 4, 49 Stat. 164; 16 U.S.C. 590d)

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on December 22, 1967.

E. A. JAENKE,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 68-1144; Filed, Jan. 30, 1968; 8:46 a.m.]

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 723—CIGAR-FILLER (TYPE 41) TOBACCO

Subpart—Proclamation of a National Marketing Quota for Cigar-Filler (Type 41) Tobacco for Each of the 3 Marketing Years Beginning October 1, 1968, October 1, 1969, and October 1, 1970; and Determinations and Announcement of the National Marketing Quota, National Acreage Allotment, National Acreage Factor for Apportioning the National Acreage Allotment (Less Reserve) to Old Farms, and the Amount of the National Reserve and Parts Thereof Available for (a) 1968 New Farm Allotments, and (b) Making Corrections and Adjusting Inequities in 1968 Old Farm Allotments for Cigar-Filler (Type 41) Tobacco for the 1968–69 Marketing Year

Basis and purpose. Section 723.1 is issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended, hereinafter referred to as the "Act", (1) to proclaim a national marketing quota for cigar-filler (type 41) tobacco for each of the 3 marketing years beginning October 1, 1968, October 1, 1969, and October 1, 1970; (2) to determine the reserve supply level and the total supply of cigar-filler (type 41) tobacco for the marketing year beginning October 1, 1967; (3) to annouce for the 1968–69 marketing year the amount of the national marketing quota, national acreage allotment, national acreage factor for apportioning the national acreage allotment (less reserve) to old farms, and the amount of the national reserve and parts thereof available for (a) new farms and (b) making corrections and adjusting inequities in old farm allotments for cigar-filler (type 41) tobacco. The determinations contained in § 723.1 have been made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from cigar-filler (type 41) tobacco producers and others as provided in a notice (32 F.R. 16043) given in accordance with the provisions of 5 U.S.C. 553.

Since the Act requires the holding of a referendum of cigar-filler (type 41) tobacco producers within 30 days after issuance of the proclamation of a national marketing quota for such kind of tobacco to determine whether such producers favor marketing quotas, since such farmers must be notified, insofar as practicable, of their farm acreage allotments prior to the referendum, and since notices of allotments cannot be mailed until the issuance of the proclamation herein, it is hereby found that compliance with the 30-day effective date provision of 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, the proclamation, determinations and announcements contained herein shall become effective upon the date of filing with the Director, Office of the Federal Register.

§ 723.1 Proclamation of a national marketing quota for cigar-filler (type 41) tobacco for each of the 3 marketing years beginning October 1, 1968, October 1, 1969, and October 1, 1970; and determinations with respect to and announcement of the national marketing quota for cigar-filler (type 41) tobacco for the marketing year beginning October 1, 1968.

(a) *Proclamation.* Since the 1967–68 marketing year is the last of 3 consecutive years for which national marketing quotas previously proclaimed were disapproved by producers of cigar-filler (type 41) tobacco in a referendum, and since producers of such kind of tobacco had disapproved national marketing quotas on such kind of tobacco in referenda held in 3 successive years subsequent to 1952, section 312(a)(4) of the Act requires the proclamation of a national marketing quota for each of the 3 marketing years beginning October 1, 1968, October 1, 1969, and October 1, 1970; and each such quota is hereby proclaimed.

(b) *Reserve supply level.*[1] The reserve supply level for cigar-filler (type 41) tobacco is 150.2 million pounds, calculated, as provided in the Act, from a normal year's domestic consumption of 51.4 million pounds and a normal year's exports of 1 million pounds.

(c) *Total supply.*[1] The total supply of cigar-filler (type 41) tobacco for the marketing year beginning October 1, 1967, calculated in accordance with the Act, is 154.7 million pounds, consisting of carryover of 112.3 million pounds and estimated 1967 production of 42.4 million pounds.

(d) *Carryover.*[1] The estimated carryover of cigar-filler (type 41) tobacco at the beginning of the marketing year for such tobacco beginning October 1, 1968, calculated in accordance with the Act, is 99.4 million pounds calculated by subtracting the estimated disappearance for the marekting year beginning October 1, 1967, of 55.3 million pounds from the total supply of such tobacco.

(e) *National marketing quota.*[1] The amount of cigar-filler (type 41) tobacco which will make available during the marketing year beginning October 1, 1968, a supply of cigar-filler (type 41) tobacco equal to the reserve supply level of such tobacco is 50.8 million pounds, and a national marketing quota of such amount is hereby announced.

(f) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1968–69 marketing year by the 5-year, 1963–67, national average yield of 1,810 pounds, is 28,066.30 acres.

(g) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1968–69 marketing year is 1. It was calculated in accordance with the Act by dividing the national acreage allotment, less reserve, by the total of the 1968 preliminary allotments for 1968 old farms.

(h) *National reserve.* The national acreage reserve is 280.66 acres, of which 50 acres are made available for 1968 new farms, and 230.66 acres are made available for making corrections and adjusting inequities in old farm allotments.

(Secs. 301, 312, 313, 375, 52 Stat. 38, as amended; 46, as amended; 47, as amended; 66, as amended; 7 U.S.C. 1301, 1312, 1313, 1375)

Effective date: Date of filing of this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on January 24, 1968.

JOHN A. SCHNITTKER,
Acting Secretary.

[F.R. Doc. 68-1142; Filed, Jan. 30, 1968; 8:46 a.m.]

[1] Rounded to the nearest tenth of a million pounds.

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Orange Reg. 60, Amdt. 1]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of Temple oranges and

Murcott Honey oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of Temple oranges and Murcott Honey oranges grown in Florida.

Order. The provisions of paragraph (a)(2) in § 905.505 (Orange Reg. 60; 32 F.R. 17616) are hereby amended in the following respects:

1. The provisions of paragraph (a)(2)(iii) are amended and new subdivisions (vi) and (vii) are added to read as follows:

§ 905.505 Orange Regulation 60.

(a) * * *

(2) * * *

(iii) Any oranges, except Temple and Murcott Honey oranges, grown in the production area, which are of a size smaller than 2⅝ inches in diameter, except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter 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 Oranges and Tangelos: *Provided,* That in determining the percentage of oranges in any lot which are smaller than 2⅝ inches in diameter, such percentage shall be based only on those oranges in such lot which are of a size 2¼⅝ inches in diameter and smaller;

* * * * *

(vi) Any Temple oranges, grown in the production area, which are of a size smaller than 2⅝ inches in diameter, except that a tolerance of 10 percent, by count, of Temple oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the said U.S. Standards for Florida Oranges and Tangelos.

(vii) Any Murcott Honey oranges, grown in the production area, which are of a size smaller than 2⅝ inches in diameter, except that a tolerance of 10 percent, by count, of such oranges smaller than such minimum diameter 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 Oranges and Tangelos.

* * * * *

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

Dated, January 26, 1968, to become effective January 29, 1968.

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

[F.R. Doc. 68–1174; Filed, Jan. 30, 1968; 8:48 a.m.]

[Grapefruit Reg. 19]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation of the Texas Valley Citrus Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Texas Valley Citrus Committee on January 16, 1968; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; necessary supplemental economic and statistical information upon which the recommended regulation is based were received by the Department on January 23, 1968; the provisions of this regulation, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of grapefruit; and compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 906.338 Grapefruit Regulation 19.

(a) *Order.* (1) During the period February 1, 1968, through June 30, 1968, no handler shall handle:

(i) Any grapefruit of any variety, grown in the production area, unless such grapefruit grade U.S. Fancy; U.S. No. 1 Bright; U.S. No. 1; U.S. No. 1 Bronze; U.S. Combination; U.S. No. 2; or U.S. No. 3;

(ii) Any grapefruit of any variety, grown in the production area, which are of a size smaller than 3⅜ inches in diameter, except that not more than 10 percent, by count, of such grapefruit in any lot of containers, and not more than 15 percent, by count, of such grapefruit in any individual container in such lot, may be of a size smaller than 3⅜ inches in diameter; or

(iii) Any grapefruit of any variety, grown as aforesaid, for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto not more than 48 hours prior to the time of shipment.

All grapefruit of any variety, grown as aforesaid, handled during the period specified in this section are subject to all applicable container and pack requirements which are in effect pursuant to the aforesaid marketing agreement and order during such period.

(2) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; and terms relating to grade and diameter, when used herein, shall have the same meaning as is given to the respective term in the U.S. Standards for Grapefruit (Texas and States other than Florida, California, and Arizona) (7 CFR 51.620–51.685).

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

Dated: January 25, 1968.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 68–1146; Filed, Jan. 30, 1968; 8:46 a.m.]

[Orange Reg. 18]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio

Grande Valley in Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation of the Texas Valley Citrus Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Texas Valley Citrus Committee on January 16, 1968; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; necessary supplemental economic and statistical information upon which the recommended regulation is based were received by the Department on January 23, 1968; the provisions of this regulation, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of oranges; and compliance with this regulation will not require any special preparation on the part of the persons subject thereto which connot be completed by the effective time hereof.

§ 906.339 Orange Regulation 18.

(a) *Order.* (1) During the period February 1, 1968, through June 30, 1968, no handler shall handle:

(i) Any oranges of any variety, grown in the production area, unless such oranges grade at least U.S. No. 3;

(ii) Any oranges of any variety, grown as aforesaid, which are of a size smaller than 2$\frac{5}{16}$ inches in diameter, except that not more than 10 percent, by count, of such oranges in any lot of containers, and not more than 15 percent, by count, of such oranges in any individual container in such lot may be of a size smaller than 2$\frac{5}{16}$ inches in diameter; or

(iii) Any oranges of any variety, grown as aforesaid, for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto not more than 48 hours prior to the time of shipment.

All oranges of any variety, grown as aforesaid, handled during the period specified in this section are subject to all applicable container and pack requirements which are in effect pursuant to the aforesaid marketing agreement and order during such period.

(2) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; and terms relating to grade and diameter, when used herein, have the same meaning as is given to the respective term in the U.S. Standards for Oranges (Texas and States other than Florida, California, and Arizona) (7 CFR 51.680–51.712).

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

Dated: January 25, 1968.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 68–1147; Filed, Jan. 30, 1968; 8:46 a.m.]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Miscellaneous Amendments

Correction

In F.R. Doc. 67–13665, appearing at page 15915 for the issue of Tuesday, November 21, 1967, the first sentence of § 989.167(b) should read as follows: "Whenever, pursuant to § 989.67(j), the Committee concludes, with respect to any varietal type of raisins, that a downward trend in the price received by producers for free tonnage, or in the prices received by handlers for free tonnage, or in the prices received by handlers for free tonnage packed raisins, makes it impracticable to sell reserve tonnage at the average price received by producers for free tonnage, plus pooling costs, the Committee, subject to the requirements of § 989.67(j), may sell reserve tonnage raisins at the currently prevailing field price for free tonnage raisins of the same varietal type, unless such price is deemed to be unrepresentative of the current f.o.b. price of free tonnage packed raisins."

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

PART 1400—RULES OF CONTRACT DISPUTES BOARD FOR COMMODITY CREDIT CORPORATION

Supersedure of Part

CROSS REFERENCE: For supersedure of Part 1400 by Part 2400 of this title, see Part II of this issue.

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

PART 243—DEPORTATION OF ALIENS IN THE UNITED STATES

PART 244—SUSPENSION OF DEPORTATION AND VOLUNTARY DEPARTURE

Fixing Voluntary Departure Time and Granting Stays of Deportation by Special Inquiry Officers

Reference is made to the notice of proposed rule making which was published in the FEDERAL REGISTER on December 9, 1967 (32 F.R. 17624), pursuant to section 553 of Title 5 of the United States Code and in which there were set out the terms of proposed rules which would, among other things, permit a special inquiry officer during a deportation hearing to authorize the release from custody of the respondent at the hearing and revoke such release.

Representations which were received concerning the proposed rules of December 9, 1967, have been considered. Those proposed rules have been amended only with respect to those provisions relating to the authority of a special inquiry officer to authorize release from custody and revoke such release. With regard to those proposed amendments to 8 CFR 242.2 (b) and (c); 242.17(a), and 299.1, they are still under consideration.

The amendatory regulations as set out below are hereby adopted:

§ 242.22 [Amended]

1. Section 242.22 *Reopening or reconsideration* is amended by adding the following sentences at the end thereof: "In any case in which jurisdiction is not vested in the Board under Part 3 of this chapter, a special inquiry officer may, in his discretion, grant a stay of deportation in connection with, and pending his determination of, a motion to reopen or a motion to reconsider filed with him under this section. The filing with the special inquiry officer of such motion shall not serve to stay the execution of any decision made in the case; execution of such decision shall proceed unless a stay of execution is specifically granted by the special inquiry officer which shall be effective pending his determination of such motion."

§ 243.4 [Amended]

2. The last sentence of § 243.4 *Stay of deportation* is amended to read as follows: "Denial by the district director of a request for a stay is not appealable but such denial shall not preclude the

Board from granting a stay in connection with a motion to reopen or a motion to reconsider as provided in Part 3 of this chapter, nor shall such denial preclude the special inquiry officer, in his discretion, from granting a stay in connection with, and pending his determination of, a motion to reopen or a motion to reconsider a case falling within his jurisdiction pursuant to § 242.22 of this chapter."

3. Part 244 is amended to read as follows:

Sec.
244.1 Application.
244.2 Extension of time to depart.

AUTHORITY: The provisions of this Part 244 issued under sec. 103, 66 Stat. 173; 8 U.S.C. 1103. Interpret or apply secs. 242, 244, 66 Stat. 208, 214; 8 U.S.C. 1252, 1254.

§ 244.1 Application.

Pursuant to Part 242 of this chapter and section 244 of the Act a special inquiry officer in his discretion may authorize the suspension of an alien's deportation; or, if the alien establishes that he is willing and has the immediate means with which to depart promptly from the United States, a special inquiry officer in his discretion may authorize the alien to depart voluntarily from the United States in lieu of deportation within such time as may be specified by the special inquiry officer when first authorizing voluntary departure, and under such conditions as the district director shall direct. An application for suspension of deportation shall be made on Form I-256A.

§ 244.2 Extension of time to depart.

Authority to extend the time within which to depart voluntarily specified initially by a special inquiry officer or the Board is within the sole jurisdiction of the district director. A request by an alien for an extension of time within which to depart voluntarily shall be filed with the district director having jurisdiction over the alien's place of residence. Written notice of the district director's decision shall be served upon the alien, and no appeal may be taken therefrom.

The basis and purpose of the above-prescribed rules is to authorize a special inquiry officer to specify the time during which the respondent who has been granted voluntary departure may depart, fix the responsibility for extending initially authorized voluntary departure time with the district director, and permit the special inquiry officer to grant a stay of deportation in connection with a motion to reopen or reconsider filed in a deportation proceeding.

This order shall become effective on March 15, 1968.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

Dated: January 26, 1968.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 68-1159; Filed, Jan. 30, 1968; 8:47 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

PART 115—PROCEDURES FOR REVIEW OF CERTAIN NUCLEAR REACTORS EXEMPTED FROM LICENSING REQUIREMENTS

License and Authorization Required

On August 3, 1967, the Atomic Energy Commission published in the FEDERAL REGISTER (32 F.R. 11278) proposed amendments to its regulations, 10 CFR Part 50, Licensing of Production and Utilization Facilities, and 10 CFR Part 115, Procedures for Review of Certain Nuclear Reactors Exempted from Licensing Requirements, which would specifically permit the driving of piles prior to issuance of a construction permit or construction authorization.

All interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendments within 60 days after publication of the notice or proposed rule making in the FEDERAL REGISTER.

After consideration of the comments received and other factors involved, the Commission has adopted the proposed amendments. The text of the amendments set forth below is identical with the text of the proposed amendments published on August 3, 1967.

Pursuant to the Atomic Energy Act of 1954, as amended, and the Administrative Procedure Act of 1946, as amended, the following amendments to 10 CFR Parts 50 and 115 are published as a document subject to codification, to be effective 30 days after publication in the FEDERAL REGISTER.

1. Subparagraph (1) of § 50.10(b) of 10 CFR Part 50 is amended to read as follows:

§ 50.10 License required.

* * * * *

(b) No person shall begin the construction of a production or utilization facility on a site on which the facility is to be operated until a construction permit has been issued. As used in this paragraph, the term "construction" shall be deemed to include pouring the foundation for, or the installation of, any portion of the permanent facility on the site, but does not include:

(1) Site exploration, site excavation, preparation of the site for construction of the facility, including the driving of piles, and construction of roadways, railroad spurs, and transmission lines;

* * * * *

2. Subparagraph (1) of § 115.8(b) of 10 CFR Part 115 is amended to read as follows:

§ 115.8 Authorization required.

* * * * *

(b) As used in paragraph (a) of this section, the term "construction" shall be deemed to include pouring the foundation for, or the installation of, any portion of the permanent facility on the site, but does not include:

(1) Site exploration, site excavation, preparation of the site for construction of the reactor, including the driving of piles, and construction of roadways, railroad spurs, and transmission lines;

* * * * *

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201. Interpret or apply secs. 101, 185; 68 Stat. 936, 955; 42 U.S.C. 2131, 2235)

Dated at Germantown, Md., this 19th day of January 1968.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary.

[F.R. Doc. 68-1138; Filed, Jan. 30, 1968; 8:46 a.m.]

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 16—REGISTRATION STATEMENTS AND CONTROLLING CIRCULARS

Registration of Securities of New National Banks and Filing of Registration Statement and Use of Offering Circular

On December 21, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 20657) permitting interested persons 30 days to comment on the provisions contained therein. In such notice, the Comptroller of the Currency proposed revisions of 12 CFR 16.6 and 16.8 relating to the use of registration statements and offering circulars by all new national banks.

No comments have been received and the proposed revisions are hereby adopted without change and are set forth below.

Chapter I, Title 12, of the Code of Federal Regulations is amended by the revision of § 16.6 and § 16.8(a) to read as follows:

§ 16.6 Registration of securities of new national banks.

No new national bank shall sell any of its securities unless such securities shall have been made the subject of a registration statement filed in the Office of the Comptroller of the Currency which has been declared effective by the Comptroller.

§ 16.8 Filing of registration statement and use of offering circular.

(a) No securities of a new national bank shall be sold by, for, or on behalf of any new national bank unless at the time of, or prior to such sale, the purchaser of such security has received an offering circular which forms part of a

registration statement declared effective by the Comptroller of the Currency.

Dated: January 25, 1968.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[F.R. Doc. 68-1156; Filed, Jan. 30, 1968; 8:47 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Publication of Dealer Sales Standards Regarding Nonsale to Dealers Advertising Sale Prices

§ 15.163 Publication of dealer sales standards announcing a policy of not selling to dealers who advertise sale prices.

(a) The Federal Trade Commission rendered an advisory opinion stating its objection to a proposal by a seller of photographic products to announce to the trade its policy to sell only to dealers who advertise in a manner which will not damage the prestige of the seller, avoiding the use of characterizations such as "Sale," "Bargain," "Close-Out," "Clearance," or other similar terminology.

(b) The seller advised that it proposed to implement the standards by delivering a copy to each existing dealer, not for the purpose of terminating any presently unsatisfactory dealers, but to upgrade them to a satisfactory level. This the seller proposed to do by having its representatives work with the dealers to see that they observe the standards and contended that this is permissible since this is simply an advertising restriction, not an effort at resale price maintenance. It was further argued that although the price at which its products are sold is the prerogative of the dealer, the seller has a legitimate business interest in the manner in which its products are advertised by those dealers. The Commission also noted that the standards concluded with the statement that evaluation of the progress of dealers will be made from time to time and those who are not keeping pace will be discontinued.

(c) The Commission advised that it could not give its approval to this proposal for the reason that its implementation as outlined would be likely to result in an illegal restraint of trade. In the first place, the Commission advised that it could not view the proposal as a simple restriction on advertising apart from the effect which that restriction would have on the price at which those dealers sell. While there is a difference between this and a policy of selling only to dealers who maintain the prices suggested by the seller, in that the dealers are ostensibly left free to sell at any price they choose, still a restriction on their ability to advertise sale prices is certainly a grave handicap on their ability to sell at prices below those suggested. Hence the provision, if not one designed to maintain suggested prices, is one which will seriously affect those prices.

(d) The Commission further advised that its view of the present state of the law in this area was that a seller not acting to create or maintain a monopoly may make a unilateral announcement of his policy as to those with whom he will deal, including policies affecting price, and he may refuse to deal with those who do not observe that policy. However, when the seller's actions, as they would under this proposal, go beyond a mere announcement of his policy and the simple refusal to deal, and he employs other means which effect adherence to his policy, he is in serious danger of having put together a combination in violation of the antitrust laws. Thus, the Commission stated, the line between legal and illegal conduct here is a very narrow one and if the seller chooses to walk that line, he must do so at his peril.

(38 Stat. 717, as amended; 15 U.S.C. 41-58)

Issued: January 30, 1968.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 68-1157; Filed, Jan. 30, 1968; 8:46 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 33-4894]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Registration by Certain Successor Issuers

The Securities and Exchange Commission has adopted a new rule, designated Rule 414 (17 CFR 230.414), under the Securities Act of 1933 relating to the registration under the Act of securities by certain successor issuers. The new rule provides a means whereby an offering of registered securities by a predecessor company may be continued by its successor without repeating the full process of registration where the purpose of the succession is merely to change the State of incorporation of the registrant.

The rule gives recognition to the fact that where a registrant is merged into another issuer solely for the purpose of changing the State of incorporation the successor issuer represents, in all substantial respects, the same business and enterprise as that represented by the predecessor registrant. The Commission deems it unnecessary in these situations to require the successor repeat the full registration process in order to continue the offering commenced by ite predecessor.

The rule provides that the registration statement of the predecessor shall be deemed to be the registration statement of the successor where the following conditions are met:

1. The successor is a mere corporate shell having no more than nominal assets or liabilities.

2. The succession is effected by a statutory merger or similar succession in which the successor acquires all of the assets and assumes all of the liabilities and obligations of the predecessor.

3. The succession was approved by security holders of the predecessor issuer at a meeting for which proxies were solicited or information furnished to security holders pursuant to section 14 of the Securities Exchange Act of 1934.

4. The successor files an amendment to the registration statement expressly adopting the statement as its own for all purposes of the Act and the Securities Exchange Act of 1934. Although it is not required that the registration statement be updated in all respects, the rule requires that the amendment shall reflect any material changes made in connection with or resulting from the succession (including any material changes in the rights of security holders) and any matters otherwise necessary to keep the registration statement from being misleading in any material respect.

Commission action. Section 230.414 of Chapter II of Title 17 of the Code of Federal Regulations is herewith adopted to read as follows:

§ 230.414 Registration by certain successor issuers.

If any issuer incorporated under the laws of any State and having securities registered under the Act has been succeeded by an issuer incorporated under the laws of another State for the purpose of changing the State of incorporation of the enterprise, the registration statement of the predecessor issuer shall be deemed the registration statement of the successor issuer for the purpose of continuing the offering provided—

(a) Immediately prior to the succession the successor issuer had no assets or liabilities other than nominal assets or liabilities;

(b) The succession was effected by a merger or similar succession pursuant to statutory provisions or the terms of the organic instruments under which the successor issuer acquired all of the assets and assumed all of the liabilities and obligations of the predecessor issuer; and

(c) The succession was approved by security holders of the predecessor issuer at a meeting for which proxies were solicited pursuant to section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)) or information was furnished to security holders pursuant to section 14(c) of that Act (15 U.S.C. 78n(c)).

(d) the successor issuer has filed an amendment to the registration statement

of the predecessor issuer expressly adopting such statement as its own registration statement for all purposes of the act and the Securities Exchange Act of 1934 and setting forth any additional information necessary to reflect any material changes made in connection with or resulting from the succession, or necessary to keep the registration statement from being misleading in any material respect, and such amendment has become effective.

(Secs. 6, 7, 10, and 19; 48 Stat. 78, 81, and 85, as amended; 15 U.S.C. 78f, 78g, 78j, 78s)

Effective date. Since registration pursuant to the new section is optional with successor issuers and the section imposes no additional duties or obligations on registrants under the Act, the Commission finds that notice and procedure pursuant to the Administrative Procedure Act are unnecessary and that the section may be made effective immediately. Accordingly the section shall become effective January 24, 1968.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

JANUARY 24, 1968.

[F.R. Doc. 68-1152; Filed, Jan. 30, 1968; 8:46 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-331; Order 358]

PART 4—LICENSES, PERMITS, AND DETERMINATION OF PROJECT COSTS

PART 131—FORMS

Constructed Major and Minor Project License Applications; Exhibit Relating to Fish and Wildlife Resources

JANUARY 24, 1968.

On October 17, 1967, the Commission issued a notice of proposed rulemaking in this proceeding (32 F.R. 14778, Oct. 25, 1967) wherein it proposed to amend §§ 4.50 and 131.6 of the Commission's regulations to require the submission of an Exhibit S relating to the conservation of fish and wildlife resources with an application for license for constructed major and minor projects. The Commission previously prescribed the Exhibit S for license applications for unconstructed major and minor projects as well as constructed projects for which a new license is sought under section 15 of the Federal Power Act.

As we have noted in the case of unconstructed project applications, the Exhibit S requirement has proved useful in identifying potential problems with respect to fish and wildlife resources and suggesting possible solutions. We believe that similar benefits will be derived in the case of constructed projects. It will also facilitate the Commission's cooperation with the Fish and Wildlife Service, Department of the Interior and appropriate State fish and wildlife agencies on the conservation of fish and wildlife resources affected by the project.

Four responses have been received to the Commission's notice,[1] three of which express satisfaction with the proposed rule. The Puget Sound Power and Light Co., alone, opposes the adoption of the proposed rule stating that the bases in the notice for the proposed rule are unsound. It contends that the requirement for Exhibit S would cause delays in the processing of license applications. While the preparation of Exhibit S will undoubtedly require time and effort on the part of applicants for constructed projects, this would take place prior to the filing of the application. In our view, a thorough examination of the subject by applicants and interested agencies prior to the filing of the application would eliminate delays that may now occur in the processing of applications for constructed projects.

The Company notes that the requirements of the Fish and Wildlife Coordination Act (16 U.S.C. 661-666c) are not applicable in the case of certain constructed projects. The requirements for an Exhibit S would in any case facilitate the exercise of the Commission's responsibilities with respect to such projects under the Federal Power Act, particularly sections 10(a) and 18 thereof. The Company further contends that the proposed rule is likely to lead to inequities and unsound expenditures. We do not agree. An Exhibit S would alert the Commission to existing problems and propose possible solutions. Prior to prescribing appropriate conditions in the license, the Commission would consider all relevant factors presented, including the need for modifications of existing project structures or operation, and the feasibility therof.

The Commission finds: The amendment of §§ 4.50 and 131.6 is necessary and appropriate for the purposes of carrying out the provisions of the Federal Power Act.

The Commission, acting pursuant to the provisions of the Federal Power Act, as amended, particularly sections 4(e), 9, 10(a), 10(i), and 309 thereof (41 Stat. 1065, 1068; 49 Stat. 858; 16 U.S.C. 797(e), 802, 803, 825h), orders:

(A) Section 4.50, Subchapter B and § 131.6, Subchapter D of Chapter I, Title 18 of the Code of Federal Regulations are amended as hereinafter set forth:

§ 4.50 [Amended]

1. In § 4.50, the paragraph *"Exhibit S.* This exhibit shall not be required for license applications on constructed projects, except with respect to applications for licenses under section 15 of the Federal Power Act." is deleted.

2. Section 131.6 is amended by revising the opening sentence of the description of Exhibit S to read as follows:

§ 131.6 Application for license for minor project having installed capacity of 2,000 horsepower or less.

* * * * *

Exhibit S, to be submitted with applications for all minor projects shall show the following information: * * *

(Secs. 4(e), 9, 10(a), 10(i), 41 Stat. 1065, 1068; sec. 309, 49 Stat. 858; 16 U.S.C. 797(e), 802, 803, 825h)

(B) These amendments shall become effective February 23, 1968.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 68-1129; Filed, Jan. 30, 1968; 8:45 a.m.]

[1] The Department of the Interior, (2) State of New York Water Resources Commission, (3) State of California Department of Fish and Game, and (4) the Puget Sound Power and Light Co.

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 68-41]

PART 16—LIQUIDATION OF DUTIES

Net Amount of Bounty Declared for December 1967 for Sugar Content of Certain Australian Products Subject to Countervailing Duties

JANUARY 24, 1968.

The Treasury Department is in receipt of official information that the rates of bounties or grants paid or bestowed by the Australian Government within the meaning of section 303, Tariff Act of 1930 (19 U.S.C. 1303), on the exportation during the month of December 1967, of approved fruit products and other approved products containing sugar amounts to Australian $110.20 per 2,240 pounds of sugar content.

The net amount of bounties or grants on the above-described commodities which are manufactured or produced in Australia is hereby ascertained, determined, and declared to be Australian $110.20 per 2,240 pounds of sugar content. Additional duties on the above-described commodities, except those commodities covered by T.D. 55716 (27 F.R. 9595), whether imported directly or indirectly from that country, equal to the net amount of the bounty shown above shall be assessed and collected.

The table in § 16.24(f) of the Customs Regulations is amended by inserting after the last line under "Australia—Sugar content of certain articles" the number of this Treasury decision in the column headed "Treasury Decision" and the words "New rate" in the column headed "Action." The table in § 16.24(f) is further amended by deleting therefrom under "Australia—Sugar content of certain articles" the number 67-240 in the column headed "Treasury Decision" and

the words "New rate" appearing opposite such number in the column headed "Action."

(R.S. 251, secs. 303, 624, 46 Stat. 687, 759; 19 U.S.C. 66, 1303, 1624)

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

Approved:

MATTHEW J. MARKS,
Acting Assistant Secretary of the Treasury.

[F.R. Doc. 68-1157; Filed, Jan. 30, 1968; 8:47 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Regs. No. 5]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965–)

Subpart M—Conditions for Coverage of Services of Independent Laboratories

MISCELLANEOUS AMENDMENTS

Correction

In F.R. Doc. 68-497 on page 488 appearing in the issue of Saturday, January 13, 1968, the following corrections are made:

1. In § 405.1306(a) the word "than" in the second line should read "that".

2. In § 405.1313(b)(2) the word "bachelor" in the second line should read "master".

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Conditions for Investigational Use of the Hallucinogenic Drugs Bufotenine, DET, and Ibogaine and Their Salts

There is increasing evidence that DET (*N,N*-diethyltryptamine) is being misused, and its misuse has been associated with serious side effects including serious mental changes and psychotic manifestations. Bufotenine (5-hydroxy-*N*-dimethyltryptamine) and ibogaine (7-ethyl-6,6α,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [4,5-b] indole) have also been encountered in illegal channels, and both have a potential for abuse similar to that of DET. In view of the foregoing, the Food and Drug Administration concludes that it is in the public interest to take additional steps to assure that the distribution and use of these drugs are limited to adequately justified research.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505, 511(b), 701(a), 52 Stat. 1052, as amended, 1055; 70 Stat. 229; 21 U.S.C. 355, 360a(b), 371(a)) and under the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 3.47 is revised to read as follows to add thereto the subject drugs:

§ 3.47 Bufotenine and its salts, DET and its salts, DMT, ibogaine, LSD, mescaline and its salts, psilocybin, and psilocyn; conditions for investigational use.

(a) No person may sell, deliver, or otherwise dispose of bufotenine (5-hydroxy-*N*-dimethyltryptamine) and its salts, DET (*N,N*-diethyltryptamine) and its salts, DMT (dimethyltryptamine), ibogaine (7-ethyl-6,6α,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [4,5-b] indole) and its salts, LSD (LSD-25, *d*-lysergic acid diethylamide), mescaline and its salts, psilocybin (psilocibin), and psilocyn (psilocin):

(1) For clinical testing in man until a proposal for such studies has had advance approval by the Commissioner of Food and Drugs on the basis of a Notice of Claimed Investigational Exemption for a New Drug (form FD 1571) justifying such studies.

(2) For tests in vitro or in laboratory research animals until a proposal for such studies has had advance approval by the Commissioner on the basis of the submission of complete information describing the purpose, design, and extent of the intended studies, the qualifications and facilities of the investigator, and the source and shipper of the drug.

(3) For clinical investigations in animals until a proposal for such studies has had advance approval by the Commissioner on the basis of information submitted pursuant to § 130.3a(b) of this chapter, including the qualifications and facilities of the investigator and the source and shipper of the drug.

(b) This statement of policy applies to all shipments, deliveries, or other dispositions of the drugs specified in paragraph (a) of this section after January 31, 1968.

(Secs. 505, 511(b), 701(a), 52 Stat. 1052, as amended, 1055; 70 Stat. 229; 21 U.S.C. 355, 360a(b), 371(a))

Dated: January 18, 1968.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 68-1005; Filed, Jan. 30, 1968; 8:45 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 526—INDUSTRIES OF A SEASONAL NATURE AND INDUSTRIES WITH MARKED SEASONAL PEAKS OF OPERATION

Nursery Stock Storing and Packing Industry

On November 15, 1967, a notice was published in the FEDERAL REGISTER (32 F.R. 15712), proposing to find that the nursey stock storing and packing industry, as defined below, is an industry of a seasonal nature within the meaning of section 7(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(c)) as amended by the Fair Labor Standards Amendments of 1966 (Public Law 89-601) and is engaged in the handling, packing, storing, preparing, first processing or canning of perishable agricultural or horticultural commodities in their raw or natural state within the meaning of section 7(d) of the Act as amended. Interested persons were given 30 days in which to present written data, views, and argument. No response has been made. Pursuant to sections 7(c) and 7(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207 (c) and (d)) as amended by the Fair Labor Standards Amendments of 1966 (Public Law 89-601), Reorganization Plan No. 6 of 1950 (3 CFR, 1949-53 Comp., p. 1004), Secretary's Order 19-67 (32 F.R. 12980) and the procedures set out in 29 CFR Part 526 (32 F.R. 5775), the proposed findings are hereby made.

For the purpose of these findings, the nursery stock storing and packing industry is defined to include the handling, packing, storing, and preparing of nursery stock, and any operations necessary or incidental thereto.

Accordingly, 29 CFR Part 526 is hereby amended by deleting from the list provided in § 526.10 "Nursery stock, storing and packing" together with the date and citation set opposite that industry, and by adding to the list provided in § 526.12 "Nursery stock storing and packing industry" with the date of this document shown under the heading "Date of finding" and the volume and page of the FEDERAL REGISTER in which this document appears under the heading "Citation". As these amendments merely grant exemptions, no delay in their effective date is required by 5 U.S.C. 553(d). Such delay would serve no useful purpose. These amendments shall, therefore, be effective immediately.

(29 U.S.C. 207 (c) and (d))

Signed at Washington, D.C., this 26th day of January 1968.

CLARENCE T. LUNDQUIST,
Administrator, Wage and Hour and Public Contracts Divisions, U.S. Department of Labor.

[F.R. Doc. 68-1178; Filed, Jan. 30, 1968; 8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER D—CLAIMS AND LITIGATION

PART 842—ADMINISTRATIVE CLAIMS

Miscellaneous Amendments

Subchapter D of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

§ 842.0 Scope. [Amended]

1. Section 842.0 is amended by changing the word "prevent" in the last line to read "present."

Subpart A—Processing Claims

2. Section 842.1 is amended by revising paragraph (d) (3) to read as follows:

§ 842.1 Who may present a claim.

* * * * *

(d) * * *

(3) Subrogated claims are not cognizable under Subpart B, C, or G of this part.

* * * * *

Subpart C—Personnel Claims (31 U.S.C. 240–243)

3. The title of Subpart C is amended as set forth above.

4. Section 842.20 is revised; § 842.22 is amended by revising paragraph (b) (3); § 842.29 is amended by revising paragraph (b) (3) (i) (*l*); and § 842.31 is revised. These sections now read as follows:

§ 842.20 Scope of subpart.

This subpart tells how to administratively settle and pay claims presented by Air Force military and civilian personnel for personal property damaged or lost incident to their service.

§ 842.22 Presenting cognizable claims.

* * * * *

(b) * * *

(3) Losses resulting from marine or aircraft incident. Losses experienced by crew members and passengers in marine or aircraft incidents while in a duty status are cognizable. They may include jettisoned baggage, items of clothing being worn at the time of the disaster, a reasonable amount of money, reasonable and proper amounts of jewelry, and other lost items. Losses by Air Force members or employees in leave status are payable only if they occur during authorized government transportation.

* * * * *

§ 842.29 Settlement authority.

* * * * *

(b) * * *

(3) * * *

(i) * * *

(*l*) First Air Force.

* * * * *

§ 842.31 Items turned in for salvage.

If an item on which an award is based is determined to have salvage value, the approving authority notifies the claimant in writing that the item must be delivered to the Air Force Redistribution and Marketing (R&M) office as a condition to payment of his claim. (Exception: If claims officer had determined that the cost to turn the property in to Government salvage would exceed its monetary value, he may ask the claimant to discard it.)

Subpart D—Claims Under the Military Claims Act (10 U.S.C. 2733)

§ 842.41 General. [Amended]

5. Paragraph (a) of § 842.41 is amended by changing the word "approval" in lines 10 and 11 to read "approved."

6. Section 842.46 is revised to read as follows:

§ 842.46 Claims payable under this subpart.

Rule	A If claim arises from—	B Then under this subpart it is—
1	Noncombat activities whether or not negligence is alleged or present.	Payable.
2	Negligent or wrongful act or omission by Air Force military or civilian personnel in the scope of their employment that results in personal injury or death, or damage to real or personal property, when not cognizant under (but not prohibited by) the Federal Tort Claims Act, the Foreign Claims Act, or an international agreement (but see rule 7).	
3	Loss or damage of personal property shipped at Government expense by persons not proper claimants under Subpart C of this part.	Payable, and if damage or loss occurred under circumstances for which carrier was responsible, claimant must make a demand for payment on carrier or insurer.
4	Damage to or loss or destruction of registered or insured mail while in custody of authorized Air Force military or civilian personnel, e.g., unit mail clerks, even though damage or loss resulted from criminal acts or Air Force noncombat activities.	Payable, and will be processed as a bailment claim (see § 842.45(a)).
5	Damage to or loss of bailed property (see § 842.45(a)).	Not payable.
6	Combat activities of military forces during war or armed conflict.	
7	Injury to or death of military personnel incident to their services.	
8	Injury to or death of civilian employees covered by Federal Employees' Compensation Act (5 U.S.C. 8101) or Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901), as applicable to certain civilian employees of nonappropriated fund instrumentalities of the US Armed Forces (5 U.S.C. 2105(c) under 5 U.S.C. 8171–8173).	
9	Death, injury, or damage in a foreign country when claim is presented to authorities of a foreign country under Article VIII, NATO Status of Forces Agreement, Article XVIII, Japanese Status of Forces Agreement, or similar treaty or agreement, if reasonable disposition was made of claim and claimant has given U.S. Government release.	
10	Death, injury, or damage occurring in a foreign country to an inhabitant of a foreign country.	
11	Purely contractual transactions.	
12	Private, as distinguished from Government transactions.	
13	Patent or copyright infringement.	
14	Damage, rent, or other expenses or income involved in acquisition, possession, and disposition of or interest in real property by and for the Air Force.	
15	Taking of private real property by trespass by flight of aircraft over property.	
16	Loss or damage of mail of any type in the possession of the Post Office department, a Military Postal Service or to ordinary mail and minimum-fee insured mail without an insurance number or requirement for hand-to-hand receipt, and loss of registered mail by enemy action.	
17	Loss of rental fee for personal property.	
18	Death, injury, or damage that is being litigated against the United States.	

NOTE: No award for any claim under this subpart may include reimbursement for any medical, hospital, or burial expenses borne by the United States.

Subpart E—Foreign Claims (10 U.S.C. 2734)

7. Sections 842.53 and 842.54 are revised to read as follows:

§ 842.53 Claims cognizable under this subpart.

Rule	A If a claim arising outside the U.S., its possessions, or Puerto Rico—	B Then under this subpart it is—	C And it is—
1	Arises from damage, loss, personal injury, or death caused by act or omission of Air Force military or civilian personnel or is otherwise incident to Air Force noncombat activities.	Cognizable	Payable.
2	Is for damage to or loss of real property of any foreign country, its political subdivision, or inhabitant, including damage or loss incident to use and occupancy unless excluded by rule 14.		
3	Is for damage to or loss of personal property of owners shown in rule 2, including property bailed to the U.S.		
4	Is based on personal injury or death of an inhabitant of a foreign country.		
5	Is a nonappropriated fund claim (see note 1).		
6	Has been presented to authorities of a foreign country and settled under Article VIII of NATO Status of Forces Agreement, Article XVIII of Japanese Status of Forces Agreement, or similar treaty or agreement.		Not payable.
7	Is purely contractural in nature (see note 2).		
8	Is for court costs or reimbursement for a satisfied judgment against Air Force military or civilian personnel.		
9	Arises from private contractual relationship between contract personnel and third parties about property leases, public utilities, hiring of domestic servants, and debts of any description (see note 3).		
10	Is based solely on compassionate grounds (see note 4).		
11	Is a bastardy claim.		
12	Is for patent or copyright infringement.		
13	Is waived under an international agreement.		
14	Is for rent, damage, or other payments involving regular acquisition, possession, and disposition of real property or interests therein by or for the Air Force.		
15	Is presented by a Communist country or its inhabitant (see note 5).		
16	Is for taking real property by trespass through flight of aircraft, when no actual physical damage resulted.		
17	Is payable under Federal Employees' Compensation Act (5 U.S.C. 8101, et seq.), or the Longshoreman's and Harbor Workers' Compensation Act (33 U.S.C. 901, et seq.), or U.S. contract and costs or premiums are paid by the U.S.		
18	Results directly or indirectly from combat activities.	Not cognizable.	
19	Is presented during a period when settlements are suspended by a commander during war or armed conflict.		
20	Is based on negligence of a concessionaire or other independent contractor.		
21	Arises out of activities of dependents of members and employees of the Air Force, their guests, servants, or pets, unless directly attributable to lack of control or supervision by an Air Force member or employee.		
22	Is presented while litigation, commenced by the claimant and arising from the same incident or accident, is pending against the U.S. or its employees.		

NOTES: 1. These claims are paid as prescribed by regulation of service concerned (Subpart M of this part covers Air Force claims).

2. Exception: Irregular procurement damage claims should be settled under this subpart if procurement authorities cannot effectively regularize the action and make proper payment under procurement procedures; forward to Hq USAF (AFJALD) through channels the files of any cases on which procurement and claims personnel cannot reach an agreement about claims disposition.

3. Forward these claims for action to the commander of the individual concerned (see AFR 35-29).

4. Solatium is not payable out of claim funds but procedures for paying it out of O&M funds as an investigative expense under provisions of DoD annual appropriations act have been approved.

5. These claims are considered on an individual basis and settled under this subpart only when specifically authorized by Hq USAF (AFJALD) through claims channels.

§ 842.54 Settlement authority.

(a) *Claims payable for $1,000 or less.* Unless otherwise specifically limited in the appointing orders, a one-member foreign claims commission is authorized to settle under this subpart and pay in an amount not more than $1,000 a claim presented for $2,500 or less.

(b) *Claims payable for $15,000 or less.* (1) A three-member foreign claims commission may settle under this subpart and pay in an amount not more than $15,000 any claim regardless of the amount of the claim presented. However, awards between $5,000 and $15,000 are subject to the approval of:

(i) The appointing authority, if the commission was appointed by PACAF or USAFE; or

(ii) Chief or Assistant Chief, Claims Division, Office of The Judge Advocate General, HQ USAF, if the commission was appointed by an authority other than PACAF or USAFE.

(2) The appointing authority indicated in subparagraph (1) of this paragraph will take the following action on a claim which a commission has approved for an award between $5,000 and $15,000:

(i) Approve the award; or

(ii) Return claim to the commission for further consideration.

(c) *Claims recommended for payment for more than $15,000.* (1) When a three-member commission recommends approval of a claim for more than $15,000, it will forward the claim promptly with its related investigative file and memorandum opinion, through claims channels to Hq USAF (AFJALD). The memorandum opinion will include a narrative description of the incident, specific findings of fact, citations of authority, and concise recommendations concerning the proposed action to be taken by the Secretary of the Air Force.

(2) The Judge Advocate General will refer the claim to the Secretary of the Air Force with his comments and advice.

(3) The Secretary of the Air Force, if he considers the claim meritorious and cognizable under the Foreign Claims Act, will:

(i) Return it to the commission through claims channels for settlement in an amount not over $15,000, or

(ii) Make an award in an amount of more than $15,000 that he considers just and reasonable, and, upon receipt of a settlement agreement from the claimant in full satisfaction of the entire claim, certify the claim to Congress for payment.

(4) If the Secretary of the Air Force finds that the claim is without merit, he will disapprove it.

(d) *Disapproval authority of foreign claims commissions.* When total disapproval is warranted, a foreign claims commission's settlement authority is limited by the dollar amount of the claim as presented by the claimant. For example, a one-man commission may not disapprove a claim for more than $1,000, and a three-man commission's limit is $15,000. Claims for more than $15,000 which are recommended for disapproval must be referred to Hq USAF (AFJALD) for settlement action by the Secretary of the Air Force, as stated in paragraph (c) (2) and (3) of this section. Claims within the monetary jurisdiction of a foreign claims commission that are disapproved do not require any action by the appointing or other designated authority as in paragraph (b) (1) of this section.

Subpart F—International Agreement Claims (10 U.S.C. 2734a and 2734b)

§ 842.64 Effect of NATO SOFA and other SOF agreements on U.S. statutes. [Amended]

8. Section 842.64 is amended by changing the citation in the last line of paragraph (a) to read "5 U.S.C. 8101–8150."

Subpart H—Admiralty Claims (10 U.S.C. 9801–9804 and 9806)

§ 842.92 Payable and nonpayble claims. [Amended]

9. Section 842.92 is amended by revising lines 6–8 of Rule 6, column A, to read "Act (5 U.S.C. 8101, et seq., formerly 5 U.S.C. 751) applies."

Subpart I—Claims Under the Federal Tort Claims Act (28 U.S.C. 2671–2680)

§ 842.102 Proper claimants under the Federal Tort Claims Act. [Amended]

10. Section 842.102 is amended by changing the name of the act referred to in line 4 of Note 1 of the table to read "the Military Personnel and Civilian Employees' Claims Act."

11. Section 842.103 is amended by revising paragraph (b); and § 842.104 is revised to read as follows:

§ 842.103 Cognizable claims.

* * * * *

(b) *Determining scope of employment.* The Department of the Air Force is liable under this subpart only for the acts or omissions of its military and civilian personnel while performing within the scope of their employment. For this purpose, the limited "line of duty" set forth in the Federal Tort Claims Act and "scope of employment" are synonymous under the principle of the doctrine of respondeat superior.

* * * * *

§ 842.104 Claims not cognizable.

A claim is not cognizable under this subpart if it arises:

(a) For any cause that is otherwise cognizable under this subpart and is presented for more than $2,500, including all interests, subrogated and principal, and accrues before January 18, 1967.

(b) From act or omission of military or civilian personnel exercising due care in executing a statute or directive, regardless of whether the statute or directive was valid.

(c) From the exercise or performance of, or failure to exercise or perform, a discretionary function or duty by a Federal agency or a Government employee, regardless of whether the discretion involved is abused.

(d) Out of loss, miscarriage, or negligent transmission of letters or postal matters.

(e) In connection with assessment or collection of any tax or customs duty, or detention of any goods or merchandise by any customs or excise officer or other law enforcement officer.

(f) From admiralty causes for which a remedy is provided by 46 U.S.C. 741–799.

(g) From an act or omission of any Government employee in administering the Trading With the Enemy Act (50 U.S.C. App. 1–31).

(h) From damages caused by imposing or establishing a U.S. quarantine.

(i) From willful torts, assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, negligent or intentional misrepresentation, deceit, or interference with contract rights.

(j) From combat activities of military forces.

(k) During periods of national emergency.

(l) From a flood.

(m) From the inherent risk in a given activity and the individual has accepted that risk by signing a "covenant not to sue" or any other release effective under local law..

(n) When the Government takes an easement in air space over land.

(o) From damage to property of U.S. Government departments or agencies.

(p) In a foreign country.

§ 842.106 Statute of limitations. [Amended]

12. Section 842.106 is amended by changing the word "subsequent" in line 11 of paragraph (b) to read "on or after."

13. Section 842.111 is amended by revising paragraph (f) to read as follows:

§ 842.111 Settlement authority.

* * * * *

(f) *Claims for $500 or less.* The staff judge advocate of each Air Force base, station, and fixed installation may settle claims for $500 or less.

Subpart N—Civil Air Patrol (CAP) Claims (5 U.S.C. 8141(c); 10 U.S.C. 2733, 2734, 9441, and 9801–9806; 28 U.S.C. 2671–2680; 31 U.S.C. 71, 951–953; and 36 U.S.C. 201–208)

14. Section 842.162 is revised to read as follows:

§ 842.162 Cognizable third party claims.

Rule	A If claim is—	B And—	C Then it is—
1	For personal injury, death, or property damage.	It arises from an accident or incident and was proximately caused by the CAP acting under Air Force direction on a specially assigned mission.	Cognizable (see note 1).
2	A reimbursement claim	If for use or depreciation of privately owned property used by the CAP, its senior members, or cadets on any mission specifically assigned by the Air Force.	Not cognizable.
3	An idemnity claim	Is for damage to or loss of privately owned property used on any mission specifically assigned by the Air Force that resulted from acts or omissions of the owner or operator.	
4	For personal services or expenses.	They were incurred by the CAP, its senior members, or cadets while engaged in any mission specifically assigned by the Air Force.	Cognizable (see note 2).
5	For damage or injury	It arises out of CAP accident or incident that occurs when CAP is not under Air Force direction.	Not cognizable (see note 3).
6		It arises out of CAP accident or incident occurring outside time limits prescribed for an Air Force specially assigned mission.	
7	Based solely on Government ownership of property on loan to CAP.		Not cognizable.

NOTES: 1. This is not to be construed as creating a bailment or loan to the Air Force of privately owned property.
2. See AFR 46-5 and 10 U.S.C. 9441 for CAP-reimbursable expenses.
3. See case of Pearl v. United States, 230 F. 2d 243 (D.C. Okla. 1956).

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012, except as otherwise noted) [AFM 112–1, Ch. 1, Nov. 20, 1967]

By order of the Secretary of the Air Force.

LUCIAN M. FERGUSON,
Colonel, United States Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 68–1127; Filed, Jan. 30, 1968; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 68–1]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Baines Creek, Va.

1. The drawbridge over Baines Creek, Va., for which special operation regulations were prescribed in 33 CFR 117.245(f)(27) has been replaced by a fixed bridge and these special regulations are no longer applicable. The purpose of this document is to revoke the requirements in 33 CFR 117.245(f)(27) that prescribe special regulations for the operation of the Atlantic Coastline Railroad drawbridge over Baines Creek, Va., due to the replacement of this drawbridge by a fixed bridge.

2. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 14 U.S.C. 632 and the delegation in 49 CFR 1.4(a)(3), 33 CFR 117.245(f)(27) is revoked as of the date of publication of this document in the FEDERAL REGISTER:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) *Waterways discharging into Chesapeake Bay.* * * *

(27) [Revoked]

* * * * *

3. The authority note for Part 117 is amended to read as follows:

AUTHORITY: The provisions of this Part 117 issued under sec. 5, 28 Stat. 362, as amended, sec. 6(g), 80 Stat. 941; 33 U.S.C. 499, 49 U.S.C. 1655(g); 49 CFR 1.4(a)(3)(v); unless otherwise noted.

Dated: January 22, 1968.

W. J. SMITH,
Admiral U.S. Coast Guard,
Commandant.

[F.R. Doc. 68-1136; Filed, Jan. 30, 1968; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 50—Public Contracts, Department of Labor

PART 50-202—MINIMUM WAGE DETERMINATIONS

Adjustment to Wage Increases Under Fair Labor Standards Act

On November 28, 1967, a notice was published in the FEDERAL REGISTER (32 F.R. 16220) proposing to make a final prevailing minimum wage determination under section 1(b) of the Walsh-Healey Public Contracts Act (41 U.S.C. 35(b)) for effect as to all contracts subject to the Public Contracts Act, bids for which are invited, offers for which are solicited, or negotiations otherwise commenced on or after February 1, 1968, that the prevailing minimum wage is $1.60 per hour in all those groups of industries currently operating in each locality in which the materials, supplies, articles, or equipment are to be manufactured or furnished under such contracts, except those particular or similar industries for which minimum wage determinations higher than $1.60 per hour have been made. The notice of proposed determination took official notice, under section 7(d) of the Administrative Procedure Act (5 U.S.C. 556(e)) of all of the facts prerequisite to the determination it proposed. Persons adversely affected or aggrieved by the proposal were given an opportunity to demand a hearing, and to make a showing contrary to the facts officially noticed. No request for a hearing has been received.

Accordingly, pursuant to sections 1, 4, and 10 of the Walsh-Healey Public Contracts Act (41 U.S.C. 35, 38, 43a), 41 CFR Part 50-202 is hereby amended as indicated below. These amendments shall become effective on February 1, 1968, good cause being hereby found for providing no more delay, because persons affected have been on notice since November 28, 1967, that February 1, 1968, was the intended effective date. Providing an effective date for the $1.60 minimum wage under the Walsh-Healey Public Contracts Act which will coincide with the effective date of the same minimum wage which Congress has provided for the Fair Labor Standards Act of 1938 will simplify the problems of compliance as well as administration and enforcement of the two Acts.

1. Section 50-202.2 is revised to read as follows:

§ 50-202.2 Minimum wage in all industries except to the extent to which a higher minimum wage is provided in Subpart C.

In all industries, except to the extent to which a higher minimum wage is provided in Subpart C, the minimum wage payable to employees described in § 50-201.102 of this chapter shall be not less than $1.60 per hour.

§§ 50-202.5, 50-202.6 [Deleted]

2. Section 50-202.5, entitled "Photographic and blueprinting equipment and supplies industry", is deleted.

3. Section 50-202.6, entitled "Soap and related products industry", is deleted.

4. Subparagraphs (2) and (3) of paragraph (b) of § 50-202.7 are revised to read as follows:

§ 50-202.7 Paper and pulp industry.

* * * * *

(b) *Minimum wages.* * * *

(2) The minimum wage for persons employed in the manufacture or furnishing of products in the rag paper and pulp branch of the paper and pulp industry shall be not less than that prescribed in § 50-202.2.

(3) The minimum wage for persons employed in the manufacture or furnishing of products in the converted sanitary paper products branch of the paper and pulp industry shall be not less than that prescribed in § 50-202.2.

* * * * *

§§ 50-202.10, 50-202.14, 50-202.15 [Deleted]

5. Section 50-202.10, entitled "Paint, varnish, and related products industry", is deleted.

6. Section 50-202.14, entitled "Scientific, industrial, and laboratory instruments industry", is deleted.

7. Section 50-202.15, entitled "Metal business furniture and storage equipment industry", is deleted.

8. That portion of paragraph (b) of § 50-202.16 reading "District 12. Iowa: $1.40" is revised to read as follows:

§ 50-202.16 Bituminous coal industry.

* * * * *

(b) *Minimum wages.* * * *

District 12. Iowa: Not less than that minimum wage prescribed in § 50-202.2.

* * * * *

9. Paragraph (b) of § 50-202.18 is revised to read as follows:

§ 50-202.18 Battery industry.

* * * * *

(b) *Minimum wages.* (1) The minimum wage for persons employed in the manufacture or furnishing of lead-acid storage batteries or plates therefor shall be not less than $1.80 an hour.

(2) The minimum wage for persons employed in the manufacture or furnishing of all other products of the battery industry shall be not less than that prescribed in § 50-202.2.

10. Section 50-202.21, entitled "Electron tubes and related products industry", is deleted.

11. Section 50-202.22, entitled "Drugs and medicines industry", is deleted.

12. Section 50.202.23, entitled "Paper and paperboard containers and packaging products industry", is deleted.

13. Section 50-202.26, entitled "Office, computing, and accounting machines industry", is deleted.

§§ 50-202.21, 50-202.22, 50-202.23, 50-202.26 [Deleted]

14. Subparagraph (1) of paragraph (b) of § 50-202.27 is revised to read as follows:

§ 50-202.27 Miscellaneous chemical products and preparations industry.

* * * * *

(b) *Minimum wages*—(1) *Product Group 1.* The minimum wage for persons employed in the manufacture (including packaging) or furnishing of the products in Product Group 1 of the miscellaneous chemical products and preparations industry shall be not less than that prescribed in § 50-202.2.

* * * * *

§ 50-202.31 [Deleted]

15. Section 50-202.31, entitled, "Electronic equipment industry", is deleted.

(41 U.S.C. 35, 38, 43a)

Signed at Washington, D.C., this 26th day of January 1968.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 68-1180; Filed, Jan. 30, 1968; 8:48 a.m.]

Title 45—PUBLIC WELFARE

Chapter VI—National Science Foundation

[NSF Circular 54]

PART 600—STANDARDS OF CONDUCT OF EMPLOYEES AND CONSULTANTS

Miscellaneous Amendments

Correction

In F.R. Doc. 68-778 on page 746 appearing in the issue of Saturday, January 20, 1968, in line 30 of § 600.735-8(d) the word "requiring" should read "acquiring".

Title 49—TRANSPORTATION

Chapter I—Department of Transportation

[Docket No. HM–5; Amdts. 173–1, 177–1]

PART 173—SHIPPERS

PART 177—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

Stress Corrosion in MC 330 and MC 331 Cargo Tanks

Transporters of anhydrous ammonia in MC 330 and MC 331 cargo tanks (constructed of quenched and tempered steels) have recently experienced numerous occurrences of a phenomenon known as stress corrosion cracking. Stress corrosion cracking is the spontaneous failure of a metal resulting from the combined effects of corrosion and stress. Fortunately, the stress corrosion cracking experienced in MC 330 and MC 331 cargo tanks to date has been such that only minor leaks have occurred with sufficient warning being provided to the operator to facilitate corrective action. However, stress corrosion cracking in the pressure vessels concerned could result in a much more drastic failure wherein an entire section of the vessel could fail and thereby permit a catastrophic escape of the vessel's contents.

Under § 173.315 of the hazardous materials regulations the MC 330 and MC 331 quenched and tempered steel cargo tanks concerned are authorized for the transportation of 23 different kinds of gas. All of these materials are transported under high pressure. Many of these commodities are toxic or flammable.

The purpose of this amendment is to require the immediate inspection of MC 330 and MC 331 quenched and tempered cargo tanks to determine the need for repair, and to insure the product retention integrity of the vessels involved. The priority of inspection is based on the commodities transported in the past and the existing or potential use of the vessel. Tests already conducted have resulted in the withdrawal from service of a large number of defective tanks.

Recognizing the potential hazard of anhydrous ammonia so far as it contributes to the stress corrosion cracking of quenched and tempered steel MC 330 and MC 331 cargo tanks this amendment simultaneously requires inhibiting and preventive measures to reduce the stress corrosion cracking in future operations. The introduction of a minimum of 0.2 percent water by weight to the anhydrous ammonia shipped after January 31, 1968, is being required to inhibit the corrosive action of anhydrous ammonia. Purging of cargo tanks before loading with anhydrous ammonia is being required to remove the air in the tank, since this procedure has also been proved to be an effective deterrent against stress corrosion cracking. (The presence of carbon dioxide and oxygen in the tanks under pressure have been shown to be contributory to the corrosion cracking.)

Research by the affected industries has also indicated that metallurgical grade anhydrous ammonia (i.e., at least 99.995 percent pure) will not cause stress corrosion cracking if the vessel has been properly purged of air. This amendment makes appropriate provisions for this special use.

This amendment is addressed to known stress corrosion conditions. There are still some important operating conditions involving potential stress corrosion cracking which may be uncovered during the required inspection. There is reason to suspect that the sulfides, which may be found in "sour" liquefied petroleum gas, are potential contributors to stress corrosion cracking.

Reference is made in the amendments to Part 177 to the "ASME Code, 1965 Edition." Copies of this code are available from the American Society of Mechanical Engineers, 345 East 47th Street, New York, N.Y. 10017, for a nominal charge.

As a situation exists which demands immediate adoption of this regulation in the interests of public safety, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective without notice and in less than 30 days.

In accordance with the Federal Reports Act of 1942, the reporting and recording requirements contained in Amendment 177–1 have been approved by the Bureau of the Budget under Docket No. 4S68001.

In consideration of the foregoing, Parts 173, and 177 of the Hazardous Materials Regulations of the Department of Transportation (49 CFR, Parts 170–190) are hereby amended as follows, effective January 31, 1968. This amendment is made under the authority of sections 831–835 of title 18, United States Code, and section 9 of the Department of Transportation Act (49 U.S.C. 1657).

Issued in Washington, D.C., on January 26, 1968.

LOWELL K. BRIDWELL,
Administrator,
Federal Highway Administration.

I. By amending Part 173 as follows:

(A) Section 173.315(a)(1) Table is amended by adding the following Note 14 at the end thereof:

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

(a) * * *

(1) * * *

Kind of gas	Maximum permitted filling density		Specification container required	
	Percent by weight (see Note 1)	Percent by volume (see par. (f) of this section)	Type (see Note 2)	Minimum design pressure (p.s.i.g.)
(Change) Anhydrous ammonia (see Note 14).	56	82; see Note 5	ICC–51, MC–330, MC–331, see Note 12.	265.
* * *	* * *	* * *	* * *	* * *

* * * * *

NOTE 14: Specifications MC 330 and MC 331 cargo tanks constructed of other than quenched and tempered steel ("NQT") are authorized for all grades of anhydrous ammonia. Specifications MC 330 and MC 331 cargo tanks constructed of quenched and tempered steel ("QT") (see marking requirements of § 177.823(b)(5) of this chapter) are authorized for either anhydrous ammonia having a minimum water content of 0.2 percent by weight, or for metallurgical grade anhydrous ammonia (at least 99.995 percent pure). Any tanks going into anhydrous ammonia service which have either been in other service or have been opened for inspection, test, or repair—including new tanks—shall be cleaned of the previous product and shall be purged of air before loading. See §§ 173.427(a)(3) and 177.817(a)(1) of this chapter for special shipping paper requirements.

(B) Section 173.427(a) is amended by adding the following new subparagraph at the end thereof:

§ 173.427 Shipping papers.

(a) * * *

(3) For shipments of anhydrous ammonia in specifications MC 330 and MC 331 cargo tanks constructed of quenched and tempered steel, the shipper must also show "(0.2% water)" or "(99.995%)", as appropriate, to indicate suitability for shipment in such tanks as authorized by § 173.315(a)(1) Note 14.

II. By amending Part 177 as follows:

(A) Section 177.817(a) is amended by adding the following new subparagraph at the end thereof:

§ 177.817 Shipping papers.

(a) * * *

(1) Carriers must not accept for transportation nor transport anhydrous ammonia in specifications MC 330 and MC 331 cargo tanks constructed of quenched and tempered steel, unless the shipping paper is marked "(0.2% water)" or "(99.995%)" as appropriate, to indicate suitability for shipment in such tanks as authorized by § 173.315-(a)(1) Note 14 of this chapter.

* * * * *

(B) Section 177.823(b) is amended by adding the following new subparagraph at the end thereof:

§ 177.823 Required exterior marking on motor vehicles and combinations.

* * * * *

(b) * * *

(5) Specifications MC 330 and MC 331 cargo tanks shall be durably marked in letters at least two inches high in the area immediately adjacent to the identification plate, "QT" to indicate construction of quenched and tempered steel or "NQT" to indicate construction of other than quenched and tempered steel.

* * * * *

(C) Section 177.824 is amended by amending paragraphs (a)(1), (e)(3)(ii), (f), (g), and (h), and by adding a new paragraph (i), to read as follows:

§ 177.824 Retesting and inspection of cargo tanks.

(a) * * *

(1) Every cargo tank, except specs. MC 330 and MC 331 cargo tanks, must comply with the testing and marking requirements prescribed in paragraphs (a), (b), (c), (d), and (h) of this section. In addition to the requirements contained in § 173.33(e) of this chapter, spec. MC 330 cargo tanks must comply with the testing and marking requirements prescribed in paragraphs (a), (e), (f), and (h) of this section; and spec. MC 331 cargo tanks must comply with the testing and marking requirements prescribed in paragraphs (f) and (h) of this section.

* * * * *

(e) * * *

(3) * * *

(ii) Except for the internal test, the test required by this subparagraph shall be made either by the magnetic particle method, the radiographic method, or the ultrasonic method. If the magnetic particle method is used, the test shall be conducted in accordance with appendix VI, section VIII, ASME Code, 1965 Edition, except that permanent magnets may not be used for this purpose. The ultrasonic method may be used only in full compliance with the provisions of Case Interpretation 1275N of the ASME Code, 1965 Edition. If the radiographic method is used, the test shall be conducted in accordance with the requirements of section VIII, of the ASME Code, 1965 Edition. The internal test shall be made by the wet fluorescent magnetic particle method in accordance with appendix VI, section VIII, of the ASME Code, 1965 Edition. If any failure to comply with the Code under which the tank was built, or if any defective plate or weldment is disclosed by the test, the defect shall be repaired in accordance with the provisions of the Code under which the tank was built before replacing the vehicle in service.

* * * * *

(f) *MC 330 and MC 331 cargo tanks.* (1) Every quenched and tempered steel cargo tank constructed in accordance with specification MC 330, except tanks not equipped with manways, or in accordance with MC 331, which have contained either anhydrous ammonia or liquefied petroleum gas shall be internally inspected by the wet fluorescent magnetic particle method. This test is in addition to any test which may be required in paragraph (e) of this section. This subparagraph does not apply to any cargo tank which was so tested and which has been used exclusively in transporting, since the date of that inspection, the materials described in Note 14 to § 173.315(a)(1) or subparagraph (4) of this paragraph.

(2) The inspection required by subparagraph (1) of this paragraph shall be conducted in accordance with applicable part of appendices VI or VIII, section VIII, of the ASME Code, 1965 Edition. An alternating current yoke shall be used in the fluorescent magnetic particle method. Internal inspection shall include: all internal welds; all areas extending at least 2 inches from such welds in all directions; all internal surfaces at least 2 inches in all directions from all exterior welds; entire internal surface of tank heads. If any cracks are found the entire interior surface of the tank shall be inspected.

(3) Schedule of testing for MC 330 and MC 331 quenched and tempered steel cargo tanks.

(i) Any cargo tank which has at any time been used to transport anhydrous ammonia shall not be used for the transportation of liquefied petroleum gas after March 31, 1968, and shall not be used to transport any other flammable compressed gas or anhydrous ammonia after April 30, 1968, unless it has been tested in accordance with subparagraph (1) of this paragraph, and unless all use after that test has been in accordance with Note 14 to § 173.315(a)(1) of this chapter.

(ii) Any cargo tank which has never been in anhydrous ammonia service, and which has been used to transport liquefied petroleum gas shall not be used to transport any flammable compressed gas after December 1, 1968, unless it has been tested in accordance with subparagraph (1) of this paragraph, and unless all use after that test has been exclusively in the transportation of liquefied petroleum gases which meet specifications NGPA (National Gas Processors Association) 2140 (1962 Edition).

(4) Cargo tanks which have been used exclusively to transport at least 99.995 percent pure anhydrous ammonia are exempt from the testing requirements in this paragraph. Cargo tanks which have been used exclusively to transport liquefied petroleum gases which meet specifications NGPA 2140 (1962 Edition) are also exempt from those testing requirements. Any such exemptions shall be described in the report required by subparagraph (6) of this paragraph.

(5) All cracks and other defects found shall be repaired in accordance with the repair procedures described in section VIII, of the edition of the ASME Code under which the tank was built. Any tank requiring welded repairs shall meet all the requirements of § 178.337-16.

(6) Each motor carrier operating any MC 330 or MC 331 cargo tank of any type steel shall submit to the Director, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation, Washington, D.C. 20591, an initial written report before May 1, 1968. This initial report shall include the following information:

(i) Carrier's name, address, and telephone number;

(ii) A list of all MC 330 and MC 331 cargo tanks in that carrier's service on the date of the report (other than cargo tanks used in interchange service which are reported by another carrier), including the following information:

(a) Carrier's equipment number;

(b) Manufacturer's name;

(c) Manufacturer's serial number;

(d) MC 330 and MC 331;

(e) "QT" (Quenched and tempered) or "NQT" (Not quenched and tempered);

(iii) A supplemental report shall be submitted for any such tank placed in service after the date of the initial report.

(7) Each motor carrier operating any MC 330 or MC 331 cargo tank of quenched and tempered steel shall submit to the Director, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation, Washington, D.C. 20591, a written report of each inspection required by this paragraph, and any repairs required by that inspection, signed by a responsible officer of the carrier. Each report shall be submitted within 30 days after the inspection is made and shall contain the following information:

(i) Carrier's name, address, and telephone number;

(ii) Complete name plate data required by specification MC 330 or MC 331;

(iii) Carrier equipment number;

(iv) Vessel material specification number;

(v) Whether or not stress relieved after fabrication and after repair;

(vi) Name and address of the person performing the test;

(vii) Nature and severity of defects found, if any. Information should be furnished to indicate location of defects, such as in welds, heat-affected zone, liquid phase, vapor phase, around pads, head-to-shell seam, or other possible locations. If no defect or damage was discovered, that fact shall be reported;

(viii) How repairs were made, by what method, and by whom;

(ix) Disposition of the tank;

(x) Whether use for transportation of anhydrous ammonia, liquefied petroleum gas, or both.

(8) A copy of each report required by this paragraph shall be retained by the carrier during the period the tank is in the carrier's service and for 1 year thereafter.

(9) Each carrier offering an MC 330 or MC 331 cargo tank for sale or lease shall provide a copy of the results of any tests made under this paragraph for inspection by each prospective purchaser or lessee.

(g) *Special testing required by the Department.* Upon the showing of probable cause of the necessity for retest, the Department may require any cargo tank to be retested at any time in accordance with the requirements prescribed for its periodic retest.

(h) *Test date markings.* The date of the last test shall be durably marked on the tank in letters not less than 1¼ inches high, in legible colors near the metal certification plate. The date shall be followed by the letter "V" for visual (or magnetic particle, x-ray, etc.) test; or "H" for hydrostatic (or pneumatic) test.

(i) *Withdrawal of certification.* If, as the result of an accident or for any other reason the cargo tank ceases to comply with the applicable specification, the carrier shall remove the metal certification plate or otherwise make it illegible (see § 173.22(b) of this chapter). The details pertaining to action necessitating withdrawal of certification shall be recorded, dated, and signed on the written certificate and the vehicle owner shall retain the certificate for a period of at least 3 years after the date of withdrawal of the certificate.

[F.R. Doc. 68-1241; Filed, Jan. 30, 1968; 8:49 a.m.]

Proposed Rule Making

FEDERAL MARITIME COMMISSION

[46 CFR Part 531]

[Docket No. 68-6]

SMALL VESSEL OPERATIONS

Exemption

Notice is hereby given that the Federal Maritime Commission is proposing to exempt from the tariff filing requirements of section 2 of the Intercoastal Shipping Act, 1933, and section 18(a) of the Shipping Act, 1916 small vessels not in excess of 100 tons cargo carrying capacity or not more than 100 indicated horsepower provided such vessels: (a) Are not employed by or under common control or management of a common carrier by water which operates vessels in excess of 100 tons or 100 indicated horsepower in the same service; (b) are not used as a part of a continuous through movement by another common carrier by water subject to the Shipping Act, 1916; and (c) are not performing lighterage services in connection with or on behalf of another common carrier by water subject to the Shipping Act, 1916.

The exemption would not relieve such operations from requirements of the shipping acts, other than the tariff filing requirements set forth above.

This exemption shall apply continuously to small vessels unless and until the Commission shall find and, by order, declare that the regulation of such small vessels is necessary to carry out policies of the shipping acts.

Public Law 89-778 (46 U.S.C. 833(a)), approved November 6, 1966, authorized the Federal Maritime Commission to exempt certain operations of water carriers or other persons or activities from provisions of the shipping acts, where it finds that such exemption will not substantially impair effective regulation by the Commission, be unjustly discriminatory or be detrimental to commerce. The involved class of carriers appears to fall within the category which by their exclusion from regulation to the extent set forth would not be detrimental to other commerce or impair effective regulation.

Therefore, pursuant to the provisions of section 4, Administrative Procedure Act (5 U.S.C. 553); Public Law 89-778 (46 U.S.C. 833(a)); section 2 Intercoastal Shipping Act, 1933 (46 U.S.C. 844); sections 18(a), and 43 of the Shipping Act, 1916 (46 U.S.C. 817, and 841(a)), the Commission proposes to amend Part 531 of the Code of Federal Regulations to provide for the exemption of the above-described vessels from the tariff filing requirements of the pertinent sections of the shipping acts and of Part 531.

Interested persons may participate in this rulemaking proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before February 20, 1968, an original and 15 copies of their views or arguments pertaining to the proposed rule. All suggestions for changes should be accompanied by drafts of the language thought necessary to accomplish the desired change and by statements and arguments in support thereof.

The Federal Maritime Commission, Bureau of Compliance, Office of Hearing Counsel, shall participate in the proceeding and shall file reply to comments on or before March 6, 1968, by serving an original and 15 copies on the Federal Maritime Commission and one copy to each party who filed comments. Answers to Hearing Counsel's replies shall be submitted to the Federal Maritime Commission on or before March 18, 1968.

By Order of the Federal Maritime Commission January 23, 1968.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 68-1182; Filed, Jan. 30, 1968; 8:49 a.m.]

[46 CFR Parts 531, 536]

[Docket No. 68-7]

DOMESTIC AND FOREIGN NONVESSEL OPERATING COMMON CARRIERS OF USED HOUSEHOLD GOODS

Exemption From FMC Tariff Filing Requirements

Notice is hereby given that the Federal Maritime Commission is proposing to exempt from the tariff filing requirements of section 2, Intercoastal Shipping Act, 1933 and section 18(a) and (b)(1) of the Shipping Act, 1916, the transportation of used household goods, Government and civilian, by nonvessel operating common carriers by water when the domestic movement within the United States (1) is exempt under section 402(b) of the Interstate Commerce Act or (2) is carried for or on behalf of the U.S. Government under the provisions of section 22 of the Interstate Commerce Act.

Nonvessel operating common carriers by water are subject to regulation by the Federal Maritime Commission (FMC) pursuant to decisions in Docket No. 701, Bernhard Ulmann Co. v Porto Rican Express Co., 3 F.M.B. 771 (1952) and Docket No. 815, Common Carriers By Water—Status of Express Companies, Truck Lines and Other Nonvessel Carriers, 6 F.M.B. 245 (1961).

Following the decisions certain motor carriers of used household goods which provide through transportation for or on behalf of the U.S. Government under section 22 of the Interstate Commerce Act and Part IV freight forwarders operating under the exemption provisions of Part 402(b) of that act began filing tariffs providing for the water port-to-port portions of the movement with this Commission. The transportation, however, for the most part originates or is destined to interior U.S. points and moves under through bills of lading. The port-to-port rates filed with this Commission are merely charges for a segment of the total movement.

The rates for the total movement are not found in commercial tariffs filed with any regulatory agency.

Public Law 89-778 (46 U.S.C. 833(a)) approved November 6, 1966, authorizes the Federal Maritime Commission to exempt certain operations of water carriers or other persons or activities from provisions of the shipping acts, where it finds that such exemption will not substantially impair effective regulation by the Commission, be unjustly discriminatory or be detrimental to commerce. The involved transportation appears to fall within the category of operations which would not be detrimental to other commerce by its exclusion from the FMC's tariff filing requirements.

Therefore, pursuant to the provisions of section 4, Administrative Procedure Act (5 U.S.C. 553); Public Law 89-778 (46 U.S.C. 833(a)); section 2, Intercoastal Shipping Act, 1933 (46 U.S.C. 844); section 18(a), 18(b) and 43 of the Shipping Act, 1916 (46 U.S.C. 817, 817(b) and 841(a)); the Commission proposes to amend Parts 531 and 536 of Title 46 Code of Federal Regulations to provide an exemption from the tariff filing requirements of the pertinent sections of the shipping acts and of Parts 531 and 536 of the Code of Federal Regulations. The proposed exemption will apply to nonvessel operating common carriers by water when engaged in the transportation of used household goods when such transportation, as to the interior U.S. portion of the movement, is (1) exempt from economic regulation under Part IV, section 402(b) of the Interstate Commerce Act; or (2) is performed for or on behalf of the U.S. Government under the provisions of section 22 of that Act.

The proposed exemption would not affect compliance by subject parties with other requirements of the shipping acts.

Interested persons may participate in this rulemaking proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before February 29, 1968, an original and 15 copies of their views or arguments pertaining to the proposed rule. All suggestions for changes should be accompanied by drafts of the language thought necessary to accomplish the desired change and by statements and arguments in support thereof.

The Federal Maritime Commission, Bureau of Compliance, Office of Hearing Counsel, shall participate in the proceeding and shall file reply to comments on or

before March 18, 1968, by serving an original and 15 copies on the Federal Maritime Commission and one copy to each party who filed comments. Answers to Hearing Counsel's replies shall be submitted to the Federal Maritime Commission on or before March 29, 1968.

By Order of the Federal Maritime Commission on January 23, 1968.

[SEAL] THOMAS LISI, *Secretary.*

[F.R. Doc. 68-1183; Filed, Jan. 30, 1968; 8:49 a.m.]

FEDERAL TRADE COMMISSION

[16 CFR Part 301]

FURS AND FUR PRODUCTS

Artificially Colored Products, Exempted Products; Extension of Time for Filing Further Comments

On December 4, 1967 the Commission issued a notice of proposed rule making relative to proposed amendments to §§ 301.19 (Rule 19) and 301.39 (Rule 39) of the rules and regulations under the Fur Products Labeling Act. Such notice was published in the FEDERAL REGISTER on Thursday, December 7, 1967, 32 F.R. 17544.

The notice provided that an oral hearing would be held on January 11, 1968, and that further written views, arguments, and data would be received for 20 days after the hearing was closed.

On petition of certain interested parties the time for filing further written views, arguments, and data is extended to March 11, 1968.

Issued: January 26, 1968.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 68-1168; Filed, Jan. 30, 1968; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-8239]

NEW YORK STOCK EXCHANGE

Commission Rate Proposals and Proposed Rule on Give-Ups

The Securities and Exchange Commission announced that the New York Stock Exchange has submitted for Commission comment and reaction the outlines of a proposal for certain revisions of its commission rate structure. A copy of that proposal is attached to this release.[1a] As described more fully below, the Exchange proposal generally contemplates (1) provision for a volume discount in commissions, (2) access to the exchange market for qualified nonmember broker-dealers through a professional discount, (3) recognition of limited customer directed "give-ups" of commissions to both members and nonmembers on New York Stock Exchange executions and limitations upon reciprocal business, (4) a prohibition of procedures by which institutional investors may recapture a portion of the commissions paid by them and (5) a requirement that the regional exchanges impose similar restrictions.

The Commission also announced that it has under consideration a proposal to adopt Rule 10b-10 (17 CFR 240.10b-10) under the Securities Exchange Act of 1934. The rule, essentially, would prohibit investment company managers from directing brokers executing transactions for an investment company to divide their compensation in any way with other brokers unless the benefits of such divison accrue to the investment company and its shareholders. The rule would be adopted pursuant to the antifraud provisions of the Securities Exchange Act of 1934 and the Investment Advisors Act of 1940 and certain provisions of the Investment Company Act of 1940.

Since the proposal of the Exchange as well as the proposed Commission rule would have significant impact upon New York Stock Exchange member firms, nonmember broker-dealers, institutional investors, other exchanges and the public, the Commission believes it appropriate that all interested persons have an opportunity to comment not only on the proposed Commission rule but also on the Exchange's proposal.

Both the proposed Commission rule and the proposal of the Exchange arise out of certain problems presented by the great increase in institutional investment and the complex and rapidly developing pattern of practices and procedures in the securities markets associated with that increase which are commonly referred to as "give-ups and reciprocal business." Proposed Rule 10b-10 (17 CFR 240.10b-10) is limited in scope. It assumes that present give-up practices will continue and accordingly deals primarily with the question of conduct by fiduciaries in that context. The New York Stock Exchange proposal is more far reaching and, particularly insofar as it involves a volume discount, suggests the possibility that the problem with which the proposed rule is concerned could be dealt with in a more direct and thorough-going way by changing the commission rate structure. For this reason and because in certain respects the proposed rule of the Commission and the Exchange proposal are inconsistent, the Commission further believes it appropriate to afford interested persons the opportunity not only to comment with respect to both the proposed rule and the Exchange proposal but to suggest, if they so desire, alternative means of dealing with the serious and difficult problems presented.

Any consideration, both of these proposals and of the practices and procedures to which they relate, must include careful attention to their impact upon competition, including competition among securities firms, competition among markets and competition among institutional investors. This is mandated by the antitrust laws and the policies underlying these laws. As the Supreme Court has pointed out, the Exchange commission rate structure includes a number of practices which would clearly violate the antitrust laws absent the Securities Exchange Act and notwithstanding the Securities Exchange Act the exchanges do not enjoy a blanket exemption from the antitrust laws. Nevertheless where the Commission has jurisdiction to review and pass upon particular Exchange activities, as it has in the area of commission rates under section 19(b) of the Exchange Act, antitrust immunity may, under some circumstances, be implied.[1b] Such immunity would be implied to the extent necessary to reconcile the statutory scheme of the Securities Exchange Act with that of the antitrust laws. This necessarily contemplates that full consideration be given to the policies of the antitrust laws as well as those of the Securities Exchange Act in evaluating any aspect of the commission rate structure or any proposals for its revision. Whether or not the mere existence of Commission jurisdiction necessarily creates an immunity from the antitrust laws was left open by the Supreme Court in the Silver case. However this may be, it is clear that antitrust considerations should receive the closest scrutiny.

Background. The Commission believes it useful to outline briefly the situation which prompted both the New York Stock Exchange's rate structure proposal and proposed Commission Rule 10b-10 (17 CFR 240.10b-10) with the expectation that this may contribute to understanding and analysis of these proposals.

In recent years institutional investors, including banks, insurance companies, pension plans, and investment companies have accounted for a steadily increasing share of the volume of trading on the exchanges. On the New York Stock Exchange institutional volume as a percent of total public volume has increased from 25.4 percent in March 1956 to 33.8 percent in September 1961, to 39.3 percent in March 1965 and 42.9 percent in October 1966, the latest date available. It should be recognized that these institutional investors usually represent a pooling, under professional management, of savings belonging to a great many individuals, most of whom are small investors. Consequently securities market conditions and practices which affect the investments of these individuals are of wide public interest.

These institutions tend to deal in larger blocks of securities than individual investors ordinarily do. Consequently increasing institutional participation in

[1a] Copies have been filed as part of this document. Additional copies can be obtained from the Commission's headquarters office.

[1b] Silver v. New York Stock Exchange, 373 U.S. 341 (1963). See also Kaplan v. Lehman Bros., et al., 250 F. Supp. 562 (N.D. Ill., 1966), aff'd 371 F. 2d 409 (C.A. 7, 1967), certiorari denied, ------ U.S. ------, the Chief Justice dissenting, (1967).

the exchange markets has been accompanied by a significant increase in the number of large blocks offered and traded. Studies by the New York Stock Exchange show that the number of transactions involving 10,000 shares or more has increased from 2,171 in 1965 to 6,685 in 1967, that the number of shares involved in these transactions has more than tripled, and that their share of reported volume has increased from 3.1 percent to 6.5 percent.

This situation has thrown an increasing strain on the rigid minimum commission rate structure, adopted many years ago by the New York Stock Exchange and followed by all other national securities exchanges, which is based upon a single round lot, usually 100 shares. There is no volume discount based either on the size of the individual order or upon the amount of portfolio business done by an institution or upon the amount of portfolio business done by an institutional investor over a period of time. Thus the commission which a member firm is required by Exchange rules to charge its customer on a 10,000 share transaction is 100 times the commission it is required to charge on a 100 share transaction and the commission on 100,000 shares is 1000 times the commission on 100 shares. Ostensibly all persons who are not Exchange members must pay the minimum commission. There is no distinction among different kinds of nonmember, e.g., nonmember brokers, individual customers, institutional investors, etc.

While orders to buy or sell large blocks involve greater demands on a broker than the execution of a single round lot order, it does not cost a broker anywhere near 100 times as much to execute a 10,000 share order than to execute a 100 share order. Indeed, for certain aspects of the execution process, such as bookkeeping, the cost is essentially the same. As is true in other areas of the business world, broker-dealers engaged in effecting such transactions have enjoyed the great advantages of scale accruing from large transactions. These institutional transactions generally do not involve the payment of a commission to a salesman of the broker, although an institutional brokerage business usually does entail the expense of maintaining an institutional trading department and the development of special talents. Consequently, the executing brokers are willing to accept substantially less compensation for executing institutional orders, particularly large institutional orders, than is contemplated by mechanical application of the existing minimum commission rate rules of the exchanges.

Managers of institutional investors have taken advantage of the competition among brokers for institutional business, and the willingness of such brokers to accept compensation far lower than that contemplated by the Exchange rules, to divert or recapture portions of the commission paid on institutional orders. An increasingly complex pattern of practices having this objective has developed. Many of these practices involve the so-called "give-up."

A "give-up" is a payment by the executing broker to other broker-dealers of a part of the minimum commission he is required to charge his customers. Under the rules of the stock exchanges, the payment may be made on the executing broker's own initiative and for his own purposes or it may be directed by the customer. The recipient of a "give-up" check may have had nothing whatsoever to do with the transaction for which the commission is charged and in fact may not even know of the transaction or where or when it was executed. Thus "give-ups" have been widely used in connection with mutual fund portfolio transactions. Managers of mutual funds direct give-ups, for the most part to broker-dealers who have sold fund shares in order to motivate, or reward, such sales effort. On certain orders, the executing broker may retain as little as 25 percent of the commission paid by the fund and give up the balance. Brokers who sell fund shares are thus compensated for their efforts not only by receipt of the dealer's portion of the "sales load" but also by substantial amounts of give-up dollars generated at the direction of the manager of the fund through purchases and sales of fund portfolio securities. Fund managers also often use give-ups as a reward for research ideas furnished to them in their capacity as investment advisers to the funds.

While the New York Stock Exchange permits its members to give up commissions only to other members of that Exchange, the smaller regional exchanges have, with increasing success, competed with the New York Stock Exchange for institutional business, particularly the business of mutual funds, by permitting give-ups of commissions not only to members of the particular exchange but also to any member of the National Association of Securities Dealers, Inc. or even to any registered broker-dealer. By requiring that an order be taken to a regional exchange, a mutual fund manager is able to provide monetary reward to broker-dealers who sell shares of the mutual fund but who are not members of the New York or of any exchange.

Give-ups are widely used in connection with so-called "cross" transactions. These involve situations where the order cannot be adequately executed in the auction process on the floor of an exchange and therefore the institutional broker finds the other side of the trade off the floor, i.e., locates a seller if he has an order to buy or a buyer if he has an order to sell, and then merely records or "crosses" the order on the floor. Exchange rules do not allow member brokers to consummate crosses in their offices or in the over-the-counter market at a negotiated commission, but they do allow the broker to send the transaction to any exchange of which he is a member and to give up from the commissions he must charge on the cross in accordance with the rules of that exchange. By this means large institutional orders can, nominally at least, be executed on small regional exchanges, but where this occurs the usual motive is simply to take advantage of the rules of that exchange with respect to the classes of persons who may receive give-ups.

In addition to the give-up, there have developed complex practices by which executing brokers provide compensation at the direction of institutional investors to other brokers by means of reciprocal business, i.e., permitting such other brokers to participate in the commission generated from execution, in the over-the-counter market or on regional exchanges, of orders which the institutional broker has received from other customers. More recently, certain member firms of the New York Stock Exchange have developed a procedure whereby they can compensate nonmembers of the New York Stock Exchange at the direction of mutual fund managers by paying cash to such nonmembers and crediting such payments on over-the-counter trades for unrelated customers, whether or not commissions were in fact charged on such trades. The compensated dealers have no participation in these trades and, in fact, may never have heard of the trades at the time when they were executed.

Give-ups and reciprocal business practices in connection with institutional trading have become so widespread that it may plausibly be argued that, in the case of large institutional orders, there is in economic substance no fixed minimum commission. Commissions are negotiated between institutional managers and their "lead" brokers with the lead broker on occasion retaining no more than 25 percent of the ostensible minimum commission. This situation is perhaps most strikingly illustrated by procedures which have been developed and which enable institutional investors to recapture a portion of commissions for themselves. Many mutual fund managers have affiliates which are registered as broker-dealers; many of these affiliates are members of the NASD. A small number of mutual fund managers have created affiliates which have joined a regional stock exchange. In the latter situations, the manager directs that give-ups and reciprocal business be given by its lead brokers to its affiliates. It then credits the net income thus received by the affiliate, in whole or in part, against the advisory fee it receives from the fund. This results in lowering the advisory fee by all or part of the net income the manager has thus obtained. Through this means, public shareholders of institutions can, within the framework of existing practices developed by the securities industry, recoup substantial amounts of commissions actually paid for the execution of their portfolio orders despite a rigid commission structure which does not otherwise permit the institution to benefit from the very substantial portfolio business it may have to dispense. In one instance the advisory fees charged to a large complex of mutual funds by their common manager were

lowered in the aggregate by approximately $3.1 million for the year 1966, this sum being the approximate net profit of the manager's broker-dealer affiliate. Other managers have elected to credit the advisory fees they charge by only 50 percent of the net profits of their broker-dealer affiliates. In a few instances, the mutual fund manager has kept all give-ups it has directed to its brokerage affiliate for itself without lowering the advisory fees it charges to the fund whose portfolio transactions are the source of such give-ups.

Although these techniques permit fiduciaries who manage a pooled fund to return a portion of portfolio commissions to the shareholders of that fund, they have to date been employed mainly by the managers of those mutual funds whose shares are sold by the manager's own "captive" sales force. Managers of those mutual funds which are distributed by independent broker-dealers have almost always used the excess brokerage to provide additional reward to dealers who sell shares of the fund rather than endeavoring to recapture such brokerage for the fund. This is because by so compensating dealers these mutual fund managers facilitate the sale of shares and thus maximize their own underwriting and investment advisory income. Many mutual fund managers believe that so long as this type of sales incentive can be given to dealers, competition among mutual fund managers for the favor of dealers will make it difficult, if not impossible, for any individual fund manager to fail to provide such compensation to dealers, both members and nonmembers of exchanges, selling shares of his funds. In this connection the Commission has been informed that certain large member firms of the New York Stock Exchange, who maintain extensive mutual fund departments and are a significant factor in the sale of mutual fund shares through dealers, have suggested to mutual fund managers that brokerage be channeled to them if they are to continue to sell shares of the manager's funds.

The net effect of the foregoing developments has been (1) a dramatic increase in the volume of transactions on regional exchanges,[2] (2) a "diversion" of commissions which otherwise might have been retained by New York Stock Exchange members to (a) other members who perform no function in connection with transactions and (b) nonmembers of the New York Stock Exchange who perform no function on transactions effected by New York Stock Exchange members on regional exchanges, and (3) a developing trend whereby excess commissions—the amounts which, at the direction of institutional managers, executing brokers are willing to give up to persons who perform no service or function in connection with the execution of portfolio transactions—are returned, at least partially, to the institutional customers thereby indirectly benefiting the millions of investors who invest through pooled media such as mutual funds. In short, competition in the securities industry among institutional managers and brokers and among exchanges, has operated to reduce very substantially the amount of commissions actually retained by executing brokers—but with relatively little impact or effect as yet on the commissions actually paid by the public investors who invest through institutional media.

In addition to practices with respect to commissions on institutional transactions, there are certain related competitive phenomena which deserve mention. As previously noted, the New York Stock Exchange rate structure expressly provides that nonmembers of that Exchange—including broker-dealers who are members of a regional exchange—must pay a New York Stock Exchange member a full commission for transactions executed on the New York Stock Exchange. Nevertheless, reciprocal business practices have developed which now give such regional exchange members indirect economic access to the floor of that Exchange.

For example, when a broker-dealer cannot execute its customer's order on the regional exchange of which it is a member, it has the order executed on the New York Stock Exchange, pays a New York Stock Exchange member a full New York Stock Exchange commission and collects that amount from the customer. Thus, the sole member of the regional exchange receives no direct compensation for its customer's order. However, it can receive indirect compensation equal to 50 percent of the commission paid by the customer. The member of the New York Stock Exchange through whom the order was executed brings its own customers' orders to the regional exchange, executes them there and names the sole member broker-dealer as the "clearing agent." Typically, under the rules of regional exchanges, the sole member may receive up to 50 percent of the stock exchange commission for acting as "clearing agent" on such orders, although he performs no function except the largely unnecessary one of guaranteeing performance by the New York Stock Exchange member.

Recent years have also seen a substantial growth in the so-called third market. This involves securities firms which are not members of any exchange and which deal in listed securities over-the-counter, both as principal and as agent, largely for institutional customers and broker-dealers not members of an exchange. Since exchange minimum commission rates do not apply to them, they have been able to execute orders either as principal or as agent for compensation substantially less than that provided for in the minimum commission rate rules. On the other hand, their ability to compete for institutional business has been adversely influenced by the fact that they are not in a position to provide give-ups for the benefit of institutional managers, since give-ups have generally been regarded as proper only where a minimum commission rate is applicable. Two incidents illustrate this point. One firm at one time specialized in executing institutional orders for listed securities in the over-the-counter market at a negotiated commission lower than that provided by exchange rules. Certain mutual fund managers suggested that it join a regional exchange and thus charge the higher commissions specified by the exchange and, at the same time, place itself in a position to distribute give-ups at the request of these managers and it did so in order to retain their business. Another large over-the-counter firm advised the Commission that instead of negotiating its compensation on each large institutional trade, it proposed unilaterally to establish a fixed nonnegotiable commission but to give up a portion of this commission at the direction of mutual fund managers. This arrangement, which has not yet been put into effect, was motivated not because the firm thought that its existing negotiated compensation was inadequate but, rather, because it believed that its ability to provide give-ups would substantially improve its competitive position in seeking business from mutual fund managers even though its regular charges imposed on the funds were already lower than the New York Stock Exchange fixed minimum commission.

The Commission's jurisdiction under section 19(b) of the Securities Exchange Act over Exchange rules with respect to "the fixing of reasonable rates of commission" obviously extends both to the commission rate level and to the commission rate structure. Particularly in the earlier years the Commission's attention appeared to focus primarily on questions of level, although questions of structure also arose. The history of this consideration since 1937 is outlined in considerable detail in the Report of the Special Study of Securities Markets.[3] As there pointed out, determination of a reasonable level of minimum rates for an industry as diverse, complex and, in a sense, competitive as the New York Stock Exchange brokerage community presents perplexing problems. In addition, questions of structure and questions of level are intimately related. Thus the Exchange proposal for a volume discount pertains to rate level as well as structure and is a response to the fact that the existing level of rates for large institutional transactions has, as a result

[2] In 1961 the total dollar volume of transactions on regional exchanges was $4.4 billion; in 1966 it was $10.3 billion. This represented 6.8 percent of the dollar volume of transactions on all exchanges in 1961 and 8.4 percent of such volume in 1966. By comparison New York Stock Exchange dollar volume increased from $52.7 billion in 1961 to $98.6 billion in 1966; and New York Stock Exchange transactions declined from 82.6 percent of total dollar volume of exchange transactions in 1961 to 80.1 percent of such transactions in 1966. Dollar volume on the American Stock Exchange accounts for the balance. Substantially all of the regional exchange volume consists of trading in securities also traded on the New York Stock Exchange.

[3] Special Study, Pt. 2, 328–346. H.R. Doc. No. 95, 88th Cong., 1st sess. (1963).

of competitive factors, fostered the proliferation of give-ups and reciprocal practices.

These practices and problems, as outlined above, some of which are of relatively recent origin, have been the subject of intensive consideration by the Commission over a period of years. Reciprocal business practices and customer directed give-ups were described in the Report of the Special Study of Securities Markets.[4] It was suggested that they be studied in connection with an intensive inquiry into all aspects of the commission rate structure. They were further discussed in the Commission's 1966 Report on the Public Policy Implications of Investment Company Growth.[5] Approximately 19 months ago the Commission advised the exchanges of its belief that Exchange rules should be changed to preclude customer directed give-ups.[6]

Since consideration of the New York Stock Exchange proposal necessarily would involve an understanding and consideration of possible alternatives, the Commission believes that proposed Rule 10b–10 (17 CFR 240.10b–10) should now be noticed for comment. The Commission would thus be in the best position to consider all alternatives, including any which may be suggested.

The Exchange proposal. The first item of the New York Stock Exchange proposal involves the establishment of a volume discount. The Exchange has not yet determined the amount of such discount or the circumstances under which it would be available. There are a number of possible alternatives, including (1) a discount based upon the size of a particular order and (2) a discount based upon the volume of a particular investor's transactions over a specified period of time. The Commission assumes that the discount ultimately arrived at would be meaningful and workable. Upon that assumption it woud appear that this part of the Exchange proposal would make an important contribution to resolving the problems discussed above and be in accord with suggestions that the Commission has made to the exchanges on several occasions.

Several other parts of the Exchange proposal appear to be based on the view that (1) the relatively untrammeled development of reciprocal and give-up practices, (2) the competitive advantages which regional exchanges have sought in competing for institutional business by increased liberality with respect to give-ups, and (3) the resulting "leakage" of commissions outside the New York Stock Exchange community, threaten impairment of the depth and liquidity of the New York Stock Exchange market as well as the profitability and financial stability of member firms.

The Exchange proposal seeks to relieve this situation by (1) limiting to the extent possible the major types of reciprocal business, (2) specifying the maximum percentages of the commission dollar which may be given away in any manner or, alternatively, specifying the minimum amount which must be retained, (3) preventing the regional exchanges from offering different and more liberal give-up arrangements so that institutional or other investors will not seek to execute or cross their transactions on regional exchanges in order to obtain more favorable give-ups, and (4) preventing what is sometimes referred to as "institutional membership" on exchanges, which appears to include membership of affiliates of an institutional investor whose function is to receive give-ups and reciprocal business and in whole or in part to pass the income therefrom back to the institutional investor itself. This is a significant part of the New York Stock Exchange proposal which would have a particularly important effect upon the securities markets, and would require action by the Commission. Consequently, comment with respect to it would be appreciated. These aspects of the Exchange's proposal may be viewed together as designed to make its minimum commission rates effective and enforceable insofar as large institutional transactions are concerned.

It would appear that the New York Stock Exchange proposal could have a substantial impact on the regional exchanges. A primary method by which regional exchanges have competed for the portfolio business of institutions has been to offer institutional managers a more flexible rate structure than that of the New York Stock Exchange, i.e., by permitting give-ups to a wider category of persons. Regional exchanges rely heavily on reciprocal business patterns which permit their sole members (nonmembers of the New York Stock Exchange) to obtain indirect access to the New York Stock Exchange. In this connection regional exchange rules facilitate reciprocal business practices by which dual members (members of the New York Stock Exchange and a regional exchange) compensate members of regional exchanges for business executed on the New York Stock Exchange. The New York Stock Exchange proposal would curtail such practices. It also would prevent institutions from obtaining membership on regional exchanges or otherwise engaging in reciprocal business practices which, in effect, reduce the portfolio commissions such institutions pay. Both the impact and the significance of the Exchange proposal, insofar as it involves the regional exchanges, are affected by a change which has taken place in the primary function of the regional exchanges. These exchanges were originally conceived of as primarily providing local markets for local securities. With the passage of time, the emphasis on most of the regional exchanges has shifted to providing a local market for securities traded on the New York Stock Exchange. Technical improvements in communication and the development of over-the-counter markets for local securities have contributed importantly to this change in the nature of the regional exchanges. As pointed out above, in many instances the participation of certain regional exchanges amounts to no more than providing a location where privately negotiated "cross" transactions in New York Stock Exchange listed stocks are recorded and give-ups are distributed.

Finally, the New York Stock Exchange proposal permits the continuation of customer directed give-ups and would expand them to provide for give-ups to nonmember broker-dealers of the New York Stock Exchange on executions on that Exchange. It would also provide for minimum retentions by executing brokers. The justification for these restrictions presumably is that competition in liberality with respect to customer directed give-ups is not a desirable form of competition and that the economic health of the exchange community calls for a sharp and enforceable distinction between public customers and the brokerage industry.

Certain aspects of the New York Stock Exchange proposal are not specific, i.e., the amount, kind, or applicability of the volume discount, the percentage of the minimum commission which a nonmember could receive and the qualifications which nonmembers would have to have in order to become eligible for this "access" and the amount of customer directed give-ups available to members and nonmembers, etc. Further, the Exchange proposal does not indicate whether the Exchange contemplates revision of the commission rate rules to relate commissions more directly to the money involved in a transaction rather than to the number of shares, thus modifying the existing disparity in commissions paid for a given investment in low priced stocks and in high priced stocks. This matter was discussed in a report to the exchange community from Mr. G. Keith Funston, then president of the Exchange, on July 21, 1967. Revisions along this line, as suggested by Mr. Funston, would not only modify this disparity but might provide a convenient way of introducing the proposed volume discount.

The Exchange apparently is initially concerned with the principles and objectives underlying its proposal. In this connection, the Commission assumes that if these principles and objectives are accepted, the Exchange will determine the specifics, i.e., the dollar amounts, the percentages and the definitions, in such a way that the proposal will accomplish its intended purpose. Thus, for example, nonmembers would be offered a sufficient participation in commissions to induce them to bring their orders to the Exchange. The Commission understands that New York Stock Exchange members would be required to retain approximately 50 percent of the commission on any order with the balance available for customer directed give-ups.

The Commission believes that it is possible and appropriate for interested persons to express their views on the principles underlying the Exchange's proposal and the means by which its objectives may be accomplished even though, in the absence of more specific proposals, it may not be possible to determine the specific financial impact of various parts of the proposal on the

[4] Special Study, supra, 301, 318.

[5] Mutual Fund Report, Chapter 4, pp. 162–188.

[6] Mutual Fund Report, Chapter 4, pp. 185–186.

earnings of various members and nonmembers or on the amount of commissions which institutional investors would pay.

The Commission's proposal. Proposed Rule 10b–10 (17 CFR 240.10b–10) represents an approach to the give-up problem which would not require significant change in the existing commission rate structure of exchanges nor require all exchanges to adopt a uniform approach to the question of give-ups and reciprocal business.

The Commission recognizes that the proposed rule is not a substitute for full reexamination of the structure and rates of commissions on the national securities exchanges. The proposed rule was under consideration prior to the announcement of the New York Stock Exchange proposal and has its antecedents in the Commission's Report on Investment Company Growth, which stated at p. 173:

> It would not be inconsistent with (the) rules (of certain regional stock exchanges) for dealer-distributed funds to direct give-ups to their adviser-underwriters, all of whom are NASD members, for the purpose of applying these give-ups to reduce the advisory fees payable by the fund.[6a]

The reasoning on which the proposed rule is based is that if, as pointed out above, a mutual fund manager has various means at his disposal to recapture for the benefit of the fund a portion of the commissions paid by the fund, he is under a fiduciary duty to do so. Futhermore, diversion of such commissions to benefit an investment company manager may be viewed as additional compensation to the manager for handling the portfolio transactions of the fund within the meaning of, and in violation of section 17(e)(1) of the Investment Company Act.[7]

The proposed rule therefore reflects a duty on the part of mutual fund managers as fiduciaries not to use commissions paid by their beneficiaries for the benefit of the fiduciary when practices, procedures, and rules of the markets in which such fiduciaries act permit their beneficiaries to receive tangible benefits in the form of reduction of the charges now borne by them. The proposed rule is bottomed on the premise that when a fiduciary uses commissions to obtain benefits for himself under these circumstances, his conduct would appear to violate applicable antifraud provisions of the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940 as well as section 17(e) of the Investment Company Act, particularly in view of the obscure and often devious ways in which this is accomplished. The proposed rule would be adopted pursuant to sections 10(b) and 15(c)(1) and (2) and 23(a) of the Securities Exchange Act of 1934, sections 206(4) and 211(a) of the Investment Advisers Act of 1940 and sections 17(e) and 38(a) of the Investment Company Act.

The proposed rule would not impair the competition which now exists among brokers and among exchanges for the business of institutional customers by offering these customers substantial savings on commissions. On the contrary, the proposed rule recognizes that, as mentioned above, developments and competitive forces in the securities markets have, as an economic matter, tended to eliminate the existence of a fixed minimum commission rate on institutional orders.

Pursuant to the Securities Exchange Act of 1934, particularly sections 10(b), 15(c)(1) and (2) and 23(a) thereof, the Investment Advisers Act of 1940, particularly sections 206(4) and 211(a) thereof and the Investment Company Act of 1940, particularly sections 17(e) and 38(a) thereof, the Commission proposes to add to Part 240 of Chapter II of Title 17 of the Code of Federal Regulations, the following Rule 10b–10 (17 CFR 240.10b–10):

§ 240.10b–10 Prohibiting investment company managers from directing portions of commissions except for shareholder benefit.

(a) It shall be unlawful for any registered investment company or affiliated person of such registered investment company [8] to directly or indirectly, order or request any broker or dealer: (1) To pay or arrange for the payment, directly or indirectly, of all or any portion of a commission on any securities transaction to any broker, dealer or any other person unless pursuant to a written contract the full amount of such remittance is required to be paid over to such registered investment company, or fees owed by or charged to such registered investment company are required to be reduced in an amount equal to the remittance;

(2) To designate or employ any broker or dealer on any transaction to transmit, execute or clear a transaction or to perform any other function for which compensation is required or made unless pursuant to a written contract the full amount of such compensation is required to be paid over to such registered investment company or fees owed by or charged to such registered investment company are required to be reduced in an amount equal to such compensation.

(b) For the purposes of this rule a person is affiliated with a registered investment company if such person:

(1) Is an officer, director, trustee, employee, investment adviser, member of an advisory board, depositor, promoter of or principal underwriter for the registered investment company, or

(2) Directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with the registered investment company, its investment adviser or principal underwriter, or

(3) Directly or indirectly owns, controls, or holds with the power to vote, 5 per centum or more of the outstanding voting securities of the registered company.

(Sec. 10(b), 15(c)(1) and (2) and 23(a), Securities Exchange Act, 48 Stat. 891, 901, as amended, sec. 8, 49 Stat. 1379; 49 Stat. 1378, as amended, sec. 2, 52 Stat. 1075, 15 U.S.C. 78j, 78o and 78w; secs. 206(4) and 211(a) of the Investment Advisers Act, 54 Stat. 855, 74 Stat. 888, 15 U.S.C. 80b–6 and 80b–11; Secs. 17(e) and 38(a) of the Investment Company Act, 54 Stat. 815, 841, 15 U.S.C. 80a–17 and 80a–38)

While the New York Stock Exchange proposal and proposed Rule 10b–10 (17 CFR 204.10b–10) are not mutually exclusive on all points, the New York Stock Exchange proposal is, to a significant extent, an alternative approach. Insofar as the New York Stock Exchange proposal would provide institutional investors with a volume discount while at the same time closing, insofar as possible, the various avenues by which an institutional manager can recoup commissions for the benefit of the fund, it could, depending upon the nature and extent of the volume discount, provide a direct rather than an indirect means by which institutional investors may obtain the benefit of lower charges. To the extent that it would make impossible indirect recoupment of commissions by institutional managers, the question of a fiduciary duty on their part to seek such recoupment would not arise.

All interested persons are invited to submit their views and comments on proposed Rule 10b–10 (17 CFR 240.10b–10) in writing to the Secretary, Securities and Exchange Commission, at its principal office, 500 North Capitol Street, Washington, D.C. 20549, on or before March 1, 1968. The Commission also invites comments on the New York Stock Exchange proposal which is filed as part of this document, as well as any alternative suggestions for dealing with the problems presented. Material submitted will be made available for public inspection unless request for confidential treatment is made.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

JANUARY 25, 1968.

[F.R. Doc. 68–1153; Filed, Jan. 30, 1968; 8:46 a.m.]

[6a] Alternatively, the fund itself could form a broker-dealer affiliate to which it could direct give-ups. If this course were followed—and no fund now does so—the give-ups would inure to the direct benefit of the fund's shareholders.

[7] The Commission does not believe that investment company directors may properly view the benefits derived by fund managers from give-ups as simply an additional form of compensation for investment management. Not only may this run afoul of section 17(e)(1) of the Investment Company Act but the benefits derived by investment company managers from this source cannot be precisely or adequately disclosed in the prospectus, or in the investment advisory contract, as is required by section 15(a)(1) of the Investment Company Act.

[8] Although the proposed rule is couched only interms of persons who are affiliates of and fiduciaries to investment companies, the principles which are set forth above may be equally applicable to other managers of pooled funds who act in a fiduciary capacity and who are able to reduce the portfolio commissions of their beneficiaries. To the extent that such managers direct give-ups for their benefit, when they are in a position to utilize them for the benefit of beneficiaries, it would appear that under the Federal securities laws or otherwise, this use of give-ups other than for the benefit of these beneficiaries would also constitute an improper practice by such fiduciaries. Accordingly, the Commission believes that it is appropriate to solicit comment on this issue and will consider whether the proposed Rule 10b–10. (17 CFR 204.10b–10) should be applicable to other fiduciaries who manage pooled funds.

Notices

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 285; Delegation of Authority No. 117]

ASSISTANT SECRETARY FOR ECONOMIC AFFAIRS

Delegation of Authority Regarding Certain Capital Transfers Abroad

By virtue of the authority vested in me by Executive Order 11387 of January 1, 1968 (33 F.R. 47) and by section 4 of the Act of May 26, 1949 (63 Stat. 111; 22 U.S.C. 2658), it is ordered as follows:

1. The Assistant Secretary of State for Economic Affairs is delegated the function conferred upon the Secretary of State by section 4 of Executive Order 11387 (governing certain capital transfers abroad) to advise the Secretary of Commerce and the Board of Governors of the Federal Reserve System with respect to matters under that Executive order involving foreign policy.

2. The Assistant Secretary of State for Economic Affairs shall serve as the channel of communication between the Department of State on the one hand and the Department of Commerce, the Board of Governors of the Federal Reserve System, and other interested agencies of the U.S. Government on the other hand with respect to all matters relating to the carrying out of the provisions of Executive Order 11387.

[SEAL] DEAN RUSK,
Secretary of State.

JANUARY 19, 1968.

[F.R. Doc. 68-1134; Filed, Jan. 30, 1968; 8:45 a.m.]

[Public Notice 286]

LAKEHEAD PIPE LINE CO.

Notice of Application for Presidential Permit

The Department of State received, on September 15, 1967, an application dated August 31, 1967, from the Lakehead Pipe Line Co., Inc., a Delaware corporation having its main office at 3025 Tower Avenue, Superior, Wis., to construct, connect, operate, and maintain a pipeline system for crude oil and other hydrocarbons from Pembina County, N. Dak., to the international boundary line between the United States and Canada, and to connect such facilities with like facilities in the Province of Manitoba, Canada.

Notice is hereby given that said permit was granted by the President on January 22, 1968.

For the Secretary of State.

MURRAY J. BELMAN,
Deputy Legal Adviser.

JANUARY 24, 1968.

[F.R. Doc. 68-1135; Filed, Jan. 30, 1968; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

National Park Service

GREAT SMOKY MOUNTAINS NATIONAL PARK, TENN.

Foothills Parkway; Jurisdiction Over Certain Lands

Notice is hereby given that effective as of the first day of December 1967, at 12 noon., e.s.t., the United States accepted exclusive legislative jurisdiction over the lands acquired by the United States by the following deeds for the purposes of the Foothills Parkway pursuant to the act of February 22, 1944:

1. Deed dated August 20, 1959, recorded on August 31, 1959, in the Register's Office of Blount County, Tenn., in Deed Book 226, page 127 et seq., comprising 1,283.995 acres, more or less.

2. Deed dated June 22, 1962, recorded on July 23, 1962, in the Register's Office of Blount County, Tenn., in Deed Book 251, page 437 et seq., comprising 959.23 acres, more or less.

3. Deed dated February 13, 1964, recorded on March 9, 1964, in the Register's Office of Cocke County, Tenn., in Deed Book 89, page 291 et seq., comprising 663.76 acres, more or less.

4. Deed dated September 22, 1966, recorded September 30, 1966, in the Register's Office of Sevier County, Tenn., in Deed Book 156, page 172 et seq., comprising 223.30 acres, more or less.

5. Deed dated June 15, 1965, recorded on June 19, 1965, in the Register's Office of Blount County, Tenn., in Deed Book 277, page 244 et seq., comprising 571.16 acres, more or less.

6. Deed dated October 11, 1965, recorded on October 26, 1965, in the Register's Office of Blount County, Tenn., in Deed Book 281, page 70 et seq., comprising 567.139 acres, more or less.

7. Deed dated December 14, 1966, recorded on January 6, 1967, in the Register's Office of Cocke County, Tenn., in Deed Book 63, page 39 et seq., comprising 369.856 acres, more or less.

This acceptance of legislative jurisdiction was subject to those reservations contained in the act of the legislature of the State of Tennessee of May 17, 1967 (Chapter 232, Public Acts of Tennessee, 1967). Such acceptance was effected by letter to the Governor of the State of Tennessee from Secretary of the Interior Stewart L. Udall, which was received by the Governor on December 2, 1967.

Done at the city of Washington, D.C., this 19th day of January 1968.

HOWARD W. BAKER,
Acting Director,
National Park Service.

[F.R. Doc. 68-1133; Filed, Jan. 30, 1968; 8:45 a.m.]

Office of the Secretary

WATCHES AND WATCH MOVEMENTS

Policy Prohibiting Transfers of Duty-Free Quotas Issued to Producers Located in the Virgin Islands, Guam, and American Samoa

CROSS REFERENCE: For joint policy statement issued by the Offices of the Secretaries of Commerce and the Interior, see F.R. Doc. 68-1258, *infra*.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

CIGAR-FILLER (TYPE 41) TOBACCO

Notice of Referendum

Notice is hereby given that on February 19 to 23, 1968, a referendum will be held of farmers engaged in the production in 1967 of cigar-filler (type 41) tobacco pursuant to the provisions of the Agricultural Adjustment Act of 1938, as amended. Notice that consideration would be given to establishing a date or period for holding the referendum and whether the referendum would be conducted at polling places rather than by mail ballot was given in 32 F.R. 16043. No data, news, or recommendations were received pursuant to such notice. It is hereby determined that the referendum will be held by mail ballot during the period specified above. The purpose of the referendum is to determine whether the farmers voting favor national marketing quotas for each of the 1968-69, 1969-70, and 1970-71 marketing years for cigar-filler (type 41) tobacco. The referendum will be conducted in accordance with the provisions of the Act and the Regulations Governing the Holding of Referenda on Marketing Quotas (28 F.R. 13249).

Signed at Washington, D.C., this 24th day of January 1968.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 68-1143; Filed, Jan. 30, 1968; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

WATCHES AND WATCH MOVEMENTS

Policy Prohibiting Transfers of Duty-Free Quotas Issued to Producers Located in the Virgin Islands, Guam, and American Samoa

On January 9, 1968, there was published in the FEDERAL REGISTER (33 F.R. 304) Rules Governing Allocations of Quotas For Calendar Year 1968 Among Producers Located in the Virgin Islands and Guam. Section 5 of such rules concerning restrictions on transfers of duty-free quotas is hereby canceled effective upon publication in the FEDERAL REGISTER of the following new section 5. The Departments have determined that notice and public procedure concerning this new section 5 are impracticable and contrary to the public interest since this new section is primarily a restatement and updating of the restrictions on transfers of duty-free quotas which were published in the FEDERAL REGISTER on July 28, 1967 (32 F.R. 11048) and incorporated into the above-referenced January 9, 1968 FEDERAL REGISTER notice and are less restrictive than the previous rules. The only firms affected by this notice are those who may wish to make a sale or transfer of their business. Therefore, these rules are final upon publication of this notice.

SEC. 5(a) The sale or transfer of a quota from one firm to another is not permitted. A quota thus sold or transferred will be canceled.

(b) The sale or transfer of a business together with its quota, as defined in (d) hereof, is considered a sale or transfer of a quota by one firm to another.

(c) The sale or transfer of a business together with a quota may be permitted if the prior approval of the Secretaries or their delegates is secured: *Provided, however,* That the firm sold or transferred remains in the business as a separate and distinct entity.

(d) Sale or transfer of a business means the sale or transfer of control, whether temporary or permanent, over a firm to which a quota has been allocated, to any other firm, corporation, partnership, person, or other legal entity by any means whatsoever, including but not limited to, by merger, transfer of stocks or assets or voting trusts.

(e) The sale or transfer of a business, as defined in (d) above, without the prior approval of the Secretaries or their delegates will result in the cancellation of the quota allocated to the firm whose business has been sold or transferred.

(f) The prior approval of the Secretaries or their delegates to the sale or transfer of a business may be sought by submitting a written request to the Secretaries, setting forth all facts regarding such sale or transfer addressed to:

Business and Defense Services Administration, U.S. Department of Commerce, Washington, D.C. 20230. Attention: Scientific, Photographic and Business Equipment Division.

(g) Every firm to which a quota has been granted is required, on August 15, and on January 15, of each year to provide the Departments via registered mail on Form BDSAF 779, which will be forwarded to each firm at its territorial address of record, at least 15 days prior to the required reporting date, and will also be available during office hours at the address listed in (f) above, with information regarding any sales or transfers of all or part of their respective businesses by any means whatsoever which occurred during the reporting period January 1 through July 31, or August 1 through December 31. Such information will include the names and addresses of parties owning or holding any legal or equitable interest in such firm as of the beginning of the reporting period with any changes thereto which may have occurred during the reporting period and the effective date on which such changes occurred; and any agreements entered into by the firm or any of its officers or stockholders which would have the effect of transferring control over management and operation of the firm. In any event, the firm must report any sales or transfers to the Departments other than those approved by the Secretaries or their delegates, via registered mail, within 15 days following the date upon which these are effected.

(h) Any firm initially determined by the Secretaries or their delegates to have made a sale or transfer in violation of the provisions of this notice shall, upon receipt of written notice of such initial determination mailed, registered or certified mail return receipt requested, to the territorial address of record of the firm, be entitled to a hearing on the question of cancellation pursuant to the procedures relating to reviews by the Secretaries of Commerce and the Interior which were published in the FEDERAL REGISTER on November 17, 1967 (32 F.R. 15818). Failure of the firm to make written request for such hearing within 15 days from the date of receipt of an initial determination shall constitute a waiver of its right to the hearing and shall result in the automatic cancellation of its quota as herein specified. Requests for a hearing must be mailed to the address specified in (f) above. The computation of time to determine whether the 15-day period has run shall be made in accordance with the Federal Rules of Civil Procedure.

(i) The firm whose quota has been cancelled pursuant to this notice may be declared ineligible for quota allocations in future years.

(j) The unused portions of any quotas cancelled pursuant to this notice shall be reallocated among quota holders not affected by cancellations and which are not transferees or purchasers in violation of this notice.

LAWRENCE C. MCQUADE,
Assistant Secretary for Domestic and International Business, Department of Commerce.

HARRY R. ANDERSON,
Assistant Secretary for Public Land Management, Department of the Interior.

JANUARY 29, 1968.

[F.R. Doc. 68-1258; Filed, Jan. 30, 1968; 10:24 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

LOCATION OF KETCHIKAN AIRPORT, ALASKA

Notice of Hearing

Notice is hereby given that a public hearing will be held in the above-entitled matter on February 20, 1968, commencing at 9 a.m., P.s.t., in the City Council Chambers, Ketchikan, Alaska, before the undersigned hearing officer.

The purpose of the hearing is to discover facts relating to the location of an airport which may be developed by the State of Alaska.

The hearing will be informal and there will be no adverse parties. It is not governed by 5 U.S.C. 554, 556, 557 (formerly sections 5, 7, and 8 of the Administrative Procedure Act).

Statements offered at the hearing may be oral or written and a record will be made thereof. Any decision of the Administrator on a project application for such an airport will be based on all relevant facts, and not solely on this hearing.

FRED L. WOODLOCK,
Hearing Officer, Federal Aviation Administration, Washington, D.C. 20590.

JANUARY 26, 1968.

[F.R. Doc. 68-1240; Filed, Jan. 30, 1968; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. PRM-30-40]

WESTINGHOUSE ELECTRIC CORP.

Notice of Filing of Petition

Notice is hereby given that Westinghouse Electric Corp., by letter dated January 3, 1968, has filed with the Commission a petition for rule making to amend the Commission's regulations pertaining to the licensing of byproduct material.

The petitioner requests that the Commission amend its regulation "Rules of General Applicability to Licensing of Byproduct Material," 10 CFR Part 30, so as to exempt from licensing requirements spark gap tubes containing not more than 10 millicuries of tritium. The spark gap tubes are employed primarily to provide surge voltage protection in high voltage electrical circuits.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room at 1717 H. Street NW., Washington, D.C.

Dated at Germantown, Md., this 25th day of January 1968.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

[F.R. Doc. 68-1140; Filed, Jan. 30, 1968; 8:46 a.m.]

STATE OF COLORADO

Agreement Regarding Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State

Notice is hereby given that Gerald F. Tape, Commissioner, on behalf of the Atomic Energy Commission, and the Honorable John A. Love, Governor of the State of Colorado, have signed the Agreement below for discontinuance of certain Commission regulatory authority. The Agreement is published in accordance with the requirements of Public Law 86-373 (section 274 of the Atomic Energy Act of 1954, as amended). The exemptions from the licensing requirements of Chapters 6, 7, and 8 of the Atomic Energy Act are contained in Part 150 of the Commission's regulations (10 CFR Part 150) which was published in FEDERAL REGISTER issuances of February 14, 1962, 27 F.R. 1351; September 22, 1965, 30 F.R. 12069; and March 19, 1966, 31 F.R. 4668.

Dated at Washington, D.C., this 26th day of January 1968.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

AGREEMENT BETWEEN THE U.S. ATOMIC ENERGY COMMISSION AND THE STATE OF COLORADO FOR DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY AND RESPONSIBILITY WITHIN THE STATE PURSUANT TO SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

Whereas, the U.S. Atomic Energy Commission (hereinafter referred to as the Commission) is authorized under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act) to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and section 161 of the Act with respect to byproduct materials, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, the Governor of the State of Colorado is authorized under section 66-26-2 Colorado Revised Statutes, 1963, annotated Volume 9 (181 CSL 1965) to enter into this Agreement with the Commission; and

Whereas, the Governor of the State of Colorado certified on September 12, 1967, that the State of Colorado (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

Whereas, the Commission found on December 20, 1967, that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, the State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

Whereas, the Commission and the State recognize the desirability of reciprocal recognition of licenses and exemption from licensing of those materials subject to this Agreement; and

Whereas, this Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, therefore, it is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

ARTICLE I. Subject to the exceptions provided in Articles II, III, and IV, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and section 161 of the Act with respect to the following materials:

A. Byproduct materials;

B. Source materials; and

C. Special nuclear materials in quantities not sufficient to form a critical mass.

ART. II. This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

A. The construction and operation of any production or utilization facility;

B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

ART. III. Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

ART. IV. This Agreement shall not affect the authority of the Commission under subsection 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

ART. V. The Commission will use its best efforts to cooperate with the State and other agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection, and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

ART. VI. The Commission and the State agree that it is desirable to provide for reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

ART. VII. The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that such termination or suspension is required to protect the public health and safety.

ART. VIII. This Agreement shall become effective on February 1, 1968, and shall remain in effect unless, and until such time as it is terminated pursuant to Article VII.

Done at Denver, State of Colorado, in triplicate, this 16th day of January 1968.

For the United States Atomic Energy Commission.

GERALD F. TAPE,
Commissioner.

For the State of Colorado.

JOHN A. LOVE,
Governor.

[F.R. Doc. 68-1169; Filed, Jan. 30, 1968; 8:48 a.m.]

BROOKHAVEN NATIONAL LABORATORY; MAIN SITE

Trespassing on Commission Property

The notice concerning unauthorized entry into or upon the Brookhaven National Laboratory site of the Atomic Energy Commission dated October 12, 1965, appearing at pages 13275-6 of the FEDERAL REGISTER of October 19, 1965 (30 F.R. 13275, F.R. Doc. 65-11089), is hereby amended to read as follows:

Notice is hereby given that the Atomic Energy Commission, pursuant to section 229 of the Atomic Energy Act of 1954, as amended, as implemented by 10 CFR Part 160 published in the FEDERAL REGISTER on August 16, 1963 (28 F.R. 8400), prohibits the unauthorized entry, as provided in 10 CFR 160.3, and the unauthorized introduction of weapons or dangerous materials, as provided in 10

CFR 160.4, into or upon the main site of the Brookhaven National Laboratory of the Atomic Energy Commission, said site being a tract of land located in the town of Brookhaven, Suffolk County, N.Y., the aforesaid tract being more particularly described as follows:

Beginning at monument 178 in the northerly right-of-way line of the Long Island RR. Co. and running:

Thence S. 58°07'15" W. 3,607.35 feet to monument 132;

Thence S. 87°09'55" W. 351.41 feet to monument 133;

Thence S. 87°13'31" W. 100 feet to the westerly R.O.W. line of the L.I.L.C.O.;

Thence S. 2°37'47" E. 253.73 feet to the northerly R.O.W. line of the Long Island RR.;

Thence S. 58°05'51" W. along the northerly R.O.W. line 372.30 feet to lands acquired by the State of New York for the extension of the Long Island Expressway;

Thence, along said lands acquired by the State of New York, the following eight (8) courses and distances:

(1) N. 31°50'48" W. 145.63 feet; (2) S. 58°09'12" W. 242.08 feet; (3) westerly on a curve deflecting to the right having a radius of 9,970 feet, an arc distance of 1,077.57 feet; (4) S. 86°33'47" W. 1,143 feet more or less; (5) southwesterly, on a curve, to the left having a radius of 10,205 feet, an arc distance of 5,270.64 feet more or less; (6) continuing southwesterly, on a curve to the right having a radius of 970 feet, an arc distance of 663.53 feet more or less; (7) N. 83°50'59" W. 329.97 feet; (8) westerly, on a curve to the left, having a radius of 830 feet, an arc distance of 324.20 feet more or less to lands of the county of Suffolk;

Thence N. 33°47'24" W., along said lands of the county of Suffolk, 13.65 feet;

Thence S. 56°12'36" W., still along lands of the same 48.06 feet to another point in the northerly boundary of the proposed Long Island Expressway;

Thence along said northerly boundary, the three (3) following courses and distances:

(1) R=830 feet, an arc distance of 161.24 feet more or less; (2) S. 59°12'18" W. 9,704 feet; (3) N. 88°35'46" W. 117.40 feet more or less to the northeasterly side of William Floyd Parkway;

Thence N. 33°47'24" W. along the northeasterly side of said Parkway, 3,560.79 feet more or less;

Thence northwesterly, continuing along the same, on a curve to the right having a radius of 2,789.79 feet, an arc distance of 1,396.09 feet to a point;

Thence N. 5°06'45" W. 1,284.52 feet to a point;

Thence on a curve deflecting to the right having a radius of 5,654.58 feet, an arc distance of 1,184.29 feet to a point;

Thence N. 75°39'00" E. 314.11 feet to a point on the southerly side of New Road to Manor;

Thence crossing said road N. 7°15'45" W. 165 feet to a point;

Thence S. 74°07'00" E. 150 feet to a point;

Thence N. 15°53'00" E. 300 feet to a point;

Thence N. 74°07'00" W. 278.24 feet to a point;

Thence N. 7°15'45" W. 374.27 feet to the easterly boundary of William Floyd Parkway Extension;

Thence along said easterly boundary on a curve deflecting to the right having a radius of 5,654.58 feet an arc distance of 1,322.84 feet to a point;

Thence N. 30°00'10" E. 4,057.36 feet to a point;

Thence S. 59°59'50" E. 350 feet to a point;

Thence N. 30°00'10" E. 300 feet to a point;

Thence N. 59°59'50" W. 350 feet to the easterly boundary of William Floyd Parkway Extension;

Thence along said eastery boundary N. 30°00'10" E. 2,549.18 feet to a point;

Thence on a curve deflecting to the left having a radius of 2,939.79 feet an arc distance of 943.16 feet to a point;

Thence N. 30°00'10" E. 219.20 feet to a point;

Thence N. 87°37'55" E. 56.98 feet to monument 156;

Thence N. 7°55'40" W. 572.29 feet to monument 154;

Thence N. 6°56'30" W. 163.42 feet to southerly side of Deer Leap Road;

Thence with the southerly side of Deer Leap Road, N. 87°41'00" E. 4,868.25 feet to easterly side of Pleasant View;

Thence with easterly side of Pleasant View N. 2°19'00" W. 921.20 feet to the southerly side of Elizabethway;

Thence with southerly side of Elizabethway N. 87°41'00" E. 400 feet to a point;

Thence S. 2°19'00" E. 33.60 feet to the southerly boundary of the proposed Port Jefferson—Westhampton County Road No. 111; thence southeasterly along said southerly boundary on a curve deflecting to the left having a radius of 3,100 feet an arc distance of 824 feet more or less to a point;

Thence N. 87°41'00" E. 85 feet more or less to a point;

Thence S. 2°19'00" E. 32 feet more or less to southerly boundary of proposed Port Jefferson—Westhampton County Road No. 111;

Thence with southerly boundary of proposed Port Jefferson—Westhampton County Road No. 111 on a curve deflecting to the left having a radius of 3,100 feet an arc distance of 668 feet more or less to a point;

Thence N. 2°19'00" W. 180.60 feet more or less to a point;

Thence N. 87°41'00" E. 400 feet more or less to a point in the northerly boundary of the proposed Port Jefferson—Westhampton County Road No. 111;

Thence S. 2°19'00" E. 200 feet more or less to a point in the southerly boundary of the Port Jefferson—Westhampton County Road No. 111;

Thence with the southerly boundary of the Port Jefferson—Westhampton County Road No. 111 N. 87°41'00" E. 1,600 feet more or less to a point;

Thence southeasterly with said southerly boundary on a curve deflecting to the right, having a radius of 2,900 feet an arc distance of 1,242.37 feet more or less;

Thence S. 67°45'41" E. 2,169 feet more or less;

Thence leaving said southerly boundary S. 5°42'40" E. 4,115.64 feet to a point;

Thence S. 5°40'00" E. 6,228.01 feet to a monument in the northerly boundary of the Long Island Railroad boundary;

Thence with said northerly boundary S. 58°09'22" W. 2,177.49 feet to a point;

Thence S. 58°12'53" W. 560.80 feet to U.S. monument 178 the place of beginning; containing 5,264.613 acres more or less, excepting any portion that may be a part of the public highway system.

Notices stating the pertinent prohibitions of 10 CFR 160.3 and 160.4 and penalties of 10 CFR 160.5 will be posted at all entrances of said tract and at intervals along its perimeter as provided in 10 CFR 160.6.

Dated at Germantown, Md., this 26th day of January 1968.

R. E. HOLLINGSWORTH,
General Manager.

[F.R. Doc. 68-1170; Filed, Jan. 30, 1968; 8:48 a.m.]

BROOKHAVEN NATIONAL LABORATORY; NORTH BNL SITE, FORMER RIFLE RANGE TRACT

Trespassing on Commission Property

Notice is hereby given that the Atomic Energy Commission, pursuant to section 229 of the Atomic Energy Act of 1954, as amended, as implemented by 10 CFR Part 160 published in the FEDERAL REGISTER on August 16, 1963 (28 F.R. 8400), prohibits the unauthorized entry, as provided in 10 CFR 160.3, and the unauthorized introduction of weapons or dangerous materials, as provided in 10 CFR 160.4, into or upon the North BNL Site (Former Rifle Range Tract) of the Brookhaven National Laboratory of the Atomic Energy Commission, said site being a tract of land located in the town of Brookhaven, Suffolk County, N.Y., the aforesaid tract being more particularly described as follows:

Beginning at monument No. 95 in the center of Middle Country Road, New York State Route 25, and running:

Thence with true bearings N. 16°55'10" W. 4,510.94 feet to monument No. 100;

Thence N. 13°18'10" W. 119.06 feet to a point in the easterly boundary of the William Floyd Parkway Extension;

Thence with said easterly boundary on a curve deflecting to the left, having a radius of 5,804.58 feet an arc distance of 1,538.26 feet to a point;

Thence N. 6°31'45" W. 1,582.03 feet to a point;

Thence on a curve deflecting to the right, having a radius of 11,459.16 feet an arc distance of 2,308.06 feet to a point;

Thence N. 5°00'40" E. 5,671.04 feet to a point;

Thence N. 45°30'02" E. 1,205.13 feet to a point in the southerly boundary of New York State Route 25A;

Thence easterly along the southerly boundary of New York State Route 25A 2,400 feet more or less, to U.S. monument No. 120;

Thence N. 80°40'00" E. 857.73 feet to monument No. 121;

Thence S. 7°18'00" E. 3,715 feet to monument No. 127;

Thence N. 86°57'30" E. 1,922.05 feet to monument No. 130;

Thence S. 5°54'30" E. 9,937.40 feet to monument No. 140 in the center line of Middle Country Road, New York State Route 25;

Thence with the centerline of said Middle Country Road (New York State Route 25) to the point of beginning; containing 2,258 acres more or less, excepting any portion which may be a part of the public highway system.

Notices stating the pertinent prohibitions of 10 CFR 160.3 and 160.4 and penalties of 10 CFR 160.5 will be posted at all entrances of said tract and at intervals along its perimeter as provided in 10 CFR 160.6.

Dated at Germantown, Md., this 26th day of January 1968.

R. E. HOLLINGSWORTH,
General Manager.

[F.R. Doc. 68-1171; Filed, Jan. 30, 1968; 8:48 a.m.]

SAVANNAH RIVER PLANTSITE

Trespassing on Commission Property

The notice concerning unauthorized entry into or upon the Savannah River Plantsite of the Atomic Energy Commission dated October 12, 1965, appearing at pages 13290–13292 of the FEDERAL REGISTER of October 19, 1965 (30 F.R. 13290–13292, F.R. Doc. 65–11116) is hereby amended in the following respects:

1. The introduction to the exclusions from the posted tract (page 13291, last column) is amended to read as follows: "Excluded from the above-described tract are the following railroad and highway rights-of-way:"

2. Following the exclusions for Atlantic Coast Line Railroad rights-of-way, the following additional exclusion is added to this notice:

South Carolina Highway 125. A strip of right-of-way varied in width beginning at the intersection of the centerlines of S.C. Highway 125 and S.C. Highway 62, near the town limits of Jackson, S.C., and extending in a southeasterly direction through the Savannah River Plant of the U.S. Atomic Energy Commission for 18.3 miles through the Allendale Barricade to the point of intersection of the centerline of S.C. Highway 125 and the boundary line of the Savannah River Plant, said point having a coordinate value on the S.C. Lambert coordinate system of N. 469,337.21 and E. 1,817,753.41, all as is more particularly described in the Deed of Easement granted by the United States of America acting through the U.S. Atomic Energy Commission to the S.C. State Highway Department, dated July 27, 1967, and recorded in the records of the Clerk of Court of Aiken County, S.C., in Title Book 338, at pages 191–200, and Plat Book 3, page 102, and in the records of the Clerk of Court of Barnwell County, S.C., in Book 13–E, on page 34.

Dated at Germantown, Md., this 26th day of January 1968.

R. E. HOLLINGSWORTH,
General Manager.

[F.R. Doc. 68–1172; Filed, Jan. 30, 1968; 8:48 a.m.]

WELDON SPRING FEED MATERIALS PRODUCTION CENTER

Trespassing on Commission Property; Revocation of Notice

The notice with respect to the Weldon Spring Feed Materials Production Center of the Atomic Energy Commission dated October 12, 1965, appearing at pages 13292–93 of the FEDERAL REGISTER of October 19, 1965 (F.R. Doc. 65–11119), is hereby revoked.

Dated at Germantown, Md., this 26th day of January 1968.

R. E. HOLLINGSWORTH,
General Manager.

[F.R. Doc. 68–1173; Filed, Jan. 30, 1968; 8:48 a.m.]

[Docket No. 50–155]

CONSUMERS POWER CO.

Notice of Proposed Issuance of Amendment to Operating License

The Atomic Energy Commission is considering the issuance of an amendment to Operating License No. DPR–6 which authorizes the Consumers Power Co. to operate its Big Rock Point Nuclear Plant ("the reactor") located in Charlevoix County, Mich. The amendment, set forth below, would modify the Technical Specifications appended to the license to permit power operation of the reactor with six (6) high performance developmental fuel bundles in accordance with the application dated May 26, 1967, and supplements thereto dated May 29, August 15, November 10, and December 14, 1967.

Prior to the issuance of the amendment, the facility will be inspected by representatives of the Commission to determine that the modifications to the facility to assure prompt delivery of water from the fire protection system to the reactor pressure vessel, in the event of rupture of the core spray line, have been completed.

Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's "Rules of Practice", 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this proposed amendment, see (1) the application dated May 26, 1967, and supplements thereto, (2) the report of the Advisory Committee on Reactor Safeguards dated December 20, 1967, (3) a related Safety Evaluation prepared by the Division of Reactor Licensing and (4) Attachment A to Amendment No. 1, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of items (2) and (3) above may be obtained at the Commission's Public Document Room, or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 30th day of January 1968.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

PROPOSED AMENDMENT TO OPERATING LICENSE

[License No. DPR–6, Amdt. No. 1]

The Atomic Energy Commission having found that:

a. The application for amendment dated May 26, 1967, as supplemented May 29, August 15, November 10, and December 14, 1967, complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter 1, CFR;

b. There is reasonable assurance (i) that the reactor can be operated in accordance with the license, as amended, without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the rules and regulations of the Commission;

c. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public;

Operating License No. DPR–6, as amended, issued to Consumers Power Co. for operation of its Big Rock Point Nuclear Plant ("the reactor") located in Charlevoix County, Mich., is hereby further amended by adding the following subparagraph to paragraph 3.B.

"The Technical Specifications contained in appendix A are modified by attachment A,[1] appendix hereto (designated as Change No. 13), to permit power operation of the reactor with six (6) high performance developmental fuel bundles in accordance with the application for amendment dated May 26, 1967 and supplements thereto."

This amendment is effective as of the date of issuance.

For the Atomic Energy Commission.

Date of Issuance:

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 68–1287; Filed, Jan. 30, 1968; 11:00 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. RI68–374 et al.]

GEORGE MITCHELL & ASSOCIATES, INC., ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [2]

JANUARY 23, 1968.

The Respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

[1] This item was not filed with the Office of the Federal Register but is available for inspection in the Public Document Room of the Atomic Energy Commission.

[2] Does not consolidate for hearing or dispose of the several matters herein.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention 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 and 1.37(f)) on or before March 6, 1968.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
RI68-374	George Mitchell & Associates, Inc., Agent for Morris Rauch et al., Houston Club Bldg., 12th Floor, Houston, Tex. 77002.	10	17	Texas Eastern Transmission Corp. (Brandt, Enke, and South Weesatche Fields, Goliad County, Tex.) (RR. District No. 2).	$2,068	12-21-67	[2] 2-5-68	7-5-68	14.3733	[3 4] 14.8733	RI63-440.
RI68-375	George Mitchell & Associates, Inc., Agent for J. S. Oshman, et al.	11	13	Texas Eastern Transmission Corp. (North Arneckeville Field, De Witt County, Tex.) (RR. District No. 2).	2,302	12-21-67	[2] 2-5-68	7-5-68	14.3733	[3 4] 14.8733	RI63-440.
RI68-376	George Mitchell & Associates, Inc., Agent for Johnny Mitchell, Trustee et al.	17	8	Texas Eastern Transmission Corp. (North Meyersville Field, De Witt County, Tex.) (RR. District No. 2).	90	12-21-67	[2] 2-5-68	7-5-68	14.3733	[3 4] 14.8733	RI63-440.
RI68-377	Amerada Petroleum Corp., Post Office Box 2040, Tulsa, Okla. 74102, Attn: Mr. W. H. Bourne.	6	28	Texas Eastern Transmission Corp. (Dial and Riverdale Fields, Goliad County, Tex.) (RR. District No. 2).	6,097	12-26-67	[2] 2-5-68	7-5-68	14.3733	[3 4] 14.8733	RI65-364.
RI68-378	Sinclair Oil & Gas Co., Post Office Box 521, Tulsa, Okla. 74102, Attn: Mr. P. T. Davis.	67	15	Texas Eastern Transmission Corp. (Karon Field, Live Oak County, Tex.) (RR. District No. 2).	482	12-26-67	[2] 2-5-68	7-5-68	14.3733	[3 4] 14.8733	RI63-315.
	----do----	381	1	Panhandle Eastern Pipe Line Co. (Northeast Waydka Field, Woods County, Okla.) (Oklahoma "Other" Area).	5,292	12-26-67	[2] 1-26-68	6-26-68	[6] 15.750	[4 5 6] 17.850	
RI68-379	Sinclair Oil & Gas Co. (Operator) et al.	281	14	Texas Eastern Transmission Corp. (Jennie Belle Field, De Witt County, Tex.) (RR. District No. 2).	3,393	12-26-67	[2] 2-5-68	7-5-68	14.3733	[3 4] 14.8733	RI63-415.
RI68-380	Sinclair Oil & Gas Co. et al.	282	10	Texas Eastern Transmission Corp. (Karon Field, Live Oak County, Tex.) (RR. District No. 2).	198	12-26-67	[2] 2-5-68	7-5-68	14.3733	[3 4] 14.8733	RI63-415.
RI68-381	Gruy Management Service Co., Agent for Cador Petroleum Corp. et al., 2501 Cedar Springs Rd., Dallas, Tex. 75201.	1	[7 8]	United Gas Pipe Line Co. (Northeast Lewisburg Field, St. Landry Parish, La.) (South Louisiana).	6,829	12-28-67	[8] 1-28-68	6-28-68	[11 12] 19.75	[9 10 11] 21.48	RI65-243.
RI68-382	J. M. Huber Corp., 2401 East Second Ave., Denver, Colo. 80206.	49	2	Panhandle Eastern Pipe Line Co. (Tucker Unit, Northwest Carthage Area, Texas County, Okla.) (Panhandle Area).	323	[13] 12-26-67	[8] 1-26-68	6-26-68	[14] 16.0	[3 4 14] 17.01	
	----do----	73	5	Panhandle Eastern Pipe Line Co. (Southeast Gage Field, Ellis County, Okla.) (Panhandle Area).	9,143	[13] 12-26-67	[8] 1-26-68	6-26-68	[15] 17.51	[3 4 15] 18.555	

[2] The stated effective date is the effective date requested by Respondent.
[3] Periodic rate increase.
[4] Pressure base is 14.65 p.s.i.a.
[5] Filing from conditioned certificate rate to initial contract rate.
[6] Includes base price of 15 cents plus 0.75-cent upward B.t.u. adjustment (1,050 B.t.u. gas) before increase and base rate of 17 cents plus 0.850-cent upward B.t.u. adjustment after increase.
[7] Includes Letter Agreement dated July 7, 1967, providing for the redetermined rate proposed herein for the 4-year period commencing Nov. 6, 1967.
[8] The stated effective date is the first day after expiration of the statutory notice.
[9] Redetermined rate increase.
[10] Pressure base is 15.025 p.s.i.a.
[11] Subject to a downward B.t.u. adjustment.
[12] Rate, inclusive of 1.75 cents tax reimbursement, is in effect subject to refund in Docket No. RI65-243.
[13] Filing completed Dec. 28, 1967.
[14] Subject to a downward B.t.u. adjustment (estimated B.t.u. content is 933 B.t.u.'s per cubic foot).
[15] Includes base price of 17 cents plus 0.51-cent upward B.t.u. adjustment (1,030 B.t.u. gas) before increase and base price of 18 cents plus 0.54-cent upward B.t.u. adjustment plus 0.015-cent tax reimbursement. Base price subject to upward and downward B.t.u. adjustment.

Gruy Management Service Co., Agent for Cador Petroleum Corp. et al., (Gruy) requests a retroactive effective date of November 1, 1967, for their proposed rate increase. J. M. Huber Corp. (Huber) requests that its proposed rate increases be permitted to become effective as of January 1, 1968. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for Gruy and Huber's rate filing and such requests are denied.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR, Ch. I, Part 2, § 2.56).

[F.R. Doc. 68-1132; Filed, Jan. 30, 1968; 8:45 a.m.]

[Docket No. RP68-16]

CITIES SERVICE GAS CO.

Notice of Proposed Changes in Rates and Charges

JANUARY 24, 1968.

Notice is hereby given that Cities Service Gas Co. on January 23, 1968, filed proposed changes in its FPC Gas Tariff, to become effective on February 23, 1968. The proposed changes would increase rates by $7,944,657 per year to Cities' jurisdictional customers, based upon sales for the year ended October 31, 1967, as adjusted. The proposed increases would be applicable to Cities' FPC Rate Schedules F-1, F-2, C-1, C-2, I-1, I-2, IRG-1, and P.

Cities states that the principal reasons for the proposed rate increases are: (1) Increased purchased gas costs; (2) increased salaries, wages, and expenses; (3) increased ad valorem and Federal income taxes (including a possible 10 percent Federal surtax subject to elimination from Cities' rates and refund if it is not enacted); and (4) the need for a 7.5 percent rate of return.

Protests, petitions to intervene, or notices of intervention may be filed with the Federal Power Commission, Washington, D.C. 20426, pursuant to the Commission's rules of practice and procedure on or before February 13, 1968.

GORDON M. GRANT
Secretary.

[F.R. Doc. 68-1128; Filed, Jan. 30, 1968; 8:45 a.m.]

[Docket No. RI68-304 etc.]

SINCLAIR OIL & REFINING CO., ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates

JANUARY 19, 1968.

Sinclair Oil & Refining Co. et al., Docket Nos. RI68-304 et al., and Union Pacific Railroad Co., Docket No. RI68-326.

In order providing for hearings on and suspension of proposed changes in rates, issued December 28, 1967, and published in the FEDERAL REGISTER January 10, 1968 (F.R. Doc. 68-243), 32 F.R. 385, Docket Nos. RI68-304 et al., Appendix A, line 16, under column headed "Proposed Increased Rate:" Change "12.7" to read "17.0".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-1130; Filed, Jan. 30, 1968; 8:45 a.m.]

GENERAL SERVICES ADMINISTRATION

[Temporary Reg. 14]

SAFETY AND HEALTH STANDARDS FOR FEDERAL SERVICE CONTRACTS

Revision of Clause for Service Contracts Exceeding $2,500

1. *Purpose.* This regulation prescribes a revised clause for Federal service contracts exceeding $2,500 to comply with new Department of Labor regulations providing safety and health standards for such contracts.

2. *Effective date.* This regulation is effective February 1, 1968.

3. *Expiration date.* This regulation will remain in effect until canceled.

4. *Background.* By amendment to Title 29 (CFR), the Bureau of Labor Standards, Department of Labor, issued new safety and health standards applicable to Federal service contracts exceeding $2,500 (see 32 F.R. 21036, Dec. 30, 1967). These standards were prescribed in new Part 1516 of Title 29 (CFR) and compliance procedures were also made applicable to service contracts by a revision to the contract clause required by 29 CFR § 4.6 (FPR 1-12. 904-1). Accordingly, pending formal revision of the FPR, this regulation prescribes a revised contract clause for Federal service contracts exceeding $2,500 which incorporates the procedures for contractor compliance with the new safety and health standards for the protection of service employees engaged in the performance of such contracts.

5. *Effect on other issuances.* Paragraph 3 of FPR Temporary Regulation No. 10, continued in effect by FPR Temporary Regulation No. 12, is hereby superseded.

6. *Department of Labor regulations.* New Part 1516 of Title 29 (CFR) establishes policies and procedures with respect to safety and health standards for Federal service contracts exceeding $2,500, or for contracts of an indefinite amount where it is believed that such contracts may exceed 2,500. Where it is feasible to do so, contractors should be referred to the requirements of Part 1516 since the regulations embody requirements and procedures, such as contractor records of work injuries suffered by employees, including injury frequency and severity rates, not included in the contract clause.

7. *Revision of FPR 1-12.904-1.* Pending formal amendment of the FPR, the clause set forth in the attachment to this temporary regulation shall be used in lieu of the clause presently prescribed in § 1-12.904-1.

8. *Revision of FPR 1-12.904-2.* Pending formal amendment of the FPR, the parenthetical statement "($1.60 per hour as of Feb. 1, 1968)" is substituted for the parenthetical statement "($1.40 per hour as of Feb. 1, 1967, and $1.60 per hour as of Feb. 1, 1968)" appearing in the clause prescribed by § 1-12.904-2.

Dated: January 29, 1968.

LAWSON B. KNOTT, Jr.,
Administrator of General Services.

SERVICE CONTRACT ACT OF 1965

This contract, to the extent that it is of the character to which the Service Contract Act of 1965 (Public Law 89-286) applies, is subject to the following provisions and to all other applicable provisions of the Act and the regulations of the Secretary of Labor thereunder (29 CFR Parts 4 and 1516).

(a) *Compensation.* Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid, the minimum monetary wage and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or his authorized representative, as specified in any attachment to this contract. If there is such an attachment, any class of service employee which is not listed therein but which is to be employed under this contract, shall be classified or reclassified and paid wages conformably to the determination of the Secretary of Labor as specified in such attachment, by agreement between the interested parties, and the Contracting Officer shall report the action to the Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor. If the interested parties do not agree on a classification or reclassification which is, in fact, conformable, the Contracting Officer shall submit the question, together with his recommendation, to the Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor or his authorized representative for final determination. In addition, nonservice employees shall be paid not less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended ($1.60 per hour as of Feb. 1, 1968).

(b) *Obligation to furnish fringe benefits.* The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment by furnishing any equivalent combinations of fringe benefits, or by making equivalent or differential payments in cash, pursuant to applicable rules of the Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor.

(c) *Minimum wage.* In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any of his employees performing work under the contract (regardless of whether they are service employees) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938 ($1.60 per hour as of Feb. 1, 1968). Nothing in this provision shall relieve the Contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.

(d) *Notification to employees.* The Contractor shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post a notice of such wages and benefits in a prominent and accessible place at the worksite, using such poster as may be provided by the Department of Labor.

(e) *Safe and sanitary working conditions.* The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish these services. Except insofar as a noncompliance can be justified as provided in 29 CFR 1516.1(c), this wil require compliance with the applicable standards, specifications, and codes developed and published by the U.S. Department of Labor or any other agency of the United States and nationally recognized professional organizations including without limitation, the following:

National Bureau of Standards, U.S. Department of Commerce.
Public Health Service, U.S. Department of Health, Education, and Welfare.
Bureau of Mines, U.S. Department of the Interior.
United States of America Standards Institute (American Standards Association).
National Fire Protection Association.

American Society of Mechanical Engineers.
American Society for Testing and Materials.
American Conference of Governmental Industrial Hygienists.

Information as to the latest standards, specifications, and codes applicable to the contract is available at the office of the Director of the Bureau of Labor Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street NW., Washington, D.C. 20212, or at any of the regional offices of the Bureau of Labor Standards as follows:

1. North Atlantic Region, 341 Ninth Avenue, Room 920, New York, N.Y. 10001 (Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont, New Jersey, and Puerto Rico).
2. Middle Atlantic Region, 1110–B Federal Building, Charles Center, 31 Hopkins Plaza, Baltimore, Md. 21201 (Delaware, District of Columbia, Maryland, North Carolina, Pennsylvania, Virginia, and West Virginia).
3. South Atlantic Region, 1371 Peachtree Street NE., Suite 723, Atlanta, Ga. 30309 (Alabama, Florida, Georgia, Mississippi, South Carolina, and Tennessee).
4. Great Lakes Region, 848 Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604 (Illinois, Indiana, Kentucky, Michigan, Minnesota, Ohio, and Wisconsin).
5. Mid-Western Region, 2100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106 (Colorado, Idaho, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming).
6. Western Gulf Region, 411 North Akard Street, Room 601, Dallas, Tex. 75201 (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas).
7. Pacific Region, 10353 Federal Building, 450 Golden Gate Avenue, Box 36017, San Francisco, Calif. 94102 (Alaska, Arizona, California, Hawaii, Nevada, Oregon, Washington, and Guam).

(f) *Records.* Each Contractor or subcontractor performing work subject to the Act shall make and maintain for three years from the completion of the work the records identified below for each service employee performing work under the contract, and shall make them available for inspection and transcription by authorized representatives of the Administrator of the Wage and Hour and Public Contracts Divisions of the U.S. Department of Labor.

(1) His name and address.

(2) His work classification or classifications, rate or rates of monetary wages and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation.

(3) His daily and weekly hours so worked.

(4) Any deductions, rebates, or refunds from his total daily or weekly compensation.

(g) *Withholding of payments and termination of contract.* The Contracting Officer may withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract such sums as are necessary to pay underpaid employees. Additionally, any failure to comply with the requirements of the paragraphs of this clause relating to the Service Contract Act of 1965 may be grounds for termination of his right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor with any additional cost.

(h) *Subcontractors.* The Contractor agrees to insert these paragraphs relating to the Service Contract Act of 1965 in all subcontracts. The term "Contractor" as used in these paragraphs in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

(i) *Service employee.* As used in these paragraphs relating to the Service Contract Act of 1965, the term "service employee" means guards, watchmen, and any person engaged in a recognized trade or craft, or other skilled mechanical craft, or in unskilled, semiskilled, or skilled manual labor occupations; and any other employee including a foreman or supervisor in a position having trade, craft, or laboring experience as the paramount requirement; and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

[F.R. Doc. 68–1273; Filed, Jan. 30, 1968; 10:50 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 2–20264]

BERLIN DOMAN HELICOPTERS, INC.

Order Suspending Trading

JANUARY 25, 1968.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Berlin Doman Helicopters, Inc., Toughkenamon, Pa. 19374, 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 January 25, 1968, through January 29, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68–1154; Filed, Jan. 30, 1968; 8:47 a.m.]

NORTH AMERICAN RESEARCH & DEVELOPMENT CORP.

Order Suspending Trading

JANUARY 25, 1968.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of North American Research & Development Corp., 1935 South Main Street, Salt Lake City, Utah, and all other securities of North American Research & Development Corp. 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 January 26, 1968, through February 4, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68–1155; Filed, Jan. 30, 1968; 8:47 a.m.]

TARIFF COMMISSION

[APTA–W–22]

WORKERS' PETITION FOR DETERMINATION OF ELIGIBILITY TO APPLY FOR ADJUSTMENT ASSISTANCE

Notice of Investigation

Upon receipt on January 23, 1968 of a request therefor from the Automotive Agreement Adjustment Assistance Board, the Tariff Commission instituted an investigation pursuant to section 302(e), Automotive Products Trade Act of 1965, with respect to a petition filed with the Board by the International Union, United Automobile Workers, and its Local 304, on behalf of a group of workers at the C. M. Hall Lamp Co., Detroit, Mich. The petition alleges that dislocation of a group of workers has occurred due to the transfer by the company of the production of certain die castings from its plant in Detroit to its plant in Ontario, Canada. The Commission is conducting the investigation to provide a factual record on the basis of which the Board may make the determinations required by section 302 of the Act.

No hearing has been scheduled. A hearing will be held on request of any party showing a proper interest in the subject matter of the investigation, provided the request is filed with the Secretary of the Tariff Commission within 10 days after this notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 at the Customhouse.

By order of the Commission:

Issued January 26, 1968.

[SEAL] DONN N. BENT, *Secretary.*

[F.R. Doc. 68–1137; Filed, Jan. 30, 1968; 8:45 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.) and Administrative Order No. 595 (31 F.R. 12981) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal

product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as indicated.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.20 to 522.25, as amended).

The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Allee Berry, Inc., Columbus, Kans.; 12–8–67 to 12–7–68; 10 learners (men's and boys' dress pants).

Anthracite Shirt Co., Shamokin, Pa.; 12–1–67 to 11–30–68 (men's and boys' dress shirts).

B. Bennett Co., Inc., New Orleans, La.; 12–27–67 to 12–26–68 (work pants and work shirts).

Bernice Manufacturing Co., Bernice, La.; 12–1–67 to 11–30–68 (ladies' girdles).

Bestform Foundations of Windber, Inc., Windber, Pa.; 12–9–67 to 12–8–68 (brassieres and girdles).

Blain Products, Inc., Blain, Pa.; 12–9–67 to 12–8–68; 5 learners (ladies' dresses and pajamas).

Blue Bell, Inc., Luray, Va.; 12–13–67 to 12–12–68 (men's and boys' dungarees).

Blue Bell, Inc., Elkton, Va.; 12–13–67 to 12–12–68; 10 learners (men's and boys' dungarees).

Bonnie Sue Manufacturing Co., Inc., Ayden, N.C.; 12–4–67 to 12–3–68; 10 learners (girls' outerwear jackets).

Brook Manufacturing Co., Inc., Old Forge, Pa.; 12–28–67 to 12–27–68 (men's trousers).

Byrds Manufacturing Corp., Byrdstown, Tenn.; 11–29–67 to 11–28–68 (men's, boys', and ladies' shirts).

Corbin, Ltd., Huntington, W. Va.; 12–30–67 to 12–29–68 (men's trousers and ladies' slacks).

Corman and Wasserman, Inc., Baltimore, Md.; 12–28–67 to 12–27–68 (men's trousers).

Crystal Springs Shirt Corp., Crystal Springs, Miss.; 12–1–67 to 11–30–68 (boys' shirts).

East Salem Manufacturing Co., Mifflintown, Pa.; 12–28–67 to 12–27–68 (men's and boys' shirts, ladies' blouses and dresses).

Edric Manufacturing Corp., Columbia, Tenn.; 12–30–67 to 12–29–68 (men's sport shirts).

Frisco Sportswear Co., Inc., Frisco City, Ala.; 12–4–67 to 12–3–68 (ladies' woven slacks).

Franklin Ferguson Co., Inc., Florala, Ala.; 12–19–67 to 12–18–68 (men's and boys' cotton shirts).

Garan, Inc., Starkville, Miss.; 1–3–68 to 1–2–69 (men's and boys' knit shirts).

Gattman Sportswear, Inc., Gattman, Miss.; 12–8–67 to 12–7–68 (men's dress slacks).

Glen of Michigan Division, Glen Manufacturing, Inc., Manistee, Mich.; 12–6–67 to 12–5–68 (women's dresses and blouses).

Hicks Ponder Co., Del Rio, Tex.; 1–13–68 to 1–12–69 (men's and boys' work clothes).

Edward Hyman Co., Hazlehurst, Miss.; 12–20–67 to 12–19–68 (men's work pants, work shirts, and coveralls).

Industrial Garment Manufacturing Co., Erwin, Tenn.; 12–12–67 to 12–11–68 (work clothes).

Junction City Manufacturing Corp., Junction City, La.; 12–1–67 to 11–30–68 (ladies' foundation garments and bras).

Justice Manufacturing Co., Inc., Spring Hope, N.C.; 11–27–67 to 11–26–68; 10 learners (children's dresses).

Klos Manufacturing Co., Inc., Muskogee, Okla.; 1–8–68 to 1–7–69; 10 learners (children's clothing).

Livingston Shirt Corp., Livingston, Tenn.; 12–17–67 to 12–16–68 (men's shirts and pajamas).

Loretto Manufacturing Co., Selmer, Tenn.; 12–11–67 to 12–10–68 (men's and boys' outerwear jackets).

The Loudoun Manufacturing Co., d.b.a. Emmitsburg Manufacturing co., Emmitsburg, Md.; 1–3–68 to 1–2–69; 10 learners (men's trousers).

Mammoth Cave Garment Co., Cave City, Ky.; 12–11–67 to 12–10–68 (men's and boys' dungarees).

The Manhattan Shirt Co., Charleston, S.C.; 1–11–68 to 1–10–69 (ladies' lingerie).

Manufacturers' Sportswear Inc., Scranton, Pa.; 1–6–68 to 1–5–69 (boys' trousers).

Marcus Manufacturing Co., Inc., Nowata, Okla.; 12–22–67 to 12–21–68; 10 learners (men's slacks).

Martin Manufacturing Co., Inc., Ramer, Tenn.; 12–1–67 to 11–30–68 (men's shirts).

Mayflower Manufacturing Co., Inc., Scranton, Pa.; 12–12–67 to 12–11–68 (boys' trousers).

McAdoo Manufacturing Co., Inc., McAdoo, Pa.; and Franglo, Inc., Hazleton, Pa.; 12–6–67 to 12–5–68 (children's polo shirts).

Meyers & Son Manufacturing Co., Inc., New Castle, Ky.; 12–1–67 to 11–30–68; 10 learners (men's work clothes).

Monroe Manufacturing Co., Gamaliel, Ky.; 12–8–67 to 12–7–68 (men's and boys' slacks).

New Carolina Industries, Inc., Weldon, N.C.; 12–26–67 to 12–25–68 (ladies' and children's sleepwear).

Pawnee Pants Manufacturing Co., Inc., Olyphant, Pa.; 12–30–67 to 12–29–68 (men's and boys' trousers).

Phillips-Van Heusen Corp., Section, Ala.; 12–1–67 to 11–30–68 (men's and boys' shirts).

Pittston Apparel Co., Pittston, Pa.; 12–8–67 to 12–7–68 (girdles and brassieres).

Publix Tenn Corp., Huntingdon, Tenn.; 1–6–68 to 1–5–69 (men's and boys' sport shirts).

Punxy Sportswear Co., Inc., Punxsutawney, Pa.; 12–22–67 to 12–21–68 (ladies' slacks).

Richfield Manufacturing Co., Richfield, Pa.; 12–28–67 to 12–27–68 (men's and boys' dress shirts).

Salant & Salant, Inc., Trumann, Ark.; 12–8–67 to 12–7–68 (men's and boys' pants).

Salant & Salant, Inc.. Henderson, Tenn.; 12–13–67 to 12–12–68 (men's shirts).

The Salisbury Co., Salisbury, Mo.; 12–21–67 to 12–20–68 (single pants).

Samsons Manufacturing Corp., Washington, N.C.; 12–17–67 to 12–16–68 (men's shirts).

Scott Co., Inc., Anderson, S.C.; 11–26–67 to 11–25–68 (men's dress shirts).

Shane Manufacturing Co., Inc., Evansville, Ind.; 12–9–67 to 12–8–68 (children's outerwear).

Henry I. Siegel Co., Inc., Trezevant, Tenn.; 12–26–67 to 12–25–68 (men's and- boys' pants).

Southern Manufacturing Co., Nashville, Tenn.; 1–1–68 to 12–31–68 (men's and boys' sport shirts).

Spring Hope Garment Co., Inc., Spring Hope, N.C.; 11–27–67 to 11–26–68; 10 learners (children's dresses).

States Nitewear Manufacturing Co., Inc., New Bedford, Mass.; 12–1–67 to 11–30–68 (women's woven nightwear).

W. E. Stephens Manufacturing Co., Inc., Pulaski, Tenn.; 1–2–68 to 1–1–69 (men's and boys' work pants and sport pants).

Susan Garment, Inc., Fredericksburg, Pa.; 11–30–67 to 11–29–68; 5 learners (ladies' blouses and dresses).

The Van Heusen Co., Brinkley, Ark.; 12–2–67 to 12–1–68 (men's dress shirts).

Vernon Manufacturing Co., Inc., Vernon, Tex.; 1–1–68 to 12–31–68 (men's and boys' trousers).

Waldon Manufacturing Co., Walnut, Miss.; 12–9–67 to 12–8–68 (men's and boys' outerwear jackets and walk shorts).

The Warner Bros. Co., Marianna, Fla.; 12–28–67 to 12–27–68 (corsets and brassieres).

The Warner Bros. Co., Moultrie, Ga.; 1–5–68 to 1–4–69 (corsets and brassieres).

Whiteville Manufacturing Co., Whiteville, N.C.; 12–1–67 to 11–30–68 (children's dungarees).

Wyoming Valley Garment Co., Wilkes-Barre, Pa.; 12–18–67 to 12–17–68 (men's and boys' trousers).

The following plant expansion certificates were issued authorizing the number of learners indicated.

The Arrow Co., Albertville, Ala.; 12–15–67 to 6–14–68; 40 learners (men's dress shirts).

The H. D. Lee Co., Inc., Guntersville, Ala.; 11–27–67 to 5–26–68; 50 learners (boys' pants).

Panola Inc. of Batesville, Batesville, Miss.; 12–6–67 to 6–5–68; 10 learners (women's foundation garments).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.60 to 522.65, as amended).

D. N. Pariso Industrial Glove Manufacturing Co., Knox, Ind.; 12–15–67 to 12–14–68; 10 learners for normal labor turnover purposes (work gloves).

Indianapolis Glove Co., Inc., Houlka, Miss.; 12–22–67 to 6–21–68; 20 learners for plant expansion purposes (work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.40 to 522.43, as amended).

Danville Industries, Inc., Danville, Va.; 12–26–67 to 12–25–68; 5 percent of the total number of factory production workers for normal labor turnover purposes (boys' seamless hosiery).

C. D. Jessup & Co., Claremont, N.C.; 12–27–67 to 12–26–68; 5 learners for normal labor turnover purposes (seamless).

Roane Hosiery, Inc., Harrisman, Tenn.; 1–3–68 to 1–2–69; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.30 to 522.35, as amended).

Casa Grande Mills, Division of the Parsons & Baker Co., Casa Grande, Ariz.; 12–2–67 to 12–1–68; 5 percent of the total number of factory production workers for normal labor turnover purposes (infants' cotton knit underwear, men's and boys' briefs).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.9, as amended).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number of learners authorized to be employed, are indicated.

Maria Mills, Inc., Las Marias, P.R.; 12–8–67 to 12–7–68; 19 learners for normal labor turnover purposes in the occupation of sewing machine operating, for a learning period of 320 hours at the rate of 89 cents an hour (men's and boys' jeans).

Playtex Barceloneta, P.R.; 11–14–67 to 5–13–68; 57 learners for plant expansion purposes in the occupation of sewing machine operating, for a learning period of 320 hours at the rate of $1.03 an hour (brassiere).

Rico Glove, a division of Fownes Bros. & Co., Cayey, P.R.; 11–28–67 to 11–27–68; 6 learners for normal labor turnover purposes in the occupation of machine stitching, for a learning period of 480 hours at the rates of 90 cents an hour for the first 240 hours and $1.03 an hour for the remaining 240 hours (fabric gloves).

Rio Grande Manufacturing Corp., Rio Grande, P.R.; 11–17–67 to 11–16–68; 11 learners for normal labor turnover purposes in the occupation of sewing machine operating, final pressing; each for a learning period of 320 hours at the rate of 84 cents an hour (men's cotton shorts).

Isabela Segunda Corp., Vieques, P.R.; 11–21–67 to 11–20–68; 8 learners for normal labor turnover purposes in the occupation of sewing machine operating, for a learning period of 320 hours at the rate of 84 cents an hour (men's and boys' shorts).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR, Part 528.

Signed at Washington, D.C., this 19th day of January 1968.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 68–1179; Filed, Jan. 30, 1968; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[No. 34875]

PACIFIC INLAND TERRITORY

Increased Rates and Charges

JANUARY 25, 1968.

Due to an error in the last sentence on the first appearing paragraph in the above-entitled proceeding dated January 9, 1968, served January 24, 1968, and published on page 1037 of the January 26, 1968, issue of the FEDERAL REGISTER, the words "and suspended the operation of said schedules" should be deleted.

The first appearing paragraph of said order, as corrected, should read as follows:

It appearing, that by order dated September 8, 1967, the Commission, Division 2, acting as an appellate division, entered into investigations concerning the lawfulness of the charges and regulations stated in tariff schedules designated therein;

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68–1161; Filed, Jan. 30, 1968; 8:47 a.m.]

[Notice 483]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JANUARY 26, 1968.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 4963 (Deviation No. 22), JONES MOTOR CO., INC., Bridge Street and Schuylkill Road, Spring City, Pa. 19475, filed January 19, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From East Lee, Mass., over Interstate Highway 90 to junction Interstate Highway 91, thence over Interstate Highway 91 to junction Interstate Highway 95, thence over Interstate Highway 95 to Mount Vernon, N.Y., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Williamstown, Mass., over U.S. Highway 7 to junction unnumbered highway (formerly portion U.S. Highway 7), north of Lenox, Mass., thence over unnumbered highway to Lenox, Mass., thence over Massachusetts Highway 7–A (formerly portion U.S. Highway 7), to junction U.S. Highway 7, thence over U.S. Highway 7 to junction Massachusetts Highway 7–A (formerly portion U.S. Highway 7) thence over Massachusetts Highway 7–A to the Massachusetts-Connecticut State line, thence over unnumbered highway (formerly portion U.S. Highway 7) to junction U.S. Highway 7 at or near Canaan, Conn., thence over U.S. Highway 7 to junction unnumbered highway (formerly portion U.S. Highway 7) near Danbury, Conn., thence over unnumbered highway to Danbury, Conn., thence over U.S. Highway 6 to Brewster, N.Y., thence over unnumbered highway (formerly portion New York Highway 22) to junction New York Highway 22, thence over New York Highway 22 to New York, N.Y., thence over U.S. Highway 1 via Newark and New Brunswick, N.J., to Philadelphia, Pa.; and

(2) From Williamstown, Mass., over Massachusetts Highway 2 to North Adams, Mass., thence over Massachusetts Highway 8 to Coltsville, Mass., thence over Massachusetts Highway 9 to Pittsfield, Mass., thence over U.S. Highway 20 to West Pittsfield, Mass., thence over Massachusetts Highway 41 to Great Barrington, Mass., thence over Massachusetts Highway 23 to South Egremont, Mass., thence over Massachusetts Highway 41 to the Massachusetts-Connecticut State line, thence over Connecticut Highway 41 to Salisbury, Conn., thence over U.S. Highway 44 to Millerton, N.Y., thence over New York Highway 22 to junction unnumbered highway (formerly portion New York Highway 22), thence over unnumbered highway via Wassaic, N.Y., to junction New York Highway 22, thence over New York Highway 22 to junction U.S. Highway 6 (formerly portion New York Highway 22), thence over U.S. Highway 6 to Brewster, N.Y., thence over unnumbered highway (formerly portion New York Highway 22) to junction New York Highway 22, thence over New York 22 to junction unnumbered highway, thence over unnumbered highway to Katonah, N.Y., thence over New York Highway 117 to Mount Kisco, N.Y., thence over New York Highway 128 to Armonk, N.Y., thence over New York Highway 22 to New York, N.Y., thence to Philadelphia, Pa., as specified in (1) above, and return over the same routes.

No. MC 10761 (Deviation No. 46), TRANSAMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit, Mich. 48209, filed January 16, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Oklahoma City, Okla., and Tulsa, Okla., over Interstate Highway 44, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: Between Oklahoma City, Okla., and Tulsa, Okla., over U.S. Highway 66.

No. MC 57239 (Sub-No. 7) (Deviation No. 1), RENNER'S EXPRESS, INC., 1350 South West Street, Post Office Box 613, Indianapolis, Ind. 46206, filed January 12, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Louisville, Ky., over Interstate Highway 65 to junction U.S. Highway 31 at or near Taylorsville, Ind., (2) from junction Interstate Highway 69 and Indiana Highway 67 near Pendleton, Ind., over Interstate Highway 69 to junction Interstate Highway 94 at or near Marshall, Mich., and (3) from Coldwater, Mich., over Interstate Highway 69 to

junction Interstate Highway 94 at or near Marshall, Mich., thence over Interstate Highway 94 to Jackson, Mich., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Louisville, Ky., over U.S. Highway 31–E to Sellersburg, Ind., thence over U.S. Highway 31 to junction U.S. Highway 50, thence over U.S. Highway 50 to Seymour, Ind., thence over Alternate U.S. Highway 31 to junction U.S. Highway 31, thence over U.S. Highway 31 to Franklin, Ind., thence over Indiana Highway 144 to Bargersville, Ind., thence over Indiana Highway 135 to Indianapolis, Ind., (2) from Indianapolis, Ind., over Indiana Highway 67 to junction U.S. Highway 36, thence over U.S. Highway 36 to Emporia, Ind., thence over unnumbered county roads via Markleville, Mechanicsburg, Middletown, and Cross Roads, Ind., to Muncie, Ind., and (3) from Fort Wayne, Ind., over Indiana Highway 1 to junction Indiana Highway 18, thence over Indiana Highway 18 to junction Indiana Highway 3, thence over Indiana Highway 3 to Muncie, Ind., (4) from Fort Wayne, Ind., over U.S. Highway 27 to Auburn, Ind. (also over Indiana Highway 427), (5) from Auburn, Ind., over U.S. Highway 27 to Angola, Ind., (6) from Angola, Ind., over U.S. Highway 27 to Coldwater, Mich., (7) from Coldwater, Mich., over U.S. Highway 27 to Marshall, Mich., and (8) from Coldwater, Mich., over U.S. Highway 12 to Somerset, Mich., thence over unnumbered highway (formerly portion U.S. Highway 127) to Jackson, Mich., thence over U.S. Highway 127 to Lansing, Mich., and return over the same routes.

No. MC 107353 (Deviation No. 5), HELPHREY MOTOR FREIGHT, INC., 3417 East Springfield, Spokane, Wash. 99202, filed January 15, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Yakima, Wash., over Washington Highway 24 via Moxee City and Vernita, Wash., to junction Washington Highway 17, thence over Washington Highway 17 to junction Washington Highway 26, thence easterly over Washington Highway 26 to junction U.S. Highway 395, thence over U.S. Highway 395 to junction Interstate Highway 90 near Ritzville, Wash., thence over Interstate Highway 90 and combined U.S. Highways 10–395 to Spokane, Wash., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Spokane, Wash., over U.S. Highway 2 to Wilbur, Wash., thence over Washington Highway 21 to junction Washington Highway 174, thence over Washington Highway 174 to Coulee Dam, Wash., thence over Washington Highway 155 to Omak, Wash. (also from Wilbur over U.S. Highway 2 to junction Washington Highway 17, thence over Washington Highway 17 to junction Washington Highway 172, thence over Washington Highway 172 via Mansfield, Wash., to junction unnumbered highway, thence over unnumbered highway to junction Washington Highway 17, thence over Washington Highway 17 to Brewster, Wash., thence over U.S. Highway 97 to Omak, Wash.), thence over U.S. Highway 97 to Oroville, Wash., (2) from Oroville, Wash., over U.S. Highway 97 to the United States-Canada boundary line.

(3) From Wenatchee, Wash., over U.S. Highway 2 to junction U.S. Highway 97, thence over U.S. Highway 97 to Brewster, Wash., (4) from Brewster, Wash., over Washington Highway 173 to junction Washington Highway 17, thence over Washington Highway 17 to junction Washington Highway 174, thence over Washington Highway 174 to Grand Coulee, Wash., (5) from Tonasket, Wash., over Washington Highway 30 to Republic, Wash., (6) from Grand Coulee, Wash., over Washington Highway 155 to Coulee City, Wash., (7) from Coulee City, Wash., over U.S. Highway 2 to junction Washington Highway 17, thence over Washington Highway 17 to junction Washington Highway 28 thence over Washington Highway 28 via Quincy, Wash., to Wenatchee, Wash., (8) from Spokane, Wash., over U.S. Highway 2 to junction U.S. Highway 97, thence over U.S. Highway 97 to Teanaway, Wash., thence over U.S. Highway 10 to Seattle, Wash., (9) from Quincy, Wash., over Washington Highway 28 to junction Washington Highway 283, thence over Washington Highway 283 to junction U.S. Highway 10, thence over U.S. Highway 10 to Ellensburg, Wash., (10) from Prosser, Wash., over U.S. Highway 410 to Yakima, Wash., thence over U.S. Highway 97 to Ellensburg, Wash., thence over U.S. Highway 10 to Teanaway, Wash., and (11) from Yakima, Wash., over U.S. Highway 97 to Maryhill, Wash., thence over U.S. Highway 830 to Vancouver, Wash., thence over U.S. Highway 99 to Portland, Oreg., and return over the same routes.

No. MC 107353 (Deviation No. 6), HELPHREY MOTOR FREIGHT, INC., 3417 East Springfield, Spokane, Wash. 99202, filed January 15, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Soap Lake, Wash., and Davenport, Wash., over Washington Highway 28, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Spokane, Wash., over U.S. Highway 2 to Wilbur, Wash., thence over Washington Highway 21 to junction Washington Highway 174, thence over Washington Highway 174 to Coulee Dam, Wash., thence over Washington Highway 155 to Omak, Wash. (also from Wilbur over U.S. Highway 2 to junction Washington Highway 17, thence over Washington Highway 17 to junction Washington Highway 172, thence over Washington Highway 172 via Mansfield, Wash., to junction unnumbered highway, thence over unnumbered highway to junction Washington Highway 17, thence over Washington Highway 17 to Brewster, Wash., thence over U.S. Highway 97 to Omak, Wash.), thence over U.S. Highway 97 to Oroville, Wash., (2) from Oroville, Wash., over U.S. Highway 97 to the United States-Canada boundary line, (3) from Wenatchee, Wash., over U.S. Highway 2 to junction U.S. Highway 97, thence over U.S. Highway 97 to Brewster, Wash., (4) from Brewster, Wash., over Washington Highway 173 to junction Washington Highway 17, thence over Washington Highway 17 to junction Washington Highway 174, thence over Washington Highway 174 to Grand Coulee, Wash., (5) from Tonasket, Wash., over Washington Highway 30 to Republic, Wash., (6) from Grand Coulee, Wash., over Washington Highway 155 to Coulee City, Wash., (7) from Coulee City, Wash., over U.S. Highway 2 to junction Washington Highway 17, thence over Washington Highway 17 to junction Washington Highway 28, thence over Washington Highway 28 via Quincy, Wash., to Wenatchee, Wash., (8) from Spokane, Wash., over U.S. Highway 2 to junction U.S. Highway 97, thence over U.S. Highway 97 to Teanaway, Wash., thence over U.S. Highway 10 to Seattle, Wash., (9) from Quincy, Wash., over Washington Highway 28 to junction Washington Highway 283, thence over Washington Highway 283 to junction U.S. Highway 10, thence over U.S. Highway 10 to Ellensburg, Wash., (10) from Prosser, Wash., over U.S. Highway 410 to Yakima, Wash., thence over U.S. Highway 97 to Ellensburg, Wash., thence over U.S. Highway 10 to Teanaway, Wash., and (11) from Yakima, Wash., over U.S. Highway 97 to Maryhill, Wash., thence over U.S. Highway 830 to Vancouver, Wash., thence over U.S. Highway 99 to Portland, Oreg., and return over the same routes.

No. MC 107353 (Deviation No. 7), HELPHREY MOTOR FREIGHT, INC., 3417 East Springfield, Spokane, Wash. 99202, filed January 15, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction Washington Highway 283 and U.S. Highway 10 (Burke Junction, Wash.), near Burke, Wash., over U.S. Highway 10 and Interstate Highway 90 to Spokane, Wash., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Spokane, Wash., over U.S. Highway 2 to Wilbur, Wash., thence over Washington Highway 21 to junction Washington Highway 174, thence over Washington Highway 174 to Coulee Dam, Wash., thence over Washington Highway 155 to Omak, Wash. (also from Wilbur over U.S. Highway 2 to junction Washington 17, thence over Washington Highway 17 to junction Washington Highway 172, thence over Washington Highway 172 via Mansfield, Wash., to junction unnumbered highway, thence over unnumbered highway to junction Washington

Highway 17, thence over Washington Highway 17 to Brewster, Wash., thence over U.S. Highway 97 to Omak, Wash.), thence over U.S. Highway 97 to Oroville, Wash., (2) from Oroville, Wash., over U.S. Highway 97 to the United States-Canada boundary line, (3) from Wenatchee, Wash., over U.S. Highway 2 to junction U.S. Highway 97, thence over U.S. Highway 97 to Brewster, Wash.

(4) From Brewster, Wash., over Washington Highway 173 to junction Washington Highway 17, thence over Washington Highway 17 to junction Washington Highway 174, thence over Washington Highway 174 to Grand Coulee, Wash., (5) from Tonasket, Wash., over Washington Highway 30 to Republic, Wash., (6) from Grand Coulee, Wash., over Washington Highway 155 to Coulee City, Wash., (7) from Coulee City, Wash., over U.S. Highway 2 to junction Washington Highway 17, thence over Washington Highway 17 to junction Washington Highway 28, thence over Washington Highway 28 via Quincy, Wash., to Wenatchee, Wash., (8) from Spokane, Wash., over U.S. Highway 2 to junction U.S. Highway 97, thence over U.S. Highway 97 to Teanaway, Wash., thence over U.S. Highway 10 to Seattle, Wash., (9) from Quincy, Wash., over Washington Highway 28 to junction Washington Highway 283, thence over Washington Highway 283 to junction U.S. Highway 10, thence over U.S. Highway 10 to Ellensburg, Wash., (10) from Prosser, Wash., over U.S. Highway 410 to Yakima, Wash., thence over U.S. Highway 97 to Ellensburg, Wash., thence over U.S. Highway 10 to Teanaway, Wash., and (11) from Yakima, Wash., over U.S. Highway 97 to Maryhill, Wash., thence over U.S. Highway 830 to Vancouver, Wash., thence over U.S. Highway 99 to Portland, Oreg., and return over the same routes.

No. MC 109538 (Deviation No. 5), CHIPPEWA MOTOR FREIGHT, INC., Post Office Box 269, Eau Claire, Wis. 54701, filed January 15, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Chicago, Ill., over Interstate Highway 55 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Interstate Highway 280, thence over Interstate Highway 280 to junction U.S. Highway 6, thence over U.S. Highway 6 to Davenport, Iowa, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Chicago, Ill., over U.S. Highway 34 to junction Illinois Highway 65, thence over Illinois Highway 65 to Aurora, Ill., thence over Illinois Highway 31 to Oswego, Ill., thence over U.S. Highway 34 to junction Illinois Highway 92, thence over Illinois Highway 92 via Silvis, Ill., to Moline, Ill., thence over U.S. Highway 6 to Davenport, Iowa, (2) from Chicago, Ill., over U.S. Highway 66 to junction Illinois Highway 53, thence over Illinois Highway 53 to junction Alternate U.S. Highway 66, thence over Alternate U.S. Highway 66 to Joliet, Ill., thence over U.S. Highway 6 via Peru, Ill., to Briarbluff, Ill., thence over unnumbered highway via Colona and Carbon Cliff, Ill., to Silvis, Ill., thence over Illinois Highway 92 to Moline, Ill., thence over U.S. Highway 6 to Davenport, Iowa, and (3) from Chicago, Ill., over U.S. Highway 66 to junction Illinois Highway 53, thence over Illinois Highway 53 to junction Alternate U.S. Highway 66, thence over Alternate U.S. Highway 66 to Joliet, Ill., thence over U.S. Highway 52 to junction U.S. Highway 51, thence over U.S. Highway 51 to Peru, Ill., thence over U.S. Highway 6 to Briarbluff, Ill., thence over unnumbered highway via Colona and Carbon Cliff, Ill., to Silvis, Ill., thence over Illinois Highway 92 to Moline, Ill., thence over U.S. Highway 6 to Davenport, Iowa, and return over the same routes.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 424) (cancels Deviation No. 356) GREYHOUND LINES, INC. (Western Division), Market and Fremont Streets, San Francisco, Calif. 94106, filed January 17, 1968. Carrier's representative: W. T. Meinhold, 371 Market Street, San Francisco, Calif. 94105. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers*, in the same vehicle with passengers, over deviation routes as follows: (1) From Salt Lake City, Utah, over Interstate Highway 15 to junction U.S. Highway 91 (Draper Junction), (2) from Salt Lake City, Utah, over Interstate Highway 15 to Murray, Utah, (3) from junction U.S. Highway 91 and Interstate Highway 15 (North Lehi Junction), over Interstate Highway 15 to junction U.S. Highway 91 (South Santaquin Junction), (4) from junction U.S. Highway 91 and Interstate Highway 15 (North Lehi Junction), over Interstate Highway 15 to Provo, Utah, (5) from Provo, Utah, over Interstate Highway 15 and access highway to Springville, Utah, (6) from Springville, Utah, over access highway and Interstate Highway 15 to junction U.S. Highway 91 (South Santaquin Junction), (7) from Provo, Utah, over Interstate Highway 15 to junction U.S. Highway 91 (South Santaquin Junction), (8) from junction unnumbered highway and Interstate Highway 15 (North Cover Fort Junction) over Interstate Highway 15 to junction unnumbered highway (Pine Creek Summit Junction, Utah), (9) from junction unnumbered highway and Interstate Highway 15 (Wildcat Junction, Utah,), over Interstate Highway 15 to junction unnumbered highway (North Beaver Junction, Utah).

(10) From Cedar City, Utah, over Interstate Highway 15 to junction unnumbered highway (South Kanarraville Junction, Utah), and (11) from junction Interstate Highway 15 and Utah Highway 15 (Anderson Junction, Utah), over Interstate Highway 15 to junction unnumbered highway (East St. George Junction, Utah), and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Salt Lake City, Utah, over U.S. Highway 91 to junction Interstate Highway 15 (Dog Valley Junction), thence over Interstate Highway 15 to junction unnumbered highway (North Cove Fort Junction), thence over unnumbered highway to junction Interstate Highway 15 (Pine Creek Summit Junction), thence over Interstate Highway 15 to junction unnumbered highway (Wildcat Junction), thence over unnumbered highway to junction U.S. Highway 91 (North Beaver Junction), thence over U.S. Highway 91 to Cedar City, thence over unnumbered highway to junction Interstate Highway 15 (South Kanarraville Junction), thence over Interstate Highway 15 to junction unnumbered highway (Anderson Junction), thence over unnumbered highway to junction U.S. Highway 91 (East St. George Junction), thence over U.S. Highway 91 to the Utah-Arizona State line. (Connects with Arizona Route 17.)

No. MC 1515 (Deviation No. 425) (cancels Deviation No. 352) GREYHOUND LINES, INC. (Southern Division) 219 East Short Street, Lexington, Ky. 40507, filed January 18, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From junction Interstates Highways 85 and 285, south of Atlanta, Ga., over Interstate Highway 85 to junction unnumbered county road (Palmetto Interchange), thence over unnumbered county road to Palmetto, Ga., and (2) from Montgomery, Ala., over Interstate Highway 85 to junction U.S. Highway 29 at West Point, Ga., with the following access roads (a) from junction Interstate Highway 85 and Alabama Highway 126 over Alabama Highway 126 to Tuskegee, Ala., and (b) from junction Interstate Highway 85 and Alabama Highway 81 over Alabama Highway 81 to Tuskegee, Ala., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Atlanta, Ga., over U.S. Highway 29 via Moreland and LaGrange, Ga., and Opelika, Ala., to Tuskegee, Ala., thence over U.S. Highway 80 to Montgomery, Ala., and return over the same route.

No. MC 109780 (Deviation No. 21), TRANSCONTINENTAL BUS SYSTEM, INC., 1501 South Central Avenue, Los Angeles, Calif. 90021, filed January 12, 1968. Carrier proposes to operate as a common carrier, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From junction Interstate Highway 10 and U.S. Highway 60 west of Beaumont, Calif., over Interstate Highway 10 to junction U.S. Highway 60 east of Cabazon, Calif., (2) from Indio, Calif., over Interstate Highway 10

to Blythe, Calif., and (3) from West Quartzite, Ariz., over Interstate Highway 10 to East Quartzite, Ariz., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Los Angeles, Calif., over U.S. Highway 99 to Beaumont, Calif., thence over U.S. Highway 60 via Aguila, Ariz., to Phoenix, Ariz., and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-1162; Filed, Jan. 30, 1968; 8:47 a.m.]

[Notice 1145]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JANUARY 26, 1968.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

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

MOTOR CARRIERS OF PROPERTY

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATION UNDER SECTION 5 GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

No. MC 33641 (Sub-No. 72) filed January 18, 1968. Applicant: IML FREIGHT, INC., Post Office Box 2277, Salt Lake City, Utah 84110. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between points in Illinois within a 50-mile radius of 3833 North Hamilton Avenue, Chicago, Ill. NOTE: This application is a matter directly related to Docket No. MC-F10017, published FEDERAL REGISTER issue of January 24, 1968. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

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-10019. Authority sought for purchase by COMMERCIAL CARRIERS, INC., 10701 Middlebelt Road, Romulus, Mich. 48174, of a portion of the operating rights and certain property of CONVOY COMPANY, 3900 Northwest Yeon Avenue, Portland, Oreg. 97210, and for acquisition by AMERICAN COMMERCIAL LINES, INC., 2919 Allen Parkway, Houston, Tex., of control of such rights and property through the purchase. Applicants' attorneys: K. Edward Wolcott, 1701 East Market Street, Jeffersonville, Ind. 47130, and Marvin Handler, 405 Montgomery Street, San Francisco, Calif. 94104. Operating rights sought to be transferred: *Trucks, truck-tractors* and *truck chassis*, and *bodies for such vehicles*, and *trailers and semi-trailers* (only when being transported for delivery with a truck or truck-tractor and restricted against the transportation of trailers designed to be drawn by passenger automobiles), in secondary movements, in truckaway service, as a *common carrier*, over irregular routes, between points in Colorado, Wyoming, Utah, Nevada, Arizona, and New Mexico except that no service shall be provided in the transportation of new trucks from points in that part of Colorado on and south of U.S. Highway 50 and on and east of U.S. Highway 285 to points in New Mexico and Arizona, from points in New Mexico and Arizona to points in Idaho and Washington; between points in California, on the one hand, and, on the other, points in Wyoming, Utah, and New Mexico, with restrictions. Vendee is authorized to operate as a *common carrier* in all points in the United States (except Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-10020. Authority sought for merger into BEANEY TRANSPORT, LIMITED, 5905 Lake Road South, Brockport, N.Y. 14420, of the operating rights and property of CHARLES H. BEANEY, doing business as BEANEY TRANSPORT, 5905 Lake Road South, Brockport, N.Y. 14420, and for acquisition by CHARLES H. BEANEY, 37 Erie Street, Brockport, N.Y., of control of such rights and property through the transaction. Applicants' representative: Charles H. Trayford, 137 East 36th Street, New York, N.Y. 10016. Operating rights sought to be merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between New York, N.Y., and Philadelphia, Pa., between Newark, N.J., and Philadelphia, Pa., between Trenton, N.J., and Philadelphia, Pa., between Newark, N.J., and Yardville, N.J., between Philadelphia, Pa., and Wilmington, Del., between Camden, N.J., and Chester, Pa., between Bridgeport, N.J., and Wilmington, Del., serving all intermediate and certain offroute points, with restriction; between Buffalo, N.Y., and New York, N.Y., between Syracuse, N.Y., and Oswego, N.Y., serving all intermediate points; over numerous alternate routes for operating convenience only: *General commodities*, excepting, among others, household goods and commodities in bulk, over irregular routes, between certain specified points in New Jersey, on the one hand, and, on the other, Newark, N.J.; *frozen foods*, from Brockport, N.Y., and points within 75 miles thereof, to New York, N.Y., certain specified points in Pennsylvania, and to all points in New Jersey, Massachusetts, Connecticut, and Rhode Island;

Packinghouse products as described in paragraphs A, B, and C, of the appendix in Ex Parte No. MC-38, *Modification of Motor Contract Carriers of Packing-House Products*, 46 M.C.C. 23, from the boundary of the United States and Canada at Buffalo and Niagara Falls, N.Y., to New York, N.Y., and points within 50 miles thereof; *fresh fruits, fresh vegetables*, and the commodities described in paragraphs A, B, and C, in the appendix to the report in *Modification of Permits—Packinghouse Products*, 48 M.C.C. 628, between the boundary of the United States and Canada at Alexandria Bay, Buffalo, and Niagara Falls, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, and Rhode Island, with restriction; *frozen fruits* and *frozen vegetables*, and *fresh fruits, fresh vegetables, and fresh berries*, when moving in the same vehicle with frozen fruits and frozen vegetables, from points in the New York, N.Y., commercial zone, as defined by the Commission, and certain specified points in New York, to ports of entry on the United States-Canada boundary line at Alexandria Bay, Buffalo, Ivey Lee, Niagara Falls, Ogdensburg, and Rooseveltown, N.Y.; *frozen vegetables*, and *fresh fruits, fresh vegetables, and fresh berries*, when moving in the same vehicle with frozen vegetables, from Trappe, Md., and certain specified points in New Jersey, to ports of entry on the United States-Canada boundary line at Alexandria Bay, Buffalo, Ivey Lee, Niagara Falls, Ogdensburg, and Rooseveltown, N.Y.; *frozen berries, coffee beans*, and *tea*, and *fresh fruits, fresh vegetables, and fresh berries*, when moving in the same vehicle with frozen berries, coffee beans, and tea, from points in the New York, N.Y., commercial zone, as defined by the Commission, to ports of entry on the United States-Canada boundary line at Alexandria Bay, Buffalo, Ivey Lee, Niagara Falls, Ogdensburg, and Rooseveltown, N.Y.; *cocoa beans*, and *fresh fruits, fresh vegetables*, and *fresh berries*, when moving in the same vehicle with cocoa beans, from points in the New York, N.Y., commercial zone, as defined by the Commission, and from Philadelphia, Pa., to ports of entry on the United States-Canada boundary line at Alexandria Bay, Buffalo, Ivey Lee, Niagara Falls, Ogdensburg, and Rooseveltown, N.Y.; and *bananas*, and *fresh fruits, fresh vegetables, and fresh berries*, when moving in the

same vehicle with bananas, from points in the New York, N.Y., commercial zone, as defined by the Commission, to Rochester, N.Y. BEANEY TRANSPORT LIMITED, is authorized to operate as a *common carrier* in New York. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10021. Authority sought for (1) LEASEWAY, INC., 3969 Congress Parkway, West Richfield, Ohio 44286, to control (A) COASTAL TANK LINES, INC., 501 Grantley Road, Post Office Box 1269, York, Pa. 17405, and (B) PRODUCERS TRANSPORT, INC., 215 East Waterloo Road, Akron, Ohio 44319; and (2) for merger into COASTAL TANK LINES, INC., 501 Grantley Road, Post Office Box 1269, York, Pa. 17405, of the operating rights and property of PRODUCERS TRANSPORT, INC., 215 East Waterloo Road, Akron, Ohio 44319. Applicants' attorneys: Homer S. Carpenter, 618 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004, Harold G. Hernley, 711 14th Street NW., Washington, D.C. 20005, and David Axelrod, 39 South La Salle Street, Chicago, Ill. 60606. Operating rights sought to be (1) controlled and (2) merged: (A) *Petroleum* and *petroleum products*, in bulk, in tank trucks, and numerous other specified commodities, as a *common carrier*, over irregular routes, from, to, and between specified points in the States of Maryland, West Virginia, Delaware, Pennsylvania, New Jersey, Virginia, Ohio, New York, Indiana, Kentucky, Connecticut, Massachusetts, Rhode Island, Michigan, North Carolina, Tennessee, Kansas, Nebraska, Oklahoma, Iowa, Missouri, Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, South Carolina, Texas, Wisconsin, California, Colorado, Illinois, Nebraska, New Hampshire, Vermont, and the District of Columbia, with certain restrictions, as more specifically described in Docket No. MC–102616 and subnumbers thereunder; and (B) *petroleum* and *petroleum products*, in bulk, in tank trucks, and numerous other specified commodities, as a *common carrier*, over irregular routes, from, to, and between specified points in all States in the United States (except Alaska and Hawaii), with certain restrictions, as more specifically described in Docket No. MC–103880 Sub-14, and subnumbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carriers involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of these carriers' operating rights, without stating, in full, the entirety, thereof. LEASEWAY, INC., hold no authority from this Commission. However, it controls F. J. EGNER & SON, INC., 3969 Congress Parkway, Post Office Box 216, West Richfield, Ohio 44286, which is authorized to operate as a *common carrier* in Ohio, Michigan, Wisconsin, Iowa, West Virginia, Indiana, Illinois, Connecticut, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, New York, Pennsylvania, Rhode Island, and Tennessee. Application has not been filed for temporary authority under section 210a(b). NOTE: See also MC–F–10014 (LEASEWAY, INC., & PEDLER & ASSOCIATES, INC.—CONTROL—F. J. EGNER & SON, INC., & GLOSSON MOTOR LINES, INC.), published in the January 24, 1968, issue of the FEDERAL REGISTER, on page 871.

No. MC–F–10022. Authority sought for purchase by CROUSE CARTAGE COMPANY, Carroll, Iowa 51401, of a portion of the operating rights of BARBER TRANSPORTATION CO., 321 Sixth Street, Rapid City, S. Dak. 57701, and for acquisition by PAUL CROUSE, also of Carroll, Iowa, of control of such rights through the purchase. Applicants' attorneys: William S. Rosen, 400 Minnesota Building, St. Paul, Minn. 55101, and Marion F. Jones, 420 Denver Club Building, Denver, Colo. 80202. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Chicago, Ill., and Sioux City, Iowa, serving the intermediate points of Mapleton, Denison, Jefferson, and Clinton, Iowa, restricted to delivery only of traffic moving from Sioux City, Iowa; and the off-route point of Rock Valley, Iowa, unrestricted; and from Chicago, Ill., to Sioux City, Iowa, serving no intermediate points. Vendee is authorized to operate as a *common carrier* in Iowa and Nebraska. Application has been filed for temporary authority under section 210a(b). NOTE: Applicants' request the removal of the restriction on service at Jefferson, Iowa. MC–97699 Sub-24 is presently pending before the Commission seeking temporary authority to operate at Jefferson, Iowa, unrestricted.

No. MC–F–10023. Authority sought for purchase by ONLEY REFRIGERATED TRANSPORTATION, INC., 408 West 14th Street, New York, N.Y. 10014, of a portion of the operating rights of VALLEY TRANSFER & STORAGE COMPANY, INC., Post Office Box 268, Pottsville, Pa. 17901, and for acquisition by SIDNEY GINSBERG, also of New York, N.Y., of control of such rights through the purchase. Applicants' representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over irregular routes, between New York, N.Y., and Newark, N.J., and points in New Jersey within 15 miles of Newark, N.J., on the one hand, and, on the other, points in Lehigh and Northampton Counties, Pa.; and *foodstuffs* (except commodities in bulk, in tank vehicles), between Allentown, Pa., and Wilkes-Barre, Scranton, and Altoona, Pa. RESTRICTION: The operations authorized herein are restricted to the transportation of traffic received from or delivered to connecting common carriers by motor vehicle. Vendee is authorized to operate as a *common carrier* in Pennsylvania, New York, New Jersey, Massachusetts, Rhode Island, Connecticut, Delaware, Virginia, Maryland, West Virginia, Ohio, Indiana, Missouri, Kentucky, Tennessee, Illinois, Michigan, North Carolina, Iowa, Wisconsin, Minnesota, Maine, New Hampshire, Vermont, Nebraska, Kansas, and the District of Columbia. Application has been filed for temporary authority under section 210a(b). NOTE: MC–115180 Sub-46 concurrently filed.

No. MC–F–10024. Authority sought for purchase by INTERSTATE TRUCK SERVICE, INC., 605 South First Street, Martins Ferry, Ohio 43935, of the operating rights of SAFEWAY TRUCK LINES, INC., 20450 Ireland Road, South Bend, Ind. 46613, and for acquisition by MIDWEST EMERY FREIGHT SYSTEM, INC., and, in turn, by MILTON D. RATNER, both of 7000 South Pulaski Road, Chicago, Ill. 60629, of control of such rights through the purchase. Applicants' attorneys: Axelrod, Goodman & Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Operating rights sought to be transferred: *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over irregular routes, from, to, and between specified points in the States of New York, Minnesota, Iowa, Maryland, Delaware, Kansas, Nebraska, Mississippi, Maine, Illinois, Ohio, Pennsylvania, Indiana, Connecticut, New Jersey, Massachusetts, Rhode Island, Colorado, Missouri, Arkansas, Michigan, Wisconsin, New Hampshire, Vermont, Virginia, West Virginia, and the District of Columbia, with certain restrictions, as more specifically described in Docket No. MC–110193 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. Vendee is authorized to operate as a *common carrier* in Ohio, West Virginia, Pennsylvania, Maryland, Indiana, Kentucky, New York, Delaware, New Jersey, Massachusetts, Tennessee, Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10025. Authority sought for purchase by CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, Auburndale, Fla. 33823, of a portion of the operating rights of COMMERCIAL CARRIER CORPORATION, 502 East Bridgers Avenue, Auburndale, Fla. 33823, and for acquisition by GUY BOSTICK, also of Auburndale, Fla., of control of such rights through the purchase. Applicants' attorney: M. Craig Massey, 223 South Florida Avenue (Post Office Drawer J), Lakeland, Fla. 33802. Operating rights sought to be transferred: *Canned citrus products*, as a *common carrier*, over irregular routes, from certain specified points in Florida, to points in Iowa, Nebraska (except Omaha), Missouri (except St. Louis), Kansas (except Kansas City), and Minnesota (except St. Paul and Minneapolis), from certain specified points in Florida, to points in Minnesota (except St. Paul and Minneapolis), from

points in Florida on and south of Florida Highway 40 to points in North Dakota, from points in Florida on and south of Florida Highway 40 extending from New Smyrna Beach, Fla., through DeLand and Ocala, Fla., to Yankeetown, Fla., to points in South Dakota; *vitrified clay sewer pipe* and *related articles* such as clay flue linings, clay stove pipe, and clay wall coping, from certain specified points in Ohio, to points in Florida; *canned vegetables*, from certain specified points in Minnesota, to points in Alabama, Florida, Georgia, North Carolina, and South Carolina, from certain specified points in Wisconsin, to points in Alabama, Florida, Georgia, North Carolina, and South Carolina; *clay products*, from certain specified points in Ohio, to points in Florida, from Milledgeville, Ga., to points in that part of Florida on and south of U.S. Highway 92, from Houston, Miss., to points in Florida; *flour*, from St. Joseph, Mo., to points in Florida; *canned citrus products*, not moving under refrigeration, from Auburndale, Fla., to Omaha Nebr.

Canned citrus products, not frozen, from points in Florida on and south of Florida Highway 40, to points in Iowa, Nebraska, Missouri (except St. Louis), Kansas (except Kansas City), and Minnesota (except St. Paul and Minneapolis), from certain specified points in Florida, to Minneapolis and St. Paul, Minn., from certain specified points in Florida, to St. Louis, Mo., and Kansas City, Kans.; *plastic pipe, plastic tubing, plastic fittings, plastic pellets, plastic scrap*, and *plastic bonding cement;* from certain specified points in Ohio, to points in Florida, from certain specified points in Ohio, to points in Alabama, Georgia, Kentucky, North Carolina, South Carolina, and Tennessee, with restriction; *canned vegetables*, from certain specified points in Wisconsin, to points in Alabama, Florida, Georgia, North Carolina, and South Carolina; *frozen fruit juices*, and *frozen fruit concentrates*, in mixed loads with *canned citrus fruits and juices*, from points in Florida to points in Missouri, Kansas, Iowa, and Nebraska; *frozen fruit juices, frozen fruit concentrates, fresh fruits*, and *fresh vegetables*, in mixed loads with canned citrus products, from points in Florida, to points in Arkansas, Minnesota, North Dakota, Oklahoma, South Dakota, West Virginia, Wisconsin, and the Lower Peninsula of Michigan; *citrus juices and sections*, not canned and not frozen, in mixed loads with canned citrus products, from Bradenton, Fla., to points in Wisconsin; *fresh fruits* and *fresh vegetables*, in mixed loads with canned citrus products, from points in Florida, to points in Iowa, Kansas, Missouri, and Nebraska.

Citrus juices, not canned and not frozen, *frozen citrus concentrates* in mixed loads with canned citrus products, and *canned citrus products*, from points in Florida, to points in Arizona, California, Colorado, Nevada, New Mexico, and Utah; *powdered milk* with additives, *canned cream and milk, milk and cream substitutes, dessert preparations*, not frozen, *dry beverage preparations, liquid dietary products, flour mixes*, and *powdered milk*, without additives, when moving in the same vehicle and at the same time with commodities, the transportation of which is not exempt from economic regulation, from certain specified points in Wisconsin, to points in Tennessee, North Carolina, South Carolina, Mississippi, Alabama, Georgia, Florida, and that part of Louisiana east of the Mississippi River; *canned goods* in mixed loads with frozen foods or agricultural commodities as defined in section 203 (b) (6) of the act, as amended; and *frozen foods* in mixed loads with canned goods or agricultural commodities as defined in section 203(b) (6) of the act, as amended, from points in California to points in Alabama, Arkansas, Florida, Georgia, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Tennessee, and Wisconsin; *agricultural commodities* as defined in section 203(b) (6) of the act, as amended, when transported at the same time and in the same vehicle with canned goods or frozen foods (otherwise authorized), from points in Arizona and California to points in Alabama, Arkansas, Florida, Georgia, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Tennessee, and Wisconsin.

Canned citrus products and *canned fruit drinks*, from points in Florida, to points in Louisiana, Mississippi, and Texas; *meats, meat products, and meat byproducts*, and *articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except commodities in bulk, in tank vehicles, from the site of the plant of Armour & Co. at or near Emporia, Kans., to points in Alabama, Georgia, Florida, North Carolina, and South Carolina; from the plantsite of Producers Packing Co. near Garden City, Kans., to points in Alabama, Delaware, Florida, Georgia, Kentucky, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia, with restriction; *citrus products*, from the plantsite of Osceola Fruit and Distributing Co. at or near Waycross, Ga., to points in Colorado, Kansas, Montana, New Mexico, and Wyoming, with restriction; *canned goods*, and *citrus products*, other than canned citrus products, and *frozen fruit products*, other than frozen citrus products, in mixed loads with canned goods, from points in Florida, to points in Montana and Wyoming; *frozen citrus products* and *canned citrus products*, and *chilled citrus products*, not frozen and not canned, when shipped in a mixed load with frozen or canned citrus products, from the plantsite of Osceola Fruit and Distributing Co. at or near Waycross, Ga., to points in North Dakota and South Dakota, with restriction.

Canned citrus products, and *chilled citrus products*, not frozen and not canned, and *frozen citrus products*, when shipped in a mixed load of both commodities, or in a mixed load with canned citrus products, from the plantsite of Osceola Fruit and Distributing Co. at or near Waycross, Ga., to points in Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Nebraska, Ohio, Tennessee, Texas, and Wisconsin, with restriction; *canned citrus products* and *chilled citrus products*, not frozen and not canned, and *frozen citrus products* when shipped in a mixed load with canned or chilled citrus products, not frozen and not canned, from the plantsite of Osceola Fruit and Distributing Co. at or near Waycross, Ga., to points in Iowa, Minnesota, Missouri, and Oklahoma, with restriction; *meats, meat products, and meat byproducts*, as described in section A of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except (a) canned meats, chili con carne, and canned meat products, and (b) commodities in bulk, in tank vehicles, from Bellefontaine, Ohio, to points in Florida and Georgia; *frozen foods*, from the plantsite of the Green Giant Co. at or near Belvidere, Ill., to points in Indiana, Ohio, Michigan, Kentucky, and points in those parts of Pennsylvania and New York on and west of Interstate Highway 81, from Humboldt, Tenn., to points in Connecticut, Delaware, Illinois, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, and the District of Columbia, with restrictions.

Frozen foods (except frozen dairy products and frozen meats), from Belvidere, Ill., to points in Alabama, Georgia, and Florida; *clay*, from Edgar, Fla., to points in Ohio, Indiana, and Illinois; *meats, meat products, and meat byproducts*, and *articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except hides and commodities in bulk, in tank vehicles, from Sioux City, Iowa, to points in Florida, from the plantsite and storage facilities of Missouri Beef Packers, Inc., at or near Phelps City, Mo., to points in Alabama, Florida, Georgia, North Carolina, and South Carolina, from the plant or storage facilities of Spencer Packing Co. at Schuyler, Nebr., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee, with restrictions; *meats, meat products*, and *meat byproducts*, and *articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, except hides, commodities in bulk in tank vehicles, and *frozen meats*, from the plantsite or storage facilities utilized by Snyder Packing Co. in Adams County, Nebr., to points in Florida and Georgia, with restriction.

Syrup, liquid sugar, and *blends thereof*, in bulk, in tank vehicles, from Decatur, Ill., to points in Alabama, Florida,

and Georgia; *frozen foods* (except frozen meats), from the plantsites and storage facilities of Stokely-Van Camp, Inc., at certain specified points in Minnesota, to points in Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia; from the plantsites and storage facilities of Stokely-Van Camp, Inc., at certain specified points in Minnesota, to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee, with restrictions; *paper* and *paper products*, from the plantsite of Carolina Paper Mills, Inc., at or near Rockingham, N.C., to Dothan, Ala., points in Florida, and those in Georgia on and south of U.S. Highway 80; *fruit juices* and *fruit juice concentrates* (other than citrus juices and citrus juice concentrates), *nonalcoholic beverages*, and *nonalcoholic beverage preparations*, from points in that part of Florida on and south of Florida Highway 40, to points in Arizona, California, Colorado, Iowa, Kansas (except Kansas City, Kans.), Louisiana, Minnesota (except Minneapolis and St. Paul, Minn.), Mississippi, Missouri (except St. Louis Mo.), Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, Texas, Utah, and Wyoming, from points in that part of Florida on and south of Florida Highway 40, to Kansas City, Kans., and Minneapolis and St. Paul, Minn., with restriction; *frozen foods*, except frozen dairy products, from Belvidere, Ill., to points in North Carolina, South Carolina, and West Virginia; *tile flooring* and *tile cement*, from New Orleans, La., to points in Florida south of U.S. Highway 90.

Plastic articles (except in bulk), from Franklin, Pa., to points in Indiana, Illinois, and Louisiana (except New Orleans, La., and points in its commercial zone as defined by the Commission); authority applied for in pending Docket No. MC-115491 Sub 63, covering the transportation of meats, meat products, meat byproducts, and dairy products, and articles distributed by meat packinghouses, as described in sections A, B, and C, of appendix I in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, as a common carrier, over irregular routes, from points in Colorado on and north of U.S. Highway 40 and on and east of U.S. Highway 87, to points in North Carolina, South Carolina, Georgia, Alabama, and Florida; and authority applied for in pending Docket No. MC-115491 Sub 91, covering the transportation of foodstuffs, as a common carrier, over irregular routes, from certain specified points in Mississippi, to points in Alabama, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Carolina, North Dakota, South Carolina, South Dakota, and Wisconsin. Vendee is authorized to operate as a *common carrier* in all points in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10026. Authority sought for purchase by TEX-O-KA-N TRANSPORTATION COMPANY, INC., 3301 Southeast Loop 820, Post Office Box 8367, Fort Worth, Tex. 76112, of the operating rights of CARL O'NEAL TRUCK LINE, INC., Post Office Box 830, El Campo, Tex. 77437, and for acquisition by PAUL F. HEALY, also of Fort Worth, Tex., of control of such rights through the purchase. Applicants' attorneys: Reagan Sayers and Clayte Binion, III, c/o Rawlings, Sayers & Scurlock, Century Life Building, Post Office Drawer 17007, Fort Worth, Tex. 76102. Operating rights sought to be transferred: *Oilfield equipment and supplies*, as a *common carrier*, over irregular routes, between points in Louisiana and Texas, with restrictions; *machinery, materials, supplies and equipment* incidental to, or used in, the construction, development, operations, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, between points in Texas; *machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, not including the stringing or picking up of pipe in connection with pipelines, between points in Texas; and *iron and steel articles*, as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, between points in Texas, with restriction. Vendee is authorized to operate as a *common carrier* in Oklahoma, Kansas, New Mexico, Texas, Colorado, Wyoming, Utah, Montana, Arkansas, Louisiana, Arizona, Nebraska, Mississippi, North Dakota, South Dakota, and Tennessee. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10027. Authority sought for purchase by JOHNSON TRUCK SERVICE, INC., Post Office Box 668, Coos Bay, Oreg., of a portion of the operating rights of FERGUSON TRANSFER COMPANY, Post Office Box 337, Coos Bay, Oreg., and for acquisition by JEWELL J. JOHNSON and JANET K. JOHNSON, both of 1050 North Juniper, Coos Bay, Oreg., of control of such rights and property through the purchase. Applicants' attorney: Norman E. Sutherland, 1200 Jackson Tower, Portland, Oreg. Operating rights sought to be transferred: *Household goods*, and *general commodities*, except those of unusual value, and except commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier*, over irregular routes, between Coos Bay, Oreg., on the one hand, and, on the other, Reedsport, Oreg., and points in Coos County, Oreg.; *liquid glue, in bulk, in tank vehicles, from Coos* Bay, Oreg., to Samoa, Calif., and points within 5 miles thereof; and *wood residuals*, between points in Del Norte and Humboldt Counties, Calif., and Coos, Curry, Jackson, Josephine, and Douglas Counties, Oreg. (except from points in Del Norte County, Calif., to Brookings, Oreg.). Vendee is authorized to operate as a *common carrier* in Oregon, Washington, and California. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 68-1163; Filed, Jan. 30, 1968; 8:47 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

JANUARY 26, 1968.

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 Special Rule 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, and 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.

State Docket. No. T-26, 150, filed January 17, 1968. Applicant: LAVERNE STOCKTON, doing business as MARSHFIELD DRAYAGE COMPANY, 302 West Second, Marshfield, Mo. 65706. Applicant's representative: Turner White, 805 Woodruff Building, Springfield, Mo. 65806. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *general commodities* (except explosives, articles of unusual value, household goods, commodities in bulk, commodities requiring special equipment and articles injurious and contaminating to other freight), between Marshfield and Springfield, Mo., over Interstate Highway 44 (U.S. Highway 66), from Marshfield, Mo., to Springfield, Mo., and return over the same route, serving the commercial zones of both said cities and serving all intermediate points. Both intrastate and interstate authority sought.

HEARING: Tuesday, March 5, 1968, at 10 a.m., Missouri Public Service Commission, 100 East Capitol Avenue, Jefferson City, Mo. Requests for procedural information including the time for filing protests, concerning this application should be addressed to the Missouri Public Service Commission, 100 East Capitol Avenue, Jefferson City, Mo. 65101, and should not be directed to the Interstate Commerce Commission.

State Docket No. 515, filed January 19, 1968. Applicant: QUAST TRANSFER, INC., Winsted, Minn. Applicant's representative: William S. Rosen, 400 Minnesota Building, St. Paul, Minn.

55101. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities,* (a) between Lester Prairie and Minneapolis and St. Paul, Minn., and between Lester Prairie and Winsted, Minn., over the following routes: Route No. 1: From Lester Prairie, over McLeod and Carver County Roads to junction with Minnesota State Highway 7, thence over Minnesota Highway 7 to Minneapolis and St. Paul and return over the same route. Route No. 2: From Lester Prairie, Minn., over McLeod, Carver, and Wright County Roads to Winsted; from Winsted over McLeod, Carver, and Wright County Roads to Waverly, thence over Trunk Highway 12 to Minneapolis and St. Paul, and return. Route No. 3: From Lester Prairie over McLead, Carver, and Wright County Roads to Winsted; from Winsted, over McLeod, Carver, and Hennepin County Roads through Watertown to junction with Trunk Highway 12, thence over Trunk Highway 12 to Minneapolis and St. Paul, and return, and (b) no service at intermediate points; applicant shall serve all points in the twin cities metropolitan area to and from Winsted and Lester Prairie; and applicant shall tack any authority granted herein with his existing authority in State Docket No. RRCC 515, which authorizes transportation of general commodities between Winsted, Minn. and Minneapolis and St. Paul, Minn. Both intrastate and interstate authority sought.

HEARING: March 20, 1968, at 10 a.m., in the hearing room of the Minnesota Public Service Commission, State Office Building, St. Paul, Minn. 55101. Request for procedural information, including the time for filing protests concerning this application should be addressed to the Minnesota Public Service Commission, State Office Building, St. Paul, Minn. 55101, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-1164; Filed, Jan. 30, 1968; 8:47 a.m.]

[Notice 80]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 26, 1968.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-69870. By order of January 4, 1968, Division 3 acting as an appellate division, approved the transfer to P. Liedtka Trucking, Inc., Trenton, N.J., of that portion of the operating rights in certificate No. MC-43046, issued by the Commission, December 7, 1951, to Beach Transportation Co., Inc., Jersey City, N.J., authorizing the transportation, over regular routes, of general commodities, except those of unusual value, and except dangerous explosives, household goods as defined, and commodities in bulk, over regular routes, of general commodities, excluding household goods, dangerous explosives, and commodities in bulk, from New York, N.Y., to Washington, D.C., and New York, N.Y., to points in Massachusetts and Connecticut. Said order, as published in the FEDERAL REGISTER of January 19, 1968, inadvertently failed to show the transfer of the operating rights authorizing operations from New York, N.Y., to points in Massachusetts and Connecticut.

Charles H. Trayford, 137 East 36th Street, New York, N.Y. 10016, attorney for applicants.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-1165; Filed, Jan. 30, 1968; 8:47 a.m.]

[Notice 536]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 26, 1968.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 48533 (Sub-No. 12 TA). (Correction), filed December 4, 1967, published FEDERAL REGISTER, issue of December 19, 1967, and corrected this issue. Applicant: A. L. ROOT TRANSPORTATION, INC., 12 Fairground Road, Brattleboro, Vt. 95302. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, Mass. 01103. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Wood chips, edgings, and debarked wooden slabs,* from Winchester and Madison, N.H., to Westbrook and Rumford, Maine, Boston, Canton, and Lawrence, Mass., Albany, Schenectady, and Ticonderoga, N.Y., and Philipsdale and Providence, R.I., and from Westfield and Chester, Mass., to Winchester and Milford, N.H., and Mechanicsville, N.Y., for 180 days. Supporting shippers: New England Lumber Co., Inc., Box 126, West Ossipee, N.H. 03890; Bannish Lumber Co., Southwick Road, Westfield, Mass. 01085. NOTE: The purpose of this republication is to show that Winchester and Madison are located in New Hampshire instead of New Jersey. Send protests to: Martin P. Monaghan, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 38, Montpelier, Vt. 05602.

No. MC 59283 (Sub-No. 3 TA) filed January 22, 1968. Applicant: M & B TRANSFER COMPANY, doing business as BATTLE GROUND TRUCK SERVICE, Box 1146, Vancouver, Wash. 98660. Applicant's representative: Earle V. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities,* except those of unusual value, classes A and B explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Vancouver, Wash., and Astoria, Oreg., serving the intermediate and off-route points described below: From Vancouver, Wash., over Interstate 5 (U.S. highway) U.S. Highway 99, and Washington highways to the Interstate Bridge southwest of Longview, Wash., thence over Interstate Bridge to U.S. Highway 30 in Oregon, thence over U.S. Highway 30 to Astoria, Oreg., and return over the same routes, service to be provided: (a) Between Vancouver, Wash., on the one hand, and on the other all points in Oregon west of Rainier, Oreg.; (b) to and from the off-route points of Hammond and Warrenton, Oreg., for 180 days. Supporting shippings: Portco Corp., Vancouver, Wash.; Bemis Co., Inc., 1401 West 26th Street, Vancouver, Wash. 98660; Ropes Unlimited, Inc., 2401 Vancouver Shipyards, Vancouver, Wash. Send protests to: S. F. Martin, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 120 Southwest Fourth Street, Portland, Oreg. 97204.

No. MC 59488 (Sub-No. 28 TA), filed January 22, 1968. Applicant: SOUTHWESTERN TRANSPORTATION COMPANY, 733 South Poydras, Dallas, Tex. 75202. Applicant's representative: Lloyd M. Roach, 1517 West Front Street, Tyler, Tex. 75702. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities,* except those of unusual

value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, from junction Arkansas Highway 15 and unnumbered highway near Tucker over unnumbered highway and access roads to Lock and Dam No. 5 near Wright, Arkansas, and return. NOTE: Applicant intends to tack the authority here applied with existing authority held by it, at all Gateways; for 180 days. Supporting shipper: Martin K. Eby Construction Co., Inc., Post Office Box 5299, Pine Bluff, Ark. 71601. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 128791 (Sub-No. 2 TA), filed January 22, 1968. Applicant: L & S BOAT TRANSPORTATION COMPANY, 3356 53d Avenue North, St. Petersburg, Fla. 33714. Applicant's representative: M. Craig Massey, 223 South Florida Avenue, Lakeland, Fla. 33802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats and boat parts, supplies and equipment*, moving in connection therewith, from points in Orange and Los Angeles Counties, Calif., to points in Alabama, Arizona, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, and Wisconsin, for 180 days. Supporting shippers: Wayfarer Yacht Corp., 1682 Placentia Avenue, Costa Mesa, Calif., Joseph Stephens of Newport, 505 30th Street, Newport Beach, Calif; Jensen Marine Co., 235 Fischer Street, Costa Mesa, Calif.; Wesco Marine, 8211 Lankershim Boulevard, North Hollywood, Calif.; Ericson Yachts, 1206 West Struck Avenue, Orange, Calif. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 39180.

No. MC 129664 TA filed January 22, 1968. Applicant: COMET MESSENGER AND DELIVERY SERVICE, INC., 277–283 Clinton Avenue, Newark, N.J. 07108. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dental, optical, flexographic materials, film and allied photo equipment and supplies*, in shipments of 100 pounds or less moving from one consignor to one consignee, in specialized service. (1) between New York, N.Y., and points in Westchester and Nassau Counties, N.Y., on the one hand, and, on the other, points in New Jersey, Rockland County, N.Y., and Philadelphia, Pa. (2) between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey and Rockland County, N.Y., for 150 days. Supporting shippers: There are 14 shippers whose names and addresses are on file in the Newark, N.J., field office and Washington, D.C., Interstate Commerce Commission office supporting this application. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1060 Broad Street, Newark, N.J. 07102.

No. MC 129666 TA filed January 22, 1968. Applicant: SECURITY STORAGE & MOVING SERVICE, INC., 4100–04 14th Avenue, Columbus, Ga. 31902. Applicant's representative: James L. Flemister, 230 Fulton Feral Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in the counties of Troup, Meriwether, Chattahoochee, Clay, Pike, Lamar, Upson, Harris, Talbot, Taylor, Muscogee, Marion, Macon, Schley, Stewart, Webster, Sumter, Dooly, Quitman, Randolph, Terrell, Lee, Crisp, Calhoun, Dougherty, Worth, Turner, Tift, Early, Baker, Miller, Mitchell, Colquitt, Cook, Berrien, Ben Hill, Wilcox, Ga., and Chambers, Tallapoosa, Macon, Lee, Russell, Bullock and Barbour, Henry, Pike, Ala. Restricted to shipments having a prior or subsequent movement in containers beyond said counties, and further, restricted to pickup and delivery service incidental to and in connection with packing, crating and containerization, or upacking, uncrating and decontainerization of such shipments over irregular routes, for 180 days. Supporting shippers: Swift Home-Wrap, Inc., 105 Leonard Street, New York, N.Y. 10013; Smyth Worldwide Movers, Inc., 11616 Aurora Avenue North, Seattle, Wash. 98133. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68–1166; Filed, Jan. 30, 1968; 8:47 a.m.]

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PART II

Department of Agriculture
Board of Contract Appeals

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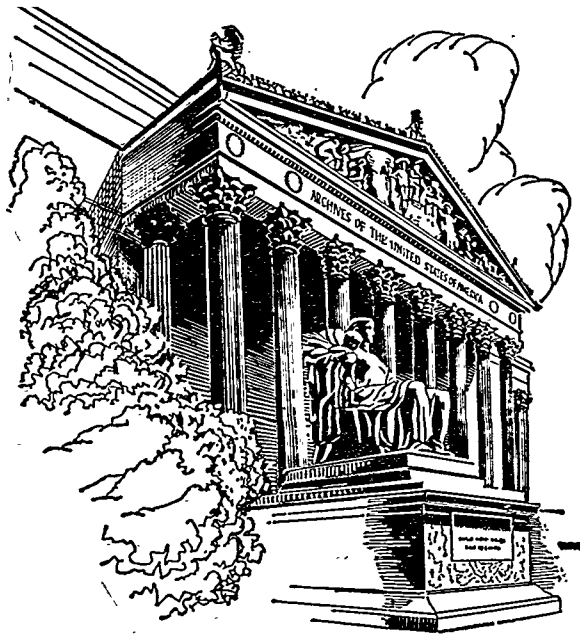
Revision of Regulations



Title 7—AGRICULTURE

Chapter XXIV—Board of Contract Appeals, Department of Agriculture

PART 2400—ORGANIZATION, FUNCTIONS, AND RULES OF PROCEDURE

Chapter XXIV is added to Title 7, Code of Federal Regulations, containing Part 2400. This part supersedes Part 1400 of this title, the rules of the Contract Disputes Board for Commodity Credit Corporation, as amended.

Sec.
2400.1 General.
2400.2 Membership and participation.
2400.3 Authority and jurisdiction.
2400.4 Debarment.
2400.5 Manner of filing appeals.
2400.6 Procedure on appeal.
2400.7 Discovery: motion for production of documents, written interrogatories and oral examinations.
2400.8 Lack of prosecution.
2400.9 Settlement.
2400.10 Prehearing arrangements.
2400.11 Hearings.
2400.12 Decisions.
2400.13 Extensions of time and stenographic reporting of hearings.

AUTHORITY: The provisions of this Part 2400 issued under 5 U.S.C. 301, 40 U.S.C. 486 (c) and under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply secs. 9, 10, 62 Stat. 1072, 1073; 15 U.S.C. 714g, 714h.

§ 2400.1 General.

(a) This part sets forth the organization, functions, and rules of procedure of the Board of Contract Appeals, Department of Agriculture (hereinafter referred to as the Board). Except for appeals pending before a board on which hearings have been held prior to the effective date of these rules, the Board supersedes and replaces (1) the Contract Disputes Board for Commodity Credit Corporation established by the Board of Directors of the Commodity Credit Corporation on April 17, 1946, and (2) Ad Hoc Boards of Contract Appeals designated from time to time by the Director of Plant and Operations under authority of Subpart 4–50.2 of the Agriculture Procurement Regulations.

(b) The provisions of the Administrative Procedure Act (60 Stat. 237, as amended, 5 U.S.C. 551–559) are not applicable to proceedings before the Board except those requirements with respect to publication of description of organization, statements as to channeling and determination of functions, substantive rules, statements of general policy, or interpretations, and publication or availability for public inspection of final opinions or orders in the adjudication of cases.

§ 2400.2 Membership and participation.

(a) The Board is composed of eleven members appointed by the Secretary of Agriculture one of whom is designated to act as Chairman and one as Vice Chairman. The Vice Chairman shall act for the Chairman in his absence. The Board has an Executive Secretary designated by the Secretary of Agriculture. The Executive Secretary may, if his appointment so provides, also be a member of the Board.

(b) An appeal to the Board shall be considered and decided by a panel of not less than three members designated by the Chairman to hear and decide the appeal. If the Chairman is not a member of a panel, or is unable to act as "Presiding Officer," he shall name one of the members of the panel to serve as "Presiding Officer" who shall be responsible for the proper disposition of the appeal. The decision of a majority of the panel shall constitute the decision of the panel and of the Board.

(c) Hearings may be conducted by the Chairman, Presiding Officer, or any member of a panel acting alone or with one or more other members of the panel. If a hearing is conducted by less than the full membership of the panel the entire record shall be furnished to the remaining member or members of the panel designated by the Chairman for review and the panel shall consider and determine the appeal upon such record. A majority of the panel shall decide the appeal.

(d) A vacancy on the Board or panel shall not impair the powers or affect the duties of the Board. If a member of the panel is unable to serve or participate in a decision, either before or after the hearing, he shall be replaced by another member of the Board designated by the Chairman to serve on that panel. All communications shall be directed to the "Executive Secretary, Board of Contract Appeals, U.S. Department of Agriculture, Washington, D.C. 20250."

§ 2400.3 Authority and jurisdiction.

(a) *Commodity Credit Corporation.* The Board has jurisdiction and the authority to act for or on behalf of the Commodity Credit Corporation (hereinafter referred to as the Corporation) and its officers in the following cases:

(1) To consider and determine appeals by persons from findings of fact of Contracting Officers of the Corporation within the scope of any contract disputes provision which provides a method for final and conclusive determination of disputed questions of fact.

(2) To consider and determine, upon specific referral by the President or a Vice President of the Corporation, an appeal by any person on a contract claim by or against the Corporation not pending in the Department of Justice or in litigation and involving doubtful or disputed questions of fact or law where claimant has been unable to effect settlement or adjustment satisfactory to him under other established policies and procedures.

(b) *Services and agencies of the Department of Agriculture other than Commodity Credit Corporation.* The Board has jurisdiction and authority to act on appeals taken from decisions of Contracting Officers of this Department under contracts involving (1) the construction, alteration, or repair, of buildings or works, (2) the purchase of supplies, equipment, materials, or services, and (3) the purchase of commodities pursuant to section 32 of Public Law 320, 74th Congress, as amended, and section 6 of the National School Lunch Act, as amended, if such contracts provide either that such appeals may be made to the Administrator, Consumer and Marketing Service, or to the head of the Department or his duly authorized representative.

(c) *Work Hours Standards Act.* The Board is authorized to consider and determine appeals from decisions of contracting officers under the Contract Work Hours Standards Act in accordance with the provisions of section 104(c) of that Act.

(d) *Finality of decisions.* No person shall be required to seek an appeal or to appeal to the Board in cases which may be or are cognizable under paragraph (a)(2) of this section for the purpose of exhausting his administrative remedy before recourse to the courts unless a contractual provision provides for such an appeal. The decisions of the Board on all matters falling within its jurisdiction shall constitute the final administrative determination within the U.S. Department of Agriculture (hereinafter referred to as the Department). Determinations of fact by the Board on appeals from findings of fact of a Contracting Officer of the Corporation or the Department pursuant to a disputes article or other provision in a contract providing for appeal shall be final and conclusive for all purposes, unless determined by a court of competent jurisdiction to have been fraudulent, arbitrary, capricious or so grossly erroneous as necessarily to imply bad faith or not supported by substantial evidence.

(e) *Adjudication.* (1) Where an appeal is within the jurisdiction of the Board, it will, in its discretion, hear, consider, and make decisions on all questions necessary for the complete adjudication of the issues. When, in the consideration of an appeal, it appears that a claim is involved which is not otherwise cognizable by the Board, it may insofar as the evidence permits make findings of fact with respect to such claim without expressing an opinion or making a finding on the question of liability.

(2) The term "persons" for the purpose of these rules means an individual or any form of business entity, e.g., a proprietorship, partnership, corporation, association, or cooperative.

(3) Proceedings before the Board will be suspended in connection with any case which has been referred to the Department of Justice, or which the Office of the General Counsel informs the Board will be referred to that Department for consideration of possible criminal violations or civil false claims. Such suspension will be lifted if the Department of Justice so requests, completes action on the case, or informs this Department that the Department of Justice has no objection to further proceedings before the Board.

§ 2400.4 Debarment.

(a) The Board has jurisdiction and the authority to hear and determine the issue of debarment and the period thereof, if any, on an appeal by a person debarred under the regulations (1) of the Commodity Credit Corporation relating to Suspension and Debarment (Part 1407 of this title) and (2) of the Department of Agriculture relating to Debarred, Suspended and Ineligible Bidders (41 CFR 4–1.605.1).

(b) Any person, upon written notice of debarment by the Corporation or the Department, may appeal such debarment to the Board and obtain a hearing on the issue of debarment and the period thereof. The appeal shall be filed with the Executive Secretary of the Board.

(c) (1) On receipt of an appeal from such a debarred person, the Executive Secretary of the Board shall acknowledge receipt of the appeal and inform the appellant that an answer in writing to the notice of debarment shall be filed with the Board within such period of time as may be specified by the Board. Such answer shall:

(i) Admit or deny each of the factual allegations contained in the notice of debarment;

(ii) State any affirmative defenses on which the appellant intends to rely in the proceedings before the Board.

(2) On receipt of such answer, the Board shall schedule the matter for a hearing before it and shall notify appellant, and the appropriate representatives of the Corporation or the Department, of the time, place and date set for such hearing.

(d) The proceedings before the Board on such appeal shall be conducted to the maximum extent practicable in the same manner as appeals to the Board on contract disputes.

(e) On completion of the hearing and following determination of the issue of debarment by the Board, the appellant shall be given written notice of the Board's findings and decision. The decision of the Board in the proceedings under this section, shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, arbitrary, capricious, or so grossly erroneous as necessarily to imply bad faith or not supported by substantial evidence.

§ 2400.5 Manner of filing appeals.

(a) An appeal by any person from the decision of a contracting officer, claims officer, or other officer of the Corporation or Department or from debarment action by an authorized official of the Corporation or the Department, shall be in writing, and need not be under oath. An original and five copies of the appeal should be filed with the Executive Secretary of the Board. The appeal must be submitted to the Board within the time provided by the contract or the regulations governing suspension and debarment, whichever is applicable. Where the appeal is addressed to the Corporation or the Department and delivered to the contracting officer or an agency, the recipient shall certify the date of receipt and such date shall be considered as the date of filing with the Board. Within ten (10) days after receipt, the appeal shall be forwarded to the Board. If no time for appeal is so provided, the person may file his appeal at any time prior to the claim being barred under the applicable statutory period of limitation.

(b) Each appeal shall clearly identify the decision from which the appeal is taken. The appeal need not follow any prescribed form. It may be in the form of a letter and should contain a full statement of the exact nature of the dispute, the specific relief sought by the appellant, the pertinent facts and reasons in support of the appellant's contentions and, if the appellant desires an oral hearing, a request that a hearing be held: *Provided, however,* That, in the case of an appeal from debarment action, the appeal shall be taken in the manner provided in § 2400.4(b) and the appellant shall be deemed to have requested an oral hearing unless the appellant has specifically waived his right thereto, in writing, prior to the date set therefor. Additional information supporting the appeal may be incorporated in the appeal or be submitted within such period of time as may be specified by the Board in writing.

§ 2400.6 Procedure on appeal.

(a) Upon receipt of an appeal, the Executive Secretary of the Board shall furnish a copy of the appeal to the official of the Corporation or of the Department from whose decision the appeal is taken, or his designee, who shall compile and submit to the Board an appeal file consisting of five (5) copies of all documents pertinent to the appeal, including, but not limited to the following as applicable: (1) Findings of fact and the decision from which the appeal is taken; (2) applicable contractual instruments; (3) correspondence between the parties; and (4) such additional information as relate to the contract or the appeal.

(b) The Executive Secretary of the Board shall afford the appellant an opportunity to examine such information and material in the appeal file as may be made available under regulations of the Department for the purpose of satisfying himself of the contents and furnishing or suggesting any additional documentation deemed pertinent to the appeal. Such examination shall be made at the office of the Board or such other place as the Board may direct. The Executive Secretary of the Board shall furnish a copy of such appeal file to the contracting officer or debarring official, or his designee, as the case may be. Within 30 days after receipt of the appeal file, the contracting officer or debarring official, or his designee, shall file with the Board five (5) copies of an answer to the appeal setting forth, in concise statements, the Corporation's or Department's defenses with respect to each claim asserted. The answer shall set forth any affirmative defenses and may set forth any counterclaims, as appropriate. The Executive Secretary to the Board shall serve a copy of the answer of the contracting officer, or debarring official, on the appellant.

(c) Defenses which go to the jurisdiction of the Board shall ordinarily be raised by motion. Motions to dismiss for lack of jurisdiction should be filed without unreasonable delay. The Board, however, may dismiss the appeal at any time if it determines it lacks jurisdiction.

(d) The Board may, in its discretion, and within the proper scope of the appeal, permit either party to amend his appeal papers upon conditions just to both parties. When issues within the proper scope of the appeal, but not raised by the written appeal or the documentation contained in the appeal file are tried by express or implied consent of the parties, or by permission of the Board, they shall be treated in all respects as if they had been raised in the written appeal or documentation. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the written appeal of the appeal file, it may be received if within the proper scope of the appeal: *Provided, however,* That the objecting party shall be granted a continuance if necessary to enable him to meet such evidence.

(e) Either party may furnish, or the Board may in its discretion require, the parties to submit pre-hearing briefs in any case in which a hearing is to be held. In any case where a pre-hearing brief is submitted, it shall be furnished in quadruplicate so as to be received by the Board within such period of time prior to the date set for hearing as the Board may direct, and a copy shall be furnished to the other party by the Executive Secretary of the Board.

(f) The Chairman or Presiding Officer may order, or permit upon request, briefs to be filed by each party after the conclusion of the hearing within such period of time as the Chairman or Presiding Officer may allow.

§ 2400.7 Discovery: motion for production of documents, written interrogatories and oral examinations.

(a) At any stage of an appeal, upon motion of either party filed with the Board and notice thereof to the other party, and upon good cause shown therefor if requested by the opposing party or by the Board, the Board may request the other party to produce, for inspection and copying or photographing, any documents, papers, records, letters, photographs, or other tangible things, not privileged, relevant to the issues in the appeal, which are in the other party's possession, custody, or control. The Board, upon its own motion, may, at any time prior to rendering its decision, make a request upon either party to the proceeding for production of material or information, not privileged, relevant to the appeal or to obtain additional material or information from other sources, if available.

(b) After an appeal has been acknowledged by the Board and prior to oral hearing, either party, in accordance with the following procedures, may take

the testimony of any person by oral examination or written interrogatories for use as evidence in the appeal proceedings:

(1) If either party desires to take the testimony of any person by written interrogatories, such party shall file such interrogatories in quadruplicate with the Executive Secretary of the Board who shall serve a copy upon the opposing party and upon the person to whom the interrogatories are directed if he is not a party. Within such time as may be fixed by the Board, the opposing party may file cross-interrogatories in quadruplicate with the Executive Secretary of the Board, who shall serve a copy upon the other party and upon the person to whom the interrogatories are directed if he is not a party.

(2) When either party desires to take the testimony of any person upon oral examination such party shall file written notice in quadruplicate with the Executive Secretary, who shall serve a copy upon the opposing party and upon the person to be examined if he is not a party. The opposing party shall be given at least 20 days notice, unless otherwise stipulated by the parties or directed by the Board, of the time and place where the oral examination will be conducted and the name and address of the witness. The witness shall testify under oath, and the reporter taking the oral testimony shall certify that the record is a true record of the testimony given by the witness.

(3) The party desiring to take testimony by deposition of any person by oral examination or written interrogatories shall be responsible for assuring that the witness answers the written interrogatories and cross-interrogatories, or that he appears and furnishes testimony in answer to the questions submitted on oral examination, except that where the witness is a party or an officer, director, official, or employee of a party, such party shall be responsible for assuring that the witness answers the interrogatories and cross-interrogatories or questions submitted on oral examination. The party desiring to take the testimony of any person by written interrogatories or upon oral examination, shall pay the cost of the reporter and the transcript of the oral examination or any cost of answering written interrogatories. The party desiring to take the testimony of any person upon oral examination shall pay the cost of travel and other expenses of the witness if the parties and the witness agree to take his testimony at a place other than his usual place of residence or business.

(c) The Board, upon motion seasonably made by any party, by the person to be examined or to whom written interrogatories are addressed, or upon its own motion, may, upon notice and for good cause, refuse to permit any proceedings to be conducted under paragraphs (a) and (b) of this section or the Board may direct that such proceedings be conducted only under, and in accordance with, such limitations as to documents, persons, time, place, and scope as it deems necessary and appropriate.

(d) In the event of failure of a party to comply with a request of the Board for production under paragraph (a) of this section, or failure of a party to make available an officer, director, official, or employee of such party, for answering written interrogatories or questions on oral examination under paragraph (b) of this section, without showing an excuse or explanation for such failure satisfactory to the Board, the Board may (1) decide the fact or issue relating to the material which the Board has requested to be produced, or the subject matter of the probable testimony of the witness, in accordance with the claim of the other party or in accordance with other evidence available to the Board; (2) dismiss the appeal if the appellant is the disobedient party; or (3) make such other ruling as the Board determines is just and proper.

§ 2400.8 Lack of prosecution.

Where the appellant does not, within a reasonable time, take the necessary action to prosecute his appeal in accordance with this subpart, the Board may, upon reasonable notice, dismiss the appeal for lack of prosecution.

§ 2400.9 Settlement.

A dispute may be settled at any time by filing with the Board (a) a written notice by the appellant withdrawing his appeal, or (b) a written stipulation between the parties settling either the entire dispute or any part thereof. The appeal shall continue as to any issues remaining in dispute.

§ 2400.10 Prehearing arrangements.

(a) The Board may direct the parties to appear at a specified time and place for a conference to consider or otherwise provide for the following:

(1) Simplification of issues,

(2) Possibility of obtaining stipulations or admissions of fact and of documents, and

(3) Such other matters as may aid in the disposition of the appeal.

(b) The results of the conference shall be reduced to writing by the Board and this writing shall thereafter constitute a part of the record.

§ 2400.11 Hearings.

(a) *Opportunity for hearing.* Upon written request by either party, or upon motion of the Board, the Board shall afford an opportunity for an oral hearing before it: *Provided, however,* That, in the case of appeals from debarment actions under § 2400.4, an oral hearing shall be held unless waived in writing by the debarred person.

(b) *Submission without hearing.* In the absence of an oral hearing, the Board will make its findings of fact and render its decision based on the facts in the written record.

(c) *Notice of hearing.* If an oral hearing has been requested by either party or ordered by the Board on its own motion, the time shall be fixed and the place where such hearing will be conducted shall be specified and the Executive Secretary shall serve upon the parties at least 15 days' notice thereof in writing, unless the parties shall stipulate a shorter time.

(d) *Place of hearing.* Oral hearings, when granted, shall be held in Washington, D.C., unless otherwise directed by the Board or panel.

(e) *Representation before the Board.* The appellant may handle his appeal without assistance or may be represented by an attorney or by any representative meeting the requirements of 7 C.F.R. 1.26.

(f) *Conduct of hearings.* (1) Oral hearings before the Board will be as informal as may be reasonably permitted under the circumstances. The strict rules of evidence as required in courts of law will not be applied in the conduct of the hearing. The Board will receive matter deemed material and relevant to the issues raised in the appeal but may exclude that which it considers remote, speculative, or cumulative.

(2) On appeals from debarment by the Corporation for causes specified in paragraph (a) or (b) of § 1407.5 of this title, and by the Department for causes specified in 41 CFR 4–1.605–1, the Board may accept as final on the issues involved therein a decision by a court of competent jurisdiction convicting a person of a criminal offense or adjudging him liable to the United States or the Corporation, or a decision by an agency of the U.S. Government other than the Corporation or the Department, debarring or otherwise forbidding a person from contracting with or otherwise participating in contracts or programs administered or financed by such agency, and may exclude any evidence offered to the contrary. The Board may, however, receive evidence relevant to the question of whether such offense, basis of liability, or reason for the action taken by such other agency were sufficient cause for the debarment, and the period thereof, imposed by the Corporation, or the Department.

(3) Either party, at his own expense, may invite witnesses to appear and testify. The Board may also invite such witnesses as it deems necessary. Witnesses shall be required to testify under oath and shall be subject to cross-examination. A party shall exercise reasonable effort to make available any officer, director, official or employee of such party who resides or has his principal place of business within 100 miles of the place of the hearing and whose testimony is desired by the opposing party or by the Board. In the event of failure of a party to make such a person available at a hearing upon request of the opposing party or the Board, without an excuse or explanation satisfactory to the Board, the Board may take any action authorized in § 2400.7 which it determines just and proper.

(4) In the event of the unexcused absence of a party at the time and place set for hearing, the hearing will proceed and the appeal will be deemed as having

been submitted without oral testimony or argument by that party.

§ 2400.12 Decisions.

(a) The Board shall make specific findings of fact and shall render a decision based thereon where the appeal arises under the authority of a disputes article or other article providing for an appeal in a contract or in an appeal from a debarment.

(b) A motion for reconsideration may be made to the Board within 30 days from the date of the decision. Request for reconsideration of a decision, as for a hearing or rehearing, may be granted if, in the judgment of the panel with the concurrence of the Chairman, sufficient reason therefor appears.

(c) If the determination of the Board in connection with an appeal filed pursuant to § 2400.3(a)(2) results in the settlement or adjustment of a claim by or against the appellant, the Board will prepare a settlement agreement which will be executed on behalf of the Corporation by the Executive Secretary of the Board upon direction of the Board.

(d) Decisions of the Board may be examined and copied by interested persons at the Board office.

§ 2400.13 Extensions of time and stenographic reporting of hearings.

(a) Upon timely written request of either party, the Board may, in its discretion, grant an extension of the times set forth in this part except that no extension will be made of the time allowed within which to file an appeal.

(b) Hearings will be stenographically reported and transcripts thereof shall be made when deemed necessary by the Board, cost to be borne by agency involved. One copy of any such transcript will be made available to the appellant free of cost.

Effective date: Date of publication.

Signed at Washington, D.C., on January 26, 1968.

ORVILLE L. FREEMAN,
Secretary of Agriculture.

[F.R. Doc. 68-1148; Filed, Jan. 30, 1968; 8:45 a.m.]