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## Title 3—The President

### EXECUTIVE ORDER 11636

#### Employee-Management Relations in the Foreign Service of the United States

WHEREAS, the public interest requires high standards of performance by the members of the Foreign Service of the United States and the continuous development and implementation of modern and progressive work practices to facilitate their improved performance and efficiency; and

WHEREAS, the effective participation by the men and women of the Foreign Service in the formulation of personnel policies and procedures affecting the conditions of their employment is essential to the efficient administration of the Foreign Service and to the well-being of its members; and

WHEREAS, the unique conditions of Foreign Service employment require a distinct framework for the development and implementation of modern, constructive and cooperative relationships between management officials in the foreign affairs agencies and organizations representing Foreign Service employees; and

WHEREAS, subject to law and the paramount requirements of public service, effective employee-management relations within the Foreign Service require a clear statement of the respective rights and obligations of organizations and agency management; and

WHEREAS, the effectiveness of the foreign affairs agencies is well served by measures which stress their essential unity of purpose:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including sections 3301 and 7301 of title 5, United States Code, and section 202 of the Revised Statutes (22 U.S.C. 2656), and as President of the United States, I hereby direct that the following policies shall govern the foreign affairs agencies in all dealings with Foreign Service employees and organizations representing them.

#### GENERAL PROVISIONS

SECTION 1. *Policy.* (a) Each employee has the right, freely and without fear of penalty or reprisal, to form, join, and assist any organization as defined herein or to refrain from any such activity, and each employee shall be protected in the exercise of this right. Except as otherwise expressly provided in this Order, the right to assist an organization extends to participation in the management of the organization and acting for the

organization in the capacity of an organization representative, including presentation of its views to officials of the executive branch, the Congress, or other appropriate authority. The head of each foreign affairs agency shall take the action required to assure that employees in the agency are apprised of their rights under this section, and that no interference, restraint, coercion, or discrimination is practiced within his agency to encourage or discourage membership in an organization.

(b) Paragraph (a) of this section does not authorize participation in the management of an organization or acting as a representative of an organization by a management official or a confidential employee, or by an employee when the participation or activity would result in a conflict or apparent conflict of interest or otherwise be incompatible with law or with the official duties of the employee.

SEC. 2. *Definitions.* When used in this Order, the term—

(a) "Foreign affairs agency" means the Department of State, the United States Information Agency, the Agency for International Development and its successor agency or agencies;

(b) "Employee" means an officer or employee of the Foreign Service, wherever serving, other than an alien clerk or employee or consular agent, appointed in or assigned to a foreign affairs agency under authority of the Foreign Service Act of 1946, as amended; the Foreign Assistance Act of 1961, as amended; or Public Law 90-494;

(c) "Management official" means an individual who:

(1) is a chief of mission or principal officer;

(2) is serving in a position in a foreign affairs agency to which he has been appointed by the President, by and with the advice and consent of the Senate, or by the President alone;

(3) occupies a position which in the sole judgment of the head of his foreign affairs agency is of comparable importance;

(4) is serving as a deputy to any of the above; or

(5) is engaged in the administration of this Order or in the formulation of the personnel policies and programs of his agency;

(d) "Confidential employee" means an individual who assists and acts in a confidential capacity to a management official who formulates, determines or effectuates management policies in the field of employee-management relations;

(e) "Agency management" means management officials and confidential employees in a foreign affairs agency;

(f) "Organization" means a lawful organization of any kind in which employees participate and which exists for the purpose, in whole or in part, of dealing with agencies concerning grievances, personnel policies and practices, or other matters affecting the working conditions of their members, but does not include an organization which—

(1) consists solely of management officials;



(2) assists or participates in a strike against the Government of the United States or any agency thereof, or imposes a duty or obligation to conduct, assist or participate in such a strike;

(3) advocates the overthrow of the constitutional form of government in the United States; or

(4) discriminates with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin.

(g) "Secretary" means the Secretary of State;

(h) "Board" means the Board of the Foreign Service;

(i) "Commission" means the Employee-Management Relations Commission established under section 5 of this Order; and

(j) "Public member" means an individual who is not an employee of the United States Government (other than as a special Government employee) and who is selected to serve on a disputes panel or a grievance panel established under this Order.

SEC. 3. *Application.* (a) This Order applies to all employees except as provided in subsection (b) below.

(b) The head of a foreign affairs agency may, in his sole judgment, suspend temporarily any provision of this Order with respect to any post, bureau, office, or activity, in the United States or abroad, when he determines in writing in emergency situations that this is necessary in the national interest, subject to the conditions he prescribes. Such suspension shall not operate to deny access by an employee to the grievance procedures established under section 10 of this Order.

#### ADMINISTRATION

SEC. 4. *Board of the Foreign Service.* (a) The Board shall, in accordance with the regulations prescribed by the Secretary under section 16 of this Order:

(1) consider major policy issues arising in the administration of this Order, appeals on substantive aspects of personnel policy or procedure, proposed amendments to this Order and such other matters as it deems appropriate to assure the effectuation of the purposes of this Order;

(2) make recommendations on regulations for the implementation of this Order;

(3) interpret this Order and the regulations of the Secretary, except as provided in section 5; and

(4) perform such additional functions relating to the administration of this Order as the Secretary may from time to time prescribe.

(b) In the performance of its functions under this Order, the Board (including committees and panels thereof) may:

(1) obtain views from interested agencies, organizations and other parties, orally or in writing, as it may deem necessary and appropriate;

(2) receive staff assistance from a secretariat which shall be responsible directly to the Chairman of the Board and otherwise independent of foreign affairs agency management; and

(3) request and use the services and assistance of other agencies in accordance with the Secretary's regulations.

*SEC. 5. Employee-Management Relations Commission.*

(a) There is hereby established, as a committee of the Board, an Employee-Management Relations Commission composed of those Board members or participants representing the Department of Labor, the Civil Service Commission, and the Office of Management and Budget. The representative of the Office of Management and Budget shall be the Chairman of the Commission.

(b) The Commission shall:

(1) decide questions relating to the eligibility of organizations for recognition under this Order;

(2) supervise elections to determine whether an organization should be recognized as the exclusive representative of the employees in a foreign affairs agency, and certify the results;

(3) decide complaints of alleged unfair practices and alleged violations of the standards of conduct for organizations; and,

(4) decide questions of whether an obligation to consult exists under section 8 of this Order with respect to particular issues.

(c) In any matter arising under paragraph (b) of this section, the Commission shall have final authority and may require an agency or an organization to cease and desist from a violation of this Order and require it to take such affirmative action as the Commission considers appropriate to effectuate the policies of this Order.

(d) The Commission shall prescribe regulations needed to administer its functions under this section. Substantive regulations of the Commission shall be subject to review by the Board.

*SEC. 6. Disputes Panel.* (a) The Chairman of the Board shall designate a panel which shall assist in resolving disputes arising in the course of consultation under section 8. The panel shall consist of two members of the Foreign Service, neither of whom shall be a management official, a confidential employee or an organization official; one representative of the Department of Labor; one member of the Federal Service Impasses Panel; and one public member. The Chairman of the Board shall designate the Chairman of the panel.

(b) In any case where an appeal is made under section 9, the panel shall make findings of fact and recommendations to the Board for its consideration in deciding the appeal. In the performance of this function, the panel may, in cases it deems appropriate, attempt to mediate disputes and to promote agreements between representatives of foreign affairs agencies and recognized organizations.

*RECOGNITION*

*SEC. 7. Recognition in General.* (a) An organization seeking recognition shall:



(1) submit to the Commission and to the foreign affairs agency concerned copies of its constitution and by-laws, a statement of its objectives and a roster of its officers; and

(2) establish to the satisfaction of the Commission, in its sole discretion, that the organization functions under acceptable democratic and ethical standards and that it meets the other requirements of this Order.

(b) Elections may be held to determine whether—

(1) an organization should be recognized as the exclusive representative of employees in a foreign affairs agency, other than management officials and confidential employees;

(2) an organization should replace another organization as the exclusive representative; or

(3) an organization should cease to be the exclusive representative.

All elections shall be conducted under the supervision of the Commission, or persons designated by the Commission, and shall be by secret ballot. Each employee eligible to vote shall be provided the opportunity to choose the organization he wishes to represent him from among those on the ballot, or to vote not to have a representative. The results of the election shall be determined on the basis of the majority of valid ballots cast.

(c) A foreign affairs agency shall accord recognition to an organization certified by the Commission following an election as the exclusive representative of the employees in the foreign affairs agency.

(d) An organization which is the exclusive representative of the employees in a foreign affairs agency is entitled to act for all employees in the agency, other than management officials and confidential employees, in collective dealings with agency management as provided for in this Order. It is responsible for representing the interests of all such employees without discrimination and without regard to organization membership.

(e) Nothing in this Order shall:

(1) preclude an employee, regardless of whether he is a member of an organization, from bringing matters of personal concern to the attention of appropriate officials under applicable law, rule, regulations, or established foreign affairs agency policy; or from choosing his own representative in a grievance or other administrative adjudication;

(2) preclude or restrict consultations and dealings between a foreign affairs agency and a veterans' organization with respect to matters of particular interest to employees with veterans preference; or

(3) preclude a foreign affairs agency from consulting or dealing with a religious, social, fraternal, professional or other lawful association, not qualified for recognition, with respect to matters or policies which involve individual members of the association or are of particular applicability to it or its members. Consultations and dealings under this subparagraph shall be so limited that they do not assume the character

of formal consultation on matters of general employee-management policy, or extend to areas where recognition of the interests of one employee group may result in discrimination against or injury to the interests of other employees.

### CONSULTATION AND APPEALS

SEC. 8. *Consultation.* (a) A foreign affairs agency and a recognized organization, through appropriate representatives, shall, to the extent consistent with applicable law and regulations, consult in good faith regularly and prior to the adoption of proposed or revised personnel policies and procedures, including grievance procedures, which affect working conditions of employees. When a personnel policy or procedure is for application jointly to employees in more than one foreign affairs agency, the consultations shall be held jointly between representatives of the foreign affairs agencies involved and representatives of the recognized organizations in those agencies. The results of consultations shall be reduced to writing and signed by the parties.

(b) Foreign affairs agency management shall reserve the right in accordance with applicable law and regulations:

- (1) to direct employees of the agencies;
- (2) to hire, promote, transfer, assign, and to retain employees in positions within the foreign affairs agencies and to suspend, demote, discharge or take other disciplinary action against employees;
- (3) to relieve employees from duties because of lack of work or for other legitimate reasons;
- (4) to maintain the efficiency of the Government operations entrusted to them;
- (5) to determine the methods, means, and personnel by which such operations are to be conducted; and
- (6) to take whatever actions may be necessary to carry out the missions of the agencies in situations of emergency.

The foregoing rights reserved to foreign affairs agency management shall also be applicable in the administration of agreements reached under paragraph (a) of this section.

(c) The obligation to consult does not include matters with respect to the mission of a foreign affairs agency; its budget; its organization; the number of employees; and the numbers, types, and grades of positions or employees assigned to an organizational unit, work project or tour of duty; the technology of performing its work; or its internal security practices. Consultations will not extend to foreign policy matters or other substantive responsibilities of the foreign affairs agencies. This paragraph shall not preclude consultation with respect to providing appropriate arrangements for employees adversely affected by the impact of realignment of work forces or technological change.

SEC. 9. *Appeals.* (a) When consultation under section 8 of this Order does not result in agreement with respect to substantive aspects of a personnel policy or procedure, a recognized organization may appeal the management decision on the matter to the Board in writing. The



Board will consider on appeal any matter that it determines is substantive in nature. A substantive matter for purposes of this section is a matter that creates, defines or changes rights of employees or organizations or the conditions relating to such rights. In the consideration of such an appeal, the Board will utilize a disputes panel as provided in section 6 of this Order. The decision of the Board shall be final, unless overruled by the head of the foreign affairs agency concerned.

(b) No member of the Board who is directly responsible for personnel operations in a foreign affairs agency shall be eligible to participate in the consideration of an appeal under this section.

(c) Foreign affairs agency management shall defer or suspend the implementation of a management decision which is appealed under this section during the pendency of the appeal, except to the extent that the head of the foreign affairs agency determines that immediate implementation of a decision being appealed is required in the national interest.

SEC. 10. *Grievances.* The foreign affairs agencies, after consultation under section 8 with representatives of recognized organizations, shall establish procedures for the fair and impartial resolution of employee grievances. Employee grievances shall include, but shall not be limited to complaints in which an employee has alleged that it is necessary to correct his record in order to remove or prevent an injustice. Such procedures shall include provision for informal steps to resolve grievances directly with management officials as well as formal steps within the agency when grievances are not resolved through informal means. Formal grievances shall be considered and decided by a panel which shall include public membership and which shall be independent of foreign affairs agency management other than the Secretary in the performance of its functions.

SEC. 11. *Periodic Conferral and Review.* (a) In addition to the consultation described in section 8, the Secretary shall, by regulation, establish procedures for reasonable access to the management of foreign affairs agencies by recognized organizations for the purpose of:

(1) exchanging information and offering suggestions relating to the improvement of agency operations and effectiveness and the establishment of administrative policies that will serve the public interest;

(2) discussing the operation of this Order and procedures established thereunder;

(3) considering ways in which relationships between foreign affairs agencies and recognized organizations may be improved and strengthened; and

(4) reviewing together with foreign affairs agencies and recognized organizations annually the relationships established pursuant to this Order in order to assure that their evolution takes into account developments elsewhere in the Federal Government as well as the special needs of the Foreign Service.

Conferral under this section shall not extend to matters excluded from the obligation to consult under section 8(c) of this Order, in the absence of agreement by the parties.

(b) Recommendations by management or organizations following conferral under this section, including recommendations for amendments to this Order, shall be submitted to the Board for its consideration. Based upon the findings of the Board, the Secretary shall, from time to time, make reports and recommendations to the President.

### CONDUCT OF ORGANIZATIONS AND MANAGEMENT

#### SEC. 12. *Standards of Conduct for Organizations.*

(a) In order to be eligible for recognition an organization must be free from corrupt influences and practices and influences opposed to democratic principles. In addition, it must maintain democratic procedures and practices, including provisions for periodic elections to be conducted subject to recognized safeguards as well as provisions defining and securing the rights of individual members to participation in the affairs of the organization, to fair and equal treatment under the governing rules of the organization and to fair process in disciplinary proceedings.

(b) A recognized organization shall file with the Commission financial and other reports, provide for bonding of officials and employees of the organization and comply with trusteeship and election standards, in accordance with regulations prescribed by the Commission. These regulations shall conform generally to those applicable to unions in the private sector and to labor organizations in the Federal service.

#### SEC. 13. *Unfair Practices.* (a) Agency management shall not—

(1) interfere with, restrain, or coerce an employee in the exercise of the rights assured by this Order;

(2) encourage or discourage membership in an organization by discrimination in regard to hiring, tenure, promotion, or other conditions of employment;

(3) sponsor, control, or otherwise assist an organization, except that a foreign affairs agency may furnish customary and routine services and facilities when consistent with the best interests of the foreign affairs agency, its employees, and the organization, and when the services and facilities are furnished, if requested, on an impartial basis to organizations having equivalent status;

(4) discipline or otherwise discriminate against an employee because he has filed a complaint or given testimony under this Order;

(5) refuse to accord recognition to an organization qualified for such recognition; or

(6) refuse to consult, or confer, with a recognized organization as required by this Order.

#### (b) An organization shall not—

(1) interfere with, restrain, or coerce an employee in the exercise of his rights assured by this Order;

(2) attempt to induce foreign affairs agency management to coerce an employee in the exercise of his rights under this Order;



(3) coerce, attempt to coerce, or discipline, fine, or take other economic sanction against a member of the organization as punishment or reprisal for, or for the purpose of hindering or impeding his work performance, his productivity, or the discharge of his duties owed as an officer or employee of the United States;

(4) call or engage in a strike, work stoppage, or slowdown; picket an agency in an employee-management dispute; or condone any such activity by failing to take affirmative action to prevent or stop it;

(5) discriminate against an employee with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin; or

(6) refuse to consult, or confer, with a foreign affairs agency as required by this Order.

### MISCELLANEOUS PROVISIONS

SEC. 14. *Use of Official Time.* Solicitation of membership or dues, and other internal business of an organization, shall be conducted during the non-duty hours of the employees concerned. The Secretary shall establish by regulation reasonable limitations upon the use of official time for consultation and conferral under this Order.

SEC. 15. *Allotment of Dues.* When a foreign affairs agency and the organization agree in writing, a foreign affairs agency may deduct the regular and periodic dues of an organization recognized under this Order from the pay of members of the organization who make a voluntary allotment for that purpose. Such an allotment is subject to the regulations of the Civil Service Commission, which shall include provision for the employee to revoke his authorization at stated six-month intervals. Such an allotment terminates when the dues withholding agreement between a foreign affairs agency and the organization is terminated or ceases to be applicable to the employee.

SEC. 16. *Regulations.* The Secretary, after consultation with the heads of other foreign affairs agencies and with representatives of organizations and with the advice of the Board, is authorized to prescribe regulations for the implementation of this Order. The Secretary's regulations shall become effective no later than 120 days after the effective date of this Order.

SEC. 17. *Agency Implementation.* No later than 90 days after the effective date of the regulations prescribed under section 16, each foreign affairs agency shall issue appropriate implementing policies and regulations consistent with this Order and the regulations prescribed by the Secretary. Such foreign affairs agency regulations shall include but shall not be limited to a clear statement of the rights of the foreign affairs agency's employees under this Order; procedures with respect to consultation and conferral with organizations; policies with respect to the use of foreign affairs agency facilities by organizations; and policies and practices regarding consultation with other associations and individual employees. The foreign affairs agencies shall consult with representatives of organizations in the formulation of these policies and regulations.

SEC. 18. *Amendments to Executive Orders.* (a) Section 3(b) of Executive Order No. 11491 of October 29, 1969 (34 F.R. 17605), as amended, is hereby further amended by adding a new item (5) as follows:

"(5) The Foreign Service of the United States: Department of State, United States Information Agency and Agency for International Development and its successor agency or agencies."

(b) Section 21 of Executive Order No. 11264 of December 31, 1965 (31 F.R. 2), as amended, is hereby further amended as follows:

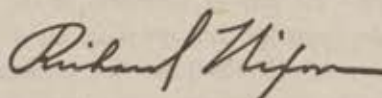
(1) by revising subsection (d) to read as follows:

"(d) Each member designated pursuant to subsection (b)(1), (b)(2) or (b)(3) above, and each representative designated pursuant to subsection (c) above, shall be chosen from among the officials of the department or agency concerned who are not below the rank of an Assistant Secretary or who are occupying positions of comparable responsibility, except that alternate members and representatives may be designated who do not hold such rank or occupy such positions.";

(2) by adding a new subsection (f) as follows:

"(f) Designation of members pursuant to subsections (b)(1) and (b)(3) shall be made after consultation with organizations recognized as the representatives of Foreign Service employees so that the Secretary and the Director may take into account their views."

SEC. 19. *Effective Date.* This Order shall become effective upon publication in the FEDERAL REGISTER.



THE WHITE HOUSE,  
December 17, 1971.

[FR Doc.71-18924 Filed 12-23-71;9:03 am]



## EXECUTIVE ORDER 11637

## Adjusting Rates of Pay for Certain Statutory Pay Systems

By virtue of the authority vested in me by subchapter I of chapter 53 of title 5 of the United States Code, and section 3 of the Economic Stabilization Act Amendments of 1971, it is hereby ordered as follows:

*General Schedule*

SECTION 1. The rates of basic pay in the General Schedule contained in section 5332(a) of title 5 of the United States Code are adjusted as follows:

## "GENERAL SCHEDULE"

"Grade"	"Annual rates and steps"									
	1	2	3	4	5	6	7	8	9	10
GS-1.....	\$4,564	\$4,716	\$4,868	\$5,020	\$5,172	\$5,324	\$5,476	\$5,628	\$5,780	\$5,932
GS-2.....	5,166	5,338	5,510	5,682	5,854	6,026	6,198	6,370	6,542	6,714
GS-3.....	5,828	6,022	6,216	6,410	6,604	6,798	6,992	7,186	7,380	7,574
GS-4.....	6,544	6,762	6,980	7,198	7,416	7,634	7,852	8,070	8,288	8,506
GS-5.....	7,319	7,563	7,807	8,051	8,295	8,539	8,783	9,027	9,271	9,515
GS-6.....	8,153	8,425	8,697	8,969	9,241	9,513	9,785	10,057	10,329	10,601
GS-7.....	9,053	9,355	9,657	9,959	10,261	10,563	10,865	11,167	11,469	11,771
GS-8.....	10,013	10,347	10,681	11,015	11,349	11,683	12,017	12,351	12,685	13,019
GS-9.....	11,046	11,414	11,782	12,150	12,518	12,886	13,254	13,622	13,990	14,358
GS-10.....	12,151	12,556	12,961	13,366	13,771	14,176	14,581	14,986	15,391	15,796
GS-11.....	13,309	13,753	14,197	14,641	15,085	15,529	15,973	16,417	16,861	17,305
GS-12.....	15,866	16,305	16,744	17,183	17,622	18,061	18,500	18,939	19,378	19,817
GS-13.....	18,737	19,302	19,867	20,432	20,997	21,562	22,127	22,692	23,257	23,822
GS-14.....	21,900	22,692	23,484	24,276	25,068	25,860	26,652	27,444	28,236	29,028
GS-15.....	25,583	26,436	27,289	28,142	28,995	29,848	30,701	31,554	32,407	33,260
GS-16.....	29,678	30,667	31,656	32,645	33,634	34,623	35,612	36,601	37,590	
GS-17.....	34,335	35,480	36,625	37,770	38,915					
GS-18.....	39,693									

"\*The rate of basic pay for employees at these rates is limited by section 5308 of title 5 of the United States Code to the rate for level V of the Executive Schedule (as of the effective date of this salary adjustment, \$36,000)."

*Schedules for the Department of Medicine and Surgery of the Veterans' Administration*

SEC. 2. The schedules contained in section 4107 of title 38 of the United States Code, for certain positions within the Department of Medicine and Surgery of the Veterans' Administration, are adjusted as follows:

## "Section 4103 Schedule"

"Associate Deputy Chief Medical Director, \$36,000.

"Assistant Chief Medical Director, \$39,693\*.

"Medical Director, \$34,335 minimum to \$38,915 maximum\*.

"Director of Nursing Service, \$25,583 minimum to \$33,260 maximum.

"Director of Chaplain Service, \$25,583 minimum to \$33,260 maximum.

"Chief Pharmacist, \$25,583 minimum to \$33,260 maximum.

"Chief Dietitian, \$25,583 minimum to \$33,260 maximum.

## "Physician and Dentist Schedule"

"Director grade, \$29,678 minimum to \$37,590 maximum\*.

"Executive grade, \$27,581 minimum to \$35,852 maximum.

"Chief grade, \$25,583 minimum to \$33,260 maximum.

"Senior grade, \$21,960 minimum to \$28,548 maximum.

"Intermediate grade, \$18,737 minimum to \$24,362 maximum.

"Full grade, \$15,866 minimum to \$20,627 maximum.

"Associate grade, \$13,309 minimum to \$17,305 maximum.

"\*The salary for employees at these rates is limited by section 5308 of title 5 of the United States Code to the rate for level V of the Executive Schedule (as of the effective date of this salary adjustment, \$36,000)."

### "Nurse Schedule

- "Assistant Director grade, \$21,960 minimum to \$28,548 maximum.  
 "Chief grade, \$18,737 minimum to \$24,362 maximum.  
 "Senior grade, \$15,866 minimum to \$20,627 maximum.  
 "Intermediate grade, \$13,309 minimum to \$17,305 maximum.  
 "Full grade, \$11,046 minimum to \$14,358 maximum.  
 "Associate grade, \$9,524 minimum to \$12,377 maximum.  
 "Junior grade, \$8,153 minimum to \$10,601 maximum."

### Foreign Service Schedules

SEC. 3.(a) The per annum salaries of Foreign Service officers in the schedule contained in section 412 of the Foreign Service Act of 1946, as amended (22 U.S.C. 867), are adjusted as follows:

"Class 1.....	\$37,574*	\$38,827*	\$39,698*						
Class 2.....	29,472	30,454	31,436	\$32,418	\$33,400	\$34,382	\$35,364		
Class 3.....	23,354	24,132	24,910	25,688	26,466	27,244	28,022		
Class 4.....	18,787	19,362	19,937	20,612	21,237	21,862	22,487		
Class 5.....	15,224	15,782	16,340	16,748	17,296	17,764	18,272		
Class 6.....	12,573	12,962	13,411	13,830	14,269	14,668	15,087		
Class 7.....	10,666	10,918	11,279	11,622	11,974	12,326	12,678		
Class 8.....	9,083	9,335	9,687	9,959	10,261	10,563	10,865		

\* "The salary for employees at these rates is limited by section 5308 of title 5 of the United States Code to the rate for level V of the Executive Schedule (as of the effective date of this salary adjustment, \$39,000)."

(b) The per annum salaries of staff officers and employees in the schedule contained in section 415 of the Foreign Service Act of 1946, as amended (22 U.S.C. 870(a)), are adjusted as follows:

"Class 1.....	\$23,354	\$24,132	\$24,910	\$25,688	\$26,466	\$27,244	\$28,022	\$28,800	\$29,578	\$30,356
Class 2.....	18,737	19,362	19,987	20,612	21,237	21,862	22,487	23,112	23,737	24,362
Class 3.....	15,224	15,782	16,340	16,748	17,256	17,764	18,272	18,780	19,288	19,796
Class 4.....	12,573	12,962	13,411	13,830	14,249	14,668	15,087	15,506	15,925	16,344
Class 5.....	11,279	11,655	12,031	12,407	12,783	13,159	13,535	13,911	14,287	14,663
Class 6.....	10,116	10,453	10,790	11,127	11,464	11,801	12,138	12,475	12,812	13,149
Class 7.....	9,073	9,375	9,677	9,979	10,281	10,583	10,885	11,187	11,489	11,791
Class 8.....	8,137	8,408	8,679	8,950	9,221	9,492	9,763	10,034	10,305	10,576
Class 9.....	7,297	7,540	7,783	8,026	8,269	8,512	8,755	8,998	9,241	9,484
Class 10.....	6,544	6,762	6,980	7,198	7,416	7,634	7,852	8,070	8,288	8,506"

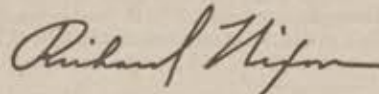
### Conversion Rules

SEC. 4. The agencies hereinafter designated shall prescribe such rules as may be necessary to convert the rates of basic pay or salaries of officers and employees to the rates prescribed in this order:

- (1) General Schedule, the Civil Service Commission;
- (2) Schedules for the Department of Medicine and Surgery of the Veterans' Administration, the Veterans' Administration;
- (3) Foreign Service schedules, the Department of State.

### Effective Date

SEC. 5. This order shall take effect as of the first day of the first applicable pay period beginning on or after January 1, 1972.



THE WHITE HOUSE,  
 December 22, 1971.

[FR Doc.71-18926 Filed 12-23-71; 9:03 am]



## EXECUTIVE ORDER 11638

## Adjusting the Rates of Monthly Basic Pay for Members of the Uniformed Services

By virtue of the authority vested in me by the laws of the United States, including the Act of December 16, 1967, and section 3 of the Economic Stabilization Act Amendments of 1971, and as President of the United States and Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

SECTION 1. The rates of monthly basic pay for members of the uniformed services within each pay grade are adjusted upwards as set forth in the following tables:

## COMMISSIONED OFFICERS

Pay Grade	Years of service computed under section 205				
	2 or less	Over 2	Over 3	Over 4	Over 5
O-10 <sup>1</sup>	\$2,363.50	\$2,343.30	\$2,343.30	\$2,343.30	\$2,343.30
O-9	2,066.40	2,059.20	2,103.00	2,103.00	2,103.00
O-8	1,817.10	1,871.70	1,916.40	1,916.40	1,916.40
O-7	1,509.60	1,612.80	1,612.80	1,612.80	1,684.50
O-6	1,119.00	1,230.00	1,310.10	1,310.10	1,310.10
O-5	894.90	1,051.50	1,123.50	1,123.50	1,123.50
O-4	754.80	918.30	980.40	980.40	997.80
O-3 <sup>1</sup>	701.40	783.90	837.60	927.30	971.40
O-2 <sup>1</sup>	611.40	667.80	802.20	828.90	846.30
O-1 <sup>1</sup>	530.70	552.00	667.80	667.80	667.80

## COMMISSIONED OFFICERS

Pay Grade	Years of service computed under section 205				
	Over 5	Over 10	Over 12	Over 14	Over 16
O-10 <sup>1</sup>	\$2,433.00	\$2,433.00	\$2,613.60	\$2,619.60	\$2,807.10
O-9	2,156.10	2,156.10	2,245.50	2,245.50	2,433.00
O-8	2,059.20	2,059.20	2,156.10	2,156.10	2,245.50
O-7	1,684.50	1,782.60	1,782.60	1,871.70	2,059.20
O-6	1,310.10	1,310.10	1,310.10	1,334.50	1,508.70
O-5	1,123.50	1,158.30	1,210.80	1,301.40	1,398.90
O-4	1,042.50	1,113.30	1,176.30	1,230.00	1,283.40
O-3 <sup>1</sup>	1,066.50	1,060.50	1,113.30	1,140.60	1,140.60
O-2 <sup>1</sup>	846.30	846.30	846.30	846.30	846.30
O-1 <sup>1</sup>	667.80	667.80	667.80	667.80	667.80

## COMMISSIONED OFFICERS

Pay Grade	Years of service computed under section 205				
	Over 18	Over 20	Over 22	Over 26	Over 30
O-10 <sup>1</sup>	\$2,807.10	\$2,994.60	\$2,994.60	\$3,000.00	\$3,000.00
O-9	2,433.00	2,619.60	2,619.60	2,807.10	2,807.10
O-8	2,343.30	2,433.00	2,531.10	2,531.10	2,531.10
O-7	2,200.50	2,200.50	2,200.50	2,200.50	2,200.50
O-6	1,648.80	1,684.50	1,782.60	1,933.20	1,933.20
O-5	1,479.30	1,523.70	1,577.40	1,577.40	1,577.40
O-4	1,319.10	1,319.10	1,319.10	1,319.10	1,319.10
O-3 <sup>1</sup>	1,140.60	1,140.60	1,140.60	1,140.60	1,140.60
O-2 <sup>1</sup>	846.30	846.30	846.30	846.30	846.30
O-1 <sup>1</sup>	667.80	667.80	667.80	667.80	667.80

<sup>1</sup> While serving as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, basic pay for this grade is \$3,000.00 regardless of cumulative years of service computed under section 205 of this title.

<sup>2</sup> Does not apply to commissioned officers who have been credited with over 4 years' active service as enlisted members.

## COMMISSIONED OFFICERS WHO HAVE BEEN CREDITED WITH OVER 4 YEARS' ACTIVE SERVICE AS ENLISTED MEMBERS

Pay Grade	Years of service computed under section 205				
	Over 4	Over 6	Over 8	Over 10	Over 12
O-3	\$927.30	\$971.40	\$1,006.50	\$1,090.50	\$1,113.30
O-2	828.90	846.30	873.00	918.30	954.00
O-1	667.80	713.10	739.80	766.20	793.20

## THE PRESIDENT

## COMMISSIONED OFFICERS WHO HAVE BEEN CREDITED WITH OVER 4 YEARS' ACTIVE SERVICE AS ENLISTED MEMBERS

Pay Grade	Years of service computed under section 205				
	Over 14	Over 16	Over 18	Over 20	Over 22
O-3.....	\$1,158.30	\$1,158.30	\$1,158.30	\$1,158.30	\$1,158.30
O-2.....	980.40	980.40	980.40	980.40	980.40
O-1.....	828.90	828.90	828.90	828.90	828.90

## COMMISSIONED OFFICERS WHO HAVE BEEN CREDITED WITH OVER 4 YEARS' ACTIVE SERVICE AS ENLISTED MEMBERS

Pay Grade	Years of service computed under section 205	
	Over 26	Over 30
O-3.....	\$1,158.30	\$1,158.30
O-2.....	980.40	980.40
O-1.....	828.90	828.90

## WARRANT OFFICERS

Pay Grade	Years of service computed under section 205				
	2 or less	Over 2	Over 3	Over 4	Over 6
W-4.....	\$714.30	\$766.20	\$766.20	\$783.90	\$819.60
W-3.....	649.50	704.40	704.40	713.10	721.80
W-2.....	568.50	615.00	615.00	633.00	667.80
W-1.....	473.70	543.60	543.60	588.60	615.00

## WARRANT OFFICERS

Pay Grade	Years of service computed under section 205				
	Over 8	Over 10	Over 12	Over 14	Over 16
W-4.....	\$855.60	\$891.00	\$954.00	\$997.80	\$1,033.50
W-3.....	774.60	819.60	846.30	873.00	899.40
W-2.....	704.40	731.10	757.50	783.90	811.20
W-1.....	641.70	667.80	695.10	721.80	748.50

## WARRANT OFFICERS

Pay Grade	Years of service computed under section 205				
	Over 18	Over 20	Over 22	Over 26	Over 30
W-4.....	\$1,060.50	\$1,095.90	\$1,132.20	\$1,219.80	\$1,219.80
W-3.....	927.30	962.70	997.80	1,033.50	1,033.50
W-2.....	837.60	864.30	899.40	899.40	899.40
W-1.....	774.60	802.20	802.20	802.20	802.20

## ENLISTED MEMBERS

Pay Grade	Years of service computed under section 205				
	2 or less	Over 2	Over 3	Over 4	Over 6
E-9 <sup>1</sup> .....					
E-8.....					
E-7.....	\$475.50	\$513.00	\$531.90	\$559.50	\$599.70
E-6.....	410.40	447.90	466.50	485.70	504.30
E-5.....	369.60	392.40	411.30	429.30	457.50
E-4.....	346.80	366.00	387.30	417.60	434.10
E-3.....	333.60	351.90	365.70	380.10	380.10
E-2.....	320.70	320.70	320.70	320.70	320.70
E-1.....	288.00	288.00	288.00	288.00	288.00

## ENLISTED MEMBERS

Pay Grade	Years of service computed under section 205				
	Over 8	Over 10	Over 12	Over 14	Over 16
E-9 <sup>1</sup> .....		\$811.50	\$830.10	\$849.00	\$868.20
E-8.....	\$681.00	696.90	718.50	737.40	756.30
E-7.....	587.70	606.30	625.50	653.70	672.00
E-6.....	522.60	541.50	569.70	587.70	606.30
E-5.....	476.10	495.00	513.00	522.60	522.60
E-4.....	434.10	434.10	434.10	434.10	434.10
E-3.....	380.10	380.10	380.10	380.10	380.10
E-2.....	320.70	320.70	320.70	320.70	320.70
E-1.....	288.00	288.00	288.00	288.00	288.00




## ENLISTED MEMBERS

Pay Grade	Years of service computed under section 205				
	Over 18	Over 20	Over 22	Over 26	Over 30
E-9 <sup>1</sup>	\$887.40	\$904.80	\$952.80	\$1,045.20	\$1,045.20
E-8	774.30	793.50	840.00	933.60	933.60
E-7	690.60	699.90	740.70	840.00	840.00
E-6	615.90	615.90	615.90	615.90	615.90
E-5	522.60	522.60	522.60	522.60	522.60
E-4	434.10	434.10	434.10	434.10	434.10
E-3	380.10	380.10	380.10	380.10	380.10
E-2	320.70	320.70	320.70	320.70	320.70
E-1	288.00	288.00	288.00	288.00	288.00

<sup>1</sup> While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps basic pay for this grade is \$1,270.50 regardless of cumulative years of service computed under section 205 of this title.

SEC. 2. This order shall take effect January 1, 1972.



THE WHITE HOUSE,  
December 22, 1971.

[FR Doc.71-18925 Filed 12-23-71; 9:03 am]





# Rules and Regulations

## Title 7—AGRICULTURE

### Chapter III—Animal and Plant Health Service, Department of Agriculture

#### PART 301—DOMESTIC QUARANTINE NOTICES

#### PART 302—DISTRICT OF COLUMBIA; MOVEMENT OF PLANTS AND PLANT PRODUCTS

#### PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

#### PART 319—FOREIGN QUARANTINE NOTICES

#### PART 320—MEXICAN BORDER REGULATIONS

#### PART 321—RESTRICTED ENTRY ORDERS

#### PART 322—IMPORTATION OF ADULT HONEYBEES INTO THE UNITED STATES

#### PART 330—FEDERAL PLANT PEST REGULATIONS; GENERAL; PLANT PESTS; SOIL, STONE, AND QUARRY PRODUCTS; GARBAGE

#### PART 331—PLANT PEST REGULATIONS GOVERNING INTERSTATE MOVEMENT OF CERTAIN PRODUCTS AND ARTICLES

#### PART 351—IMPORTATION OF PLANTS OR PLANT PRODUCTS BY MAIL

#### PART 352—PLANT QUARANTINE SAFEGUARD REGULATIONS

#### PART 353—PHYTOSANITARY EXPORT CERTIFICATION

#### PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

#### PART 370—PUBLIC INFORMATION

#### Organizational and Editorial Amendments to Chapter

Under authority delegated at 36 F.R. 20707, the provisions in Parts 301, 302, 318, 319, 320, 321, 322, 330, 331, 351, 352, 353, 354, and 370 of Title 7 Code of Federal Regulations, are hereby amended, as follows, pursuant to the statutory authorities under which such provisions were issued:

1. The heading for Part 330 is amended to read as set forth above.

2. Wherever in the provisions of the parts cited above, reference is made to the Agricultural Research Service, such provisions are changed to refer to the Animal and Plant Health Service.

3. Wherever in the provisions of the parts cited above, reference is made to the Division, Plant Protection Division, Plant Pest Control Division, or Agricul-

tural Quarantine Inspection Division, such provisions are changed to refer to the Plant Protection and Quarantine Programs.

4. Wherever in the provisions of the parts cited above, reference is made to the Director, the Director of the Division, the Director of the Plant Protection Division, or the Director of the Agricultural Quarantine Inspection Division, such provisions are changed to refer to the Deputy Administrator, Plant Protection and Quarantine Programs.

5. Wherever in the provisions of the parts cited above, reference is made to the Agricultural Marketing Service, such provisions are changed to refer to the Consumer and Marketing Service.

*Effective date.* The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER (12-24-71).

These amendments are either of an organizational nature or merely editorial. They reflect the transfer of functions of the Agricultural Quarantine Inspection Division and the Plant Protection Division formerly of the Agricultural Research Service to the newly established Animal and Plant Health Service. All functions of the Plant Protection Division and the Agricultural Quarantine Inspection Division are currently being performed by Plant Protection and Quarantine Programs, Animal and Plant Health Service. The amendments do not substantially affect any member of the public. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure concerning the amendments are impracticable and unnecessary, and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

This document terminates the delegation of authorities of November 24, 1971 (36 F.R. 22857) insofar as said delegation is inconsistent herewith.

Done at Washington, D.C., this 21st day of December 1971.

E. J. MULHERN,  
Administrator,  
Animal and Plant Health Service.

[FR Doc. 71-18829 Filed 12-23-71; 8:46 am]

## Title 9—ANIMALS AND ANIMAL PRODUCTS

### Chapter I—Animal and Plant Health Service, Department of Agriculture

#### SUBCHAPTER A—ANIMAL WELFARE

#### MISCELLANEOUS AMENDMENTS TO CHAPTER

*Statement of considerations.* The Act of August 24, 1966 (Public Law 89-544),

was extensively amended by the Animal Welfare Act of 1970 (Public Law 91-579) (7 U.S.C. 2131 et seq.). Such revision of the previous legislation necessitates or makes appropriate numerous changes in, and additions to, the regulations and standards governing the humane care and handling, treatment, and transportation of certain animals.

On October 22, 1971, there was published in the FEDERAL REGISTER (36 F.R. 20472) a notice with respect to proposed amendments to Parts 1, 2, and 3 of Subchapter A, Chapter I, Title 9, Code of Federal Regulations. Such notice gave interested persons a period of 45 days from the date of publication of the notice in which to submit written data, views, or arguments concerning the proposed amendments.

Comments on the proposal were received from 352 persons. The responses were from animal importers, educational and research institutions, members of Congress, local, State, and national organizations representing the interests of animal welfare, animal acts, biomedical research, circuses, dealers, hobby breeders, kennel clubs, zoos, and numerous individuals interested in animal welfare.

The opinions expressed related predominantly to (1) the use of the word "Laboratory" in the title of this subchapter, (2) the definition of euthanasia, (3) license fees, (4) the annual report of research facilities, (5) identifying young puppies and kittens, (6) the identification of animals other than dogs and cats, (7) the definition of "animal", (8) exercise requirements for research animals, (9) the use of the word "anxiety", (10) more specific space requirements for animals other than dogs, cats, rabbits, guinea pigs, hamsters, and nonhuman primates, and (11) the standards for veterinary care.

The word "Laboratory" was included in the title of the proposal in error, and is being deleted from the title of the Subchapter A, since it is no longer appropriate as the revision of Public Law 89-544 now includes regulation of animals intended for exhibition or for pets, as well as animals used for research purposes.

Organization nomenclature was changed as a result of a reorganization within the Department of Agriculture due to the transfer of the functions involved in this subchapter from the Agricultural Research Service to the Animal and Plant Health Service. The name of the Animal Health Division was also changed to Veterinary Services.

Many comments were made concerning the proposed change in the definition of "Euthanasia" indicating that the wording of the current definition of the term was preferred. After considering

<sup>1</sup> The heading for Subchapter A is changed to read as set forth above.



this matter in the light of such comments, the proposed definition of "Euthanasia" has been changed to include the wording in the current definition with a modification to make it clear that the destruction of an animal must be accomplished by a method which produces instantaneous unconsciousness and immediate death without visible evidence of pain or distress.

A number of comments were received that the minimum license fee should be lowered to be more appropriate for the large number of dealers who sell small numbers of animals, such as 4-H club members and old people who are supplementing a small retirement income. This adjustment was made for such dealers and also for the exhibitors who hold only a few animals, and those persons who are not dealers or exhibitors but who desire to obtain licenses under section 3 of the Act and § 2.1(b) of the regulations.

The proposed annual report of research facilities, set forth in § 2.28 of the proposal, which requires the research facility to report the number of experiments involving pain or anxiety without the use of an appropriate anesthetic, analgesic or tranquilizing drug, was the subject of a considerable number of comments. Many members of the scientific community felt that certain routine procedures involving momentary pain, such as tattooing or hypodermic injections, should not be required to be reported. Some commented that to report the number of experiments involving pain was too much detail. On the other hand, a nearly equal number of comments received from members of animal welfare organizations stated that more detailed information should be required on the use of anesthetics, analgesics, and tranquilizing drugs. The reporting requirement of the number of experiments conducted without the use of such drugs is necessary to furnish the information needed for the report the Secretary is required to make to Congress, under section 25 of the Act. Such reporting would not interfere with the design, guidelines or performance of actual research by the research facility. However, routine procedures, e.g. injections, tattooing, and blood sampling, involving some necessary pain and distress, need not be reported because the pain and discomfort involved in such procedures are of a transient nature.

Several persons who commented questioned the feasibility of filing the annual report required under § 2.28 on or before February 1, 1972. After further considering this matter in the light of such comments, it does not appear that it would be feasible for each research facility to submit the initial required report on or before February 1, 1972, since the regulations will not become effective before December 24, 1971. It appears that each research facility will not have an adequate opportunity to assemble the information necessary to prepare the required report with respect to the 1971 calendar year as required by the proposed regulations. Accordingly, we have revised § 2.28 of the regulations to provide that

such annual report will be submitted on or before February 1, 1973, and on or before February 1 of each calendar year thereafter. This does not mean that the registered research facilities will not have to comply with the provisions relating to the appropriate use of anesthetic, analgesic, or tranquilizing drugs of the regulations as published between the effective date of December 24, 1971, and the time of the initial annual report on or before February 1, 1973.

Many persons who commented indicated that the official tag as a means of identifying young puppies and kittens constituted a hazard to the animals' welfare should the tag get caught on the enclosure. Therefore, the proposed regulations were modified to permit the use of plastic type collars, similar to wrist bands used in obstetric and pediatric wards of human hospitals, for identifying puppies and kittens under 16 weeks of age.

Comments were received concerning § 2.50(f) of the proposed regulations regarding the identification of animals, other than dogs or cats, confined in a container. Several persons felt that the use of a label for identification of two or more animals in a container, with the label bearing certain required information, would be a duplication of record-keeping requirements under the regulations. In this connection, it was noted that the proposed regulations with respect to identifying only one animal in a container permitted the marking of the container with a painted or stenciled number. Such identification with respect to two or more animals would fulfill the requirements of the Act without a duplication of the recordkeeping requirements and the proposed provisions were modified to permit such identification.

It was also pointed out that the need to include the age and sex in the description of such animals as rabbits, hamsters, guinea pigs, and certain zoo animals was not practical as there is no real criteria for determining age and large numbers of animals are bought, sold, and transported without regard to sex. Therefore, the reference to the requirement for the age and sex of animals, other than dogs, or cats, was deleted.

Some of the persons who commented appear to have a misunderstanding of the proposed definition of "animal" in that they felt that animals captured in the wild would not be covered by said definition. The word "and" following "raised in captivity" was changed to "or" to clarify our intent that all warm-blooded animals normally found in the wild, regardless of whether they were captured in the wild, raised in captivity or were domesticated in some foreign country and considered as a domestic animal in that country, would be covered.

Although mandatory exercise requirements were not mentioned in the proposal (36 F.R. 20473-20480), a number of comments were received indicating that dogs held and used for research should be removed from cages and placed in runs or rooms for exercise each day. In the more than 4 years since the

promulgation of the initial regulations and standards under Public Law 89-544, there has been no definitive research to indicate that exercise for dogs should be a mandatory requirement. Several preliminary studies have been conducted to determine possible parameters for such scientific studies. However, the Department has not had funds for conducting the necessary research. The Department recognizes that under the Animal Welfare Act it is responsible for developing minimum standards for the humane care and handling of animals, as charged by Congress, but on the basis of facts available at this time, it does not feel that exercise outside a cage should be included as a mandatory requirement of this amendment. However, within 60 days following the effective date of these amendments, the Department will publish in the FEDERAL REGISTER a notice of our intent to revise the standards and request data, views, and arguments from the public as to what standards, if any, should be issued with respect to the exercise requirements for animals. The Department will then meet with groups of biological scientists, captive wild animal experts, and animal welfare representatives for the purpose of assembling and evaluating the written data, views, and arguments as submitted and all other available knowledge and material to determine the relationship of exercise to the health and well being of an animal.

Concern was also expressed by many scientists about the use of the term "anxiety" and that the term might be misinterpreted. It was stated that the word anxiety is a psychiatric term that is only applicable to humans. Common usage by the general public in describing certain animal behavioral patterns as "anxiety" would appear to make such term applicable in evaluating the psychological well being as an integral part of "humaneness." However, since the scientific interaction of environmental variables which cause animals "anxiety" is not well understood, the term "anxiety" was replaced with the word "distress" which is more descriptive of the physical visible state of the animal.

Several comments were received to the effect that more specific space requirements for animals, other than dogs, cats, nonhuman primates, rabbits, guinea pigs, and hamsters, should be promulgated. The Department utilized the expertise and knowledge of an expert committee comprised of nationally recognized zoo curators, directors, and veterinarians to assist in developing the standards. It was the consensus of the committee that definitive information is not available at this time on the minimum space required for the large number and variety of warmblooded animals covered under the Act. The problem is compounded in magnitude by the differences in sizes, activity patterns, social patterns and environmental needs of the animals. Although information is being accumulated on space requirements for a number of animals, the Department does not have adequate data and information available to be specific on space requirements at this time. However,



within 60 days following the effective date of these amendments, the Department will publish in the *FEDERAL REGISTER* a notice of our intent to revise the standards and request data, views, and arguments from the public as to what standards, if any, should be issued with respect to the space requirements of animals.

The appropriate use of anesthetic, analgesic, or tranquilizing drugs was the subject of many comments. The comments related to the above discussion on the annual report for research facilities. It was felt by many that the Department was requiring the research facility to conduct research on the use of these three classes of drugs. This was not the intent, and wording has been changed to clarify the point.

The regulations and standards set forth herein differ in a number of respects from the provisions in the above cited notice of rule making. The differences are due primarily to changes made pursuant to comments received from interested persons and to changes made to clarify or editorially correct wording in the regulations and standards. The provisions in § 2.6 of the regulations are changed to effectuate more fully the intent of section 19 of the Act with respect to suspension or revocation of licenses.

The regulations and standards will implement the amendments made to the Act of August 24, 1966 (Public Law 89-544), by the Animal Welfare Act of 1970 (Public Law 91-579). It is essential that implementing regulations and standards be adopted and published as soon as possible in order to comply with the Act's intent that such regulations and standards become effective on or before December 24, 1971. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice and other public rule making procedure on the regulations and standards are impracticable and unnecessary, and good cause is found for making them effective less than 30 days after their publication in the *FEDERAL REGISTER*.

This revision of the regulations and standards set forth in Parts 1 through 3 shall not affect any violations that occurred or liabilities that were incurred prior to the effective date of such revision.

1. Parts 1 and 2 are amended to read as follows:

## PART 1—DEFINITION OF TERMS

### § 1.1 Definition.

For the purposes of this subchapter, the following terms shall be construed, respectively, to mean:

(a) "Act" means the Act of August 24, 1966 (Public Law 89-544), commonly known as the Laboratory Animal Welfare Act, as amended by the Act of December 24, 1970 (Public Law 91-579), the Animal Welfare Act of 1970.

(b) "Department" means the U.S. Department of Agriculture.

(c) "Secretary" means the Secretary of Agriculture of the United States or

his representative who shall be an employee of the U.S. Department of Agriculture.

(d) "Veterinary Services" means the office of the Animal and Plant Health Service to which is assigned responsibility for the performance of functions under the Act.

(e) "Deputy Administrator" means the Deputy Administrator for the Veterinary Services or any other official of Veterinary Services to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

(f) "Veterinarian in Charge" means a veterinarian of the Veterinary Services who is assigned by the Deputy Administrator to supervise and perform the official work of Veterinary Services in a given State and who reports directly to the Deputy Administrator. As used in Part 2 of this subchapter, the Veterinarian in Charge shall be deemed to be the one in charge of the official work of Veterinary Services in the State in which the dealer, exhibitor, research facility, or operator of an auction sale has his principal place of business.\*

(g) "Veterinary Services representative" means any inspector or other person employed full time by the Department who is responsible for the performance of the function involved.

(h) "State" means a State, the District of Columbia, Commonwealth of Puerto Rico, or a territory or possession of the United States.

(i) "Person" means any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity.

(j) "Dog" means any live or dead dog (*Canis familiaris*).

(k) "Cat" means any live or dead cat (*Felis catus*).

(l) "Animal" means any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or any other warmblooded animal, which is domesticated or raised in captivity or which normally can be found in the wild state, and is being used, or is intended for use, for research, testing, experimentation, or exhibition purposes or as a pet. Such term excludes birds, aquatic animals, rats and mice, and horses and other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry, used or intended for use for improving animal nutrition, breeding, management or production efficiency, or for improving the quality of food or fiber.

(m) "Farm animal" means any warmblooded animal (other than dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, or rabbit) normally raised on farms in the United States and used or intended for use as food or fiber.

(n) "Wild state" means living in its original, natural condition; not domesticated.

\* The name and address of the Veterinarian in Charge in the State concerned can be obtained by writing to the Deputy Administrator, Veterinary Services, Animal and Plant Health Service, U.S. Department of Agriculture, Hyattsville, Md. 20782.

(o) "Nonhuman primate" means any nonhuman member of the highest order of mammals, including prosimians, monkeys, and apes.

(p) "Commerce" means trade, traffic, commerce, transportation among the several States, or between any State, territory, possession, or the District of Columbia, or the Commonwealth of Puerto Rico, and any place outside thereof; or between points within the same State, territory, or possession, or the District of Columbia, or the Commonwealth of Puerto Rico, but through any place outside thereof; or within any territory, possession, or the District of Columbia.

(q) "Affecting commerce" means in commerce, or burdening or obstructing or substantially affecting commerce or the free flow of commerce, or having led or tending to lead to the inhumane care of animals used or intended for use for purposes of research, experimentation, exhibition, or held for sale as pets, by burdening or obstructing or substantially affecting commerce or the free flow of commerce.

(r) "Research facility" means any school (except an elementary or secondary school), institution, organization, or person that uses or intends to use live animals in research, tests, or experiments, and that (1) purchases or transports live animals affecting commerce, or (2) receives funds under a grant, award, loan, or contract from a department, agency, or instrumentality of the United States for the purpose of carrying out research, tests, or experiments: *Provided, however*, That a "research facility" shall not include any such school, institution, organization, or person that does not use or intend to use live dogs or cats and which is exempted by the Administrator, upon application to him in specific cases and upon his determination that such exemption does not vitiate the purpose of the Act, except that the Administrator will not exempt any school, institution, organization, or person that uses substantial numbers of live animals—the principal function of which school, institution, organization, or person is biomedical research or testing.<sup>2</sup>

(s) "Dealer" means any person who for compensation or profit delivers for transportation, or transports, except as a common carrier, buys or sells any animals whether alive or dead, affecting commerce, for research or teaching purposes, or for exhibition purposes, or for use as pets, but such term excludes any retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer.

(t) "Retail pet store" means any retail outlet where animals are sold only as pets at retail. Those species from the wild state (e.g., primates, anteaters, and ocelots) and which as adults in captivity require special conditions to provide safety

\* A list of such exempted schools, institutions, organizations, or persons shall be published periodically by Veterinary Services in the *FEDERAL REGISTER*. Such lists may also be obtained upon request from the Veterinarian in Charge.



in handling to either humans or the subject animals, shall not be considered as pet animals.

(u) "Operator of an auction sale" means any person who is engaged in operating an auction at which animals are purchased or sold, affecting commerce.

(v) "Exhibitor" means any person (public or private) exhibiting any animals, which were purchased in commerce or the intended distribution of which affects commerce, or will affect commerce, to the public for compensation, as determined by the Secretary in specific instances, and such term includes carnivals, circuses, animal acts, and zoos exhibiting such animals whether operated for profit or not; but such term excludes retail pet stores, organizations sponsoring and all persons participating in State and county fairs, livestock shows, rodeos, purebred dog and cat shows, and any other fairs or exhibitions intended to advance agricultural arts and sciences, as may be determined by the Secretary in specific instances.

(w) "Licensee" means any person licensed pursuant to the provisions of the Act and the regulations in Part 2 of this subchapter.

(x) "Class 'A' dealer" means a dealer whose business involving animals includes only those animals that he breeds and raises as a closed or stable colony and those animals that he acquires for the sole purpose of maintaining or enhancing his breeding colony.

(y) "Class 'B' dealer" means any dealer who does not meet the definition of a Class "A" dealer.

(z) "Class 'C' licensee" means any exhibitor subject to the licensing requirements.

(aa) "Registrant" means any research facility or exhibitor registered pursuant to the provisions of the Act and the regulations in Part 2 of this subchapter.

(bb) "Standards" means the requirements with respect to the humane handling, care, treatment, and transportation of animals by dealers, exhibitors, research facilities, and operators of auction sales as set forth in Part 3 of this subchapter.

(cc) "Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, compartment or hutch.

(dd) "Housing facility" means any room, building, or area used to contain a primary enclosure or enclosures.

(ee) "Sanitize" means to make physically clean and to remove and destroy, to the maximum degree that is practical, agents injurious to health.

(ff) "Ambient temperature" means the temperature surrounding the animal.

(gg) "Euthanasia" means the humane destruction of an animal accomplished by a method which produces instantaneous unconsciousness and immediate death without visible evidence of pain or distress, or a method that utilizes anesthesia produced by an agent which causes painless loss of consciousness, and death following such loss of consciousness.

(hh) "Nonconditioned animals" means animals which have not been subjected to special care and treatment for sufficient time to stabilize and, where necessary, to improve their health to make them more suitable for research purposes.

(ii) "Dwarf hamster" means any species of hamster, such as the Chinese and Armenian species, whose adult body size is substantially less than that attained by the Syrian or Golden species of hamsters.

(jj) "Handling" means petting, feeding, manipulation, crating, shifting, transferring, immobilizing, restraining, treating, training, working or performing any similar activity with respect to any animal.

(kk) "Business year" means a 12-month period during which business is conducted, either on a calendar or fiscal year basis.

(ll) "Administrator" means Administrator of the Animal and Plant Health Service, U.S. Department of Agriculture, or any other official of the Animal and Plant Health Service to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

(Sec. 3, 80 Stat. 351, as amended, 7 U.S.C. 2133; sec. 5, 80 Stat. 351, as amended, 7 U.S.C. 2135; sec. 6, 80 Stat. 351, as amended, 7 U.S.C. 2136; sec. 10, 80 Stat. 351, as amended, 7 U.S.C. 2140; sec. 11, 80 Stat. 351, as amended, 7 U.S.C. 2141; sec. 12, 80 Stat. 351, as amended, 7 U.S.C. 2142; sec. 13, 80 Stat. 352, as amended, 7 U.S.C. 2143; sec. 16, 80 Stat. 352, as amended, 7 U.S.C. 2146; sec. 17, 80 Stat. 352, as amended, 7 U.S.C. 2147; sec. 21, 80 Stat. 353, 7 U.S.C. 2151; 29 F.R. 16210, as amended, 36 F.R. 20707, 36 F.R. 22857)

## PART 2—REGULATIONS

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AUTHORITY: The provisions of this Part 2 issued under sec. 3, 80 Stat. 351, as amended, 7 U.S.C. 2133; sec. 5, 80 Stat. 351, as amended, 7 U.S.C. 2135; sec. 6, 80 Stat. 351, as amended, 7 U.S.C. 2136; sec. 10, 80 Stat. 351, as amended, 7 U.S.C. 2140; sec. 11, 80 Stat. 351, as amended, 7 U.S.C. 2141; sec. 12, 80 Stat. 351, as amended, 7 U.S.C. 2142; sec. 13, 80 Stat. 352, as amended, 7 U.S.C. 2143; sec. 16, 80 Stat. 352, as amended, 7 U.S.C. 2146; sec. 17, 80 Stat. 352, as amended, 7 U.S.C. 2147; sec. 21, 80 Stat. 353, 7 U.S.C. 2151; 29 F.R. 16210, as amended, 36 F.R. 20707, 36 F.R. 22857.

### LICENSING

#### § 2.1 Application.

(a) Any person operating or desiring to operate as a dealer, exhibitor, or operator of an auction sale (where any dogs or cats are sold affecting commerce), except persons who are exempted from the licensing requirements under section 3 of the Act, shall apply for a license on a form which will be furnished, upon request, by the Veterinarian in Charge in the State in which such person operates or intends to operate. If such person operates in more than one State, he shall apply in the State in which he has his principal place of business. The completed application form shall be filed with such Veterinarian in Charge.

(b) (1) Any person who is not a dealer or exhibitor, but who desires to obtain a license, shall follow the requirements for dealers and exhibitors set forth in paragraph (a) of this section and in §§ 2.2 and 2.3, and shall agree in writing, on a form furnished by Veterinary Services, to comply with all the requirements of the Act and the provisions of this subchapter.

(2) A license will be issued to any such applicant when the requirements of §§ 2.2 and 2.3 have been met, and when the applicant has submitted to the Veterinarian in Charge a fee of \$5 by certified check, cashier's check, or money order. In addition to the fee required to be paid upon application for a license, such licensee shall submit to the Veterinarian in Charge a fee of \$5, by certified check, cashier's check, or money order, on or before each anniversary date of his license.

(3) The failure of any such person to comply with any provisions of the Act, or any of the provisions of the regulations



or standards in this subchapter, shall constitute grounds for the suspension or revocation of such license by the Secretary.

## § 2.2 Acknowledgment of standards.

A copy of the applicable standards will be supplied to the applicant with each request for an application for a license, and the applicant shall acknowledge receipt of such standards and agree to comply with them by signing the application form provided for such purpose by Veterinary Services.

## § 2.3 Demonstration of compliance with standards.

Each applicant must demonstrate that his premises and any facilities or equipment used in his business comply with the standards set forth in Part 3 of this subchapter. This may be done in any manner which the Deputy Administrator deems adequate to effectuate the purposes of the Act, such as the examination of the applicant's premises, facilities, and equipment by a Veterinary Services representative or the submission of an affidavit by the applicant to the effect that his premises, facilities, and equipment comply with such standards. Any such affidavit shall be subject to such verification as the Deputy Administrator shall prescribe. Upon request by the Veterinarian in Charge, the applicant must make his premises, facilities, and equipment available at a time or times mutually agreeable to said applicant and Veterinary Services representative for the purpose of ascertaining compliance with said standards. If the applicant's premises, facilities, or equipment do not meet the requirements of the standards, the applicant will be advised of existing deficiencies and the corrective measures that must be taken and completed before such premises, facilities, and equipment will be in compliance with the standards.

## § 2.4 Issuance of licenses.

Except as otherwise provided in §§ 2.1 (b) and 2.10, a license will be issued to any applicant when the requirements of §§ 2.1, 2.2, and 2.3 have been met, when the Secretary has determined that the applicant's premises, facilities, and equipment comply with the standards and when the applicant has submitted to the Veterinarian in Charge the annual fee as prescribed in § 2.6 by certified check, cashier's check, or money order.

## § 2.5 Duration of license.

(a) A license issued under this part shall be valid and effective unless:

(1) Said license has been revoked or is suspended pursuant to section 19 of the Act.

(2) Said license is voluntarily terminated upon the request of the licensee in writing to the Veterinarian in Charge.

(b) A license which is invalid under paragraph (a) of this section shall be

surrendered to the Veterinarian in Charge in the State where the license was issued.

## § 2.6 Annual fees; and termination of licenses.

(a) In addition to the fee required to be paid upon application for a license under § 2.4, each licensee shall submit to the Veterinarian in Charge the annual fee prescribed in this section, by certified check, cashier's check, or money order, on or before each anniversary date of his license.

(b) (1) Except as provided in subparagraphs (3) and (4) of this paragraph, the amount of the annual fee for a dealer shall be based on the total gross amount, expressed in dollars, derived from the sale of animals to research facilities, dealers, or exhibitors, or through an auction sale, by the dealer or applicant during his preceding business year (calendar or fiscal) in the case of a person who operated during such year.

(2) Except as provided in subparagraphs (3) and (4) of this paragraph, the amount of the annual license fee for an operator of an auction sale shall be that of a Class "B" dealer and shall be based on the total gross amount, expressed in dollars, derived in commissions of fees charged to the public for the sale of animals to research facilities, dealers, or exhibitors at the auction sale during the preceding business year.

(3) In the case of an applicant for a license as a dealer or operator of an auction sale who operated at least 6 months of his preceding business year but not the entire year, the annual license fee shall be computed by estimating the yearly volume of business on the basis of the business done during the period of operation.

(4) In the case of an applicant for a license as a dealer or operator of an auction sale who did not operate for at least 6 months during his preceding business year, the annual fee will be based on the anticipated yearly volume of business to be derived from the sale of animals to research facilities, dealers, exhibitors or through an auction sale.

(5) The amount of the annual fee required to be paid upon application for a license as an exhibitor under § 2.4, shall be based on the number of animals which are held by the applicant at the time the application is signed and dated. The amount of the annual license fee for an exhibitor to be paid on or before each anniversary date of his license, shall be based on the number of animals which the exhibitor is holding at the time he signs and dates the annual report as required in § 2.7: *Provided, however*, That such report is not signed and dated more than 30 days prior to the anniversary date of the license.

(c) The license fee shall be computed in accordance with the following tables:

TABLE 1—DEALERS AND OPERATORS OF AN AUCTION SALE

Total gross dollar amount	Fee	
	Over	But not over
	Class A dealer	Class B dealer
\$0.....	\$500	\$5
\$500.....	2,000	15
\$2,000.....	10,000	25
\$10,000.....	25,000	100
\$25,000.....	50,000	150
\$50,000.....	100,000	200
\$100,000.....		250

TABLE 2—EXHIBITORS—CLASS "C" LICENSEE

Number of animals:	Fee
1-5.....	\$ 5
6-25.....	10
26-50.....	25
51-500.....	50
501 and up.....	100

(d) If a person meets the licensing requirements for more than one class of license, he shall be required to pay the fee for the type business which is predominant for his operation, as determined by the Secretary.

(e) In any situation in which a licensed dealer or operator of an auction sale shall have demonstrated in writing to the satisfaction of the Secretary that he has good reason to believe that his total gross dollar amount of business for the forthcoming business year will be less than the previous business year, then his estimated gross dollar amount of business shall be used for computing the license fee for the forthcoming business year: *Provided, however*, That if such gross dollar amount for that year does in fact exceed the amount estimated, the difference in amount of the fee paid and that which was due based upon such actual gross dollar amount of business, shall be payable in addition to the required annual fee for the next subsequent year, on the anniversary date of his license as prescribed in this section.

(f) The failure of any licensee to pay the annual fee prescribed by this section on or before each anniversary date of his license or to file the report provided for in § 2.7 shall constitute grounds for the suspension of such license until the prescribed fee is paid or report is filed pursuant to the regulations in this subchapter. Repeated failure of a licensee to pay the annual license fee or to file the prescribed report when due shall constitute grounds for revocation or suspension for a definite period of the license. Any other violation of the Act, or the regulations or standards thereunder also constitutes grounds for suspension or revocation of a license pursuant to section 19 of the Act.

## § 2.7 Annual report by licensees.

(a) Each year within 30 days prior to the anniversary date of his license, a licensee shall file with the Veterinarian in Charge a report, upon a form which will be furnished to him, upon request, by the Veterinarian in Charge.



(b) A person licensed as a dealer shall set forth in his annual report the gross dollar amount derived from the sale of animals by the licensee to research facilities, dealers, exhibitors, and through an auction sale during the preceding business year, and such other information as may be required thereon.

(c) A person licensed as an operator of an auction sale shall set forth in his annual report the gross dollar amount derived from commissions or fees charged to the public for the sale of animals to research facilities, dealers, or exhibitors at the auction sale during the preceding business year, and such other information as may be required thereon.

(d) A person licensed as an exhibitor shall set forth in his annual report the number of animals which are held by him at the time he signs and dates the report: *Provided, however,* That such report is not signed and dated more than 30 days prior to the anniversary date of his license.

#### § 2.8 Notification of change of name, address, control or ownership of business.

A licensee shall promptly notify the Veterinarian in Charge of any change in the name, address, management or substantial control or ownership of his business or operation within 10 days after making such change.

#### § 2.9 Officers, agents, and employees of licensees whose licenses have been suspended or revoked.

Any person who has been or is an officer, agent, or employee of a licensee whose license has been suspended or revoked and who was responsible for or participated in the violation upon which the order of suspension or revocation was based will not be licensed within the period during which the order of suspension or revocation is in effect.

#### § 2.10 Licensees whose licenses have been suspended or revoked.

Any person whose license has been suspended for any reason will not again be licensed in his own name or in any other manner within the period during which the order of suspension is in effect, and any person whose license has been revoked shall not be eligible to apply for a new license in his own name or in any other manner for a period of 1 year from the effective date of such revocation. No partnership, firm, corporation or other legal entity in which any such person has a substantial financial interest, will be licensed during such period. After revocation, the revoked license shall be surrendered by the holder of the license upon the request of the Secretary.

#### REGISTRATION

#### § 2.25 Requirements and procedures.

Each research facility and each exhibitor not required to be licensed under section 3 of the Act and the regulations of this subchapter shall register with the Secretary by completing and filing a properly executed form which will be furnished, upon request, by the Veteri-

narian in Charge. Such registration form shall be filed with the Veterinarian in Charge. Where a school or department of a university or college uses or intends to use animals for research, tests, or experiments, the university or college rather than the school or department will generally be considered the research facility and be required to register with the Secretary. In any situation in which a school or department of a university or college is a separate legal entity and its operations and administration are independent of those of the university or college, upon a proper showing thereof to the Secretary, the school or department will be registered rather than the university or college. A subsidiary of a business corporation, rather than a parent corporation, will be registered as a research facility or exhibitor unless the subsidiary is under such direct control of the parent corporation that to effectuate the purposes of the Act the Secretary determines that it is necessary that the parent corporation be registered.

#### § 2.26 Acknowledgment of standards.

A copy of the applicable standards will be supplied with each registration form, and the registrant shall acknowledge receipt of such standards and agree to comply with them by signing a form provided for such purpose by Veterinary Services. Such form shall be filed with the Veterinarian in Charge.

#### § 2.27 Notification of change of operation.

A registrant shall promptly notify the Veterinarian in Charge of any change in his name or address or any change in his operations which would affect his status as a research facility or exhibitor within ten days after making such change.

#### § 2.28 Annual report of research facilities.

Each research facility shall submit on or before February 1, 1973, and on or before February 1 of each calendar year thereafter to the Veterinarian in Charge in the State where registered, an annual report signed by a legally responsible official covering the previous calendar year and showing that professionally acceptable standards governing the care, treatment, and use of animals, including appropriate use of anesthetic, analgesic, and tranquilizing drugs, during experimentation, are being followed by the research facility during actual research or experimentation. Such report shall include:

(a) The location of the facility or facilities where animals were used in actual research or experimentation;

(b) The common names and approximate numbers of animals used;

(c) The number of experiments conducted involving necessary pain or distress to the animals without the use of appropriate anesthetic, analgesic, or tranquilizing drugs and a brief statement explaining the reasons for the same: *Provided, however,* That routine procedures (e.g. injections, tattooing, and

blood sampling) do not need to be reported; and

(d) Certification by the attending veterinarian of the research facility or by an institutional committee of at least three members, one of whom is a Doctor of Veterinary Medicine, established for the purpose of evaluating the care, treatment and use of all warmblooded animals held or used for research, or experimentation, that the type and amount of anesthetic, analgesic, and tranquilizing drugs used on animals during actual research or experimentation was appropriate to relieve all unnecessary pain and distress for the subject animals.

#### IDENTIFICATION OF ANIMALS

#### § 2.50 Time and method of identification.

(a) Except as otherwise provided in this section, when a Class A dealer sells or otherwise removes dogs or cats from his premises for delivery, affecting commerce, to a research facility or exhibitor or to another dealer, or for sale, affecting commerce, through an auction sale or to any person for use as a pet, each such dog or cat shall be identified by an official tag of the type described in § 2.51 affixed to the animal's neck by means of a collar made of material generally considered acceptable to pet owners as a means of identifying their pet dogs or cats: *Provided, however,* That no official tag need be affixed to any such dog that has been identified by means of a distinctive and legible tattoo marking acceptable to the Deputy Administrator: *And provided further,* That no official tag need be affixed to any puppy or kitten less than 16 weeks of age that is identified by means of a plastic type collar acceptable to the Deputy Administrator and which has the information (which shall be legibly placed thereon) as required for an official tag pursuant to § 2.51.

(b) Except as otherwise provided in this section, when a Class B dealer or exhibitor purchases or otherwise acquires a dog or cat, affecting commerce, he shall immediately affix to such animal's neck an official tag of the type described in § 2.51 by means of a collar made of material generally acceptable to pet owners as a means of identifying their pet dogs or cats, but if the dog or cat is not purchased or acquired, affecting commerce, by said dealer or exhibitor, such animal must be so tagged at the time it is delivered for transportation, transported,

<sup>1</sup> In general, well fitted collars made of leather or plastic will be acceptable under this provision. The use of certain types of chains presently used by some dealers may also be deemed acceptable. A determination of the acceptability of a material proposed for usage as collars from the standpoint of humane considerations will be made by Veterinary Services on an individual basis in consultation with the dealer or exhibitor involved. The use of materials such as wire or elastic that might readily cause discomfort or injury to dogs or cats will not be acceptable.



or sold, affecting commerce, by said dealer or exhibitor: *Provided, however*, That if such dog or cat is already identified by an official tag which has been applied by another dealer or exhibitor, it is not necessary that any subsequent dealer or exhibitor replace the tag on such animal, but the Class B dealer or exhibitor may replace such previously attached tag with his own official tag, and in which event, the Class B dealer or exhibitor shall correctly list both official tag numbers in his records of purchase which shall be maintained in accordance with §§ 2.75 and 2.77 and the new official tag number shall be used on all records of subsequent sales of such dog or cat: *And provided further*, That no official tag need be affixed to any such dog or cat that has been identified by means of a distinctive and permanent tattoo marking approved by the Deputy Administrator: *And provided still further*, That no official tag need be affixed to any puppy or kitten less than 16 weeks of age that has been identified by means of a plastic type collar acceptable to the Deputy Administrator and which has the information (which shall be legibly placed thereon) as required for an official tag pursuant to § 2.51.

(c) When any dealer or exhibitor has made a reasonable effort to affix an official tag to an adult cat, as set forth in paragraphs (a) and (b) of this section, and has been unable to do so, or when the cat exhibits extreme distress from the attachment of a collar and tag, the dealer or exhibitor shall attach the collar and tag, to the door of the primary enclosure containing the cat and take proper measures to maintain the identity of the cat in relation to the tag. Each primary enclosure shall contain no more than one adult cat without an affixed collar and official tag.

(d) Unweaned puppies or kittens need not be individually identified as required by paragraphs (a) and (b) of this section while they are maintained as a litter with their dam in the same primary enclosure provided she has been so identified.

(e) All live dogs or cats delivered for transportation, transported, purchased, or sold, affecting commerce, by a research facility, shall be identified, at the time of such delivery for transportation, purchase, or sale, by the official tag or tattoo, which was affixed to the animal at the time it was acquired by the research facility, as provided in paragraph (a) of this section, or by a tag, tattoo, or collar, applied to the live dog or cat by the research facility and which individually identifies such dog or cat by description or number.

(f) (1) All animals, except dogs and cats, delivered for transportation, transported, purchased, or sold, affecting commerce, by any dealer or exhibitor shall be identified by the dealer or exhibitor at the time of such delivery for

transportation, transportation, purchase, or sale, as provided in this paragraph.

(2) When one or more animals, other than dogs or cats, are confined in a container, the animal or animals shall be identified by (i) a label attached to the container which shall bear a description of the animals in the container, including the number of animals, species of the animals, any distinctive physical features of the animals, and any identifying marks, tattoos, or tags attached to the animals, (ii) marking the container with a painted or stenciled number, which number shall be recorded in the records of the dealer or exhibitor together with a description of the animal or animals, including the species, and any distinctive physical features of the animal; or (iii) by a tag or tattoo applied to each animal in the container by the dealer or exhibitor and which individually identifies such animal by description or number.

(3) When any animal, other than a dog or cat, is not confined in a container,

it shall be identified on a form\* which shall accompany the animal at the time it is delivered for transportation, transported, purchased, or sold, affecting commerce, and shall be kept and maintained by the dealer or exhibitor as part of his records.

#### § 2.51 Form of official tag.

The official tag shall be made of a durable alloy such as brass, bronze, or steel or of a durable plastic. Aluminum of a durable thickness and quality may be used. Such tag shall be circular in shape and not less than 1 1/4 inches in diameter. Each tag shall be embossed or stamped with the letters "USDA" and numbers and letters identifying the State, dealer, and animal, as set forth in Figure 1. Such tags shall be serially numbered and there shall be no duplication of numbers by any one dealer or exhibitor.

\* Such forms will be furnished to the dealer or exhibitor, upon request, by the Administrator.

Denoting State and dealer or exhibitor respectively -

Denoting the animal -

Figure 1 -

39-AB

82488

USDA

#### § 2.52 How to obtain tags.

Dealers or exhibitors may obtain, at their own expense, official tags from commercial tag manufacturers.\* At the time a dealer or exhibitor is issued a license, the Department will assign him dealer or exhibitor identification letters and inform him of the State number to be used on his official tags.

#### § 2.53 Use of tags.

Official tags obtained by a dealer or exhibitor shall be applied to dogs or cats in the manner set forth in § 2.50 and in as near consecutive numerical order as possible. No tag number shall be used to identify more than one animal.

#### § 2.54 Lost tags.

Each dealer or exhibitor shall be held accountable for all official tags that he acquires. In the event an official tag is lost from the neck of a dog or cat while in the possession of a dealer or exhibitor, a diligent effort shall be made to locate and reapply such tag to the proper animal. If the lost tag is not located, the dealer or exhibitor shall affix another official tag to the animal in the manner prescribed in § 2.50, and make a notation of the tag number on his official records.

\* A list of the commercial manufacturers who produce such tags and are known to the Department may be obtained from the Veterinarian in Charge. Any manufacturer who desires to be included in such a list should notify the Deputy Administrator.

#### § 2.55 Removal of tag.

(a) When a dog or cat wearing or identified by an official tag arrives at a research facility, such tag shall be removed and retained by the research facility: *Provided, however*, That at the discretion of the research facility such tag may be used to continue the identification of such dog or cat.

(b) If a dealer, exhibitor or research facility finds it necessary humanely to dispose of a live dog or cat to which is affixed or which is identified by an official tag, or upon the death of such dog or cat from other causes, the dealer, exhibitor, or research facility shall remove and retain such tag for the required period.

(c) All official tags removed and retained by a dealer, exhibitor, or research facility shall be held until called for by a Veterinarian Services representative or for a period of 1 year.

(d) When official tags are disposed of, they must be disposed of in such a manner as to preclude their reuse as animal identification.

#### RECORDS

#### § 2.75 Records, dealers.

(a) In connection with each animal purchased or otherwise acquired, held, transported, or sold or otherwise disposed of, a dealer shall keep and maintain the following information on the forms supplied and in the manner prescribed by the Veterinary Services:



(1) The name and address of the person from whom acquired, and the person to whom sold or otherwise disposed of, and his license number if licensed as a dealer, exhibitor, or operator of an auction sale;

(2) The dates of acquisition and disposition;

(3) The description and identification of the animal, including any official tag number or tattoo number as affixed, pursuant to §§ 2.50 and 2.54;

(4) When animals are sold by a dealer, the method of transportation of such animals; and (i) the name of the common carrier or (ii) the license number or other identification of the means of conveyance; and the name and address of the driver of the means of conveyance;

(5) The nature and method of disposition, e.g. sale, death, euthanasia, or donation.

(b) One copy of ANH Form 18-5, revised, completed as required by this section, shall accompany each shipment of animals acquired by a dealer, and one copy of ANH Form 18-6, revised, completed as required by this section, shall accompany each shipment of animals sold or otherwise disposed of by a dealer.

#### § 2.76 Records, exhibitors.

(a) In connection with each animal purchased or otherwise acquired, held, transported, or sold or otherwise disposed of, an exhibitor shall keep and maintain the following information on the forms supplied and in the manner prescribed by Veterinary Services: *Provided, however,* That any exhibitor may transport to a new location for exhibition purposes such animals, for which a form has been completed and is being kept by the exhibitor in accordance with this section, without completing a new form.

(1) The name and address of the person from whom acquired, and the person to whom sold or otherwise disposed of, and his license number if licensed as a dealer, exhibitor, or operator of an auction sale;

(2) The dates of acquisition and disposition;

(3) Description and identification of animals including any official tag number or tattoo number affixed pursuant to §§ 2.50 and 2.54;

(4) When animals are sold by an exhibitor, the method of transportation of such animals; and (i) the name of the common carrier or (ii) the license number or other identification of the means of conveyance; and the name and address of the driver of the means of conveyance;

(5) The nature and method of disposition, e.g., sale, death, euthanasia, or donation.

(b) One copy of ANH Form 18-19, completed as required by this section, shall accompany each shipment of animals acquired by an exhibitor, and one copy of ANH Form 18-20, completed as required by this section, shall accompany each shipment of animals sold or otherwise disposed of by the exhibitor.

#### § 2.77 Records, research facilities.

(a) In connection with each live dog or cat purchased or otherwise acquired, a research facility shall keep and maintain the following information on the forms supplied and in the manner prescribed by the Veterinary Services:

(1) The name and address of the person from whom such live dog or cat was purchased or acquired, and his license number if licensed as a dealer, exhibitor, or operator of an auction sale;

(2) The date acquired; and

(3) The description and identification of such live dog or cat, including the official tag number or tattoo number, if one is affixed, and any identification number or letter assigned to the live dog or cat by such research facility.

(b) In connection with each live dog or cat transported, sold, or otherwise disposed of by a research facility to another person, such research facility shall keep and maintain, on forms supplied by and in the manner prescribed by Veterinary Services:

(1) The name and address of the person to whom the live dog or cat is transported, sold, or otherwise disposed of;

(2) The date of such sale or disposition;

(3) The method of transportation; and

(4) The name of the common carrier, or the identification of the means of conveyance, and the name and address of the driver of such means of conveyance.

(c) One copy of ANH Form 18-6, revised, completed as required by this section, shall accompany each shipment of dogs or cats sold or otherwise disposed of by a research facility.

#### § 2.78 Records, operators of auction sales.

(a) In connection with each animal consigned to an auction sale, for which a commission or fee may or may not be charged, an operator of an auction sale shall keep and maintain the following information on the forms supplied and in the manner prescribed by Veterinary Services:

(1) The name and address of the person who consigned such animal to the auction sale and his USDA license number if licensed as a dealer or exhibitor;

(2) The date of consignment;

(3) The description and identification of such animal, including the official tag number or tattoo number, if one is affixed to the animal when consigned;

(4) The auction sales' number assigned to the animal; and

(5) The name and address of the buyer and his USDA license number if licensed as a dealer or exhibitor.

(b) A copy of the form required by paragraph (a) of this section shall be given to the consignor and purchaser of each animal sold at the auction sale.

#### § 2.79 Records, disposition.

(a) Except as otherwise provided in paragraph (b) of this section, no dealer, exhibitor, operator of an auction sale, or research facility shall, within a period of

2 years from the making thereof, destroy or dispose of, without the consent in writing of the Deputy Administrator, any books, records, documents, or other papers required to be kept and maintained under this part.

(b) The records required to be kept and maintained under this part shall be held for such period in excess of the 2-year period specified in paragraph (a) of this section if necessary to comply with any Federal, State, or local law. When the Deputy Administrator notifies the dealer, exhibitor, operator of an auction sale, or research facility in writing that specified records shall be retained pending completion of an investigation or proceeding under the Act, such dealer, exhibitor, operator of an auction sale, or research facility shall hold such records until their disposition is authorized by Veterinary Services.

#### COMPLIANCE WITH STANDARDS AND HOLDING PERIOD

##### § 2.100 Compliance with standards.

Each dealer, exhibitor, operator of an auction sale, and research facility shall comply in all respects with the standards set forth in Part 3 of this subchapter setting forth the standards for the humane handling, care, treatment, and transportation of animals: *Provided, however,* That nothing in these rules, regulations, or standards shall effect or interfere with the design, outlines, guidelines, or performances of actual research or experimentation by a research facility as determined by such research facility.

##### § 2.101 Holding period.

(a) Any dog or cat acquired by a dealer\* or exhibitor shall be held by him, under his supervision and control, for a period of not less than 5 business days after acquisition of such animal: *Provided, however,* That (1) dogs or cats which have completed a 5-day holding period may be disposed of by subsequent dealers or exhibitors after a minimum holding period of 1 calendar day by each such subsequent dealer or exhibitor, excluding time in transit; (2) any dog or cat suffering from disease, emaciation or injury may be destroyed by euthanasia prior to the completion of the holding period required by this section. (For purposes of this paragraph, "business day" shall mean any day of the week during which the dealer or exhibitor normally operates his business. For purposes of this paragraph, "calendar day" shall mean from midnight of the day when an animal is received until the next midnight (example: If a dog or cat is received at 6 p.m. on the third day of a month, the "calendar day" referenced in the proviso would not expire until the morning of the fifth day.))

(b) During the period in which any dog or cat is being held as required by

\*An operator of an auction sale is not considered to have acquired a dog or cat which is sold through the auction sale.



this section, such dog or cat shall be unloaded from any means of conveyance in which it was received, for feed, water, and rest, and handled, cared for, and treated in accordance with the standards set forth in §§ 3.1 through 3.10 of this subchapter.

(c) If any dealer or exhibitor obtains the prior approval of the Veterinarian in Charge, he may arrange to have another person hold such animals for the required period provided for in paragraph (a) of this section: *Provided, however*, That such other person agrees in writing to comply with the regulations of this Part 2 and the standards in Part 3 of this subchapter and to allow inspection by a Veterinary Services representative of his premises: *And provided further*, That the dogs and cats still remain under the control of the dealer or exhibitor: *And provided further*, That approval will not be given for a dealer or exhibitor holding a license as set forth in § 2.4 to have animals held for purposes of this section by another licensed dealer or exhibitor.

#### MISCELLANEOUS

§ 2.125 Information as to business; furnishing of by dealers, exhibitors, operators of auction sales, and research facilities.

Each dealer, exhibitor, operator of an auction sale, and research facility shall furnish to any Veterinary Services representative, any information concerning the business of the dealer, exhibitor, operator of an auction sale, or research facility which may be requested by such representative in connection with the enforcement of the provisions of the Act, the regulations and the standards in this subchapter. Such information shall be furnished within such reasonable time as may be specified in the request for such information.

§ 2.126 Access and inspection of records and property.

Each dealer, exhibitor, operator of an auction sale, or research facility, shall, during ordinary business hours, permit Veterinary Services representatives, or other Federal officers or employees designated by the Secretary, to enter his place of business to examine records required to be kept by the Act and the regulations in this part, and to make copies of such records; and permit Veterinary Services representatives to enter his place of business, to inspect such facilities, property and animals as such representatives consider necessary to enforce the provisions of the Act, the regulations and the standards in this subchapter. The use of a room, table, or other facilities necessary for the proper examination of such records and inspection of such property or animals shall be extended to such authorized representatives of the Secretary by the dealer, exhibitor, operator of an auction sale, or research facility, his agents and employees.

§ 2.127 Publication of names of persons subject to the provisions of this part.

Lists of persons licensed or registered, pursuant to the provisions of this part, shall be published periodically by Veter-

inary Services in the FEDERAL REGISTER. Such lists may also be obtained, upon request, from the Veterinarian in Charge.

§ 2.128 Inspection for missing animals.

(a) Each dealer, exhibitor, operator of an auction sale and research facility shall, upon request, during ordinary business hours, permit, under the following conditions, police or law officers of legally constituted law enforcement agencies with general law enforcement authority (not those agencies whose duties are limited to enforcement of local animal regulations) to enter the place of business of such dealer, exhibitor, operator of an auction sale or research facility to inspect animals and records for the purpose of seeking animals that are missing:

(1) The police or law officer shall furnish to the dealer, exhibitor, operator of an auction sale or research facility a written description of the missing animal and the name and address of its owner before making such a search.

(2) The police or law officer shall abide by all security measures required by the dealer, exhibitor, operator of an auction sale or research facility to prevent the spread of disease, including the use of sterile clothing, footwear, and masks where required, or to prevent the escape of an animal.

(b) Such inspection for missing animals by law enforcement officers shall not extend to animals that are undergoing actual research or experimentation by a research facility as determined by such research facility.

§ 2.129 Confiscation and destruction of animals.

(a) If an animal being held by a dealer, exhibitor, or operator of an auction sale, or an animal being held by a research facility which is no longer required by such research facility to carry out the research, test, or experiment for which it has been utilized, is found by a Veterinary Services representative to be suffering as a result of the failure of the dealer, exhibitor, operator of an auction sale, or research facility to comply with any provision of the regulations or the standards set forth in this subchapter, the Veterinary Services representative shall make a reasonable effort to notify the dealer, exhibitor, operator of an auction sale, or research facility of the condition of such animal and request that the condition be corrected and that adequate veterinary care be given when necessary to alleviate the animal's suffering, or that the animal be destroyed by euthanasia. In the event that the dealer, exhibitor, operator of an auction sale or research facility refuses to comply with such request, the Veterinary Services representative may confiscate or destroy such animal by euthanasia if in the opinion of the Deputy Administrator the circumstances warrant such action.

(b) In the event that the Veterinary Services representative is unable to locate or notify the dealer, exhibitor, operator of an auction sale, or research facility as required in this section, the Veterinary Services representative shall contact a local police or law officer to accompany

him to the premises and shall provide for adequate veterinary care when necessary to alleviate the animal's suffering or, if in the opinion of the Deputy Administrator the condition of the animal cannot be corrected by veterinary care, the Veterinary Services representative shall confiscate and destroy the animal by euthanasia with such costs as may be incurred to be borne by the dealer, exhibitor, operator of an auction sale, or research facility.

(c) Prior to making any decision regarding the destruction of any animal of a species designated by the Department of the Interior or the International Union for the Conservation of Nature and Natural Resources as an endangered species, the Deputy Administrator shall, when possible in his judgment, consult with representatives of said Department and the International Union for the Conservation of Nature and Natural Resources.

#### PART 3—STANDARDS

§§ 3.10, 3.34, 3.59, 3.84 [Amended]

2. Sections 3.10, 3.34, 3.59, and 3.84 of Part 3 are amended by adding a new paragraph (c) to each of said sections to read as follows:

(c)(1) In the case of a research facility, the program of adequate veterinary care shall include the appropriate use of anesthetic, analgesic, or tranquilizing drugs, when such use would be proper in the opinion of the attending veterinarian at the research facility. The use of these three classes of drugs shall be in accordance with the currently accepted veterinary medical practice as cited in appropriate professional journals or reference guides which shall produce in the individual subject animal a high level of tranquilization, anesthesia, or analgesia consistent with the protocol or design of the experiment.

(2) It shall be incumbent upon each research facility through its animal care committee and/or attending veterinarian to provide guidelines and consultation to research personnel with respect to the type and amount of tranquilizers, anesthetics, or analgesics recommended as being appropriate for each species of animal used by that institution.

(3) The use of these three classes of drugs shall effectively minimize the pain and discomfort of the animals while under experimentation.

3. A new Subpart E is added to Part 3 to read as follows:

Subpart E—Specifications for the Humane Handling, Care, Treatment, and Transportation of Warmblooded Animals Other Than Dogs, Cats, Rabbits, Hamsters, Guinea Pigs, and Nonhuman Primates

#### FACILITIES AND OPERATING STANDARDS

- Sec.
- 3.100 Facilities, general.
- 3.101 Facilities, indoor.
- 3.102 Facilities, outdoor.
- 3.103 Space requirements.

#### ANIMAL HEALTH AND HUSBANDRY STANDARDS

- 3.104 Feeding.
- 3.105 Watering.



- Sec.  
 3.106 Sanitation.  
 3.107 Employees.  
 3.108 Separation.  
 3.109 Veterinary care.  
 3.110 Handling.  
 3.111 Vehicles.  
 3.112 Primary enclosures used to transport animals.  
 3.113 Food and water requirements.  
 3.114 Care in transit.

**AUTHORITY:** The provisions of this Subpart E issued under sec. 3, 80 Stat. 351, as amended, 7 U.S.C. 2133; sec. 5, 80 Stat. 351, as amended, 7 U.S.C. 2135; sec. 6, 80 Stat. 351, as amended, 7 U.S.C. 2136; sec. 10, 80 Stat. 351, as amended, 7 U.S.C. 2140; sec. 11, 80 Stat. 351, as amended, 7 U.S.C. 2141; sec. 12, 80 Stat. 351, as amended, 7 U.S.C. 2142; sec. 13, 80 Stat. 352, as amended, 7 U.S.C. 2143; sec. 16, 80 Stat. 352, as amended, 7 U.S.C. 2146; sec. 17, 80 Stat. 352, as amended, 7 U.S.C. 2147; sec. 21, 80 Stat. 353, 7 U.S.C. 2151; 29 F.R. 16210, as amended, 36 F.R. 20707, 36 F.R. 22857.

#### FACILITIES AND OPERATING STANDARDS

##### § 3.100 Facilities, general.

(a) **Structural strength.** The facility must be constructed of such material and of such strength as appropriate for the animals involved. The housing facilities shall be structurally sound and shall be maintained in good repair to protect the animals from injury and to contain the animals.

(b) **Water and power.** Reliable and adequate electric power, if required to comply with other provisions of this subpart, and adequate potable water shall be available on the premises.

(c) **Storage.** Supplies of food and bedding shall be stored in facilities which adequately protect such supplies against deterioration, molding, or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.

(d) **Waste disposal.** Provision shall be made for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors, and disease hazards. The disposal facilities and any disposal of animal and food wastes, bedding, dead animals, trash, and debris shall comply with applicable Federal, State, and local laws and regulations relating to pollution control or the protection of the environment.

(e) **Washroom and sinks.** Facilities, such as washrooms, basins, showers, or sinks, shall be provided to maintain cleanliness among animal caretakers.

##### § 3.101 Facilities, indoor.

(a) **Ambient temperatures.** Temperature in indoor housing facilities shall be sufficiently regulated by heating or cooling to protect the animals from the extremes of temperature, to provide for their health and to prevent their discomfort. The ambient temperature shall not be allowed to fall below nor rise above temperatures compatible with the health and comfort of the animal.

(b) **Ventilation.** Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide

for the health and to prevent discomfort of the animals at all times. Such facilities shall be provided with fresh air either by means of windows, doors, vents, fans, or air-conditioning and shall be ventilated so as to minimize drafts, odors, and moisture condensation.

(c) **Lighting.** Indoor housing facilities shall have ample lighting, by natural or artificial means, or both, of good quality, distribution, and duration as appropriate for the species involved. Such lighting shall be uniformly distributed and of sufficient intensity to permit routine inspection and cleaning. Lighting of primary enclosures shall be designed to protect the animals from excessive illumination.

(d) **Drainage.** A suitable sanitary method shall be provided to eliminate rapidly, excess water from indoor housing facilities. If drains are used, they shall be properly constructed and kept in good repair to avoid foul odors and installed so as to prevent any backup of sewage. The method of drainage shall comply with applicable Federal, State, and local laws and regulations relating to pollution control or the protection of the environment.

##### § 3.102 Facilities, outdoor.

(a) **Shelter from sunlight.** When sunlight is likely to cause overheating or discomfort of the animals, sufficient shade by natural or artificial means shall be provided to allow all animals kept outdoors to protect themselves from direct sunlight.

(b) **Shelter from inclement weather.** Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided for all animals kept outdoors to afford them protection and to prevent discomfort to such animals. Individual animals shall be acclimated before they are exposed to the extremes of the individual climate.

(c) **Drainage.** A suitable method shall be provided to rapidly eliminate excess water. The method of drainage shall comply with applicable Federal, State, and local laws and regulations relating to pollution control or the protection of the environment.

##### § 3.103 Space requirements.

Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement. Inadequate space may be indicated by evidence of malnutrition, poor condition, debility, stress, or abnormal behavior patterns.

#### ANIMAL HEALTH AND HUSBANDRY STANDARDS

##### § 3.104 Feeding.

(a) The food shall be wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health. The diet shall be prepared with consideration for the age, species, condition, size, and type of the animal.

Animals shall be fed at least once a day except as dictated by hibernation, veterinary treatment, normal fasts, or other professionally accepted practices.

(b) Food, and food receptacles, if used, shall be sufficient in quantity and located so as to be accessible to all animals in the enclosure and shall be placed so as to minimize contamination. Food receptacles shall be kept clean and sanitary at all times. If self-feeders are used, adequate measures shall be taken to prevent molding, contamination, and deterioration or caking of food.

##### § 3.105 Watering.

If potable water is not accessible to the animals at all times, it must be provided as often as necessary for the health and comfort of the animal. Frequency of watering shall consider age, species, condition, size, and type of the animal. All water receptacles shall be kept clean and sanitary.

##### § 3.106 Sanitation.

(a) **Cleaning of enclosures.** Excreta shall be removed from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and to reduce odors. When enclosures are cleaned by hosing or flushing, adequate measures shall be taken to protect the animals confined in such enclosures from being directly sprayed with the stream of water or wetted involuntarily.

(b) **Sanitation of enclosures.** Subsequent to the presence of an animal with an infectious or transmissible disease, cages, rooms, and hard-surfaced pens or runs shall be sanitized either by washing them with hot water (180 F. at source) and soap or detergent, as in a mechanical washer, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with saturated live steam under pressure. Pens or runs using gravel, sand, or dirt, shall be sanitized when necessary as directed by the attending veterinarian.

(c) **Housekeeping.** Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this subpart. Accumulations of trash shall be placed in designated areas and cleared as necessary to protect the health of the animals.

(d) **Pest control.** A safe and effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

##### § 3.107 Employees.

A sufficient number of adequately trained employees shall be utilized to maintain the professionally acceptable level of husbandry practices set forth in this subpart. Such practices shall be under a supervisor who has a background in animal care.



§ 3.108 Separation.

Animals housed in the same primary enclosure must be compatible. Animals shall not be housed near animals that interfere with their health or cause them discomfort.

§ 3.109 Veterinary care.

(a) Programs of disease prevention and parasite control euthanasia, and adequate veterinary care shall be established and maintained under the supervision of a veterinarian. The pest control program shall be reviewed by the veterinarian for the safe use of materials and methods. Such veterinarian shall be a graduate of an approved college of veterinary medicine.

(b) Animals shall be observed every day by the person in charge of the care of the animals or by someone working under his direct supervision. Sick or diseased, stressed, injured, or lame animals shall be provided with veterinary care or humanely destroyed, unless such action is inconsistent with the research purposes for which the animal was obtained and is being held.

(c) (1) In the case of a research facility, the program of adequate veterinary care shall include the appropriate use of anesthetic, analgesic, or tranquilizing drugs, when such use would be proper in the opinion of the attending veterinarian at the research facility. The use of these three classes of drugs shall be in accordance with the currently accepted veterinary medical practice as cited in appropriate professional journals or reference guides which shall produce in the individual subject animal a high level of tranquilization, anesthesia or analgesia consistent with the protocol or design of the experiment.

(2) It shall be incumbent upon each research facility through its Animal Care Committee and/or attending veterinarian to provide guidelines and consultation to research personnel with respect to the type and amount of tranquilizers, anesthetics, or analgesics recommended as being appropriate for each species of animal used by that institution.

(3) The use of these three classes of drugs shall effectively minimize the pain and discomfort of the animals while under experimentation.

§ 3.110 Handling.

(a) Handling of animals shall be done as expeditiously and carefully in a way so as not to cause unnecessary discomfort, behavioral stress, or physical harm to the animal. Care should be exercised also to avoid harm to the handler.

(b) Animals to which the public is afforded direct contact shall only be displayed for periods of time and under conditions consistent with the animals' health and not leading to their discomfort.

(c) During public display, the animals must be handled so there is minimal risk of harm to the public with sufficient distance allowed between animal acts and the viewing public to assure safety to both the public and the animals. Performing animals shall be allowed a rest

period between performances equal to the time for one performance.

TRANSPORTATION STANDARDS

§ 3.111 Vehicles.

(a) Vehicles used in transporting animals shall be mechanically sound and equipped to provide adequate fresh air, both when moving and stationary, to all animals being transported, without injurious drafts or discomfort.

(b) The animal cargo space shall be so constructed and maintained as to prevent the ingress of the vehicle's exhaust gases.

(c) The interior of the animal cargo space shall be kept physically clean.

(d) The ambient temperature shall be sufficiently regulated by heating or cooling to protect the animals from the extremes of temperature and to provide for their health and to prevent their discomfort. The ambient temperature shall not be allowed to fall below or rise above temperatures compatible with the health and comfort of the animal.

§ 3.112 Primary enclosures used to transport animals.

(a) Primary enclosures, such as compartments, transport cages, or crates, used to transport animals shall be well-constructed, well-ventilated, and designed to protect the health and assure the safety of the animals. Such enclosures shall be constructed or positioned in the vehicle in such a manner that (1) each animal in the vehicle has access to sufficient air for normal breathing, (2) the openings of such enclosures are easily accessible at all times for emergency removal of the animals and (3) the animals are afforded adequate protection from the elements.

(b) Animals transported in the same primary enclosure shall be compatible. Socially dependent animals (e.g., siblings, dam, and young cagemates) must be allowed visual and olfactory contact.

(c) Primary enclosures used to transport animals shall be large enough to insure that each animal contained therein has sufficient space to turn about freely and to make normal postural adjustments: *Provided, however*, That certain species may be restricted in their movements according to professionally acceptable standards when such freedom of movement would constitute a danger to the animals or their handlers.

(d) Animals shall not be placed in primary enclosures over other animals in transit unless each enclosure is fitted with a floor of a material which prevents animal excreta or other wastes from entering lower enclosures.

(e) Primary enclosures used to transport animals shall be cleansed and sanitized before and after each shipment. All bedding in the vehicle shall be clean at the beginning of each trip.

§ 3.113 Food and water requirements.

(a) Potable water shall be provided to each animal at least once in each 12-hour period except as directed by hibernation, veterinary treatment or other professionally accepted practices. Those

animals which, by common accepted practice, require watering more frequently shall be so watered.

(b) Each animal shall be fed at least once in each 24-hour period except as directed by hibernation, veterinary treatment, normal fasts or other professionally accepted practices. Those animals which, by common accepted practice, require feeding more frequently shall be so fed.

(c) A sufficient quantity of food and water shall accompany the animal to provide food and water for such animal for a period of at least 24 hours, except as directed by hibernation, veterinary treatment, normal fasts, or other professionally accepted practices.

§ 3.114 Care in transit.

(a) It shall be the responsibility of the attendant or driver to inspect the animals frequently enough to assure the health and comfort of the animals.

(b) In the event of a breakdown or delay of the vehicle, it is the responsibility of the animal caretaker or vehicle operator to assure that animals get adequate ventilation and protection from fumes, vehicle exhaust, extremes in temperature, and that the animals are not subjected to undue discomfort.

(c) In an emergency concerning the health and welfare of the animals, adequate veterinary care shall be provided without delay.

The foregoing amendments shall become effective on December 24, 1971.

Done at Washington, D.C., this 21st day of December 1971.

F. J. MULHERN,  
Administrator, Animal and Plant  
Health Service.

[FR Doc. 71-18823 Filed 12-23-71; 8:46 am]

SUBCHAPTER A—LABORATORY ANIMAL WELFARE

SUBCHAPTER B—COOPERATIVE CONTROL AND ERADICATION OF LIVESTOCK OR POULTRY DISEASES

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

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

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS: ORGANISMS AND VECTORS

SUBCHAPTER G—ANIMAL BREEDS

SUBCHAPTER H—VOLUNTARY INSPECTION AND CERTIFICATION SERVICE

SUBCHAPTER I—ACCREDITATION OF VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

SUBCHAPTER J—PUBLIC INFORMATION

ORGANIZATIONAL AND EDITORIAL AMENDMENTS TO CHAPTER

Under authority delegated at 36 F.R. 20707, the provisions in Subchapters A, B, C, D, E, G, H, I, and J of Chapter I, Title 9, Code of Federal Regulations are hereby amended, as follows, pursuant to



the statutory authorities under which such provisions were issued:

1. The headings of 9 CFR Chapter I, Subchapters B, C, and D are amended to read as set forth above.

2. Wherever in the provisions in Subchapters A, B, C, D, E, G, H, I, and J reference is made to the Division, Agricultural Research Service, such provisions are changed to refer to the Animal and Plant Health Service.

3. Wherever in the provisions in Subchapters A, B, C, D, E, G, H, I, and J reference is made to the Division, Animal Health Division, or Veterinary Biologics Division, such provisions are changed to refer to the Veterinary Services unit of the Animal and Plant Health Service.

4. Wherever in the provisions in Subchapters A, B, C, D, E, G, H, I, and J reference is made to the Director, Director of Division, Director of the Division, the Director of the Animal Health Division, or the Director of the Veterinary Biologics Division, such provisions are changed to refer to the Deputy Administrator, Veterinary Services.

5. Wherever in Parts 76, 78, and 80, reference is made to the Meat Inspection Act it is changed to refer to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) to reflect amendments of the Act.

**Effective date.** The foregoing amendments shall become effective upon publication in the *FEDERAL REGISTER* (12-24-71).

These amendments are either of an organizational nature or merely editorial. They reflect the transfer of functions of the Animal Health Division and of the Veterinary Biologics Division of Agricultural Research Service from the Agricultural Research Service to the newly established Animal and Plant Health Service. All functions of the Animal Health Division and of the Veterinary Biologics Division, formerly Divisions of Agricultural Research Service, are currently being performed by Veterinary Services, Animal and Plant Health Service. The amendments do not substantially affect the rights or obligations of any member of the public. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure concerning the amendments are impracticable and unnecessary, and good cause is found for making the amendments effective less than 30 days after publication in the *FEDERAL REGISTER*.

This document terminates the delegation of authorities of November 24, 1971 (36 F.R. 22857) insofar as said delegation is inconsistent herewith.

Done at Washington, D.C., this 21st day of December 1971.

F. J. MULHERN,  
Administrator,  
Animal and Plant Health Service.

[FR Doc. 71-18830 Filed 12-23-71; 8:46 am]

## Chapter III—Consumer and Marketing Service (Meat Inspection), Department of Agriculture

### PART 309—ANTE MORTEM INSPECTION

#### Diethylstilbestrol

On November 9, 1971, there was published (36 F.R. 21414) a proposal to amend the meat inspection regulations under the Federal Meat Inspection Act (34 Stat. 1260, as amended, 21 U.S.C. 601 et seq.) to change the requirements for handling livestock suspected of being adulterated with biological residues on ante mortem inspection at federally inspected meat processing establishments.

After due consideration of all relevant matters, including those presented in connection with such proposal, and under the authority of the Federal Meat Inspection Act, § 309.16 of the regulations is amended as set forth below.

**Statement of considerations.** The slaughter of livestock whose edible tissues may be adulterated because of a biological residue must be prevented until the residue is reduced to a level where the tissues are again fit for use as human food and otherwise not adulterated.

This amendment is adopted for the purpose of assuring, in the interest of consumer protection, that cattle and sheep carcasses and parts thereof passed for human food at establishments subject to the Act are not adulterated by residues of the synthetic hormonelike substance diethylstilbestrol (DES). The amendment will not allow cattle or sheep to be slaughtered at official establishments unless the operator of the official establishment obtains a certificate from the owner, feedlot manager, feeder, selling agent, buying agent, dealer, or other person who had custody of the cattle and sheep during the production or feeding period, or during an interim holding period immediately prior to delivery to the official establishment. It must appear from the certificates that (1) the animals have not received feed containing DES within the 7 days immediately prior to presentation for slaughter, and (2) the applicable regulations of the Food and Drug Administration were followed if the drug was administered in the feed of the cattle and sheep prior to such 7-day period. When the certification does not meet these requirements, or no certificate is furnished, the cattle and sheep must be held alive for a required 7-day period, or slaughtered and tissue samples sent to an acceptable private or commercial laboratory for testing.

Section 309.16 is amended to read as follows:

#### § 309.16 Livestock suspected of having biological residues.

(a) Except as provided in paragraph (b) or (c) of this section, no cattle or sheep shall be slaughtered at any official

establishment until they have been held thereat as described in this paragraph for a minimum of 7 days before slaughter and the following conditions are met:

(1) The animals must be fed a ration free of diethylstilbestrol (DES) throughout the holding period.

(2) Suitable facilities as specified in § 307.2(a) of this chapter must be provided for holding the animals.

(3) During such period the animals shall be identified as "U.S. Condemned."

(b) In lieu of holding as required by paragraph (a) of this section, cattle or sheep may be handled as provided in this paragraph (b).

(1) Cattle or sheep may, subject to other restrictions under this subchapter, be slaughtered at any official establishment if they are accompanied by a certificate as prescribed in this paragraph, signed by the owner, feedlot manager, feeder, selling agent, buying agent, dealer, or other person who had custody of the animals during a period of 7 days or more immediately prior to delivery to the official establishment. Each certificate must show:

(i) The number and kind of animals covered by the certificate;

(ii) That the person making the certification had custody of the animals for 7 days or more, immediately prior to delivery to the official establishment;

(iii) Whether the animals did or did not receive feed containing DES while in the custody of the person making the certification;

(iv) The date of withdrawing from DES if the animals received feed containing DES; and

(v) That the regulations under the Federal Food, Drug, and Cosmetic Act were followed when feed containing DES was used in the feeding of the animals.

(2) Alternatively, cattle or sheep may, subject to other restrictions under this subchapter, be slaughtered at any official establishment if any market agency or dealer who provides cattle or sheep to the official establishment (hereinafter referred to as the agency or dealer) and who had custody of the animals during an interim holding period of less than 7 days prior to delivery to the official establishment, furnishes a certificate showing:

(i) He has in his possession a certificate or certificates executed by another person or persons showing:

(a) The number and kind of animals covered by each certificate;

(b) That the person or persons making the certification had custody of the animals for a period of 7 days or more prior to their delivery to said dealer;

(c) Whether the animals did or did not receive feed containing DES during the period in which the animals were in the custody of the person or persons making the certification;

(d) The date of withdrawing from DES if the animals received feed containing DES during said period; and

(e) That the regulations under the Federal Food, Drug, and Cosmetic Act



were followed when feed containing DES was used in the feeding of the animals during said period.

(ii) For animals shown by a certificate prescribed in subdivision (i) of this subparagraph to have received feed containing DES within 7 days prior to the date of execution of the agency's or dealer's certificate, the last date on which the animals received such feed, as shown by the certificates prescribed in subdivision (i) of this subparagraph;

(iii) The animals offered for slaughter are the same animals covered by the certificates described in subdivision (i) of this subparagraph;

(iv) The number and kind of animals covered by the certificate;

(v) The number of days the animals were in the custody of such agency or dealer; and

(vi) The animals did not receive feed containing DES while in the custody of such agency or dealer.

(3) A copy of each certificate issued by the agency or dealer as prescribed in subparagraph (2) of this paragraph and the original certificates issued by other persons as prescribed in subparagraph (2)(i) of this paragraph shall be maintained by the agency or dealer in his place of business for not less than 1 year after he issues his certificate under this paragraph (b).

(4) Except as provided in subparagraph (3) of this paragraph, the certificates must accompany the animals and be delivered by the operator of the official establishment to a Program employee at the official establishment prior to presentation of the animals for slaughter.

(5) If it appears to the Program employee, from such certificates, that there was compliance with the conditions specified in subdivision (v) of subparagraph (1) of this paragraph and that the animals did not receive any feed containing DES for 7 days immediately prior to their presentation for slaughter, the animals may be slaughtered, subject to any other restrictions in this subchapter; otherwise, the animals shall be held under the conditions prescribed in paragraph (a) of this section until the expiration of 7 days in which the animals have not received feed containing DES.

(6) The Administrator may, in specific cases, require the collection by Program employees and analysis by a Department laboratory of tissue samples from animals slaughtered under this paragraph (b) to determine whether they contain any DES residues.

(7) Any person who knowingly makes a false statement in any certificate prescribed in this paragraph (b) is subject to criminal prosecution.

(c) In lieu of holding as prescribed in paragraph (a) of this section or of certification as prescribed in paragraph (b) of this section, cattle or sheep may, subject to other restrictions under this subchapter, be slaughtered at any official establishment upon the condition that all the carcasses and edible organs and other parts thereof shall be desig-

nated as "U.S. Retained" and held until samples of the tissues have been subjected to laboratory analyses for DES, residues, in accordance with the following procedure, the results of the analyses have been furnished to the Program employee, and the articles have been released by the Program employee from retention or condemned under paragraph (e) of this section.

(1) A specified number of random samples as prescribed in the Manual of Meat Inspection Procedures must be collected by the Program employee. A sufficient quantity of tissue must be collected to provide a duplicate of each sample.

(2) The operator of the official establishment must submit one set of the duplicate samples to a laboratory, that is acceptable to the Administrator and have such sample analyzed for DES residue. Expenses incurred in connection with such analyses shall be paid by the operator of the official establishment.

(3) The Program employee must submit one set of the duplicate samples to a Department laboratory for monitoring.

(d) Livestock suspected of having been treated with or exposed to any substance that may impart a biological residue which would make the edible tissues unfit for human food or otherwise adulterated, shall be handled in compliance with the provisions of this paragraph in addition to any applicable requirements of paragraph (a) of this section. They shall be identified at official establishments as "U.S. Condemned." These livestock may be held under the custody of a Program employee, or other official designated by the Administrator, until metabolic processes have reduced the residue sufficiently to make the tissues fit for human food and otherwise not adulterated. When the required time has elapsed, the livestock, if returned for slaughter, must be reexamined on ante mortem inspection. To aid in determining the amount of residue present in the tissues, officials of the Program may permit the slaughter of any such livestock to collect tissues for analysis for the residue.

(e) All carcasses and edible organs and other parts thereof, in which are found any biological residues which render such articles adulterated, shall be marked as "U.S. Condemned" and disposed of in accordance with § 314.1 or § 314.3 of this chapter.

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 621; 29 P.R. 16210, as amended; 36 P.R. 13169)

The amendment differs in certain respects from that proposed in the notice of rule making. The differences are due primarily to changes made pursuant to comments received from interested persons. It does not appear that publication of further notice or other public rule making procedure with respect to this amendment would make additional information available to this Department. The amendment should be made effective promptly in order to accomplish its ob-

jective of assuring that meat products prepared at federally inspected establishments are not adulterated. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further public rule making procedure is unnecessary and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after its publication in the FEDERAL REGISTER. This amendment shall become effective 15 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., on December 20, 1971.

CLAYTON YEUTTER,  
Administrator,

Consumer and Marketing Service.

[FR Doc.71-18837 Filed 12-23-71; 8:46 am]

## Title 15—COMMERCE AND FOREIGN TRADE

### Chapter IV—Foreign-Trade Zones Board

[Order No. 88]

#### PART 400—GENERAL REGULATIONS GOVERNING FOREIGN-TRADE ZONES IN THE UNITED STATES, WITH RULES OF PROCEDURE

##### Miscellaneous Amendments

Pursuant to the provisions of section 8 of the Foreign-Trade Zones Act of June 18, 1934 (48 Stat. 1000; 19 U.S.C. 81h), the General Regulations Governing Foreign-Trade Zones in the United States, with Rules of Procedure (15 CFR Part 400), are hereby amended as follows:

1. Section 400.400 is amended by adding after the last sentence a new sentence to read as follows:

§ 400.400 Economic Survey of proposed zone.

\* \* \* In considering the economic impact of the proposal, the Board will take into account its impact on the U.S. balance of payments, as well as its environmental impact in the light of national policy.

2. Section 400.600 is amended to read as follows:

§ 400.600 Address.

Applications for grants should be filed with, and all official communications in connection therewith addressed to the Secretary of Commerce, Chairman and Executive Officer of the Foreign-Trade Zones Board, Washington, D.C. 20230.

3. Section 400.601 is amended to read as follows:

§ 400.601 Number of copies.

Every application, and attachment, shall be submitted with 12 true copies in addition to the original, unless the Executive Secretary determines that fewer copies are needed.



4. Section 400.603(e) is amended to read as follows:

**§ 400.603 Exhibits.**

(e) *Exhibit No. 5.* An economic survey showing in detail the potential commerce and revenue of the proposed zone and other direct and indirect benefits accruing therefrom; present foreign trade of the port area, including transshipment, reexport, and reconignment trade; present transportation services, and possible increases in such services where necessary; comparative study of export rates on domestic commodities for mixing with foreign goods; analysis of transportation rates where applicable to zone activity; potential new markets for zone business; activities best suited to the particular zone; the impact that the operation of the zone is expected to have on the U.S. balance of payments and balance of trade; the expected environmental impact of the zone with details as to control measures not otherwise described in the next exhibit; and such other data as may be necessary to a determination of whether the establishment of the zone is justified to expedite and encourage foreign commerce in a manner compatible with domestic and foreign economic policy.

5. Section 400.607 is amended to read as follows:

**§ 400.607 Applications for expansion of zone and modification of zone boundaries.**

Applications for expansion of an established zone shall be made and approved in the same manner as an original application. In cases of requests for minor modifications in zone boundaries which are not designed to expand zone operations and will not result in such an expansion, the Executive Secretary is authorized to determine the requirements for the exhibits to such applications. Among the exhibits there shall be a report from the District Director of Customs and of the District Engineer. If the latter two officials recommend that the requested modification be approved, the Executive Secretary shall have the authority to approve the application.

6. Section 400.700 is amended to read as follows:

**§ 400.700 Failure to comply with conditions of grant.**

Should the grantee fail to comply with any of the conditions of a zone or sub-zone grant issued by the Board, including the provisions concerning construction and commencement of operations, the Board may revoke the grant or declare it null and void. In such cases the Board may issue an order to show cause why the action it contemplates should not be taken, and the grantee shall have 30 days in which to answer.

**§ 400.800 [Amended]**

7. Section 400.800 is amended by striking the citation to the Bureau of Customs'

regulations and inserting in lieu thereof "(19 CFR Part 146)".

**§ 400.801 [Amended]**

8. Section 400.801 is amended by striking the first eight words in paragraph (a) (2) and inserting in lieu thereof "conditionally admissible merchandise which may be imported under certain conditions."

9. Section 400.801 is further amended by striking the last sentence in paragraph (a) and inserting a new sentence to read as follows:

"Unless otherwise prohibited, over-quota merchandise may be placed in a zone pending its right to transfer to customs territory pursuant to the applicable quota provisions."

**§ 400.804 [Amended]**

10. Section 400.804 is amended by striking the citations to the Bureau of Customs' regulations and inserting in lieu thereof in order of appearance:

"§§ 146.14, 146.21, 146.22, 146.23, 146.24, and 146.25."

**§ 400.1000 [Amended]**

11. Section 400.1000 is amended by striking the citation to the Bureau of Customs' regulations and inserting in lieu thereof "(19 CFR Part 146)".

**§ 400.1002 [Amended]**

12. Section 400.1002(a) is revoked.

13. A new § 400.1014 is added to read as follows:

**§ 400.1014 Requirements for accounts, records, and reports.**

Zone grantees shall maintain their accounts in accordance with generally accepted principles of accounting, and in compliance with any requirements of Federal, State, or local governmental agencies having appropriate jurisdiction over the grantee. As to other records and reports, applicable provisions of the Uniform System of Accounts, Records, and Reports, approved by the Board on February 6, 1939, shall remain in effect, as modified by instructions issued by the Executive Secretary concerning preparation of Annual Reports dated July 6, 1964. Records kept under the System shall be retained for 5 years after the merchandise covered by such records has been forwarded from the zone.

14. Section 400.1301 is amended by renumbering paragraph (i) as paragraph (j) and by adding new paragraphs (i), (j), and (k) to read as follows:

**§ 400.1301 Executive Secretary of the Board.**

(i) Authorize in appropriate cases amendments to applications filed with the Board, except that no substantive changes may be authorized after notice of a public hearing, or an invitation for comments, has been published.

(j) Approve in appropriate cases, with the prior recommendations of the District Director of Customs and the District Engineer, requests for minor modifica-

tions to zone boundaries which will not result in an expansion of zone operations.

(k) Approve in appropriate cases, with the prior approval of the District Director of Customs, requests to permit the use of alternate fencing to that specified in § 400.403.

15. Section 400.1303 is amended to read as follows:

**§ 400.1303 Transaction of board business.**

(a) Meetings of the Board will be held on call of the Chairman. Two members of the Board shall be necessary for a quorum.

(b) At the option of the Chairman, the Board may conduct its business, including voting, without an actual meeting being held, provided that no Board member has requested a meeting. When business is so conducted, Board members may communicate their views and recommendations by such means as telephone and memorandum, but the votes of members shall be made in writing and submitted to the Executive Secretary for entry in the voting record.

(c) Final votes of each Board member, including dissenting votes, will be recorded and the voting record shall be available for public inspection.

16. Section 400.1305 is amended by striking the first sentence and inserting in lieu thereof the following new sentence:

**§ 400.1305 Authorization for hearings.**

The Board, or its Chairman, may authorize hearings or rehearings.

**§§ 400.200 and 400.1003 [Amended]**

17. Sections 400.200 and 400.1003(c) are amended by striking the citations to the Shipping Act of 1916 and the Interstate Commerce Act and inserting in lieu thereof, "(46 U.S.C. secs. 801 et seq.)" and "(49 U.S.C. secs. 1 et seq.)" respectively.

On August 11, 1971, there was published in the FEDERAL REGISTER (36 F.R. 14768) a notice of proposed rule making wherein the Foreign-Trade Zones Board proposed the foregoing amendments to its regulations. Interested persons were given 30 days in which to submit written views and comments regarding the proposed amendments. The views and comments which were received have been considered by the Board in adopting the amendments.

This order shall be effective 30 days after publication in the FEDERAL REGISTER.

Dated: December 9, 1971.

FOREIGN-TRADE ZONES  
BOARD,

[SEAL] MAURICE H. STANS,  
Secretary of Commerce, Chairman  
and Executive Officer,  
Foreign-Trade Zones Board.

Attest:

JOHN J. DA PONTE, Jr.,  
Acting Executive Secretary.

[FR Doc. 71-18839 Filed 12-23-71; 8:46 am]



# **Title 20—EMPLOYEES' BENEFITS**

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

[Regs. No. 5, further amended]

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

#### **Subpart J—Conditions of Participation; Hospitals**

#### **Subpart K—Conditions of Participation; Extended Care Facilities**

##### **MODIFICATION OF PREAMBLE**

On October 28, 1971, there were published in the *FEDERAL REGISTER* (36 F.R. 20675) amendments to Subparts J and K of Regulations No. 5, together with a preamble indicating the substantive changes made in the proposed amendments as a result of comments received.

Paragraph (b) of the preamble published at that time stated that specific requirements of the Life Safety Code may be waived if the Secretary finds that the State code adequately protects the patients in participating facilities or if compliance would result in unreasonable hardship. This statement is ambiguous and incomplete in explaining the provisions of the regulations concerning the applicability of the Life Safety Code. Therefore, to more precisely reflect the provisions of the regulations, paragraph (b) of the preamble to the regulations is revised to read as follows:

(b) In addition, §§ 405.1022 and 405.1134 have been modified to:

(1) Specify that the 21st edition, 1967 (the edition specified in title XIX of the Social Security Act and adopted by the Joint Commission on Accreditation of Hospitals), is the edition of the Life Safety Code established as the standard for extended care facilities and non-accredited hospitals;

(2) Include provisions consistent with the provisions under title XIX of the Social Security Act, permitting a State agency to waive specific requirements of the Life Safety Code, under certain circumstances, but only if the State agency makes a determination that such waiver will not adversely affect the health and safety of the patients;

(3) Include a provision that the Life Safety Code will not apply in any State where the Secretary makes a finding that the State fire and safety code, imposed by law, adequately protects patients in hospitals and extended care facilities;

(4) Eliminate separate language relating to fire drills and fire extinguishers since these requirements are included in the Life Safety Code which has been adopted; and

(5) Update the requirements for the handling and storage of oxygen to con-

form to the latest National Fire Protection Association published standards on these subjects.

Dated: November 15, 1971.

**ROBERT M. BALL,**  
*Commissioner of Social Security.*

Approved: December 18, 1971.

**ELLIOT L. RICHARDSON,**  
*Secretary of Health, Education, and Welfare.*

[FR Doc. 71-18834 Filed 12-23-71; 8:46 am]

# **Title 28—JUDICIAL ADMINISTRATION**

## **Chapter I—Department of Justice**

[Order 474-71]

### **PART 52—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES**

#### **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**

By virtue of the authority vested in me by section 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894, 1900 (42 U.S.C. 4633), Chapter I of Title 28, Code of Federal Regulations, is amended by adding a new Part 52, to read as follows:

##### **Subpart A—General Provisions**

- Sec. 52.11 Purpose.
- 52.12 Effective date.
- 52.13 Definitions.
- 52.14 Qualifications.
- 52.15 Multiple occupancy.
- 52.16 Effects upon property acquisitions.

##### **Subpart B—Moving Expenses**

- 52.20 Moving and related expenses.
- 52.21 Actual reasonable expenses in moving.
- 52.22 Actual direct losses by business or farm operation.
- 52.23 Exclusions from moving expenses and losses.
- 52.24 Expenses in searching for replacement business or farm.

##### **Subpart C—Payments in Lieu of Moving and Related Expenses**

- 52.31 Schedules.
- 52.32 Business eligibility.
- 52.33 Loss of existing patronage to a business.
- 52.34 Farms—partial taking.
- 52.35 Nonprofit organizations.

##### **Subpart D—Replacement Housing—Homeowner**

- 52.40 Replacement housing for homeowner.
- 52.41 Eligibility.
- 52.42 Suitable replacement dwelling.
- 52.43 Computation of replacement housing payment.

##### **Subpart E—Replacement Housing for Tenants and Certain Others**

- 52.51 Eligibility.

##### **Subpart F—Computation of Replacement Housing Payment for Displaced Tenants**

- Sec. 52.61 Rental replacement housing payment.
- 52.62 Purchases—replacement housing payment.
- 52.63 Computation of replacement housing for certain others.

##### **Subpart G—Relocation Assistance Advisory Services**

- 52.71 Coordination.

##### **Subpart H—Duties of Bureaus**

- 52.80 Determination availability.
- 52.81 Support.
- 52.82 Waiver.
- 52.83 Decent, safe and sanitary housing.
- 52.84 Absence of local standards.

##### **Subpart I—Housing Replacement**

- 52.90 Housing replacement by Federal agency as last resort.

##### **Subpart J—Requirements for Relocation Payments and Assistance of Federally Assisted Programs**

- 52.111 Assurances.
- 52.112 Inability to provide assurances prior to July 1, 1971.
- 52.113 Inability to provide assurances for programs or projects causing displacement on or after July 1, 1972.
- 52.114 State submissions.
- 52.115 Compliance with sections 301 and 302.
- 52.116 Monitoring assurances.

##### **Subpart K—Costs**

- 52.120 Federal share of cost.

##### **Subpart L—Administration—Programs Receiving Federal Financial Assistance**

- 52.130 Relocation assistance.
- 52.131 Approval.
- 52.132 Contents.

##### **Subpart M—Bureau Regulations**

- 52.140 Implementing procedures.

##### **Subpart N—Annual Report**

- 52.151 Preparation.
- 52.152 Statistical data.

##### **Subpart O—Other Duties of Bureaus**

- 52.160 Payments not to be considered as income.

##### **Subpart P—Uniform Real Property Acquisition Policy**

- 52.171 Owners.
- 52.172 Summary statement of just compensation.
- 52.173 Interest in acquisition of real property.
- 52.174 Appraisal.
- 52.175 Payments.
- 52.176 Condemnation.
- 52.177 Expenses incidental to transfer of title to United States.
- 52.178 Litigation expenses.
- 52.179 States.

**AUTHORITY:** The provision of this Part 52 issued under section 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894, 1900 (42 U.S.C. 4633).

##### **Subpart A—General Provisions**

###### **§ 52.11 Purpose.**

The purpose of the regulations in this part is to implement the provisions of the Uniform Relocation Assistance and Real



Property Acquisition Policies Act of 1970, 84 Stat. 1894, 42 U.S.C. 4601, et seq., to ensure fair and equitable acquisition practices and uniform, fair, and equitable treatment of persons displaced by Federal and federally assisted programs and to safeguard against abuse of any of the underlying purposes, provisions, and policies of the Act.

#### § 52.12 Effective date.

The Act and the amendments made by the Act became effective on January 2, 1971, except as provided below:

(a) Until July 1, 1972, sections 210 and 305 of the Act are applicable to a State only to the extent that such State is able under its laws to comply with such sections. After July 1, 1972, such sections will be completely applicable to all States.

(b) The repeals made by paragraphs (4), (5), (6), (8), (9), (10), (11), and (12) of section 220(a) and section 306 of the Act do not apply to any State so long as sections 210 and 305 of the Act are not applicable in such State.

#### § 52.13 Definitions.

The terms used in the regulations are defined as follows:

(a) "Act"—the Act of January 2, 1971 (84 Stat. 1894, 42 U.S.C. 4601 et seq.)

(b) "Federal Agency"—any department, agency, or instrumentality in the executive branch of the Government (except the National Capital Housing Authority), any wholly owned Government corporation (except the District of Columbia Redevelopment Land Agency) and the Architect of the Capitol, the Federal Reserve banks and branches thereof, but not including the National Park Foundation which although federally chartered is a private entity.

(c) "State"—any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

(d) "Bureau"—The following components of the Department of Justice:

- (1) Immigration and Naturalization Service;
- (2) Bureau of Prisons;
- (3) Law Enforcement Assistance Administration.

(e) "Head of Bureau"—the head of any Bureau listed in paragraph (d) of this section, or his designee.

(f) "Initiation of negotiations"—the date the Bureau makes the first personal or letter contact with the owner or his representative where price is discussed.

(g) "Dwelling"—includes a single family building; a one-family unit in a multifamily building; a unit of a condominium, or cooperative housing project; any other residential unit, including a mobile home which is either considered to be real property under State law, or cannot be moved without substantial damage or unreasonable cost. For purposes of sections 203 and 204 of the Act the term "dwelling" shall mean the place of permanent abode of a person and does not include seasonal or part-time dwell-

ing units; such as beach houses, mountain, or other vacation cabins.

(h) "State Agency"—the National Capital Housing Authority, the District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or a political subdivision of a State, or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States.

(i) "Federal financial assistance"—a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any annual payment or capital loan to the District of Columbia.

(j) "Person"—any individual, partnership, corporation, or association.

(k) "Displaced person"—any person who, on or after January 2, 1971, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by any Bureau of the Department of Justice or with Federal financial assistance; and solely for the purposes of sections 202(a) and (b) and 205 of the Act, as a result of the acquisition of or as the result of the written order of the acquiring Bureau to vacate other real property, on which such person conducts a business or farm operation, for such program or project.

(l) "Business"—any lawful activity, excepting a farm operation, conducted primarily:

- (1) For the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;
- (2) For the sale of services to the public;
- (3) By a nonprofit organization; or
- (4) Solely for the purposes of section 202(a) of the Act (see § 52.2) for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(m) "Farm operation"—any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(n) "Mortgage"—such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

(o) "Owner"—a person who holds fee title, a life estate, a 99-year lease, or has an interest in a cooperative housing

project which includes the right of occupancy of a dwelling unit, or is the contract purchaser of any such estates or interests. In the case of one who has succeeded to any of the foregoing interests by devise, bequest, inheritance, or operation of law, the tenure of ownership, not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

(p) "Financial Means"—for the purpose of determining financial means of families and individuals in accordance with section 205(c) (3) of the Act, a financial means test (ability to pay) must be made to satisfy the requirement set forth in § 52.4. In order to meet a financial means test a determination should be made as to the displaced person's ability to afford the replacement dwelling. In making this determination the average monthly rental or housing cost (e.g., monthly mortgage payments, insurance for the dwelling unit, property taxes, and other reasonable recurring related expenses) which the displaced person will be required to pay, in general, should not exceed 25 percent of the monthly gross income or the present ratio of housing payment to the income of the displaced family or individual, including supplemental payments made by public agencies.

#### § 52.14 Qualifications.

In order to qualify for benefits under the Act as a displaced person, the following conditions must be fulfilled:

- (a) The person must have received a written notice served personally or by first-class mail to vacate which notice may be given before or after initiation of negotiations for acquisition of the property as prescribed by regulations; or
- (b) The subject real property must in fact have been acquired, and the person must have moved as a result of its acquisition (except in those instances covered by sections 217 and 219 of the Act).
- (c) Applications for benefits under the Act are to be made within 18 months from the date of displacement. The head of a Bureau may extend this period upon a proper showing of good cause.

§ 52.15 Multiple occupancy.

Multiple occupancy shall be treated as single occupancy in the case of individuals, not families, in dealing with benefits for replacement housing.

#### § 52.16 Effects upon property acquisition.

The provisions of section 301 of the Act create no rights or liabilities and shall not affect the validity of any real property acquisition.

(a) For real property acquisition under Federal law, contracts on options to purchase real property shall not incorporate payments for relocation costs and related items in title II of the Act. Appraisers shall not give consideration to or include in their appraisals any allowances for the benefits provided by title II of the Act. In the event of condemnation with a declaration of taking the estimated compensation should be



determined solely on the basis of the appraised value of the real property with no consideration being given to or reference contained therein to the payments to be made under title II of the Act.

(b) Nothing in these regulations shall be construed as creating in any condemnation proceeding brought under the power of eminent domain, any element of value or of damage not in existence immediately prior to the date of the enactment of the Act.

(c) Determination by the heads of Bureaus as to payments under the Act, shall be final. However, in the event of dissatisfaction by any displaced person the following rights of review will be followed:

(1) Any dispute concerning a question of fact arising under the Act which is not disposed of by agreement shall be decided by the head of the Bureau who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the displaced person. This decision shall be final and conclusive unless, within 30 days from the date of receipt of such copy the displaced person mails or otherwise furnishes a written appeal addressed to the Attorney General.

(2) The decision of the Attorney General or his duly authorized representative for the determination of such appeals shall be final and conclusive. In connection with any appeal proceeding under this condition, the displaced person shall be afforded an opportunity to be heard and to offer evidence in support of his appeal.

#### Subpart B—Moving Expenses

##### § 52.20 Moving and related expenses.

Whenever the acquisition of real property for a program or project will result in the displacement of any person on or after the effective date of the Act, the head of the Bureau shall make a payment to any displaced person upon application as approved by such official for the following, or the "in lieu" payments authorized by Subpart C of this part.

(a) Actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(b) Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the head of the Bureau; and

(c) Actual reasonable expenses in searching for a replacement business or farm operation. Payment for search cost in connection with locating replacement housing is not authorized under the Act.

##### § 52.21 Actual reasonable expenses in moving

(a) *Allowable expenses.* Actual reasonable expenses in moving may be allowed as follows:

(1) Transportation of individuals, families, and property from acquired site, to the replacement site, not to exceed a distance of 50 miles, except where the

head of the Bureau determines that relocation beyond the 50-mile area is justified.

(2) Packing and crating of personal property.

(3) Advertising for packing, crating and transportation when the head of the Bureau determines that it is desirable.

(4) Storage of personal property for a period generally not to exceed 6 months when the head of the Bureau determines that storage is necessary in connection with relocation.

(5) Insurance premiums covering loss and damage of personal property while in storage or transit.

(6) Removal and reinstallation, and reestablishment of machinery, equipment, appliances, and other items, not acquired as real property, including reconnection of utilities, which do not constitute an improvement (except when required by law) to the replacement site, and which were not acquired by the displacing Bureau. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personal and that the displacing Bureau is released from any payment for the property.

(7) Property lost, stolen, or damaged (not caused by the fault or neglect of the displaced person, his agent or employees) in the process of moving, where insurance to cover such loss or damage is not available.

(8) Such other reasonable expenses as determined by the head of the Bureau.

(b) *Limitations.* (1) When the displaced person accomplishes the move himself, the amount of payment shall not exceed the estimated cost of moving commercially.

(2) When an item of personal property which is used in connection with any business or farm operation is not moved but sold and promptly replaced with a comparable item, reimbursement shall not exceed the replacement cost, minus the proceeds received from the sale, or the cost of moving, whichever is less.

(3) When personal property which is used in connection with any business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value, in the judgment of the head of the Bureau, the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amount which would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market. This provision will be applicable in the case of moving of junk yards, stockpiled sand, gravel, minerals, metals, and similar type items of personal property.

(4) If the cost of moving or relocating an outdoor advertising display or displays is determined to be equal to or in excess of the in-place value of the display, consideration should be given to acquiring such display or displays as a part of the real property, unless such acquisition is prohibited by State law.

##### § 52.22 Actual direct losses by business or farm operation.

Whenever the acquisition of real property used for a business or farm operation causes any person to move from other real property used for his dwelling, or to move his personal property from such other real property, on or after the effective date of the Act, such person may receive payments for moving and related expenses and relocation advisory assistance under the provisions of the Act.

(a) When the displaced person does not move personal property he shall be required to make a bona fide effort to sell it.

(b) When personal property is sold and the business or farm operation reestablished, the displaced person is entitled to payment provided in § 52.21(b)(2).

(c) When the business or farm operation is discontinued, the displaced person is entitled to the difference between the in-place value of the personal property and the sale proceeds, or the cost of moving, whichever is less.

(d) When the personal property is abandoned, the displaced person is entitled to payment for the difference between the in-place value and the amount which would have been received from the sale of the item, or the cost of moving, whichever is less.

##### § 52.23 Exclusions from moving expenses and losses.

The following items are excluded from moving expenses and losses:

(a) Additional expenses incurred because of living in a new location.

(b) Cost of moving structures, improvements or other real property in which the displaced person reserved ownership.

(c) Improvements to the replacement site, except when required by law.

(d) Interest on loans to cover moving expenses.

(e) Loss of good will.

(f) Loss of profits.

(g) Loss of trained employees.

(h) Personal injury.

(i) Cost of preparing the application for moving and related expenses.

(j) Modification of personal property to adapt it to replacement site, except when required by law.

(k) Such other items as the head of the Bureau determines should be excluded.

##### § 52.24 Expenses in searching for replacement business or farm.

(a) Subject to the limitation in paragraph (b) of this section, the following items are allowed:

(1) Travel costs.

(2) Reasonable costs for meals and lodging.

(3) Time spent in searching at the rate of the displaced person's salary or earnings, but not to exceed \$10 per hour.

(4) Broker or realtor fee to locate a replacement business or farm operation with the advance approval of the head of the Bureau.

(b) *Limitation:* The total amount which a displaced person may be paid



for searching expenses shall not exceed \$500, unless the head of the Bureau determines that a greater amount is justified based on the circumstances involved.

### Subpart C—Payments in Lieu of Moving and Related Expenses

#### § 52.31 Schedules.

Any displaced person eligible for payments under § 52.20 who is displaced from a dwelling and who elects to accept the payments authorized by this section in lieu of the payments authorized by § 52.20 may receive a moving expense allowance, determined in accordance with a schedule established by the head of the Bureau, not to exceed \$300, and a dislocation allowance of \$200. These schedules should be based on moving allowance schedules maintained by the respective State highway departments.

(a) Any displaced person eligible for payments under § 52.20 and this Subpart C who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this section in lieu of the payment authorized by § 52.20 and this Subpart C may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than \$2,500 nor more than \$10,000. In the case of a business no payment shall be made unless the head of the Bureau is satisfied that the business: (1) cannot be relocated without a substantial loss of its existing patronage, and (2) is not a part of a commercial enterprise having at least one other establishment not being acquired by the United States, which is engaged in the same or similar business. The term "average annual net earnings" means one-half of the sum of the net earnings of the business or farm operation, before Federal, State, and local income taxes, during the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the head of the Bureau determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period.

#### § 52.32 Business eligibility.

In order to be eligible for the payment authorized in § 52.31, the business must contribute materially to the income of the displaced owner. This standard eliminates those part-time family occupations such as newspaper routes, part-time typing, etc., unless they contribute materially to a displaced person's income.

#### § 52.33 Loss of existing patronage to a business.

The loss of existing patronage shall be determined by the head of the Bureau only after consideration of all pertinent circumstances, including the following factors:

(a) The type of business conducted by the displaced concern.

(b) The nature of the clientele of the displaced concern.

(c) The relative importance of the present and proposed location to the displaced business.

#### § 52.34 Farms—partial taking.

In the case where an entire farm operation is not acquired, the payment provided by § 52.30 shall be made only if the head of the Bureau determines that the farm meets the definition of a farm operation prior to the acquisition and that the real property remaining after the acquisition is no longer an economic unit.

#### § 52.35 Nonprofit organizations.

(a) Where a nonprofit organization is displaced, no payment shall be made under section 202(c) of the Act until after the head of the Bureau determines:

(1) That the nonprofit organization cannot be relocated without a substantial loss of its existing patronage. The term "existing patronage" as used in connection with nonprofit organizations includes the persons, community or clientele served or affected by the activities of the nonprofit organization.

(2) That the nonprofit organization's activities will be substantially reduced because of the displacement.

(3) That the nonprofit organization is not part of an organization having at least one other establishment not being acquired which is engaged in the same or similar activity.

(b) Any in lieu payment made under section 202(c) of the Act to an eligible nonprofit organization shall be in the amount of \$2,500.

### Subpart D—Replacement Housing—Homeowner

#### § 52.40 Replacement housing for homeowner.

(a) In addition to payments otherwise authorized, the head of the Bureau shall make an additional payment not in excess of \$15,000 to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than 180 days prior to the initiation of negotiations for the acquisition of the property. Such additional payment shall include the following elements:

(1) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the Bureau, equals the reasonable cost of a comparable replacement dwelling which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market.

(2) The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the Bureau was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the initiation of negotiations for

the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of the amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(3) Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(b) The additional payment authorized by this § 52.4 shall be made only to such a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the 1-year period beginning on the date on which he receives from the Bureau final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

(c) Section 203(b) is not applicable to the Department of Justice as the Department does not administer any laws under which Federal insurance mortgages are available.

(d) Whenever a displaced person is eligible for a payment but has not yet purchased a replacement dwelling, the head of the Bureau shall at the request of the displaced person provide a written statement to any interested person, financial institution or lending agency as to such person's eligibility for a payment and the requirements that must be satisfied before such payment can be made.

#### § 52.41 Eligibility.

(a) A displaced owner-occupant is eligible for a replacement housing payment if he:

(1) Actually owned and occupied the acquired dwelling for not less than 180 days immediately prior to the initiation of negotiations for the property and,

(2) Meets the eligibility requirements of § 52.4(b).

(b) A displaced owner-occupant of a dwelling who is determined to be ineligible under this section may be eligible for a replacement housing payment under § 52.5.

#### § 52.42 Suitable replacement dwelling.

A suitable replacement dwelling is one which when compared with the dwelling being taken is:

(a) Decent, safe and sanitary.

(b) Functionally equivalent and substantially the same with respect to:

- (1) Number of rooms.
- (2) Area of living space.
- (3) Age.
- (4) State of repair.

(c) Open to all persons regardless of race, color, religion, sex, or national origin and consistent with the requirements



of title VIII of the Civil Rights Act of 1968.

(d) In areas not generally less desirable than the dwelling to be acquired in regard to:

- (1) Public utilities.
- (2) Public and commercial facilities.
- (3) Reasonably accessible to the relocatee's place of employment.
- (4) Adequate to accommodate the relocatee.
- (5) In an equal or better neighborhood.
- (6) Available on the market.
- (7) Within the financial means of the displaced family or individual.

**§ 52.43 Computation of replacement housing payment.**

(a) *Differential payment for replacement housing.* The head of the Bureau may determine the amount necessary to purchase a suitable replacement dwelling by either establishing a schedule or by using a comparative method.

(1) *Schedule method.* Bureaus may establish a schedule of reasonable acquisition cost for suitable replacement dwellings in the various types of dwellings required and available on the private market. The schedule should be based on a current analysis of the market to determine an amount for each type of dwelling required. When more than one Federal agency is causing the displacement in a community or an area, Bureaus shall cooperate with such other agencies on the method for computing the Replacement Housing Payment and shall use the uniform schedules of sale housing in the community or areas.

(2) *Comparative method.* Bureaus may determine the price of a suitable replacement dwelling by selecting a dwelling or dwellings representative of the dwelling unit acquired, which are available on the private market and meet the definition of suitable replacement dwelling. Asking prices are to be adjusted to reflect the market sale experience. A single dwelling shall only be used when additional comparable dwellings are not available.

(3) *Limitations.* The amount established as the differential payment for the replacement housing sets the upper limit of this payment.

(i) If the displaced person, of his own volition, purchases and occupies a decent, safe, and sanitary dwelling at a price less than the differential payment, the replacement housing payment will be reduced to that amount required to pay the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(ii) If the displaced person, of his own volition, purchases and occupies a decent, safe, and sanitary dwelling at a price less than the acquisition price of the acquired dwelling, no differential payment shall be made.

(b) *Interest payment.* The interest payment shall be based on present value of the reasonable cost of the interest differential including points paid by the purchaser on the amount refinanced not to exceed the amount of the unpaid debt

for its remaining term at the time of acquisition of the real property.

(c) *Incidental expenses.* (1) The incidental expense payment is the amount necessary to compensate the homeowner for costs incident to the purchase of the replacement dwelling such as:

(i) Legal, closing, and related costs including title search, preparing conveyance contracts, notary fees, surveys, preparing drawings of plats, and charges incident to recordation.

(ii) Lenders, Federal Housing Administration, or Veterans Administration appraisal fees.

(iii) Federal Housing Administration application fee.

(iv) Certification of structural soundness when required by lender, Federal Housing Administration, or Veterans Administration.

(v) Credit Report.

(vi) Title policies or abstracts of title.

(vii) Escrow agent's fee.

(viii) State revenue stamps, or sale or transfer taxes.

(2) No fee, cost, charge, or expenses is reimbursable which is determined to be a part of the finance charge under title I of the Truth in Lending Act, 82 Stat. 146, 15 U.S.C. 1601, and regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System.

**Subpart E—Replacement Housing for Tenants and Certain Others**

**§ 52.51 Eligibility.**

(a) A displaced tenant or owner-occupant of less than 180 days is eligible for a replacement housing payment if he actually occupied the dwelling for not less than 90 days immediately prior to the initiation of negotiations for acquisition of the property, and meets the other eligibility requirements of this section.

(b) In addition to amounts otherwise authorized, the head of the Bureau shall make a payment to or for any displaced person from any dwelling not eligible to receive a payment under Subpart D of this part which dwelling was actually and lawfully occupied by such displaced person for not less than 90 days prior to the initiation of negotiations for acquisition of such dwelling. The Bureau shall notify the tenant or other occupant of the property in writing of the actual date of initiation of negotiations.

(c) Payment under this section shall be either:

(1) The amount necessary to enable such displaced person to lease or rent for a period not to exceed 4 years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed \$4,000, or

(2) The amount necessary to enable such person to make a downpayment, including incidental expenses described in § 52.43(c), on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate

such person in areas not generally less desirable in regard to public utilities and commercial and public facilities, but not to exceed \$4,000, except that if such amount exceeds \$2,000, such person must equally match any such amount in excess of \$2,000, in making the downpayment.

(d) An owner-occupant otherwise eligible for a payment under § 52.40(a) but who rents instead of purchases a replacement dwelling is eligible for replacement housing as a tenant.

**Subpart F—Computation of Replacement Housing Payment for Displaced Tenants**

**§ 52.61 Rental replacement housing payment.**

The head of the Bureau may establish the amount necessary to rent a suitable replacement dwelling by either establishing a schedule or by using a comparative method.

(a) *Schedule method.* Bureaus may establish a rental schedule for suitable replacement dwellings as described in § 52.42 for the various types of dwellings required and available on the private market. The payment should be computed by determining the amount necessary to rent a suitable replacement dwelling for 4 years (the average monthly cost from the schedule) and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations if such rent is reasonable, or if not reasonable, 48 times the monthly economic rent for the dwelling unit as established by the displacing Bureau. For purposes of these regulations, economic rent is defined as the amount of rent the displaced tenant would have had to pay for a similar dwelling unit in areas not generally less desirable than the dwelling unit to be acquired. The schedule should be based on a current analysis of the market to determine an amount for each type of dwelling required. When more than one Federal agency is causing the displacement in a community or an area, Bureaus shall cooperate with such other Federal agencies on the method for computing the replacement housing payment and shall use the uniform schedules of average rental housing in the community or areas.

(b) *Comparative method.* Bureaus may determine the average month's rent by selecting one or more dwellings representative of the dwelling unit acquired, available on the private market which meets the definition of a suitable replacement dwelling as described in § 52.42. The payment should be computed by determining the amount necessary to rent for 4 years a suitable replacement dwelling and subtracting from the amount so determined the lesser of 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations or if not reasonable, 48 times the monthly economic rent for the dwelling unit established by the displacing Bureau.



(c) *Exceptions.* The head of the Bureau may establish the average month's rent by using more than 3 months, if he deems it advisable. If rent is being paid to the displacing Bureau, economic rent shall be used in determining the amount of the payment to which the displaced tenant is entitled.

(d) *Disbursement of rental replacement housing payment.* All rental replacement housing payments in excess of \$1,000 will be made in four equal installments on an annual basis. Before making each installment payment, the displacing Bureau must verify that the tenant is in decent, safe, and sanitary housing.

#### § 52.62 Purchase—replacement housing payment.

If the tenant elects to purchase instead of rent, the payment shall be computed by determining the amount necessary to enable him to make a downpayment and to cover incidental expenses on the purchase of replacement housing.

(a) The downpayment shall be the amount necessary to make a downpayment on a suitable replacement dwelling. Determination of the amount "necessary" for such downpayment shall be based on the amount of downpayment that would be required for a conventional loan.

(b) Incidental expenses of closing the transaction are those as described in § 52.43(c).

(c) The full amount of the downpayment must be applied to the purchase price and such downpayment and incidental costs shown on the closing statement.

(d) If the displaced person cannot be paid or if payment cannot be computed under § 52.62, payment should be computed as provided under § 52.63.

#### § 52.63 Computation of replacement housing payments for certain others.

(a) A displaced owner-occupant not eligible under § 52.40 because he elects not to purchase a replacement dwelling, but wishes to rent may receive a rental replacement housing payment not to exceed \$4,000. The payment shall be computed in the same manner as shown in § 52.61 with the following additional criteria:

(1) The present rental rate for the acquired dwelling shall be economic rent as determined by market data, and

(2) The payment may not exceed the amount which the displaced owner-occupant would have received had he elected to receive a replacement housing payment under Subpart D.

(b) A displaced owner-occupant who does not qualify for a replacement housing payment under Subpart D of these regulations because of the 180-day occupancy requirement and elects to rent is eligible for rental replacement housing payment not to exceed \$4,000. The payment will be computed in the same manner as shown in this section, except that the present rental rate for the acquired dwelling shall be economic rent as determined by market data.

(c) A displaced owner-occupant who does not qualify for a replacement housing payment under Subpart D because of the 180-day occupancy requirement and elects to purchase a replacement dwelling is eligible for a replacement housing downpayment and closing cost not to exceed \$4,000. The payment will be computed in the same manner as shown in this section.

### Subpart G—Relocation Assistance Advisory Services

#### § 52.71 Coordination.

(a) Whenever the acquisition of real property for a program or project undertaken by a Bureau in any State will result in the displacement of any person on or after the effective date of the Act, the Bureau shall provide a relocation assistance advisory program for displaced persons which shall offer the services described in paragraph (c) of this section. If the head of the Bureau determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services under such program.

(b) Bureaus administering programs covered by this Act shall cooperate to the maximum extent feasible with other Federal or State agencies to assure that displaced persons receive the maximum assistance available to them.

(c) Each relocation assistance advisory program required by paragraph (a) of this section, shall include such measures, facilities, or services as may be necessary or appropriate in order to:

(1) Determine the need, if any, of displaced persons, for relocation assistance;

(2) Provide current and continuing information on the availability, prices, and rentals of comparable decent, safe, sanitary sales and rental housing, and of comparable commercial properties and locations for displaced businesses;

(3) Assure, that within a reasonable period of time, prior to displacement, replacement dwellings will be available in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, as defined by these regulations. The dwellings shall be available to, and equal in number to, the number of such displaced persons who require such dwellings and reasonably accessible to their places of employment, except that the head of the Bureau may waive such assurance (see § 52.82).

(4) Assist a person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;

(5) Supply information concerning Federal and State housing programs, disaster loan programs, and other Federal or State programs offering assistance to displaced persons; and

(6) Provide other advisory services to displaced persons in order to minimize

hardships to such persons in adjusting to relocation.

(d) Land owners and tenants within the project area must be fully informed at the earliest possible time of the relocation program and such matters as the payments and assistance available, the specific plans and procedures for assuring that suitable replacement housing will be available for homeowners and tenants in advance of displacement, the eligibility requirements and procedures for obtaining such payments and assistance, and the right to appeal to the Attorney General, and the procedure for appealing.

(e) The head of the Bureau shall coordinate relocation activities with project work, and other planned or proposed Governmental actions in the community or nearby areas which may affect the carrying out of relocation assistance programs.

### Subpart H—Duties of Bureaus

#### § 52.80 Determination availability.

Bureaus may not proceed with any phase of any project which will cause the displacement of any person until it has determined, or received satisfactory assurance that, within a reasonable period of time prior to displacement, there will be available on a basis consistent with the requirements of title VI of the Civil Rights Act of 1964 and title VIII of the Civil Rights Act of 1968, in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means (including supplements provided by law) of the families and individuals displaced, decent, safe, and sanitary dwellings, as described in § 52.83, equal in number to the number of, available to, such displaced persons who require such dwellings and reasonably accessible to their places of employment.

#### § 52.81 Support.

The determination or assurance under § 52.80 shall be based on a current survey and analysis of available replacement housing by the Bureau. Surveys to determine availability of replacement housing should be undertaken during the planning phase for each area wherein provisions of the Act may be applicable. These surveys should include sufficient data to provide assurances that replacement dwellings are available and meet requirements of the Act and criteria described herein. These surveys will list housing currently available. Information needed to develop and maintain the survey will be available from the Veterans Administration, Federal Housing Administration, Department of Housing and Urban Development, and Real Estate Associations.

#### § 52.82 Waiver.

Pursuant to § 52.71(c) (3) the head of the Bureau may waive the requirement for suitable replacement housing only on the basis of an emergency or other extraordinary situations where immediate possession of real property is of crucial



importance. Each waiver of assurance of replacement housing shall be supported by appropriate findings and a determination of the necessity for the waiver. Determinations so made shall be included in the annual report required by § 52.150.

**§ 52.83 Decent, safe, and sanitary housing.**

A decent, safe, and sanitary dwelling is one which is found to be in sound and weathertight condition, and which meets local housing codes. The head of the Bureau shall consider the following criteria in determining if a dwelling unit is decent, safe, and sanitary. Adjustments may only be made in the cases of unusual or unique geographical areas.

(a) *Housekeeping unit.* A housekeeping unit must include a kitchen with fully usable sink; a stove, or connections for same; a separate complete bathroom; hot and cold running water in both the bath and the kitchen; an adequate and safe wiring system for lighting and other electrical services; and heating as required by climatic conditions and local codes.

(b) *Nonhousekeeping unit.* A non-housekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living. If local codes do not include requirements relating to space and sanitary facilities, standards will be subject to the approval of the head of the Bureau causing the displacement.

(c) *Occupancy standards.* Occupancy standards for replacement housing shall comply with Bureau approved occupancy requirements or comply with local codes.

(d) *Facilities.* A dwelling unit meeting the physical and occupancy standards stated above, shall only be considered as suitable replacement housing when it is reasonably convenient to such community facilities as schools, stores, and public transportation.

**§ 52.84 Absence of local standards.**

In those instances where there is no local housing code or a local housing code does not contain certain minimum standards or the standards are inadequate, the head of the Bureau will establish the standards.

**Subpart I—Housing Replacement**

**§ 52.90 Housing replacement by Federal agency as last resort.**

(a) If a project cannot proceed to actual construction because comparable replacement sale or rental housing is not available, and the head of the Bureau determines that such housing cannot otherwise be made available, he may take such action as is necessary or appropriate to provide such housing by use of funds authorized for such project in conformance with criteria, guidelines and procedures to be issued by the Secretary of Housing and Urban Development. A State agency taking such action will comply with the requirements and procedures of the Department and Bureau providing the Federal financial assistance.

(b) No person shall be required to move from his dwelling on or after the effective date of the Act, on account of any project, unless the head of the Bureau is satisfied that replacement housing is available to such person.

**Subpart J—Requirements for Relocation Payments and Assistance of Federally Assisted Programs**

**§ 52.111 Assurances.**

Notwithstanding any other law, the head of any Bureau shall not approve any grant to, contract or agreement with, a State agency, under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after the effective date of the Act, unless he receives satisfactory assurances from such State agency that:

(a) Fair and reasonable relocation payments and assistance shall be provided to or for displaced persons, as are required to be provided by a Federal agency under Subparts B, D, and E of this part.

(b) Relocation assistance programs offering the services described in § 52.70 shall be provided to such displaced persons;

(c) Within a reasonable period of time prior to displacement, decent, safe, and sanitary replacement dwellings will be available to displaced persons in accordance with § 52.71(c).

(d) The affected persons will be adequately informed of the available benefits and the policies and procedures relating to the payment of these benefits.

**§ 52.112 Inability to provide assurances prior to July 1, 1972.**

A State agency's assurances shall be accompanied by a statement in which it specifies any provision of the assurances required by sections 210 and 305 of the Act which it is unable to provide in whole or in part, under its laws. In the event a State agency maintains that it is legally unable to provide all or any part of the required assurances, its statement shall be supported by an opinion of the chief legal official of the State agency. The opinion shall contain a full discussion of the issues involved, and shall cite legal authority in support of the conclusion of legal inability to provide any part of the required assurances.

**§ 52.113 Inability to provide assurances for programs or projects causing displacement on or after July 1, 1972.**

If a State agency is unable to provide the assurances required by sections 210 and 305 on or after July 1, 1972, with regard to any program or project that will result in the displacement of any person, the head of the Bureau shall not approve any grant to, or contract or agreement with such State agency under which Federal financial assistance will be available to pay all or part of the cost of such program or project, until such time as assurances, applicable to all persons to be displaced are provided.

**§ 52.114 State submissions.**

The head of a Bureau may not approve or authorize any action by a State agency unless the State agency has either provided the assurances required by section 210 or 305, or if it is unable to provide all or part of such assurances, the submission described in § 52.112.

**§ 52.115 Compliance with sections 301 and 302.**

A State agency, as part of the assurances required by section 305, shall provide a statement indicating the extent to which it can comply with the provisions of sections 301 and 302. If the State agency indicates that it is unable to comply fully with any of such policies, its statement shall be supported by an opinion of the chief legal officer of the State agency. The opinion shall contain a full discussion of the issues involved, and shall cite legal authority in support of the conclusion of legal inability to comply with any of the provisions set forth in sections 301 and 302. State agencies must comply with sections 301 and 302 if, under State law, compliance is legally possible.

**§ 52.116 Monitoring assurances.**

Heads of Bureaus shall take continuing action to insure that State agencies are acting in accordance with the assurances they have provided.

**Subpart K—Costs**

**§ 52.120 Federal share of costs.**

(a) The cost of a State agency of providing payments and assistance pursuant to §§ 52.90, 52.110, and 52.170, shall be included as part of the cost of a program or project for which Federal financial assistance is available to such State agency, and such State agency shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other project or program costs, except that, notwithstanding any other law in the case where the Federal financial assistance is by grant or contribution, the Federal agency shall pay the first \$25,000 of the cost to a State agency of providing payments and assistance for a displaced person under §§ 52.90, 52.110, and 52.170 on account of any acquisition or displacement occurring prior to July 1, 1972.

(b) No payment or assistance under §§ 52.110 and 52.170 shall be required or included as a program or project cost under this section, if the displaced person received a payment required by the State law of eminent domain which is determined by the head of the Bureau to have substantially the same purpose and effect as such payment under this section, and to be part of the cost of the program or project for which Federal financial assistance is available.

(c) Any grant to, contract, or agreement with, a State agency executed before the effective date of the Act, under which Federal financial assistance is available to pay all or part of the cost of any program or project which will result in the displacement of any person



on or after the effective date of the Act, shall be amended to include the cost of providing payments and services under §§ 52.110 and 52.170. If the head of the Bureau determines that it is necessary for the expeditious completion of a program or project, he may advance to the State agency the Federal share of the cost of any payments or assistance by such State agency pursuant to §§ 52.90, 52.110, and 52.170.

#### Subpart L—Administration—Programs Receiving Federal Financial Assistance

##### § 51.130 Relocation assistance.

In order to prevent unnecessary expenses and duplications of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons under §§ 52.90, 52.110, and 52.170, a State agency may enter into contracts with any individual, firm, association, or corporation for services in connection with such programs, or may carry out its functions under the Act through any Federal or State governmental agency or instrumentality having an established organization for conducting relocation assistance programs. Such State agency shall, in carrying out the relocation assistance activities described in § 52.90, whenever practicable, utilize the services of State or local housing agencies, or other agencies having experience in the administration of similar housing assistance activities.

##### § 52.131 Approval.

If a State agency elects to contract for services pursuant to § 52.130, it shall enter into a written contract which shall be consistent with regulations of the Bureau administering the project or program causing the displacement. Such Bureau shall take necessary action to assure that the contract will assist in providing a uniform and effective relocation program consistent with these regulations.

##### § 52.132 Contents.

Any such contract shall include, but shall not be limited to, provisions providing:

(a) That payments or services shall be provided in accordance with those regulations implemented by Bureau procedures.

(b) That records required by Bureau regulations will be retained for a period of at least 3 years and shall be available for inspection by representatives of the Department, and

(c) Clauses required by regulations implementing title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d.

#### Subpart M—Bureau Regulations

##### § 52.140 Implementing procedures.

(a) In order to promote uniform and effective administration of relocation assistance and land acquisition of State or local housing agencies having programs or projects by Federal agencies or programs or projects by State agen-

cies receiving Federal financial assistance, the heads of Bureaus shall consult with each other and with other Federal agencies on the establishment of procedures for the implementation of such programs.

(b) The head of each Bureau is authorized to establish such procedures as he may determine to be necessary to assure that:

(1) The payments and assistance authorized by the Act shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

(2) A displaced person who makes application for payment authorized by these regulations shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(3) Any person aggrieved by a determination as to eligibility for a payment authorized by the Act, or the amount of a payment, may have his application reviewed by the head of the Bureau having authority over the applicable program or project, or in the case of a program or project receiving Federal financial assistance, by the head of the State agency.

#### Subpart N—Annual Report

##### § 52.151 Preparation.

Each Bureau shall prepare and submit an annual report to the Assistant Attorney General for Administration with respect to the administration of the programs and policies established or authorized by the Act. This report shall contain such information as may be required by the Assistant Attorney General for Administration.

##### § 52.152 Statistical data.

Bureaus shall also provide statistical data with the annual reports. Bureaus shall furnish data separately for each Federal program and each federally assisted program, together with a summary for the whole Bureau.

#### Subpart O—Other Duties of Bureaus

##### § 52.160 Payments not to be considered as income.

(a) Heads of Bureaus shall make every effort to pay promptly any displaced person who makes application for payments authorized by these regulations after a move, or in hardship cases, advance payments may be authorized.

(b) Bureaus shall advise all displaced persons that no payment received under title II of the Act shall be considered as income for the purposes of the Internal Revenue Code of 1954; or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal Law.

#### Subpart P—Uniform Real Property Acquisition Policy

##### § 52.171 Owners.

In order to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the many Federal programs, and to

promote public confidence in Federal land acquisition practices, the head of the Bureau to the greatest extent practicable shall:

(a) Make every reasonable effort to acquire expeditiously real property by negotiation.

(b) Appraise real property before the initiation of negotiations, and give the owner or his designated representative an opportunity to accompany the appraiser during his inspection of the property.

(c) Before the initiation of negotiations for real property, establish an amount which he believes to be just compensation therefor and make a prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the approved appraisal of the estimated fair market value of such property. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The head of the Bureau concerned shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount he established as just compensation. Where appropriate the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

##### § 52.172 Summary statement of just compensation.

The summary statement of the basis for the determination of just compensation should include the following:

(a) Identification of the real property and the estate or interest therein to be acquired.

(b) Identification of the buildings, structures, and other improvements considered to be part of the real property for which the offer of just compensation is made.

(c) A statement that the Bureau's determination of just compensation is based on the estimated fair market value of the property to be acquired. If only part of the property is to be acquired or the interest to be acquired in the property is less than the full interest of the owner, the statement should explain the basis for the determination of just compensation.

(d) A statement that the Bureau's determination of just compensation is not less than its approved appraisal of the property.

(e) A statement, unless impracticable under applicable State law, that any decrease or increase in the fair market value of the real property prior to the date of valuation caused by the public improvement or project for which the property is to be acquired, or by the likelihood that the property would be acquired for such improvement or project, other than that due to physical deterioration within the reasonable control of



the owner, has been disregarded by the Bureau in making its determination of just compensation for the property.

**§ 52.173 Interest in acquisition of real property.**

(a) If the head of the Bureau acquires any interest in real property he shall acquire at least an equal interest in all buildings, structures or other improvements located upon the real property so acquired and which he requires to be removed from such real property or which he determines will be adversely affected by the use to which such real property will be put. If any buildings, structures, or other improvements comprising part of the real property are the property of a tenant who has the right or obligation to remove them at the expiration of his term, the total just compensation for the real property, including the property of the tenant, shall be apportioned to the landowner and the tenant, so that the amount attributable to the tenant's improvements will be the greater of:

(1) The estimated fair market value of the tenant's leasehold estate in the property, or

(2) The contributive value of the tenant's improvements to the value of the entirety, which value shall not be less than the value of his improvements for removal from the property.

(b) Payment under this section shall not be a duplication of any payment otherwise authorized by law. No such payment shall be made unless the landowner disclaims all interests in the tenant's improvements. The tenant in consideration for such payment shall assign, transfer, and release to the Government all his rights, title, and interest in and to such improvements. The tenant may reject payment under this section and obtain payment in accordance with other applicable laws.

**§ 52.174 Appraisal.**

As a general rule, only one appraisal will be obtained on each tract, unless the head of the Bureau determines that circumstances require an additional appraisal or appraisals. The Bureau land acquisition records will show that the landowner or his designated representative has been given an opportunity to accompany the appraiser during the inspection of the property.

**§ 52.175 Payments.**

No owner or tenant who will become a displaced person will be required to surrender possession of his property before payment is made to him or deposited in the registry of the court. Only in those instances where actual displacement of persons, businesses or farms occurs, a written notice to vacate shall be given by the head of the Bureau at least 90 days prior to the date by which such move is required. If permitted by the head of the Bureau to remain in possession for a short period of time after acquisition, the rental charged for this occupancy will not be more than the fair rental value of the property to a short-term occupier.

**§ 52.176 Condemnation.**

Condemnation, where required, will be instituted by the Government. The Government shall not intentionally make it necessary for an owner to institute proceedings to prove the fact of the taking of his property. Where the acquisition of a part of a property will leave its owner with an uneconomical remnant, the head of the Bureau will offer to acquire the entire property.

**§ 52.177 Expenses incidental to transfer of title to United States.**

The head of the Bureau shall amend all land purchase contract forms to provide for reimbursement to the vendor in an amount deemed by the head of the Bureau to be fair and reasonable for the following expenses:

(a) Recording fees, transfer taxes, and similar expenses incidental to conveying the real property;

(b) Penalty cost for prepayment of any preexisting recorded mortgage entered into in good faith encumbering said real property; and

(c) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the United States, or the effective date of possession of such real property by the United States, whichever is the earlier.

**§ 52.178 Litigation expenses.**

The head of the Bureau in project planning shall take into consideration the possible liability for the payment of litigation expenses of a condemnee provided in section 304 of the Act.

**§ 52.179 States.**

(a) *Provision of assurances.* Notwithstanding any other law, the head of a Bureau shall not approve any program or project or any grant to, or contract or agreement with, a State agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property on and after the effective date of the Act, unless he receives satisfactory assurances from such State agency that:

(1) In acquiring real property, State agencies will be guided, to the greatest extent practicable under State law, by the land acquisition policies of these regulations;

(2) Property owners will be paid or reimbursed for necessary expenses as specified in § 52.17; and

(3) The affected persons will be adequately informed of the available benefits, and the policies and procedures relating to the payment of these benefits.

(b) *Inability to provide assurances.* A State agency's assurances shall be accompanied by a statement in which it specifies any provision of the assurances which it is unable to provide in whole or in part, under its laws. In the event a State agency maintains that it is legally unable to provide all or any part of the required assurances, its statement shall be supported by an opinion of the chief legal official of the State agency. The opinion shall contain a full discussion of

the issues involved, and shall cite legal authority in support of the conclusion of legal inability to provide any part of the required assurances.

Dated: December 20, 1971.

JOHN N. MITCHELL,  
Attorney General.

[FR Doc. 71-18826 Filed 12-23-71; 8:46 am]

## Title 42—PUBLIC HEALTH

### Chapter I—Public Health Service, Department of Health, Education, and Welfare

#### SUBCHAPTER D—GRANTS

#### PART 54a—GRANTS TO STATES FOR ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION SERVICES

Notice of proposed rule making, public rule making procedures, and postponement of effective date have been omitted in the issuance of the following Part 54a (which relates solely to grants to States for alcohol abuse and alcoholism prevention, treatment, and rehabilitation services) pursuant to part A of title III of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (84 Stat. 1849, 42 U.S.C. 4571, et seq. because for good cause it has been found that such notice, public participation, and delay would be contrary to the public interest in light of the need to provide adequate leadtime for the development of appropriate State plans and program proposals and the need for the orderly and efficient consideration of such plans and proposals.

The following regulations shall become effective on the date of publication in the FEDERAL REGISTER (12-28-71).

Accordingly, Chapter I, Subchapter D of Title 42 Code of Federal Regulations is amended by adding a new Part 54a reading as follows:

Sec.  
54a.101 Applicability.  
54a.102 Allotments.

**AUTHORITY:** The provisions of this Part 54a issued under sec. 302, 84 Stat. 1849, 42 U.S.C. 4572.

**§ 54a.101 Applicability.**

The regulations of this part apply only to grants to assist the States in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism as authorized by part A of title III of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4571, et seq.).

**§ 54a.102 Allotments.**

(a) *Allotments to States.* The allotments to the several States under part A of title III of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act shall be computed as follows:



(1) One-third weight on the basis of need for more effective prevention, treatment, and rehabilitation of alcohol abuse and alcoholism, expressed by the relationship of the population in each State to the total population of all the States.

(2) Two-thirds weight on the basis of total population weighted by financial need, as determined by the relative per capita income for each State for the three most recent consecutive years for which data is available from the U.S. Department of Commerce.

Dated: November 29, 1971.

VERNON E. WILSON,  
Administrator, Health Services  
and Mental Health Adminis-  
tration.

Approved: December 18, 1971.

ELLIOT L. RICHARDSON,  
Secretary.

[FR Doc.71-18950 Filed 12-23-71;8:47 am]

## Title 49—TRANSPORTATION

### Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 71-22; Notice 1]

### PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

#### New Pneumatic Tires and Tire Selection and Rims for Passenger Cars

This amendment adds certain tire sizes and alternative rim sizes to the pas-

senger car tire standard and tire selection and rim standard.

On October 5, 1968, guidelines were published in the FEDERAL REGISTER (33 F.R. 14964) by which routine additions could be added to Appendix A, Standard No. 109 (§ 571.109) and to Appendix A, Standard No. 110 (§ 571.110). Under these guidelines, the addition becomes effective 30 days from date of publication in the FEDERAL REGISTER, if no objections to the proposed additions are received. If objections to the amendment are received, rule making pursuant to the procedures for motor vehicle safety standards (49 CFR Part 553) is followed.

The Rubber Manufacturers Association has petitioned for the following:

(1) The addition of the new AR70-13, B60-13, and BR60-13 tire size designations to Table I, Appendix A of Standard No. 109 and the appropriate test and alternative rims to Table I, Appendix A of Standard No. 110.

(2) The addition of the following alternative rim sizes to Table I, Appendix A of Standard No. 110:

(a) The 6½-JJ alternative rim size for the F78-15 tire size designation.

(b) The 6½-JJ alternative rim size for the 7.75-15 tire size designation.

The European Tyre and Rim Technical Organisation has petitioned for the addition of the following alternative rim sizes to Table I, Appendix A of Standard No. 110:

(1) The 5-JJ alternative rim size for the 145R13 tire size designation.

(2) The 4-JJ alternative rim size for the 150R13 tire size designation.

(3) The 6½-JJ alternative rim size for the 185R14 tire size designation.

(4) The 6½-JJ alternative rim size for the 9.00-15 tire size designation.

The Ford Motor Co. has petitioned for the addition of the 5½-JJ alternative rim size for the 6.45-13/165-13 tire size designation to Table I, Appendix A of Standard No. 110.

The Toyota Motor Co., Ltd., has petitioned for the addition of the 4-JJ alternative rim for the 155R13 tire size designation to Table I, Appendix A of Standard No. 110.

On the basis of the data submitted by the European Tyre and Rim Technical Organisation, the Rubber Manufacturers Association, the Ford Motor Co., and Toyota Motor Co., Ltd. indicating compliance with the requirements of Federal Motor Vehicle Safety Standards No. 109 and No. 110 and other information submitted in accordance with the procedural guidelines, §§ 571.109 and 571.110 of Title 49, Code of Federal Regulations are amended to read as set forth below, effective 30 days from date of publication in the FEDERAL REGISTER.

(Secs. 103 and 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407; delegations of authority at 49 CFR 1.51 and 501.8)

Issued on December 15, 1971.

ROBERT L. CARTER,  
Acting Associate Administrator,  
Motor Vehicle Programs.

1. Appendix A of § 571.109 is amended to read as follows:

a. Table I-G is deleted and the following revised Table I-G is inserted.

b. Table I-K is deleted and the following revised Table I-K is inserted.

c. Table I-R is deleted and the following revised Table I-R is inserted.

#### APPENDIX A—FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 109

##### TABLE I-G

(Amendment No. 6)

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "70 SERIES" TYPE "R" RADIAL PLY TIRES

Tire size designation <sup>1</sup>	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)														Test rim width (inches)	Minimum size factor (inches)	Section <sup>2</sup> width (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40				
A R70-13.....	720	770	810	860	900	940	980	1,020	1,060	1,090	1,130	1,160	1,200	5	30.04	7.15	
D R70-13.....	890	950	1,010	1,070	1,120	1,170	1,220	1,270	1,320	1,360	1,410	1,450	1,490	5½	32.29	8.06	
C R70-14.....	840	890	950	1,000	1,050	1,100	1,140	1,190	1,230	1,270	1,320	1,360	1,400	5½	32.23	7.60	
D R70-14.....	890	950	1,010	1,070	1,120	1,170	1,220	1,270	1,320	1,360	1,410	1,450	1,490	5½	32.78	7.60	
E R70-14.....	950	1,010	1,070	1,130	1,190	1,240	1,300	1,350	1,400	1,440	1,490	1,540	1,580	5½	33.42	8.19	
F R70-14.....	1,020	1,090	1,160	1,220	1,280	1,340	1,400	1,450	1,500	1,550	1,610	1,650	1,700	6	34.34	8.65	
G R70-14.....	1,100	1,180	1,250	1,310	1,380	1,440	1,500	1,560	1,620	1,680	1,730	1,780	1,830	6	35.12	8.65	
H R70-14.....	1,200	1,290	1,360	1,440	1,510	1,580	1,650	1,710	1,770	1,830	1,890	1,950	2,010	6½	36.31	9.55	
J R70-14.....	1,260	1,350	1,430	1,500	1,580	1,650	1,720	1,790	1,860	1,920	1,980	2,040	2,100	6½	36.86	9.55	
L R70-14.....	1,340	1,430	1,520	1,600	1,680	1,750	1,830	1,900	1,970	2,040	2,100	2,170	2,230	6½	37.59	9.50	
D R70-15.....	890	950	1,010	1,070	1,120	1,170	1,220	1,270	1,320	1,360	1,410	1,450	1,490	5½	33.34	7.75	
E R70-15.....	950	1,010	1,070	1,130	1,190	1,240	1,300	1,350	1,400	1,440	1,490	1,540	1,580	5½	33.91	7.90	
F R70-15.....	1,030	1,090	1,160	1,220	1,280	1,340	1,400	1,450	1,500	1,550	1,610	1,650	1,700	6	34.87	8.65	
G R70-15.....	1,100	1,180	1,250	1,310	1,380	1,440	1,500	1,560	1,620	1,680	1,730	1,780	1,830	6	35.65	9.00	
H R70-15.....	1,200	1,290	1,360	1,440	1,510	1,580	1,650	1,710	1,770	1,830	1,890	1,950	2,010	6½	36.83	9.50	
J R70-15.....	1,260	1,350	1,430	1,500	1,580	1,650	1,720	1,790	1,860	1,920	1,980	2,040	2,100	6½	37.81	9.50	
K R70-15.....	1,290	1,380	1,460	1,540	1,620	1,690	1,770	1,830	1,900	1,970	2,030	2,090	2,150	6½	37.62	9.50	
L R70-15.....	1,340	1,430	1,520	1,600	1,680	1,750	1,830	1,900	1,970	2,040	2,100	2,170	2,230	6½	38.06	9.50	

1. The letters "HR", "SR" or "VR" may be included in any specified tire size designation adjacent to or in place of the "dash".

2. Actual section width and overall width shall not exceed the specified section

width by more than 7 percent.

Changes—New tire size AR70-13 added.



TABLE 1-K  
(Amendment No. 8)

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR "60 SERIES" BIAS PLY TIRES

Tire size designation <sup>1</sup>	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section <sup>2</sup> width (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
B60-13	780	840	890	930	980	1,030	1,070	1,110	1,150	1,190	1,230	1,270	1,300	6	30.95	8.35
B60-14	950	1,010	1,070	1,130	1,190	1,240	1,300	1,350	1,400	1,440	1,490	1,540	1,580	7	33.69	9.30
F60-14	1,020	1,080	1,140	1,200	1,260	1,310	1,360	1,410	1,460	1,500	1,550	1,600	1,650	7	34.41	9.55
G60-14	1,100	1,160	1,220	1,280	1,340	1,390	1,440	1,490	1,540	1,590	1,640	1,690	1,740	7	35.23	9.85
H60-14	1,200	1,260	1,320	1,380	1,440	1,500	1,550	1,600	1,650	1,700	1,750	1,800	1,850	7	36.41	10.25
J60-14	1,300	1,360	1,420	1,480	1,540	1,600	1,650	1,700	1,750	1,800	1,850	1,900	1,950	7	36.70	10.45
L60-14	1,340	1,400	1,460	1,520	1,580	1,640	1,690	1,740	1,790	1,840	1,890	1,940	1,990	7	37.83	11.10
E60-15	950	1,010	1,070	1,130	1,190	1,240	1,300	1,350	1,400	1,440	1,490	1,540	1,580	8	35.83	8.79
F60-15	1,020	1,080	1,140	1,200	1,260	1,310	1,360	1,410	1,460	1,500	1,550	1,600	1,650	7	34.91	9.40
G60-15	1,100	1,160	1,220	1,280	1,340	1,390	1,440	1,490	1,540	1,590	1,640	1,690	1,740	7	35.73	9.70
H60-15	1,200	1,260	1,320	1,380	1,440	1,500	1,550	1,600	1,650	1,700	1,750	1,800	1,850	7	36.70	10.65
J60-15	1,300	1,360	1,420	1,480	1,540	1,600	1,650	1,700	1,750	1,800	1,850	1,900	1,950	7	37.20	10.25
L60-15	1,340	1,400	1,460	1,520	1,580	1,640	1,690	1,740	1,790	1,840	1,890	1,940	1,990	7	37.91	10.50

<sup>1</sup> The letter "H", "S", or "V" may be included in any specified tire size designation adjacent to or in place of the "dash".

<sup>2</sup> Actual section width and overall width shall not exceed the specified section width by more than 7 percent.  
Changes: New Size B60-13 added.

APPENDIX A—FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 100

TABLE 1-B  
(Amendment No. 5)

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "60 SERIES" RADIAL PLY TIRES

Tire size designation <sup>1</sup>	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section <sup>2</sup> width (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
BR60-13	780	840	890	930	980	1,030	1,070	1,110	1,150	1,190	1,230	1,270	1,300	6	30.95	8.35
GR60-14	1,100	1,160	1,220	1,280	1,340	1,390	1,440	1,490	1,540	1,590	1,640	1,690	1,740	7	35.24	9.85
FR60-15	1,020	1,080	1,140	1,200	1,260	1,310	1,360	1,410	1,460	1,500	1,550	1,600	1,650	7	35.02	9.30
GR60-15	1,100	1,160	1,220	1,280	1,340	1,390	1,440	1,490	1,540	1,590	1,640	1,690	1,740	7	35.81	9.60
HR60-15	1,200	1,260	1,320	1,380	1,440	1,500	1,550	1,600	1,650	1,700	1,750	1,800	1,850	7	36.70	10.05

<sup>1</sup> The letter "H", "S", or "V" may be included in any specified tire size designation adjacent to or in place of the "dash".

<sup>2</sup> Actual section width and overall width shall not exceed the specified section width by more than 7 percent.  
Changes: New size BR60-13 added.

2. Table I of Appendix A of § 571.110 is deleted and a new Table I of Appendix A is inserted to read as follows:

FMVSS No. 110—APPENDIX A		Tire size <sup>2</sup>		Rim <sup>1,2</sup>		Tire size <sup>2</sup>		Rim <sup>1,2</sup>	
TABLE—I		Table I-C:		8-JJ		Table I-G:		5-JJ	
(Amendment No. 23)		4.80-10 -----		3.50D		AR70-13 -----		5½-JJ	
Alternative Rims		5.60-14 -----		4½-JJ		DR70-13 -----		5½-JJ	
Tire size <sup>2</sup>		6.40-14 -----		4-JJ, 4½-JJ, 4½-K, 4.50E, 5.00E, 5-JJ, 5-K, 5½-JJ		CR70-14 -----		5½-JJ	
Rim <sup>1,2</sup>						DR70-14 -----		6-JJ, 6½-JJ, 6½-K	
Table I-A:						FR70-14 -----		5½-JJ, 6½-JJ, 7-JJ, 8-JJ	
6.00-13 -----	5-JJ, 6-JJ	6.45-13/165-13 --		5½-JJ		ER70-15 -----		6-JJ, 6½-JJ, 7-JJ	
7.35-14 -----	6-JJ	155-13/6.15-13 --		5-JJ		FR70-15 -----		6½-JJ, 7-JJ, 7½-K, 7½-L	
6.85-15 -----	4½-JJ, 5½-JJ	175-13/6.95-13 --		5½-JJ		GR70-15 -----		6½-JJ, 7-JJ, 7-L, 7½-K, 8-K, 8½-L	
7.00-15 -----	5.00F, 5-K	5.0-15 -----		3.50B, 3.50D, 3½-JJ, 4-JJ, 4.00C		HR70-15 -----		6-JJ	
7.75-15 -----	6½-JJ			3.50D, 3½-JJ, 4-JJ, 4½-JJ		JR70-15 -----		6-JJ	
8.25-15 -----	5-JJ, 5½-JJ, 6-JJ, 6-K, 6-L, 6½-JJ	Table I-D:		4½-JJ		LR70-15 -----		6-JJ	
8.55-15 -----	5½-JJ, 6-JJ, 6-K, 6-L, 6½-JJ	145-10 -----		3.50B		Table I-H:		155 R 12 -----	
8.90-15 -----	6-JJ, 6½-L, 7-L	145-13 -----		3½-JJ, 4½-JJ		155 R 12 -----		4-JJ	
9.00-15 -----	6½-JJ	165-13 -----		4½-JJ		135 R 13 -----		4½-JJ	
9.15-15 -----	5½-JJ, 5½-K	135-15 -----		4½-JJ		145 R 13 -----		4½-JJ, 4.50B, 5-JJ	
L84-15 -----	5½-JJ, 6-JJ, 6½-JJ, 7-JJ	185-15 -----		4½-JJ		155 R 13 -----		4-JJ, 4.50B, 5-JJ, 5½-JJ	
Table I-B:		230-15 -----		6-JJ, 6½-JJ, 7-JJ		165 R 13 -----		4-JJ, 4.50B, 5.50B	
A70-13 -----	5-JJ, 5½-JJ, 6-JJ	Table I-E:		6.2-13 -----		175 R 13 -----		4-JJ, 5½-JJ	
D70-13 -----	5½-JJ, 5½-K	6.5-13 -----		4½-JJ, 5-JJ		165 R 14 -----		5½-JJ	
D70-14 -----	5-JJ	Table I-F:		5.20-13 -----		175 R 14 -----		4½-JJ, 6-JJ	
E70-14 -----	7-JJ	5.60-13 -----		4½-JJ		185 R 14 -----		6½-JJ	
F70-14 -----	7-JJ, 8-JJ	6.00-13 -----		4-JJ		205 R 14 -----		7½-K	
C70-15 -----	7-JJ	5.60-15 -----		5-K		135 R 15 -----		4½-JJ	
E70-15 -----	5½-JJ					165 R 15 -----		5-JJ, 5-K, 5½-JJ	
F70-15 -----	7-JJ, 8-JJ					205 R 15 -----		6½-L, 7-L, 7½-K	
C70-15 -----	8-JJ								
H70-15 -----	7-JJ, 7½-K, 8-JJ								



## RULES AND REGULATIONS

Tire size <sup>1</sup>	Rim <sup>1,2</sup>
Table I-J:	
A78-13	4-JJ, 4½-JJ, 5-JJ, 5½-JJ, 6-JJ
B78-13	5-JJ
C78-13	5½-JJ
D78-13	5½-JJ
B78-14	4½-JJ, 4½-K, 5-JJ, 5-K, 5½-JJ
C78-14	4½-JJ, 5-JJ, 5-K, 5½-JJ, 6-JJ
D78-14	4½-JJ, 5-JJ, 5-K, 5½-JJ, 6-JJ
E78-14	4½-JJ, 5-JJ, 5-K, 5½-JJ, 6-JJ, 6½-JJ, 7-JJ
F78-14	5-JJ, 5-K, 5½-JJ, 5½-K, 6-JJ, 6-K, 6½-JJ, 7-JJ
G78-14	5-JJ, 5½-JJ, 5½-K, 6-JJ, 6-K, 7-JJ
H78-14	5½-JJ, 6-JJ, 6-K, 6½-JJ, 6½-K, 7-JJ
J78-14	6-JJ, 6-K, 6½-JJ
A78-15	4½-JJ
C78-15	4½-JJ, 4½-K, 5-JJ, 5-K
D78-15	5-JJ, 5-K
E78-15	4½-K, 5-JJ, 5-K, 5½-JJ, 5½-K, 6-JJ
F78-15	4½-K, 5-JJ, 5-K, 5½-JJ, 5½-K, 6-JJ, 6½-JJ
G78-15	5-JJ, 5-K, 5½-JJ, 5½-K, 6-JJ, 6-K, 6-L, 6½-JJ, 7-JJ
H78-15	5½-JJ, 5½-K, 6-JJ, 6-K, 6-L, 6½-K, 6½-JJ, 7-JJ
J78-15	5½-JJ, 6-JJ, 6-K, 6-L, 6½-JJ, 7-JJ
L78-15	5½-JJ, 5½-K, 6-JJ, 6-K, 6-L, 6½-JJ, 7-JJ, 8-JJ
N78-15	6-JJ, 7-JJ
Table I-K:	
B60-13	6-JJ, 7-JJ
E60-14	7-JJ
F60-14	7-JJ
G60-14	7-JJ
J60-14	7-JJ, 7½-JJ
H60-14	6½-JJ, 7-JJ
L60-14	8-JJ
E60-15	6-JJ, 7-JJ, 8-JJ
F60-15	6½-JJ, 7-JJ, 8-JJ
G60-15	7-JJ, 8-JJ, 9-JJ
H60-15	7-JJ
J60-15	7-JJ, 7½-JJ
L60-15	7-JJ, 7½-JJ

Tire size <sup>1</sup>	Rim <sup>1,2</sup>
Table I-L:	
E50C-16	3½
F50C-16	3½
G50C-17	3½
H50C-17	3½
L50C-18	3½, 4
Table I-M:	
AR78-13	4½-JJ
BR78-13	4½-JJ
CR78-13	5-JJ
BR78-14	4½-JJ
CR78-14	5-JJ
DR78-14	5-JJ, 6-JJ
ER78-14	5-JJ
FR78-14	5-JJ, 5½-JJ, 6-JJ
GR78-14	6-JJ
HR78-14	6-JJ
JR78-14	6½-JJ
AR78-15	4½-JJ
BR78-15	4½-JJ
ER78-15	5½-JJ
FR78-15	5½-JJ
GR78-15	6-JJ
HR78-15	5½-JJ, 6-JJ
JR78-15	6-JJ, 6½-JJ
LR78-15	6-JJ, 6½-JJ
Table I-N:	
165/70 R 13	4½-JJ, 5-JJ
175/70 R 13	5-JJ, 5½-JJ
185/70 R 13	4½-JJ, 5-JJ, 5½-JJ
195/70 R 13	5½-JJ, 6-JJ
155/70 R 14	4-JJ
185/70 R 14	4½-JJ, 5-JJ, 5½-JJ
195/70 R 14	5½-JJ, 6-JJ
175/70 R 15	5-JJ
185/70 R 15	5-JJ, 5½-JJ, 6-JJ, 7-K
Table I-O:	
140 R 12	4.00, 4.00-B, 4-JJ, 4.50, 4.50-B, 4½-JJ
150 R 12	3½-JJ, 4.00B, 4-JJ, 4½-JJ
150 R 13	3½-JJ, 4.00B, 4-JJ, 4½-JJ, 5-JJ
160 R 13	4.00B, 4½-JJ, 5-JJ, 5½-JJ
170 R 13	4½-JJ, 5-JJ, 5½-JJ, 6-JJ
150 R 14	4-JJ, 4½-JJ
180 R 15	5-JJ, 5½-JJ
Table I-P:	
G45C-16	5

Tire size <sup>1</sup>	Rim <sup>1,2</sup>
Table I-R:	
BR60-13	6-JJ
GR60-14	7-JJ
PR60-15	7-JJ, 8-JJ
GR60-15	7-JJ, 8-JJ
HR60-15	7-JJ, 9-L
Table I-S:	
185/60 R 13	5-JJ, 5½-JJ
245/60 R 14	6½-JJ, 7-JJ
255/60 R 15	7-JJ, 9-JJ, 9-L
Table I-T:	
205/70 R 14	5½-JJ, 6-JJ, 6½-JJ
215/70 R 14	5½-JJ, 6-JJ, 6½-JJ, 7-JJ, 8-JJ
225/70 R 14	6-JJ, 7½-K
195/70 R 15	5½-JJ, 6-JJ
205/70 R 15	5½-JJ, 6-JJ, 6½-JJ, 6½-L, 7-JJ
315/70 R 15	6-JJ, 6½-JJ, 6½-L, 7-JJ, 7-L, 7½-JJ, 7½-L, 7½-K, 8-K
225/70 R 15	6-JJ, 6½-JJ, 7-L, 7½-K, 8-K, 8½-L, 9-L

## NOTES

<sup>1</sup> Italic designations denote test rims.

<sup>2</sup> Where JJ rims are specified in the above Table J and JK rim contours are permissible.

<sup>3</sup> Table designations refer to tables listed in Appendix A of FMVSS No. 109.

## CHANGES

Table I-A:	
7.75-15, rim 6½-JJ added.	
9.00-15, rim 6½-JJ added.	
Table I-C:	
6.45-13/165-13, rim 5½-JJ added.	
Table I-G:	
AR70-13, rim 5-JJ added.	
Table I-H:	
145R13, rim 5-JJ added.	
155R13, rim 4-JJ added.	
175R14, rim 6-JJ added.	
185R14, rim 6½-JJ added.	
Table I-J:	
F78-15, rim 5½-JJ added.	
Table I-K:	
B60-13, rim 6-JJ, 7-JJ added.	
Table I-O:	
150R13, rim 4-JJ added.	
Table I-R:	
BR60-13, rim 6-JJ added.	

[FR Doc.71-18673 Filed 12-23-71; 8:45 am]



# Proposed Rule Making

## DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 917]

### HANDLING OF FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALI- FORNIA

#### Notice of Proposed Increase in the Expenses for the 1971-72 Fiscal Period

Consideration is being given to the following proposal submitted by the Control Committee, established under the amended marketing agreement and Order No. 917 (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the provisions thereof. The committee now estimates the currently approved expenses are not sufficient to meet those being incurred during the fiscal period due to: increased inspection costs caused by greater than anticipated shipments of plums and peaches; lower than anticipated assessable shipments of pears; and an additional marketing development research project for plums.

The proposal is that the provisions of paragraph (a) Expenses of § 917.210 Expenses and rate of assessment (36 F.R. 12089) be amended as follows:

#### § 917.210 Expenses and rate of assessment.

(a) Expenses. Expenses that are reasonable and likely to be incurred during the fiscal period March 1, 1971, through February 29, 1972, will amount to \$472,250.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: December 21, 1971.

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

[FR Doc. 71-18856 Filed 12-23-71; 8:47 am]

## Rural Electrification Administration

[7 CFR Part 1701]

### HEADQUARTERS FACILITIES FOR ELEC- TRIC AND TELEPHONE BORROWERS

#### Proposed Supplement to REA Bulletins

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue a supplement to REA Bulletins 86-3, Headquarters Facilities for Electric Borrowers, and 320-5, Headquarters Buildings for Telephone Borrowers. This supplement requires certain buildings financed by REA to meet specified standards to comply with Public Law 90-480 for accessibility to the physically handicapped.

Consideration will be given to any date, views, or comments submitted in writing to the Deputy Administrator, Rural Electrification Administration, Room 4053, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Deputy Administrator, Rural Electrification Administration, during regular business hours.

The text of the proposed supplement to REA Bulletins 86-3 and 320-5 is as follows:

#### SUPPLEMENT TO REA BULLETINS 86-3 AND 320-5

Subject: Public Law 90-480 (an Act, to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped).

Public Law 90-480, enacted August 12, 1968, pertains to any building or facility, financed in whole or in part by a loan made by the United States after the date of enactment of the Act, the intended use for which will require it to be accessible to the public, or may result in the employment of physically handicapped persons. Such buildings were made subject to standards for design, construction, or alteration to be prescribed by the Administrator of General Services Administration (GSA).

GSA has issued regulations (41 CFR 101-17.7) requiring buildings covered by the Act to comply with the minimum standards contained in the American National Standards No. A117.1-1961. Copies of the standards are available for \$2.25 each from the

American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018.

The regulations issued by GSA require the financing agency's file on each building subject to the standards to be documented with a statement that the standards have been or will be incorporated in the design and construction of the project. Electric borrowers will attach the statement to REA Form 740g, "Application for Headquarters Facilities." For telephone borrowers, the statement will accompany the preliminary plans and spec-

fications submitted to REA for review. The statement will set forth any exceptions, including an exception for any portion of a building which, because of its intended use, need not be made accessible to, or usable by, the public or physically handicapped persons. Generally, garages, warehouse facilities, electric powerplants, and community dial offices fall within this exception.

The standards establish the measures required to make the project usable by the physically handicapped. These include the elimination of structural or architectural barriers, and the addition of specified fixtures or devices in those areas where it is reasonably anticipated that there is a potential need for access by the public and the physically handicapped.

The standards do not apply to the alteration of a building if the work does not involve installation of, or work on, any facilities susceptible of installation or improvement to accommodate the physically handicapped, or any portion of a building in which application of the standards is not structurally possible.

It is the responsibility of the owner to determine which portions of a building are likely to be used by the public or physically handicapped employees. It is the responsibility of the architect to adhere to the owner's determination, to prepare the plans and specifications accordingly, and to insure that the construction of the project is in conformity with the prescribed standards. In the application of any standard or guideline to fit a specific situation or condition, the architect will use his best judgment in selecting, locating, and designing all facilities—fixtures, accessories, equipment, etc.—so as to make them accessible to, and usable by, the physically handicapped.

The standards are generally applicable to office buildings. The following guidelines outline the principal standards which will concern most REA borrowers. The guidelines are not intended to be a substitute for the more complete American National Standards which should be consulted by the architect in the preparation of his plans and specifications.

#### PRINCIPAL GUIDELINES

1. **Walks.** Minimum width 48"; maximum gradient 0.6" in 12"; smooth, nonslip surface; no steps; level at grade crossings; platform at top, 5' x 5' at swinging door, 5' wide x 3' deep where door does not swing over platform.

2. **Parking lots.** Identify and reserve level parking space 12' wide for physically handicapped to get in and out of automobiles; maximum gradient 0.6" in 12" for smooth, nonslip surface over which handicapped must traverse.

3. **Doors and doorways.** One entrance and/or exit with 32" clear opening; easily operated door(s) threshold approximately flush with top of finished floor surface; 6' clearance in vestibules (automatic or two leaf doors operated by single effort are acceptable).

4. **Floors.** Nonslip finish or covering.

5. **Ramps.** Maximum gradient 1" in 12" smooth, nonslip surface; handrails at least on one side, 32" above surface, to extend 12" beyond top and bottom; level platforms at maximum of 30' intervals and at changes in direction; platform sizes, same as for walks; minimum 6' straight clearance at bottom.



6. *Corridors.* Minimum width 56" clear distance between walls.

7. *Stairs.* Conform to conventional step formulas with 7" maximum riser; round nosing with maximum extension of 1½" beyond base of uniform sloped riser; handrails each side, 32" above tread near nosing, one rail to extend 18" beyond top and bottom of stairs; smooth, nonslip surface.

8. *Toilet facilities.* The anticipated use of toilet facilities equipped specifically for individuals in wheelchairs is such that one facility, clearly designated "For Use of Individuals in Wheelchairs Only" would, generally, be the "Appropriate Number" necessary and in accord with the purpose and function of the building, provided, of course, that its use by males and females would not be in violation of any applicable statutes or codes. Whatever number of facilities is determined to be appropriate or desirable the following requirements must be satisfied; room of such size as to permit traffic of wheelchairs; Stall—may be omitted if room limited to use of one occupant at a time—3' wide, 5' long, 32" outswinging door. Water closet, seat 20" from floor; to have grab bars each side, 33" above floor, 1½" diameter, hand clearance 2", anchored each end, good quality, shaped to fit. Water closets, lavatories, mirrors, shelves, urinals, dispensers, and all other accessories to be selected or designed and mounted at locations within reach of individuals in wheelchairs.

9. *Elevators.* In buildings with two or more floors, or when future use anticipates the addition of another floor, provide shaft easily accessible from entrance. Cage operating equipment, etc., may be obtained and installed when there is an actual need to make the facilities available to physically handicapped who are unable to use other means of access. In such cases, temporary floor(s) may be installed and other use made of the space.

10. *Miscellaneous.* Install easily operated and accessible water fountains or coolers, public telephones, special lighting and switches, utility controls, alarms, door and other hardware, accessories, etc., as required.

Dated: December 20, 1971.

E. C. WEITZEL,  
Acting Administrator.

[FR Doc.71-18838 Filed 12-23-71;8:46 am]

## DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-SW-71]

### TRANSITION AREA

#### Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at Bunkie, La.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the *FEDERAL REGISTER* will be considered before action is taken

on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

#### BUNKIE, LA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Bunkie Municipal Airport (latitude 30°57'25" N., longitude 92°14'02" W.).

The proposed transition area will afford controlled airspace necessary to accommodate the VOR instrument approach procedure planned to serve Bunkie, La., Municipal Airport.

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

Issued in Fort Worth, Tex., on December 15, 1971.

R. V. REYNOLDS,  
Acting Director, Southwest Region.

[FR Doc.71-18818 Filed 12-23-71;8:45 am]

### [14 CFR Part 71]

[Airspace Docket No. 71-SW-70]

### TRANSITION AREA

#### Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at De Quincy, La.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the *FEDERAL REGISTER* will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice

in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

#### DE QUINCY, LA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of De Quincy Industrial Airport (latitude 30°26'17" N., longitude 93°28'21" W.) and within 2 miles each side of the Lake Charles VORTAC 813° radial extending from the airport to a point 5 miles southeast.

The proposed transition area will provide controlled airspace necessary to accommodate the VOR instrument approach procedure planned for De Quincy Industrial Airport.

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

Issued in Fort Worth, Tex., on December 15, 1971.

R. V. REYNOLDS,  
Acting Director, Southwest Region.

[FR Doc.71-18819 Filed 12-23-71;8:46 am]

### National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 71-21; Notice 2]

### LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

#### Motor Vehicle Safety Standards; Extension of Time for Comments

A notice of proposed amendment to 49 CFR 571.108, Federal Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, was published on November 30, 1971 (36 F.R. 22773), with a closing date for comments of December 30, 1971. Chrysler Corp. and Automobile Manufacturers Association, Inc., have petitioned for an extension of the closing date in order to allow completion and review of photometric testing, and consideration of the proposal in detail. In response to these requests, the closing date for comments is hereby extended to February 28, 1972.

This notice is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407) and the delegations of authority at 49 CFR 1.51 and 501.8.

Issued on December 20, 1971.

ELWOOD T. DRIVER,  
Acting Associate Administrator,  
Motor Vehicle Programs.

[FR Doc.71-18858 Filed 12-23-71;8:47 am]



# Notices

## DEPARTMENT OF THE TREASURY

### Bureau of Customs

#### CADMIUM FROM JAPAN

##### Withholding of Appraisal Notice

DECEMBER 17, 1971.

Information was received on January 27, 1971, that cadmium from Japan was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of March 17, 1971, on pages 5144-45. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

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

##### STATEMENT OF REASONS

The information currently before the Bureau tends to indicate that the probable basis of comparison for fair value purposes will be between purchase price and home market price of such or similar merchandise.

Purchase price will probably be calculated by deducting shipping charges from the c.i.f. price for exportation to the United States.

Home market price will probably be based on the delivered price with deductions for inland freight, insurance charges, and the costs of credit; with adjustments for differences in commissions and packing costs, as appropriate.

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

Customs officers are being directed to withhold appraisal of cadmium from Japan in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

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

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

tion of this notice in the FEDERAL REGISTER.

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

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

[SEAL]

LEONARD LEHMAN,  
Acting Commissioner  
of Customs.

Approved:

EUGENE T. ROSSIDES,  
Assistant Secretary of  
the Treasury.

[FR Doc.71-18831 Filed 12-23-71; 8:47 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### NEZ PERCE INDIAN RESERVATION, IDAHO

##### Ordinance Legalizing the Introduction, Sale, or Possession of Intoxicants; Correction

DECEMBER 17, 1971.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938).

An ordinance legalizing the introduction, sale, or possession of intoxicants on the Nez Perce Indian Reservation, Idaho was published on page 22778 of the November 30, 1971, FEDERAL REGISTER (36 F.R. 22778). The city and State given in the heading and first paragraph of the document were incorrect.

The third line of the heading should be corrected to read "Nez Perce Indian Reservation, Idaho."

In the first paragraph, Nez Perce Indian Reservation, Portland should be corrected to read "Nez Perce Indian Reservation, Idaho."

JOHN O. CROW,  
Deputy Commissioner  
of Indian Affairs.

[FR Doc.71-18805 Filed 12-23-71; 8:45 am]

### National Park Service

[Order No. 73]

#### ASSOCIATE DIRECTOR SERVICE CENTER OPERATION

##### Delegation of Authority

SECTION 1. Delegation. The Associate Director, Service Center Operation may

exercise all the authority now or hereafter vested in the Director, National Park Service in administering and operating the Denver Service Center and in serving the regional offices and parks, except as to the following:

(1) Approval of changes in policies and establishment of new policies.

(2) Authority for final approval of servicewide or regionwide programs and financial plans for construction, professional services, land acquisition, park operations, and other programs.

(3) Authority for final approval of the location of new roads.

(4) Authority to perform the responsibilities set forth in title I and section 205(a) and title II of the Historic Preservation Act of October 15, 1966 (80 Stat. 915), as amended.

(5) Authority to perform the responsibilities with respect to historic preservation set forth in section 4(f) of the Department of Transportation Act of October 15, 1966 (80 Stat. 931), as amended.

(6) Authority to initiate investigations of areas suggested or proposed for inclusion in the National Park System and sites under consideration for national landmark status.

(7) Authority to determine whether any surplus building proposed by the Administrator of the General Services Administration to be demolished is a historic building of national significance within the meaning of the Act of August 21, 1935 (49 Stat. 666), as amended.

(8) Authority to execute and approve concessions contracts and permits, or to perform any of the functions of the Office of Concessions Management, Washington office, as described in 145 DM.

(9) Authority to issue general travel authorizations as defined in 347 DM 2.2C.

(10) Authority to approve the payment of actual subsistence expenses for travel.

(11) Authority to approve attendance at meetings of societies and associations.

(12) Authority to approve acceptance of payment of travel, subsistence and other expenses incident to attendance at meetings by an organization which is tax exempt.

(13) Authority to designate areas at which recreation fees will be charged, as specified by sections 1, 2, and 3 of Executive Order 11200.

(14) Authority to select from the fees established by 43 CFR Part 18 (30 F.R. 3265) the specific fees to be charged at the designated areas, in accordance with section 5(a) of Executive Order 11200.

(15) Authority with respect to making and enforcing rules and regulations for the government, conduct, and discipline of the U.S. Park Police, under the Act of October 11, 1962 (76 Stat. 907).

(16) Authority to make certifications required in connection with reports made to the Secretary on each appropriation or fund under National Park Service control.



(17) Authority to approve Standard Form 1151, Nonexpenditure Transfer Authorization, in connection with internal transfer of funds.

(18) Authority to approve the use of a Government-owned or leased motor vehicle between domicile and place of employment.

(19) Authority to sell timber.

(20) Authority to accept an offer in settlement of a timber trespass.

(21) Authority to approve programs for the destruction and disposition of wild animals which are damaging the land or its vegetative cover, and of permits to collect rare or endangered species.

(22) Authority to approve payment of dues for library memberships in societies or associations.

(23) Authority to approve rates for quarters and related services.

(24) Authority over those matters for which specific authority is delegated in internal management directives and unpublished delegations of authority arising in the Washington office.

(25) Authority to approve master plans.

**Sec. 2. Redlegation.** The Associate Director, Service Center Operation may, in writing, redelegate to his officers and employees the authority delegated in this order, and may authorize written redelegations of such authority except that contract and procurement authority may only be redelegated to the Director, Denver Service Center, and Chief, Contracting Office. Each redelegation shall be published in the FEDERAL REGISTER.

**Sec. 3. Revocation.** Western Service Center Order Nos. 1, 2, and 3 dated June 4, 1971, and published at 36 F.R. 13800; Eastern Service Center Order No. 1 dated May 10, 1971, and Order Nos. 2 and 3 dated June 8, 1971, and published at 36 F.R. 13801; and National Park Service Order No. 69, dated July 6, 1971, and published at 36 F.R. 13803 are hereby revoked.

(205 DM, as amended; 245 DM, as amended; sec. 2 of Reorganization Plan No. 3 of 1950)

Dated: December 17, 1971.

RAYMOND L. FREEMAN,  
Acting Director,  
National Park Service.

[FR Doc.71-18799 Filed 12-23-71;8:45 am]

## BLUE RIDGE PARKWAY, VA.

### Notice of Intention To Issue a Concession Permit

Pursuant to the provisions of section 5, of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Blue Ridge Parkway, proposes to issue a concession permit to Homer Harris authorizing him to provide concession facilities and services for the public at Mabry Mill on the Blue Ridge Parkway for the period from January 1, 1972, through December 31, 1973.

The foregoing concessioner has performed his obligations under a prior

permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Superintendent, Blue Ridge Parkway, Post Office Box 1710, Roanoke, VA 24008, for information as to the requirements of the proposed permit.

GRANVILLE B. LILES,  
Superintendent,  
Blue Ridge Parkway.

NOVEMBER 19, 1971.

[FR Doc.71-18800 Filed 12-23-71;8:45 am]

## OLYMPIC NATIONAL PARK

### Notice of Intention To Issue a Concession Permit

Pursuant to the provisions of section 5, of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Olympic National Park, proposes to issue a concession permit to Olympic Ski Lifts, Inc., authorizing it to provide concession facilities and services for the public at Olympic National Park for a period of 5 years.

The foregoing concessioner has performed its obligations under a prior permit to the satisfaction of the National Park Service and, therefore pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Superintendent, Olympic National Park, 600 East Park Avenue, Port Angeles, WA 98362, for information as to the requirements of the proposed permit.

Dated: November 15, 1971.

CARL C. LAMB,  
Acting Superintendent,  
Olympic National Park.

[FR Doc.71-18802 Filed 12-23-71;8:45 am]

## ATOMIC ENERGY COMMISSION

[Docket No. 50-346]

### TOLEDO EDISON CO. AND CLEVELAND ELECTRIC ILLUMINATING CO.

#### Notice of Availability of Applicants' Supplemental Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic

Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a report entitled "Supplement to Environmental Report—Construction Permit Stage," for the Davis-Besse Nuclear Power Station, submitted by The Toledo Edison Co. and The Cleveland Electric Illuminating Co., has been placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the Ida Rupp Public Library, Port Clinton, Ohio 43452. The report is also being made available to the public at the Office of the Governor, Planning and Development Clearinghouse, Box 1001, Columbus, OH 43215. This report discusses environmental considerations related to the proposed construction of the Davis-Besse Nuclear Power Station located in Ottawa County, Ohio.

Notice of availability of the applicants' environmental report dated August 3, 1970, was published in the FEDERAL REGISTER on August 20, 1970 (35 F.R. 13325). Notice of availability of the Commission's detailed statement on environmental considerations was published in the FEDERAL REGISTER on December 4, 1970 (35 F.R. 18485). Copies of the environmental report and the Commission's detailed statement are also available at the above locations.

After the supplemental report has been analyzed by the Commission's Director of Regulation or his designee, a supplemental draft detailed statement of environmental considerations related to the proposed action will be prepared. Upon preparation of the supplemental draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the supplemental draft detailed statement. The summary notice will request comments from Federal agencies, State and local officials, and interested persons on the supplemental draft statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials thereon will be available when received.

Dated at Bethesda, Md., this 17th day of December 1971.

For the Atomic Energy Commission.

R. C. DEYOUNG,  
Assistant Director for Pressurized Water Reactors Division  
of Reactor Licensing.

[FR Doc.71-18797 Filed 12-23-71;8:47 am]

## SECURITIES AND EXCHANGE COMMISSION

[File No. B24-1790]

### COATINGS UNLIMITED, INC.

#### Order Suspending Trading

DECEMBER 16, 1971.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common



stock, \$0.01 par value, of Coatings Unlimited, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 12 p.m. December 17, 1971, through December 26, 1971.

By the Commission.

RONALD F. HUNT,  
Secretary.

[FR Doc.71-18827 Filed 12-23-71;8:46 am]

[70-5122]

## LOUISIANA POWER & LIGHT CO.

### Notice of Proposed Issue and Sale of Bonds at Competitive Bidding, Increase in Authorized Shares of Preferred Stock and Issue and Sale at Competitive Bidding

DECEMBER 17, 1971.

Notice is hereby given that Louisiana Power & Light Co. (Louisiana), 142 Delaronde Street, New Orleans, LA 70114, an electric utility subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed a declaration and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and rule 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Louisiana proposes to issue and sell, subject to the competitive bidding requirements of rule 50 under the Act, \$25 million principal amount of First Mortgage Bonds, — Percent Series due 2002. The interest rate of the bonds (which shall be a multiple of  $\frac{1}{8}$  of 1 percent and the price, exclusive of accrued interest, to be paid to Louisiana (which shall be not less than 100 percent nor more than 102 $\frac{1}{2}$  percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under Louisiana's mortgage and Deed of Trust dated as of April 1, 1944, to the Chase Manhattan Bank and Charles F. Ruge, successor Trustees, as heretofore supplemented by various indentures and as to be further supplemented by a supplemental indenture to be dated January 1, 1972, and which contains a prohibition until January 1, 1977, against refunding the issue with the proceeds of funds borrowed at a lower effective interest cost.

Louisiana also proposes to amend its Certificate of Incorporation so as to authorize 100,000 shares of a new series of cumulative preferred stock, \$100 par value, and to issue and sell such shares subject to the competitive bidding requirements of rule 50 under the Act. The

dividend rate of the preferred stock (which shall be a multiple of  $\frac{1}{25}$  of 1 percent and the price to be paid to Louisiana (which shall be not less than \$100 nor more than \$102.75 per share) will be determined by the competitive bidding. The terms of the preferred stock will include a prohibition until January 1, 1977, against refunding the stock, directly or indirectly, with the proceeds of funds derived from the issuance of debt securities at a lower effective interest cost or from the issuance of other stock, which ranks prior to or on a parity with the preferred stock as to dividends or assets, at a lower effective dividend cost.

Louisiana will apply the net proceeds derived from the issue and sale of the bonds and preferred stock to the payment of short-term borrowings made for the purpose of temporarily financing its 1971-1972 construction program and other corporate purposes, and expected not to exceed \$30 million at the time of the issue and sale of the bonds and preferred stock. The balance of the proceeds will be applied to the 1972 construction program, estimated to be \$107,600,000, and other corporate purposes.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the transactions are estimated at \$85,000 for the bonds and \$40,000 for the preferred stock including legal fees of \$25,000 and \$17,000, and accounting fees of \$5,500 and \$2,200 respectively. Fees of counsel for the underwriters, to be paid by the successful bidders, are estimated at \$8,500 for the bonds and \$6,000 for the preferred stock.

Notice is further given that any interested person may, not later than January 5, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration as amended or as it may be further amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,  
Secretary.

[FR Doc.71-18828 Filed 12-23-71;8:46 am]

## DEPARTMENT OF LABOR

### Employment Standards Administration

#### MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

##### Modification To Area Wage Determination Decisions for Specified Localities in Certain States

Modification to area wage determination decisions for specified localities in Alabama, Connecticut, Illinois, Kentucky, Louisiana, Maryland, Michigan, Missouri, Texas, Virginia, and Washington, D.C.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	Date
AM-1593	August 6, 1971
AM-329, AM-330, AM-339, AM-342	August 13, 1971
AM-373, AM-375, AM-378, AM-381, AM-384, AM-385, AM-387, AM-388, AM-392	August 18, 1971
AM-442, AM-1842, AM-1843, AM-1845	August 20, 1971
AM-3555, AM-3617	August 25, 1971
AM-7480	November 12, 1971
AM-7703, AM-7715, AM-7717	November 19, 1971

are hereby modified as set forth below.

These modifications are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of the Code of Federal Regulations, "Procedure for predetermination of wage rates," and of Secretary of Labor's Orders 13-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified, shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified



classes engaged in contract work of the character and in the localities described therein.

The modifications are effective from their date of publication in the FEDERAL REGISTER until the end of the period for which the determinations being modified were issued and are to be used in accordance with the provisions of 29 CFR Part 5.

Any person, organization, or governmental agency having an interest in the

wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determination, Washington, D.C. 20210. The cause for not utilizing the rule making procedures prescribed in 5

U.S.C. 553 is set forth in the document being modified.

The modifications to the area wage determination decisions listed above are set forth below.

Signed at Washington, D.C., this 17th day of December 1971.

HORACE E. MENASCO,  
Administrator, Employment  
Standards Administration.

## MODIFICATIONS

Classifications	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
WD No. 448-86 F.R. 10349, Jefferson County, Ala. Modification No. 1						
CHANGE:						
Carpenters:						
Carpenters and soft floor layers	\$5.60	0.25	0.15		0.04	
Piledriver	5.80	.25	.15		.04	
WD No. AM-1693-86 F.R. 14660 New Haven County, Conn. Modification No. 1						
DREDGE 1-ATLANTIC-U						
Dipper and clamshell dredges:						
Operators	6.02	.25	.15	a+5%		
Cranemen	5.78	.25	.15	a+5%		
Maintenance engineers	5.60	.25	.15	a+5%		
Welders	5.54	.25	.15	a+5%		
Mates	5.14	.25	.15	a+5%		
Oiler, firemen, welders' helpers	4.54	.25	.15	a+5%		
Deckhands	4.35	.25	.15	a+5%		
Scowmen	4.28	.25	.15	a+5%		
Engineer	5.95	.25	.15	a+5%		
Hydraulic dredges:						
Levermen	5.86	.25	.15	a+5%		
Engineer and derrick operators	5.78	.25	.15	a+5%		
Maintenance engineer	5.60	.25	.15	a+5%		
Dredge carpenter, electricians, blacksmith, welders and boilermen	5.54	.25	.15	a+5%		
Mates	5.14	.25	.15	a+5%		
Oilers, firemen, carpenter's helper, welder's helper and blacksmith helper	4.54	.25	.15	a+5%		
Deckhands and shoremen	4.28	.25	.15	a+5%		
Tug engineer	5.20	.25	.15	a+5%		
Tug deckhand	4.35	.25	.15	a+5%		
Drill boats:						
Engineer	7.1575	.25	.15	b		
Blaster	7.2575	.25	.15	b		
Driller, welder, machinist	7.1587	.25	.15	b		
Firemen	6.88	.25	.15	b		
Oiler	6.7387	.25	.15	b		
Drill helper	6.7387	.25	.15	b		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnotes:						
a. Holidays: A through F; Washington's Birthday and Veteran's Day.						
b. Holidays: A through F; Washington's Birthday and Veteran's Day (6½ days of vacation with pay for 104 days of service; 1 additional day of vacation with pay for each additional 21½ days of service, all in 1 calendar year. Employees not qualifying for vacation to receive 1 day's vacation with pay for each full 24 days of service in 1 calendar year.						
WD No. AM-629-86 F.R. 15161, Champaign County, Ill. Modification No. 2						
CHANGE:						
Carpenters (building construction)	7.315	.25	.405		.05	
Millwrights (building construction)	7.665	.25	.405		.05	
Piledrivers (building construction)	7.665	.25	.405		.05	
Soft floor layers	7.315	.25	.405		.05	
Electricians	7.80	.20	.15		.25	
Painters (brush)	6.90	.15	.20		.02	
OMIT:						
Cement masons	7.575	.25			.025	
ADD:						
Cement masons (building construction)	7.575	.25			.025	
WD No. AM-350-86 F.R. 15165, Cook County, Ill. Modification No. 3						
CHANGE:						
Electricians	8.65	4-1/2%	3 1/2%		1 1/2%	
WD No. AM-339-86 F.R. 15206, Vermilion County, Ill. Modification No. 1						
ILL. 7 LAB. T 1 of 1						
Building construction:						
CHANGE:						
Laborers:						
Jackhammer operators	6.20	.20	.30		.035	
Masons, plasterers and cement finishers' helpers, scaffold builders of all scaffolds and runways on which laborers work, hod carriers, sewer men, open well pits or tunnel workers, insulating laborers, asphalt rakers, tamers and smoothers, chipping hammer men, mixing operators one-fourth or one bag handling of sack cement, digging ditches 6' below grade level, tile layers (glazed or conc.) bottom men or any other laborers below 14' level, mixing and handling material for drainage tile layer, mixer operators, strikeoff men for poured in place roof deck materials, power tamper and air tool operators	6.15	.20	.30		.035	
Common laborers, rodmen, grade stake setters, composition flooring helpers, carpenters' tenders, clearing of debris from buildings, wrecking concrete forms, digging trenches, holes, piers and foundations and all other labor work	6.00	.20	.30		.035	
Caisson and tunnel work:						
Miners and sand hoppers, air tool operators, drillers, shotfirers and powdermen	6.60	.20	.30		.035	
Gunnite nozzlemen	6.65	.20	.30		.035	
All above, except caisson and tunnel workers, who are engaged in dynamiting and blasting or the handling of powder, caps or fuses	7.10	.20	.30		.035	



Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-348-36 F.R. 15218, Winnebago County, Ill. Modification No. 2						
CHANGE: Bricklayers and stonemasons.....	6.00	.20	.40	.45		
WD No. AM-473-36 F.R. 16432, Fayette County, Ky. Modification No. 5						
CHANGE: Painters.....	5.97					
WD No. AM-5,627-36 F.R. 16738, Caddo and Bossier Parishes, La. Modification No. 2						
CHANGE: Plumbers, pipefitters.....	6.11		.30	.15	.06	
WD No. AM-5,628-36 F.R. 16740, Orleans, Jefferson, Plaquemine, and St. Bernard Parishes, La. Modification No. 3						
CHANGE: Laborers:						
Laborers.....	4.46	.10	.10			
Stone masons helper; mechanical tool operator (air, electric); sewerman.....	4.56	.10	.10			
Guniting tool operator.....	4.71	.10	.10			
Pipelayers, nonmetallic.....	4.56	.10	.10			
Bricklayers and mason tenders.....	4.58	.10	.10			
Mortar mixer, hand or machine.....	4.68	.10	.10			
WD No. AM-1842-36 F.R. 16258, Montgomery and Prince Georges Counties, Md.; city of Alexandria, Va.; Arlington County, Va.; Dulles International Airport Modification No. 4						
Building construction						
CHANGE:						
Bricklayers.....	8.60	.37	.18			
Carpenters.....	7.44	.20	.24		.07	
Electricians.....	8.35	.35	1%+.20		.10	
Ironworkers:						
Reinforcing.....	7.15	.35	.25		.03	
Millwrights.....	7.565	.20	.24		.07	
Piledrivermen.....	7.565	.20	.24		.07	
Soft floor layers.....	7.44	.20	.24		.07	
WD No. AM-1845-36 F.R. 16241, Washington, D.C. Modification No. 8						
Building construction						
CHANGE:						
Bricklayers.....	* 8.60	.37	.18			
Carpenters.....	7.44	.20	.24		.07	
Electricians.....	8.35	.35	1%+.20		.10	
Ironworkers:						
Reinforcing.....	7.15	.35	.25		.03	
Millwrights.....	7.565	.20	.24		.07	
Piledrivermen.....	7.565	.20	.24		.07	
Soft floor layers.....	7.44	.20	.24		.07	
WD No. AM-1845-36 F.R. 16245, Baltimore City and County, Md. Modification No. 5						
Building construction						
ADD:						
Marble, tile, and terrazzo helpers.....	5.025	.125	.20			
CHANGE:						
Carpenters.....	7.49	.29	.35		.05	
Electricians.....	7.65	.30	1%+.10		1/2%	
Glaziers:						
Glaziers.....	6.85	.15	.10			
Swinging scaffold and bosun's chair.....	7.05	.15	.10			
Laborers:						
Laborers.....	5.00	.20	.175		.025	
Hod carriers.....	5.40	.20	.175		.025	
Pipelayers (concrete and clay).....	5.20	.20	.175		.025	
Plasterers' laborers.....	5.15	.20	.175		.025	
Power tool operators.....	5.10	.20	.175		.025	
Wagon drill operators.....	5.25	.20	.175		.025	
Millwrights.....	7.49	.29	.35		.05	
Piledrivermen.....	7.49	.29	.35		.05	
Plasterers.....	7.35	.25	.30			
Plumbers.....	7.83	.35	.35		.04	
Sheet metalworkers.....	7.87	.55	.20		.05	
Soft floor layers—resilient floor layers.....	7.49	.29	.35		.05	
Truck drivers:						
Goose-necks, drop frame trailers.....	6.75	d	e	f+g		
All "A" frames, winch trucks, fork lift and trailers.....	6.55	d	e	f+g		
Flat-beds and pickups.....	6.10	d	e	f+g		
Helpers.....	5.80	d	e	f+g		
WD No. AM-575-36 F.R. 16777, Allegan County, Mich. Modification No. 4						
CHANGE:						
Painters (remainder of county):						
Brush and roller (pan).....	6.65	.20	.20			
Structural steel.....	7.30	.20	.20			
Swing stage.....	7.30	.20	.20			
Spray.....	7.35	.20	.20			
Mechanical pressure roller.....	7.35	.20	.20			
ADD:						
Painters (remainder of county):						
Steeple jack.....	7.50	.20	.20			
Paperhanging.....	6.85	.20	.20			
Sandblasting.....	7.35	.20	.20			
WD No. AM-575-36 F.R. 16787, Berrien County, Mich. Modification No. 4						
CHANGE: Painters.....	6.50					
WD No. AM-575-36 F.R. 15800, Chippewa and Mackinac Counties, Mich. Modification No. 5						
CHANGE:						
Power equipment operators:						
Building, heavy, underground, tunnels, and sewers:						
Engineers (except compressors).....	6.59	.40	.30			
Compressor operator.....	6.21	.40	.30			
Others and firemen.....	5.49	.40	.30			
Steel construction:						
Engineers.....	6.84	.40	.30			
Others and firemen.....	6.84	.40	.30			



Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-581-56 F.R. 15815, Gogebic County, Mich. Modification No. 4						
CHANGE:						
Roofers.....	6.00	.35	.50			
Power equipment operators:						
Building, heavy, underground, tunnels, and sewers:						
Engineers (except compressors).....	6.59	.40	.30			
Compressor operator.....	6.21	.40	.30			
Oilers and firemen.....	5.49	.40	.30			
Steel construction:						
Engineers.....	6.84	.40	.30			
Oilers and firemen.....	6.84	.40	.30			
WD No. AM-584-56 F.R. 15828, Ingham County, Mich. Modification No. 4						
CHANGE:						
Terrazzo workers.....	7.83	.40	.40		e	
Tile setters.....	7.83	.40	.40		e	
Footnote:						
e: One paid holiday—July 4.						
WD No. AM-585-56 F.R. 15833, Kalamazoo County, Mich. Modification No. 4						
CHANGE:						
Painters:						
Brush and rollers (pan).....	6.65	.20	.20			
Structural steel.....	7.30	.20	.20			
Swing stage.....	7.30	.20	.20			
Spray.....	7.35	.20	.20			
Mechanical pressure roller.....	7.35	.20	.20			
ADD:						
Painters:						
Steeple jack.....	7.50	.20	.20			
Paperhanging.....	6.85	.20	.20			
Sandblasting.....	7.35	.20	.20			
WD No. AM-587-56 F.R. 15848, Keweenaw, Houghton, Ontonagon, and Baraga Counties, Mich. Modification No. 4						
CHANGE:						
Roofers.....	6.00	.35	.50			
Power equipment operators:						
Building and heavy, construction—underground, tunnels and sewers:						
Engineers (except compressors).....	6.59	.40	.30			
Oilers and firemen.....	5.49	.40	.30			
Compressor operator.....	6.21	.40	.30			
Steel construction:						
Engineers.....	6.84	.40	.30			
Oilers and firemen.....	6.84	.40	.30			
WD No. AM-588-56 F.R. 15846, Marquette County, Mich. Modification No. 4						
CHANGE:						
Roofers.....	6.00	.35	.30			
Power equipment operators:						
Building, heavy, underground, tunnels and sewers:						
Engineers (except compressors).....	6.59	.40	.30			
Compressor operator.....	6.21	.40	.30			
Oilers and firemen.....	5.49	.40	.30			
Steel construction:						
Engineers.....	6.84	.40	.30			
Oilers and firemen.....	6.84	.40	.30			
WD No. AM-592-56 F.R. 15867, St. Clair County, Mich. Modification No. 3						
CHANGE:						
Bricklayers.....	8.56	.35	.30	.50		
Stonemasons.....	8.56	.35	.30	.50		
WD No. AM-597-56 F.R. 15869, city and county of St. Louis and St. Charles County, Mo. Modification No. 3						
CHANGE:						
Building, heavy and highway—St. Louis City and County, Building—St. Charles County:						
Elevator constructors.....	8.10	.195	.20	2%+b&c		
Elevator constructor's helpers.....	70%—J.R.	.195	.20	2%+b&c		
Elevator constructor's helpers—probationary.....	80%—J.R.					
MO 4-PEO-1						
Building construction—St. Charles County:						
Power equipment operators:						
Group I:						
Asphalt finishing machine and trench widening spreader; asphalt plant console operator; autograder; automatic slipform paver; backhoe; blade operator—all types; boat operator—tow; boiler—2; central mix concrete plant operator; clamshell operator; concrete mixer paver; crane operator; detrick or derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine rotary self-propelled; highloader; hoisting engine—2 active drums; launchhammer wheel; locomotive operator—standard gage; mechanics and welders; mucking machine; piledriver operator; pitman crane operator; push cat operator; quad trac; scoop operator—all types; shovel operator; sideboom cats; skimmer scoop operator; trenching machine operator; truck crane.....	7.50	.35	.40			.02
Group II:						
A-frame; asphalt hot-mix silo; asphalt plant fireman (drum or boiler); asphalt plant man; asphalt plant mixer operator; asphalt roller operator; backfiller operator; Barber-Greene loader; boat operator (bridges and dams); chip spreader; compressor maintenance operator—2; concrete mixer operator—skip loader; concrete plant operator; concrete pump operator; crusher operator; dredge oiler; elevating grader operator; fork lift; greaser—fleet; hoisting engine—1; locomotive operator—narrow gage; multiple compactor; pavement breaker; power-broom—self-propelled; power shield; roller; side discharge concrete spreader; slip form finishing machine; stumpcutter machine; throttle man; tractor operator (over 50 hp.); welding machine maintenance operator—2; winch truck.....	7.30	.35	.40			.02



Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Group III:						
Boilers—1; chip spreader (front man); churn drill operator; clef plane operator; compressor maintenance operator—1; concrete saw operator (self-propelled); conveyor operator; curb finishing machine; distributor operator; finishing machine operator; fireman—rig; flex plane operator; float operator; form grader operator; generator—maintenance operator; light plant—maintenance operator; maintenance operator; oiler driver; pugmill operator; pump maintenance operator (other than dredge); roller operator; other than high type asphalt; screening and washing plant operator; siphons and jets; subgrading machine operator; spreader box operator, self-propelled (not asphalt); tank car heater operator (combination boiler and booster); tractor operator (50 hp. or less); Umac, Utric or similar spreaders; vibrating machine operator, not hand; welding machine maintenance operator—1.	7.10	.35	.40		.02	
Group IV:						
Oiler.	6.00	.35	.40		.02	
Clamshells, 3-yard capacity or over; crane, rigs or piledrivers 100 feet of boom or over (including jib); draglines, 3-yard capacity or over; hoisting engine over two drums; shovels, 3-yard capacity or over.	7.75	.35	.40		.02	
Crane, rigs or piledrivers, 200 feet or over.	8.25	.35	.40		.02	
Tandem scoop operator.	8.00	.35	.40		.02	
Work in tunnel or tunnel shafts (not air shafts or coffer dams) of 25 feet or more in length or depth, 50 cents per hour above basic rate.						
WD No. AM-3,555—36 F.R. 10773, Bexar County, Tex. Modification No. 4						
CHANGE:						
Building construction:						
Bricklayers.	6.30	.20	.20		.05	
Plasterers.	6.625				.01	
Stonemasons.	6.30	.20	.20		.05	
WD No. AM-7,489—56 F.R. 21737, Harris County, Tex. Modification No. 2						
CHANGE:						
Building construction:						
Bricklayers.	6.90	.175	.20		.03	
WD No. AM-7,705—56 F.R. 22110, Galveston County, Tex. Modification No. 1						
CHANGE:						
Incidental paving and utilities and site preparation:						
Tractor (crawler type) over 150 hp.	3.15					
WD No. AM-7,715—56 F.R. 22121, Galveston County, Tex. Modification No. 2						
CHANGE:						
Building construction:						
Bricklayers.	6.80	.275	.30		.03	
Stonemasons.	6.80	.275	.30		.03	
Plumbers and pipefitters.	6.825	.225	.20		.02	
WD No. AM-7,717—56 F.R. 22124, Jefferson and Orange Counties, Tex. Modification No. 1						
CHANGE:						
Carpenters:						
Carpenters.	6.825				.05	
Cement masons.	6.40					
17-Texas—PEO-1						
Power equipment operators:						
Heavy equipment operators:						
Heavy duty mechanic; blade grader, self-propelled; bull clam; back filler, derrick—power operated, all types; draglines; push cat operator; bulldozer and all type of cat tractors; cable-wat; backhoe; shovel; crane—power operated, all types; elevating grader, self-propelled; hoist—motor driven, two drums or more; mix mobile; winch truck; locomotive crane; mixer 14 cubic feet or more; paving mixer, all sizes; pile driver; scraper—heavy type over 3 cubic yards; trench machine, all sizes; gradall; high lift; foundation boring machines; gasoline or diesel driven welding machines—seven to 12 machines; pumpcrete machine; drill operator—water well; DW-10 equal; tournapulls; asphalt plants; crushing machines and batch plants; scoopmobiles; fingerlift operator.	7.005					
Light equipment operators:						
Air compressor; blade grade—towed; flex plane; form grader; mixer—less than 14 cubic feet; pump; pulsometer; truck crane driver; gasoline or diesel driven welding machines, three to six machines; hoist—single drum; scraper, 3 cubic yards or less; conveyors—power operated.	6.22					
Fireman.	5.77					
Oiler.	5.63					

[FR Doc. 71-12678 Filed 12-23-71; 8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice 416]

### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 20, 1971.

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 Part 1131) 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 protests 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 field office to which protests are to be transmitted.

#### MOTOR CARRIERS OF PROPERTY

No. MC 8973 (Sub-No. 24 TA), filed December 10, 1971. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, NJ, Mail: Post Office Box 93, Ridgefield, NJ 07657. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a common carrier, by motor vehicle, over



irregular routes, transporting: *Pre-stressed subaqueous concrete embedded cylinder pipe and fittings, elbows bends and parts*, from the facilities of Lock Joint Pipe Co., Perryman, Md., to the facilities of Clearview Concrete Pipe Corp., Deer Park, Long Island, N.Y., and construction site located at Wantagh, Long Island, N.Y., also: Deer Park, Long Island, N.Y., to Wantagh, Long Island, N.Y., on traffic originating at Perryman, Md., for 150 days. Supporting shipper: Clearview Concrete Pipe Corp., Box 165, Deer Park, Long Island, NY 11729. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 64932 (Sub-No. 499 TA), filed December 9, 1971. Applicant: ROGERS CARTAGE CO., 1439 West 103d Street, Chicago, IL 60643. Applicant's representative: William Farrell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *No. 6 Fuel oil*, in bulk, in tank vehicles, from Joseph F. Reidy & Sons, Inc., facility at Meredosia, Ill., to the plantsite of Mason & Hanger-Silas Mason Co., at Burlington, Iowa, for 150 days. Supporting shipper: Joseph F. Reidy & Sons, Inc., 10 South Brentwood Boulevard, Clayton, MO 63105. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL 60604.

No. MC 70083 (Sub-No. 21 TA), filed December 13, 1971. Applicant: DRAKE MOTOR LINES, INC., 20 Olney Avenue, Cherry Hill Industrial Park, Cherry Hill, NJ 08034. Applicant's representative: Joseph W. Watson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, having an immediate prior or subsequent movement by air, between points in that part of Pennsylvania east of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 11 to Lemoyne, Pa., and thence along Interstate Highway 83, to the Pennsylvania-Maryland State line on the one hand, and, on the other, airports serving Philadelphia, Pa., Newark, N.J., and New York, N.Y., for 180 days. Supporting shipper: Shulman Air Freight, Inc., 20 Olney Avenue, Cherry Hill, NJ 08034; and various others. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 107012 (Sub-No. 136 TA), filed December 10, 1971. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road, Post Office Box 988, Fort Wayne, IN 46801. Applicant's representative: Karlton Holle (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Voting machines*, uncrated, between Marion, S.C., on the one

hand, and, on the other, points in Dade County, Fla., for 180 days. Supporting shipper: AVM Corp., Jamestown, N.Y. 14701. Send protests to: Acting District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, Room 204, 345 West Wayne Street, Fort Wayne, IN 46802.

No. MC 125681 (Sub-No. 2 TA), filed December 10, 1971. Applicant: MATERIALS TRANSPORT, INC., Sixth and Franklin Streets (Post Office Box 60), Tell City, IN 47586. Applicant's representative: Walter Jones, 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, in dump vehicle, from Rockport, Ind., and the storage yards of Mulzer Crushed Stone located on State Road 69 approximately 3 miles west of Mount Vernon, Ind., to points in that part of Indiana and south of U.S. Highway 36, that part of Illinois on, south and east of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 36 to Decatur, Ill., and thence along U.S. Highway 51 to Cairo, Ill., and that part of Kentucky on and west of U.S. Highway 31E, with no compensation on return except as otherwise authorized, for 180 days. Supporting shipper: Cargill Inc., Minneapolis, Minn. Send protests to: James W. Habermehl, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 802 Century Building, 36 South Penn Street, Indianapolis, IN 46204.

No. MC 134775 (Sub-No. 2 TA), filed December 10, 1971. Applicant: GUNTER BROTHERS, INC., 19060 Frager Road, Kent, WA 98031. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, WA 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, from Portland, Ore., and points in California to points in Thurston, Pierce, and King Counties, Wash., under contract with Roofing Supply Co., Inc., and Hugh McNiven Co., for 180 days. Supporting shippers: Hugh McNiven Co., 1021 Mercer Street, Seattle, WA 98109; Roofing Supply Co., Inc., 10909 120th Avenue NE., Kirkland, WA 98033. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 136115 (Sub-No. 1 TA), filed December 13, 1971. Applicant: HOPKINS TRUCKING SERVICE, INC., Route 2, Box 428-1, Blue Springs, MO 64015. Applicant's representative: Ray E. Hopkins (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products* under contract with Independent Salt Co., between points in Missouri, restricted to traffic having an immediate prior movement by rail, for 150 days. Supporting shipper: Independent Salt Co., Kanopolis, Kans. Send protests to: Vernon V. Coble, District Supervisor, Interstate

Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 136214 TA, filed December 6, 1971. Applicant: ROGER L. JACOBSON, doing business as COLUMBIA MATERIALS, 120 South Gollob, Tucson, AZ 85710. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds including cotton seed meal and soybean meal* (except liquid feeds in bulk), between points in Arizona, Colorado, New Mexico, and Texas, for 180 days. Supporting shipper: Billstone Feed & Grain Service, Inc., Post Office Box 12335, El Paso, TX 79912. Send protests to: Andrew V. Baylor, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3427, Federal Building, Phoenix, Ariz. 85025.

No. MC 136226 TA, filed December 10, 1971. Applicant: BOB DANIELS, 430 South Third, Post Office Box 696, Montesano, WA 98563. Applicant's representative: Bob Daniels (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shakes, shingles, trim, ridge, roofing materials, and exempt commodities*, between points in Oregon, Washington, and California, for 180 days. Supporting shipper: Post & Powell Shake Mill, Route 1, Box 1035, Montesano, WA 98563. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 136227 TA, filed December 13, 1971. Applicant: CRAVEN, INC., doing business as ROCHE MOVING & STORAGE INC., 505 South First Street, Pocatello, ID 83201. Applicant's representative: Jerry Craven (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Personal property*, consisting of household goods and baggage, from Idaho Falls, Idaho, to points within the Idaho counties of Bonneville, Bannock, Bear Lake, Bingham, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power, and Teton, for 180 days. Supporting shipper: U.S. Naval Administrative Unit, Supply Department, 140 South Freeman Avenue, Idaho Falls, ID 83401. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 455 Federal Building and U.S. Courthouse, 550 West Fort Street, Boise, ID 83702.

#### MOTOR CARRIER OF PASSENGERS

No. MC 15317 (Sub-No. 6 TA), filed December 10, 1971. Applicant: CROWN TRANSIT LINES, INC., 1650 North 14th Street, Springfield, IL 62702. Applicant's representative: Harold M. Olsen, 712 South Second Street, Springfield, IL 62704. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express, and newspapers*, in the same vehicle with



passengers, between Peoria, Galesburg, and Moline, Ill., from Peoria, Ill., over Interstate Highway 74 to Galesburg, Ill., thence over Interstate Highway 74 to Interstate Highway 80, thence to Moline, Ill., thence to the junction of Interstate Highway 80 and Illinois Route 150; and return over the same route. The above operation to be restricted as follows: No local passengers to be transported from Peoria to Galesburg or from Galesburg to Peoria. No through passengers between Galesburg and Peoria who interline at Peoria. No through passengers from Peoria who interline at Galesburg, for 180 days. Note: Applicant intends to tack the authority here applied for with its authority presently held in MC 15317. Such tacking will occur at Peoria and Moline, Ill., in order to provide service from Springfield, Ill., to Moline and Rock Island, Ill., and Davenport, Iowa. Supporting shipper: Edward G. Allan, 110 North Ninth Street, Springfield, IL 62703. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 136186 (Sub-No. 1 TA), filed December 10, 1971. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077. Applicant's representative: Bart Cook, Greyhound Lines—West, 371 Market Street, San Francisco, CA 94106. Authority sought to operate as a contract carrier, by motor vehicle, over regular routes, transporting: *Passengers*

and their baggage having a prior or subsequent movement by rail transportation, between East Auburn, Wash., and Portland, Oreg., serving no intermediate points except Tacoma, Wash., under a continuing contract with AMTRAK. Return movement: From East Auburn, Wash., over Washington Highway 18 to junction Interstate Highway 5, thence over Interstate Highway 5 to Portland, Oreg., and return over the same route, for 150 days. Supporting shipper: National Railroad Corp. (AMTRAK) 955 L'Enfant Plaza North SW., Washington, D.C. 20024. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427 Federal Building, Phoenix, Ariz. 85025.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.  
[FR Doc.71-18853 Filed 12-23-71;8:47 am]

## POSTAL SERVICE

### POSTAL RATES AND FEES

#### Notice Placing Into Effect on January 24, 1972, Certain Previously Announced Temporary Changes

By notice published in the FEDERAL REGISTER on August 10, 1971 (36 F.R. 15474) the Postal Service, pursuant to 39 U.S.C. section 3641, announced certain

temporary changes in rates of postage for third-class mail, effective September 15, 1971.

On August 15, 1971, the President issued Executive Order 11615, "Providing for Stabilization of Prices, Rents, Wages and Salaries" (36 F.R. 15727), generally freezing prices, rents, wages, and salaries for 90 days. In light of the President's action, on August 21, 1971, the Postal Service rescinded the temporary changes that were to have become effective September 15, 1971 (36 F.R. 16537). The Postal Service intends, however, to implement the temporary changes on the effective date specified herein in accordance with Phase II of the President's stabilization program.

This notice is issued to advise interested parties that, for reasons set forth in the notice of August 10, 1971, the Postal Service, pursuant to 39 U.S.C. section 3641, hereby places into effect as of January 24, 1972, the changed rates listed in the table published in the notice of August 10, 1971 (36 F.R. 14711). The headings of the third and fifth columns of the table are amended to read as follows, respectively: "Permanent rates prior to May 16, 1971 (cents)"; "January 24, 1972 temporary rates (cents)".

(39 U.S.C. Sections 401, 402, 3626, 3627, 3641)

LOUIS A. COX,  
Solicitor.

DECEMBER 23, 1971.

[FR Doc.71-18927 Filed 12-23-71;11:58 am]



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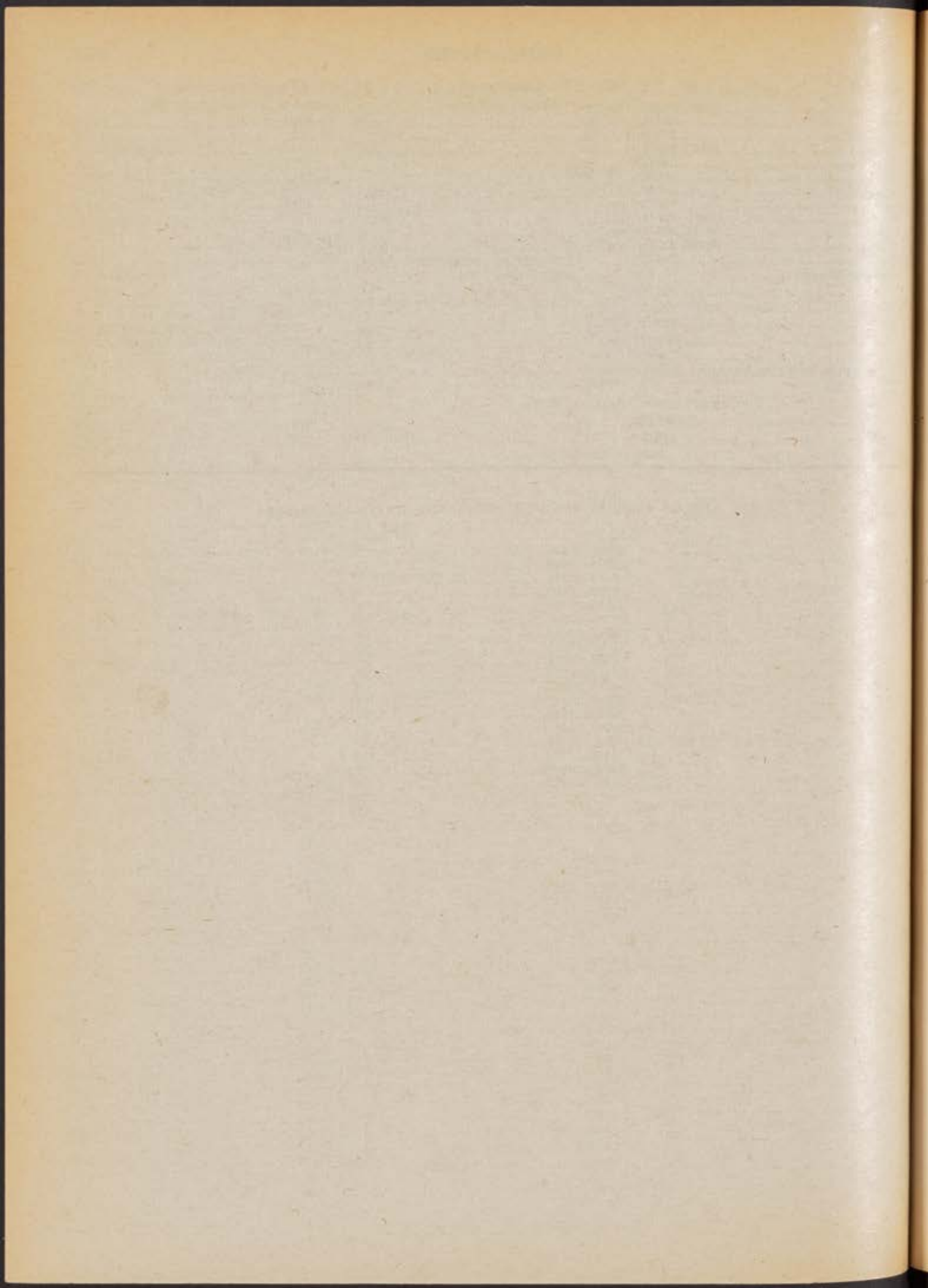


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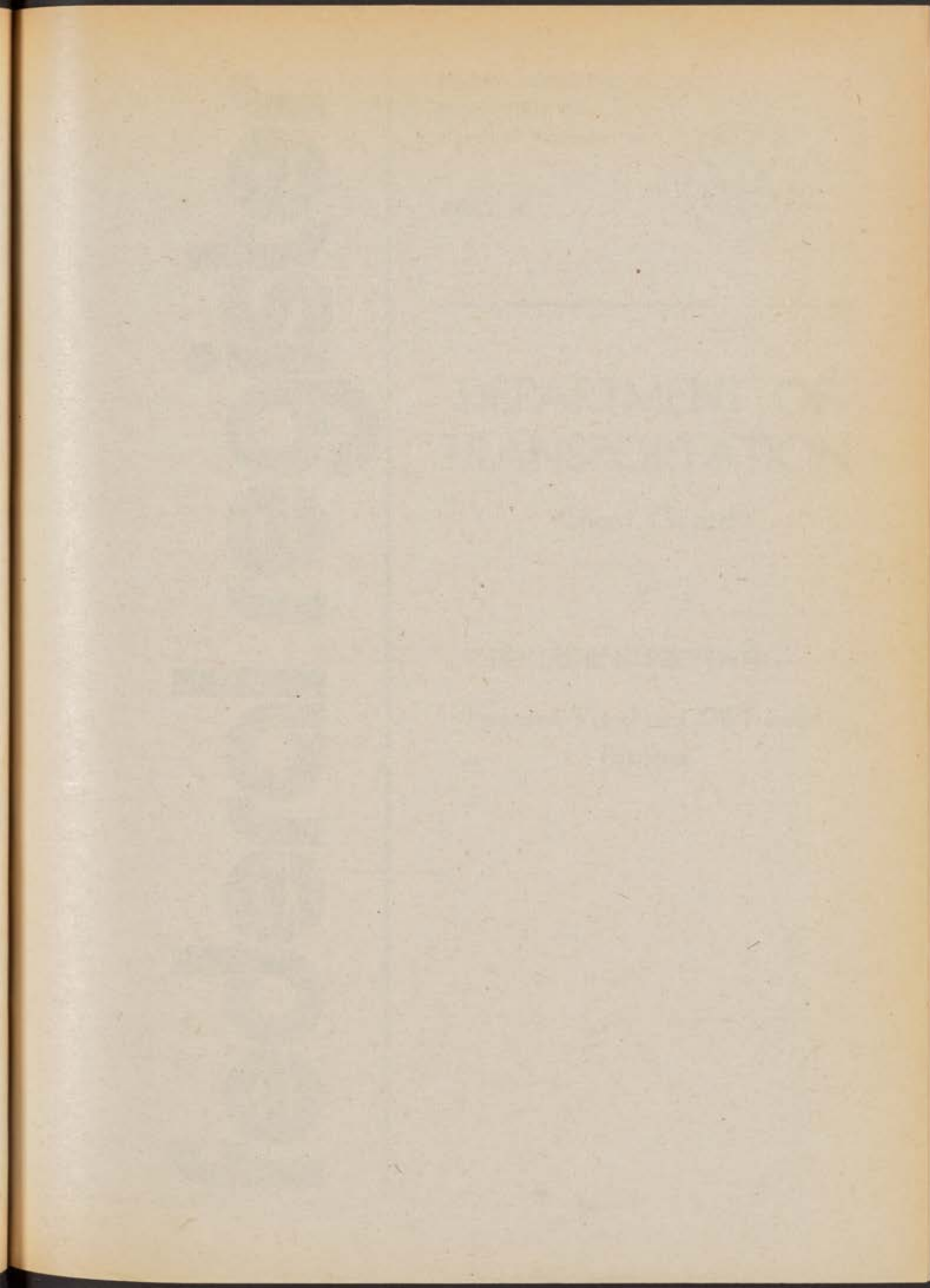
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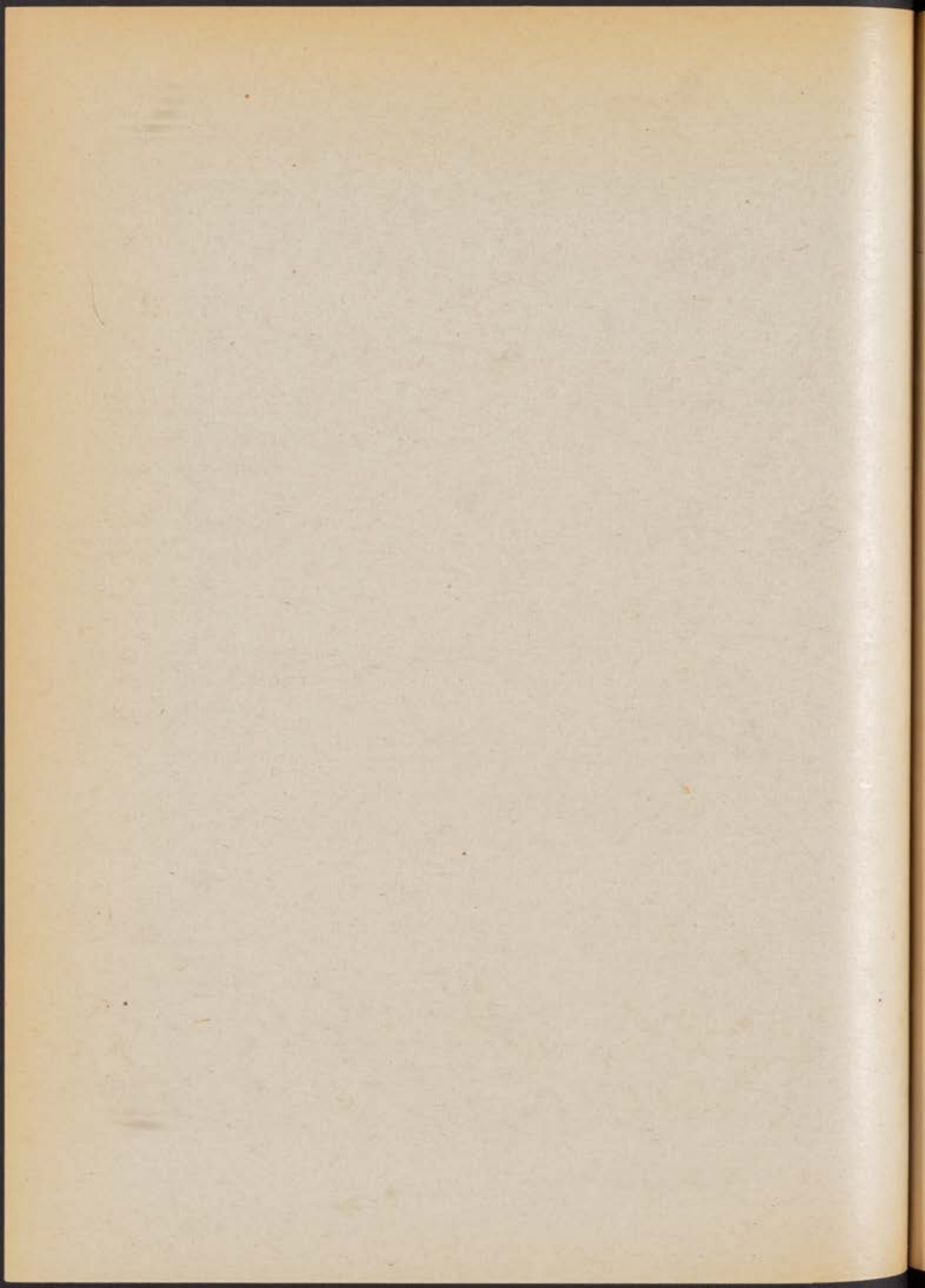














FRIDAY, DECEMBER 24, 1971

WASHINGTON, D.C.

Volume 36 ■ Number 248



## PART II

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# DEPARTMENT OF TRANSPORTATION

Coast Guard



## POLLUTION PREVENTION

Proposed Vessel and Oil Transfer  
Facilities



# DEPARTMENT OF TRANSPORTATION

## Coast Guard

[ 33 CFR Parts 154, 155, 156 ]

[ CGFR 71-160 ]

## POLLUTION PREVENTION

### Vessel and Oil Transfer Facilities

The Coast Guard is considering amending the pollution regulations by adding three new Parts, 154, 155, and 156, to Subchapter O of Title 33, Code of Federal Regulations, to govern the operation of facilities and vessels and the transfer of oil to or from certain vessels to prevent the discharge of oil.

Interested persons are invited to participate in the making of the proposed rule by submitting written data, views, or comments regarding the proposal to the U.S. Coast Guard (CMC), Washington, D.C. 20590. Communications should identify the notice number, CGFR 71-160, any specific wording recommended, reasons for any recommended change, and the name, address, and organization, if any, of the commentator.

The Coast Guard will hold a public hearing on February 15, 1972 at 9:30 a.m. in Conference Room 2230, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. Interested persons are invited to attend the hearing and present oral or written statements on this proposal.

All communications received before February 21, 1972, or at the hearing, will be fully considered and evaluated before final action is taken on this proposal. Copies of all written communications received will be available for examination in Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC, both before and after the closing date for the receipt of comments. The proposal contained in this document may be changed in the light of the comments received.

On April 3, 1970, the President signed the Water Quality Improvement Act of 1970 which amended the Federal Water Pollution Control Act (FWPCA). Section 11 of this Act, concerning control of pollution by oil, states in part, "The Congress hereby declares that it is the policy of the United States that there should be no discharge of oil into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone."

At the NATO Committee on the Challenges to Modern Society (CCMS) meeting in Brussels in November of 1970, Secretary of Transportation John Volpe proposed "by mid-decade (1975) a complete halt to all intentional discharges of oil and oily wastes into the oceans by tankers and other vessels". This goal, modified to include "other noxious substances", has been established as the major objective of the Oil Pollution Conference to be held in 1973 under the auspices of the Intergovernmental Maritime Consultative Organization (IMCO).

A review of pollution incident statistics and the progress of voluntary industry programs since amending the FWPCA indicates that regulatory action is necessary to meet our stated goals. Therefore, acting under the authority of section 11(j)(1) of the FWPCA, which provides in part: " \* \* \* the President shall issue regulations \* \* \* (C) establishing procedures, methods, and requirements for equipment to prevent discharges of oil from vessels and from on-shore facilities and offshore facilities, and (D) governing the inspection of vessels carrying cargoes of oil and the inspection of such cargoes in order to reduce the likelihood of discharges of oil from such vessels in violation of this section," the Coast Guard is considering regulations in four general problem areas. These are: tank cleaning and ballast; bilges, leaks, and fueling spills; vessel casualties; and facility (terminal) or oil transfer operations.

The tank cleaning and ballast discharge problem principally occurs in international waters and, due to the relative fleet sizes, results primarily from vessels other than U.S. flag vessels. This problem is under active consideration by the Intergovernmental Maritime Consultative Organization (IMCO) and can only be resolved by international agreement. Therefore, in developing these regulations consideration of the deliberate discharge problem has been limited to implementing the 1969 amendments to the Convention for Prevention of Pollution of the Seas by Oil, 1954, as amended. However, it should be noted that shore reception of dirty ballast appears to be the only feasible solution for vessels not able to use load-on-top procedures. Comments on making a mandatory requirement for the reception of slops and dirty ballast by terminals are solicited.

Although the United States has ratified the 1969 amendments, they will not come into force internationally for some time. Implementation of these amendments on a worldwide basis would reduce the deliberate discharge of oil to the seas by nearly 90 percent. Although drafted in regulatory form, the 1969 amendments cannot be promulgated until legislation is enacted by the Congress modifying the 1961 Oil Pollution Act which implemented the Oil Pollution Convention.

The problem of vessel casualties can be divided into collisions (vessel to vessel), collisions (vessel to object), groundings, and other items such as fire and explosions, which are primarily safety problems with pollution as a secondary consideration. The problem of fire and explosions is under continuous review and analysis and, therefore, special efforts in this area for pollution prevention are considered unnecessary.

The external (to the vessel) navigational and operational control of vessels to prevent collisions and groundings is being considered by Congress in the Port Safety Bill H.R. 8140 S. 2074 et al. No action in this regard is presently proposed in the matter of general maritime safety. It is emphasized here, and will become further apparent in this discus-

sion, that maritime safety and pollution prevention are intimately related and cannot be separated. The proposed regulations do consider the structural adequacy of the vessel to withstand specified limited energy operational groundings, rammings, and collisions. If operational control proves inadequate, then vessel design will be reconsidered.

The maneuvering characteristics of vessels are under study internationally. It is not deemed possible at this time to relate and resolve the contribution to pollution of the powering and maneuvering characteristics of tugs and barges in our inland and coastal waterways. This potential problem will be further studied and, should a problem be determined to exist, appropriate action will be taken.

This notice, then, stresses efforts to reduce oil pollution from bilge discharges, leaks, spills, and terminal operations which result in the discharge of oil into the ecologically sensitive inland and coastal waters of this country. In developing this proposal, the existing body of laws, regulations, policy, and internal procedures were examined.

An accompanying notice of proposed rule making revises Chapter I of Title 46 to specify additional examination and licensing requirements for U.S. seamen and to modify the inspection and dry-docking requirements for U.S. vessels. In addition, changes will be proposed in the near future to revise Chapter I of Title 46 to more clearly define the requirements concerning the discharge of liquid ballast required for stability.

The definition of oil used in this proposal is that contained in the act and includes the lighter fractions of the petroleum distillation process such as kerosenes, gasolines, and naphthes.

Part 154 would contain regulations governing large onshore and offshore facilities engaged in the transfer of oil to and from vessels. A large facility is one which has a tank capacity for that oil of 10,000 U.S. gallons or more. These large facilities will remain subject to the safety requirements of 33 CFR Part 126. These regulations would not apply to small vessel fueling operations such as marinas using insert automatic fill nozzles, typical of gas station operations. Also, they would not apply to such operations as a large vessel taking on lube oil at a dry cargo terminal even though the vessel may have a fuel oil capacity greater than 10,000 gallons.

Subpart A of Part 154 contains the general applicability clauses, definitions, and the basic requirement that no person may engage in oil transfer operations to or from a vessel after April 3, 1973, without or in violation of an oil transfer permit issued by the U.S. Coast Guard. Although 33 CFR Part 126 presently requires all facilities handling hazardous products to be a "designated waterfront facility," there is no formal designation. A formal permit system will result in a current inventory of all oil handling facilities and thereby enable inspection and control of such facilities to determine the adequacy of the physical plant, its personnel, and procedures.



Subpart B would contain the details of eligibility, procedures, and requirements to obtain an operating permit. The basis of permit issuance will be an inspection of the facility and an evaluation of the procedures used for oil transfer operations. Each facility must provide an operations manual and operate in accordance therewith.

A major eligibility requirement is that the owner or operator must in accordance with section 21(b) of the Act provide certification from the State that the facility meets or will not violate the State water quality standards.

The April 3, 1973, date is selected to coincide with the effective date of section 21(b) of the Act and thereby avoid any need to reissue permits issued prior to that date.

Facilities in operation on the effective date of these regulations must submit their applications to the Coast Guard prior to November 1, 1972, to allow processing and issuance of the permit prior to April 3, 1973.

Since each oil transfer facility is unique, the required operations manual provides a means for the permit holder to inform his personnel and the Coast Guard how he plans to transfer oil. The manual specifies the number of terminal personnel required for various operations; the setup of piping systems, communications, alarms, controls, and lighting; the location of personnel during operations and other information or procedures pertinent to the safe transfer of oil in bulk. The manual also must contain emergency procedures for spill response.

Subpart C of Part 154 would contain facility equipment requirements. Design features of the hose, piping, loading arms, and couplings would be specified. Each facility would be required to have a small discharge containment system in work areas subject to routine operational discharges such as connections, hose drainage, and coupling points. Equipment for containing discharges on the water would also be required.

Subpart C of Part 154 would require that for vessel loading operations, the facility provide a means independent of the normal operating procedure to stop the flow of oil. Primarily, this requirement is intended as an emergency procedure in the event of an overflow, but is equally applicable to a loading arm or hose failure. The point of flow cut-off must be located to minimize the amount of oil which will drain from the transfer systems. In certain cases where the facility manning and available dedicated communications are adequate, this emergency shutdown system may be a communications system if acceptable to the Captain of the Port.

The facility would be required to provide a ship-terminal communications system. The regulation is very general because of the wide variation in facilities and thus permits each communications system to be custom designed to the facility. The actual system to be used will be authorized under the permit/operating procedures of this part.

Section 154.570 would require the facility to be adequately illuminated for oil transfer operations at night. The illumination standard given is from the American Petroleum Institute Recommended Practice for Oil Terminals, API RP 540 dated 1959. It is equivalent to industrial standards for similar activities. This section would also require the facility to provide a similar degree of lighting at work areas of barges engaged in transfer operations at the facility.

The regulations would not require a personnel shelter for each facility. However, a shelter would be a consideration to be covered in the operating manual to assure the presence of personnel during the oil transfer.

Subpart D, Facility Operations, would contain general requirements for the operation of an oil transfer facility.

Requirements would be given for the designation and the qualification of facility personnel as person in charge of oil transfer operations. This designation is made by the facility permit holder based upon the designee's knowledge, training, and experience. The designation is valid only at specified facilities and is not generally transferable.

Part 155 would contain regulations governing vessel design and operation to minimize any loss of oil from accident or from normal operations and would also contain regulations for vessels engaged in oil transfer operations analogous to Part 154 for facilities.

This part would apply to all vessels carrying oil as cargo and to all vessels engaged in fueling, oily waste disposal or ballast discharge, and operating in the navigable waters of the United States. These regulations would be applicable to foreign vessels and uninspected vessels. Any limitation on applicability is noted in the particular regulation.

Subpart B would contain the requirements for vessel design and construction.

Section 155.305 would require that all inland barges built after December 31, 1972, be of double wall (sides and fore and aft ends) construction. The purpose of this proposal is to eliminate the myriad of leaks from barges in the inland waterways from routine operational side and end damage. Additionally, this requirement is expected to substantially reduce the oil spills resulting from minor vessel collisions. This type of construction has been required for some years for vessels carrying flammable chemical products and has not created any safety problems such as explosions or fires from flammable vapors in the void spaces.

The regulation would apply to new or "rebuilt" vessels. The term "rebuilt" is recognized to be quite subjective and must be considered in each individual case. The intent is to permit plate renewal or hull repairs to damaged single-skin barges in otherwise good condition, but to prevent circumvention of the regulation applicable to new construction by rebuilding an old vessel and significantly extending the vessel's life. This would then phase out existing single-

skin barges. The alternative to this use of "rebuilt" is to specify a termination date for the use of single-skin barges. Comments on the proposed approach and its alternatives are specifically invited.

Section 155.310 requires a deck spill containment system on all vessels capable of handling more than 10,000 gallons of cargo oil. The containment may be either fixed catchments or enclosed deck areas. The required containment volume is related to hose size as an estimate of possible spill size. This system is not intended to prevent a massive discharge but is aimed at the frequent accidental hose drainage, air bubble in the vent, or minor overflow type discharge.

Section 155.330 would require that all vessels operating on the navigable waters or contiguous zone must prior to January 1, 1975, have a means to retain all oily bilge wastes onboard. Such containment may in fact be the bilge itself provided an undue fire or stability problem does not result therefrom. For vessels which have large volumes of oily wastes generated onboard, a holding tank would be necessary. There would be no requirement to hold water such as stern tube leakage onboard provided it would not become contaminated with oil.

All vessels of 100 gross tons or more would have positive acting valves installed in their bilge overboard discharge lines which can be sealed when in the U.S. navigable waters. Vessels less than 100 gross tons would be exempt from the valve requirement but would have onboard a placard concerning the prohibition of oily waste discharge. Additionally, all vessels of 100 gross tons or more would have to install topside fittings for the discharge of oily wastes to shore reception facilities. All vessels which ballast fuel oil tanks would have to install ballast discharge valves and deck fittings as required for bilge systems. Vessels which have a means to process or transfer bilge wastes to a cargo oil slop tank would be exempt from the requirements to have a system to discharge oily wastes to reception facilities.

All vessels of 100 gross tons or more would be required to seal their bilge and ballast overboard valves in the closed position while in the navigable waters. Each operator will provide the seals and seal his own valves and maintain a record of valve usage. This record-keeping is not considered an administrative burden since the valve seals should not be broken while in U.S. waters.

Section 155.470 would specify that oil not be carried in barge rakes nor forward of the collision bulkhead in vessels required to have such bulkheads. This requirement would apply to all vessels in U.S. waters. The rakes of barges and bows of ships are exposed and subject to damage, and any oil in these forward compartments constitutes an unnecessary hazard to the environment. These requirements are intended to prohibit not only the bulk carriage of oil in these forward compartments but also to prohibit stripping cargo tanks into these compartments.



Subpart C, Part 155 is similar to Subparts C and D of Part 154 in specifying personnel, equipment, and procedures to prevent oil pollution.

Sections 155.720 through 155.760 would require each vessel capable of transferring 10,000 U.S. gallons or more of oil to have, use, and post oil transfer procedures. These procedures would be reviewed by the Coast Guard during routine inspections of vessel operations and would be conspicuously posted on board the vessel in a language commonly used by the crew. This will provide a ready reference to the crew and local law enforcement personnel to determine if the proper equipment and personnel are being used to safely transfer oil products. The procedure would be applicable to the handling of cargo and fuel oil. The Coast Guard may require the procedure to be revised. Section 155.810 would require that any vessel containing oil in cargo tanks must be attended. This requirement is a result of incidents of vandalism and malicious mischief resulting in barges being cast adrift or valves being opened. This is an extension of the watchman requirement presently specified in 46 CFR 35.05-15.

Part 156 would contain the procedures to be followed on the vessel and the facility while transferring oil to or from vessels with a capacity of 10,000 U.S. gallons or more.

Section 156.110 would specify the conditions under which the person in charge can supervise one or more vessels or act as the person in charge for both the vessel and the facility.

Section 156.120 would specify the conditions which must exist during oil transfer operations. In general, these requirements could be classed as good operating practice. However, items of special interest are:

(a) A person must be present who can fluently speak the common languages used on the supplying and receiving units.

(b) The persons in charge of the two units must hold a conference and agree on procedures and equipment to be used and be aware of applicable laws and emergency procedures.

Section 156.150 would require the persons in charge to follow and complete an extensive declaration of inspection form prior to any oil transfer. The declaration of inspection required is for items directly related to pollution; however, it should be combined with the present declaration of inspection required for safety purposes.

Under Section 11(j)(2) of the Act, any owner or operator of a vessel or an onshore facility or an offshore facility and any other person subject to these regulations who fails to comply or refuses to comply with the provisions of these regulations, shall be liable to a civil penalty of not more than \$5,000 for each violation.

In consideration of the foregoing, the Coast Guard proposes to amend Chapter I of Title 33 of the Code of Federal Regulations as follows:

a. By amending Subchapter O by adding new Parts 154, 155, and 156 to read as follows:

## PART 154—LARGE OIL TRANSFER FACILITIES

### Subpart A—General

Sec.	
154.100	Applicability.
154.105	Definitions.
154.110	Permit and operations manual required.

### Subpart B—Oil Transfer Permit

154.300	Eligibility for permit and amendment.
154.310	Application for issue or amendment of permit.
154.320	Contents of permit.
154.325	Duration of permit.
154.330	Renewal of permit.
154.335	Suspension and revocation of permit.
154.340	Amendment of permit and operations manual.
154.345	Amendment, suspension and revocation procedures.
154.350	Waivers.
154.355	Operations manual: general.
154.360	Operations manual: contents.
154.365	Operations manual: copies.
154.370	Inspection authority.

### Subpart C—Equipment Requirements

154.500	Hose assemblies.
154.510	Loading arms.
154.520	Closure devices.
154.530	Small discharge containment.
154.540	Discharge removal.
154.545	Discharge containment equipment.
154.550	Emergency shutdown.
154.560	Communications.
154.570	Lighting.

### Subpart D—Facility Operations

154.700	General.
154.710	Persons in charge: designation.
154.720	Persons in charge: qualification.
154.730	Persons in charge: evidence of designation.
154.740	Records.
154.750	Compliance with operations manual.

**AUTHORITY:** The provisions of this Part 154 issued under sec. 11(j)(1)(C) of the Water Pollution Control Act of 1956, added by the Water Quality Improvement Act of 1970 (84 Stat. 91); 33 U.S.C. 1161(j)(1)(C); E.O. 11548, 3 CFR, 1971 Supp., p. 545; 49 CFR 1.45(m).

### Subpart A—General

#### § 154.100 Applicability.

This part applies to the operation of each onshore or offshore facility when it transfers oil to or from any vessel that has a capacity of 10,000 U.S. gallons or more for that oil except when it transfers—

(a) Lubricating oil for use onboard the vessel; or

(b) Nonpetroleum based oil to or from a vessel other than a tank vessel.

#### § 154.105 Definitions.

As used in this part:

(a) "Commandant" means the Commandant of the Coast Guard or his authorized representative.

(b) "Captain of the Port" means a U.S. Coast Guard officer commanding a

captain of the port area described in Part 3 of this chapter or his authorized representative or, where there is no captain of the port area, a district commander of a Coast Guard district described in Part 3 of this chapter or his authorized representative.

(c) "Discharge" includes but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(d) "Officer in Charge Marine Inspection" means a U.S. Coast Guard officer commanding a marine inspection zone described in Part 3 of this chapter or his authorized representative.

(e) "Offshore facility" means any facility of any kind located, in, on, or under, any of the navigable waters of the United States other than a vessel or a public vessel.

(f) "Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

(g) "Onshore facility" means any facility (including, but not limited to motor vehicles and rolling stock) of any kind located, in, on, or under, any land within the United States other than submerged land.

(h) "Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel.

(i) "Person in charge" means a person designated as a person in charge under § 154.710 or § 155.700.

#### § 154.110 Permit required.

After April 3, 1973, no person may operate a facility in operations to which this part applies without, or in violation of an oil transfer permit issued under this part or in violation of this part.

### Subpart B—Oil Transfer Permit

#### § 154.300 Eligibility for permit and amendment.

(a) An applicant is entitled to the issue or amendment of an oil transfer permit if—

(1) The captain of the Port finds, after an inspection of the facility and a review of the oil transfer procedures, that the applicant is properly and adequately equipped and able to transfer oil in accordance with this part and without discharge into the navigable waters.

(2) The applicant has the certification prescribed in section 21(b)(1) of the Federal Water Pollution Control Act, as amended.

(b) At any time within 30 days after receiving from the Captain of the Port a notice of refusal to issue or amend a permit, the applicant or permit holder may petition the Commandant via the Captain of the Port to reconsider the refusal to issue or amend.

#### § 154.310 Application for issue or amendment of permit.

(a) Each applicant for the issue of an oil transfer permit under this part must



submit his application in writing, accompanied by a copy of the facility's operations manual and a copy of the certification required by section 21(b)(1) of the Federal Water Pollution Control Act, to the Captain of the Port in the area in which the facility is or will be located.

(b) Each application submitted under paragraph (a) of this section may be in any form but must contain the name and address of—

- (1) The facility;
- (2) The owner of the facility; and
- (3) The operator of the facility.

(c) Each operations manual submitted under paragraph (a) of this section must be prepared in accordance with § 154.355 and contain the information in § 154.360.

(d) An applicant for a permit must submit his application at least 60 days before the date of intended operation under this part except that a facility operating before (the effective date of these regulations) must submit its application before November 1, 1972.

(e) An applicant for an amendment to a permit must submit his application at least 30 days before the proposed effective date of that amendment unless a shorter period is allowed by the Captain of the Port.

#### § 154.320 Contents of permit.

Each oil transfer permit issued under this subpart contains—

- (a) The names of the facility and the owner and operator of the facility;
- (b) The facility location;
- (c) The oil transfer operations covered by the permit;
- (d) Limitations;
- (e) The expiration date of the permit; and
- (f) Any other item that the Captain of the Port determines is necessary to cover a particular situation.

#### § 154.325 Duration of permit.

An oil transfer permit issued under this part is effective for 5 years unless it is surrendered, suspended, revoked, or otherwise terminated.

#### § 154.330 Renewal of permit.

Each permit holder desiring to renew its permit must apply to the Captain of the Port for renewal in accordance with the procedures in § 154.310.

#### § 154.335 Suspension and revocation of permit.

(a) The Captain of the Port may suspend or revoke an oil transfer permit issued under this part at any time the facility does not meet the requirements of this part.

(b) If an oil transfer permit is suspended or revoked, the holder of that permit shall return it to the Captain of the Port.

#### § 154.340 Amendment of permit and operations manual.

The Captain of the Port may, on his own initiative, amend an oil transfer permit or require the permit holder to

amend the operations manual if, after inspection he finds that the permit or operations manual is not adequate to meet the requirements of this part.

#### § 154.345 Amendment, suspension and revocation procedures.

(a) When the Captain of the Port determines to require an amendment of an operations manual, or to amend, suspend, or revoke an oil transfer permit, he notifies the permit holder, in writing of a date not less than 14 days from the date of the notice, on or before which the permit holder may submit written information, views, and arguments on the amendment, suspension, or revocation. After considering all relevant material presented, the Captain of the Port notifies the permit holder of any amendment required or adopted or of his decision to suspend or revoke the permit or he rescinds the notice. The amendment, suspension, or revocation becomes effective not less than 30 days after the permit holder receives the notice, unless the permit holder petitions the Commandant to reconsider the notice, in which case its effective date is stayed pending a decision by the Commandant.

(b) If the Captain of the Port finds that there is a condition requiring immediate action to prevent the discharge of oil that makes the procedure in paragraph (a) of this section impracticable or contrary to the public interest, he may issue an amendment, suspension, or revocation effective, without stay, on the date the permit holder receives notice of it. In such a case, the Captain of the Port includes a brief statement of the reasons for his finding in the notice, and the permit holder may petition the Commandant to reconsider the amendment, suspension, or revocation.

(c) Petitions to the Commandant must be submitted in writing to the Captain of the Port.

#### § 154.350 Waivers.

The Captain of the Port may, by an appropriate provision in or amendment to the permit, waive, in whole or in part, compliance with any requirement in this part if—

(a) Application for the waiver is submitted to the Captain of the Port at least 30 days before operations under the waiver are proposed unless a lesser time is authorized by the Captain of the Port; and

(b) The Captain of the Port finds that an equivalent level of protection of the navigable waters from pollution by oil will be provided by the alternative procedures, methods, or equipment standards to be used by the applicant or permit holder.

#### § 154.355 Operations manual: general.

(a) Each applicant for an oil transfer permit must prepare and submit with its application an operations manual that describes—

(1) The means and procedures that the applicant uses to meet the operating rules and equipment requirements prescribed by this part;

(2) The duties and responsibilities of operations personnel in conducting oil transfer operations under this part.

(b) In determining whether the manual meets the requirements of this part, the Captain of the Port considers the size, complexity, and capacity of the facility.

#### § 154.360 Operations manual: contents.

Each operations manual required by § 154.355 must contain—

(a) The geographic location of the facility;

(b) A physical description of the facility including a plan of the facility showing mooring areas, transfer locations, control stations, and locations of safety equipment;

(c) The hours of operation of the facility;

(d) The sizes, types, and number of vessels that the facility can transfer oil to or from simultaneously;

(e) The grade and trade name of each product transferred at the facility that is not compatible with oil;

(f) The minimum number of personnel on duty during transfer operations;

(g) The names and telephone numbers of facility, Coast Guard, and other personnel who may be called by the employees of the facility in an emergency;

(h) The duties and responsibilities of watchmen required by § 155.810 of this chapter and 46 CFR 35.05-15 for unmanned vessels moored at the facility;

(i) A description of each communication system required by this part;

(j) The location and facilities of each personnel shelter, if any;

(k) A description and instructions for use of drip and discharge collection and vessel slop reception facilities;

(l) A description and the location of each emergency shutdown system;

(m) Location and instructions for use of the containment equipment required by § 154.545;

(n) The maximum relief valve setting or maximum system pressure when relief valves are not provided for each oil transfer system;

(o) Procedures for—

(1) Operating each loading arm including the limitations of each loading arm;

(2) Transferring oil;

(3) Completion of pumping;

(4) Emergencies;

(5) Reporting oil discharges; and

(6) Containing discharges.

#### § 154.365 Operations manual: copies.

Each permit holder shall maintain at least one complete copy of the operations manual at the facility and shall make it readily available to the operating personnel and, upon request, to the Captain of the Port.

#### § 154.370 Inspection authority.

Each applicant for an oil transfer permit and each permit holder shall allow the Commandant, at any time, to make any inspection or test to determine compliance with the Federal Water Pollution Control Act, as amended, and this part.



**Subpart C—Equipment Requirements****§ 154.500 Hose assemblies.**

(a) Each assembly consisting of a hose and couplings that is manufactured after September 1, 1972, and used for transferring oil must meet the requirements of this section.

(b) The pressure which the manufacturer represents to be the minimum bursting pressure for each hose assembly must be—

(1) More than 600 pounds per square inch; and

(2) At least four times the pressure of the relief valve setting (or the maximum pump pressure when no relief valve is installed) plus the static head pressure of the oil transfer system in which the hose is installed;

(c) The pressure which the manufacturer represents to be the recommended working pressure for each hose assembly must be—

(1) More than 150 pounds per square inch; and

(2) More than the pressure of the relief valve setting (or the maximum pump pressure when no valve is installed) plus the static head pressure of the oil transfer system in which the hose is installed;

(d) Each nonmetallic hose must be specified for oil service by its manufacturer.

(e) Unless otherwise authorized by the Commandant, each hose assembly must have flanges that met Standard B16.5, Steel Pipe Flanges and Flanged Fittings, of the American National Standards Institute.

(f) Each hose must be marked for identification or with—

(1) The products for which the hose is used;

(2) Date of manufacture;

(3) Burst pressure;

(4) Manufacturers recommended working pressure;

(5) Date of the last test required by § 156.170 of this chapter; and

(6) The pressure used for that test.

**§ 154.510 Loading arms.**

(a) Each mechanical loading arm used for transferring oil and placed into service after April 3, 1973, must meet the design, fabrication, material, inspection, and testing requirements in Standard B31.3, Petroleum Refinery Piping, of the American National Standards Institute.

(b) Each mechanical loading arm used for transferring oil after April 3, 1973, must have a means of being drained prior to disconnection.

**§ 154.520 Closure devices.**

The facility must have enough butterfly valves, wafer-type resilient seated valves, blank flanges or other means acceptable to the Captain of the Port to blank off the end of each hose or loading arm that is disconnected after transfer of oil.

**§ 154.530 Small discharge containment.**

(a) Except as provided in paragraph (c) of this section, the facility must have fixed catchments, curbing, or other fixed means to contain oil discharged in at least—

(1) Each hose handling and loading arm area; and

(2) Each hose connection manifold area.

(b) The discharge containment means required by paragraph (a) of this section must hold at least—

(1) 100 U.S. gallons if it serves one or more 6-inch nominal diameter or smaller hose or loading arm connections.

(2) 150 U.S. gallons if it serves one or more hose connections larger than 6 inches but less than 12 inches nominal diameter; and

(3) 200 U.S. gallons if it serves one or more 12-inch or larger nominal diameter hose or loading arm connections.

(c) The facility may have portable means to meet the requirements of paragraph (a) of this section if the Captain of the Port finds that fixed means to contain discharges are not feasible for part or all of a facility.

**§ 154.540 Discharge removal.**

The facility must have a means to safely and quickly remove discharged oil from the containment means required by § 154.530 without mixing incompatible products.

**§ 154.545 Discharge containment equipment.**

(a) Each oil transfer facility must have ready access to oil containment equipment to contain oil discharged on the water, considering—

(1) Oil handling rates;

(2) Oil capacity susceptible to being spilled;

(3) Frequency of facility operations;

(4) Tidal and current conditions;

(5) Facility age, capability, arrangement, and past experience; and

(6) If the equipment is shared, the expected frequency of use and probability of immediate availability.

(b) For the purpose of this section, "Access" may be by direct ownership, joint ownership, cooperative venture, or contractual agreement.

**§ 154.550 Emergency shutdown.**

(a) The facility must have in addition to the means of communication required by § 154.560, a means to enable the person in charge of the transfer of oil on board a vessel at his usual operating station to stop the flow of oil to the vessel if normal operating procedures fail.

(b) The point in the oil transfer system at which the flow of oil is stopped must be on the facility and as close to the vessel as practicable.

**§ 154.560 Communications.**

(a) Each facility must have a means that enables two-way voice communication between the person in charge of the transfer operation on board the vessel and the person in charge of the facility transfer operation.

(b) Each facility must have a means that enables a person on board a vessel or on shore to effectively signal his intention to use the means of communication required by paragraph (a) of this section.

**§ 154.570 Lighting.**

(a) For operations between sunset and sunrise, the facility must have fixed lighting that illuminates—

(1) Each transfer connection point on the facility with a minimum lighting intensity of 10 foot-candles;

(2) Each work area on the facility with a minimum lighting intensity of 2 foot-candles;

(3) Each transfer connection point on any barge moored at the facility, to or from which oil is transferred, with a minimum lighting intensity of 10 foot-candles; and

(4) Each work area on any barge moored at the facility, to or from which oil is transferred, with a minimum lighting intensity of 2 foot-candles.

(b) The lighting intensity must be measured on a horizontal plane 3 feet above the barge deck or walking surface.

**Subpart D—Facility Operations****§ 154.700 General.**

The holder of an oil transfer permit shall provide, maintain, and use facilities, equipment, personnel, and procedures at least equal in condition, quality, and quantity to the facilities, equipment, personnel, and procedures required for the issue of the oil transfer permit for that facility.

**§ 154.710 Persons in charge: designation.**

The permit holder shall—

(a) Designate the person or persons in charge of the transfer of oil to or from the facility; and

(b) Advise the Captain of the Port in writing of each designation.

**§ 154.720 Persons in charge: qualification.**

(a) No person may serve, and the permit holder may not use the services of a person, as a person in charge of oil transfer operations unless—

(1) He has had at least 48 hours of experience in oil transfer operations under the supervision of the permit holder or a person in charge of transferring oil at the facility for which qualification is desired, except that for new facilities, the Captain of the Port may authorize alternative experience requirements;

(2) The permit holder has determined that he can operate the oil transfer equipment of the facility; and

(3) The permit holder has determined that he knows—

(i) The hazards of each product to be transferred;

(ii) The rules in this part and in Part 156 of this chapter;

(iii) The operator's discharge containment procedures;

(iv) The facility operating procedures;

(v) Vessel oil transfer systems, in general;

(vi) Vessel oil transfer control systems, in general;

(vii) Each facility oil transfer control system to be used;



(viii) Applicable Federal, State, and local oil pollution laws and regulations; and

(ix) Local discharge reporting procedures;

(x) Discharge containment and clean-up procedures.

**§ 154.730 Person in charge: evidence of designation.**

(a) Each person in charge shall carry evidence of his designation as a person in charge when he is engaged in transfer operations unless such evidence is immediately available at the facility.

(b) A person holding a valid qualification as a person in charge of oil transfers under § 126.15(o) of this chapter on April 3, 1973, is qualified to serve as a person in charge for the purpose of this section.

**§ 154.740 Records.**

(a) Each permit holder shall keep at the facility and make available for inspection by the Captain of the Port—

(1) A copy of the operating permit for the facility;

(2) The name of each person currently designated as a person in charge of oil transfer operations;

(3) The date and result of the most recent test or inspection of each item tested or inspected under § 156.170 of this chapter; and

(4) The hose information required by § 154.500(f) unless that information is marked on the hose.

**§ 154.750 Compliance with operations manual.**

The permit holder shall use and require its personnel to use the procedures in the operations manual prescribed by § 154.355 for operations under this part.

**PART 155—VESSEL DESIGN AND OPERATIONS**

**Subpart A—General**

Sec.	155.100	Applicability.
	155.105	Definitions.
	155.110	Waivers.

**Subpart B—Vessel Design and Equipment**

155.305	Double walls: tank barges.
155.310	Cargo oil discharge containment.
155.320	Fuel oil discharge containment.
155.330	Oil waste and slop retention.
155.340	Oil slops on vessels more than 100 gross tons: international voyages.
155.350	Oil slops on vessels more than 100 gross tons: operations other than international voyages.
155.360	Oil slops on vessels less than 100 gross tons.
155.370	Ballast discharge: vessels of 100 gross tons or more: international voyages.
155.380	Ballast discharge: vessels more than 100 gross tons: operations other than international voyages.
155.390	Ballast discharge: vessels less than 100 gross tons.
155.400	Valves.
155.410	Oil and ballast valve seals.
155.420	Valve seals: identification and reuse.
155.430	Valve seal record.

Sec.	155.440	Placard: vessels less than 100 gross tons.
	155.450	Exception for all vessels: oily waste processing equipment.
	155.460	Exception for tank vessels: oily waste transfer equipment.
	155.470	Prohibited oil spaces.
	155.480	Inspection of valves.

**Subpart C—Oil Transfer Personnel, Procedures, Equipment, and Records**

155.700	Designation of person in charge.
155.710	Qualifications of person in charge.
155.720	Oil transfer procedures.
155.730	Compliance with oil transfer procedures.
155.740	Posting of oil transfer procedures.
155.750	Contents of oil transfer procedures.
155.760	Amendment of oil transfer procedures.
155.770	Machinery oil drains: United States vessels.
155.780	Emergency shutdown.
155.790	Deck lighting.
155.800	Oil transfer hose.
155.810	Tank vessel security.
155.820	Records.

**AUTHORITY:** The provisions of this Part 155 issued under secs. 11(J) (1) (C) and (D) of the Water Pollution Control Act of 1956, added by the Water Quality Improvement Act of 1970 (84 Stat. 91); 33 U.S.C. 1161 (J) (1) (C) and (D); E.O. 11548, 3 CFR, 1971 Supp., p. 545; 49 CFR 1.46(m).

**Subpart A—General**

**§ 155.100 Applicability.**

This part prescribes rules that apply to the operation of all vessels on the navigable waters of the United States for the purpose of preventing the discharge of oil into or upon the navigable waters of the United States. United States vessels must meet the vessel design and equipment requirements in this part to be eligible for the issuance of a Certificate of Inspection under 46 CFR Chapter I.

**§ 155.105 Definitions.**

As used in this part:

(a) "Commandant" means the Commandant of the Coast Guard or his authorized representative.

(b) "Captain of the Port" means a U.S. Coast Guard officer commanding a captain of the port area described in Part 3 of this chapter, or his authorized representative or, where there is no captain of the port area, a district commander of a Coast Guard district described in Part 3 of this chapter, or his authorized representative.

(c) "Discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring emitting, emptying, or dumping.

(d) "Officer in Charge Marine Inspection" means a U.S. Coast Guard officer commanding a marine inspection zone described in Part 3 of this chapter or his authorized representative.

(e) "Offshore facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than a vessel or a public vessel.

(f) "Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and

oil mixed with wastes other than dredged spoil.

(g) "Onshore facility" means any facility (including, but not limited to motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land.

(h) "Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used as a means of transportation on water other than a public vessel.

(i) "Person in charge" means a person designated as a person in charge under § 154.710 or § 155.700 of this chapter.

**§ 155.110 Waivers.**

The Commandant may waive, in whole or in part, compliance with any requirement in this part if—

(a) Application for the waiver is submitted to the Captain of the Port or Officer in Charge of Marine Inspection 30 days before operations under the waiver are proposed unless a lesser time is authorized by the Captain of the Port or Officer in Charge of Marine Inspection; and

(b) The Commandant finds that an equivalent level of protection of the navigable waters from pollution by oil will be provided by the alternative procedures, methods, or equipment standards to be used by the vessel operator.

**Subpart B—Vessel Design and Equipment**

**§ 155.305 Double walls: tank barges.**

(a) Except as provided in paragraph (b) of this section, no person may operate a tank barge of 100 gross tons or more built, rebuilt, or converted to oil service after December 31, 1972, that is carrying oil unless it has—

(1) Double walls on each side and each end;

(2) No less than 24 inches between the outer surface of the inner wall and the outer surface of the outer wall at any point;

(3) Sounding tubes, manholes, or instruments for detecting leaks into the space between the walls;

(4) A fixed or portable means of removing water and oil from the space between the walls; and

(5) A means of personnel access into all spaces between the walls for purposes of inspection.

(b) This section does not apply to tank barges that have a certificate of inspection for ocean or coastwise service under 46 CFR Chapter I when operated as the only barge in a tow.

**§ 155.310 Cargo oil discharge containment.**

(a) After December 31, 1974, no person may operate a tank vessel that is carrying oil that has a tank capacity for 10,000 U.S. gallons or more of oil unless it has—

(1) Fixed containers or enclosed deck areas that meet the requirements of this section under or around each oil loading



manifold and each oil transfer connection area; and

(2) A means of draining or removing discharged oil from each container or enclosed deck area.

(b) Each drain and scupper in an enclosed deck area required by this section must have an attached means of closing.

(c) Each fixed container or enclosed deck area must hold, in all conditions of vessel list or trim, to be encountered during the loading operation at least—

(1) 100 U.S. gallons if it serves one or more 6-inch nominal diameter or smaller hose or loading arm connections;

(2) 150 U.S. gallons if it serves one or more hose or loading arm connections larger than 6 inches, but less than 12 inches, nominal diameter; or

(3) 200 U.S. gallons if it serves one or more 12-inch or larger nominal diameter hose or loading arm connections.

#### § 155.320 Fuel oil discharge containment.

After December 31, 1974, no person may transfer oil for fuel to a vessel of 100 gross tons or more unless—

(a) It has a fixed container or enclosed deck area of at least 14 U.S. gallons capacity under or around each fuel tank vent, overflow, and fill pipe; or

(b) Each fuel tank vent, overflow, and fill pipe is located where a portable container that is at least 18 inches deep and has at least 14 U.S. gallons capacity can be placed under it.

#### § 155.330 Oily waste and slop retention.

(a) After December 31, 1974, no person may operate a vessel of 100 or more gross tons unless it has capacity to retain on board all oily waste and oily bilge slops that may accumulate while operating in the navigable waters.

(b) No person may use a tank for oily bilge slops or oily waste on U.S. vessels unless the tank meets the requirements of 46 CFR 56.50-50(h) for isolation between oil tanks and bilge systems.

#### § 155.340 Bilge slops on vessels more than 100 gross tons: international voyages.

After December 31, 1974, no person may operate a vessel of 100 or more gross tons that is certificated under 46 CFR Chapter I for international voyages or a foreign vessel of 100 or more gross tons unless—

(a) The vessel has at least one pump installed to discharge oily bilge slops through a fixed piping system;

(b) The piping system required by this section has at least one outlet—

(1) For vessels of 1,600 or more gross tons, on each side of the weather deck; or

(2) For vessels of less than 1,600 gross tons, accessible from the weather deck;

(c) Each outlet required by this section has a shore connection that meets the specifications in appendix A of this part or the vessel has at least one portable adapter that meets the specifications in appendix A and fits the required outlets;

(d) The vessel has a means on the weather deck near the discharge piping

to stop each pump that is used to discharge oily waste and;

(e) The vessel has a stop valve installed at each outlet required by this section.

#### § 155.350 Bilge slops on vessels more than 100 gross tons: operations other than international voyages.

After December 31, 1974, no person may operate a vessel of 100 or more gross tons that is not subject to § 155.340 of this part unless—

(a) The vessel has at least one pump installed to discharge oily bilge slops through a fixed piping system;

(b) The piping system required by this section has at least one outlet that is accessible from the weather deck;

(c) Each outlet required by this section has a shore connection that meets the specifications in appendix A of this part or the vessel has at least one portable adapter that meets the specifications in appendix A and fits the required outlets; and

(d) The vessel has a stop valve installed at each outlet required by this section.

#### § 155.360 Bilge slops on vessels less than 100 gross tons.

After December 31, 1974, no person may operate a vessel of less than 100 gross tons unless it has a fixed or portable means to discharge oily bilge slops to a reception facility.

#### § 155.370 Ballast discharge: vessels of 100 gross tons or more: international voyages.

After December 31, 1974, no person may operate a vessel of 100 or more gross tons that (1) is certificated under 46 CFR Chapter I for international voyages or a foreign vessel and (2) that ballasts fuel oil tanks or has combined fuel and ballast tanks unless—

(a) The vessel has at least one pump installed to discharge ballast through a fixed piping system;

(b) The piping system required by this section has at least one outlet—

(1) For vessels of 1,600 or more gross tons, on each side of the weather deck; or

(2) For vessels of less than 1,600 gross tons, accessible from the weather deck;

(c) Each outlet required by this section has a shore connection that meets the specifications in Appendix A of this part or the vessel has at least one portable adapter that meets the specifications in Appendix A and fits the required outlets;

(d) The vessel has a means near the discharge piping on the weather deck to stop each pump that is used to discharge oily ballast; and

(e) The vessel has a stop valve installed at each outlet required by this section.

#### § 155.380 Ballast discharge: vessels more than 100 gross tons: operations other than international voyages.

After December 31, 1974, no person may operate a vessel of 100 or more gross tons that (1) is not subject to § 155.370

and (2) ballasts fuel oil tanks or has combined fuel and ballast tanks unless—

(a) The vessel has at least one pump installed to discharge all oily ballast through a fixed piping system;

(b) The piping system required by this section has at least one outlet that is accessible from the weather deck;

(c) Each outlet required by this section has a shore connection that meets the specifications in Appendix A of this part or the vessel has at least one portable adapter that meets the specifications in Appendix A and fits the required outlets; and

(d) The vessel has a stop valve installed at each outlet required by this section.

#### § 155.390 Ballast discharge: vessels less than 100 gross tons.

After December 31, 1974, no person may operate a vessel of less than 100 gross tons that ballasts fuel oil tanks unless it has a fixed or portable means to discharge oily ballast to a reception facility.

#### § 155.400 Valves.

After December 31, 1974, no person may operate a vessel of 100 or more gross tons unless—

(a) It has a valve in each fixed overboard bilge and ballast discharge line except a line used only for discharges from spaces free from sources of oil;

(b) It has a positive means of closing each valve required by paragraph (a) of this section at the valve if it is accessible and—

(1) On or above the freeboard deck of a vessel that is required to have a freeboard deck under 46 CFR 43.05-1 (g); or

(2) On or above the main deck of a vessel that does not have a freeboard deck;

(c) Each valve required by §§ 155.340, 155.350, 155.370, 155.380, and paragraph (a) of this section has a positive means of being sealed in the closed position; and

(d) Each valve required by §§ 155.340, 155.350, 155.370, 155.380, and paragraph (a) of this section is conspicuously identified by a label on or next to the valve and each remote means of closing the valve.

#### § 155.410 Bilge and ballast valve seals.

Except when discharging bilge slops or ballast, no person may operate a vessel of 100 or more gross tons unless each valve required by §§ 155.400, 155.340, 155.350, 155.370, 155.380, and each emergency bilge suction valve is sealed in the fully closed position in a way that the valve cannot be opened without breaking the seal.

#### § 155.420 Valve seals: identification and reuse.

Each person who seals a valve required to be sealed under § 155.410 shall use a seal that—

(a) Is numbered or otherwise marked to distinguish it from all other seals on board;



- (b) Cannot be resealed after it is broken; and  
(c) Breaks without restricting valve operation when the valve is opened.

#### § 155.430 Valve seal record.

(a) Each operator of a vessel required to have the bilge or ballast valves sealed under § 155.410 shall maintain a record for each valve containing—

- (1) The name or number of the vessel;
  - (2) The identification number of each seal used on the valve;
  - (3) The date and time each seal is applied;
  - (4) The date and time each seal is broken; and
  - (5) The reason each seal was broken.
- (b) Each person who makes a record required by paragraph (a) of this section shall keep that record for at least 30 days after the seal is broken.

#### § 155.440 Placard: vessels less than 100 gross tons.

After December 31, 1974, no person may operate a vessel of less than 100 gross tons, except a foreign vessel or a vessel less than 26 feet in length, unless it has at least a 5 by 8 inch placard made of durable material fixed in a conspicuous place stating the following:

##### DISCHARGE OF OIL PROHIBITED

The discharge of oil or oily waste into or upon the navigable waters of the United States which causes a film or sheen upon or discoloration of the water or causes a sludge or emulsion beneath the surface of the water is prohibited by the Federal Water Pollution Control Act, as amended. Violators are subject to a penalty of \$10,000.

#### § 155.450 Exception for all vessels: oily waste processing equipment.

Sections 155.340 through 155.390 do not apply to a vessel that has a means approved by the Commandant to process oily bilge slops or oily ballast.

#### § 155.460 Exception for tank vessels: oily waste transfer equipment.

Sections 155.340 through 155.390 do not apply to tank vessels that have a means of transferring oily bilge slops to a cargo tank used for slops if that means meets the bilge and oil system isolation requirements in 46 CFR 56.50-50(h).

#### § 155.470 Prohibited oil spaces.

(a) Except as provided in paragraph (b) of this section, after December 31, 1974, no person may operate a vessel carrying bulk oil or oily waste in—

- (1) Any space forward of a collision bulkhead;
  - (2) The forwardmost space of any vessel that does not have a collision bulkhead; or
  - (3) Any space between double walls, including spaces on the aft end, on a barge that is required to have double walls under § 155.305; or
  - (4) The aftermost space on any barge.
- (b) Fuel oil for use on the vessel may be carried in independent tanks in the spaces specified in paragraph (a) of this section if such a tank is at least 24

inches inboard of the hull structure or is aft of the forward quarter length of the vessel.

#### § 155.480 Inspection of valves.

No person may operate any vessel that has a certificate of inspection issued under 46 CFR Chapter I unless each of the following valves has been opened, inspected, and found to function properly by the owner or operator of the vessel or his representative at or since the last drydocking or hauling out of the vessel required by 46 CFR Chapter I:

- (a) Bilge emergency suction valves.
- (b) Ballast sea suction valves except in lines to oil free tanks.
- (c) Bilge overboard discharge valves required by § 155.400.
- (d) Ballast overboard discharge valves required by § 155.400.
- (e) Valves used to separate clean ballast from oil or oily ballast.
- (f) Valves used to isolate oil or oily ballast from the sea.

#### Subpart C—Oil Transfer Personnel, Procedures, Equipment, and Records

##### § 155.700 Designation of person in charge.

The operator of each vessel shall designate the person or persons in charge of each transfer of oil to or from the vessel and of each tank cleaning operation.

##### § 155.710 Qualifications of person in charge.

(a) No person may serve, and the operator of a vessel may not use the services of a person, as a person in charge of the transfer of oil to or from a vessel or of tank cleaning operations unless—

- (1) For oil transfer operations on tank ships, he holds a valid license as a master, mate, pilot, or engineer for tank vessel service, except that the person in charge of tank cleaning operations conducted at an onshore tank cleaning facility may be a certificated tankerman;
- (2) For tank barges, he holds a valid license as a master, mate, pilot, or engineer for tank vessel service or is a certificated tankerman;
- (3) For vessels other than tank vessels that are required by Chapter I of Title 46 to have a licensed officer on board, he holds a valid license as master, mate, pilot, engineer, or operator; or
- (4) For all other vessels, he has been instructed by the operator in his duties and the Federal water pollution laws and regulations that apply to the vessel.

##### § 155.720 Oil transfer procedures.

No person may operate a vessel that has a tank capacity for oil of 10,000 U.S. gallons or more unless that vessel has oil transfer procedures that meet the requirements of this part.

##### § 155.730 Compliance with oil transfer procedures.

The operator of each vessel shall use and require its personnel to use the oil transfer procedures required by § 155.720 for each oil transfer operation.

##### § 155.740 Posting of oil transfer procedures.

The oil transfer procedures required by § 155.720 must—

- (a) Be legibly printed in a language understood by the crew; and
- (b) Be permanently posted at the fueling station or cargo control station or a place where the procedures can be easily seen and used by the crew.

##### § 155.750 Contents of oil transfer procedures.

The oil transfer procedures required by § 155.720 must contain—

- (a) If the vessel carries incompatible cargoes, a list of the products to which the oil transfer procedures apply;
- (b) A description of each oil transfer system installed on the vessel including—
  - (1) A line diagram of the vessel's oil transfer piping including the location of each valve, pump, control device, vent, and overflow; and
  - (2) The location of the shutoff valve or other isolation device that separates any bilge or ballast system from the oil transfer system.

(c) The number of persons required to operate each oil transfer system;

(d) The duties by title of each officer, person in charge, tankerman, deckhand, and any other person required for each oil transfer operation;

(e) Procedures and duty assignments for tending the vessel's moorings during the transfer of oil;

(f) Procedures for operating the emergency shutdown means required by § 155.780;

(g) Any special procedures for topping off tanks;

(h) Procedures for closing all valves used during the oil transfer operation;

(i) A description of the deck discharge containment system;

(j) The procedures for emptying the deck discharge containment system;

(k) Procedures for containment of oil discharges on the water; and

(l) Procedures for reporting oil discharges on the water.

##### § 155.760 Amendment of oil transfer procedures.

(a) The Captain of the Port or Officer in Charge of Marine Inspection may require the operator of any vessel that is required to have oil transfer procedures to amend those procedures if, after inspection, he finds that the oil transfer procedures are not adequate to meet the requirements of Part 156 of this chapter.

(b) When the Captain of the Port or Officer in Charge of Marine Inspection determines to require an amendment of an oil transfer procedure, he notifies the operator, in writing, of a date not less than 14 days from the date of the notice on or before which the operator may submit written information, views, and arguments on the amendment. After considering all relevant material presented, the Captain of the Port or Officer in Charge of Marine Inspection notifies the operator of any amendment required or of his decision to rescind the notice. The amendment becomes effective not



less than 30 days after the operator receives the notice, unless the operator petitions the Commandant to reconsider the notice, in which case its effective date is stayed pending a decision by the Commandant.

(c) If the Captain of the Port or Officer in Charge of Marine Inspection finds that there is a condition requiring immediate action to prevent the discharge of oil that makes the procedure in paragraph (b) of this section impracticable or contrary to the public interest, he may require an amendment effective, without stay, on the date the operator receives notice of it. In such a case, the Captain of the Port or Officer in Charge of Marine Inspection includes a brief statement of the reasons for his finding in the notice, and the operator may petition the Commandant to reconsider the amendment.

(d) Petitions to the Commandant must be submitted in writing to the Captain of the Port or Officer in Charge of Marine Inspection who issued the requirement to amend.

#### § 155.770 Machinery oil drains: U.S. vessels.

(a) Except as provided in paragraph (b), no person may drain the sumps of oil lubricated machinery or the contents of oil filters, strainers, or purifiers into the bilge of any United States vessel.

(b) Before December 31, 1974, oil may be drained from the sump of oil lubricated machinery into the bilge of a vessel that is not otherwise required to have a means to prevent oil draining into the bilge if—

(1) The oil can only be removed from the sump by first draining it into the bilge; and

(2) The oil is removed from the bilge other than by discharging into the water.

#### § 155.780 Emergency shutdown.

(a) No person may operate a tank vessel carrying oil in a cargo tank with a capacity of more than 10,000 U.S. gallons unless it has on board an emergency means to enable the person in charge of the transfer of oil to stop the flow of oil to a facility or another vessel if normal operating procedures fail.

(b) The emergency means must be a pump control or a quick acting, power activated valve. If an emergency pump control is used, it must stop the flow of oil if oil could syphon through the stopped pump.

(c) The emergency means must be operable from the cargo deck, cargo control room, or the usual operating station of the person in charge of the transfer of oil.

#### § 155.790 Deck lighting.

(a) After December 31, 1974, no person may operate a tank ship that is transferring oil to or from the ship between sunset and sunrise unless that tank ship has cargo deck lighting that illuminates—

(1) Each cargo transfer connection point and each ullage point with a minimum lighting intensity of 10 foot candles; and

(2) Each work area, tank trunk, and dome with a lighting intensity of 2 foot candles.

(b) The lighting intensity must be measured on a horizontal plane 3 feet above the cargo deck or walking surface.

#### § 155.800 Oil transfer hose.

No person operating any vessel may use, and no person may operate a U.S. vessel that carries, an oil transfer hose that is larger than 3 inches in diameter unless it meets the requirements of § 154.500 of this chapter.

#### § 155.810 Tank vessel security.

No owner or operator of any vessel or facility may leave unattended a tank vessel that contains more than a residual amount of oil in any cargo tank.

#### § 155.820 Records.

The operator of each vessel shall keep and make available for inspection by the Commandant—

(a) The name of each person currently designated as a person in charge of oil transfer operations;

(b) The date and result of the most recent test or inspection of each item tested or inspected under § 156.170 of this chapter; and

(c) The hose information required by § 154.500(f) of this chapter unless that information is marked on the hose.

#### APPENDIX A—SPECIFICATIONS FOR SHORE CONNECTION

Item	Description	Dimension
1	Outside diameter.	215 mm. (8½").
2	Inside diameter.	According to pipe outside diameter.
3	Bolt circle diameter.	183 mm. (7⅜").
4	Slots in flange.	6 holes 22 mm. (7/8") in diameter shall be equidistantly placed on a bolt circle of the above diameter, slotted to the flange periphery. The slot width is to be 22 mm. (7/8").
5	Flange thickness.	20 mm. (¾").
6	Bolts and nuts.	6, each of 20 mm. (¾") in diameter and of suitable length.

The flange shall be of steel having a flat face, with a gasket of oilproof material, and both shall be suitable for a service pressure of 6 kg/cm<sup>2</sup> (85 p.s.i.).

### PART 156—OIL TRANSFER OPERATIONS

Sec.	General.
156.100	General.
156.105	Definitions.
156.110	Person in charge: limitations.
156.120	Requirements for oil transfer.
156.130	Connections.
156.150	Declaration of inspection.
156.160	Supervision by person in charge.
156.170	Equipment tests and inspections.

**AUTHORITY:** The provisions of this Part 156 issued under secs. 11(J) (1) (C) and (D) of the Water Pollution Control Act of 1956, added by the Water Quality Improvement Act of 1970 (84 Stat. 91); 33 U.S.C. 1161(J) (1) (C) and (D); E.O. 11548, 3 CFR, 1971 Supp., p. 545; 49 CFR 1.46(m).

#### § 156.100 General.

This part prescribes rules that apply to the transfer of oil to or from any

vessel on the navigable waters of the United States that has a capacity of 10,000 U.S. gallons or more for that oil, except the transfer of—

(1) Lubricating oil for use on board the vessel; and

(2) Nonpetroleum based oil that is transferred to or from a vessel other than a tank vessel.

#### § 156.105 Definitions.

As used in this part:

(a) "Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

(b) "Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel.

(c) "Person in charge" means a person designated as a person in charge under § 154.710 or § 155.700 of this chapter.

#### § 156.110 Person in charge: limitations.

(a) No person may serve as the person in charge of oil transfer operations on more than one vessel at a time unless—

(1) The vessels are immediately adjacent;

(2) There is a ready means of access between vessels; and

(3) The person in charge is not also the person in charge of the facility.

(b) No person may serve as the person in charge of both the vessel and the facility during oil transfer operations except when the facility permit authorizes such procedure.

#### § 156.120 Requirements for oil transfer.

No person may transfer oil to or from a vessel unless—

(a) The vessel's moorings are strong enough to hold in all expected conditions of surge, current, and weather and long enough to allow adjustment for changes in draft, drift, and tide during the transfer operation;

(b) Oil transfer hoses or loading arms are long enough to allow the vessel to move to the limits of its moorings without placing strain on hose or loading arm;

(c) Each hose is supported in a manner that prevents strain on its coupling;

(d) Each part of the transfer system necessary to allow the flow of oil is lined up for the transfer;

(e) Each part of the facility and vessel transfer system that is not necessary for the transfer operation is securely blanked or shut off;

(f) The transfer system is connected to a fixed piping distribution system on the receiving vessel or facility;

(g) Except when used to receive or discharge ballast, each overboard discharge or sea suction valve that is connected to the vessel's oil transfer, ballast, or cargo tank systems is sealed in the closed position;

(h) Each oil transfer hose is free from loose covers, bulges, gouges, cuts, slashes, and soft spots;



(i) Each bolted flange coupling meets the requirements in § 156.130;

(j) The discharge containment required by §§ 154.530, 155.310, and 155.320 of this chapter as appropriate is in place;

(k) Each scupper or drain in a discharge containment system is closed;

(l) The communications required by § 154.560 of this chapter are operable for the transfer operation;

(m) The emergency means of shutdown required by §§ 154.550 and 155.780 of this chapter, as appropriate, is in position and operable;

(n) Enough personnel are on duty to conduct the transfer operations in accordance with the facility operations manual and vessel oil transfer procedures that apply to the transfer operation;

(o) At least one person is present who fluently speaks the language spoken by each person in charge;

(p) The person in charge of the transferring vessel or facility and the person in charge of the receiving vessel or facility have held a conference to assure that each person in charge understands all aspects of the transfer operations, including at least—

(1) The identity of the product to be transferred;

(2) The sequence of transfer operations;

(3) The transfer rate;

(4) The name or title and location of each person participating in the transfer operation;

(5) Particulars of the transferring and receiving systems;

(6) Critical stages of the transfer operation;

(7) Federal, State and local rules that apply to the transfer of oil;

(8) Emergency procedures;

(9) Discharge containment procedures;

(10) Discharge reporting procedures;

(11) Watch or shift arrangements; and

(12) Transfer shutdown procedures.

(q) The person in charge of the transferring vessel or facility and the person in charge of the receiving vessel or facility agree to begin the transfer operation;

(r) Each person in charge required by this part is present;

(s) Between sunset and sunrise the lighting required by § 154.570 and § 155.790 of this chapter is provided; and

(t) For transfer operations on a barge between sunset and sunrise, lighting of the intensity specified in § 155.790 of this chapter is provided.

#### § 156.130 Connections.

(a) Each person who makes a connection for oil transfer operations shall—

(1) Use suitable material in joints and couplings to make a tight seal;

(2) Use at least four bolts and a bolt in at least every other hole of each temporary connection utilizing an ANSI standard flange coupling;

(3) Use a bolt in each hole of couplings other than a ANSI standard flange;

(4) Use a bolt in each hole of each fixed coupling; and

(5) Use bolts of the same size in each bolted coupling; and

(6) Tighten each bolt and nut uniformly to distribute the load.

(b) No person who makes a connection for oil transfer operations may use any bolt that shows signs of strain or is elongated or deteriorated.

(c) Unless otherwise authorized by the Commandant, no person who makes a connection for oil transfer operations may use a quick-connect coupling or any coupling that is not bolted or full threaded.

#### § 156.150 Declaration of inspection.

(a) No person may transfer oil to or from a vessel unless the persons designated under §§ 154.710 and 155.700 of this chapter as person in charge of the transferring facility or vessel and the receiving facility or vessel have signed the declaration of inspection form prescribed in paragraph (c) of this section.

(b) No person in charge may sign a declaration of inspection of a vessel or facility unless he has determined by inspection that the facility or vessel meets the requirements in § 156.120.

(c) The declaration of inspection required to be signed in paragraph (a) of this section may be in any form but must contain at least—

(1) The name or other identification of the transferring vessel or facility and the receiving vessel or facility;

(2) The address of the facility or location of the transfer operation if not at a facility;

(3) The date the transfer operation is started;

(4) A list of the requirements in § 156.120 with spaces on the form following each requirement for the persons in charge to indicate whether the requirement is met for the transfer operation; and

(5) A space for the date, time of signing, signature, and title of each person in charge during oil transfer operations on the transferring vessel or facility and a space for the date, time of signing, signature, and title of each person in charge during the oil transfer operations on the receiving facility or vessel.

(d) The form for the declaration of inspection required in paragraph (a) of this section may incorporate the declaration requirements in 46 CFR 35.35-30.

(e) The operator of each vessel and each facility shall retain at least one signed copy of each declaration of inspection required for that vessel or facility for at least 2 months from the date it is signed.

#### § 156.160 Supervision by person in charge.

(a) No person may connect, top off, disconnect, or engage in any other critical oil transfer operation unless the person in charge designated under §§ 154.710 and 155.700 of this chapter personally supervises the operation.

(b) No person may start the flow of oil to or from a vessel unless instructed to do so by the person in charge.

(c) No person may transfer oil to or from a vessel unless the person in charge

is in the immediate vicinity of the transfer operation and immediately available to the crew.

(d) No person may transfer oil to or from a vessel—

(1) While any transfer component is releasing oil at a rate that will exceed the capacity of the containment system; or

(2) While there is oil in the water near any transfer component from an unknown source;

#### § 156.170 Equipment tests and inspections.

(a) No person may use any item of equipment listed in paragraph (c) of this section in oil transfer operations unless, since the beginning of the 11th calendar month before the month in which it is used, the operator of the vessel or facility has tested and inspected it in accordance with paragraphs (b) and (c) of this section and found that it is in the condition specified in paragraph (c) of this section.

(b) During any test or inspection required by this section, a hose must be in a straight and horizontal position and the entire external surface must be accessible.

(c) For the purposes of paragraph (a) of this section—

(1) Each nonmetallic oil transfer hose, other than submarine hose, that is larger than 3 inches in diameter must—

(i) Have no loose covers, kinks, bulges, gouges, cuts, slashes, or soft spots;

(ii) Have no external and, to the extent internal inspection is possible with both ends of the hose open, no internal deterioration; and

(iii) Not burst, bulge, leak, or abnormally distort under static liquid pressure at least as great as the pressure of the relief valve setting (or maximum pump pressure when no relief valve is installed) plus any static head pressure of the system in which the hose is used;

(2) Each transfer system relief valve must open at the pressure at which it is set to open;

(3) Each pressure gauge must show pressure within 10 percent of the actual pressure;

(4) Each loading arm and each oil transfer piping system including each metallic hose must not leak under static liquid pressure at least as great as the pressure of the relief valve setting (or maximum pump pressure when no relief valve is installed) plus any static head pressure in the system; and

(5) Each item of remote operating or indicating equipment such as a remotely operated valve, tank level alarm, or emergency shutdown device must perform its intended function.

(d) No person may use any hose in underwater service for oil transfer operations unless, since the beginning of the 23d month before the month in which it is used, the operator of the vessel or facility has tested and inspected it in accordance with paragraph (c) (1) or (4) of this section, as applicable.

(b) By revising § 151.35(h) of Part 151 to read as follows;

#### § 151.35 Oil record book.



(h) The Oil Record Book maintained on a vessel when not engaged on a foreign voyage shall be submitted during the months of January, April, July, and October with entries for the preceding 3 months to the Commander, 3d Coast Guard District(m), New York, if the home port is located on the east or gulf coast; or to the Commander, Twelfth Coast Guard District(m), San Francisco, if the home port of the vessel is located on the West Coast.

(Sec. 11(J)(1)(C) of the Water Pollution Control Act of 1956, added by the Water Quality Improvement Act of 1970 (84 Stat. 91); 33 U.S.C. 1161(J)(1)(C); E.O. 11548, 3 CFR, 1971 Supp., p. 545; 49 CFR 1.46(m))

Dated: December 15, 1971.

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

[FR Doc. 71-13641 Filed 12-23-71; 8:45 am]

[ 46 CFR Parts 10, 12, 31, 71, 91, 176,  
187, 189]

[CGFR 71-161]

### POLLUTION PREVENTION

#### Inspection of Vessels and Deck and Engineer Officers Licenses

The Coast Guard has under consideration the amendment of Chapter I of Title 46, Code of Federal Regulations to require additional knowledge by merchant marine officers and seamen of the effects of oil pollution and of laws, regulations and procedures to prevent oil pollution; to require pollution prevention equipment for vessel certification; and also to require increased inspection of tank barges. This proposal is issued in conjunction with a proposal for new Parts 154, 155, and 156 of Title 33, Code of Federal Regulations governing vessel and facility oil transfer operations that is published on page — of this issue of the FEDERAL REGISTER.

Interested persons are invited to participate in this proposed rule making by submitting written data, views, or comments to the Coast Guard (CMC), Washington, D.C. 20590. Communications should identify the notice number (CGFR 71-161), any specific wording recommended, reasons for any recommended change, and the name, address, and organization, if any, of the commentator.

The Coast Guard will hold a public hearing on February 15, 1972, at 9:30 a.m. in Conference Room 2230, Department of Transportation Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Interested persons are invited to attend the hearing and present oral or written statements on this proposal.

All communications received before February 21, 1972, or at the hearing, will be fully considered and evaluated before final action is taken on this proposal. Copies of all written communications received will be available for examination in Room 8234, Department of Transportation, Nassif Building 400 Seventh Street SW., Washington, DC both before and after the closing date

for the receipt of comments. The proposal contained in this document may be changed in the light of the comments received.

During the drafting of the proposed 33 CFR Parts 154, 155, and 156, it became apparent that to have an effective anti-pollution program three subjects covered in Chapter I of Title 46, Code of Federal Regulations would require revision:

(1) Merchant marine officers and seamen must be required to possess a greater knowledge than presently required concerning the law and regulations governing oil pollution and the methods and equipment to prevent or clean up oil pollution;

(2) The equipment required in the proposed Part 155 must be a prerequisite for vessels before they are issued a certificate of inspection; and

(3) The existing vessel drydocking interval for inland vessels must be shortened to eliminate the continued operation of leaky vessels.

The professional knowledge of all licensed and certificated seamen would be required to include oil pollution abatement procedures. All such seamen who by their rating may be engaged in oil transfer operations would be required to have knowledge of oil transfer operations equivalent to that of a certificated tankerman. All officers licensed for ocean service would have to have additional knowledge that includes international law and tank cleaning procedures that do not pollute the oceans.

Requiring the vessel's equipment to comply with standards for oil pollution prevention in order to obtain a certificate of inspection would assure that inspectors and technical personnel examine the vessel and its plans for compliance with the regulations.

The proposed 33 CFR 155.305 requires all inland barges built after January 1, 1973, to be of double-wall construction to phase out single-skin construction which results in pollution. To minimize the existing single-skin fleet's pollution contribution from hull leaks, the period between drydocking of single-skin vessels would be reduced to not more than 3 years. This change eliminates the 4-year and 5-year drydocking interval for certain inland vessels and eliminates the 5-year extension privilege on initial drydockings. The purpose of this shortening of drydocking intervals is to subject single-skin vessels to examination for operational damage which may permit cargo or fuel oil leakage. Double-skinned vessels in fresh water service may go 6 years between drydocking if their condition as determined by an internal inspection during the third year since docking, permits.

In consideration of the foregoing, it is proposed to amend Title 46 of the Code of Federal Regulations as follows:

(a) By amending Part 31 as follows:

(1) By amending § 31.01-1(a) by striking the period and adding the words "and 33 CFR Part 155, Subpart B."

(2) By revising the citation of authority following § 31.01-1 to read as follows:

(R.S. 4418, as amended, 4433, as amended, 4472, as amended, 4488, as amended, sec. 11 (J) (1) (C) and (D) of the Water Pollution Control Act of 1956, added by the Water Quality Improvement Act of 1970 (84 Stat. 91), National Environmental Policy Act of 1969 (83 Stat. 852); 46 U.S.C. 392, 411, 170, 481, 33 U.S.C. 1161(J)(1)(C) and (D), 42 U.S.C. 4321, et seq.; E.O. 11548; 3 CFR, 1971 Supp., p. 545; 49 CFR 1.46(m))

(3) By revising § 31.05-1(a) to read as follows:

§ 31.05-1 Issuance of certificate of inspection—TB/ALL.

(a) When a tank vessel is found to comply with law and the regulations in this subchapter, and applicable provisions of subchapters E, F, J, O, and Q of this chapter and 33 CFR Part 155, Subpart B, a certificate of inspection shall be issued to it, or to its owners by the Officer in Charge, Marine Inspection.

(4) By adding a citation of authority following § 31.05-1 to read as follows:

(Sec. 11(J)(1)(C) and (D) of the Water Pollution Control Act of 1956, added by the Water Quality Improvement Act of 1970 (84 Stat. 91), National Environmental Policy Act of 1969 (83 Stat. 852); 33 U.S.C. 1161 (J) (1) (C) and (D), 42 U.S.C. 4321, et seq.; E.O. 11548; 3 CFR, 1971 Supp., p. 545; 49 CFR 1.46(m))

(5) By revoking subparagraphs (4) and (5) and revising subparagraphs (2) and (3), of § 31.10-20(a) to read as follows:

§ 31.10-20 Drydocking or hauling out—TB/ALL.

(a) \* \* \*

(2) Each tank vessel that operates in salt water an aggregate of less than 6 months in any 12-month period since it was last drydocked or hauled out shall be drydocked or hauled out at intervals not to exceed 36 months, except that any tank barge that operates in salt water an aggregate of less than 3 months in each 12-month period since it was last drydocked need not comply with this subparagraph until after April 3, 1973. Each tank vessel that operates in salt water an aggregate of more than 6 months in any 12-month period since it was last drydocked shall be drydocked or hauled out within 6 months after the end of that period.

(3) For double-walled tank barges that operate in salt water an aggregate of less than 1 month in any 12-month period, the Officer in Charge of Marine Inspection may authorize the substitution of an internal inspection of the space between the double walls for the initially required drydocking or hauling out and for each alternate drydocking or hauling out thereafter.

(6) By adding an authority citation following § 31.10-20 to read as follows: (National Environmental Policy Act of 1969 (83 Stat. 852); 42 U.S.C. 4321, et seq.)

(b) By amending Part 71 as follows:

(1) By amending § 71.20-15(a) by inserting the words "pollution prevention equipment," immediately after the words "pilot ladders," in the second sentence.



(2) By revising the citation of authority following § 71.20-15 to read as follows:

(R.S. 4472, as amended, sec. 2, 23 Stat. 118, as amended, sec. 2, 63 Stat. 496, as amended, sec. 633, 63 Stat. 545, sec. 11(J)(1)(C) of the Water Pollution Control Act of 1956, added by the Water Quality Improvement Act of 1970 (84 Stat. 91), National Environmental Policy Act of 1969 (83 Stat. 852); 46 U.S.C. 170, 2, 14 U.S.C. 2, 633, 33 U.S.C. 1161(J)(1)(C), 42 U.S.C. 4321, et seq.; E.O. 11548; 3 CFR, 1971 Supp., p. 545; 49 CFR 1.46(m))

(3) By adding a new § 71.25-37 with an authority citation immediately following § 71.25-35 to read as follows:

§ 71.25-37 Pollution prevention.

At each inspection for certification, the inspector shall examine the vessel to determine that it meets the vessel design and equipment requirements for pollution prevention in 33 CFR Part 155, Subpart B.

(Sec. 11(J)(1)(C) and (D) of the Water Pollution Control Act of 1956, added by the Water Quality Improvement Act of 1970 (84 Stat. 91), National Environmental Policy Act of 1969 (83 Stat. 852); 33 U.S.C. 1161(J)(1)(C) and (D), 42 U.S.C. 4321, et seq.; E.O. 11548; 3 CFR, 1971 Supp., p. 545; 49 CFR 1.46(m))

(c) By amending Part 91 as follows:

(1) By amending § 91.20-15(a) by inserting the words "pollution prevention equipment," immediately after the words "pilot ladders," in the second sentence.

(2) By amending the citation of authority following § 91.20-15 to read as follows:

(R.S. 4472, as amended, sec. 2, 23 Stat. 118, as amended, sec. 2, 63 Stat. 496, as amended, sec. 633, 63 Stat. 545, sec. 11(J)(1)(C) of the Water Pollution Control Act of 1956, added by the Water Quality Improvement Act of 1970 (84 Stat. 91), National Environmental Policy Act of 1969 (83 Stat. 852); 46 U.S.C. 170, 2, 14 U.S.C. 2, 633, 33 U.S.C. 1161(J)(1)(C), 42 U.S.C. 4321, et seq.; E.O. 11548; 3 CFR, 1971 Supp., p. 545; 49 CFR 1.46(m))

(3) By amending § 91.25-10(a) by inserting the words "pollution prevention equipment" immediately after the words "pilot ladders," in the second sentence.

(4) By adding a citation of authority following § 91.25-10 to read as follows:

(Sec. 11(J)(1)(C) of the Water Pollution Control Act of 1956 added by the Water Quality Improvement Act of 1970 (84 Stat. 91), National Environmental Policy Act of 1969 (83 Stat. 852); 33 U.S.C. 1161(J)(1)(C), 42 U.S.C. 4321, et seq.; E.O. 11548; 3 CFR, 1971 Supp., p. 545; 49 CFR 1.46(m))

(5) By adding a new § 91.25-38 with an authority citation immediately following § 91.25-37 to read as follows:

§ 91.25-38 Pollution prevention.

At each inspection for certification, the inspector shall examine the vessel to determine that it meets the vessel design and equipment requirements for pollution prevention in 33 CFR Part 155, Subpart B.

(Sec. 11(J)(1)(C) and (D) of the Water Pollution Control Act of 1956, added by the Water Quality Improvement Act of 1970 (84 Stat. 91), National Environmental Policy Act of 1969 (83 Stat. 852); 33 U.S.C. 1161(J)(1)(C) and (D), 42 U.S.C. 4321, et seq.; E.O. 11548; 3 CFR, 1971 Supp., p. 545; 49 CFR 1.46(m))

(C) and (D), 42 U.S.C. 4321, et seq.; E.O. 11548; 3 CFR, 1971 Supp., p. 545; 49 CFR 1.46(m))

(d) By amending the citation authority for Subchapter T by striking the words "unless otherwise noted" and adding the words "Additional authority cited with regulations affected."

(e) By amending Part 176 as follows:

(1) By amending § 176.05-5(c) by inserting the words "pollution prevention equipment," immediately after the words "fire extinguishing equipment," in the first sentence.

(2) By adding a citation of authority following § 176.05-5 to read as follows:

(Sec. 11(J)(1)(C) of the Water Pollution Control Act of 1956, added by the Water Quality Improvement Act of 1970 (84 Stat. 91), National Environmental Policy Act of 1969 (83 Stat. 852); 33 U.S.C. 1161(J)(1)(C), 42 U.S.C. 4321, et seq.; E.O. 11548; 3 CFR, 1971 Supp., p. 545; 49 CFR 1.46(m))

(3) By amending § 176.05-10 by inserting the words "pollution prevention equipment," immediately after the words "fire extinguishing equipment," and by adding a new paragraph (b) to read as follows:

§ 176.05-10 Subsequent inspections for certification.

(b) *Pollution prevention.* At each inspection for certification, the inspector shall examine the vessel to determine that it meets the vessel design and equipment requirements for pollution prevention in 33 CFR Part 155, Subpart B.

(4) By adding a citation of authority following § 176.05-10 to read as follows:

(Sec. 11(J)(1)(C) and (D) of the Water Pollution Control Act of 1956, added by the Water Quality Improvement Act of 1970 (84 Stat. 91), National Environmental Policy Act of 1969 (83 Stat. 852); 33 U.S.C. 1161(J)(1)(C) and (D), 42 U.S.C. 4321, et seq.; E.O. 11548; 3 CFR, 1971 Supp., p. 545; 49 CFR 1.46(m))

(f) By amending the citation of authority for Subchapter U by adding the following words: "Additional authority cited with regulations affected."

(g) By amending Part 189 as follows:

(1) By amending § 189.20-15(a) by inserting the words "pollution prevention equipment," immediately after the words "pilot ladders," in the second sentence.

(2) By adding an authority citation following § 189.20-25 to read as follows:

(Sec. 11(J)(1)(C) of the Water Pollution Control Act of 1956, added by the Water Quality Improvement Act of 1970 (84 Stat. 91), National Environmental Policy Act of 1969 (83 Stat. 852); 33 U.S.C. 1161(J)(1)(C), 42 U.S.C. 4321, et seq.; E.O. 11548; 3 CFR, 1971 Supp., p. 545; 49 CFR 1.46(m))

(3) By amending § 189.25-10 by inserting the words "pollution prevention equipment," immediately following the words "pilot ladders," in the second sentence.

(4) By adding an authority citation following § 189.25-10 to read as follows:

(Sec. 11(J)(1)(C) of the Water Pollution Control Act of 1956, added by the Water Quality Improvement Act of 1970 (84 Stat. 91), National Environmental Policy Act of

1969 (83 Stat. 852); 33 U.S.C. 1161(J)(1)(C), 42 U.S.C. 4321, et seq.; E.O. 11548; 3 CFR, 1971 Supp., p. 545; 49 CFR 1.46(m))

(5) By adding a new § 189.25-38 with an authority citation immediately following § 189.25-35 to read as follows:

§ 189.25-38 Pollution prevention.

At each inspection for certification, the inspector shall examine the vessel to determine that it meets the vessel design and equipment requirements for pollution prevention in 33 CFR Part 155, Subpart B.

(Sec. 11(J)(1)(C) and (D) of the Water Pollution Control Act of 1956, added by the Water Quality Improvement Act of 1970 (84 Stat. 91), National Environmental Policy Act of 1969 (83 Stat. 852); 33 U.S.C. 1161(J)(1)(C) and (D), 42 U.S.C. 4321, et seq.; E.O. 11548; 3 CFR, 1971 Supp., p. 545; 49 CFR 1.46(m))

(h) By amending Parts 10, 12, 105, and 187 Title 46 as follows:

(1) By adding the following sentence as subparagraph (2) of § 10.02-9(a); subparagraph (2) of § 10.20-9(a); and paragraph (e) of § 187.15-1: "Upon the first renewal of a license after June 30, 1972, each applicant must meet the knowledge requirements for an original license on pollution abatement."

(2) By amending the authority citations following §§ 10.02-9 and 10.20-9 by adding an additional citation and by adding a new authority citation to follow § 187.15-1 to read as follows:

(National Environmental Policy Act of 1969 (83 Stat. 852); 42 U.S.C. 4321, et seq.)

(3) By adding the new subject "Pollution abatement" as subject number (7-a) in § 10.05-43(a); (28-a) in the table in § 10.05-45(b); (20-a) in § 10.05-47(a); (13-a) in § 10.05-49(a); (9-a) in § 10.05-51(a); (10-a) in § 10.05-52(a); (9-a) in § 10.05-58; and by inserting an X in each column for the new subject "(28-a) pollution abatement" in the table in § 10.05-45(b).

(4) By adding the following authority citation following §§ 10.05-43, 10.05-45, 10.05-47, 10.05-49, 10.05-51, 10.05-52, and 10.05-58 to read as follows:

(National Environmental Policy Act of 1969 (83 Stat. 852); 42 U.S.C. 4321, et seq.)

(5) By adding the following sentence to §§ 10.05-53; 10.05-55; 10.05-57; 10.05-59; as (c-1) of § 12.05-9; as (e) of § 12.10-5; to § 12.20-5; as (a)(10) of § 105.60-10; (a)(8) of § 187.20-10; (a)(8) of § 187.20-15; (a)(8) of § 187.20-17; (12-a) of § 187.25-20(a); (12-a) of § 187.25-2(a); and (4-a) of § 187.25-25(a); "The applicant must demonstrate to the satisfaction of the Officer in Charge, Marine Inspection, his knowledge of pollution laws and regulations, procedures for discharge containment and cleanup and methods for disposal of sludge and waste material from cargo and fueling operations."

(6) By inserting an X in each column for the following new subject (29-a) in table 12.15-9(b): 29-a Pollution laws and regulations, procedures for discharge containment and cleanup, and methods



for disposal of sludge and waste from cargo and fueling operations.

(7) By adding an authority citation to follow §§ 10.05-53, 10.05-55, 10.05-57, 10.05-59, 12.05-9, 12.10-5, 12.15-9, 12.20-5, 105.60-10, 187.20-10, 187.20-15, 187.20-17, 187.25-20, 187.25-21, and 187.25-25 to read as follows:

(National Environmental Policy Act of 1969 (83 Stat. 852); 42 U.S.C. 4321, et seq.)

(8) By adding the following new subjects to the table in § 10.10-4(b) and by inserting an X in each column for each new subject:

POLLUTION

- 78. Pollution laws and regulations.
- 79. Discharge containment and cleanup.
- 80. Disposal of sludge and waste.
- 81. Loading and transfer of bunkers.
- 82. Bilge and ballast disposal.

(9) By adding an authority citation following § 10.10-4 to read as follows:

(National Environmental Policy Act of 1969 (83 Stat. 852); 42 U.S.C. 4321, et seq.)

(10) By adding the subject "pollution abatement" as new paragraphs (b) (2) (viii); (c) (8); and (e) (7) of § 10.15-31.

(11) By adding an authority citation following § 10.15-31 to read as follows:

(National Environmental Policy Act of 1969 (83 Stat. 852); 42 U.S.C. 4321, et seq.)

(12) By adding the following new subdivision (vii) to § 10.20-5(b) (1):

§ 10.20-5 Professional examinations.

\* \* \*

(b) \* \* \*

(1) \* \* \*

(vii) Pollution laws and regulations, procedures for discharge containment and cleanup, and methods for disposal of sludge and waste material from cargo and fueling operations.

\* \* \*

(13) By adding an authority citation following § 10.20-5 to read as follows:

(National Environmental Policy Act of 1969 (83 Stat. 852); 42 U.S.C. 4321, et seq.)

These amendments are proposed under the authority of (R.S. 4405, as amended, R.S. 4462, as amended, section 11(J) (1) (C) and (D) of the Water Pollution Control Act of 1956, added by the Water Quality Improvement Act of 1970 (84 Stat. 91), National Environmental Policy Act of 1969 (83 Stat. 852), sec. 6(b) (1), 80 Stat. 937; 46 U.S.C. 375, 416, 33 U.S.C. 1161(J) (1) (C) and (D), 42 U.S.C. 4321, et seq., 49 U.S.C. 1655(b) (1); E.O. 11548; 3 CFR, 1971 Supp., p. 545; 49 CFR (b) and (m)).

Dated: December 15, 1971.

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

[FR Doc.71-18642 Filed 12-23-71; 8:45 am]



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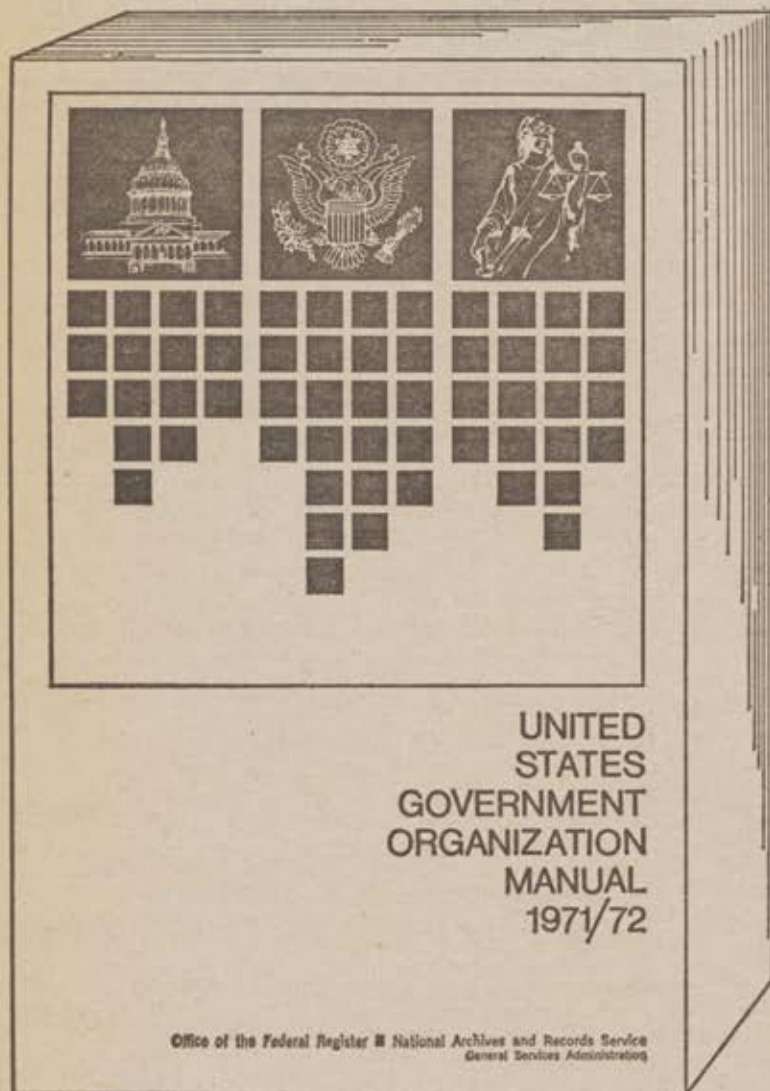
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