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PART I

(Part II begins on page 7891)

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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REMINDERS

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going into Effect Today

This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

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List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

Rules and Regulations

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 130—COST OF LIVING COUNCIL PHASE III REGULATIONS

Firms Engaged in the Manufacture of Meat Products

Part 130 is amended in subpart F by adding a new § 130.57d. The purpose of the new § 130.57d is to prescribe a new pricing mechanism applicable to manufacturers of meat products within Standard Industrial Classification Codes 2011 (Meat Packing Plants) or 2013 (Sausage and other Prepared Meat Products) and to replace the provisions of the Price Commission's regulations on volatile pricing (§ 300.51 (f) through (i) and Special Regulation 3) as they apply to these manufacturers. This section applies to those establishments engaged in the slaughtering and processing of cattle, hogs, sheep, lambs, and calves as classified in SIC Code 2011 and to those establishments engaged in manufacturing sausages, cured meats, smoked meats, frozen meats, natural sausage casings, and other prepared meats and meat specialties, from purchased carcasses and other materials, as classified in SIC Code 2013. This section does not apply to establishments engaged in canning or otherwise processing poultry, rabbits and other small game as classified in SIC Codes 2016 (Poultry Dressing Plants) and 2017 (Poultry and Egg Processing).

The new section is mandatory, rather than optional, and covers both price reporting and price recordkeeping meat manufacturers subject to the rules of Subpart F. The new rule is designed to be more easily administered and enforced than the previous rules. In addition, it is more in keeping with historical pricing mechanisms in the industry.

The new rule is intended to establish and maintain a closer relationship between costs and prices in the meat packing industry. When livestock prices decline, the rule will better insure that livestock cost reductions will be passed through by meatpackers, and it is expected that such price decreases will benefit ultimate consumers.

Under the regulations of the Price Commission during Phase II of the Economic Stabilization Program, manufacturers of meat products who had obtained volatile pricing authority from the Price Commission were permitted to recover volatile raw material costs on a dollar-for-dollar basis without prenotification, and were required to allocate volatile raw material cost increases on an item-by-item basis. The difficulty of tracking cost elements from the raw material stage through to an individual finished product made the volatility authorization granted to meatpackers difficult to administer and enforce. Issuance of Special Regulation 3 on September 30, 1972, alleviated some of these difficulties, but was merely intended to be an interim provision.

Under the provisions of new § 130.57d, a manufacturer of meat products is required to aggregate his meat raw material costs on a quarterly basis. These aggregate costs will be compared to aggregate revenues from the sale of products in the manufacture of which those meat raw materials are used. This comparison is to be accomplished by the use of a base period "gross margin" as defined in the new § 130.57d. The margin between meat raw materials' aggregate cost in a current quarter and revenues from the sales of finished products in which those raw materials are used must not exceed the gross margin which prevailed in the base period as defined in the new section. This system will allow no more than a dollar-for-dollar pass-through of meat raw material costs. Price increases based on other cost increases, such as labor and overhead, remain subject to the rules set out in Subpart F. Allowance will also be made for seasonal variations in gross margin.

The new § 130.57d also provides for special additional reporting and recordkeeping requirements applicable to firms engaged in the manufacture of meat products. Those manufacturers who are reporting firms under § 130.54 and who have transactions involving products within SIC 2011 or 2013 will be required to report monthly and quarterly to the Council on their compliance with new § 130.57d. Those manufacturers who are recordkeeping firms under § 130.55 and who have transactions involving products within SIC 2011 and 2013 will be required to maintain monthly and quarterly records on their compliance with new § 130.57d.

Because the purpose of this amendment is to provide immediate guidance as to Cost of Living Council policy, I find that publication in accordance with normal rulemaking procedures is impracticable and that good cause exists for making these regulations effective in less than 30 days. Interested persons may submit comments regarding these regulations. Communications should be addressed to the Office of General Counsel, Cost of Living Council, Washington, D.C. 20508.

(Economic Stabilization Act of 1970, Public Law 92-210, 85 Stat. 743 and Executive Order 11695, 38 FR 1473)

In consideration of the foregoing, Part 130 of Title 6 of the Code of Federal Regulations is amended by adding a new § 130.57d as set forth herein, effective March 22, 1973.

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

JAMES W. MCLANE,
Deputy Director.

§ 130.57d Pricing rule for firms engaged in the manufacture of meat products within Standard Industrial Classification Codes 2011 and 2013.

(a) *Scope.* This section establishes a special rule governing price adjustments based on the cost of meat raw materials by a firm that is a manufacturer of meat products within Standard Classification Codes 2011 or 2013 to allow no more than a dollar-for-dollar pass-through of the costs of meat raw materials used by the firm in its manufacture of meat products. This pass-through of meat raw material costs may be accomplished without prenotification otherwise required pursuant to § 130.57. In addition, insofar as they are applicable to manufacturers of meat products subject to this rule, all authorizations issued to such manufacturers by the Price Commission permitting the use of volatile pricing are superseded by this section, and the requirements of Special Regulation 3 issued by the Price Commission are also hereby superseded.

(b) *Definitions.* For purposes of this section—

"Total sales revenues" means the aggregate revenues derived from sales of all products within SIC 2011 and 2013 manufactured by a firm.

"Input pounds" means the total number of pounds of live weight meat raw materials, whether unprocessed or semi-processed, purchased by a firm or otherwise in process during a calendar reporting or recordkeeping period, minus the total number of pounds of such materials remaining in process at the end of the same calendar reporting or recordkeeping period.

"Meat raw materials costs" means the aggregate cost of all input pounds of meat raw materials.

"Base period" means any 2, at the option of the person concerned, of the following fiscal years: That person's last 3 fiscal years ending before August 15, 1971, and any fiscal year, other than the fiscal year for which compliance is being

measured, completed on or after that date.

"Base period gross margin" means the dollar margin between the total meat raw material costs and revenues derived from the sale during the base period of all products in the manufacture of which such meat raw materials are used, divided by the volume of input pounds of meat raw material sold during the base period. This computation may be illustrated by the use of the following equation:

$$\frac{\text{Total sales revenues in the base period} - \text{Total meat raw materials costs in the base period}}{\text{Volume of input pounds during the base period measured by hundredweight}} = \text{Base period gross margin per hundredweight.}$$

(c) *Pricing rule.* Total sales revenues for any calendar quarter from sales of all products in SIC 2011 and 2013 may not exceed an amount derived from the following computation: The base period gross margin multiplied by the current quarter volume of input pounds of meat raw material sold during the quarter, plus the total meat raw materials cost during this quarter. This computation may be illustrated by the following equation:

$$[\text{Base period gross margin per hundredweight} \times \text{Volume of input pounds in the current period measured by hundredweight}] + \frac{\text{Current period total meat raw materials costs}}{\text{Permissible total sales revenues in the current period}}$$

Any sales revenues in excess of that figure are permissible, but only if based upon adjustments pursuant to § 130.57 based on costs other than meat raw materials or if based upon seasonal patterns permissible pursuant to Price Commission Regulation § 300.81 in effect on January 10, 1973, or both factors.

(d) *Reporting and recordkeeping requirements.*—(1) *Reports.* Each firm which is a price reporting firm as defined in § 130.54 and which is engaged in transactions involving products within SIC 2011 or 2013 shall file with the Council, on forms to be prescribed by the Council, monthly and quarterly reports setting forth the following information:

(i) Gross margin attributable to the firm during the base period;

(ii) The total meat raw material input pounds during the reporting period;

(iii) The aggregate cost of the meat raw material during the reporting period; and

(iv) The total sales involving products in the manufacture of which the meat raw materials were used during the reporting period.

(2) *Reporting schedule.* Beginning with the first calendar month completed after the effective date of this section, monthly reports shall be filed with the Council not later than 30 days after the last day of each month. Quarterly reports shall be filed with the Cost of Living Council not later than 45 days after the last day of each calendar quarter.

(3) *Recordkeeping.* Each firm which is a price recordkeeping firm as defined in § 130.55 and is engaged in transactions involving products within SIC 2011 or 2013 shall maintain records of the information required in paragraph (d)(1) of this section and within the times specified in paragraph (d)(2) of this section.

(e) *Other costs.* Price increases above base price to reflect costs other than those of the meat raw materials used in the manufacture of products within SIC 2011 or 2013 remain subject to the rules set forth in § 130.57.

[FR Doc.73-5754 Filed 3-22-73;12:18 p.m.]

Title 7—Agriculture

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

[Navel Orange Reg. 292, Amdt. 1]

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

Limitation of Handling

This regulation increases the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period March 16 to March 22, 1973. The quantity that may be shipped is increased due to improved market conditions for Navel oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Navel Orange Regulation 292 (38 FR 6987). The marketing picture now indicates that there is a greater demand for Navel oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Navel oranges to fill the current market demand thereby making a greater quantity of Navel oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

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

(b) *Order, as amended.* The provisions in paragraph (b)(1)(ii) of § 907.592 (Navel Orange Regulation 292) (38 FR 6987) are hereby amended to read as follows:

§ 907.592 Navel Orange Regulation 292.

* * * * *

(b) *Order.* (1) * * *

(ii) District 2: 375,000 cartons.

* * * * *

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

Dated: March 21, 1973.

CHARLES R. BRADER,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.73-5671 Filed 3-23-73;8:45 am]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A U.S. CITIZEN OR AS A PREFERENCE IMMIGRANT

PART 205—REVOCATION OF APPROVAL OF PETITIONS

Preference Immigrant Visa Petitions

Pursuant to 5 U.S.C. 552 and the authority contained in 8 U.S.C. 1103 and 8 CFR 2.1, amendments, as set forth herein, are prescribed in Parts 204 and 205 of Chapter I of Title 8 of the Code of Federal Regulations.

Recent precedent decisions of the Board of Immigration Appeals (Matter of Chatterton, Interim Decision No. 2133, Matter of Ponce de Leon, Interim Decision No. 2139, and Matter of Ascher, Interim Decision No. 2182), designated in accordance with 8 CFR 3.1(g), hold that an alien born in an independent country of the Western Hemisphere who, pursuant to the provisions of section 202(b) of the Immigration and Nationality Act, is alternatively chargeable to a foreign state in the Eastern Hemisphere, may be the direct beneficiary of an immigrant visa petition to accord preference classification under section 203(a)

of the Act. Therefore, §§ 204.1(a) and (c) are being amended to provide for the filing of a visa petition to accord preference classification on behalf of a native of the Western Hemisphere as described above, and a new § 204.2(e–1) is added to include procedures for establishing eligibility for alternate chargeability under section 202(b) of the Act. Corellary technical amendments are made in §§ 204.4, 204.5, and 205.1.

In the light of the foregoing, the following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

Part 204 is amended by revising §§ 204.1, 204.4, and 204.5 and by adding a new § 204.2(e–1), as follows:

§ 204.1 [Amended]

In § 204.1 *Petition*, paragraph (a) *Relative* is amended by adding a new sentence at the end thereof to read as follows: "Also, notwithstanding the fact that the beneficiary may be a native of an independent country of the Western Hemisphere or the Canal Zone, a petition to accord him classification under section 203(a) (1), (2), (4), or (5) of the Act may be filed when the petitioner claims that the beneficiary is alternatively chargeable under section 202(b) of the Act to a foreign state in the Eastern Hemisphere or a dependent area of such state; however, in addition to the documents required to establish eligibility for the preference classification sought, such a petition must be accompanied by documentary evidence of the beneficiary's claimed chargeability under section 202(b) of the Act as prescribed in § 204.2(e–1)."

2. In § 204.1 *Petition*, subparagraph (1) *General* of paragraph (c) *Petition under section 203(a) (3) or (6)* is amended by adding a new sentence at the end thereof to read as follows: "Notwithstanding the fact that the beneficiary may be a native of an independent country of the Western Hemisphere or the Canal Zone, a petition to accord him classification under section 203(a) (3) or (6) of the Act may be filed when the petitioner claims that the beneficiary is alternately chargeable under section 202(b) of the Act to a foreign state in the Eastern Hemisphere or a dependent area of such state; however, in addition to the documents required to establish eligibility for the preference classification sought, such a petition must be accompanied by documentary evidence of the beneficiary's claimed chargeability under section 202(b) of the Act as prescribed in § 204.2(e–1)."

3. In § 204.2, a new paragraph (e–1) is added to read as follows:

§ 204.2 Documents.

* * * * *

(e–1) *Evidence of alternate chargeability to an Eastern Hemisphere country or dependent area if beneficiary born in independent Western Hemisphere country or the Canal Zone*—(1) *General.* When the beneficiary was born in an independent country of the Western Hemisphere or the Canal Zone and the petitioner, seeking to confer a preference classification upon the beneficiary, claims that the beneficiary is alternately chargeable under section 202(b) of the Act to an Eastern Hemisphere state or a dependent area of such state, evidence must be submitted with the petition in support of such claim.

(2) *Claimed alternate chargeability under section 202(b)(1).* If the beneficiary is an alien child and it is claimed he is alternately chargeable under section 202(b)(1) of the Act to a foreign state in the Eastern Hemisphere or a dependent area of such foreign state in which his parent was born, such parent's birth certificate must be submitted, as well as evidence of the relationship between the beneficiary and such parent as specified in paragraph (c)(3) of this section. In addition, the petitioner must submit a statement that the beneficiary will be accompanied by such parent when the beneficiary applies for admission to the United States and, if such parent is not a lawful permanent resident of the United States, that the beneficiary and such parent will apply simultaneously for immigrant visas.

(3) *Claimed alternate chargeability under section 202(b)(2).* If the beneficiary is married, and it is claimed that the beneficiary is alternately chargeable under section 202(b)(2) to a foreign state in the Eastern Hemisphere or a dependent area of such foreign state in which his spouse was born, the spouse's birth certificate must be submitted, as well as evidence of the relationship between the beneficiary and his spouse as specified in Paragraph (c)(2) of this section. In addition, the petitioner must submit a statement that the beneficiary will be accompanied by his spouse when the beneficiary applies for admission to the United States and, if the beneficiary's spouse is not a lawful permanent resident of the United States, that the beneficiary and spouse will apply simultaneously for immigrant visas.

(4) *Claimed alternate chargeability under section 202(b)(3).* If the beneficiary was born in the United States and it is claimed that he is alternately chargable under section 202(b)(3) of the Act to a foreign state in the Eastern Hemisphere or a dependent area of such foreign state of which he is a citizen or subject or, if he is stateless, of which he is a resident, his birth certificate and evidence that he is a citizen, subject, or resident of such foreign state or area must be submitted.

(5) *Claimed alternate chargeability under section 202(b)(4).* If it is claimed that neither of the beneficiary's parents was born in the country in which he was born, that neither of his parents had a residence in such country at the time of his birth, that one of the parents was born in a foreign state in the Eastern Hemisphere or a dependent area of such foreign state, and that the beneficiary is, therefore, alternately chargeable under section 202(b)(4) of the Act to such foreign state or dependent area, the birth certificates of the beneficiary and each of his parents, the marriage certificate of his parents and proof of termination of any previous marriages of his father and mother, and a statement setting forth pertinent details concerning the residence of his parents at the time of his birth, must be submitted.

4. In § 204.4, the first sentence of paragraphs (a) and (b) is revised by inserting at the beginning thereof the following words: "Unless revoked pursuant to Part 205 of this chapter,". As amended, §§ 204.4 (a) and (b) read as follows:

§ 204.4 Validity of approved petitions.

(a) *Relative petitions.* Unless revoked pursuant to Part 205 of this chapter, the approval of a petition to classify an alien as a preference immigrant under section 203(a), (1), (2), (4), or (5) of the Act, or as an immediate relative under section 201(b) of the Act, shall remain valid for the duration of the relationship to the petitioner, and status, as established in the petition.

(b) *Petitions under sections 203(a) (3) and (6).* Unless revoked pursuant to Part 205 of this chapter, the approval of a petition to classify an alien as a perference immigrant under section 203(a) (3) or (6) of the Act shall remain valid for as long as the supporting labor certification is valid and unexpired, provided in the case of a petition for third preference classification there is no change in the beneficiary's intention to engage in the indicated profession, art or science, and provided in the case of a petition for sixth preference classification there is no change in the respective intentions of the petitioner and the beneficiary that the beneficiary will be employed by the petitioner in the capacity indicated in the petition. The approval of a petition to classify an alien under section 203(a) (3) or (6) of the Act which had heretofore become invalid solely because the date until which the approval was valid had lapsed, is hereby reinstated provided the conditions of this paragraph are met.

* * * * *

5. In § 204.5, subparagraph (1) of paragraph (a) is revised, and paragraph (b) is revised. As amended, §§ 204.5(a) (1) and 204.5(b) read as follows:

§ 204.5 Automatic conversion of classification of beneficiary.

(a) *By change in beneficiary's marital status.* (1) A currently valid petition previously approved to classify the beneficiary as the unmarried son or daughter of a U.S. citizen under section 203(a)(1) of the Act shall be regarded as approved for preference status under section 203(a)(4) of the Act as of the date the beneficiary marries. A currently valid petition previously approved to classify the child of a U.S. citizen as an immediate relative under section 201(b) of the Act shall also be regarded as approved for preference status under section 203(a)(4) of the Act as of the date the beneficiary marries, if the beneficiary is not a native of an independent country of the Western Hemisphere or the Canal Zone; in the case of a beneficiary who is a native of an independent Western Hemisphere country or the Canal

Zone, the petition shall be regarded as approved for such preference status as of the date of the marriage only if the petitioner establishes in accordance with § 204.2(e-1) that the beneficiary is alternately chargeable under section 202(b) of the Act to a foreign state in the Eastern Hemisphere or a dependent area of such state.

* * * * *

(b) *By beneficiary's attainment of the age of 21 years.* A currently valid petition classifying the child of a U.S. citizen as an immediate relative under section 201(b) of the Act shall be regarded as approved for preference status under section 203(a)(1) of the Act as of the beneficiary's attainment of his 21st birthday if he is still unmarried and he is not a native of an independent country of the Western Hemisphere or the Canal Zone or, in the event he is a native of such country or the Canal Zone, the petitioner establishes in accordance with § 204.2(e-1) that the beneficiary is alternately chargeable under section 202(b) of the Act to a foreign state in the Eastern Hemisphere or a dependent area of such state.

* * * * *

In § 205.1, paragraph (a) is amended by revising subparagraphs (4) and (5) and by adding new subparagraphs (5a), (7), (8), and (9); paragraph (b) is amended by adding new subparagraphs (6) and (7). As amended, § 205.1 (a) and (b) read as follows:

§ 205.1 Automatic revocation.

The approval of a petition made under section 204 of the Act and in accordance with Part 204 of this chapter is revoked as of the date of approval if any of the following circumstances occur before the beneficiary's journey to the United States commences or, if the beneficiary is an applicant for adjustment of status to that of a permanent resident, before the decision on his application becomes final:

(a) *Relative petitions.* (1) Upon formal notice of withdrawal filed by the petitioner with the officer who approved the petition.

(2) Upon the death of the petitioner or beneficiary.

(3) Upon the legal termination of the relationship of husband and wife when a petition has accorded status as the spouse of a citizen or lawful resident alien, respectively, under section 201(b), or section 203(a)(2) of the Act.

(4) Upon a child beneficiary reaching the age of 21, when he has been accorded immediate relative status under section 201(b) of the Act; however, such petition is valid for the duration of the relationship to accord preference status under section 203(a)(1) of the Act if the beneficiary remains unmarried, or to accord preference status under section 203(a)(4) of the Act if he marries, except that if the beneficiary is a native of an independent country of the Western Hemisphere or the Canal Zone, the petition shall be regarded as according the appropriate preference status only if the petitioner establishes in accordance with § 204.2(e-1) of this chapter that the beneficiary is alternately chargeable under section 202(b) of the Act to a foreign state in the Eastern Hemisphere or a dependent area of such state.

(5) Upon the marriage of a beneficiary accorded status as the child of a U.S. citizen under section 201(b) of the Act; however, such petition is valid for the duration of the relationship to accord preference status under section 203(a)(4) of the Act, except that if the beneficiary is a native of an independent country of the Western Hemisphere or the Canal Zone, the petition shall be regarded as according such preference status only if the petitioner establishes in accordance with § 204.2(e-1) of this chapter that the beneficiary is alternately chargeable under section 202(b) of the Act to a foreign state in the Eastern Hemisphere or a dependent area of such state.

(5a) Upon the marriage of a beneficiary accorded preference status as a son or daughter of a U.S. citizen under section 203(a)(1) of the Act; however, such petition is valid for the duration of the relationship to accord preference status under section 203(a)(4) of the Act.

(6) Upon the marriage of a beneficiary accorded a status as a son or daughter of a lawful resident alien under section 203(a)(2) of the Act.

(7) Upon the legal termination of the relationship of husband and wife, when the beneficiary is a native of an independent country of the Western Hemisphere or the Canal Zone and a petition to accord preference status under section 203(a)(4) or (5) of the Act has been approved on the basis of beneficiary's alternate chargeability under section 202(b)(2) of the Act to the foreign state in the Eastern Hemisphere or a dependent area of such state in which the beneficiarys' spouse was born.

(8) Upon the beneficiary reaching the age of 21, when the beneficiary is a native of an independent country of the Western Hemisphere or the Canal Zone and a petition to accord preference status under section 203(a)(2) of the Act as the unmarried son or daughter of an alien lawfully admitted for permanent residence has been approved on the basis of the beneficiary's alternate chargeability under section 202(b(1) of the Act to the foreign state in the Eastern Hemisphere or a dependent area of such state in which a parent of the beneficiary was born.

(9) Upon the beneficiary's acquisition of citizenship in an independent country of the Western Hemisphere or, if he is stateless, upon his taking up residence in such country or the Canal Zone, in the case of a beneficiary who was born in the United States and a petition to accord preference status under section 203(a)(1), (2), (4), or (5) of the Act has been previously approved on the basis of his alternate chargeability under section 202(b)(3) of the Act to a foreign state in the Eastern Hemisphere or a dependent area of such foreign state of which he was a citizen or subject at the time of approval or in which he then had his residence if he was then stateless.

(b) *Petitions under section 203(a)(3) or (6).* (1) Upon expiration pursuant to 29 CFR Part 60 of the labor certification in support of the petition unless the certification is thereafter revalidated.

(2) Upon the death of the petitioner or beneficiary.

(3) Upon formal notice of withdrawal filed by the beneficiary with the officer who approved the petition in a third-preference case.

(4) Upon formal notice of withdrawal filed by the petitioner with the officer who approved the petition in a sixth-preference case.

(5) Upon termination of the employer's business in a sixth-preference case.

(6) Upon the legal termination of the relationship of husband and wife, when the beneficiary is a native of an independent country of the Western Hemisphere or the Canal Zone and a petition to accord third- or sixth-preference status has been approved on the basis of the beneficiary's alternate chargeability under section 202(b)(2) of the Act to the foreign state in the Eastern Hemisphere or a dependent area of such state in which the beneficiary's spouse was born.

(7) Upon the beneficiary's acquisition of citizenship in an independent country of the Western Hemisphere or, if he is stateless, upon his taking up residence in such country or the Canal Zone, in the case of a beneficiary who was born in the United States and a petition to accord third- or sixth-preference status has previously been approved on the basis of his alternate chargeability under section 202(b)(3) of the Act to a foreign state in the Eastern Hemisphere or a dependent area of such foreign state of which he was a citizen or subject at the time of approval, or in which he then had his residence if he was then stateless.

Compliance with the provisions of section 553 of title 5 of the United States Code (80 Stat. 383) as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the rules prescribed by the order are in implementation of recent decisions of the Board of Immigration Appeals.

Effective date. This order shall be effective on March 26, 1973.

Dated: March 21, 1973.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[FR Doc.73-5684 Filed 3-23-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 73-WE-3-AD; Amdt. 39-1608]

PART 39—AIRWORTHINESS DIRECTIVES

General Dynamics Model 340, 440, and C-131E Airplanes

General Dynamics Model 340, 440, and C-131E and all such model airplanes converted to turbopropeller power in accordance with STC SA1096WE and SA4-1100

known as Model 640 and Model 580, respectively, certificated in all categories.

There have been failures of the left wing front spar lower cap on General Dynamics Model 340 airplanes that could result in a wing failure in flight. Since this condition is likely to exist or develop in other airplanes of the same design an airworthiness directive is being issued to require inspection of the left and right wing front spar lower caps in areas adjacent to each side of main landing gear drag strut attachment fittings for cracks and repair if necessary on General Dynamics 340, 440, and C-131E airplanes.

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

In consideration of the foregoing, and and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

GENERAL DYNAMICS. Applies to model 340, 440 and C-131E and all such model airplanes converted to turbopropeller power in accordance with STC SA1096WE and SA-1100 known as Model 640 and Model 580, respectively, certificated in all categories.

Compliance as indicated required on all airplanes with 30,000 hours or more total time in service unless already accomplished.

To detect cracks in the wing front spar lower caps, accomplish the following:

(1) As soon as practicable, but not to exceed 10 hours' time in service following the effective date of this AD, if the airplane is to be flown, visually inspect, on a daily basis, from the exterior of the wing, both left and right wing front spar lower caps in areas adjacent to each side of main landing gear drag strut attachment fittings for cracks until inspection in (2) below is accomplished.

(2) Within the next 100 hours' time in service after the effective date of this AD, unless already accomplished within the last 500 hours' time in service, and thereafter at intervals not to exceed 600 hours' time in service from the last inspection, accomplish the following:

(a) Gain access to the wing interior in the area described in (1) above by removal of lower wing skin access cover.

(b) Perform inspection described in (1) above from the interior of the wing.

(3) If cracks are found as the results of the inspections described in (1) or (2) above, repair before further flight in a manner approved by the Chief, Aircraft Engineering Division FAA Western Region.

This amendment becomes effective March 26, 1973.

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

Issued in Los Angeles, Calif., on March 14, 1973.

ROBERT O. BLANCHARD,
Acting Director,
FAA Western Region.

[FR Doc.73-5648 Filed 3-23-73;8:45 am]

[Airspace Docket No. 72-GL-72]

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

Designation of Transition Area

On pages 1938 and 1939 of the FEDERAL REGISTER dated January 19, 1973, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Boyne Falls, Mich.

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

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following change:

Line 8 of the Boyne Falls, Mich., transition area description recited as "24½ miles south of the airport excluding" is changed to read "17½ miles south of the airport excluding".

This amendment shall be effective 0901 G.m.t., May 24, 1973.

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

Issued in Des Plaines, Ill., on March 7, 1973.

LYLE K. BROWN,
Director, Great Lakes Region.

In § 71.181 (38 FR 435), the following transition area is added:

BOYNE FALLS, MICH.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Boyne Mountain Airport (latitude 45°-10'03" N., longitude 84°55'30" W.); and within 4½ miles west and 9½ miles east of the 176° bearing from the Boyne Mountain Airport extending from the airport to 17½ miles south of the airport excluding that position which overlies the Gaylord, Mich., Bellaire, Mich., and Grayling, Mich., transition areas.

[FR Doc.73-5647 Filed 3-23-73;8:45 am]

[Airspace Docket No. 72-GL-74]

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

Alteration of Transition Area

On page 1939 of the FEDERAL REGISTER dated January 19, 1973, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Champaign, Ill.

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

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

This amendment shall be effective 0901 G.m.t., May 24, 1973.

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

Issued in Des Plaines, Ill., on March 7, 1973.

LYLE K. BROWN,
Director, Great Lakes Region.

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

CHAMPAIGN, ILL.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the University of Illinois-Willard Airport (latitude 40°02'25" N., longitude 88°16'35" W.); within a 5½-mile radius of the Illinois Airport, Urbana, Ill. (latitude 40°08'31" N., longitude 88°12'00" W.) and within 8 miles southeast and 5 miles northwest of the Champaign VORTAC 030° radial extending from the VORTAC to 12 miles northeast of the VORTAC.

[FR Doc.73-5646 Filed 3-23-73;8:45 am]

[Airspace Docket 73-EA-10]

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

Alteration of Transition Area

The Federal Aviation Administration is amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Franklin, Pa., transition area (38 FR 489).

The non-Federal radio beacon, Cranberry, Pa., which serves Chess-Lamberton Airport, is soon to be decommissioned. In view of the fact that the transition area is described in relation to such facility, the description will be amended to delete the beacon references.

Since the foregoing is basically deleting airspace from control, there will be no need for notice and public procedure hereon and the amendment may be made effective in less than 30 days.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t., April 26, 1973, as follows:

1. Amend § 71.181 of Part 71, Federal Aviation Regulations, so as to amend the description of the Franklin, Pa., 700-foot floor transition area by deleting all after the phrase "to 11.5 miles north of the VOR."

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

Issued in Jamaica, N.Y., on March 12, 1973.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.73-5649 Filed 3-23-73;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-792; Amdt. 15]

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Modification of Registration Requirement

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of March 1973.

In notice of proposed rule making EDR-235,[1] the Board proposed to amend Part 298 of the Economic Regulations so as to (1) establish compliance with the registration requirement in said part as a condition precedent to an air taxi operator's exemption to engage in air transportation; (2) require persons who intend to begin operations subject to Part 298 to register with the Board not less than 30 days prior to the commencement of such operations; and (3) make certain changes in the standard registration statement (CAB Form 298-A).

Over the past several years the Board's staff has experienced considerable difficulty in assuring compliance with the registration and liability insurance requirements embodied in Part 298. In EDR-235, we stated our belief that the failure of air taxi operators to register with the Board is attributable, at least in part, to the fact that under our existing regulations, compliance with the aforementioned registration procedure is not a condition precedent to the air taxi operator's exemption to operate under Part 298. We further noted that, insofar as our regulations now permit a carrier to register 30 days after he has begun to operate, it has not been practicable for the Board to determine whether the registrant is in compliance with the liability insurance requirements on the date he commences operations.

In light of these considerations, we tentatively determined that the Part 298 registration requirement should be established as a condition precedent to an air taxi operator's exemption to engage in air transportation. We therefore proposed to amend Part 298, to require that a person who contemplates engaging in operations thereunder should register with the Board not less than 30 days before, instead of 30 days after, the commencement of such operations.

Pursuant to the notice of rule making, nine comments were filed, consisting of eight by registered air taxi operators[2] and one by the National Air Transportation Conferences, Inc. (NATC), an air taxi trade association. The only significant opposition to the rule is expressed in the comments filed by Cascade, CPA, and RMH, objecting principally to the proposed changes in the standard registration statement.

Upon consideration of the relevant matters[3] contained in the comments, we have determined to adopt the amendment to Part 298 as proposed, and we incorporate herein the tentative findings made in EDR-235.

In the rule making notice, the Board proposed to expand the information required on the standard registration statement so that: (1) The registrant would be required to list his telephone number and area code; (2) disclosure of all aircraft types which the registrant operates (or, if the carrier is filing for initial registration, which he proposes to operate) would be required, as identified by FAA registration number and passenger capacity, instead of disclosing only the serial and model number of each aircraft operated by the registrant whose maximum passenger and payload capacities exceed certain prescribed numerical limitations; and (3) where applicable, registrations would be required to include a statement setting forth the calculations which the registrant used in computing the maximum payload capacity of each aircraft type reported as having a maximum payload capacity of between 5,000 and 7,500 pounds. The comments of Cascade, CPA, and RMH oppose these requirements on the grounds that they will impose an undue burden on air taxi operators, and would entail a considerable duplication of effort in that, it is alleged, such carriers already file much of the aforedescribed information with the Federal Aviation Administration.[4]

We are unconvinced that the new reporting obligations will be unduly burdensome. To begin with the generalized allegations of undue burden and duplication are not supported with any specificity. Moreover, our experience is that air taxi operators already have available to them most of the information required to be disclosed in the revised statement and can obtain the rest without any appreciable expenditure of their resources. Nor are we aware of any significant overlap between the information to be submitted on the standard statement and the data required by the FAA pursuant to its licensing regulations. Moreover, although air taxi operators are required to supply the FAA with lists of the various equipment types in their respective aircraft fleets it is necessary that the Board have this information also so as to enforce the maximum payload and capacity limitations which our regulations impose on the type of equipment that can be used in Part 298 operations.[5]

In consideration of the foregoing the Civil Aeronautics Board hereby amends Part 298 of the Economic Regulations (14 CFR Part 198) effective April 25, 1973, as follows:

1. Amend subparagraph (5) of § 298.3 (a), to read as follows:

§ 298.3 Classification.

(a) There is hereby established a classification of air carriers, designated "air taxi operators" which engage in the direct air transportation of passengers and/or property, and/or in the transportation within the 48 contiguous States, Alaska, or Hawaii of mail by aircraft and which:

* * * * *

(5) Have registered initially, and reregistered annually thereafter, with the Board in accordance with Subpart E of this part.

* * * * *

2. Amend paragraph (b) of § 298.41 to read as follows:

§ 298.41 Basic requirements.

* * * * *

(b) "Certificate of insurance," as used herein, means one or more certificates, evidencing the following: Issuance by one or more insurers of one or more currently effective policies of aircraft liability insurance in compliance with this subpart and properly endorsed, which alone or in combination provide the minimum coverage prescribed in § 298.42: *Provided*, That, where the certificate of insurance accompanies a filing for initial registration as an air taxi operator in accordance with § 298.50, the insurance policy or policies named in such certificate shall become effective no later than the proposed date of commencement of air taxi operations as shown in the carrier's registration form. When more than one insurer is involved in providing the minimum coverage prescribed herein, the limits and types of liability assumed by each insurer shall be clearly stated in the certificate of insurance. The certificate of insurance shall also state whether the policy of insurance provides coverage for liability for bodily injury to, or death of, aircraft passengers. In addition, the certificate of insurance shall list the types or classes of aircraft, or the specific aircraft by Federal Aviation Administration

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[1] Oct. 27, 1972, 37 FR 23339, Docket 24871.

[2] Campbell Air Service, Inc. (CAS), Capitol Flying Service, Inc. (CFS), Cascade Helicopter, Inc. (Cascade), Chesapeake and Potomac Airways, Inc. (CPA), Executive Jet Aviation Inc. (EJA), Puerto Rico International Airlines, Inc. (Prinair), Rocky Mountain Helicopter, Inc. (RMH), and Suburban Airlines, Inc. (Suburban).

[3] EJA suggests that the Board require air taxi operators to physically distinguish their operating equipment used in Part 298 operations from aircraft used in private, intrastate or other transportation not subject to the Board's jurisdiction by (1) painting an identifying mark—e.g., a capital T—on the exterior of the aircraft used in Part 298 operations and (2) posting the air taxi license, along with the pilot's license, in the cockpit portion of such aircraft. EJA has not shown that adoption of its proposals would serve a useful purpose.

[4] CFS concern that the instant proposal will require an air taxi operator to file with the Board an amended Form 298-A each time that he acquires another aircraft for use in his operations is not well founded. As explained in EDR-235, the rule requires such amended form to be filed only when the registrant has acquired an aircraft with a maximum payload capacity (as defined in § 298.2) of between 5,000 and 7,500 pounds.

[5] NATC, Prinair, and Suburban also request the Board to delete the present requirement in Part 298 that an air taxi operator must post a copy of its insurance certificate at each place where it deals with the public, although no proposal with respect to such requirement was included in EDR-235. We will not now pass on this request since it involves issues which are clearly beyond the scope of this rule making proceeding, but will instead treat it as a petition for the institution of rule making which the Board will consider in due course.

(FAA) registration number, with respect to which the policy of insurance applies and shall set forth the area or areas of operation as found in the operations specifications issued by the FAA in conjunction with the applicable ATCO certificate: *Provided, however,* That if one or more of the 48 contiguous States or the District of Columbia is listed in such operations specifications, then all 48 contiguous States and the District of Columbia must be included in the coverage of insurance. Each certificate of insurance, and each endorsement limiting the permitted exclusions, shall be signed in ink by an authorized officer or agent of the insurer and shall be on forms prescribed and furnished by the Board.

3. Amend § 298.50 by revising paragraphs (a), (b), and (c), and adding a new paragraph (d), the section as amended to read as follows:

§ 298.50 Filing for registration by air taxi operators.

(a) Every air taxi operator (whether or not he is also a commuter air carrier as defined in this part) who plans to commence operations under this part shall, not later than 30 days prior to the commencement of such operations, register with the Board.

(b) Every air taxi operator (whether or not he is also a commuter air carrier as defined in this part) shall reregister with the Board annually on or before July 1 of each year.

(c) Registration and reregistration shall be accomplished by filing with the Board's Bureau of Operating Rights a "Registration and Reregistration for Exemption as an Air Taxi Operator" (CAB Form 298–A, revised March 1973) executed in duplicate. This form shall be certified by a responsible official of such carrier and shall include the following information:

(1) Where the carrier is filing for initial registration as an air taxi operator: (i) Name of the carrier (name must be the same as that in which the FAA certificate, if any, is issued); (ii) the carrier's FAA certificate number, if any; (iii) the name in which the insurance policy is issued; (iv) address of its principal place of business and its mailing address; (v) the proposed date of commencement of air taxi operations; (vi) whether the carrier intends to perform at least five round trips per week pursuant to published schedules; (vii) a list of the aircraft types which the carrier intends to employ in air taxi operations, and the FAA registration number and passenger capacity of each such aircraft type; (viii) the "maximum payload capacity," as defined in § 298.2, of each aircraft reported pursuant to paragraph (c)(1)(vii) of this section, which has a maximum payload capacity of between 5,000 and 7,500 pounds, and a statement showing the calculations used by the carrier to compute the maximum payload capacity of each such aircraft; (ix) whether the carrier has insurance effective on the date of commencement of air taxi operations which complies with Subpart D of this part; and (x) whether the carrier intends to perform passenger, cargo, and/or mail service; or

(1a) Where the carrier is filing for reregistration as an air taxi operator: (i) Name in which the FAA certificate is issued; (ii) the carrier's FAA certificate number; (iii) the name in which the insurance policy is issued; (iv) address of its principal place of business and its mailing address; (v) whether the carrier is currently performing at least five round trips per week pursuant to published schedules; (vi) a list of the aircraft types operated by the carrier, and the FAA registration number and passenger capacity of each such aircraft type; (vii) the "maximum payload capacity," as defined in § 298.2, of each aircraft reported pursuant to paragraph (c)(1a)(i) of this section, which has a maximum payload capacity of between 5,000 and 7,500 pounds, and a statement showing the calculations used by the carrier to compute the maximum payload capacity of each such aircraft; (viii) whether the carrier has currently effective insurance which complies with Subpart D of this part; (ix) whether the carrier is performing passenger, cargo, and/or mail service; and (x) whether the carrier has performed passnger service between a point in the United States and a point outside thereof during the past 12 months.

(1–1) Every registered air taxi operator who acquires for use in his air taxi operations an aircraft whose maximum payload capacity is within the limitations enumerated in paragraph (c)(1)(viii) of this section shall file with the Board, within 30 days of such aircraft acquisition an amended Form 298–A, reflecting the fact of such acquisition.

(2) A certificate of insurance which is currently effective (or, in case of initial registration, is to become effective), as defined in § 298.41(b).

(3) A ten ($10) dollar registration or reregistration fee, as the case may be. This shall be in the form of a check, draft, or postal money order, payable to the Civil Aeronautics Board.

(d) The effective date of the registration required by paragraph (a) of this section shall not be earlier than the effective date of the insurance policy or policies named in the certificate of insurance attached to the registration statement filed pursuant to paragraph (c)(1) of this section.

4. Amend CAB Form 298–A, as shown in Exhibit A attached hereto * and made a part thereof.

(Secs. 204(a), 407, 416, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766, 771; 49 U.S.C. 1324, 1377, 1386)

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73–5709 Filed 3–23–73;8:45 am]

* Filed as part of the original document.

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 8844o]

PART 13—PROHIBITED TRADE PRACTICES

Alterman Foods, Inc.

Subpart—Discriminating in price under section 5, Federal Trade Commission Act: § 13.892 *Knowingly inducing or receiving discriminatory payments.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Alterman Foods, Inc., Atlanta, Ga., Docket No. 8844, Feb. 12, 1973]

In the Matter of Alterman Foods, Inc., a Corporation

Order requiring an Atlanta, Ga., wholesaler and retailer of groceries and household products, among other things to cease inducing and receiving discriminatory promotional allowances and services from its suppliers.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Alterman Foods, Inc., a corporation, and its officers, representatives, agents, and employees, successors and assigns, directly or indirectly, through any corporate or other device, in or in connection with the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of products for resale by the respondent, or in connection with any other transactions between respondent and its various suppliers involving or pertaining to the regular business of the respondent in purchasing, distributing and selling commodities and products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Inducing and receiving, receiving or contracting for the receipt of, anything of value from any supplier as compensation or in consideration for services or facilities furnished by or through respondent in connection with the processing, handling, sale, or offering for sale of such supplier's products, when respondent knows or should know that such compensation or consideration is not affirmatively offered and otherwise made available by such supplier on proportionally equal terms to all of its other customers, including retailer customers who do not purchase directly from such supplier, who compete with respondent in the distribution of such supplier's products.

2. Inducing and receiving, receiving or contracting for the receipt of, the furnishing of services or facilities connected with respondent's offering for sale or sale of such products so purchased, when respondent knows or should know that such services or facilities are not affirmatively offered or otherwise made available by such supplier on proportionally equal terms to all of its other customers, including retailer customers who do not

purchase directly from such suppliers, who compete with respondent in the distribution of such supplier's products.

It is further ordered, That respondent shall not organize, direct, sponsor, or participate in any food show except under the following terms and conditions:

1. A copy of this order shall be delivered to each person or organization invited to participate in any such food show at the time such invitation is extended; and

2. Respondent shall bear its proper share of the operating expenses of any such food show and any profit, surplus, or funds remaining at the conclusion of any such food show shall be promptly repaid to all participants in the food show on a basis proportional to the payment made by each such participant.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondent shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission, Chairman Kirkpatrick dissenting.[1]

Issued: February 12, 1973.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.73-5674 Filed 3-23-73;8:45 am]

[Docket No. 8775o]

PART 13—PROHIBITED TRADE PRACTICES

Avnet, Inc.

Subpart—Acquiring corporate stock or assets: § 13.5 *Acquiring corporate stock or assets.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 18) [Cease and desist order, Avnet, Inc., New York, N.Y., Docket No. 8775, Feb. 16, 1973]

In the Matter of Avnet, Inc., a Corporation

Order requiring a New York City diversified manufacturer, processor, and marketer of numerous items consisting principally of electronic, automotive, and consumer products, among other things to divest itself of all assets, stocks, properties, rights, privileges, and interests as a result of its acquisition of Guarantee Generator & Armature Co., doing business as International Products & Manufacturing Co. Respondent is further prohibited from making any acquisitions of stocks or assets within the automotive electrical unit rebuilder industry for 10 years without prior Federal Trade Commission approval.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Avnet, Inc. (hereinafter "Avnet"), a corporation, its successors and assigns, shall divest all stock, assets, properties, rights, privileges, and interests of whatever nature, tangible and intangible, acquired by Avnet as the result of its acquisition of the assets and business of Guarantee Generator & Armature Co., doing business as International Products & Manufacturing Co. (hereinafter "IPM"), together with all additions and improvements to IPM which have been added to IPM subsequent to the acquisition, so as to assure that IPM is reestablished as a separate, effective, and viable competitor engaged in the business of manufacturing and/or supplying of parts, materials, equipment, and other products to independent automotive electrical unit rebuilders. Such divestiture shall be absolute, shall be accomplished no later than 1 year from the effective date of this order, and shall be subject to the prior approval of the Federal Trade Commission.

2. *It is further ordered*, That pursuant to the requirements of paragraph 1 above, none of the stock, assets, properties, rights, privileges, and interests of whatever nature, tangible or intangible, acquired or added by Avnet, shall be divested, directly or indirectly, to anyone who is at the time of the divestiture an officer, director, employee, or agent of, or under the control, direction, or influence of Avnet or any of Avnet's subsidiaries or affiliated corporations or who owns or controls more than one (1) percent of the outstanding shares of the capital stock of Avnet.

3. *It is further ordered*, That for a period of ten (10) years from the date this order becomes final, Avnet shall cease and desist from acquiring, directly or indirectly, without the prior approval of the Federal Trade Commission, the whole or any part of the stock, share capital, assets, any interest in or any interest of, any concern, corporate or noncorporate, engaged in the business of manufacturing and/or supplying parts, materials, equipment, and other products to automotive electrical unit rebuilders, nor shall Avnet enter into any arrangement with any such concern by which Avnet obtains the market share, in whole or in part, of such concern in the above-described product lines.

4. *It is further ordered*, That Avnet shall, within thirty (30) days after the effective date of this order, and every thirty (30) days thereafter until Avnet has fully complied with the provisions of this order, submit in writing to the Federal Trade Commission a verified report setting forth in detail the manner and form in which Avnet intends to comply, is complying or has complied with this order. All compliance reports shall include, among other things that are from time to time required, (a) the steps taken to accomplish the required divestiture; and (b) copies of all documents, reports, memoranda, communications, and correspondence concerning or relating to the divestiture.

With respect to paragraph 3 of this order, Avnet shall within thirty (30) days following the effective date of this order, and annually thereafter for a period of 10 years, submit a report, in writing, listing all acquisitions and mergers made by it, the date of every such acquisition or merger, the products involved, and such additional information as may from time to time be required.

5. *It is further ordered*, That Avnet notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

Issued: February 16, 1973.

By direction of the Commission.[1]

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.73-5675 Filed 3-23-73;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-7724]

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Books and Records of Registered Investment Companies; Use of Microfilming Process

The Securities and Exchange Commission today announced the adoption of an amendment to Rule 31a-2(f) (17 CFR 270.31a-2(f)) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) to permit, under certain specified conditions, the books and records of registered investment companies to be initially maintained and preserved in microfilm form in lieu of hard copy records.

On November 14, 1972, in Investment Company Act Release No. 7486 (and in the FEDERAL REGISTER issue of November 21, 1972, 37 FR 24770), the Commission published its proposal to amend Rule 31a-2(f). It has considered the comments and suggestions in response to that proposal and now adopts the amendment to the rule in the form set forth below.

Prior to this amendment, Rule 31a-2 required the preservation in hard copy

[1] Chairman Kirkpatrick's dissenting statement, filed as part of the original document.

[1] Commissioner Dennison dissented for the reasons set forth in his dissenting statement, which is filed as part of the original document.

form of all records required to be maintained and preserved by Rule 31a–1, except that the provisions of paragraph (f)(1) of Rule 31a–2 permitted the substitution of microfilm after a period of 3 years following the creation of the hard copy record.

By the amendment, the hard copy maintenance and preservation requirements would be relaxed to permit the microfilming process to be used for the initial maintenance of records, and to authorize compliance with the preservation requirements of Rule 31a–2 in the form of immediate microfilm substitution for the hard copy record. It is a condition of amended Rule 31a–2(f)(1) that a registered investment company availing itself of this procedure, or on whose behalf such procedure is employed, shall have readily available at all times appropriate reader-printer equipment for examination of the records by the Commission and its examiners or other representatives, or by the directors of the investment company, as well as equipment for hard copy reproduction to be promptly furnished upon request of the directors or of the Commission and its examiners or other representatives. Moreover, as added protection against possible loss of records, the amended rule provides that a duplicate copy be made of all microfilm on a current basis and that such copy be stored separately from the original.

Books and records required to be maintained and preserved by investment advisers to registered investment companies pursuant to paragraphs (e) and (f) of Rule 31a–1 (17 CFR 270.31a–1) and paragraphs (d) and (e) of Rule 31a–2 are not encompassed by amended Rule 31a–2(f). The books and records of such investment advisers were formerly encompassed by the microfilm substitution provision (of) former paragraph (f)(1) of Rule 31a–2 and they become subject to the maintenance provisions of paragraph (g) of Rule 204–2 (17 CFR 275.204–2) under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) as a result of the amendment to Rule 31a–2(f). Rule 204–2(g) permits the substitution of microfilm for hard copy books and records of all registered investment advisers after a period of 2 years following the creation of hard copy record.

Persons who desire to avail themselves of the provisions of the amended rule might, for general guidance on the matter of microfilm quality and care, refer to Items 5 (g) and (h) under the caption, "General Instructions" contained in the Commission's Accounting Series Release No. 84 (17 CFR 257.315).

STATUTORY BASIS

Acting pursuant to the provisions of the Investment Company Act of 1940, and particularly sections 31 (a) and (c) and 38(a) (15 U.S.C. 80a–30(a), 80a–30 (c), 80a–37(a)) thereof, the Securities and Exchange Commission hereby amends Rule 31a–2(f) as set forth below effective March 30, 1973.

Commission action. Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended by revising paragraph (f) of § 270.31a–2 reading as follows:

§ 270.31a–2 Records to be preserved by registered investment companies, certain majority-owned subsidiaries thereof, and other persons having transactions with registered companies.

* * * * *

(f)(1) The records required to be maintained and preserved pursuant to paragraphs (a) through (d) of § 270.31 a–1 and paragraphs (a) through (c) of this § 270.31a–2 may be immediately produced or reproduced on microfilm and be maintained and preserved for the required time in that form. If such microfilm substitution for hard copy is made by, or on behalf of, an investment company, such investment company shall (i) at all times have available for examination of its records by the Commission, pursuant to section 31 of the Investment Company Act of 1940, or by the directors of such investment company, facilities for immediate, easily readable projection of the microfilm and for producing easily readable facsimile enlargements, (ii) arrange the records and index and file the films in such a manner as to permit the immediate location of any particular record, (iii) be ready at all times to provide, and immediately provide, any facsimile enlargement which the Commission, by its examiners or other representatives, or the directors of such investment company may request, and (iv) store separately from the original one other copy of the microfilm for the time required.

(2) Notwithstanding the provisions of paragraphs (a) through (e) of this section, any record, book or other document may be destroyed in accordance with a plan previously submitted to and approved by the Commission. A plan shall be deemed to have been approved by the Commission if notice to the contrary has not been received within 90 days after submission of the plan to the Commission.

(Secs. 31, 38, 54 Stat. 838, 841, 15 U.S.C. 80a–30, 80a–37)

By the Commission.

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

MARCH 16, 1973.

[FR Doc.73–5676 Filed 3–23–73;8:45 am]

Title 36—Parks, Forests, and Memorials

CHAPTER III—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 327—RULES AND REGULATIONS GOVERNING PUBLIC USE OF WATER RESOURCE DEVELOPMENT PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS

Special Recreation Use Fees

MARCH 22, 1973.

A proposal to amend Part 327 of the rules and regulations governing the charging of fees for certain specialized recreation facilities administered by the Corps of Engineers was published in the FEDERAL REGISTER Volume 38, No. 21, page 3051 on Thursday, February 1, 1973 allowing 15 days for comment. The comment period was extended until February 28, 1973 by notice published in the FEDERAL REGISTER Volume 38, No. 34, page 4716 on Wednesday, February 21, 1973.

In accordance with Public Law 92–347, 86 Stat. 459, which supplemented Public Law 90–483, 82 Stat. 746, this amendment establishes a schedule of use fees to be charged and complies with the requirement of Public Law 92–347 that comparable fees be charged for comparable recreational facilities and services by the several Federal agencies responsible for recreation facilities.

The fees to be charged apply only to those specialized facilities developed at substantial Federal expense. The public will continue to have free access to the water areas of water resource projects administered by the Corps of Engneers, and to undeveloped or lightly developed shoreland, picnic grounds, overlook sites, scenic drives, or boat launching ramps where no mechanical or hydraulic equipment is provided.

After consideration of all comments presented by the public the following revised amendment to § 327.25 is hereby adopted and is effective on March 26, 1973.

§ 327.25 Special recreation use fees.

(a) Section 210 of Public Law 90–483, 82 Stat. 746 and Public Law 92–347, 86 Stat. 459 authorizes the establishment of special recreation use fees for the use of specialized sites, facilities, equipment or services furnished at substantial Federal expense at all water resource development projects administred by the Secretary of the Army acting through the Chief of Engineers.

(b) The range of fees set forth in paragraph (c) of this section are established in accordance with the following criteria:

(1) The direct and indirect amount of Federal expenditure;

(2) The benefit to the recipient;

(3) The public policy or interest served;

(4) The comparable recreation fees charged by other Federal and non-Federal public agencies within the service area of the management unit at which the fee is charged;

(5) The economic and administrative feasibility of fee collection;

(6) The extent of regular maintenance required; and

(7) Other pertinent factors.

(c) When facilities come within the above criteria, District Engineers shall recommend to the Office, Chief of Engineers for designation applicable fee charges within the ranges as set forth below:

Camp and trailer sites.	Up to $4.50 for overnight use.
Group use sites...	Up to $0.50 per person per night.

(The District Engineer may select group use rates in lieu of the above "group camp-

ing sites" special recreation fee, and may establish a minimum group use charge of at least $3 per night per group without regard to group size or other provisions of this part).

Elevators	At least $0.10 per person round trip where elevators are provided as a special service to the public.
Electrical hookups.	$0.50 per day.
Specialized sites (highly developed day-use).	$0.50 to $1.50 per car per day.

Special recreation use fees may be established for other types of specialized facilities in addition to those which are listed in this paragraph.

(d) The District Engineer shall post signs at areas with designated Special Recreation Use Facilities in a manner such that the visiting public will be clearly notified that special recreation use fees are charged.

(e) Failure to pay the user fee prescribed in this section is a violation of the Land and Water Conservation Fund Act, as amended (Public Law 92-347, 86 Stat. 459) and subjects the violator to punishment by a fine of not more than $100.

[Regs., March 20, 1973, DAEN-CWO-R]

(Sec. 4, 48 Stat. 889, as amended, 16 U.S.C. 460d; Sec. 210, 82 Stat. 746; Public Law 92-347, 86 Stat. 459)

Dated: March 20, 1973.

KENNETH E. BELIEU,
Acting Secretary of the Army.

[FR Doc.73-5755 Filed 3-23-73;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 15—ENVIRONMENTAL PROTECTION AGENCY

PART 15-16—PROCUREMENT FORMS

Subpart 15-16.5—Forms for Advertised and Negotiated Nonpersonal Service Contracts (Other than Construction and Architect-Engineering Contracts)

FIXED PRICE SERVICE CONTRACTS OTHER THAN RESEARCH AND DEVELOPMENT

On December 1, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 FR 25536-25546), stating that the Environmental Protection Agency was considering an amendment to 41 CFR Chapter 15, by adding a new § 15-16.553-3, *General provisions for use in fixed price service contracts other than research and development*. Interested parties were invited to submit written data, views, or comments within 30 days after publication. No written comments or objections have been received. The proposed amendment is adopted without change except that Clause 38, "Service Contract Act of 1965," is revised to reflect amendments to the Service Contract Act of 1965 by Public Law 92-473, dated October 9, 1972, 40 U.S.C. 486(c), and Clause 37, "Indemnification for Government Liability to Third Persons," is revised to incorporate technical clarification of the clause's coverage.

Effective date. This amendment shall become effective on March 26, 1973.

Dated: March 8, 1973.

ROBERT W. FRI,
Acting Administrator.

Subpart 15-16.5—Forms for Advertised and Negotiated Nonpersonal Service Contracts (Other than Construction and Architect-Engineer Contracts)

§ 15-16.553-3 General provisions for use in fixed price service contracts other than research and development.

GENERAL PROVISIONS

1. DEFINITIONS

As used throughout this contract, the following terms shall have the meaning set forth below:

(a) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of a Contracting Officer acting within the limits of his authority.

(b) Except as otherwise provided in this contract, the term "Subcontracts" includes purchase orders under this contract.

(c) The term "EPA" means the Environmental Protection Agency.

2. DISPUTES

(a) Except as otherwise provided in this contract, any dispute concernnig a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Secretary. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph (a) above: *Provided*, That nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

3. CHANGES

The Contracting Officer may at any time, by a written order, and without notice to the sureties, make changes, within the general scope of this contract, in the definition of services to be performed, and the time (i.e., hours of the day, days of the week, etc.) and place of performance thereof. If any such change causes an increase or decrease in the cost of, or the time required for the performance of any part of the work under this contract, whether changed or not changed by any such order, an equitable adjustment shall be made in the contract price or delivery schedule, or both, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change: *Provided, however*, That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Where the cost of property made obsolete or excess as result of a change is included in the Contractor's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

4. TERMINATION FOR CONVENIENCE OF THE GOVERNMENT

(a) The performance of work under this contract may be terminated by the Government in accordance with this clause in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.

(b) After receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer, the Contractor shall:

(1) Stop work under the contract on the date and to the extent specified in the Notice of Termination;

(2) Place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the contract as is not terminated;

(3) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(4) Assign to the Government, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(5) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final for all the purposes of this clause;

(6) Transfer title to the Government and deliver in the manner, at the times, and to the extent, if any, directed by the Contracting Officer, (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and (ii) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would

have been required to be furnished to the Government;

(7) Use his best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in (6) above: *Provided, however,* That the Contractor (i) shall not be required to extend credit to any purchaser, and (ii) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer: *And provided further,* That the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Contracting Officer may direct;

(8) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(9) Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.

At any time after expiration of the plant clearance period, as defined in Subpart 1–8.1 of the Federal Procurement Regulations (41 CFR Subpart 1–8.1), as the definition may be amended from time to time, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the Government will accept title to such items and remove them or enter into a storage agreement covering the same: *Provided,* That the list submitted shall be subject to verification by the Contracting Officer upon removal of the items, or, if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(c) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim, in the form and with certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than 1 year from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer upon request of the Contractor made in writing within such 1-year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such 1-year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any review required by the contracting agency's procedures in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(d) Subject to the provisions of paragraph (c), and subject to any review required by the contracting agency's procedures in effect as of the date of execution of this contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done: *Provided,* That such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in paragraph (e) of this clause, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the Contracting Officer to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this paragraph (d).

(e) In the event of the failure of the Contractor and the Contracting Officer to agree as provided in paragraph (d) upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, the Contracting Officer shall, subject to any review required by the contracting agency's procedures in effect as of the date of execution of the contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall pay to the Contractor the amounts determined as follows:

(1) For completed supplies accepted by the Government (or sold or acquired as provided in paragraph (b)(7) above) and not theretofore paid for, a sum equivalent to the aggregate price for such supplies computed in accordance with the price or prices specified in the contract, appropriately adjusted for any saving of freight or other charges;

(2) The total of—

(i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to supplies paid or to be paid for under paragraph (e)(1) hereof;

(ii) The cost of settling and paying claims arising out of the termination of work under subcontracts or orders, as provided in paragraph (b)(5) above, which are properly chargeable to the terminated portion of the contract (exclusive of amounts paid or payable on account of supplies or materials delivered or services furnished by subcontractors or vendors prior to the effective date of the notice of termination, which amounts shall be included in the costs payable under (i) above); and

(iii) A sum, as profit on (i), above, determined by the Contracting Officer pursuant to § 1–8.303 of the Federal Procurement Regulations (41 CFR 1–8.303), in effect as of the date of execution of this contract, to be fair and reasonable: *Provided, however,* That if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, no profit shall be included or allowed under this subdivision (iii) and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and

(3) The reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to this contract.

The total sum to be paid to the Contractor under (1) and (2) of this paragraph (e) shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. Except for normal spoilage, and except to the extent that the Government shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor as provided in (e)(1) and (2)(i) above, the fair value, as detemined by the Contracting Officer, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government, or to a buyer pursuant to paragraph (b)(7).

(f) Costs claimed, agreed to, or determined pursuant to paragraphs (c), (d), and (e) of this clause shall be in accordance with the applicable contract cost principles and procedures in Part 1–15 of the Federal Procurement Regulations (41 CFR Part 1–15) in effect on the date of this contract.

(g) The Contractor shall have the right to appeal, under the clause of this contract entitled "Disputes," from any determination made by the Contracting Officer under paragraph (c) or (e) above, except that, if the Contractor has failed to submit his claim within the time provided in paragraph (c) above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (c) or (e) above, the Government shall pay to the Contractor the following: (1) If there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer; or (2) if an appeal has been taken, the amount finally determined on such appeal.

(h) In arriving at the amount due the Contractor under this clause, there shall be deducted (1) all unliquidated advance or other payments on account theretofore made to the Contractor applicable to the terminated portion of this contract; (2) any claim which the Government may have against the Contractor in connection with this contract; and (3) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of this clause, and not otherwise recovered by or credited to the Government.

(i) If the termination hereunder be partial, prior to the settlement of the terminated portion of this contract, the Contractor may file with the Contracting Officer a request in writing for an equitable adjustment of the price or prices specified in the contract relating to the continued portion of the contract (the portion not terminated by the notice of termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices.

(j) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agred or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of 6 percent per annum for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government: *Provided, however,* That no interest shall be charged with respect to any such

excess payment atributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until 10 days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

(k) Unless otherwise provided for in this contract, or by applicable statute, the Contractor, from the effective date of termination and for a period of 3 years after final settlement under this contract, shall preserve and make available to the Government at all reasonable times at the office of the Contractor but without direct charge to the Government, all his books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under this contract and relating to the work terminated hereunder, or, to the extent approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions thereof.

5. DEFAULT

(a) The Government may, subject to the provisions of paragraph (c) of this clause, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:

(1) If the Contractor fails to perform the work called for by this contract within the time(s) specified herein or any extension thereof; or

(2) If the Contractor fails to perform any of the other provisions of this contract, or so fails to prosecute the work as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.

(b) In the event the Government terminates this contract in whole or in part as provided in paragraph (a) of this clause, the Government may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, work similar to the work so terminated and the Contractor shall be liable to the Government for any excess costs for such similar work: *Provided*, That the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

(c) Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule or other performance requirements.

(d) If this contract is terminated as provided in paragraph (a) of this clause, the Government, in addition to any other rights provided in this clause, may require the Contractor to transfer title and deliver to the Government, in the manner and to the extent directed by the Contracting Officer, any of the completed or partially completed work not theretofore delivered to, and accepted by, the Government and any other property, including contract rights, specifically produced or specifically acquired for the performance of such part of this contract as has been terminated; and the Contractor shall, upon the direction of the Contracting Officer protect and preserve property in the possession of the Contractor in which the Government has an interest. The Government shall pay to the Contractor the contract price if separately stated, for completed work accepted by the Government and the amount agreed upon by the Contractor and the Contracting Officer for (1) completed work for which no separate price is stated, (2) partially completed work, (3) other property described above which is accepted by the Government, and (4) the protection and preservation of property. Failure to agree shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." The Government may withhold from amounts otherwise due the Contractor for such completed supplies or manufacturing materials such sum as the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lienholders.

(e) If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the Government, be the same as if the notice of termination had been issued pursuant to such clause. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, and if this contract does not contain a clause providing for termination for convenience of the Government, the contract shall be equitably adjusted to compensate for such termination and the contract modified accordingly, failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(f) The right and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(g) As used in paragraph (c) of this clause, the terms "subcontractor" and "subcontractors" means subcontractor(s) at any tier.

6. INSPECTION OF SERVICES

(a) All services (which term throughout this clause includes services performed, material furnished or utilized in the performance of services, and workmanship in the performance of services) shall be subject to inspection and test by the Government, to the extent practicable at all times and places during the term of the contract. All inspections by the Government shall be made in such a manner as not to unduly delay the work.

(b) If any services performed hereunder are not in conformity with the requirements of this contract, the Government shall have the right to require the Contractor to perform the services again in conformity with the requirements of the contract, at no additional increase in total contract amount. When the services to be performed are of such a nature that the defect cannot be corrected by reperformance of the services, the Government shall have the right to (i) require the Contractor to immediately take all necessary steps to ensure future performance of the services in conformity with the requirements of the contract; and (ii) reduce the contract price to reflect the reduced value of the services performed. In the event the Contractor fails promptly to perform the services again or to take necessary steps to insure future performance of the services in conformity with the requirements of the contract, the Government shall have the right to either (i) by contract or otherwise have the services performed in conformity with the contract requirements and charge to the Contractor any cost occasioned to the Government that is directly related to the performance of such services; or (ii) terminate this contract for default as provided in the clause of this contract entitled "Default."

(c) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services to be performed hereunder. Records of all inspection work by the Contractor shall be kept complete and available to the Government during the term of this contract and for such longer period as may be specified elsewhere in this contract.

7. INSURANCE

(a) The Contractor shall procure and maintain such insurance as is required by law or regulation, including that required by Subpart 1–10.5 of the Federal Procurement Regulation as of the date of execution of this contract and such insurance as the Contracting Officer prescribes by written direction.

(b) At a minimum, the Contractor shall procure and maintain the following types and amounts of insurance:

(1) Workmen's compensation and occupational disease insurance in amounts sufficient to satisfy State law.

(2) Employer's liability insurance, where available.

(3) Automobile liability and general liability insurance, on the comprehensive form of policy, in the amount of $200,000 per claimant and $500,000 per incident.

(c) The terms of any other insurance policy held by Contractor shall be submitted to the Contracting Officer for review and/or approval upon request of the Contracting Officer.

(d) The Contractor shall promptly furnish the Contracting Officer written notice of serious injury to or death of any third person, or any damage estimated to exceed $1,000, to the property of any third person arising out of or in connection with the performance of this contract.

8. NOTICE TO THE GOVERNMENT OF DELAYS

(a) Whenever the Contractor has knowledge that any actual or potential situation or labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to the Contracting Officer.

(b) The Contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract hereunder as to which a situation or labor dispute may delay the timely performance of this contract; except that each such subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential situation or labor dispute, the subcontractor shall immediately notify its next higher tier subcontractor, or the prime contractor, as the case may be, of

all relevant information with respect to such dispute.

9. PAYMENTS

(a) The Contractor shall be paid, upon submission of proper invoices or vouchers, the price stipulated herein for services rendered in accordance with this contract or for supplies delivered and accepted, less deductions, if any, as herein provided. Unless, otherwise specified, payment will be for any portion of services rendered or supplies accepted for which a price is separately stated in the contract.

(b) In connection with any discount offered, time will be computed from the date of completion of performance of the services or from the date correct invoice or voucher is received in the office specified by the Government, if the latter is later than date of completion of performance. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the Government check.

10. INTEREST

Notwithstanding any other provision of this contract, unless paid within 30 days all amounts that become payable by the Contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code) shall bear interest at the rate of 6 percent per annum from the date due until paid. Amounts shall be due upon the earliest one of (i) the date fixed pursuant to this contract; (ii) the date of the first written demand for payment, consistent with this contract, including demand consequent upon default termination; (iii) the date of transmittal by the Government to the Contractor of a proposed supplemental agreement to confirm completed negotiations fixing the amount; or (iv) if this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or in connection with a negotiated pricing agreement not confirmed by contract supplement.

11. PAYMENT OF INTEREST OF CONTRACTOR'S CLAIMS

(a) If an appeal is filed by the Contractor from a final decision of the Contracting Officer under the "Disputes" clause of this contract, denying a claim arising under the contract, simple interest on the amount of the claim finally determined owed by the Government shall be payable to the Contractor. Such interest shall be at the rate detemined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, from the date the Contractor furnishes to the Contracting Officer his written appeal under the Disputes clause of this contract, to the date of (1) a final judgement by a court of competent jurisdiction or (2) mailing to the Contractor of a supplemental agreement for execution either confirming completed negotiations between the parties or carrying out a decision of a Board of Contract Appeals.

(b) Notwithstanding (a) above, (1) interest shall be applied only from the date payment was due, if such date is later than the filing of appeal, and (2) interest shall not be paid for any period of time that the Contracting Officer determines the Contractor has unduly delayed in pursuing his remedies before a Board of Contract Appeals or a court of competent jurisdiction.

12. AUDIT

(a) For purposes of verifying that certified cost or pricing data submitted, in conjunction with the negotiation of this contract or any contract change or other modification involving an amount in excess of $100,000 was accurate, complete, and current, the Contracting Officer, or his authorized representatives, shall, until the expiration of three (3) years from the date of final payment under this contract or of the time periods for the particular records specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier, have the right to examine those books, records, documents, papers, and other supporting data which involve transactions related to this contract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(b) The Contractor agrees to insert this clause, including this paragraph (b), in all subcontracts hereunder which when entered into exceed $100,000, unless the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. When so inserted, changes shall be made to designate the higher tier subcontractor at the level involved as the contracting and certifying party; to add "of the Government prime contract" after "Contracting Officer;" and to add, at the end of (a) above, the words: "*Provided*, That, in the case of any contract change or modification, such change or modification results from a change or other modification to the Government prime contract." In each such excepted subcontract hereunder which when entered into exceeds $100,000, the Contractor shall insert the following clause:

AUDIT-PRICE ADJUSTMENTS

(a) This clause shall become operative only with respect to any change or other modification of this contract which involves a price adjustment in excess of $100,000 unless the price adjustment is based on adequate price competition established catalog or market prices of commercial items sold in substantial quantities to the general public or prices set by law or regulation: *Provided*, That such change or other modification to this contract results from a change or other modification to the Government prime contract.

(b) For purposes of verifying that certified cost or pricing data submitted in conjunction with such a contract change or modification was accurate, complete, and current, the Contracting Officer of the Government prime contract, or his authorized representatives, shall, until the expiration of three (3) years from the date of final payment under this contract, or of the time periods for the particular records specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier, have the right to examine those books, records, documents, papers, and other supporting data which involve transactions related to this contract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(c) The subcontractor agrees to insert this clause, including this paragraph (c), in all subcontracts hereunder which when entered into exceed $100,000.

13. FEDERAL, STATE, AND LOCAL TAXES

(a) Except as may be otherwise provided in this contract, the contract price includes all applicable Federal, State, and local taxes and duties.

(b) Nevertheless, with respect to any Federal excise tax or duty on the transactions or property covered by this contract, if a statute, court decision, written ruling, or regulation takes effect after the contract date, and—

(1) Results in the Contractor being required to pay or bear the burden of any such Federal excise tax or duty or increase in the rate thereof which would not otherwise have been payable on such transactions or property, the contract price shall be increased by the amount of such tax or duty or rate increase: *Provided*, That the Contractor if requested by the Contracting Officer, warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price as a contingency reserve or otherwise; or

(2) Results in the Contractor not being required to pay or bear the burden of, or in his obtaining a refund or drawback of, any such Federal excise tax or duty which would otherwise have been payable on such transactions or property or which was the basis of an increase in the contract price, the contract price shall be decreased by the amount of the relief, refund, or drawback, or that amount shall be paid to the Government, as directed by the Contracting Officer. The contract price shall be similarly decreased if the Contractor, through his fault or negligence or his failure to follow instructions of the Contracting Officer, is required to pay or bear the burden of, or does not obtain a refund or drawback of, any such Federal excise tax or duty.

(c) No adjustment pursuant to paragraph (b) above will be made under this contract unless the aggregate amount thereof is or may reasonably be expected to be over $100.

(d) As used in paragraph (b) above, the term "contract date" means the date set for the bid opening, or if this is a negotiated contract, the date of this contract. As to additional supplies or services procured by modification to this contract, the term "contract date" means the date of such modification.

(e) Unless there does not exist any reasonable basis to sustain an exemption, the Government, upon request of the Contractor, without further liability, agrees, except as otherwise provided in this contract, to furnish evidence appropriate to establish exemption from any tax which the Contractor warrants in writing was excluded from the contract price. In addition, the Contracting Officer may furnish evidence to establish exemption from any tax that may, pursuant to this clause, give rise to either an increase or decrease in the contract price. Except as otherwise provided in this contract, evidence appropriate to establish exemption from duties will be furnished only at the discretion of the Contracting Officer.

(f) The Contractor shall promptly notify the Contracting Officer of matters which will result in either an increase or decrease in the contract price, and shall take action with respect thereto as directed by the Contracting Officer.

14. EXAMINATION OF RECORDS BY COMPTROLLER GENERAL

(a) This clause is applicable if the amount of this contract exceeds $2,500 and was entered into by means of negotiation, including small business restricted advertising, but is not applicable if this contract was entered into by means of formal advertising.

(b) The Contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under this contract or such lesser time specified in the Federal Procurement Regulations Part 1-20, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this contract.

(c) The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under the subcontract or such lesser time specified in the Federal Procurement Regulations Part 1–20, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding $2,500, and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(d) The periods of access and examination described in (b) and (c) above, for records which relate to (1) appeals under the "Disputes" clause of this contract, (2) litigation or the settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall continue until such appeals, litigation, claims, or exceptions have been disposed of.

15. COST ACCOUNTING STANDARDS

(The following clause shall be applicable if this contract exceeds $100,000.)

(a) Unless the Cost Accounting Standards Board has prescribed rules or regulations exempting the Contractor or this contract from standards, rules, and regulations promulgated pursuant to 50 U.S.C. App. 2168 (Public Law 91–379, Aug. 15, 1970), the Contractor, in connection with this contract shall:

(1) By submission of a Disclosure Statement, disclose in writing his cost accounting practices as required by regulations of the Cost Accounting Standards Board. The required disclosures must be made prior to contract award unless the Contracting Officer provides a written notice to the Contractor authorizing postaward submission in accordance with regulations of the Cost Accounting Standards Board. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the Contractor and which contain this Cost Accounting Standards clause. If the Contractor has marked the Disclosure Statement to indicate that it contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement will be protected and will not be released outside of the Government.

(2) Follow consistently the cost accounting practices disclosed pursuant to (1), above, in accumulating and reporting contract performance cost data concerning this contract. If any change in disclosed practices is made for the purposes of any contract or subcontract subject to Cost Accounting Standards Board requirements, the change must be applied prospectively to this contract, and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with subparagraph (a)(4) or (a)(5), below, as appropriate.

(3) Comply with all Cost Accounting Standards in effect on the date of award of this contract or if the Contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the Contractor's signed certificate of current cost or pricing data. The Contractor shall also comply with any Cost Accounting Standard which hereafter becomes applicable to a contract or subcontract of the Contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(4)(A) Agree to an equitable adjustment as provided in the changes clause of this contract if the contract cost is affected by a Disclosure Statement change which the Contractor is required to make pursuant to (3), above. If the Contractor has not been required to file a Disclosure Statement but is required pursuant to (a)(3), above to change an established practice, then an equitable adjustment shall similarly be agreed to.

(B) Negotiate with the Contracting Officer to determine the terms and conditions under which any Disclosure Statement change other than changes under (4)(A), above, may be made. A change to a Disclosure Statement may be proposed by either the Government or the Contractor: *Provided, however*, That no agreement may be made under this provision that will increase costs paid by the United States under this contract.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if he or a subcontractor fails to comply with an applicable Cost Accounting Standard or to follow any practice disclosed pursuant to subparagraphs (a)(1) and (a)(2), above, and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Public Law 92–41, 85 Stat. 97, or 7 percent per annum, whichever is less, from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the Contractor or subcontractor has complied with an applicable Cost Accounting Standard, rule, or regulation of the Cost Accounting Standards Board and as to any cost adjustment demanded by the United States, such failure to agree shall be a dispute concerning a question of fact within the meaning of the disputes clause of this contract.

(c) The Contractor shall permit any authorized representatives of the head of the agency, the Cost Accounting Standards Board, or the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts which he enters into the substance of this clause except paragraph (b), and shall require such inclusion in all other subcontracts of any tier, except that this requirement shall apply only to negotiated subcontracts in excess of $100,000 where the price negotiated is not based on:

(i) Established catalog or market prices of commercial items sold in substantial quantities to the general public; or

(ii) Prices set by law or regulation.

NOTE—Subcontractors shall be required to submit their Disclosure Statements to the Contractor. However, if a subcontractor has previously submitted his Disclosure Statement to a Government Contracting Officer he may satisfy that requirement by certifying to the Contractor the date of such Statement and the address of the Contracting Officer.

In any case where a subcontractor determines that the Disclosure Statement information is privileged and confidential and declines to provide it to his Contractor or higher tier subcontractor, the Contractor may authorize direct submission of that subcontractor's Disclosure Statement to the same Government offices to which the Contractor was required to make submission of his Disclosure Statement. Such authorization shall in no way relieve the Contractor of liability as provided in paragraph (a)(5) of this clause. In view of the foregoing and since the contract may be subject to adjustment under this clause by reason of any failure to comply with rules, regulations, and Standards of the Cost Accounting Standards Board in connection with covered subcontracts, it is expected that the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. However, the inclusion of such a clause and the terms thereof are matters for negotiation and agreement between the Contractor and the subcontractor: *Provided*, That they do not conflict with the duties of the Contractor under its contract with the Government. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification to be submitted by his subcontractors.

(e) The terms defined in § 331.2 of Part 331 of Title 4, Code of Federal Regulations (4 CFR 331.2) shall have the same meanings herein. As there defined, "negotiated subcontract" means "any subcontract except a firm fixed-price subcontract made by a Contractor or subcontractor after receiving offers from at least two firms not associated with each other or such Contractor or subcontractor, providing (1) the solicitation to all competing firms is identical, (2) price is the only consideration in selecting the subcontractor from among the competing firms solicited, and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted."

16. PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA

(The provisions of this clause shall be applicable only if the amount of this contract exceeds $100,000.)

(a) If the Contracting Officer determines that any price, including profit or fee, negotiated in connection with this contract or any cost reimbursable under this contract was increased by any significant sums because the Contractor, or any subcontractor pursuant to the clause of this contract entitled "Subcontractor Cost or Pricing Data" or "Subcontractor Cost or Pricing Data—Price Adjustments," or any subcontract clause therein required, furnished incomplete or inaccurate cost or pricing data or data not current as certified in his Contractor's Certificate of Current Cost or Pricing Data, then such price or cost shall be reduced accordingly and the contract shall be modified in writing to reflect such reduction.

(b) Failure to agree on a reduction shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

NOTE—Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the contractor. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.

17. PRICING OF ADJUSTMENTS

When costs are a factor in any determination of a contract price adjustment pursuant to the "Changes" clause or any other provision of this contract, such costs shall be in

accordance with Part 1–15 of the Federal Procurement Regulations as in effect as of the date of this contract.

18. SUBCONTRACTOR COST AND PRICING DATA

(The provisions of this clause shall be applicable only if the amount of this contract exceeds $100,000.)

(a) The Contractor shall require subcontractors hereunder to submit in writing cost or pricing data under the following circumstances:

(1) Prior to award of any cost-reimbursement type, time and material, labor-hour, incentive, or price redeterminable subcontract, change or other modification, the price of which is expected to exceed $100,000, and

(2) Prior to the award of any other subcontract, the price of which is expected to exceed $100,000 or to the pricing of any subcontract change or other modification for which the price adjustment is expected to exceed $100,000, where the price or price adjustment is not based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(b) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor in the Government, that, to the best of their knowledge and belief, the cost and pricing data submitted under (a), above, are accurate, complete, and current as of the date of the execution, which date shall be as close as possible to the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(c) The Contractor shall insert the substance of this clause including this paragraph (c) in each of his cost-reimbursement type, time and material, labor-hour, price redeterminable, or incentive subcontracts hereunder, and in any other subcontract hereunder which exceeds $100,000 unless the price thereof is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In each such excepted subcontract hereunder which exceeds $100,000, the Contractor shall insert the substance of the following clause:

SUBCONTRACTOR COST AND PRICING DATA-PRICE ADJUSTMENTS

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any change or other modification made pursuant to one or more provisions of this contract which involves a price adjustment in excess of $100,000. The requirements of this clause shall be limited to such price adjustments.

(b) The Contractor shall require subcontractors hereunder to submit cost or pricing data under the following circumstances:

(1) Prior to award of any cost-reimbursement type, time and material, labor-hour, incentive, or price redeterminable subcontract, the price of which is expected to exceed $100,000; and

(2) Prior to award of any other subcontract, the price of which is expected to exceed $100,000, or to the pricing of any subcontract change or other modification for which the price adjustment is expected to exceed $100,000, where the price or price adjustment is not based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the Certificate by the Prime Contractor to the Government, that, to the best of their knowledge and belief, the cost and pricing data submitted under (b), above, are accurate, complete, and current as of the date of the execution, which date shall be as close as possible to the date of agreement on the negotiated price of the contract modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract hereunder which exceeds $100,000.

19. ASSIGNMENT OF CLAIMS

(a) Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), if this contract provides for payments aggregating $1,000 or more, claims for moneys due or to become due the Contractor from the Government under this contract may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing.

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "Top Secret," "Secret," or "Confidential," be furnished to any assignee of any claim arising under this contract or any other person not entitled to receive the same. However, a copy of any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee under the prior written authorization of the Contracting Officer.

20. UTILIZATION OF SMALL BUSINESS CONCERNS

(The following clause is applicable if this contract exceeds $5,000.)

(a) It is the policy of the Government as declared by the Congress that a fair proportion of the purchases and contracts for the supplies and services for the Government be placed with small business concerns.

(b) The Contractor agrees to accomplish the maximum amount of subcontracting to small business concerns that the Contractor finds to be consistent with the efficient performance of this contract.

21. UTILIZATION OF LABOR SURPLUS AREA CONCERNS

(The following clause is applicable if this contract exceeds $5,000.)

(a) It is the policy of the Government to award contracts to labor surplus area concerns that (1) have been certified by the Secretary of Labor (hereafter referred to as certified-eligible concerns with first or second preferences) regarding the employment of a proportionate number of disadvantaged individuals and have agreed to perform substantially (i) in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas or (ii) in other areas of the United States, respectively, or (2) are noncertified concerns which have agreed to perform substantially in persistent or substantial labor surplus areas, where this can be done consistent with the efficient performance of the contract at prices no higher than are obtainable elsewhere. The Contractor agrees to use his best efforts to place his subcontracts in accordance with this policy.

(b) In complying with paragraph (a) of this clause and with paragraph (b) of the clause of this contract entitled "Utilization of Small Business Concerns," the Contractor in placing his subcontracts shall observe the following order of preference: (1) Certified-eligible concerns with a first preference which are also small business concerns; (2) other certified-eligible concerns with a first preference; (3) certified eligible concerns with a second preference which are also small business concerns; (4) other certified-eligible concerns with a second perference; (5) persistent or substantial labor surplus area concerns which are also small business concerns; (6) other persistent or substantial labor surplus area concerns; and (7) small business concerns which are not labor surplus area concerns.

22. UTILIZATION OF MINORITY BUSINESS ENTERPRISES

The following clause is applicable if the amount of this contract is in excess of $5,000 except (1) contracts which, including all subcontracts, hereunder, are to be performed entirely outside the United States, its possessions, and Puerto Rico and (2) contracts for services which are personal in nature.

(a) It is the policy of the Government that minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts.

(b) The Contractor agrees to use his best efforts to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority business enterprise" means a business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purposes of this definition, minority group members are Negroes, Spanish-speaking American persons, American Orientals, American Indians, American Eskimos, and American Aleuts. Contractors may rely on written representations by subcontractors regarding their status as minority business enterprises in lieu of an independent investigation.

23. EQUAL OPPORTUNITY

(The following clause is applicable unless this contract is exempt under the rules, regulations, and relevant orders of the Secretary of Labor (41 CFR Ch. 60).)

During the performance of this contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer, recruitment, or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection of training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this equal opportunity clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which he has a collective-bargaining agreement or other contract or understanding, a

notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under this equal opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, Executive Order No. 11375 of October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the equal opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include the provisions of paragraph (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter such litigation to protect the interests of the United States.

24. LISTING OF EMPLOYMENT OPENINGS

(This clause is applicable pursuant to 41 CFR Part 50-250 if this contract is for $10,000 or more and will generate 400 or more man-days of employment.)

(a) The Contractor agrees that all employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the Contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall, to the maximum extent feasible, be offered for listing at an appropriate local office of the State employment service system wherein the opening occurs and to provide such periodic reports to such local office regarding employment openings and hires as may be required.

(b) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve only the normal obligations which attach to the placing of a bona fide job order but does not require the hiring of any job applicant referred by the employment service system.

(c) The periodic reports required by paragraph (a) of this clause, shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one establishment in a State, with the central office of that State employment service. Such reports shall indicate for each establishment the number of individuals who were hired during the reporting period and the number of hires who were veterans who served in the Armed Forces on or after August 5, 1964, and who received other than a dishonorable discharge. The Contractor shall maintain copies of the reports submitted until the expiration of one (1) year after final payment under the contract, during which time they shall be made available, upon request, for examination by any authorized representatives of the Contracting Officer or of the Secretary of Labor.

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

(e) This clause does not apply (1) to the listing of employment openings which occur outside of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, and (2) to contracts with State and local governments.

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

(g) As used in this clause:

(1) "All employment openings" includes, but is not limited to, openings which occur in the following job categories: Production and nonproduction; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings which are compensated on a salary basis of less than $18,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment.

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

(3) "Openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement," means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) or outside of a special hiring arrangement which is part of the customary and traditional employment relationship which exists between the Contractor and the representatives of his employees and includes any openings which the Contractor proposes to fill from regularly established "recall" or "rehire" lists or from union hiring halls.

(4) "Man-day of employment" means any day during which an employee performs more than one (1) hour of work.

(h) The Contractor agrees to place this clause (excluding this paragraph (h)) in any subcontract directly under this contract.

25. WALSH-HEALEY PUBLIC CONTRACTS ACT

If this contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed $10,000 and is otherwise subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35-45), there are hereby incorporated by reference all representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect.

26. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT—OVERTIME COMPENSATION (40 U.S.C. 327-333)

The contract is subject to the Contract Work Hours and Safety Standards Act and to the applicable rules, regulations, and interpretations of the Secretary of Labor.

(a) *Overtime requirements.* No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek on work subject to the provisions of the Contract Work Hours Standards Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek, whichever is the greater number of overtime hours.

(b) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the provisions of paragraph (a), the Contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph (a) in the sum of $10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of 8 hours or in excess of the standard workweek of 40 hours without payment of the overtime wages required by paragraph (a).

(c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer may withhold from the Government Prime Contractor, from any moneys payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph (b).

(d) *Subcontracts.* The Contractor shall insert paragraphs (a) through (d) of this clause in all subcontracts, and shall require their inclusion in all subcontracts of any tier.

(e) *Records.* The Contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for 3 years from the completion of the contract.

27. CONVICT LABOR

In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor.

28. BUY AMERICAN ACT

(a) In acquiring end products, the Buy American Act (41 U.S.C. 10a–d) provides that the Government give preference to domestic source end products. For the purpose of this clause:

(1) "Components" mean those articles, materials, and supplies which are directly incorporated in the end products;

(2) "End products" mean those articles, materials, and supplies which are to be acquired under this contract for public use; and

(3) A "domestic source end product" means (A) an unmanufactured end product which has been mined or produced in the United States and (B) an end product manufactured in the United States if the cost of the components thereof which are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. For the purposes of this (a) (3) (B), components of foreign origin of the same type or kind as the products referred to in (b) (2) or (3) of this clause shall be treated as components mined, produced, or manufactured in the United States.

(b) The Contractor agrees that there will be delivered under this contract only domestic source end products, except end products:

(1) Which are for use outside the United States;

(2) Which the Government determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality;

(3) As to which the Administrator determines the domestic preference to be inconsistent with the public interest; or

(4) As to which the Administrator determines the cost to the Government to be unreasonable.

(The foregoing requirements are administered in accordance with Executive Order No. 10582, dated Dec. 17, 1954.)

29. OFFICIALS NOT TO BENEFIT

No Member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

30. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annual this contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

31. GRATUITIES

(a) The Government may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found, after notice and hearing, by the Administrator or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such contract: *Provided*, That the existence of the facts upon which the Administrator or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event this contract is terminated as provided in paragraph (a) hereof, the Government shall be entitled (i) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor, and (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Administrator or his duly authorized representative) which shall be not less than three nor more than 10 times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

32. AUTHORIZATION AND CONSENT

The Government hereby gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent of the United States in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower-tier subcontract).

33. RIGHTS IN DATA

(a) *Definitions.* (1) Technical Data, as used in this clause, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental, or engineering work; or be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design type documents; in machine forms such as punched cards, magnetic tape, computer memory printouts; or may be retained in computer memory. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. Technical data does not include financial, administrative, cost and pricing, and management data, or other information incidental to contract administration.

(2) Limited Rights means rights to use, duplicate, or disclose technical data, in whole or in part, by or for the Government, with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data, be (a) released or disclosed in whole or in part outside the Government, (b) used in whole or in part by the Government for manufacture or procurement, or (c) used by a party other than the Government, except for:

(i) Emergency repair or overhaul work only, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work: *Provided*, That the release or disclosure thereof outside the Government shall be made subject to a prohibition against further use, release, or disclosure; or

(ii) Release to a foreign government, as the interest of the United States may require, for emergency repair or overhaul work by or for such government under the conditions of (i) above.

(3) Unlimited rights means rights to use, duplicate, or disclose technical data, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(b) *Government rights.* (1) The Government shall have unlimited rights in:

(i) Technical data resulting directly from performance of experimental, developmental, or research work which was specified as an element of performance in this or any other Government contract or subcontract;

(ii) Technical data necessary to enable manufacture of end-items, components, and modifications, or to enable the performance of processes, when the end-items, components, modifications, or processes have been, or are being, developed under this or any other Government contract or subcontract in which experimental, developmental or research work is, or was specified as an element of contract performance.

(iii) Technical data prepared or required to be delivered under this or any other Government contract or subcontract and constituting corrections or changes to Government-furnished data;

(iv) Technical data pertaining to end-items, components, or processes, prepared or required to be delivered under this or any other Government contract or subcontract, for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements ("form, fit, and function" data, e.g., specification control drawings, catalog sheets, envelope drawings, etc.);

(v) Manuals or instructional materials prepared or required to be delivered under this contract or any subcontract hereunder for installation, operation, maintenance, or training purposes;

(vi) Technical data which is in the public domain, or has been or is normally furnished without restriction by the contractor or subcontractor; and

(vii) Technical data listed or described in an agreement incorporated into the schedule of this contract, which the parties have predetermined, on the basis of subparagraphs (i) through (vi) above, and agreed will be furnished with unlimited rights.

(2) The Government shall have limited rights in technical data, listed or described in an agreement incorporated into the schedule of this contract, which the parties have agreed will be furnished with limited rights: *Provided*, That such piece of data to which limited rights are to be asserted is marked with the following legend in which is inserted the number of the prime contract under which the technical data is to be delivered and the name of the contractor or subcontractor by whom the technical data was generated:

This technical data, furnished under U.S. Government Contract No. _____, shall not, without the written permission of _____, be either (a) used, released, or disclosed in whole or in part outside the Government, (b) used in whole or in part by the Government for manufacture or procurement, or (c) used by a party other than the Government, except for: (i) Emergency repair or overhaul work only, by or for the Government where the item or process concerned is not otherwise reasonably available to enable timely performance of the work provided that the release or disclosure hereof

outside the Government shall be made subject to a prohibition against further use, release, or disclosure; or (ii) release to a foreign government, as the interest of the United States may require, for emergency repair or overhaul work by or for such government under the conditions of (i) above. This legend shall be marked on any reproduction hereof in whole or in part.

No legend shall be marked on, nor shall any limitation on rights of use be asserted as to, any data which the Contractor has previously delivered to the Government without restriction. The limited rights provided for by this paragraph (b)(2) shall not impair the right of the Government to use similar or identical data if such data is or becomes a part of the public domain or public knowledge by publication or otherwise, or is acquired by the Government from other sources, without restrictions. In preparation of the final report (if required under the contract), any and all technical data in which the Government has limited rights as set forth in (b)(2) above, shall be submitted under separate cover with the final report and marked with the legend set forth above. However, the final report shall include a complete disclosure of all materials, processes, and equipment employed in such full, clear, concise, and exact detail, including data such as mathematical, graphic, and written descriptive materials and other means of disclosure appropriate in the circumstances to enable any person skilled in the art to comprehend the results of the work performed under the contract.

(c) *Material covered by copyright.* (1) In addition to the rights granted under the provisions of (b), above, the Contractor agrees to and does hereby grant to the Government, and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free nonexclusive and irrevocable license throughout the world to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all technical data now or hereafter covered by copyright.

(2) No copyrighted matter shall be included in technical data furnished hereunder without the written approval of the Contracting Officer unless there has been obtained the written permission of the copyright owner for the Government to use such copyrighted matter in the manner described in paragraph (c)(1) above.

(3) The Contractor shall report to the Government (or higher tier Contractor) promptly and in reasonable written detail each notice or claim of copyright infringement received by the Contractor with respect to any technical data delivered hereunder.

(d) Except for those items set forth in (b)(2) above, the Contractor shall not affix any restrictive markings upon any technical data, and if such markings are affixed, the Government shall have the right at any time to modify, remove, obliterate, or ignore any such markings.

(e) *Relation to patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(f) *Right to publish.* The Contractor agrees that he will not publish, have published, or otherwise disseminate any information of whatever nature resulting from the work being performed under this contract except as may be approved by the Project Officer: *Provided, however,* That the Contractor may without the approval of the Project Officer for internal use only, disseminate such information within his own organization.

(g) *Acquisition of data from subcontractors.* (1) Whenever any technical data is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the Government's or the Contractor's rights in that subcontractor data which is required for the Government.

(2) Technical data required to be delivered by a subcontractor shall normally be delivered to the next higher-tier Contractor. However, when there is a requirement in the prime contract, or in any deferred order, for data which may be supplied with limited rights pursuant to (b)(2) above, a subcontractor may fulfill such requirement by submitting such data directly to the Government rather than through the prime Contractor.

(3) The Contractor and higher-tier subcontractors will not use their power to award subcontracts as economic leverage to acquire rights in data from their subcontractors for themselves.

34. DATA REQUIREMENTS

(a) To the extent that the following data is not elsewhere required to be furnished to the Government under this contract, and is of the type customarily retained in the normal course of business, the Contractor, upon written request of the Contracting Officer at any time during contract performance or within 1 year after final payment, shall furnish the following:

(1) A set of engineering drawings which will be sufficient to enable the manufacture of items or equipment furnished under this contract (other than components or items of standard commercial design, or items fabricated heretofore) by a firm skilled in the art of manufacturing items or equipment of the general type and character of the items or equipment furnished under this contract or a set of flow sheets and engineering drawings which will be sufficient to enable performance of any process developed with this contract by a firm skilled in the art of practicing processes of the general type and character of such process. Such set or sets of drawings and flow sheets shall be reproducible copies incorporating all changes made in the equipment or process in the form in which it was delivered to the Government.

(2) Any of the following data which is necessary to explain or help Government technical personnel understand any equipment, items, or process developed under the contract and furnished to the Government:

(i) A copy (which shall be a reproducible master if one is so requested) of drawings and other technical data used in or prepared in connection with the development, practice, and testing of any process or processes required under the contract, or with the development, fabrication, and testing of prototype models of equipment or items (other than items of standard commercial design or items fabricated heretofore), if required under the contract.

(ii) A report of all studies made in planning the work, and in developing background research for the work, including citation references to all such background research, and a copy of all compilations, digests, or analyses of such background research compiled in connection with the performance of this contract.

(iii) A copy (which shall be a reproducible master if one is so requested) of design studies, research notes, parameter and tolerance studies, drawings, including Contractor's identification of symbol and markings, specifications, test results, and any other technical information used in any research, development, design, engineering, and testing required in the performance of this contract, including test equipment and related items, together with any information as to safety precautions which may be necessary in connection with the manufacture, storage, or use of the equipment, material, or process, if any, in the event that equipment, material, or process is the subject of research under this contract.

The Contractor shall not be required to furnish any background data which may be described in (ii) and (iii) above unless such data is essential and closely related to the contract work.

(b) All reports, data, and recorded information which are required to be furnished by the Contractor under this provision, as well as all other reports of a technical nature required to be furnished under this contract, are "Technical Data" within the meaning of the clause of the General Provisions of this contract entitled "Rights in Data."

(c) Nothing contained in this "Data Requirements" clause shall require the Contractor to deliver data previously developed by parties other than the Contractor, independently of this contract and acquired by the Contractor prior to this contract under conditions restricting the Contractor's right to disclose the name. Unless otherwise directed by the Contracting Officer, if any of the data requested is in the public domain or copyrighted, it will be sufficient for the Contractor to identify the data and furnish a citation as to where it may be found.

(d) Any reproducible copies requested under this "Data Requirements" clause shall be of a type and prepared in accordance with good commercial practice.

(e) In the event the Contracting Officer requests the delivery of data by the Contractor, as contemplated by (a), above, prior to final payment, such request shall be treated as a change under the clause of this contract entitled "Changes" and an equitable adjustment in the price, if this is a fixed-price contract, or estimated cost and any fixed fee, if this is a cost-type contract, shall be made to cover the cost of preparing drawings called for in (a)(1), above, and of collecting, preparing, editing, duplicating, assembling, and shipping the data requested under (a), above, but only to the extent that the Contractor warrants that such costs were not included in the price (or estimated cost and fixed fee) of the contract. The Contractor shall comply with requests of the Contracting Officer made under (a), above, within 1 year following final payment: *Provided,* That suitable provision is made for reimbursement of the additional costs of complying with such request, together with a reasonable fee or profit thereon, such additional costs being limited to the costs set forth above, and warranted to have been excluded from the price (or estimated cost and fixed fee) of the contract. Any adjustment or payment under this paragraph (e) shall not include any amount for the value of the data, as distinguished from the costs set forth above.

35. NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT

(The provisions of this clause shall be applicable only if the amount of this contract exceeds $10,000.)

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government, on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the

Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

36. PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation (such as trees, shrubs, and grass) on the Government installation. If the Contractor fails to do so and damages any such buildings, equipment, or vegetation, he shall replace or repair the damage at no expense to the Government as directed by the Contracting Officer. If he fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost thereof which may be deducted from the contract price.

37. INDEMNIFICATION FOR GOVERNMENT LIABILITY TO THIRD PERSONS

Notwithstanding any other provision of this contract, Contractor agrees to hold the Government harmless from and indemnify the Government for the total amount of any judgment, compromise, or settlement based on the death of, injury to, or damage to the property of any third person if such death, injury, or property damage arose out of or in connection with the performance of this contract and was caused, in whole or in part, by the Contractor, its subcontractor, or any agent or employee of the Contractor or of its subcontractor, regardless of whether any negligent or wrongful act of the Government, its officers, employees, or agents caused in part such death, injury, or property damage.

38. SERVICE CONTRACT ACT OF 1965 (REV. DEC. 1972)

This contract, to the extent that it is of the character to which the Service Contract Act of 1965 (79 Stat. 1034, 41 U.S.C. 351) applies, is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor thereunder.

(a) *Compensation.* Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wage and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or his authorized representative, as specified in any attachment to this contract. If there is such an attachment, any class of service employees which is not listed therein, but which is to be employed under this contract, shall be classified by the Contractor so as to provide a reasonable relationship between such classifications and those listed in the attachment, and shall be paid such monetary wages and furnished such fringe benefits as are determined by agreement of the interested parties, who shall be deemed to be the contracting agency, the Contractor, and the employees who will perform on the contract or their representatives. If the interested parties do not agree on a classification or reclassification which is, in fact, conformable, the Contracting Officer shall submit the question, together with his recommendation, to the Office of Special Wage Standards, Employment Standards Administration (ESA), of the Department of Labor for final determination. Failure to pay such employees the compensation agreed upon by the interested parties or finally determined by the Administrator or his authorized representative shall be a violation of this contract. No employee engaged in performing work on this contract shall in any event be paid less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(b) *Adjustment.* If, as authorized pursuant to section 4(d) of the Service Contract Act of 1965, as amended, the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees shall be subject to adjustment after 1 year and not less often than once every 2 years, pursuant to wage determinations to be issued by the Employment Standards Administration of the Department of Labor as provided in such Act.

(c) *Obligation to furnish prime benefits.* The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined conformably thereto by furnishing any equivalent combinations of fringe benefits, or by making equivalent or differential payments in cash in accordance with the applicable rules set forth in 29 CFR Part 4, Subparts B and C, and not otherwise.

(d) *Minimum wage.* In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any of his employees performing work under the contract (regardless of whether they are service employees) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this provision shall relieve the Contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.

(e) *Obligations attributable to predecessor contracts.* If this contract succeeds a contract, subject to the Service Contract Act of 1965, as amended, under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, then in the absence of a minimum wage attachment for this contract neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work less than the wages and fringe benefits, provided for in such collective bargaining agreements, to which such employee would be entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the Secretary of Labor or his authorized representative determines that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arms-length negotiations, or finds, after a hearing as provided in Department of Labor regulations, 29 CFR 4.10, that the wages and fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality.

(f) *Notification to employees.* The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post a notice of such wages and benefits in a prominent and accessible place at the worksite, using such poster as may be provided by the Department of Labor.

(g) *Safe and sanitary working conditions.* The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish these services, and the Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(h) *Records.* The Contractor and each subcontractor performing work subject to the Act shall make and maintain for three (3) years from the completion of the work records containing the information specified in subparagraphs (1) through (5) of this paragraph for each employee subject to the Act and shall make them available for inspection and transcription by authorized representatives of the Employment Standards Administration of the U.S. Department of Labor.

(1) His name and address.

(2) His work classification or classifications, rate or rates of monetary wages and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation.

(3) His daily and weekly hours so worked.

(4) Any deductions, rebates, or refunds from his total daily or weekly compensation.

(5) A list of monetary wages and fringe benefits for those classes of service employees not included in the minimum wage attachment to this contract, but for which such wage rates or fringe benefits have been determined by the interested parties or by the Administrator or his authorized representative pursuant to the Labor Standards clause in paragraph (a) of this clause. A copy of the report required in paragraph (m)(1) of this clause shall be deemed to be such a list.

(i) *Withholding of payment and termination of contract.* The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the prime Contractor such sums as he, or an appropriate officer of the Department of Labor, decides may be necessary to pay underpaid employees. Additionally, any failure to comply with the requirements of this clause relating to the Service Contract Act of 1965 may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(j) *Subcontractors.* The Contractor agrees to insert this clause relating to the Service Contract Act of 1965 in all subcontracts. The term "Contractor" as used in this clause in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

(k) *Service employee.* As used in this clause relating to the Service Contract Act of 1965, the term "service employee" means guards, watchmen, and any person engaged in a recognized trade or craft, or other skilled mechanical craft, or in unskilled, semiskilled, or skilled manual labor occupations; and any other employee including a foreman or supervisor in a position having trade, craft, or laboring experience as the paramount requirement; and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(l) *Comparable rates.* The following classes of service employees expected to be employed under the contract with the Government would be subject, if employed by the contracting agency, to the provisions of 5 U.S.C. 5341 and would, if so employed, be paid not less than the following rates of wages and fringe benefits:

Employee class	*Monetary wages—fringe benefits*

(m) *Contractor's report.* (1) If there is a wage determination attachment to this contract and one or more classes of service employees which are not listed thereon are to be employed under the contract, the Contractor shall report to the Contracting Officer the monetary wages to be paid and the fringe benefits to be provided each such class of service employee. Such report shall be made promptly as soon as such compensation has been determined, as provided in paragraph (a) of this clause.

(2) If wages to be paid or fringe benefits to be furnished any service employees employed by the Government prime Contractor or any subcontractor under the contract are provided for in a collective-bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective-bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective-bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance, such agreements shall be reported promptly after negotiation thereof.

(n) *Exemptions.* This clause relating to the Service Contract Act of 1965 shall not apply to the following:

(1) Any contract of the United States or District of Columbia for construction, alteration, and/or repair, including painting and decorating of public buildings or public works;

(2) Any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act (49 Stat. 2036);

(3) Any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line, or oil or gas pipeline where published tariff rates are in effect, or where such carriage is subject to rates covered by section 22 of the Interstate Commerce Act;

(4) Any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934;

(5) Any contract for public utility services, including electric light and power, water, steam, and gas;

(6) Any employment contract providing for direct services to a Federal agency by an individual or individuals;

(7) Any contract with the Post Office Department (U.S. Postal Service), the principal purpose of which is the operation of postal contract stations;

(8) Any services to be furnished outside the United States. For geographic purposes, the "United States" is defined in section 8 (d) of the Service Contract Act to include any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands, as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, and Johnston Island. It does not include any other territory under the jurisdiction of the United States or any U.S. base or possession within a foreign country;

(9) Any of the following contracts exempted from all provisions of the Service Contract Act of 1965, pursuant to section 4(b) of the Act, which exemptions the Secretary of Labor, prior to amendment of such section by Public Law 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(i) Contracts entered into by the United States with common carriers for the carriage of mail by rail, air (except air star routes), bus, and ocean vessel, where such carriage is performed on regularly scheduled runs of the trains, airplanes, buses, and vessels over regularly established routes and accounts for an insubstantial portion of the revenue therefrom;

(ii) Any contract entered into by the U.S. Postal Service with an individual owner-operator for mail service where it is not contemplated at the time the contract is made that such owner-operator will hire any service employee to perform the services under the contract except for short periods of vacation time or for unexpected contingencies or emergency situations such as illness or accident.

(o) *Special employees.* Notwithstanding any of the provisions in paragraphs (b) through (i) of this clause, relating to the Service Contract Act of 1965, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Public Law 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business;

(1) (i) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or (b)(1) of the Service Contract Act of 1965, without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of that Act, in accordance with the procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator.

(ii) The Administrator will issue certificates under the Service Contract Act of 1965 for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525);

(iii) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in Parts 525 and 528 of Title 29 of the Code of Federal Regulations.

(2) An employee engaged in an occupation in which he customarily and regularly receives more than $20 a month in tips may have the amount of his tips credited by his employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act in accordance with the regulations in 29 CFR Part 531: *Provided, however,* That the amount of such credit may not exceed 80 cents per hour.

(40 U.S.C. 486(c), sec. 205(c), 63 Stat. 377, as amended)

[FR Doc.73-4876 Filed 3-23-73;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1127]

PART 1033—CAR SERVICE

Central California Traction Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 15th day of March 1973.

It appearing, that the Central California Traction Co. (CCT) is unable to operate over its line between Stockton, Calif., and Polk, Calif., because of damage to a bridge located at CCT milepost 21-B; that CCT operations can be accomplished by use of tracks of the Southern Pacific Transportation Co. (SP) between SP milepost 103.3 at Lodi, Calif., and SP milepost 132.0 at Polk, Calif., a distance of approximately 28.7 miles; that the SP has consented to use of such tracks by the CCT; that operation by the CCT over the aforementioned tracks of the SP is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1127 Service Order No. 1127.

(a) *Central California Traction Co. authorized to operate over tracks of Southern Pacific Transportation Co.* The Central California Traction Co. (CCT) be, and it is hereby, authorized to operate over tracks of the Southern Pacific Transportation Co. (SP) between SP milepost 103.3 at Lodi, Calif., and SP milepost 132.0 at Polk, Calif., a distance of approximately 28.7 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the CCT over tracks of the SP is deemed to be due to carrier's disability, the rates applicable to traffic moved by the CCT over these tracks of the SP shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 11:59 p.m., March 15, 1973.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), 17(2))

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that

agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-5720 Filed 3-23-73;8:45 am]

[Ex Parte No. MC-37 (Sub-No. 19a)]

PART 1048—COMMERCIAL ZONES

Commercial Zones and Terminal Areas, New Orleans, La.

At a Session of the Interstate Commerce Commission, Review Board Number 2, Members *Mills, Boyle,* and *Parker,* held at its office in Washington, D.C., on the 9th day of February 1973.

It appearing, that the limits of the New Orleans, La., commercial zone were originally defined in 48 MCC 95; that subsequently the limits have been redefined in 48 MCC 441, 62 MCC 151, 66 MCC 709, and 81 MCC 726 (49 CFR 1048.27); and that by petition filed November 16, 1972, the New Orleans Traffic and Transportation Bureau seeks redefinition of the limits of the zone adjacent to and commercially a part of New Orleans, La., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from points beyond the zone, is partially exempt from certain requirements of the Interstate Commerce Act under the provisions of section 203(b)(8) thereof, so as to include a described area adjacent to the present western boundary and an area south of the existing zone limits described as follows: From the point on the present boundary approximately 2 miles south of Gretna where a high tension transmission line crosses Louisiana Highway 31; thence in a southerly direction along Harvey Canal (Gulf Intracoastal Waterway), including Peters and Destrehan Roads on the east and west bank thereof respectively to Augusta Canal, also from Peters Road in a westerly direction along both sides of Lapalco Road to Barataria Road; thence in a northerly direction to a point on the present boundary approximately 2 miles south of the Mississippi River where a high tension transmission line crosses Barataria Road;

It further appearing, that pursuant to the Administrative Procedure Act, notice of the filing of the petition was published in the FEDERAL REGISTER on December 1, 1972, which notice stated that no oral hearing was contemplated, and that persons desiring to participate in the proceeding were invited to file representations supporting or opposing the relief sought;

It further appearing, that representations were filed in support of the petition by petitioner, Avondale Shipyards, Inc., Lennox Industries, Inc., Tull Metal Co., Jefferson Truck Equipment Co., and Duhon Machinery, Inc., and no representations were filed in opposition to the petition;

It further appearing, that the areas described in the first appearing paragraph above, adjacent to, but not now within the New Orleans, La., commercial zone, are, in fact, economically and commercially a part of New Orleans, La.;

And it further appearing, that the area described in the first appearing paragraph above is ambiguous and difficult to interpret in part and, therefore, will be rephrased to conform to the evidence and current Commission practice; and that it is possible that other parties, who have relied upon the notice of the petition as published, may have an interest in and would be prejudiced by the lack of proper notice of the revision described in the findings in this order, a notice of the commercial zone as actually redefined will be published in the FEDERAL REGISTER and final revision of 49 CFR 1048.27 will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been prejudiced;

Wherefore, and good cause appearing therefor:

It is ordered, That the proceeding be, and it is hereby, reopened for reconsideration.

It is further ordered, That § 1048.27 as prescribed in the order entered in this proceeding on October 13, 1959 (49 CFR 1048.27), be, and it is hereby, vacated and set aside, and the following revision is hereby substituted in lieu thereof, subject to the prior publication in the FEDERAL REGISTER of a notice of the following revision:

§ 1048.27 New Orleans, La.

The zone adjacent to and commercially a part of New Orleans, La., within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), includes and is comprised of all points in the area bounded as follows:

Commencing at a point on the shore of Lake Pontchartrain where it is crossed by the Jefferson Parish-Orleans Parish line; thence easterly along the shore of Lake Pontchartrain to the Rigolets; thence through the Rigolets in an easterly direction to Lake Borgne; thence southwesterly along the shore of Lake Borgne to the Bayou Bienvenue; thence in a general westerly direction along the Bayou Bienvenue (which also constitutes the Orleans Parish-St. Bernard Parish line) to Paris Road; thence in a southerly direction along Paris Road to the Back Protection Levee; thence in a southeasterly direction along the Back Protection Levee (across Lake Borgne Canal) to a point 1 mile north of Louisiana Highway 46; thence in an easterly direction 1 mile north of Louisiana Highway 46 to longitude 89°50' W.; thence south along longitude line 89°50' W. (crossing Louisiana Highway 46 approximately three-eighths of a mile east of Toca) to Forty Arpent Canal; thence westerly, northwesterly, and southerly along Forty Arpent Canal to Scarsdale Canal; thence northwesterly along Scarsdale Canal and beyond it in the same direction to the middle of the Mississippi River; thence southerly along the middle of the Mississippi River to the Augusta Canal; thence in a westerly direction along the Augusta Canal to the Gulf Intracoastal Waterway; thence in a northerly direction along the middle of the Gulf Intracoastal Waterway (Harvey Canal) to the point where Lapalco Boulevard runs perpendicular to the Gulf Intracoastal Waterway (Harvey Canal); thence in a westerly direction along Lapalco Boulevard to its junction with Barataria Boulevard; thence north on Barataria Boulevard to a point approximately 2 miles south of the Mississippi River where a high tension transmission line crosses Barataria Boulevard; thence in a westerly direction following such transmission line to the intersection thereof with U.S. Highway 90; thence westerly along U.S. Highway 90 to the Jefferson Parish-St. Charles Parish line; thence north along such parish line to the middle of the Mississippi River; thence westerly along the middle of the Mississippi River to a point south of Almedia Road; thence north to Almedia Road; thence in a northerly direction along Almedia Road to its junction with Highway 61; thence north to the shore of Lake Pontchartrain; thence along the shore of Lake Pontchartrain in an easterly direction to the Jefferson Parish-Orleans Parish line, the point of beginning. (49 Stat. 543, as amended, 544, as amended, 546, as amended; 49 U.S.C. 302, 303, and 304.)

It is further ordered, That this order shall become effective on the 11th day of May 1973, and shall continue in effect until further notice of this Commission.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Review Board Number 2.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-5721 Filed 3-23-73;8:45 am]

Proposed Rule Making

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 1]

CUSTOMS FIELD ORGANIZATION

Proposed Changes in San Ygnacio, Tex., Laredo District, Region VI

The Customs station at San Ygnacio, Tex., Laredo District, Region VI, does not have sufficient volume of business to justify retaining its status as a Customs station. It is, therefore, proposed to revoke the designation of San Ygnacio, Tex., as a Customs station.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), which was delegated to the Secretary of the Treasury by the President by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 165, Revised (T.D. 53654), it is hereby proposed to revoke the designation of San Ygnacio, Tex., as a Customs station.

Data, views, or arguments with respect to the foregoing proposal may be addressed to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229. To insure consideration of such communications, they must be received in the Bureau on or before April 25, 1973.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs regulations (19 CFR 103.3(b)), at the Bureau of Customs, Regulations Division, Washington, D.C., during regular business hours.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved: March 16, 1973.

EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[FR Doc.73-5725 Filed 3-23-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1006]

MILK IN UPPER FLORIDA MARKETING AREA

Notice of Proposed Suspension of the Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of the order regulating the handling of milk in the Upper Florida Marketing Area is being considered.

All written submissions made pursuant ten data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, on or before April 2, 1973. All documents filed should be in quadruplicate.

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)).

Suspension of the order was requested by the Upper Florida Milk Producers Association, whose members constitute a majority of the producers on the market.

Signed at Washington, D.C., on March 21, 1973.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[FR Doc.73-5727 Filed 3-23-73;8:45 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 728]

1974 WHEAT MARKETING QUOTA PROGRAM

Proposed Determinations

As required by the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301, 1332, 1333, 1334, 1334a, 1336, 1379b), including amendments contained in the Food and Agriculture Act of 1962, the Agricultural Act of 1964, and the Food and Agriculture Act of 1965, the Secretary of Agriculture is preparing to determine whether marketing quotas for wheat are required to be proclaimed for the 1974-75 marketing year; to determine and proclaim the national acreage allotment for the 1974 crop of wheat, to apportion among States and counties the national acreage allotment for the 1974 crop of wheat, to designate the 1974 commercial wheat-producing area, to determine a projected national yield for the 1974 crop of wheat, to formulate regulations for establishing projected county yields for the 1974 crop of wheat; and, if marketing quotas are proclaimed, to establish the date of the referendum to determine whether farmers favor the marketing quotas so proclaimed, the amount of the national marketing quotas, wheat marketing allocation, and the national allocation percentage, for the 1974-75 marketing year. If marketing quotas are proclaimed for the 1974-75 marketing year, the Secretary will also determine and declare whether marketing quotas shall be in effect for the 1975-76 marketing year or for the 1975-76 and 1976-77 marketing years as necessary to effectuate the policy of the Act.

Subsections (a) and (b) of section 332 of the Act, as amended, read as follows:

SEC. 332(a) Whenever prior to April 15 in any calendar year the Secretary determines that the total supply of wheat in the marketing year beginning in the next succeeding calendar year will, in the absence of a marketing quota program, likely be excessive, the Secretary shall proclaim that a national marketing quota for wheat shall be in effect for such marketing year and for either the following marketing year or the following 2 marketing years, if the Secretary determines and declares in such proclamation that a 2- or 3-year marketing quota program is necessary to effectuate the policy of the Act.

(b) If a national marketing quota for wheat has been proclaimed for any marketing year, the Secretary shall determine and proclaim the amount of the national marketing quota for such marketing year not earlier than January 1 or later than April 15 of the calendar year preceding the year in which such marketing year begins. The amount of the national marketing quota for wheat for any marketing year shall be an amount of wheat which the Secretary estimates (i) will be utilized during such marketing year for human consumption in the United States as food, food products, and beverages, composed wholly or partly of wheat, (ii) will be utilized during such marketing year in the United States for seed, (iii) will be exported either in the form of wheat or products thereof, and (iv) will be utilized during such marketing year in the United States as livestock (including poultry) feed, excluding the estimated quantity of wheat which will be utilized for such purpose as a result of the substitution of wheat for feed grains under section 328 of the Food and Agriculture Act of 1962; less (A) an amount of wheat equal to the estimated imports of wheat into the United States during such marketing year and, (B) if the stocks of wheat owned by the Commodity Credit Corporation are determined by the Secretary to be excessive, an amount of wheat determined by the Secretary to be a desirable reduction in such marketing year in such stocks to achieve the policy of the Act: *Provided*, That if the Secretary determines that the total stocks of wheat in the Nation are insufficient to assure an adequate carryover for the next succeeding marketing year, the national marketing quota otherwise determined shall be increased by the amount the Secretary determines to be necessary to assure an adequate carryover: *And provided further*, That the national marketing quota for wheat for any marketing year shall be not less than 1 billion bushels.

Section 333 of the Act, as amended, reads as follows:

SEC. 333 The Secretary shall proclaim a national acreage allotment for each crop

of wheat. The amount of the national acreage allotment for any crop of wheat shall be the number of acres which the Secretary determines on the basis of the projected national yield and expected underplantings (acreage other than that not harvested because of program incentives) of farm acreage allotments will produce an amount of wheat equal to the national marketing quota for wheat for the marketing year for such crop, or if a national marketing quota was not proclaimed, the quota which would have been determined if one had been proclaimed.

Section 334(a) of the Act, as amended, reads as follows:

SEC. 334(a) The national allotment for wheat, less a reserve of not to exceed 1 percent thereof for apportionment as provided in this subsection and less the special acreage reserve provided for in this subsection, shall be apportioned by the Secretary among the States on the basis of the preceding year's allotment for each such State, including all amounts allotted to the State and including for 1967 the increased acreage in the State allotted for 1966 under section 335, adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State, taking into consideration established crop rotation practices, estimated decrease in farm allotments because of loss of history, and other relevant factors. The reserve acreage set aside herein for apportionment by the Secretary shall be used (1) To make allotments to counties in addition to the county allotments made under subsection (b) of this section, on the basis of the relative needs of counties for additional allotments because of reclamation and other new areas coming into production of wheat, or (2) to increase the allotment for any county, in which wheat is the principal grain crop produced, on the basis of its relative need for such increase if the average ratio of wheat acreage allotment to cropland on old wheat farms in such county is less by at least 20 percent than such average ratio on old wheat farms in an adjoining county or counties in which wheat is the principal grain crop produced or if there is a definable contiguous area consisting of at least 10 percent of the cropland acreage in such county in which the average ratio of wheat acreage allotment to cropland on old wheat farms is less by at least 20 percent than such average ratio on the remaining old wheat farms in such county, provided that such low ratio of wheat acreage allotment to cropland is due to the shift prior to 1951 from wheat to one or more alternative income-producing crops which, because of plant disease or sustained loss of markets, may no longer be produced at a fair profit and there is no other alternative income-producing crop suitable for production in the area or county. The increase in the county allotment under clause (2) of the preceding sentence shall be used to increase allotments for old wheat farms in the affected area to make such allotments comparable with those on similar farms in the adjoining areas or counties but the average ratio of increased allotments to cropland on such farms shall not exceed the average ratio of wheat acreage allotment to cropland on old wheat farms in the adjoining areas or counties. There also shall be made available a special acreage reserve of not in excess of 1 million acres as determined by the Secretary to be desirable for the purposes hereof which shall be in addition to the national acreage reserve provided for in this subsection. Such special acreage reserve shall be made available to the States to make additional allotments to counties on the basis of the relative needs of counties, as determined by the Secretary, for additional allotments to make adjustments in the allotments on old wheat farms * * * on which the ratio of wheat acreage allotment to cropland on the farm is less than one-half the average ratio of wheat acreage allotment to cropland on old wheat farms in the county. Such adjustments shall not provide an allotment for any farm which would result in an allotment-cropland ratio for the farm in excess of one-half of such county average ratio and the total of such adjustments in any county shall not exceed the acreage made available therefor in the county. Such apportionment from the special acreage reserve shall be made only to counties where wheat is a major income-producing crop, only to farms on which there is limited opportunity for the production of an alternative income-producing crop, and only if an efficient farming operation on the farm requires the allotment of additional acreage from the special acreage reserve. For the purposes of making adjustments hereunder the cropland on the farm shall not include any land developed as cropland subsequent to the 1963-crop year.

Section 334(b) of the Act requires that the State acreage allotment of wheat for the 1974 crop, less a reserve of not to exceed 3 percent thereof, be apportioned among the counties in the State on the basis of the preceding year's wheat allotment in each such county, including for 1967 the increased acreage in the county allotted for 1966 pursuant to section 335, adjusted to the extent deemed necessary to establish a fair and equitable apportionment base for each county, taking into consideration established crop rotation practices, estimated decrease in farm allotments because of loss of history, and other relevant factors.

Section 334a of the Act, as added by section 314 of the Food and Agriculture Act of 1962, provides that if the acreage allotment for any State for the 1974 crop of wheat is 25,000 acres or less, the Secretary, in order to promote efficient administration of the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949, may designate such State as outside the commercial wheat-producing area for the 1974–75 marketing year. That section also provides that if any State is so designated, acreage allotments for the 1974 crop of wheat and marketing quotas for the 1974–75 marketing year shall not be applicable to any farm in such State, and that acreage allotments in any State shall not be increased by reason of such designation.

Section 336 of the Act, as amended, provides that if a national marketing quota for wheat for 1, 2, or 3 marketing years is proclaimed, the Secretary shall, not later than August 1 of the calendar year in which such national marketing quota is proclaimed, conduct a referendum, by secret ballot, of farmers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. Section 336 further provides that the Secretary shall proclaim the results of any referendum within 30 days after the date of such referendum, and if he determines that more than one-third of the farmers voting in the referendum voted against marketing quotas, he shall proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is held. Section 336 of the Act also provides that if the Secretary determines that two-thirds or more of the farmers voting in a referendum approve marketing quotas for a period of 2 or 3 marketing years, no referendum shall be held for the subsequent year or years of such period.

Section 301(b)(8)(B) of the Act, as amended by the Food and Agriculture Act of 1965, provides for the determination of a projected national yield of wheat on the basis of the national yield per harvested acre of wheat during each of the 5 calendar years immediately preceding the year in which such projected national yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices.

Section 301(b)(13)(J) of the Act, as amended by the Food and Agriculture Act of 1965, provides for the determination of projected county yields of wheat on the basis of the yield per harvested acre of wheat for the county during each of the 5 calendar years immediately preceding the year in which such projected county yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices.

Section 324 of the Food and Agriculture Act of 1962 added a new subtitle, designated "Subtitle D—Wheat Marketing Allocation," to title III of the Agricultural Adjustment Act of 1938. Under the sections of the Act comprising this subtitle (379a to 379j, inclusive), during any marketing year for which a national marketing quota is in effect for wheat, beginning with the marketing year on the 1964 crop, a wheat marketing allocation program shall be in effect. Whenever such a program is in effect for any marketing year the Secretary is required to determine the wheat marketing allocation for such year, which shall be the amount of wheat which in determining the national marketing quota for such marketing year the Secretary estimated would be used during such year for food products for consumption in the United States, and that portion of the amount of wheat which in determining such quota he estimated would be exported in the form of wheat or products thereof during such marketing year on which the Secretary determines that marketing certificates should be issued to producers in order to achieve, insofar as practicable, the price and income objectives of subtitle D. The Secretary is also required to determine the national allocation percentage which shall be the percentage which the national marketing allocation is of the national marketing quota.

It is proposed that in connection with apportionment of the national wheat acreage allotment among States a reserve of not to exceed 1 percent of the national acreage allotment shall be withheld for apportionment to counties as provided in section 334(a) of the Act. It is also proposed that a special acreage

reserve of not in excess of 1 million acres be withheld for apportionment to counties as provided in section 334(a) of the Act.

It is proposed that in connection with the apportionment of the State acreage allotments among counties of the State, the Agricultural Stabilization and Conservation Committee for each State with the approval of the Secretary shall determine the percentage of the State acreage allotment, not in excess of 3 percent, which shall be reserved for apportionment to farms in the State on which wheat will be produced in 1974, but classified as new wheat farms in 1974, because such farms do not have a wheat allotment.

States with acreage allotments of 25,000 acres or less were designated as being outside the commercial wheat-producing area for each of the years 1955 through 1963. In view of the fact, however, that marketing certificates are required to be issued for farms both within and without the commercial wheat-producing area for 1974, it is proposed that all wheat-producing States, including each State for which a State wheat acreage allotment of 25,000 acres or less is determined, shall be designated as being within the commercial wheat-producing area.

Prior to making any of the foregoing determinations with respect to marketing quotas and national, State, and county acreage allotments, including the determination and allocation of reserves for the 1974 crop of wheat, the designation of the 1974 commercial wheat-producing area, the date of the referendum, the formulation of regulations for the establishment of projected county yields for the 1974 crop of wheat, the wheat marketing allocation, and the national allocation percentage for the 1974–75 marketing year, consideration will be given to data, views, and recommendations pertaining thereto which are submitted in writing to the Director, Grain Division, ASCS, U.S. Department of Agriculture, Washington, D.C. 20250. To be sure of consideration, all written submissions must be postmarked on or before April 10, 1973.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

EARL L. BUTZ,
Secretary.

MARCH 21, 1973.

[FR Doc.73-5662 Filed 3-23-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 73-NE-8]

PRATT & WHITNEY MODEL JT3D ENGINES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Pratt & Whitney Model JT3D Engines with specified thin lug turbine cases and incorporating vented second stage outer air seals. There have been failures of the third stage turbine vane retaining lugs on the above engines which have resulted in turbine blade and disc failures. Since this condition is likely to develop in other JT3D engines with the turbine cases and vented seals mentioned above, the proposed airworthiness directive would require the inspection of the turbine nozzle case for missing lugs within 1,000 hours' time in service and at 1,000-hour intervals thereafter. If missing lugs are found, the proposed airworthiness directive would require either more frequent inspections or removal of the engine depending on the number of missing lugs found. By the terms of the applicability language, compliance with this proposed AD would no longer be required after installation of the new turbine case with strengthened lugs or after completion of plugging of the vented second stage outer air seal.

Interested parties are invited to participate in the making of the proposed rule by submitting written data and views. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, New England Region, Attention: Regional Counsel, Airworthiness Rules Docket, 154 Middlesex Street, Burlington, MA 01803. All communications received on or before April 25, 1973, will be considered before taking action upon the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments will be available in the Office of Regional Counsel for examination by interested parties.

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

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

PRATT & WHITNEY. Applies to all Pratt & Whitney JT3D-1, JT3D-1-MC6, JT3D-1-MC7, JT3D-3, and JT3D-3B model engines containing turbine nozzle case Part Numbers 399065, 496859, 570618, 626669, 669047, 694937, 694938, 390197, 694935, and 691326 incorporating vented second stage outer air seals.

Compliance required as follows:

To preclude possible turbine blade or disc failures resulting from turbine case lug failures, inspect the turbine nozzle case for missing lugs by performing ultrasonic, isotope, or visual inspection at the time intervals specified below.

First inspection, 1,000 hours' time in service after the effective date of this AD unless already accomplished.

(a) If there are no missing lugs, repeat the inspection every 1,000 hours' time in service thereafter.

(b) If one lug is found missing, repeat the inspection every 100 hours' time in service.

(c) If two or three lugs are found missing, remove the engine from service within the next 50 hours' time in service.

(d) If four (4) or more lugs are missing, remove the engine from service immediately.

Turbine cases removed in accordance with paragraphs (c) and (d) above may be repaired in accordance with the procedures outlined in the Overhaul Manual, section 72-51-2, or replaced.

NOTE: Pratt & Whitney Service Bulletin 3993, or later FAA approved revisions, pertains to this same subject.

Issued in Burlington, Mass., on March 16, 1973.

W. E. CROSBY,
Deputy Director,
New England Region.

[FR Doc.73-5654 Filed 3-23-73;8:45 am]

[Airspace Docket No. 73-SO-18]

[14 CFR Part 71]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Pulaski, Tenn., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received on or before April 25, 1973, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. 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 light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, Ga.

The Pulaski transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Abernathy Airport (latitude 35°08'45" N., longitude 87°03'30" W.); excluding the portion within Lawrenceburg, Tenn., transition area.

The proposed designation is required to provide controlled airspace protection for IFR operations at Abernathy Airport. A prescribed instrument approach procedure to this airport, utilizing the Giles (Private) Nondirectional Radio Beacon, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on March 14, 1973.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.73-5652 Filed 3-23-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-RM-7]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the description of the Logan, Utah, transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, Post Office Box 7213, Denver, CO 80207. All communications received on or before April 18, 1973, 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 Regional Air Traffic Division Chief. 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.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, CO 80010.

A new public-use instrument approach procedure has been developed for the Logan-Cache Airport, Logan, Utah, utilizing the Logan VOR as a navigational aid. Consequently, an extension to the north of the existing 700-foot transition area is necessary in order to provide additional controlled airspace for the protection of aircraft executing the proposed VOR instrument approach procedure.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (38 FR 435) the description of the Logan, Utah, transition area is amended to read:

LOGAN, UTAH

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Logan-Cache Airport (latitude 41°-47'09" N., longitude 111°50'53" W.) and within 4.5 miles east and 9.5 miles west of and parallel to the Logan VOR 344° radial, extending from the 5-mile radius to 11 miles north of the Logan VOR; that airspace extending upward from 1,200 feet above the surface bounded on the north by the south edge of V4, on the east by longitude 111°-40'30" W., on the south by the north edge of V288, on the west by the east edge of V21; and that airspace extending upward from 10,500 feet MSL bounded on the northeast by the southwest edge of V48, on the west by longitude 111°40'30" W., and on the south by the north edge of V288.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of section 6(c), of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Aurora, Colo., on March 14, 1973.

I. H. HOOVER,
Acting Director,
Rocky Mountain Region.

[FR Doc.73-5650 Filed 3-23-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-RM-8]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the transition area at West Yellowstone, Mont.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, Post Office Box 7213, Denver, CO 80207. All communications received on or before April 18, 1973, 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 Regional Air Traffic Division Chief. 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.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, CO 80010.

A 1,200-foot transition area extension is proposed to provide controlled airspace for air carrier flights operating between the St. Anthony, Idaho, intersection and the Yellowstone, Mont., Airport.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (38 FR 435) the description of the West Yellowstone, Mont., transition area is amended as follows:

In line three of the text, after "* * * 19½ miles south of the airport; * * *" insert "* * * that airspace extending upward from 1,200 feet above the surface within 5 miles either side of the 209° bearing from the Yellowstone Airport extending from the airport to 51 miles southwest of the Airport * * *"

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Aurora, Colo., on March 14, 1973.

I. H. HOOVER,
Acting Director,
Rocky Mountain Region.

[FR Doc.73-5651 Filed 3-23-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-SO-126]

CONTROL ZONE

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a control zone for Mayaguez, P.R.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, GA 30320. All communications received on or before April 25, 1973, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over

high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The proposed amendment would:

Designate a control zone within a 5-mile radius of the Mayaguez, P.R., Airport including an extension 3 miles each side of the Mayaguez VOR 243° T (252° M) radial to a point 8.5 miles west of the VOR.

The proposed control zone is needed to provide controlled airspace for aircraft executing instrument approach and departure procedures in accordance with existing criteria.

This amendment is proposed under the authority of section 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 FR 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on March 19, 1973.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-5653 Filed 3-23-73;8:45 am]

Office of the Secretary

[49 CFR Part 85]

[Docket No. 32; Notice 73-]

CARGO SECURITY ADVISORY STANDARDS

Seal Accountability and Procedures

By notice of proposed rule making (Docket 32; Notice 72-3) in the FEDERAL REGISTER of November 30, 1972 (37 FR 25401), the Department of Transportation proposed establishment of a program for the issuance of Cargo Security Advisory Standards. The preamble stated that the advisory standards would be issued as appendixes to procedural regulations which the Department proposed. By a document published in the FEDERAL REGISTER of March 15, 1973 (37 FR 6997), the procedural regulations were adopted as Part 85 of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 85). This is the first of the proposed Cargo Security Advisory Standards to be issued by the Department's Office of Transportation Security.

The first step in prevention of cargo theft is determination of where in the transportation system cargo is being lost. Accountability procedures help identify problem locations and basic to accountability in transportation is the use of door seals on trailers, freight cars, containers, piggyback trailers, and air cargo containers moving between terminals and interchange points. The proper use of seals enables the person receiving a shipment to determine whether it has been tampered with.

Expeditious, claim-free movement of Shipper Load and Count railcars, containers, and trailers depends on seal protection, especially in intermodal exchanges. To a great extent claims are settled among shippers, carriers, and consignees on the basis of seal checks and records. Seal procedures and records maintained for liability purposes serve also to illuminate how and where security problems are occurring, thereby enabling affected shippers, carriers, and consignees to act to prevent further losses. It is for this latter reason that even freight moving between two terminals operated by the same company, regardless of mode, should be moved under seal protection. Regardless of how detailed and efficient is the accountability procedure (e.g., tallies, stripping methods) at origin and destination, without effective seal protection losses can occur anywhere between terminals, including the original terminal yard prior to outbound line haul and the destination terminal yard prior to stripping.

Seals do not afford physical security similar to that afforded by locks. A company with effective seal and security procedures can avoid sharing liability with a company having ineffective or nonexistent procedures. This is in addition to the loss prevention benefit, in both interchange and captive movements, of knowing where in the chain of custody a loss occurred. For those desiring both physical security and protection from liability, "seal locks" are available which, consistent with each mode's freight claim procedures, offer both types of protection.

The advisory standard which follows suggests procedures and policies intended to assist all parts of the transportation industry in reducing the incidence of loss and theft of cargo entrusted to their care. This advisory standard is not mandatory, and nothing in it replaces or modifies any statutory requirement or any regulatory authority vested in any Federal, State, or local governmental body.

In consideration of the foregoing, the Department proposes to establish Part 1 of the Appendix to Part 85 of Title 49 of the Code of Federal Regulations to read as follows:

APPENDIX—CARGO SECURITY ADVISORY STANDARDS

PART 1—SEAL ACCOUNTABILITY AND PROCEDURES

SUBPART A—GENERAL

APPENDIX—CARGO SECURITY ADVISORY STANDARDS

PART 1—SEAL ACCOUNTABILITY AND PROCEDURES

Subpart A—General

SEC. 85-1.1 *Purpose.* (a) The purpose of this part is to set forth minimum procedures and guidelines that should be observed in order to institute and maintain an effective seal program.

(b) The advisory standards herein are general and each may not apply to every transportation mode.

SEC. 85-1.3 *Definitions.* As used in this part—

"Seal" means a device applied to a railcar, trailer, marine container, or air cargo container door fastening which—

(1) Indicates whether the door has been opened or the fastening tampered with, and, if so, at what point in the chain of custody the tampering occurred;

(2) Is easily applied to all types of fastenings;

(3) Readily shows when it is not properly fastened;

(4) Is of sufficient strength to resist accidental breaking;

(5) Cannot be made to appear intact when broken;

(6) Has sufficient letters to identify the carrier or shipper; and

(7) Is serially numbered to facilitate identification of the person who applied the seal.

"Trailer" means a container, piggyback trailer, or standard semitrailer used by a motor carrier.

Subpart B—Distribution and Accountability

SEC. 85-1.11 *Purpose.* The purpose of this subpart is to suggest measures designed to assure that seals are strictly accounted for from receipt from the manufacturer to time of application. Resources devoted to a seal program are wasted unless this goal is achieved.

SEC. 85–1.13 *Ordering seals from the manufacturer.* (a) (1) To simplify security control for both the company using the seals and the manufacturer, all seals should be ordered from the manufacturer by one person or office, preferably in company headquarters, regardless of the number of terminals or other locations involved.

(2) The manufacturer can send the necessary seals directly to the individual terminals, but only at the request of the person or office identified in subparagraph (1) of this paragraph.

(b) Seals should be ordered for each terminal in such a way that the terminal responsible for a particular group of seals is readily identifiable. This can be done by assigning specific blocks of numbers to each terminal, or, more easily in most cases, by using terminal prefix numbers.

SEC. 85–1.15 *Company identification.* In addition to a prefix and a serial number, the name or initials of the company using the seal should be stamped on each seal.

SEC. 85–1.17 *Storage.* (a) The purpose of storage is to prevent seals from being acquired by unauthorized persons for substitution or other illegal use.

(b) Seals should be stored in a locked room, cabinet or drawer, depending on the number of seals to be stored.

SEC. 85–1.19 *Records.* (a) If seals are sent from the manufacturer to a central office for further distribution to terminals, precise records, by seal serial number, should be maintained showing how many seals were sent to each location.

(b) When the terminals or other locations receive seals, either directly from the manufacturer or from company headquarters, a log should be maintained showing the lowest number and highest number of any seal received, and the date the seals were received.

SEC. 85–1.21 *Employee accountability.* (a) To maintain positive accountability, each employee authorized to apply seals should be required to sign or initial for the seals he applies, by their serial numbers.

(b) The person responsible for dispensing seals at a terminal should maintain a Seal Application Log showing, for each seal, the

(1) Date the seal is applied;

(2) Number of the trailer to which it is applied;

(3) Name of the person to whom the seal is issued; and

(4) Name of the person applying the seal to the trailer, if other than the person to whom the seal is issued.

SEC. 85–1.23 *Accountability at terminals.* The manager of the terminal where seals are applied should assign one person responsibility for the safekeeping, issuance, and recordkeeping of seals applied at that terminal. This is the most important step in an effective seal program.

Subpart C—Seal Records

SEC. 85–1.31 *Purpose.* (a) Common sense and the particular circumstances of each company dictate the types of records necessary. The goal of seal records is to pinpoint where in the chain of custody a trailer's security was breached, in order to simplify determination of where the loss occurred, who was responsible, and other information necessary to prevent future losses. Problem areas cannot be pinpointed unless there are adequate accountability and complete records.

(b) The purpose of this subpart is to suggest measures designed to determine—

(1) Who had custody of each seal;

(2) When, where, and to which unit each seal was applied; and

(3) When, where, and by whom each seal was broken.

SEC. 85–1.33 *Seal serial numbers.* (a) Record should be maintained of the serial numbers of seals—

(1) Received at each terminal; and

(2) Issued to authorized employees for application to trailers.

(b) In addition to being entered in seal record books, forms, and logs used by a company, seal serial numbers should also be entered on all pertinent documents (e.g., manifests, load charts or diagrams, travel orders, gate passes, bills of lading, freight bills).

SEC. 85–1.35 *Broken seals.* When necessary to break a seal en route or at an intermediate terminal, the following minimum information should be entered on the manifest (and seal log, if used):

(a) Date and time seal was broken;

(b) Name of person who broke seal;

(c) Reason seal was broken;

(d) Serial number of the seal replacing the broken seal (and the serial number of the broken seal, if a seal log is used);

(e) Name of person applying the replacement seal; and

(f) Names of witnesses.

SEC. 85–1.37 *Use of guards.* Where a gate guard is used, he should check the seal serial number against the gate pass and travel order and, ideally, enter in a gate log the serial number of—

(a) Each seal;

(b) The trailer to which the seal is applied; and

(c) The tractor to which the trailer is attached.

Subpart D—Seal Application

SEC. 85–1.41 *Time of seal application.* (a) A trailer should be sealed as soon as the load is "closed out" (complete). Specifically—

(1) Roll-up doors should be sealed at the dock; and

(2) Swing-out doors should be sealed by the person pulling the unit away from the dock as soon as the unit is far enough away from the dock for the doors to be closed.

(b) Application of seals should be supervised. Failure to supervise or allowing the hostler to move an unsealed trailer to a staging area offers opportunity to—

(1) Pilfer prior to applying the seal; or

(2) Apply a bogus seal, break the seal later, remove cargo, and then apply the legitimate seal.

SEC. 85–1.43 *Authority to apply seals.* (a) The manager of the terminal should authorize specific persons on each shift to apply seals at that terminal, and only those so authorized should be permitted to apply seals.

(b) The number of persons who should be authorized to apply seals depends on the particular circumstances at each terminal. The number should be kept to a minimum to facilitate adequate supervision to assure that operational expediency does not permit application of seals by unauthorized persons.

SEC. 85–1.45 *Application.* (a) Before the seal is locked, it should be put through the latch hole twice.

(b) Locking device nuts on trailers should be spot welded to prevent release of the locking handle without disturbing the seal.

SEC. 85–1.47 *Final check.* (a) The seal should be checked by the line haul or interline driver before the vehicle to which it is applied leaves the terminal.

(b) If there is a guard at the gate, he should insure that the seal is legitimate and intact before releasing the vehicle to which it is applied.

Subpart E—Destination Removal

SEC. 85–1.51 *Authority to remove seals.* (a) The terminal manager should authorize specific persons to remove seals from inbound trailers, and, except as otherwise provided in paragraph (b) of this section, only those so authorized should be permitted to remove seals.

(b) To insure before unloading that the seal removed is the orilgnal, if a hostler has to break and remove a seal on a swing-door trailer before spotting it at the dock, the breaking of the seal should be witnessed from the dock by an authorized person described in paragraph (a) of this section, who should physically check the serial number on the seal against the seal serial number entered on the pertinent documents. A hostler should not be permitted to break a seal prior to spotting the trailer to which it is applied when the breaking cannot be observed from the dock.

SEC. 85–1.53 *Discrepencies.* (a) A seal removed from a trailer should be kept with the manifest and bills until the trailer is stripped.

(b) If there is not a discrepency between the manifest and the cargo the seal may be discarded; if there is a discrepency, especially in tail-loaded freight, the seal should be sent with a report on the discrepency to the security section.

(c) A discrepency between the serial number on the seal and the seal serial number entered on the manifest should be reported immediately to a supervisor and a notation of the details made on the manifest and other pertinent documents.

Subpart F—Road Procedures

SEC. 85–1.61 *Truck trailers.* (a) Each seal should be checked prior to leaving the terminal and at each stop en route to destination, including truck stops, diners, and other service areas.

(b) If a road unit's seal has been tampered with, the driver should immediately contact home terminal, central dispatch, or the nearest company terminal for instructions.

SEC. 85–1.63 *Container and piggyback operations.* (a) In a container or piggyback operation each seal should be checked at each transfer point and the serial number on each seal recorded.

(b) As used in this section, "transfer" includes—

(1) Movement of containers on and off vessels;

(2) Movement of trailers on and off flatcars; and

(3) Trailer-on-flatcar movements from one railroad to another.

SEC. 85–1.65 *Railcars.* Consistent with manpower and available time, but at the very least when high value/high risk shipments are involved, each seal on a railcar should be checked at each interchange point to establish the responsibility of individual railroads for losses that occur.

Subpart G— Shipper's Load and Count (SL&C)

SEC. 85–1.71 *General.* It is to the advantage of carriers in every mode to insure the security of Shipper's Load and Count Seals. This should be accomplished by use of "seal locks," offering both physical and liability protection, or, at a minimum, strong wire or cable in addition to a normal seal. This precaution increases the time and effort necessary to break into a rail car, container, or trailer, with concomitant protection to a carrier against errors in count by shipper and /or consignee.

SEC. 85–1.73 *Application.* (a) The Shipper's Load and Count Seal should be applied at the shipper's premises by the shipper's representative.

(b) The seal serial number should be recorded on all copies of the bill of lading and transcribed to the waybill.

SEC. 85–1.75 *Removal for inspection.* When a Shipper's Load and Count Seal is removed

to inspect the load, the following minimum information should be entered in the bill of lading and freight bills:

(a) Date seal was removed;

(b) Name of person who broke the original seal and applied the new seal;

(c) Reason the seal was broken;

(d) Serial number of the seal which replaced the broken seal; and

(e) Location where seal was broken.

SEC. 85-1.77 *Destination procedure.* At destination, whether interline or consignee, the person receiving a trailer or railcar seal with a Shipper's Load and Count Seal should examine the seal and record its serial number above his signature on the delivery receipt and/or interchange agreement.

SEC. 85-1.79 *Responsibility of the driver.* (a) A driver should not break a Shipper's Load and Count (SL&C) Seal under any circumstances unless he is so directed by the consignee or his representative and the person so directing witnesses the breaking of the seal.

(b) If the consignee or his representative directs a driver to break an SL&C seal—

(1) The consignee or his representative should examine the broken seal; and

(2) The consignee or his representative, or if necessary, the driver, should record the seal serial number on the delivery receipt.

SEC. 85-1.81 *U.S. Government and "in bond" seals.* (a) Special care should be taken with U.S. Government seals and "in bond" seals applied under U.S. Customs supervision.

(b) An "in bond" seal should not be broken unless a U.S. Customs representative is present.

Before taking final action to issue the proposed advisory standard, the Department will consider the timely comments of all interested persons. Comments should identify the docket or notice number (see above) and be submitted to the Docket Clerk, Office of the General Counsel, TGC, Department of Transportation, Washington, D.C. 20590. Comments received on or before May 10, 1973, will be considered before final action is taken. All docketed comments will be available for public inspection and copying, both before and after the closing date for comments, in the Office of the Assistant General Counsel for Regulation, Room 10100, Department of Transportation Headquarters (Nassif) Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5:30 p.m. local time, Monday through Friday, except Federal holidays.

This proposal is issued under authority of section 9(e)(1) of the Department of Transportation Act (80 Stat. 944, 49 U.S.C. 1657(e)(1)), and § 85.3 of the regulations of the Office of the Secretary of Transportation (49 CFR 85.3).

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

RICHARD F. LALLY,
Director of Transportation Security.

[FR Doc.73-5760 Filed 3-23-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 83]

[Docket No. 19706; FCC 73-288]

STATIONS ON SHIPBOARD IN MARITIME SERVICE

Reduction of Minimum Required Power Output and Designation of Primary Supply Voltage for Type Acceptance

In the matter of amendment of Part 83 to reduce the minimum required power output and designate the primary supply voltage to be used to determine the minimum power required for compliance with title III, part III of the Communications Act and to designate the nominal primary supply voltage for type acceptance, Docket No. 19706.

1. The Commission's field engineers have found that some VHF transmitters, in normal working order when tested on the battery, have failed to meet the carrier power output of 20 watts, required by § 83.518 for VHF transmitters used for compliance with part III of title III of the Communications Act, even though they have been type accepted for 25 watts. The discrepancy between rated power and tested power may be attributed, in part, to the lack of having specified the supply voltage to be used when conducting tests for type acceptance or for compliance with the compulsory radio requirements of the rules.

2. Some manufacturers have used the Electronics Industries Association (EIA) standard of 13.8 volts for tests. When testing a transmitter for compliance with the compulsory radio requirements, our field engineers use an input voltage of 12 volts. This is assumed to be the nominal operating voltage since it is the voltage of a fully charged lead-acid storage battery and simulates emergency operating conditions.

3. We propose to specify the EIA standard of 13.8 volts, for systems using lead storage batteries, as the nominal primary supply voltage for type acceptance and 85 percent of this value when conducting tests for minimum carrier power output for compliance with compulsory radio requirements.

4. During the considerations leading to our proposed changes to the Great Lakes Agreement it was determined that a minimum of 15 watts power for VHF was sufficient to provide adequate communications for safety purposes. Consistent with our proposed Great Lakes Agreement power minimum of 15 watts and our continuing effort to keep transmitters operating at acceptable minimum power, we are proposing that the minimum power requirements of § 83.518 be reduced from 20 to 15 watts.

5. The proposed amendments to the rules are issued pursuant to the authority contained in sections 4(i) and 303 (e) and (r) of the Communications Act of 1934, as amended.

6. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before April 27, 1973, and reply comments on or before May 10, 1973. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs or comments filed shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: March 13, 1973.

Released: March 19, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 83.134(f) is amended and new footnote 3 is added to read as follows:

§ 83.134 **Transmitter power.**

* * * * *

(f) Ship station transmitters using F3 emission in the band 156–162 MHz shall not exceed a carrier power of 25 watts[1 2 3] and, additionally, shall include the capability to reduce, readily, the carrier power to 1 watt[3] or less.

* * * * *

[3] The 25 watts carrier power limit shall be determined at the nominal primary power supply voltage. Nominal primary supply voltage is considered to be 13.8 volts for equipment employing a conventional 12 volt lead acid storage battery as a source of primary power.

2. Section 83.518(c)(2) is amended to read:

§ 83.518 **Very high frequency transmitter.**

* * * * *

(c) * * *

(2) The transmitter has been demonstrated, or is of a type which has been demonstrated, to the satisfaction of the Commission as capable, with an applied primary power supply voltage equal to

85 percent of the nominal value, of delivering not less than 15 watts carrier power into 50 ohms effective resistance on each of the carrier frequencies 156.300 MHz, 156.800 MHz and on any one of the ship-to-shore public correspondence channels: *Provided, however,* That an individual demonstration of the power output capability of the transmitter, with the radiotelephone installation, normally installed on board ship, may be required whenever in the judgment of the Commission this is deemed necessary.

[FR Doc.73-5687 Filed 3-23-73;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1912]

STANDARDS ADVISORY COMMITTEES

Application of Federal Advisory Committee Act

It is proposed to revise Part 1912 of Title 29, Code of Federal Regulations, in the manner indicated below in order to implement the Federal Advisory Committee Act (Public Law 92-463), Office of Management and Budget Circular A-63, and to be in furtherance of the general departmental rules implementing the Act which are to be published in Part 15 of Title 29, Code of Federal Regulations.

Part 1912 prescribes the policies and procedures dealing with the organization and duties of advisory committees which have been established, or which may be established, to assist the Assistant Secretary of Labor for Occupational Safety and Health in the development of occupational safety and health standards which may be adopted under section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655). In applying the Federal Advisory Committee Act and other provisions cited above to Part 1912, significant changes are proposed dealing with the organizational instruments establishing advisory committees; the procedures governing the meetings of advisory committees, including more explicit rules governing the notice of committee meetings and the nature and degree of public participation in the meetings; rules applying the Freedom of Information Act to committee activities, and availability of transcripts; and important rules dealing with the termination of advisory committees.

Interested persons are invited to submit written comments or suggestions concerning the proposed revision to the Solicitor, Attention: Associate Solicitor for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C. 20210, not later than April 25, 1973.

As revised, Part 1912 would read as follows:

PART 1912—ADVISORY COMMITTEES ON STANDARDS

AUTHORITY: Secs. 6(b), 7(b), 8(g), Public Law 91-596, 84 Stat. 1593, 1597, 1600 (29 U.S.C. 655(b), 656(b), 657(g)). Interpret or apply Public Law 92-463, 86 Stat. 770-778.

§ 1912.1 Purpose and scope.

This part prescribes the policies and procedures governing the composition and functions of advisory committees which have been, or may be, appointed under section 7(b) of the Act to assist the Assistant Secretary in carrying out the standards-setting duties of the Secretary of Labor under section 6 of the Act. Such committees are specifically authorized by section 7(b). The policies and practices herein are intended to reflect those expressed in the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) and will be applied in a manner consistent with the Act, Office of Management and Budget Circular A-63, "Committee Management," and the Department of Labor's general rules under that Act which are published in Part 15 of this title.

ORGANIZATIONAL MATTERS

§ 1912.2 Types of standards advisory committees.

The Assistant Secretary establishes two types of advisory committees under section 7(b) of the Act to assist him in his standards-setting duties. These are: (a) Continuing committees which have been, or may be established, from time to time, to assist in the development of standards in areas where there is frequent rulemaking and the use of ad hoc committees is impractical; and (b) ad hoc committees which are established to render advice in particular rulemaking proceedings.

§ 1912.3 Advisory Committee on Construction Safety and Health.

(a) This part also applies to the Advisory Committee on Construction Safety and Health which has been established under section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333), commonly known as the Construction Safety Act. The aforesaid section 107 requires the Secretary of Labor to seek the advice of the Advisory Committee in formulating construction standards thereunder. The standards which have been issued under section 107 are published in Part 1926 of this chapter. In view of the far-reaching coverage of the Construction Safety Act, the myriad of standards which may be issued thereunder, and the fact that the Construction Safety Act would also apply to much of the work which is covered by the Williams-Steiger Occupational Safety and Health Act of 1970, whenever occupational safety or health standards for construction activities are proposed, the Secretary shall consult the Advisory Committee. The composition of the Advisory Committee is consistent with that of advisory committees which may be appointed under section 7(b) of the Act. See paragraph (c) of this section. An additional advisory committee will not normally be established under section 7(b) of the Act, unless the issue or issues involved include, but extend beyond construction activity. See § 1912.4 concerning the general policy against duplication of activity by advisory committees.

(b) The Advisory Committee is a continuing advisory body. It is composed of 15 members appointed by the Assistant Secretary, one of whom is appointed by him as Chairman. The composition of the Advisory Committee is as follows:

(1) One member who is a designee of the Secretary of Health, Education, and Welfare;

(2) Five members who are qualified by experience and affiliation to present the viewpoint of the employers involved and five members who are similarly qualified to present the viewpoint of the employees involved;

(3) Two representatives of State safety and health agencies; and

(4) Two members who are qualified by knowledge and experience to make a useful contribution of the work of the Committee.

(c) As originally constituted, the Advisory Committee was composed of nine members. However, pursuant to section 105 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 331), it has been found necessary and proper in the public interest and in order to prevent possible injustice, to vary the composition of the Advisory Committee: (1) By having its membership and representation conform to the provisions of section 7(b) of the Williams-Steiger Occupational Safety and Health Act, and (2) by increasing its membership to 15

members as permitted under the aforementioned section 7(b). Greater membership and greater representation serves the public interest and avoids possible injustice by permitting for the most part the use of one advisory committee, rather than possibly several advisory committees, in situations where both the Contract Work Hours and Safety Standards Act and the Williams-Steiger Occupational Safety and Health Act may be expected to apply to construction activity and by affording a greater opportunity for representation on the Advisory Committee within the construction industry.

(d) See paragraph (c) of § 1912.5 regarding the general policy role of the Advisory Committee.

(e) Except as provided in remaining paragraphs of this section, each member of the Advisory Committee shall serve for a period of 2 years, unless he becomes unable to serve, or resigns, or ceases to be qualified to serve on the Committee because he no longer meets any relevant representational requirements, or is removed by the Assistant Secretary in the interests of the administration of legislation involved. In such cases, the Assistant Secretary may appoint a new member to serve for the remainder of the unexpired term, who shall be representative of the same interest.

(f) The designee of the Secretary of Health, Education, and Welfare shall have no fixed term.

(g) To provide for continuity in the membership of the Committee, the terms of the members commencing July 1, 1972, shall be appropriately staggered for terms of 1, 2, and 3 years.

(h) Members may be appointed to successive terms.

(i) A member who is otherwise qualified may continue to serve until a successor is appointed.

§ 1912.4 Avoidance of duplication.

No standards advisory committee shall be created if its duties are being, or could be, performed by an existing advisory committee established under section 7(b) of the Act.

§ 1912.5 National Advisory Committee on Occupational Safety and Health distinguished.

(a) Section 7(a) of the Act established a National Advisory Committee on Occupational Safety and Health. The Committee is to advise, consult with, and make recommendations to the Secretary and the Secretary of Health, Education, and Welfare on matters relating to general administration of the Act.

(b) Advisory committees appointed under section 7(b) of the Act, which are the subject of this part, have a more limited role. Such advisory committees are concerned exclusively with assisting the Assistant Secretary in his standards-setting functions under section 6 of the Act.

(c) On the other hand, the Advisory Committee on Construction Safety and Health, established under the Construction Safety Act, provides assistance in both the setting of standards thereunder and policy matters arising in the administration of the Construction Safety Act. To the extent that the Advisory Committee on Construction Safety and Health renders advice to the Assistant Secretary on general policy matters, its activities shall be coordinated with those of the National Advisory Committee on Occupational Safety and Health.

§ 1912.6 Conflict of interest.

No members of any advisory committee other than members representing employer or employee members shall have an economic interest in any proposed rule.

§ 1912.7 Reports.

The Assistant Secretary shall prepare or cause to be prepared, for the Department of Labor's Committee Management Officer reports describing the committee's membership, functions, and actions as may be necessary for the performance of the duties of the Committee Management officer.

§ 1912.8 Committee charters.

(a) Filing: No advisory committee shall take any action or conduct any business subsequent to January 5, 1973, until a committee charter has been filed with the Secretary of Labor, the standing committees of the Congress having legislative jurisdiction of the Department of Labor and the Library of Congress.

(b) Committee charter information: Each committee charter shall contain the following information:

(1) The committee's official designation;

(2) The committee's objectives and scope of activity; i.e., the standard or standards to be developed.

(3) The period of time necessary for the committee to carry out its purposes;

(4) The agency to whom the advisory committee reports (i.e., the Assistant Secretary);

(5) The agency responsible for providing support (i.e., the Occupational Safety and Health Administration);

(6) Description of the committee's duties;

(7) The estimated number and frequency of committee meetings;

(8) The estimated annual operating costs in dollars and man-years;

(9) The committee's termination date or other fixed period of termination, if less than 2 years; and

(10) The date the charter is filed with the Department of Labor's Committee Management Officer.

(c) Applicability of this section to subgroups: The applicability of this section to subgroups of an advisory committee depends upon the nature of the subgroup. With regard to formal subgroups, such as a formal subcommittee of an advisory committee, the requisite information should be set forth either in the charter of the parent committee or in a separate charter. Informal subgroups of an advisory committee, particularly those temporary in nature, need not be reflected expressly in a charter.

(d) The Assistant Secretary shall file any charter to the Department's Committee Management Officer which shall constitute filing with the Secretary of Labor. The Department's Committee Management Officer shall have the responsibility for assuring the appropriate filings of the charters outside the Department. See § 15.3 of this title.

§ 1912.9 Representation on section 7(b) committees.

(a) Any advisory committee appointed by the Assistant Secretary under section 7(b) of the Act shall contain the following:

(1) At least one member who is a designee of the Secretary of Health, Education, and Welfare;

(2) At least one member who is qualified by experience and affiliation to present the viewpoint of the employers involved, and at least one member who is similarly qualified to present the viewpoint of the employees involved. There shall be an equal number of representatives of employers and employees involved; and

(3) At least one representative of State health and safety agencies.

(b) The advisory committee may include such other persons as the Assistant Secretary may appoint who are qualified by knowledge and experience to make a useful contribution to the work of the committee, including one or more representatives of professional organizations of technicians or professionals specializing in occupational safety or health and one or more persons of nationally recognized standards-producing organizations, but the number of persons so appointed shall not exceed the number of persons appointed as representatives of Federal and State agencies.

(c) Each committee shall consist of not more than 15 members.

(d) The representation in the Advisory Committee on Construction Safety and Health is described in § 1910.3 of this chapter.

§ 1912.10 Terms of continuing committee members.

(a) Each member of a continuing committee established under section 7(b) of the Act, other than those appointed to a committee when it is formed initially shall serve for a period of 2 years, unless he becomes unable to serve, or resigns, or ceases to be qualified to serve because he no longer meets the representation requirements of section 7(b) of the Act or is removed by the Assistant Secretary in the interest of the administration of the Act. In such cases the Assistant Secretary may appoint a new member to serve for the remainder of the unexpired term, who shall be representative of the same interest.

(b) To provide for continuity in the membership of each continuing committee the initial appointments of its members shall be varied. For example, in the case of a 15-member committee, the Secretary could appoint four members representing Federal and State agencies and four members representing nongovernmental interests to terms which expire within the year in which they are appointed, and four members representing Federal and State agencies and three

members representing nongovernmental interests to terms which expire within the second year following their appointment. Thereafter, at the expiration of such terms, members would be appointed or reappointed for a regulation term of 2 years. The initial appointments of committees with fewer than 15 members would be similarly varied.

(c) Any vacancies on standing committees shall be filled as soon as practicable.

§ 1912.11 Terms of ad hoc committee members.

Each member of an ad hoc advisory committee shall serve for such period as the Assistant Secretary may prescribe in his notice of appointment unless he becomes unable to serve, or resign, or cease to be qualified to serve because they no longer meet the representational requirements of section 7(b) of the Act, or is removed by the Secretary of Labor in the interest of the administration of the Act. In such cases the Secretary may appoint a new member to serve for the remaining portion of the period prescribed in the notice appointing the original member of the committee.

§ 1912.12 Termination of advisory committees; renewal.

(a) Every standards advisory committee established under section 7(b) of the Act shall terminate not later than 2 years after its charter has been filed, unless its charter is renewed by appropriate action for a successive period of not more than 2 years. The procedure for renewal shall be the same as that specified in paragraph (b) of this section.

(b) Each advisory committee established under section 7(b) of the Act which is in existence on January 5, 1973, shall terminate by January 5, 1975, unless it is renewed before the latter date. Before any advisory committee can be renewed, the Assistant Secretary must determine that such renewal is necessary, and so inform the Department of Labor's Committee Management Officer. The OMB Secretariat must be informed of this determination and the reasons for it. Such determination shall be made not more than 60 days before the scheduled date of termination. If the OMB Secretariat concurs, new charter shall be filed renewing the advisory committee and a notice of the renewal shall be published in the FEDERAL REGISTER.

(c) There shall be filed on behalf of the Advisory Committee on Construction Safety and Health, an advisory committee established by the Construction Safety Act, a charter in accordance with section 9(c) of the Federal Advisory Committee Act upon the expiration of each successive 2-year period following the date of the enactment of the Construction Safety Act (i.e., August 9, 1969).

(d) Unless provided otherwise by the Assistant Secretary, the duration of a subgroup of a committee shall be the same as that of the parent committee.

(e) No advisory committee required to file a new charter under this section shall take any action (other than the preparation and filing of charter) before the date on which the charter is filed.

OPERATION OF ADVISORY COMMITTEES

§ 1912.25 Call of meetings.

No advisory committee shall hold any meeting except at the call of, or with the advance approval, of the Assistant Secretary or his representative designated for this purpose. The Department of Labor's Committee Management Officer shall be promptly informed of any meeting that is called.

§ 1912.26 Approval of agenda.

Each meeting of an advisory committee shall be conducted in accord with an agenda approved by the Assistant Secretary or his representative designated for this purpose. No particular form for the agency is prescribed.

§ 1912.27 Notice of meetings.

Public notice of any meeting of an advisory committee shall be given by the officer or employee calling the meeting at least seven (7) days in advance of the meeting; except when it is impractical to do so, or in an emergency situation, in which event shorter advance notice may be given to the extent that any advance notice is practical. Such notice shall be given by publication in the FEDERAL REGISTER. In addition, notice may be given by such other means as press releases.

§ 1912.28 Contents of notice.

(a) The notice shall give the name of the committee, and the time and place of the meeting.

(b) The notice shall describe fully or summarize adequately the agenda.

(c) The notice shall announce that the meeting is open to the public.

(d) The notice shall indicate that interested persons have an opportunity to file statements in written form with the committee. The notice shall specify whether the statements are to be filed before or during the meeting. However, when a committee is consulted at the decisional stage of a proceeding under § 1911.18 of this chapter, no additional opportunity shall be afforded for written presentations.

(1) In the discretion of the chairman of the meeting, upon consultation with counsel if made available to the committee, oral statements may be made before the committee by interested persons after taking into consideration the number of persons in attendance, the nature and extent of their proposed individual participation, the extent to which presentations would anticipate presentations which may be made in any rule making proceeding held under section 6 of the Act subsequent to the recommendations of the committee, and the time, resources, and facilities available to the committee. In the discretion of the chairman, upon consultation with counsel if made available to the committee, may allow or preclude the questioning of committee members or other participants.

(2) The person calling the meeting may provide in the notice of the meeting that summaries of any proposed oral presentations be filed in advance of the meeting, and may allow or preclude the questioning of committee members or other participants.

(3) Under no circumstances will an opportunity for an oral presentation be afforded when an advisory committee is consulted at the decisional stage of a rule making proceeding.

§ 1910.29 Attendance by members.

Any person appointed by the Assistant Secretary to an advisory committee has the right to attend any duly called meeting. In addition, if any person representing the interests of employers or employees is unable for any reason to attend a duly called meeting of his committee and desires to have someone else represent him at the meeting, he may submit the name of his delegate in advance to the person designated for this purpose by the Assistant Secretary in order that appropriate arrangements may be made before the time of the meeting for the representative to attend and participate in the meeting as a member.

§ 1912.30 Quorum; committee procedure.

(a) A majority of the members of any advisory committee including the Construction Safety Advisory Committee, shall constitute a quorum, so long as there are present at least one member representative of the Secretary of Health, Education, and Welfare, one member representative of a State agency, one member representative of involved employers, and one member representative of involved employees.

(b) In the absence of its chairman, the committee may designate a member to preside at any meeting thereof.

(c) For the purpose of this section, the term "member" shall include any delegate of a member named under § 1912.29.

§ 1912.31 Experts and consultants.

At the request of an advisory committee or the person calling a meeting of an advisory committee, the Assistant Secretary may make available to the committee any experts or consultants in the field involved. Any expert or consultant so made available may participate in the deliberations of the committee with the consent of the committee.

§ 1912.32 Presence of OSHA officer or employee.

The meetings of all advisory committees shall be in the presence of an OSHA officer or employee designated for this purpose. Such officer or employee shall be empowered to adjourn any meeting whenever he determines adjournment to be in the public interest.

§ 1912.33 Minutes.

(a) Detailed minutes of advisory committee meetings shall be prepared and certified as accurate by the Chairman of the committee for the committee appointed by the person calling the meeting. In addition to the minutes there shall be kept verbatim transcripts of all advisory committee meetings.

(b) The minutes shall include at least the following:

(1) A list of the advisory committee members and agency employees who were present at the meeting;

(2) Any significant conclusions reached which are not recommendations;

(3) Any written information made available for consideration by the committee, including copies of all reports received, issued, or approved by the committee;

(4) Any recommendations made by the committee to the Assistant Secretary and the reasons therefor;

(5) An explanation of the extent, if any, of public participation, including a list of interested persons who presented oral or written statements; and an estimate of the number of the members of the public who attended the meeting.

§ 1910.34 Freedom of Information Act.

Subject to the Freedom of Information Act (5 U.S.C. 552) and Part 70 of this title and Part 1913 of this chapter, there shall be available for public inspection and copying in the Office of Standards, Occupational Safety and Health Administration, documents which were made available to or prepared for or by each advisory committee.

§ 1910.35 Availability and cost of transcripts.

Except where prohibited by contractual agreements entered into before the effective date of the Federal Advisory Committee Act (January 5, 1973), any transcripts of advisory committee meetings are to be made available to any person at the actual cost of duplication.

§ 1912.36 Advice of advisory committees.

Approval by a majority of all the members of an advisory committee is encouraged for rendering advice or making recommendations. However, a failure to marshal a majority of all members of an advisory committee shall not be a reason for not giving advice to the Assistant Secretary. The Assistant Secretary shall be informed of any concurring or dissenting views. If the advice of an advisory committee is not forthcoming within a period of time prescribed by the Assistant Secretary or by the Act, the Assistant Secretary may direct the immediate return of any materials which may have been submitted to the advisory committee.

§ 1912.40 General services.

The Assistant Secretary shall provide supporting services to advisory committees. Such services shall include clerical, stenographic, and other forms of technical assistance.

§ 1912.41 Legal services.

The Solicitor of Labor shall provide such legal assistance as may be necessary or appropriate for advisory committees to carry out their functions in accordance with the requirements of this part.

§ 1910.42 Reservation.

The policies and procedures set forth in this part are intended for general application. In specific situations where the Assistant Secretary determines that different policies or procedures would better serve the objectives of the Act, such policies or procedures may be modified upon appropriate notice to any persons affected by the modification to the extent that such policies or procedures are consistent with the Federal Advisory Committee Act and OMB Circular A-63, and are approved by the Solicitor under Part 15 of this title.

§ 1912.43 Petitions for changes in the rules; complaints.

(a) Each interested person shall have the right to petition for the issuance, amendment, or repeal of rules published in this part. Any such petition will be considered in a reasonable time. Prompt notice shall be given of the denial in whole or in part of any petition. Except in affirming a prior denial or when the denial is self-explanatory, the notice shall be accompanied by a brief statement of the reasons therefor.

(b) Any advisory committee member or any other aggrieved person may file a written complaint with the Assistant Secretary alleging noncompliance with the rules in this part. Any complaint must be timely filed, but in no case shall any complaint be filed later than seven (7) days following the act of alleged noncompliance. Any complaint shall be acted upon promptly and a written notice of the disposition of the complaint shall be provided to the complainant.

§ 1912.44 Definitions.

As used in this Part 1912, unless the context clearly requires otherwise.

(a) "Act" means the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1590; 29 U.S.C. 650).

(b) "Advisory Committee" has the meaning set forth in section 3(2) of the Federal Advisory Committee Act. In this part, the term includes any committee or subcommittee appointed under section 7(b) of the Act to provide advice to the Assistant Secretary in the development of occupational safety and health standards under the Act. The term includes subcommittees whether they be formal or informal subgroups. An informal subgroup is a type having few characteristics of a formal advisory committee (e.g., during a meeting of a formal advisory committee it might divide itself into informal subgroups to permit simultaneous discussion of several topics).

(c) "Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health.

(d) "Committee charter" means an order, statement or proclamation of the Assistant Secretary establishing, continuing, or using an advisory committee, as the case may be.

(e) "Construction Safety Act" means section 107 of the Contract Work Hours and Safety Standards Act (83 Stat. 96; 40 U.S.C. 333).

Signed at Washington, D.C. this 20th day of March 1973.

CHAIN ROBBINS,
Acting Assistant Secretary of Labor.

[FR Doc.73-5705 Filed 3-23-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1322]

[Ex Parte Nos. 73, MC-1]

MOTOR CARRIERS

Payment of Rates and Charges

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 14th day of March 1973.

In these proceedings we propose to study recent developments which may have caused or significantly contributed to difficulties being encountered by certain carriers subject to our jurisdiction in the proper extension of credit and the timely collection of their lawful charges. Our inquiry herein will also be aimed at determining what, if any, effect upon carrier compliance with our current credit regulations may stem from various practices assertedly engaged in by shippers and other parties responsible for payment of the lawful charges of those carriers and what corrective measures may or should be implemented to bring about any improvement therein in the public interest.

On December 22, 1971, the American Trucking Associations filed a petition requesting the Commission to reopen Ex Parte No. MC-1 for the purpose of considering the desirability of amending the Commission's rules and regulations governing the extension of credit by motor common carriers of property to shippers, 49 CFR Part 1322, and more specifically for the consideration of the following proposed amendment to those regulations, to be designated as § 1322.6:

§ 1322.6 Required payment by shippers within prescribed period.

Shippers to whom credit has been extended under the provisions of this part must pay the required transportation charges within the credit period prescribed herein.

Good cause has been shown for reopening for further hearing this proceeding for the purpose of considering whether the credit regulations may and/or should be amended as proposed and, further, to consider all alternatives available to assure the prompt payment of freight bills by shippers and the proper extension of credit by certain carriers.

Examples of the possible alternatives available are:

(1) Extending the credit period;

(2) Tariff provisions containing penalties for the late payment of rates and charges; and

(3) A regulation requiring any carrier whose rates and charges have not been paid by the responsible party within the credit period to report that fact to the Commission together with the name of the offending party, the publication by the Commission on a periodic basis of a list of parties in arrears, and a regulation prohibiting any carrier subject to section 3(2) and/or 223 of the Interstate Commerce Act from extending credit to the parties on the current periodic list.

Consideration should also be given to amending in similar fashion, or by means of available alternatives, the credit regulations relating to common carriers by railroad, 49 CFR 1100.1320 et seq. and, therefore, good cause exists for reopening for further hearing the proceeding in Ex Parte No. 73.

Unless a need therefor should later appear, no oral hearing should be scheduled, for the receipt of testimony, but respondents or any other interested party should be permitted, after a service list has been compiled, to file written statements of facts, views, and arguments under the modified procedure.

It is ordered, That the petition of American Trucking Association, Inc., filed December 22, 1971, be, and it is hereby, granted to the extent indicated above; that Ex Parte No. 73 and Ex Parte No. MC-1 be, and they are hereby, reopened for the purposes mentioned above; and that consideration be given not only to the proposed amendment but also to all alternatives available to assure prompt payment of freight bills by shippers, and the proper extension of credit by common carriers by railroad and motor common carriers.

It is further ordered, That all common carriers by railroad and all motor common carriers of property which are subject to the Interstate Commerce Act be, and they are hereby, made respondents in these proceedings, respectively.

It is further ordered, That the Commission's Bureau of Enforcement be, and it is hereby, authorized and directed to participate in these proceedings.

It is further ordered, That the Executive Office of the President, Office of Consumer Affairs and the U.S. Department of Transportation be, and they are hereby, invited to participate actively in these proceedings.

It is further ordered, That these proceedings be handled on a consolidated record.

It is further ordered, That any person intending to participate in these proceedings by submitting initial or reply statements, or otherwise, shall notify this Commission, by filing with the Secretary, Interstate Commerce Commission, on or before April 30, 1973, the original and one copy of a statement of his intention to participate.

It is further ordered, That, to save time and expense to the public, the service of pleadings shall be limited to parties who file a statement of intention to take an active part in the proceedings which describes their interests and whether such interests extend either to: (a) Receiving only Commission releases, or (b) additionally receiving or filing initial or reply statements including a statement explaining whether the parties' interests can be expressed jointly with other parties (and any other suggestions to reduce the service list); that this Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties desiring to participate in these proceedings and upon whom copies of all statements must be filed; and that at the time of service of this service list the Commission will fix the time for filing and serving statements under the modified procedure.

It is further ordered, That while this proceeding does not currently appear to be a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, statements filed by parties participating in these proceedings shall indicate the presence or absence of any effect of the recommendations made therein to this Commission on the quality of the human environment. Cf. Implementation–National Environmental Policy Act, 1969, 340 ICC 431 (1972).

And it is further ordered, That statutory notice of the institution of these proceedings be given to the general public by mailing a copy of this order to the Governor of every State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy of this order in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy thereof to the Director, Division of the Federal Register, for publication in the FEDERAL REGISTER.

NOTE: Statements submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C., during regular business hours.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-5717 Filed 3:23-73;8:45 am]

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE INTERIOR

Bureau of Mines

METAL AND NONMETALLIC MINE HEALTH AND SAFETY SYMPOSIUM ON TALC DUST HAZARDS

Notice of Public Meeting

The Bureau of Mines is conducting a study on the hazards caused by talc dust to those persons working in the metal and nonmetallic mineral industries. Federal mandatory standards §§ 55.5–1, 56.5–1, and 57.5–1, codified in Title 30, Code of Federal Regulations, Parts 55, 56, and 57, respectively, provide that exposure to airborne contaminants of persons working in a metal and nonmetallic mine shall not exceed, on a time weighted average, the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists. Excursions above the listed threshold limit values shall not be of a greater magnitude than is characterized as permissible by the Conference. Talc is considered under two classifications by the Conference. One is for talc alone and the other is for talc fibrous. Fibrous talc generally contains tremolite and both fibrous talc and tremolite are treated as asbestos by the Conference.

The Bureau of Mines is gathering data relating to the occupational hazards of talc, fibrous talc and tremolite. Notice is hereby given that a symposium open to the public will be held in Washington, D.C., starting at 9 a.m., on May 8, 1973, in the auditorium, Department of the Interior, 18th and C Streets NW.

Any member of the public and all interested persons including miners, representatives of miners, labor officials, mine operators, associations, members of the medical profession, and State and Federal officials wishing to make a presentation may do so by notifying the Chief, Division of Health, Room 4518, Metal and Nonmetal Mine Health and Safety, Bureau of Mines, Washington, D.C. 20240, telephone number 202–343–6315. Presentations should include information relating to the characterization of airborne dust from mining and milling of minerals containing talc and tremolite, and where possible, medical data related to disease and exposure to talc and tremolite dust from mining and milling. All persons attending the symposium will be given an opportunity to make an oral presentation. Written presentations may be mailed or delivered to the Chief, Division of Health, before, during and for a reasonable time after the public meeting, which will be announced at the conclusion of the meeting.

JOHN B. RIGG,
Deputy Assistant Secretary of the Interior.

MARCH 20, 1973.

[FR Doc.73-5667 Filed 3-23-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE MEETING

Notice of Public Meeting

Pursuant to the provisions of section 10(a)(2) of Public Law 92–463, notice is hereby given of a meeting of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905). This order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The committee will meet in the auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, FL, at 10:30 a.m., local time, on April 3, 1973.

The meeting will be open to the public and a brief period will be set aside for public comments and questions. The agenda of the committee includes the receipt and review of market supply and demand information incidental to consideration of the need for regulation of shipments of any grade or size of the named fruits, including export shipments, and the size, capacity, weight, dimensions or pack of the containers used in export shipments other than to Canada or Mexico.

Dated: March 22, 1973.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[FR Doc. 73-5791 Filed 3-23-73;8:45 am]

Animal and Plant Health Inspection Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; Changes in List of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 391.1, the list (38 FR 5124) of establishments which are operated under Federal inspection pursuant to the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), and which use humane methods of slaughter and incidental handling of livestock is hereby amended as indicated in the following table listing species at additional establishments and an additional species at a previously listed establishment that have been reported as being slaughtered and handled humanely.

Name of Establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equines
Missouri Beef Packers, Inc.	473C	(*)					
Nebraska-Iowa Dressed Beef Co.	1318	(*)					
Eckert's, Inc.	6917	(*)				(*)	
Brown's Processing Plant	8717	(*)	(*)	(*)	(*)	(*)	
New establishments reported: 4.							
Bergman Meat Packing Co., Inc.	6788		(*)				
Species added: 1.							

Done at Washington, D.C., on March 16, 1973.

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

[FR Doc.73-5576 Filed 3-23-73;8:45 am]

Federal Crop Insurance Corporation

[Notice 68]

CANNING AND FREEZING PEAS—IDAHO AND UTAH

Extension of the Closing Date for Filing of Applications for the 1973 Crop Year

Pursuant to the authority contained in § 401.103 of Title 7 of the Code of Federal Regulations, the time for filing applications for canning and freezing pea crop insurance for the 1973 crop year in the Idaho and Utah counties listed below is hereby extended until the close of business on March 30, 1973. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

IDAHO

Franklin.

UTAH

Box Elder.	Salt Lake.
Cache.	Utah.
Davis.	Weber.

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.73-5663 Filed 3-23-73;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

HEDGE HAVEN FARMS, INC.

Application for Construction-Differential Subsidy

Notice is hereby given that pursuant to title V of the Merchant Marine Act, 1936, as amended, Hedge Haven Farms, Inc. filed an application on March 19, 1973, for a construction-differential subsidy to aid in the construction of three ore/bulk/oil vessels of about 80,500 dwt for use in the foreign commerce of the United States.

Interested parties may inspect this application in the Office of the Secretary, Room 3099-B, Maritime Administration, Commerce Department Building, 14th and E Streets NW., Washington, DC 20035.

Dated: March 21, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-5722 Filed 3-23-73;8:45 am]

THIRD GROUP, INC.

Application for Construction-Differential Subsidy

Notice is hereby given that pursuant to title V of the Merchant Marine Act, 1936, as amended, Third Group, Inc., filed an application on February 16, 1973, as amended on March 2 and 12, 1973, for a construction-differential subsidy to aid in the construction of four oil tankers of 87,000 dwt for use in the foreign commerce of the United States.

Interested parties may inspect this application in the Office of the Secretary, Room 3099-B, Maritime Administration, Commerce Department Building, 14th and E Streets NW., Washington, D.C. 20035.

Dated: March 21, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-5723 Filed 3-23-73;8:45 am]

[Report No. 122]

FREE WORLD AND POLISH FLAG VESSELS ARRIVING IN CUBA

List

SECTION 1. The Maritime Administration is making available to the appropriate Departments the following list of vessels which have arrived in Cuba since January 1, 1963, based on information received through December 27, 1972, exclusive of those vessels that called at Cuba on U.S. Government-approved noncommercial voyages and those listed in section 2. Pursuant to established U.S. Government policy, the listed vessels are ineligible to carry U.S. Government-financed cargoes from the United States.

FLAG OF REGISTRY AND NAME OF SHIP	*Gross tonnage*
Total—all flags (166 ships)	1,263,930
Cypriot (81 ships)	675,752
Aegis Banner	9,024
Aegis Eternity	8,814
Aegis Fame	9,072
Aegis Hope (previous trips to Cuba as the Huntsmore—British)	5,678
**Aegis Legend (previous trip to Cuba—Greece)	8,925
Aegis Loyal	10,405
Aegis Strength	9,305
Aftadelfos	8,136
Aghios Ermolaos	7,208
Aghios Nicolaos	7,254
Alamar	11,929
Alda	7,292
*Alexandros Skoutaris	8,280
Alfa	7,388
Alma	9,097
Alpa	9,159
Amarilis	8,959
Anemone	7,168
Annunication Day	8,047
Antigoni	3,174
Areti	8,406
Arion	3,570
**Aris (trips to Cuba as Aris II)	9,561
Armar	9,559
Artigas	5,841
Baracoa	9,242
Begonia	6,576
Byron	8,720
Camelia	8,111
Castalia	7,641
Cleo II	7,590
Cleopatra	8,079
Degedo	9,000
Dorine Papalios (previous trips to Cuba as the Formentor—British)	8,424
E. D. Papalios	9,431
Elpida	8,296
**Eftyhia (trips to Cuba—Greek)	10,347
Free Trader (previous trips to Cuba—Lebanese)	7,061
Gardenia	9,744
George	7,378
George N. Papalios	9,071
Georgios C. (previous trips to Cuba as the Huntsfield—British and Cypriot)	9,483
Georgios T	9,646
Giannis	7,490
Goodluck	6,952
Happy Land	9,080
Herodemos	7,356
Hymettus	11,771
Ilena (previous trips to Cuba—Lebanese)	5,925
Iris	8,479
June	9,357
Kentavoras	10,173
Kitsa	9,519
Magnolia	7,176
Master George	7,334
May	8,853
Mimis N. Papalios	9,069
Mimosa	8,618
Miss Papalios	9,072
Nea Hellas	9,241
Nedi 2	7,679
**Newheath (trips to Cuba—British)	7,643
Nike	9,505
Noelle (previous trips to Cuba—Lebanese)	7,251
Pantazis Caias	9,618
Petunia	7,843
Protoapostolos	8,130
Protoklitos	6,154
Ravens	8,036
Reifens	8,071
Rothens	8,113
Salvia	8,522
Silver Coast	7,328
Silver Hope	5,313
Stavros T	10,407
Successor	11,471
Telenikis	12,303
Theoskepasti	6,618
Torenia	8,077
Venturer	9,000
Zinnia	7,114
British (16 ships)	129,953
Arctic Ocean	8,791
Athelmonarch (tanker)	11,182
Cheung Chau	8,566
Coral Islands	8,673
Golden Bridge	7,897
Ho Fung	7,121
Ivory Islands	9,718
Magister	2,239
Sea Amber	10,421
Sea Coral	10,421
**Empress (trips to Cuba as the Sea Empress)	9,841
Sea Moon	9,085
Seasage	4,330
**Shun Wah (trip to Cuba as the Vercharmian—British)	7,265
Steed	8,989
Yuglutaton	5,414
Polish (16 ships)	114,650
Baltyk	6,984
Bytom	5,967
Chopin	9,231
Chorzow	7,237
Energetyk	10,876
Grodziec	3,379
Huta Labedy	7,221
Huta Ostrowiec	7,179
Huta Zgoda	6,840
Hutnik	10,847
Kopalnia Czladz	7,252
Kopalnia Siemianowice	7,165
Kopalnia Wujek	7,033
Piast	3,184
Rejowiec	3,401
Transportowiec	10,854
Somali (17 ships)	138,136
**Atlas (trip to Cuba—Finnish)	3,916
Ber Sea	8,269
Dimitrakis	7,829
Feihang	8,924
Peita	8,903
**Fortune Enterprise (trips to Cuba—British)	7,696
Hemisphere (previous trips to Cuba—British)	8,718
Jade Islands	10,270
**Kinvross (previous trips to Cuba—British)	5,388
Marbella	8,409
Nebula (previous trips to Cuba—British)	8,907
**New East Sea (previous trips to Cuba—British)	9,679
*Onyx Islands	8,618
**Oriental (trips to Cuba as the Oceantramp—British)	6,185
Eastglory (previous trips to Cuba—British)	8,995

See footnotes at end of document.

Somali—Continued	Gross tonnage
**Jollity (trips to Cuba—British)	8,819
**Venice (trips to Cuba—British)	8,611
Yugoslav (8 ships)	56,740
Agrum	2,449
Bar	8,776
Cetinje	8,229
Niksic	10,067
Piva	7,519
Plod	3,657
Ulcinj	8,602
Tara	7,441
Greek (5 ships)	34,282
Andromachi (previous trips to Cuba as the Penelope—Greek)	6,712
**Anna Maria (trips to Cuba as the Helka—British)	2,111
Ariadne	6,487
**Lambros M. Fatsis (trips to Cuba as the Lahortensia—British)	9,486
**Pothiti (trips to Cuba as the Huntsville—British)	9,486
French (6 ships)	13,840
**Atlanta (trip to Cuba as the Enee—French)	1,232
Circe	2,874
Danae	3,486
**Urdazuri II (trips to Cuba as the Meike—Netherlands)	500
**Nelle	2,874
Nelle	2,874
Italian (4 ships)	45,261
Alderamine (tanker)	12,505
Elia (tanker)	11,021
San Nicola	12,451
San Francisco	9,284
Netherlands (4 ships)	3,860
Gerda	1,190
Markab II	768
Rochab	787
Tempo	1,115
Moroccan (2 ships)	4,739
El Mansour Billah	1,525
Marrakech	3,214
Singapore (2 ships)	17,287
**Hwa Chu (trips to Cuba—British	9,091
Tong Hoe	8,196
Guinean (1 ship)	852
**Drame Oumar (trip to Cuba as the Neve—French)	852
Lebanese (1 ship)	6,259
Antonis	6,259
Maltese (1 ship)	5,333
Timios Stavros (previous trips to Cuba—British and Greek)	5,333
Pakistani (1 ship)	8,708
**Maulabaksh (trips to Cuba as the Phoenician Dawn and East Breeze—British)	8,708
Panama (1 ship)	9,278
**Kika (trips to Cuba as the Santa Lucia—Italian)	9,278

SEC. 2. In accordance with approved procedures, the following vessels listed in this section which called at Cuba after January 1, 1963, have reacquired eligibility to carry U.S. Government-financed cargoes from the United States by virtue of the persons who control the vessels having given satisfactory certification and assurance:

(a) That such vessels will not, thenceforth, be employed in the Cuban trade so long as it remains the policy of the U.S. Government to discourage such trade; and

(b) That no other vessels under their control will thenceforth be employed in the Cuban trade, except as provided in paragraph (c); and

(c) That vessels under their control which are covered by contractual obligations, including charters, entered into prior to December 16, 1963, requiring their employment in the Cuban trade shall be withdrawn from such trade at the earliest opportunity consistent with such contractual obligations.

FLAG OF REGISTRY AND NAME OF SHIP

a. Since last report:
None.
b. Previous reports:

Flag of Registry:	Number of ships
British	49
Cypriot	10
Danish	1
Finnish	4
French	4
Germany (West)	1
Greek	31
Israeli	1
Italian	15
Japanese	1
Kuwaiti	1
Lebanese	9
Liberia	1
Moroccan	2
Norwegian	5
Singapore	1
Somali	1
Spanish	6
Sweden	1
Yugoslav	2
Total	146

SEC. 3. The following number of vessels have been removed from this list since they have been broken up, sunk, or wrecked.

a. Since last report:

	Gross tonnage
Aurora (Cypriot)	8,380
Mitera Irini (Cypriot)	7,291
Rosetta Maud (British)	5,795
Zaira (Cypriot)	8,032

b. Previous reports.

Flag of Registry:	Broken up, sunk, or wrecked
British	33
Cypriot	74
Finnish	6
French	1
Greek	19
Italian	4
Japanese	1
Lebanese	37
Maltese	2
Polish	5
Monaco	1
Moroccan	1
Norwegian	1
Pakistan	1
Panamanian	9
Singapore	1
Somali	1
South Africa	2
Swedish	1
Yugoslav	7
Total	207

SEC. 4. The ships listed in sections 1 and 2 have made the following number of trips to Cuba since January 1, 1963, based on information received through December 27, 1972.

Flag of registry	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	Total
British	133	180	126	101	78	62	45	53	18	10	806
Cypriot		1	17	27	42	68	115	199	173	86	728
Lebanese	64	91	58	25	16	16	4	1			275
Greek	99	27	23	27	29	7			1	1	214
Italian	16	20	24	11	11	10	15	13	9		129
Yugoslav	12	11	15	10	14	9	6	7	9	5	98
French	8	9	9	10	10	4	2	5	2	2	61
Finnish	1	4	5	11	12	8	2	1			44
Spanish	9	17									26
Norwegian	14	10								1	25
Moroccan	9	13	1								24
Maltese		2	6	1	4	8	1	2			24
Somali					2	11	7	4	6	6	36
Netherlands		4	2							8	14
Sweden	3	3									6
Kuwaiti		2	1								3
Israeli			2								2
Japanese	1					1					2
Danish	1										1
German (West)	1										1
Haitian			1								1
Monaco				1					1		1
Singapore											2
Subtotal	371	394	290	224	218	204	197	285	219	119	2,521
Polish	18	16	12	10	11	7	2	3	4		83
Grand total	389	410	302	234	229	211	199	288	223	119	2,604

NOTE: Trip totals in section 4 exceed ship totals in Sections 1 and 2 because some of the ships made more than one trip to Cuba. Monthly totals subject to revision as additional data becomes available.

NOTE: Trip totals in section 4 exceed ship totals in sections 1 and 2 because some of the ships made more than one trip to Cuba. Monthly totals subject to revision as additional data becomes available.

*Added to Report 121 appearing in the FEDERAL REGISTER issue of March 8, 1973.

**Ships appearing on the list which have made no trips to Cuba under their present registry.

Dated: March 19, 1973.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.
Assistant Secretary.

[FR Doc.73-5638 Filed 3-23-73;8:45 am]

Office of Import Programs

MAYO FOUNDATION

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73-00244-33-90000. Applicant: Mayo Foundation, 200 First Street SW., Rochester, MN 55901. Article: Emiscanner System. Manufacturer: E.M.I., Ltd., United Kingdom. Intended use of article: The article is intended to be used for radiologic examination of the head during screening of groups of patients and for more accurately delineating the disease processes found in a study aimed at developing protocol for clinical trial thereof. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a newly developed instrument for radiologic examination of the head which is designed to provide a more precise localization and delineation of brain tumor and other disease. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated March 6, 1973, that the high sensitivity and precision with minimum dosage which the foreign article provides is pertinent to the applicant's research studies. HEW further advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73-5708 Filed 3-23-73;8:45 am]

Social and Economic Statistics Administration

CENSUS ADVISORY COMMITTEE OF THE AMERICAN ECONOMIC ASSOCIATION

Notice of Public Meeting

The Census Advisory Committee of the American Economic Association will convene on April 2, 1973, at 10 a.m., and April 3, 1973, at 9:30 a.m. The Committee will meet in Room 2113, Federal Building 3, at the Bureau of the Census in Suitland, Md.

The Census Advisory Committee of the American Economic Association was established in 1960 to advise the Director, Bureau of the Census, on technical matters, level of accuracy, and conceptual problems.

The Committee is composed of 15 members appointed by the president of the American Economic Association.

The agenda for the April 2 meeting is: (1) General review of staff changes, programs and budget, and other current topics, (2) agriculture census update on plans for 1974 and 1975, (3) future program plans, (4) staff development, (5) 1972 economic censuses progress report and publication plans, (6) report on mid-decade population survey, and (7) review of activities in the household survey area.

The agenda for the April 3 meeting is: (1) Dissemination of census data including micro data samples, (2) review of preliminary results from the Survey of Manufacturing Capacity, (3) preliminary results from the Decennial Evaluation Program, and (4) weekly retail sales data and seasonal adjustment.

A limited number of seats, approximately 15, will be available to the public. A brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Guidance and Control Officer at least 3 days prior to the meeting.

Persons wishing additional information concerning this meeting should contact the Committee Guidance and Control Officer, Mr. James Turbitt, Associate Director for Economic Operations, Bureau of the Census, Room 2061, Federal Building 3, Suitland, Md. (Mail address: Washington, D.C. 20233.) Telephone 301—763-5274.

Dated: March 21, 1973.

JOSEPH R. WRIGHT, Jr.,
Acting Administrator, Social and Economic Statistics Administration.

[FR Doc.73-5707 Filed 3-23-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

TUSKEGEE SYPHILIS STUDY AD HOC ADVISORY PANEL

Notice of Meeting

The meeting of the Tuskegee Syphilis Study Ad Hoc Advisory Panel to be held on March 28, 1973, as previously announced in the FEDERAL REGISTER on March 14 will be open to the public for the morning session only.

The afternoon session will be closed to the public in accordance with a determination made by the Department of Health, Education, and Welfare. This session will be devoted solely to the formulation of the advice which will be submitted to the Assistant Secretary for Health in the Panel's final report, taking into consideration the materials discussed at prior meetings, as well as testimony received from persons associated with the study and materials submitted by the general public. No person other than members of the Panel, and staff members who are DHEW employees will be present. The formulation of this report will involve the exchange of opinions, views, and judgments of the members. These opinions, views, and judgments if reduced to writing would be protected from mandatory disclosure under 5 U.S.C. 552(b)(5). The final report will be made available to the public after it has been received by the Assistant Secretary for Health.

This meeting will begin at 10 a.m. in Conference Room 3, Building 31, National Institutes of Health, Bethesda, Md. A summary of the meeting and a roster of Panel members may be obtained from Mr. John Blamphin (202-962-7906), Room 5614, Department of Health, Education, and Welfare, North Building, 330 Independence Avenue SW., Washington DC 20201.

Dated: March 19, 1973.

R. C. BACKUS,
Executive Secretary, Tuskegee Syphilis Study Ad Hoc Advisory Panel.

[FR Doc.73-5833 Filed 3-23-73;10:41 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FLIGHT SERVICE STATION AT CLARENCE CANNON MEMORIAL AIRPORT, KIRKSVILLE, MO.

Notice of Decommissioning

Notice is hereby given that on or about April 29, 1973, the Flight Service Station at Clarence Cannon Memorial Airport, Kirksville, Mo., will discontinue operation as an FAA facility. Service to the aviation public of Kirksville, Mo., formerly provided by this facility will be provided by the Columbia, Mo., Flight Service Station. This information will be

reflected in the FAA Organization Statement the next time it is reissued.

Issued in Kansas City, Mo., March 15, 1973.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.73-5655 Filed 3-23-73;8:45 am]

Federal Highway Administration

URBAN HIGHWAY SYSTEMS

Exemption From Highway Beautification Program

Notice is hereby given that on March 6, 1973, the Acting Federal Highway Administrator made the following determination under the cited authority:

Under 23 U.S.C. section 103(2) and the powers delegated to me by 49 CFR 1.48(b), I hereby determine that the provisions of 23 U.S.C. sections 131 and 136, shall not apply to the Federal-aid urban system. I believe application of 23 U.S.C. sections 131 and 136 to other roads in the urban system would be inconsistent with 23 U.S.C. 103(d) for the following reasons:

1. It was not the purpose or intent of creation of the Urban System to subject more highways to outdoor advertising and junkyard control.

2. Outdoor advertising and junkyards are already largely subject to zoning control in urban areas. Additional control is not there needed and such control might be inconsistent with the goals and objectives of local planning.

3. The purpose of the Highway Beautification Act, with its exemption of commercial and industrial areas, would not particularly be served by having it apply to urban areas where local zoning usually already controls outdoor advertising and junkyards.

4. The Urban System is presently being developed and new routes should not be made subject to outdoor advertising and junkyard control until the system is less subject to change.

5. The Highway Beautification Commission created by the 1970 Federal-Aid Highway Act is going to report on changes in outdoor advertising control, and new areas should not be subject to control in the interim.

6. The beautification cost estimates and appropriations upon which Congress acted did not consider the new Federal-aid Urban System areas for control.

7. State highway beautification laws passed prior to the creation of the Urban System only apply to the primary and Interstate systems.

Issued on March 14, 1973.

R. R. BARTELSMEYER,
Acting Federal Highway Administrator.

[FR Doc.73-5680 Filed 3-23-73;8:45 am]

National Highway Traffic Safety Administration

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE AD HOC TASK FORCE ON ADJUDICATION

Notice of Public Meeting

On March 31 and April 1, 1973, the National Highway Safety Advisory Committee's Ad Hoc Task Force on Adjudication will hold an open meeting at the Sir Francis Drake Hotel, Powell and Sutter Streets, San Francisco, Calif.

The National Highway Safety Advisory Committee is composed of 35 members appointed by the President in accordance with the Highway Safety Act of 1966 (23 U.S.C. 401 et seq.). The Committee consists of representatives of State and local governments, State legislatures, public and private interests contributing to, affected by, or concerned with highway safety, other public and private agencies, organizations, and groups demonstrating an active interest in highway safety, and research sicentists and other experts in highway safety.

The Advisory Commitee advises, consults with, and makes recommendations to the Secretary of Transportation on matters relating to the activities of the Department in the field of highway safety. The Committee is specifically authorized: (1) To review research projects or programs, and (2) to review, prior to issuance, standards proposed to be issued by the Secretary under the national highway safety program.

The Ad Hoc Task Force on Adjudication is composed of attorneys and judges from the full Committee and has been assigned the task of exploring means for effective adjudication of traffic offenses, including administrative adjudication, and to consider the ramifications of sentencing alternatives. The task force will report the results of its findings to the full Committee at its spring meeting.

The Ad Hoc Task Force will meet from 9:30 a.m. until 4:30 p.m. on March 31 with the following agenda:

Review Court Reorganization Program in California;
Effect on Traffic Safety of California's Traffic Safety Adjudication Program;
Report of Denver Symposium on Effective Highway Safety Offense Adjudication.

On April 1, the Ad Hoc Task Force will meet from 9:30 a.m. until noon preparing the task force report to the National Highway Safety Advisory Committee.

This notice is given pursuant to section 10(a)(2) of Public Law 92-463, Federal Advisory Committee Act (FACA), effective January 5, 1973.

For further information, contact the NHTSA Executive Secretary, Room 5215, 400 Seventh Street SW., Washington, DC, telephone 202—426-2872.

Issued on March 21, 1973.

CALVIN BURKHART,
Executive Secretary.

[FR Doc.73-5782 Filed 3-23-73;8:45 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-295, 50-304]

COMMONWEALTH EDISON CO.

Notice of Time and Place of Hearing

Take notice, that pursuant to the Atomic Energy Commission's notice of hearing issued September 29, 1972, published in the FEDERAL REGISTER (37 FR 20995, Oct. 5, 1972) and in accordance with the Commission's rules of practice, a hearing will be held to consider the application of the Commonwealth Edison Co., for facility operating licenses to authorize the operation of pressurized water reactors, identified as Zion Nuclear Power Station, Units 1 and 2, at the applicant's site in Lake County, Ill. The evidentiary hearing on health and safety issues will commence on April 2, 1973, at 12 noon, local time, in the Lake County Assembly Room, 10th floor, Lake County Building, Waukegan, Ill. 60085. The portion of the hearing relating to environmental issues will immediately follow the close of the health and safety portion.

The evidentiary hearings will continue from 12 noon, local time on Monday until 12 noon, on Friday of each week, with daily hours of 9:30 a.m. to 5 p.m. After the first 2 weeks (April 2-13), a determination will be made on a schedule for the week of April 16th, which week contains both Passover and Good Friday.

All members of the public are entitled to attend the hearing.

Issued at Washington, D.C., this 20th day of March 1973.

For the Atomic Safety and Licensing Board.

THOMAS W. REILLY,
Chairman.

[FR Doc.73-5660 Filed 3-23-73;8:45 am]

[Dockets Nos. 50-413; 50-414]

DUKE POWER CO.

Notice and Order for Special Prehearing Conference

In the matter of Duke Power Co. (Catawba Nuclear Station Units 1 and 2), Dockets Nos. 50-413, 50-414.

Notice is hereby given that, pursuant to the Atomic Energy Commission's Notice of Hearing on Application for Construction Permit, published in the FEDERAL REGISTER on December 1, 1972 (37 FR 25560), and in accordance with § 2.751a of said Commission's rules of practice, 10 CFR Part 2, a Special Prehearing Conference will be held in the above-captioned proceeding on Thursday, April 5, 1973, at 10 a.m., local time in the Magistrates' Courtroom at 529 South York Street, Rock Hill, SC 29730.

This Special Prehearing Conference will be held before the Atomic Safety and Licensing Board established by the Commission on January 30, 1973, and composed of Dr. Frederick P. Cowan, Mr. Ralph S. Decker, and Max D. Paglin,

Esq., Chairman, with Dr. Marvin M. Mann, the technically-qualified alternate, and Frederic T. Suss, Esq., the alternate chairman.

This Special Prehearing Conference will deal with the following matters:

1. Pending petitions for intervention and oppositions and responses thereto filed in this proceeding;
2. Requests for limited appearances;
3. Consideration of a schedule for further action; and
4. Such other matters as may aid in the orderly and expeditious conduct of the hearing.

At the Special Prehearing Conference, the Board will entertain oral argument on the pending petition to intervene by The Carolina Environmental Study Group. In connection with said oral argument, petitioner and counsel for the parties shall address themselves to the matters regarding the basis for intervention, including particularly the matters set forth in § 2.714 dealing with untimely petitions to intervene and the matters set forth in section III, intervention and limited appearances of Appendix A to Part 2 of the Commission's rules of practice, as amended.

In addition, the Board will expect to be advised by the petitioner for intervention regarding the identity of the members of its organization and other members of the public which it purports to represent, and to state how the aforementioned individuals' interests will be affected by the proposed Catawba Nuclear Plant.

Members of the public are invited to attend this Special Prehearing Conference as well as the Evidentiary Hearing to be held at a later date to be fixed by the Board. Members of the public wishing to make limited appearances may identify themselves at this Special Prehearing Conference, but oral or written statements to be presented by limited appearance will not be received at this Conference. The Board will receive such statements at the aforementioned Evidentiary Hearing.

It is so ordered.

Issued at Washington, D.C., this 21st day of March 1973.

ATOMIC SAFETY AND LICENSING BOARD,
MAX D. PAGLIN,
Chairman.

[FR Doc.73-5685 Filed 3-23-73;8:45 am]

[Docket No. 50-410]

NIAGARA MOHAWK POWER CORP.

Notice and Order Rescheduling Prehearing Conference

In the matter of Niagara Mohawk Power Corporation (Nine Mile Point, Unit No. 2) Docket No. 50-410.

Upon consideration of the oral motion made by the parties to continue the prehearing conference scheduled for March 29, 1973, in Oswego, N.Y., and all parties agreeing thereto, it is

Ordered, that the prehearing conference be cancelled for March 29, 1973, and be rescheduled for 10 a.m., local time, on Friday, April 27, 1973, in the Second Floor Courtroom, County Courthouse, East Oneida and Second Streets, Oswego, N.Y. 13126.

Dated this 21st day of March 1973 at Washington, D.C.

By Order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.73-5686 Filed 3-23-73;8:45 am]

[Docket No. 50-397]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM

Notice of Issuance of Construction Permit

Notice is hereby given that, pursuant to the Initial Decision of the Atomic Safety and Licensing Board, dated March 15, 1973, the Deputy Director for Reactor Projects has issued Construction Permit No. CPPR-93 to the Washington Public Power Supply System for the construction of a boiling water nuclear reactor on a site leased from the Atomic Energy Commission within the Commission's Hanford reservation in Benton County, Wash. The site is 3 miles from the Columbia River and approximately 12 miles north of the city of Richland, Wash. The proposed reactor, known as the Hanford No. 2 Nuclear Power Plant, is designed to operate at 3,323 megawatts thermal.

A copy of the Initial Decision and a copy of the Construction Permit are on file in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545, and at the Richland Public Library, Swift and Northgate Streets, Richland, WA 99352.

Dated at Bethesda, Md., this 19th day of March 1973.

For the Atomic Energy Commission.

ROBERT A. CLARK,
Chief, Gas Cooled Reactors Branch, Directorate of Licensing.

[FR Doc.73-5672 Filed 3-23-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24963]

ALLEGHENY AIRLINES, INC.

Notice of Postponement of Prehearing Conference Regarding Poughkeepsie Deletion Application

Counsel for the New York State Department of Transportation has requested a 1-week postponement of the prehearing conference in the above-captioned proceeding. Counsel has advised that Allegheny Airlines, Command Airways and representatives of the cities of Poughkeepsie and Binghamton have been contacted and do not object to the requested postponement.

Accordingly, notice is hereby given that the prehearing conference now scheduled for March 27, 1973 (38 FR 5672, March 2, 1973), is hereby postponed to April 3, 1973, at 10 a.m., local time, in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned Administrative Law Judge.

Dated at Washington, D.C., March 21, 1973.

[SEAL] ALEXANDER N. ARGERAKIS,
Administrative Law Judge.

[FR Doc.73-5710 Filed 3-23-73;8:45 am]

[Docket No. 25324; Order 73-3-63]

AER LINGUS TEORANTA AND AERLINTE EIREANN TEORANTA

Order of Investigation and Suspension Regarding Transatlantic Fare Structure

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of March 1973.

By tariffs filed on January 29, 1973, Aerlinte Eireann Teoranta (Irish), and Aer Lingus Teoranta (Aer Lingus) propose for effect from April 1, 1973, to revise the existing fare structure over the North Atlantic between the United States and Ireland. As in the case of our recent disposition of U.S. carrier transatlantic fare proposals (Order 73-1-76), this order will be concerned with the Irish proposal as it relates to the period from April 1, 1973, through October 31, 1973.

Irish proposes to retain all present fare categories, and to overlay this structure with an APEX fare.[1] First-class fares would be increased by $10 round trip and normal economy fares would be increased by 3 percent; 14-21-day excursion fares would be increased by 5 percent; and the 22-45-day excursion, affinity group, and 14-21-day group inclusive tour fares would be increased by 5 and 7 percent, respectively, in the shoulder and peak season periods. The 14-45-day advance purchase excursion fare (APEX) would be structured on a directional four-season basis. Fares for eastbound originating travel during the shoulder season would exceed those proposed by the U.S. carriers by $16; would be $23 less than the U.S. carrier proposal for travel during the peak season and $7 more during the peak month of the peak. Fares for westbound originating travel are proposed for all periods at $50 less than those available for U.S.-originating traffic.

Complaints have been filed by Pan American World Airways, Inc. (Pan American), Trans World Airlines, Inc. (TWA), and the member carriers of the National Air Carrier Association (NACA), all of which request that immediate steps be taken to suspend the filing as unjust, unreasonable, and uneconomic. The thrust of the complainants' argument is that the proposed structure is more complicated than that presently in effect; that it increases the

[1] Irish also proposed to retain the currently available youth fares. The issue of youth fares is under investigation in Docket 23780 and will not be further dealt with herein. We intend to dispose of the pending request for suspension of these fares promptly by separate order.

disparity between normal and promotional fare levels and includes an APEX fare with a directional fare differential which is objectionable.

The U.S. carriers project revenue increases over retention of status quo fares were the Irish proposal introduced throughout the transatlantic market. However, both carriers indicate that, compared with revenues projected to result from their proposal, the result would be a decrease in revenue, $9.6 million for Pan American and $7 million for TWA.

The year 1972 saw an encouraging increase in traffic growth on the North Atlantic, and along with it a significant increase in load factor for most carriers. Notwithstanding this favorable trend, however, overall economic results for the industry continued to be substandard. As for the U.S. carriers, despite an annual average load factor of about 60 percent, Pan American remained in a negative return position, and TWA's earnings were only 8.38 percent on investment.[3] Similar results have apparently been sustained by the foreign-flag carriers. For this reason, there seems to be a consensus among the carriers that improved yields and revenues are necessary if transatlantic scheduled services are to continue on an economically viable basis. It also seems clear that the 22–45-day excursion fare has been largely responsible for the erosion in average yield which has occurred this past year. There can be little doubt that this fare generated new travel. By the same token, it appears to have resulted in significant diversion from higher-fare services, as evidenced by the fact that 25 percent of the total traffic carried by the U.S. carriers moved on these fares. In our opinion, the economic validity of a fare introduced for promotional reasons and established on the basis of incremental costs is brought into serious question when its usage achieves such a magnitude.

By Order 73–1–76, the Board indicated that it was not disposed to suspend the fare package proposed by the U.S. carriers.[3] This decision was based on the understanding that the structure was not advanced as a definitive one for the future, but rather as an acceptable one for the travel season immediately ahead. Indeed the carriers did not support their proposal as one that would adequately compensate for the cost of providing scheduled service, but rather as a reasonably competitive response to changing market conditions which they anticipated would produce moderately improved yields and increased revenues. The U.S. carriers' structure incorporates a fare category which is somewhat lower than the level now offered on the 22–45-day excursion fare. However, the conditions applicable to use of this APEX fare are quite restrictive and should curtail uneconomic diversion from other services. By the same token, the level of the 14–45-day excursion fare, which would be available with minimum restrictions, would be significantly above the level now applicable to the comparable fare. On this basis, the Board indicated its willingness to accept the structure proposed for the upcoming season, the most important consideration being a projected improvement in yield and a conclusion that the structure moved in the direction of more closely relating fares to the cost of providing the respective services.

We do not mean to imply that the Board considers the U.S.-carrier proposal as the only, or necessarily the best, solution to the question of North Atlantic fares. As indicated in our earlier order, we believe it contains certain elements which represent distinct improvements which should be pursued over the longer term. This is not to say that the Board stands committed to the particular structure which the U.S. carriers propose. We are committed, however, to the necessity for improving the overall average yield from scheduled services on the North Atlantic.

It is estimated that the Irish proposal would, in fact, result in some improvement in the carriers' overall average yield. However, we are inclined to suspect that this would be due largely to the proposed increases in normal fares and in the 14–21-day excursion fare. While a modest increase in the 22–45-day excursion fare is contemplated, this fare would remain at a relatively low level vis-a-vis the economy fare when consideration is given to the minimal restrictions on its use. In addition, with the exception of the eastbound peak of the peak, the APEX fares would significantly undercut the levels proposed by the U.S. carriers. For these reasons, we are of the opinion that the structure does little if anything to bring the various fares into more reasonable balance from the standpoint of the cost of providing the services or their relative value to the passenger and we are, accordingly, unable to accept this proposal.

As we have indicated in connection with disposition of other carrier proposals, it seems apparent that the present 22–45-day excursion fares, although generative, have resulted in a significant amount of diversion, and that these two developments taken together were largely responsible for the decline in yield in 1972. U.S.-carrier traffic during the second and third quarters of 1972 showed an overall growth rate of 24 percent over the same period in 1971. In the face of this trend, however, the number of normal-economy and short-duration excursion-fare passengers actually declined, from 726,165 to 680,762, a decrease of 7 percent. At the same time, long range excursion-fare passengers more than doubled, increasing from 263,210 in 1971 (29–45-day excursion fare at New York-Shannon round trip level of $257, peak) to 570,853 (22–45-day excursion fare at $278 fare New York-Shannon). We recognize that Irish proposes a moderate increase in the level of this fare. By the same token, however, some increase in the normal economy fare would also occur, with the net result that the discount would be narrowed by no more than 2 percent. For this reason, we do not foresee that the Irish proposal would stem the growing use of this low and relatively unrestricted fare. To the extent it did not, of course, the downward pressure on yield would continue.

The U.S. carriers have proposed an APEX fare at levels slightly below the present 22–45-day excursion fare. While the Board has some concern with perpetuation of this fare level on scheduled services, we nevertheless decided against suspension in view of the restrictive conditions on its use. The Irish proposal, on the other hand, would significantly undercut this level. Except for the 1-peak month of the peak, Irish would set the APEX fare at 10 percent below the U.S. carrier level for eastbound originations, and some 30 percent below that level for westbound-originating traffic. Stated differently, the APEX fares here proposed would involve peak-season discounts from normal economy fares of 55 and 62 percent for eastbound and westbound originations, respectively. We are not persuaded of the need for discounts of this magnitude and, as we have stated on other occasions, are not prepared to accept the argument that scheduled services need be priced comparably with charter service in order to maintain independent and profitable competitive operations.

In opting to maintain the present fare structure virtually intact, Irish would also propose to continue the provision of free stopovers where this privilege is now available. The majority of the proposals recently filed with the Board, on the other hand, would impose a surcharge for this service. In the Board's opinion, the dilution in revenue which stems from the circuitous routings of multi-stop travel creates an unnecessary downward pressure on yield which should be compensated for by an appropriate charge. Finally, we would point out that the Irish proposal, which preserves the present structure with overlay of an APEX fare, runs directly counter to the simplification sought by the U.S. carriers and likewise by a majority of the European carriers as well. As we have said before, the Board endorses the objective of a more simplified fare structure as being in the interest of both buyers and sellers of air transportation.

For the reasons stated, the Board finds that the first-class fares, the normal economy fares, the 14–21-day excursion fares, the 22–45-day excursion fares, the affinity-group fares, the 14–21-day group inclusive tour fares and the APEX fare proposed by Irish may be unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial and should be suspended pending investigation.[4]

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and

[3] Year ended Sept. 30, 1972.

[3] The Irish and U.S.-carrier proposals are summarized forth below.

[4] Our major concern with the proposed 14–21-day excursion fare, affinity-group fare, and 14–21-day GIT fares lies with the absence of an appropriate charge for stopovers.

particularly sections 204(a), 403, 404, 801, and 1002, thereof:

It is ordered, That:

1. An investigation is instituted to determine whether the fares and provisions set forth in the appendix hereof,[3] and rules, regulations, or practices affecting such fares and provisions, and subsequent revisions and reissues thereof, are or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, and if found to be unlawful, to take appropriate action to prevent the use of such fares and provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, the fares and provisions set forth in the appendix hereof are suspended and their use deferred from April 1, 1973, to and including March 31, 1974, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President[4] and shall become effective on April 1, 1973;

4. Except to the extent granted herein; the complaints filed in Dockets 25071, 25072, and 25073 are hereby dismissed; and

5. Copies of this order shall be filed in the aforesaid tariffs and be served upon Aerlinte Eireann Teoranta, Aer Lingus Teoranta, Pan American World Airways, Inc., Trans World Airlines, Inc., and the National Air Carrier Association who are hereby made parties to the investigation.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

ROUND-TRIP FARE PROPOSALS—NEW YORK–SHANNON

	Current Fares	PA/TW	Irish
First class	$780	$780	$790
Normal economy:			
Shoulder	430	406	442
Peak	536	536	552
14/21 Excursion:			
Shoulder	312	----	328
Peak	375	----	394
22/45 Excursion:			
Shoulder	230	----	242
Peak	278	----	267
14/45 Excursion:			
Shoulder		288	----
Peak		373	----
14/21 IIT:			
Shoulder		229	----
Peak		294	----
14/45 APEX:		*EB*	*WB*
Shoulder		204	220 170
Peak		273	250 200
Affinity Group:		[1] 280	[1] 230
Shoulder	209	----	219
Peak	272	----	291
14/21 GIT:			
Shoulder	225	----	236
Peak	288	----	308

[1] Peak of peak.

[FR Doc.73-5626 Filed 3-23-73;8:45 am]

[3] Filed as part of the original document.
[4] This order was submitted to the President on March 9, 1973.

[Docket No. 25326; Order 73-3-65]

CESKOSLOVENSKE AEROLINIE

Order of Investigation and Suspension Regarding Transatlantic Fare Structure

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the eighth day of March 1973.

By tariffs filed January 19, 1973, for effect from April 1, 1973, Ceskoslovenske Aerolinie (CSA) proposes to revise the existing fare structure over the North Atlantic between the United States and Czechoslovakia. As in the case of our recent disposition of U.S.-carrier transatlantic fare proposals (Order 73-1-76), this order will be concerned with CSA's proposal as it relates to the period from April 1, 1973, through October 31, 1973.

CSA proposes a simplified fare structure which is limited to four distinct categories of fares.[1] First-class fares would be retained at status quo while normal economy fares would be reduced by $26 during the shoulder period and by $16 during the peak season. CSA would also introduce a new 14–45-day excursion fare and a 14–21-day individual inclusive tour fare at levels which are similar to the 14–45-day advance purchase excursion fare proposed by the U.S. carriers. CSA would permit a free stopover in conjunction with its individual inclusive tour fare and impose a charge of $15 for stopovers on its 14–45-day excursion fare. By contrast, the U.S. carriers would offer no free stopovers and where this privilege is permitted would impose a charge of $20 per stopover. The CSA and U.S.-carrier proposals are summarized in the attachment hereto.

Pan American World Airways, Inc. (Pan American), has filed a complaint requesting suspension of the CSA proposals. Pan American alleges that the CSA proposal is similar to that filed by Lufthansa,[2] except that CSA would also reduce normal economy fares and its reductions in promotional fares exceed those proposed by Lufthansa in every instance. Pan American contends that the impact of CSA's proposal would exceed the $8.9 million negative impact on operating profit which was forecast in its complaint against Lufthansa's filing.

By Order 73-1-76, the Board indicated that it was not disposed to suspend the fare package proposed by the U.S. carriers. This decision was based on the understanding that the structure was not advanced as a definitive one for the future, but rather as an acceptable one for the travel season immediately ahead. Indeed the carriers did not support their proposal as one that would adequately compensate for the cost of providing scheduled service, but rather as a reasonable competitive response to changing market conditions which is anticipated to produce moderately improved yields and increased revenues.

For the reasons articulated in Order 73-2-103 in connection with Lufthansa's filing, the Board is unable to accept the filing here before us. We endorse the simplification which it represents, and the increased emphasis which would be placed on development of individual travel on scheduled services. However, as indicated, both the 14–45-day excursion fare and 14–21-day IIT fare are set virtually at the level proposed by the U.S. carriers for APEX travel. This level approximates that now available on the 22–45-day excursion fare, which we have stated on numerous occasions seems quite clearly responsible for the decline in yield and substandard earnings experienced on the North Atlantic in 1972. In our opinion, the diversion to these fares which is likely to occur makes it extremely unlikely that transatlantic services could be operated at a profit. On the other hand, the APEX fare, although not one which we would like to see become imbedded in the fare structure for the longer term, is sufficiently restrictive in its application that it can reasonably be expected to be more generative than diversionary this upcoming season. Finally, while we believe the long-term objective should be an appropriate reduction in fares for normal economy service, we are not prepared to accept a reduction in these fares in the absence of a more economically sound pattern of promotional fares.

For the reasons stated, the Board finds that the normal economy fares, the 14–45-day excursion fares and the 14–21-day individual inclusive tour fares proposed by CSA may be unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial and should be suspended during investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 404, 801, and 1002, thereof:

It is ordered, That:

1. An investigation is instituted to determine whether the fares and provisions set forth in the appendix hereof,[3] and rules, regulations, or practices affecting such fares and provisions, and subsequent revisions and reissues thereof, are or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, and if found to be unlawful, to take appropriate action to prevent the use of such fares and provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, the fares and provisions set forth in the appendix hereof are suspended and their use deferred from April 1, 1973, to and including March 31, 1974, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President[4] and shall become effective on April 1, 1973;

[1] CSA also proposes to retain the currently available youth fares. The issue of youth fares is under investigation in Docket 23780 and will not be further dealt with herein. We intend to dispose of the pending request for suspension of these fares promptly by separate order.

[2] The Lufthansa proposal was suspended by Order 73-2-103.

[3] Filed as part of the original document.
[4] This order was submitted to the President on Mar. 9, 1973.

4. Except to the extent granted herein, the complaint filed in Docket 25168 is hereby dismissed; and

5. Copies of this order be filed in the aforesaid tariffs and be served upon Ceskoslovenske Aerolinie and Pan American World Airways, Inc., who are hereby made parties to the investigation.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

ROUND-TRIP FARE PROPOSALS—NEW YORK-PRAGUE

	Current fares	PAA	CSA
First class	$984	$984	$984
Normal economy:			
Shoulder	568	544	542
Peak	704	704	688
14/21 Excursion:			
Shoulder	429		
Peak	492		
22/45 Excursion:			
Shoulder	287		
Peak	355		
14/45 Excursion:			
Shoulder		405	271
Peak		490	344
14/21 IIT:			
Shoulder		308	271
Peak		373	344
14/45 APEX:			
Shoulder		271	
Peak		340	
Affinity Group:			
Shoulder	261		
Peak	329		
14/21 GIT:			
Shoulder	304		
Peak	367		

[FR Doc.73-5627 Filed 3-23-73;8:45 am]

[Docket No. 25336; Order 73-3-78]

EASTERN AIR LINES, INC.

Order of Investigation and Suspension Regarding Jetstar Charter Rate Revision

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st of March 1973.

By tariff revisions [1] marked to become effective March 22, 1973, Eastern Air Lines, Inc. (Eastern) proposes to increase and revamp its charter rates for Jetstar aircraft, changing from a milage to an hourly basis of stating its rates and introducing "bulk" discount rates for charterers who contract in advance for 50 or more hours within a 12-month period. The proposed increases would range from 40.9 to 65.2 percent for live charters and from 12.5 to 31.9 percent for ferry operations. The proposal would also add a layover charge of $50 per hour.

No complaints have been filed.[2]

In support of its proposal, Eastern alleges that the proposed rates are oriented toward attracting business charters; that the tapered discount will encourage some rather than purchase business aircraft; that the concept will interest other companies to enter into charter contracts panies which could not justify the purchase of such aircraft; and that the proposed discounts are cost related in that they are based on unit cost reductions resulting from increased aircraft utilization.

Upon consideration of the tariff proposal and all relevant matters, the Board finds that the proposed revisions may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. The Board has also concluded to suspend the proposal pending investigation.

The services would be like and contemporaneous and provided under substantially similar circumstances for all charterers—those paying the maximum proposed rates and those paying the proposed discounted "bulk" contract rates. In a similar charter rate case [3] the Board found unjustly discriminatory the charging of lower rates for the "bulk" charterer. The only significant difference here is that in the previous case the applicability of the reduced rates was based on the number of flights contracted for in advance, whereas in Eastern's proposal it is based on number of hours per year. Eastern has failed to provide any justification which would warrant permitting it to establish the proposed rates which on their face depart from the well entrenched rule of equality in pricing air service. Also, Eastern has made no attempt to justify the need for increases in the magnitude involved.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof:

It is ordered that:

1. An investigation be instituted to determine whether the rates, charges and provisions described in Appendix A [4] hereto, and rules, regulations, and practices affecting such rates, charges and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates, charges and provisions, and rules, regulations, or practices affecting such rates, charges and provisions;

2. Pending hearing and decision by the Board, the rates, charges and provisions described in Appendix A hereto are suspended and their use deferred to and including June 19, 1973, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The investigation ordered herein be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order be filed in the aforesaid tariff and served upon Eastern Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.73-5713 Filed 3-23-73;8:45 am]

[Docket No. 25328; Order 73-6-67]

FINNAIR OY

Order of Investigation and Suspension Regarding Transatlantic Fare Structure

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of March 1973. By tariffs filed on February 23, 1973, for effect from April 1, 1973, Finnair Oy (Finnair) proposes to revise the existing fare structure over the North Atlantic between the United States and Finland. As in the case of our recent disposition of the U.S.-carrier transatlantic fare proposals (Order 73-1-76), this order will be concerned with Finnair's proposal as it relates to the period from April 1, 1973, through October 1, 1973.

Finnair proposes to retain first-class and peak-season economy fares at present levels and reduce normal economy fares by $24 in the shoulder period.[1] Additionally, Finnair proposes to establish a 14–45-day excursion fare at levels slightly above ($20 above $11 shoulder and peak periods, respectively) the existing 22–45-day excursion fares. Two free stopovers would be permitted. A 14–28-day individual inclusive tour fare would also be offered at the same level proposed for the 14–45-day excursion fare. Two free stopovers would likewise be permitted, and an additional two permitted at a charge of $10 each. Finnair would retain the existing group inclusive tour fares, but at lower levels ($26 in the shoulder period and $24 in the peak period), and the maximum validity of this fare would be increased from 21 days to 28 days. One free stopover in each direction would continue to be offered, with one additional in each direction available at a $10 charge. Affinity-group fares would be retained at significantly reduced levels. For eastbound originating travel the fares would be reduced by $12 and $44 in the shoulder and peak periods, respectively. Fares for westbound-originating passengers are proposed at dif-

[1] Revisions to Eastern's tariff CAB No. 68.

[2] Executive Jet Aviation, Inc. submitted a complaint against an earlier similar filing of Eastern which was rejected for technical reasons but did not complain against the instant filing.

[3] Multi-Charter Cargo Rates Investigation, Order E-25936, Nov. 7, 1967.

[4] Appendix A filed as part of the original document.

[1] Finnair also proposes to retain the currently available youth fares. The issue of youth fares is under investigation in Docket 23780 and will not be further dealt with herein. We intend to dispose of the pending request for suspension of these fares promptly by separate order.

ferentials of $59 and $67 for shoulder and peak periods, respectively. Finnair proposes the introduction of an advance-booking group fare at the low levels proposed for the affinity-group fares. This fare would apply to groups of 40, require advance booking 90 days prior to departure with payment 30 days prior to departure, and would be subject to a 25-percent non-refundable deposit. The ticket would be valid for 1-full year from the date of commencement of travel, with a 7-day minimum stay for eastbound-originating travel and a 14-day minimum for westbound-originating travel.

By Order 73-1-76, the Board indicated that it was not disposed to suspend the fare package proposed by the U.S. carriers. This decision was based on the understanding that the structure was not advanced as a definitive one for the future, but rather as an acceptable one for the travel season immediately ahead. Indeed the carriers did not support their proposal as one that would adequately compensate for the cost of providing scheduled service, but rather as a reasonably competitive response to changing market conditions which is anticipated to produce moderately improved yields and increased revenues. The U.S. carriers' structure incorporates a fare category which is somewhat lower than the level now offered on the 22-45-day excursion fare. However, the conditions applicable to use of this APEX fare are quite restrictive and should curtail uneconomic diversion from other services. By the same token, the level of the 14-45-day excursion fare, which is available with minimal restrictions, would be significantly above that now applicable to the comparable fare. We do not mean to imply that the Board stands committed to the particular structure which the U.S. carriers propose. We are committed, however, to the necessity for improving the overall average yield from scheduled services on the North Atlantic.

It is for this reason that we are unable to accept Finnair's proposal. It seems clear that the present 22-45-day excursion fare has been largely responsible for the erosion in yield and substandard earnings experienced on the North Atlantic in 1972. Yet Finnair would set both its 14-45-day excursion fare and its 14-28-day IIT fare at levels only nominally above the present long duration fare. In addition, Finnair proposes significant reductions in the affinity-group fares applicable to eastbound originations amounting to an approximate 15 percent in the peak season, and would introduce a fare for westbound originations which reflects a $67 differential.[3] The new advance-booking group fare would be established at these same low levels. In summary, it appears that under the Finnair proposal, the majority of passengers would travel at fares equal to or significantly below the present 22-45-day excursion fare. For this reason, it seems highly unlikely that transatlantic services could be operated profitably were this structure in effect throughout the market.

We are also unable to accept the liberal approach adopted by Finnair in connection with the provision of free stopovers. Finnair would permit free stopovers in conjunction with all of its promotional fares other than the affinity and advance-booking group fares. By contrast the U.S. carriers would prohibit stopovers altogether for APEX travel, and would assess a charge of $20 for each stopover where permitted on other promotional fares. In the Board's opinion, the dilution in revenue which stems from the circuitous routings involved in multi-stop travel creates an unnecessary downward pressure on yield which should be compensated for by an appropriate charge for the service. Finally, we would point out that Finnair's proposal, which would essentially maintain the present structure with an overlay of two new fares, runs directly counter to the simplification sought by the U.S. carriers and a majority of European carriers as well. As we have said before, the Board endorses the objective of a more simplified fare structure as being in the interest of both buyers and sellers of air transportation.

Accordingly, for the reasons stated the Board finds that the 14-45-day excursion fares, the 14-28-day individual inclusive tour fares, the affinity-group fares, the 14-28-day group inclusive tour fares and the advance-booking group fares proposed by Finnair may be unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial and should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 404, 801, and 1002, thereof:

It is ordered, That:

1. An investigation is instituted to determine whether the fares and provisions set forth in the appendix hereof,[2] and rules, regulations, or practices affecting such fares and provisions, and subsequent revisions and reissues thereof, are or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial and if found to be unlawful to take appropriate action to prevent the use of such fares and provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board the fares and provisions set forth in the appendix hereof are suspended and their use deferred from April 1, 1973, to and including March 31, 1974, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President[4] and shall become effective on April 1, 1973;

4. Except to the extent granted herein, the complaint filed in Docket 25260 is hereby dismissed; and

5. Copies of this order be filed in the aforesaid tariffs and be served upon Finnair Oy and Pan American World Airways, Inc., who are hereby made parties to the investigation.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

ROUND-TRIP FARE PROPOSALS—NEW YORK-HELSINKI

	Current fares	Finnair	
First class	$1,042		$1,042
Normal economy:			
Shoulder	604		580
Peak	750		750
14/21 Excursion:			
Shoulder	491		
Peak	554		
22/45 Excursion:			
Shoulder	294		
Peak	368		
14/45 Excursion:			
Shoulder			314
Peak			379
14/21 IIT:			
Shoulder		(14/28)	314
Peak			379
Advance-Booking Group:		EB	WB
Shoulder		238	179
Peak		278	211
Affinity Group:		EB	WB
Shoulder	250	238	179
Peak	322	278	211
14/21 GIT:			
Shoulder	325	(14/28)	299
Peak	388		364

[FR Doc.73-5629 Filed 3-23-73;8:45 am]

[Docket No. 25329; Order 72-3-68]

IBERIA, LINEAS AEREAS DE ESPANA, S.A.

Order of Investigation and Suspension Regarding Transatlantic Fare Structure

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the eighth day of March 1973.

By tariffs filed February 16, 1973, for effect from April 1, 1973, Iberia, Lineas Aereas de Espana, S.A. (Iberia), proposes to revise the existing fare structure over the North Atlantic between the United States and Spain. As in the case of our recent disposition of the U.S.-carrier transatlantic fare proposals (Order 73-1-76), this order will be concerned with Iberia's proposal as it relates to the period from April 1, 1973, through October 1, 1973.

Iberia proposes to retain first-class and peak-season economy fares at present levels and to reduce normal economy fares by $24 in the shoulder period. Iberia would also consolidate the existing two excursion fares into one of 14-45-day

[1] Finnair also proposes to reduce the level of present GIT fares but by a lesser amount, and would extend the period of validity from 21 to 28 days. No directional differential would apply, however.

[2] Filed as part of original document.

[4] This order was submitted to the President on Mar. 9, 1973.

duration and introduce a 14–21-day individual inclusive tour fare and a 14–45-day advance-purchase excursion fare (APEX). To this extent the structure matches that proposed by the U.S.-flag carriers.[1] However, the 14–45-day excursion fare and the 14–21-day individual inclusive tour fare would be set at the level applicable to the present 22–45-day excursion fare, which is substantially below that proposed by the U.S. carriers. In the case of the 14–45-day excursion fare, the undercuts would amount to $103 and $119 in the shoulder and peak periods, respectively. However, Iberia would permit no stopovers. Iberia's proposed 14–21-day individual inclusive tour fare would undercut that proposed by the U.S. carriers by only moderate amounts. However, one free stopover in each direction would be permitted whereas the U.S. carriers would impose a charge of $20 each. An APEX fare is proposed at levels consistent with those of the U.S. carriers, and a nonaffinity group fare would be introduced at the level for eastbound originations which presently applies to affinity groups. For westbound-originating passengers, the fares are set at reduced differential of $44 and $51, shoulder and peak period, respectively. One free stopover would be permitted in each direction.

A complaint has been filed by Pan American World Airways, Inc. (Pan American), which requests that Iberia's proposals be suspended and investigated. Pan American contends that Iberia's proposal consists of a series of fare reductions which would reduce all promotional fares to or below the level of the present uneconomically low 22–45-day excursion fare. Pan American estimates that, were this structure applied throughout the transatlantic market, 75 percent of the total traffic would move at fares which are below cost.

By Order 73–1–76, the Board indicated that it was not disposed to suspend the fare package proposed by the U.S. carriers. This decision was based on the understanding that the structure was not advanced as a definitive one for the future, but rather as an acceptable one for the travel season immediately ahead. Indeed the carriers did not support their proposal as one that would adequately compensate for the cost of providing scheduled service, but rather as a reasonable competitive response to changing market conditions which is anticipated to produce moderately improved yields and increased revenues.

The year 1972 saw a heartening resurgence in traffic growth on the North Atlantic, and along with it a significant increase in load factor for most carriers. Notwithstanding this favorable trend, however, overall economic results for the industry continued to be substandard. The U.S. carriers ended the year with an annual average load factor of about 60 percent; yet Pan American remained in a negative return position, and TWA's earnings were only 8.38 percent on investment. Similar results have apparently been sustained by the foreign-flag carriers. For this reason, there seems to be a consensus among the carriers that improved yields and revenues are necessary if transatlantic scheduled services are to continue on an economically viable basis. It also seems clear that the 22–45-day excursion fare has been largely responsible for the erosion in average yield which has occurred this past year. Of the total traffic carried by the U.S. carriers, 25 percent moved on these fares. In our opinion, the economic validity of a fare introduced for promotional reasons and established on the basis of incremental costs is brought into serious question when its usage achieves such a magnitude.

Iberia, on the other hand, proposes to set the 14–45-day excursion fare and its IIT fare at the level now applying to this long-duration excursion fare. In the case of the peak-season excursion fare, this would represent a reduction from the level proposed by the U.S. carriers in excess of 25 percent. In addition, Iberia would convert the present affinity-group fare level into one available for eastbound-originating nonaffinity groups, and would establish a westbound differential which amounts to an approximate 20-percent reduction. While we have some concerns about directional fares, the Board would be prepared to accept a more moderate differential for the interim season immediately ahead. However, we are of the opinion that this pattern of promotional fares, all of which are at or below the level of the 22–45-day excursion fares, makes it extremely unlikely that transatlantic services could be conducted at a profit. The very low fares which would be available to nonaffinity groups would, in our opinion, in and of itself significantly impair the economics of this service.

The Board also has considerable concern with Iberia's proposal to continue the practice of offering free stopovers in connection with discount-fare travel. As indicated, Iberia would permit one free stopover in conjunction with its proposed nonaffinity group fare and the 14–21-day individual inclusive tour fare. By contrast, the U.S. carriers would assess a $20 charge for each stopover where permitted on all promotional fares. In the Board's opinion, the dilution in revenue which stems from the circuitous routings involved in multistop travel creates an unnecessary downward pressure on yield which should be compensated for by an appropriate charge for the service.

Accordingly, for the reasons stated the Board finds that the 14–45-day excursion fares, the 14–21-day individual inclusive tour fares and the nonaffinity group fares proposed by Iberia may be unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial and should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 404, 801, and 1002, thereof:

It is ordered, That:

1. An investigation is instituted to determine whether the fares and provisions set forth in the appendix hereof,[2] and rules, regulations, or practices affecting such fares and provisions, and subsequent revisions and reissues thereof, are or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, and if found to be unlawful, to take appropriate action to prevent the use of such fares and provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, the fares and provisions set forth in the appendix hereof are suspended and their use deferred from April 1, 1973, to and including March 31, 1974, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President[3] and shall become effective on April 1, 1973;

4. Except to the extent granted herein, the complaint filed in Docket 25245 is hereby dismissed; and

5. Copies of this order be filed in the aforesaid tariffs and be served upon Iberia, Lineas Aereas de Espana, S.A., and Pan American World Airways, Inc., who are hereby made parties to the investigation.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

ROUND-TRIP FARE PROPOSALS
NEW YORK-MADRID

	Present Fares	PA/TW	Iberia	
First class	$888	$888	$888	
Normal economy:				
Shoulder	504	480	480	
Peak	636	636	636	
14/21 Excursion:				
Shoulder	382	----	----	
Peak	445	----	----	
22/45 Excursion:				
Shoulder	255	----	----	
Peak	324	----	----	
14/45 Excursion:				
Shoulder		358	255	
Peak		443	324	
14/21 IIT:				
Shoulder		266	255	
Peak		331	324	
14/45 APEX:				
Shoulder		238	238	
Peak		307	307	
			WB[1]	EB[1]
Affinity Group:				
Shoulder	224	224	180	224
Peak	266	266	215	266
14/21 GIT:				
Shoulder	262	----	----	
Peak	335	----	----	

[1] Nonaffinity Group.

[FR Doc.73–5630 Filed 3–23–73; 8:45 am]

[1] Iberia also proposes to retain the currently available youth fares. The issue of youth fares is under investigation in Docket 23780 and will not be further dealt with herein. We intend to dispose of the pending request for suspension of these fares promptly by separate order.

[2] Filed as part of original document.

[3] This order was submitted to the President on March 9, 1973.

[Dockets Nos. 24686, etc.]

STANDARD AIRWAYS, INC., ET AL.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in this proceeding is assigned to be held on April 17, 1973, at 10 a.m. (local time) in Room 726, Universal Building, 1825 Connecticut Avenue NW, Washington, DC, before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on February 9, 1973, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., March 20, 1973.

[SEAL] ALEXANDER N. ARGERAKIS,
Administrative Law Judge.

[FR Doc.73-5712 Filed 3-23-73;8:45 am]

[Docket No. 25327; Order 73-3-66]

TRANS WORLD AIRLINES, INC., AND EL AL ISRAEL AIRLINES LTD.

Order of Investigation and Suspension Regarding Transatlantic Fares Between United States and Israel

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the eighth day of March 1973.

By tariffs filed on January 31, 1973, for effect from April 1, 1973, El Al Israel Airlines Ltd. (El Al), proposes to revise the existing fare structure over the North Atlantic between the United States and Israel. On February 7, 1973, Trans World Airlines, Inc. (TWA), filed its proposed fare structure in this market.[1] As in the case of our recent disposition of U.S.-carrier transatlantic fare proposals to Europe (Order 73-1-76), this order will be concerned with the fare proposals as they relate to the period from April 1, 1973, through October 31, 1973.

El Al would generally maintain the existing fare structure which is directed primarily toward the carriage of nonaffinity group travel.[2] El Al does, however, propose to consolidate the present two excursion fares into one of the 14–45-day duration, and would introduce a group APEX fare in the shoulder season. TWA proposes a structure of fares comparable to that which it has proposed to Western Europe, essentially involving a 14–45-day excursion fare, a 14–21-day IIT fare, and an APEX fare, and would cancel presently offered group fares. The proposals are shown in the attachment hereto.

[1] TWA's earlier transatlantic fare proposal which was disposed of in Order 73-1-76 did not contain fares to and from Israel.

[2] El Al also proposes to retain the currently available youth fares. The issue of youth fares is under investigation in Docket 23780 and will not be further dealt with herein. We intend to dispose of the pending request for suspension of these fares promptly by separate order.

Both carriers would retain first-class and peak-period economy-class fares at status quo. However, TWA would reduce the normal economy fare in the shoulder period by $24 to $900 while El Al would increase this fare by $6 to $930. Both propose one consolidated 14–45-day excursion fare, TWA at levels slightly below the present 14–21-day excursion, and El Al at levels significantly below those which presently exist for the 22–45-day excursion fare. El Al's excursion fare would undercut TWA by $127 and $112 in the shoulder and peak seasons, respectively. TWA proposes an individual APEX fare while El Al proposes a group APEX fare for 35 or more passengers which would be available only during the shoulder season.

As indicated, El Al would retain the presently available three categories of nonaffinity group fares. The 45–365-day fares would be maintained approximately at existing levels. The 8–45-day nonaffinity group fares would be reduced by $100 and $52 for shoulder and peak-season travel, respectively, and a peak-season group fare valid for 8–21-day travel would be introduced at $504. All of these nonaffinity group fares would be available to groups of 15 passengers as compared with the present minimum requirement of 20 passengers. One free stopover would be permitted, with one additional stopover available at a $20 charge, and weekend surcharges in varying amounts up to $40 would be imposed on the APEX and group fares for eastbound originations only as compared with the $15 charge presently in effect for both eastbound- and westbound-originating travel.

Complaints have been filed by Pan American World Airways, Inc. (Pan American), and Trans World Airlines, Inc., requesting that the Board act promptly to suspend El Al's filing, since it would allegedly destroy the balanced and logical interrelationship of fares advanced by the U.S. carriers in the overall transatlantic market and would have a significantly more adverse impact on revenue than world the U.S.-carrier proposal. Pan American directs specific attention to the extremely low fare levels proposed; the extent of availability of the low-priced promotional fares, and the degree of complexity of the fare structure; and contends that the fares are so low as to probably be predatory.

TWA, while acknowledging that El Al's filing is essentially similar to the existing pattern of U.S.-Israel fares, contends that it is in complete contradiction to the objective of a fare structure oriented toward individual travel. TWA anticipates that were El Al's fare structure in effect throughout the transatlantic market, it would suffer a loss of more than 200,000 passengers and a revenue reduction of over $2.7 million as compared with projected results under its proposal. TWA ascribes this principally to El Al's liberalized stopover provisions, the general lack of a weekend surcharge, and the fare levels proposed for nonaffinity groups which are sufficiently higher than its APEX fare level that scheduled service would not be competitive with travel group charters. As a result, TWA concludes that, while it would experience an increase in yield of 11 cents over its own proposal, this improvement would be more than offset by loss of traffic.

In reply, El Al denies each and every material allegation of the complaints and objects to the suspension of its proposed fares unless the Board suspends the fares of all carriers serving the North Atlantic effective April 1, 1973.

By Order 73-1-76, the Board indicated that it was not disposed to suspend the fare package proposed by the U.S. carriers. This decision was based on the understanding that the structure was not advanced as a definitive one for the future, but rather as an acceptable one for the travel season immediately ahead. Indeed the carriers did not support their proposal as one that would adequately compensate for the cost of providing scheduled service, but rather as a reasonably competitive response to changing market conditions which is anticipated to produce moderately improved yields and increased revenues. On the other hand, the Board expressed the opinion that the proposed pattern of fares reflected improvements which appear desirable for the longer term, among them an overall simplification of the structure, imposition of charges for stopover travel on all promotional fares where the privilege would be offered, and a reemphasis on fares designed to promote individual travel. The Board also expressed the belief that the present 22–45-day excursion fares, although generative, have resulted in a significant amount of diversion, and that these two developments taken together were largely responsible for the decline in yield and substandard earnings generally experienced on the North Atlantic in 1972.

While El Al proposes to consolidate the present two excursion fares into one of 14–45-day duration as do the U.S. carriers, its overall structure does little to achieve the objective of simplification, and would perpetuate primary reliance upon group travel. As we have previously indicated, the Board believes that scheduled services by their nature are more appropriately adapted to development of individual travel and that the demand for low-cost group travel can more adequately be met by charter service.

Most importantly, however, El Al would set the 14–45-day excursion fare at levels even lower than today's comparable long-duration excursion fare, undercutting the U.S.-carrier level by 15 percent in the peak season and 20 percent in the shoulder period. It also proposes substantial reductions in the 8–45-day nonaffinity group fare, approaching 10 percent in the peak season and 20 percent in the shoulder months, and would introduce a peak-season fare of $504 for 8–21-day nonaffinity group travel. The latter fare is some 15 percent below the lowest fare now available for nonaffinity group travel, and all would undercut TWA's proposed 14–21-day IIT

fares, which with the exception of an APEX fare are the lowest fares it contemplates. The significance of the low group fares which El Al proposes is magnified by the fact that the minimum group size would be reduced from 20 to 15 passengers, which in all likelihood would mean that these fares would be essentially the effective fares in this market.

The Board also has considerable difficulty with that aspect of the El Al proposal which would continue to offer free stopovers on promotional fares. We note that, where stopover privileges would be liberalized, each would be assessed a $20 charge and we are in accord with that approach. However, we believe it extremely important to the development of an economically sound transatlantic fare structure that stopover travel on all promotional fares be permitted only when subject to an appropriate charge. As we have previously stated, the circuitous travel which free stopovers encourage creates an unnecessary downward pressure on yield which should be appropriately compensated for. Finally, El Al proposes to surcharge weekend travel on its promotional fares for eastbound originations only. We find the preference thus accorded passengers originating in Israel to be clearly objectionable. Moreover, we believe the varying charges proposed, depending on duration of travel, season, and day of the week, would be needlessly complex from the standpoint of achieving a readily saleable fare structure.

In determining not to suspend the fare structure to Western Europe proposed by the U.S. carriers, the Board noted that the APEX fare was quite clearly proposed in part at least as a competitive response to charter operations recently authorized by this and other governments. At the same time, we expressed the view that demand for low-cost transportation can be met economically if the service is provided on a planeload basis and is subject to advance contractual arrangements, and that these particular features do not inhere to scheduled service by its very nature. Our decision to permit APEX fares between the United States and Europe for the upcoming season was taken against the background of an evolving new demand for air service in that market and the conclusion that a certain amount of pricing experimentation is to be expected in both scheduled and charter services.

However, by order of the Government of Israel, charter operations are prohibited between that country and the United States. Accordingly, the need for an APEX fare in this market is not apparent. Quite apart from this consideration, we are unable to accept an APEX fare at the level proposed by TWA, notwithstanding the restrictive conditions of availability. TWA would set this fare at $277 or almost 40 percent below the level of its 14–45-day excursion fare for peak-season travel, a reduction which amounts to 30 percent from the present 22–45-day excursion fare. By way of comparison, the relationship between the U.S. carriers' proposed APEX and excursion fares to Western Europe is in the range of 27 to 31 percent.

Accordingly, for the reasons stated, the Board finds the shoulder season normal economy fares, the 14–45-day excursion fares, the 14–45-day group advance-purchase excursion fare, the 45–365-day nonaffinity group fares, the 8–21-day nonaffinity group fare, and the 14–21-day nonaffinity group fares proposed by El Al and the 14–45-day advance purchase excursion fares proposed by TWA may be unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial and should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 404, 801, and 1002, thereof:

It is ordered, That:

1. An investigation is instituted to determine whether the fares and provisions set forth in the appendix hereof,[3] and rules, regulations, or practices affecting such fares and provisions, and subsequent revisions and reissues thereof, are or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, and if found to be unlawful, to take appropriate action to prevent the use of such fares and provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, the fares and provisions set forth in the appendixes[3] hereof are suspended and their use deferred from April 1, 1973, to and including March 31, 1974, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President[4] and shall become effective on April 1, 1973;

4. Except to the extent granted herein, the complaints filed in Dockets 25201 and 25202 are hereby dismissed; and

5. Copies of this order be filed in the aforesaid tariffs and be served upon El Al Israel Airlines Ltd., Pan American World Airways, Inc., and Trans World Airlines, Inc., who are hereby made parties to the investigation.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[3] Filed as part of original document.

[4] This order was submitted to the President on March 9, 1973.

ROUND-TRIP FARE PROPOSALS—NEW YORK-TEL AVIV

	Present fares	TWA	El Al
First class	$1,474	$1,474	$1,474
Normal economy:			
Shoulder	924	900	900
Peak	1,030	1,030	1,030
14/21 Excursion:			
Shoulder	661		
Peak	724		
22/45 Excursion:			
Shoulder	570		
Peak	628		
14/45 Excursion:			
Shoulder		627	510
Peak		722	610
14/21 IIT:			
Shoulder		491	
Peak		556	
14/45 APEX:			
Shoulder		376	419
Peak		445	
Nonaffinity group (45 day/1 year):			
Shoulder	598		500
Peak	629		630
Nonaffinity group (8/45 day):			
Shoulder	540		440
Peak	592		540
Nonaffinity group (8/21 day):			
Shoulder	482		
Peak			504
14/21 GIT:			
Shoulder	487		
Peak	550		

[FR Doc.73-5632 Filed 3-23-73;8:45 am]

[Docket No. 25330; Order 73-3-69]

TRANSPORTES AEREOS PORTUGUESES, S.A.R.L.

Order of Investigation and Suspension Regarding Transatlantic Fare Structure

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the eighth day of March 1973.

By tariffs filed January 26, 1973, for effect from April 1, 1973, Transportes Aereos Portugueses, S.A.R.L. (TAP), proposes to revise the existing fare structure over the North Atlantic between the United States and Portugal. As in the case of our recent disposition of the U.S.-carrier transatlantic fare proposals (Order 73–1–76), this order will be concerned with TAP's proposal as it relates to the period from April 1, 1973, through October 1, 1973.

TAP proposes to retain first-class and peak-season economy fares at present levels and to reduce normal economy fares by $24 in the shoulder period, as does the U.S.-carrier proposal.[1] TAP would also introduce a 14–45-day APEX fare and a 14–21-day IIT fare, both at levels consistent with those proposed by the U.S. carriers. However, with the exception of 14–21-day GIT fares, all promotional fares presently available would be retained. The 14–21-day excursion fare would be reduced to the level contemplated by the U.S. carriers for the

[1] TAP also proposes to retain the currently available youth fares. The issue of youth fares is under investigation in Docket 23780 and will not be further dealt with herein. We intend to dispose of the pending request for suspension of these fares promptly by separate order.

14–45-day excursion, and the 22–45-day excursion would be increased slightly, by $15 and $7 during the shoulder and peak-season periods, respectively. The affinity-group fares would continue, but at a somewhat higher peak-season level. All of the promotional fares would be surcharged by $15 for weekend travel, and two free stopovers would be allowed in connection with each such fare. Additional stopovers where permissible would be charged at $15 each.

Complaints against TAP's proposal have been filed by Pan American World Airways, Inc. (Pan American), and Trans World Airlines, Inc. (TWA). TWA contends that the filing does not reflect a well-rounded and viable structure for the transatlantic market, and Pan American objects to the complexity which the proposal would introduce into the transatlantic fare structure. Both carriers indicate that implementation of TAP's proposals would provide them with more revenue than would accrue under existing fares ($3.6 million in operating profit for Pan American, and $1.9 million in revenues for TWA). However, the revenue gain would allegedly fall far short of the carriers' expectations under their own proposal, $12.6 million in operating profit in the case of Pan American and $23.9 million in revenues in the case of TWA. Both carriers object to the retention of the 14–21-day and 22–45-day excursion fares and the liberal provision of free stopovers on promotional fares, the effect of which would be a substantial dilution of revenue with little offsetting generation.

The year 1972 saw a heartening resurgence in traffic growth on the North Atlantic, and along with it a significant increase in load factor for most carriers. Notwithstanding this favorable trend, however, overall economic results for the industry continued to be substandard. The U.S. carriers ended the year with an annual average load factor of about 60 percent; yet Pan American remained in a negative-return position, and TWA's earnings were only 8.38 percent on investment.[3] Similar results have apparently been sustained by the foreign-flag carriers. For this reason, there seems to be a consensus among the carriers that improved yields and revenues are necessary if transatlantic scheduled services are to continue on an economically viable basis. It also seems clear that the 22–45-day excursion fare has been largely responsible for the erosion in average yield which has occurred this past year. There can be little doubt that this fare generated new travel. By the same token, it appears to have resulted in significant diversion, principally from the normal economy and 14–21-day excursion fares, as evidenced by the fact that 25 percent of the total traffic carried by the U.S. carriers moved on these fares. Stated differently, excluding youth-fare travel, one in every four transatlantic passengers traveled at the lowest individual fare. In our opinion, the economic validity of a fare introduced for promotional reasons and established on the basis of incremental costs is brought into serious question when its usage achieves such a magnitude.

By Order 73–1–76, the Board indicated that it was not disposed to suspend the fare package proposed by the U.S. carriers.[3] This decision was based on the understanding that the structure was not advanced as a definitive one for the future, but rather as an acceptable one for the travel season immediately ahead. Indeed the carriers did not support their proposal as one that would adequately compensate for the cost of providing scheduled service, but rather as a reasonably competitive response to changing market conditions which is anticipated to produce moderately improved yields and increased revenues. The U.S. carriers' structure incorporates a fare category which is somewhat lower than the level now offered on the 22–45-day excursion fare. However, the conditions applicable to use of this APEX fare are quite restrictive and should curtail uneconomic diversion from other services. By the same token, the level of the 14–45-day excursion fare, which is available with minimal restrictions, would be significantly above that now applicable to the comparable fare. On this basis, the Board decided not to suspend the structure as proposed for the upcoming season, the most important consideration being a projected improvement in yield and a conclusion that the structure moved in the direction of more closely relating fares to the cost of providing the respective services.

We do not mean to imply that the Board considers the U.S.-carrier proposal as the only, or necessarily the best, solution to the question of North Atlantic fares. As indicated in our earlier order, we believe it contains certain elements which represent distinct improvements which should be pursued over the longer term. This is not to say that the Board stands committed to the particular structure which the U.S. carriers propose. We are committed, however, to the necessity for improving the overall average yield from scheduled services on the North Atlantic.

It is for this reason that the Board is unable to accept TAP's proposal. Our primary difficulty lies with the retention of 22–45-day excursion fares which would be only nominally higher than present fares for this service, $7 round trip in the peak season. We have previously stated in connection with proposals of other carriers that we are not prepared to accept the argument that scheduled services need be priced comparably with charter services in order to maintain independent and profitable competitive operations. We have also indicated our belief that the present 22–45-day excursion fares, although generative, have resulted in a significant amount of diversion and that these two developments taken together were largely responsible for the decline in yield in 1972.

U.S.-carrier traffic during the second and third quarters of 1972 showed a total growth rate of 24 percent over the same period in 1971. In the face of this trend, however, the number of normal economy and short-duration excursion-fare passengers actually declined from 726,165 to 680,762, a decrease of 35,383 or 7 percent. At the same time, long-range excursion-fare passengers more than doubled, increasing from 263,210 in 1971 (29–45-day excursion fare at New York-Lisbon round-trip level of $332, peak) to 570,853 (22–45-day excursion fare at $313 fare New York-Lisbon). We believe there is every reason to expect that this trend in traffic development would continue were TAP's long-duration excursion fare to be permitted to become effective, with a consequent continuing erosion in yield. In this connection, Pan American and TWA anticipate a yield of 4.4 cents per mile under TAP's structure, as compared with respective estimates of 4.7 and 5.1 cents per mile under the U.S.-carrier proposal. We are aware that the APEX fare level contemplated by the U.S. carriers, and which TAP proposes to match, is somewhat lower than the level we are discussing here. However, the conditions attached to use of the APEX fare are sufficiently restrictive, in our opinion, that the fare can reasonably be expected to be more generative than diversionary this upcoming season.

We are also unable to accept the very liberal approach adopted by TAP in connection with provision of free stopovers. Two would be permitted for travel on each of the promotional fares. More importantly, TAP would extend this privilege to the 22–45-day excursion fare where it does not now exist, and also to the APEX and 14–21-day IIT fares. By contrast, the U.S. carriers would prohibit stopovers altogether on the low APEX fare, and would assess a charge of $20 for each of the limited number of stopovers permitted on the somewhat higher IIT fare. In the Board's opinion, the dilution in revenue which stems from the circuitous routings involved in multistop travel creates an unnecessary downward pressure on yield which should be compensated for by an appropriate charge for the service. Finally, we would point out that TAP's proposal, which would essentially maintain the present structure with an overlay of two new fares, runs directly counter to the simplication sought by the U.S. carriers and a majority of European carriers as well. As we have said before, the Board endorses the objective of a more simplified fare structure as being in the interest of both buyers and sellers of air transportation.

Accordingly, for the reasons stated,[4]

[3] Year ended Sept. 30, 1972.

[3] The TAP and U.S. carrier proposals are summarized in the attachment hereto.

[4] The Board has no difficulty with the levels proposed by TAP as regards the 14–21-day excursion fares, the 14–21-day individual inclusive tour fares, and the affinity-group fares. We are concerned that the free stopovers associated with these fares (as opposed to charging for stopovers when they are permitted) would prove to be uneconomic and not geared to cost of providing the service.

the Board finds the 14–21-day excursion fares, the 22–45-day excursion fares, the 14–21-day individual inclusive tour fares, the 14–45-day advance-purchase excursion fares and the affinity-group fares proposed by TAP may be unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial and should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 404, 801, and 1002, thereof:

It is ordered, That:

1. An investigation is instituted to determine whether the fares and provisions set forth in the appendix hereof,[5] and rules, regulations, or practices affecting such fares and provisions, and subsequent revisions and reissues thereof, are or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, and if found to be unlawful, to take appropriate action to prevent the use of such fares and provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, the fares and provisions set forth in the appendix hereof are suspended and their use deferred from April 1, 1973, to and including March 31, 1974, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President[6] and shall become effective on April 1, 1973;

4. Except to the extent granted herein; the complaints filed in Dockets 25177 and 25198 are hereby dismissed; and

5. Copies of this order be filed in the aforesaid tariffs and be served upon Transportes Aereos Portugueses, S.A.R.L., Pan American World Airways, Inc., and Trans World Airlines, Inc., who are hereby made parties to the investigation.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[5] Filed as part of the original document.
[6] This order was submitted to the President on March 9, 1973.

ROUND-TRIP FARE PROPOSALS—NEW YORK-LISBON

	Present fares	PA/TW	TAP
First class	$842	$842	$842
Normal economy:			
Shoulder	484	460	460
Peak	560	560	500
14/21 Excursion:			
Shoulder	340	.....	325
Peak	412	.....	410
22/45 Excursion:			
Shoulder	240	.....	255
Peak	313	.....	320
14/45 Excursion:			
Shoulder	.....	325	.....
Peak	.....	410	.....
14/21 IIT:			
Shoulder	.....	245	245
Peak	.....	310	310
14/45 APEX:			
Shoulder	.....	224	224
Peak	.....	293	293
Affinity group:			
Shoulder	214	.....	214
Peak	256	.....	270
14/21 GIT:			
Shoulder	241	.....	.....
Peak	304	.....	.....

[FR Doc.73-5631 Filed 3-23-73;8:45 am]

[Dockets Nos. 25116, 22859; Order 73-3-74]

UNITED AIR LINES, INC.

Order of Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of March 1973.

By tariff revisions[1] marked to become effective April 1, United Air Lines, Inc. (United) proposes to increase domestic air freight rates as summarized below:

15 percent for hauls 550 miles or less, declining in increments of 50 miles to 1.5 percent for hauls 951–999 miles; 5 percent for hauls 1,000 miles or over in eastbound and northbound directions, except for specific commodity rates, which are not increased. No increase in westbound general commodity rates over 1,000 miles.

A complaint requesting suspension and investigation of United's proposal has been filed by Shulman Air Freight, Inc. (Shulman).

The complaint alleges, inter alia, that United has supplied absolutely no justification for the increases proposed in its container rates; that data supplied by United combined with other known data indicate that container rates produce yields which generally cover their fully allocated costs excluding return on investment; that United is simply lumping together loose traffic and container traffic, and attempting to increase its revenue by disproportionate increases on container traffic, which already bears more than its share; that United's proposal to increase its eastbound directional general commodity rates while leaving its eastbound specific commodity rates unincreased is unjustly discriminatory; and that there have been substantial reductions in capacity costs by virtue of United's improved load factor and it is quite probable that drastically reduced capacity has further reduced capacity costs for United.

In answer to the complaint, United contends that justification of its proposed filing is based totally on cost considerations, all of which show the need for additional revenue; that, while it is true load factors have improved in 1972, United has considered such improvement in its justification by using the year ending June 30, 1972 to determine cost; that, since United's justification shows that short-haul freight operations in question are not profitable even at 100 percent bulk load factor, Shulman is incorrect in denying that United's proposed increases are cost justified merely because load factors have been improving; that, in support of its unfounded proposition that container traffic pays more than its proportionate share, Shulman reverts to using out-of-date nonfully allocated cost data of other carriers, not pertinent to normal air freight operations; and that Shulman has totally failed to show sufficient facts to indicate that United's proposed short-haul container rate increases are not fully cost justified or that such increases discriminate between container versus bulk shippers.

The proposed rates come within the scope of the Domestic Air Freight Rate Investigation, Docket 22859, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to suspend the proposals or to permit them to become effective pending investigation.

The Board concludes that United has adequately demonstrated a need for an increase in air freight revenues. For the 12 months ended June 30, 1972, United reports operating revenues of $82.9 million and operating expenses of $90.1 million from scheduled domestic all-cargo services, resulting in an operating loss of $7.2 million. All-cargo services account for approximately 63 percent of the carrier's total domestic freight traffic in terms of ton-miles and thus are a fair indication of the profitability of its air freight services in general.

United presents cost data purporting to support rate increases as high as 6 to 15 percent for hauls 850 miles or less, with declining increases for longer hauls.

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariffs CAB 131 and 169.

While there may be merit in United's attempt to base rate increases upon the costs of shipments at various lengths of haul, we believe that United's proposal has serious deficiencies.

First, United does not fully reflect in its proposals the various results of the cost data presented. For example, no increased rates are proposed for westbound hauls over 1,000 miles, although the costs shown, if extended to such hauls, would appear to justify rate increases in such cases. Secondly, United utilizes an average shipment size of 300 pounds in its costing methodology and ignores other sized shipments, for which cost-rate relationships might be different. Finally, we believe that the rate increases in markets up to 350 miles appear prima facie excessive and might have an undue impact on shippers, especially in view of the rate increases granted to the carrier during the past few years. Therefore, we will suspend these increases pending investigation.

We shall permit to become effective proposed eastbound and northbound directional rates in view of the Board's policy of reducing directional rate differences.

Much of Shulman's complaint is devoted to protesting United's higher container rates. As pointed out by United, Shulman applies cost data of other carriers to United's operations, and these data cover different time periods. Furthermore, we believe that container rates should bear their share of increased carrier costs.[3]

PRICE STABILIZATION CONSIDERATIONS

Section 229.3 of the Board's economic regulations sets forth the criteria that must be satisfied for Board approval of rate increases under the price stabilization program. Based on the data before us, the Board has determined that the rate increases authorized herein satisfy these criteria.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered that:

1. Pending hearing and decision by the Board, the increased rates, charges, and provisions described in Appendix A[3] hereto are suspended and their use deferred to and including June 29, 1973, unless otherwise ordered by the Board and that no changes be made therein during the period of suspension except by order or special permission of the Board;

2. The complaint filed by Shulman Air Freight, Inc. in Docket 25116 is dismissed except to the extent indicated herein;

3. The Motion for Leave to File an Otherwise Unauthorized Document submitted by the Society of American Florists, in Docket 25317, is denied; and

4. Copies of this order shall be filed with the tariffs and served upon United Air Lines, Inc., Shulman Air Freight, Inc., and the Society of American Florists.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-5711 Filed 3-23-73;8:45 am]

[3] The Society of American Florists (SAF), on March 16, submitted a "Motion for Leave to File an Otherwise Unauthorized Document," requesting that the Board accept a late-filed request for suspension of domestic freight rate increases proposed by American Airlines, Inc., The Flying Tiger Line Inc. (Tiger), Trans World Airlines, Inc., and United, marked to become effective April 1 or May 1. We shall deny the motion because it does not contain valid reasons justifying the filing of a request for suspension that is (except with respect to Tiger's proposal) at least 16 days late. The time for filing timely requests for suspension of Tiger's proposal expired on March 19 and the motion is not necessary with respect to that proposal.

[3] Appendix A filed as part of the original document.

COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1973

Notice of Additions

Notice of proposed additions to the Initial Procurement List, August 26, 1971 (36 FR 16982), were published in the FEDERAL REGISTER on July 26, 1972 (37 FR 14902), and December 14, 1972 (37 FR 26628).

Pursuant to the above notices the following commodity and service are added to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITY

	Each
Class 8465:	
Case, Maintenance Equipment, Small Arms, for M16A1 Rifle 8465-781-9564 (IB).	$0.924

SERVICE

Furniture Rehabilitation, Wright-Patterson Air Force Base, Dayton, Ohio, and Lockbourne Air Force Base, Columbus, Ohio. (GI).	Price list available from PMDS, GSA Region 5.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-5552 Filed 3-23-73;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental impact statements received by the Council from March 12 through March 15, 1973.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250, 202—447-7803.

FOREST SERVICE

Final, March 9

FALCON Program. The statement refers to a research and development program for advanced logging systems. The major purpose would be to improve the ability of resource managers to predict the economic and environmental consequences associated with the use of conventional and new logging systems. Emphasis will be on new or improved aerial logging methods (balloon use, helicopters, and cable systems), with the aim of providing a larger array of timber harvesting alternatives in environmentally sensitive areas. (112 pages) Comments made by: USDA, COE, EPA, HEW, HUD, DOI, DOT, agencies of 12 States, and concerned citizens. (ELR Order No. 00405) (NTIS Order No. EIS 73 0405-F)

Final, December 27

Fire Ant Control Program. The statement refers to the Imported Fire Ant Cooperative Federal-State Control and Regulatory Program for 1973, under which 24 million acres (in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas) will be aerially treated. The agent to be used is mirex, at a dosage rate of one-seventeenth of an ounce per acre. Nontarget species will be affected. (111 pages) Comments made by: DOC, DOI, USN, agencies of several States, and concerned citizens. (ELR Order No. 00405) (NTIS Order No. EIS 73 0404-F)

Final, March 12

Herbicide Control of Sagebrush, Idaho. The statement refers to the proposed use of 2,4-D herbicide on approximately 15,000 acres of national forest and grassland areas annually, in order to control sagebrush and wyethia. The area to be treated is in southern Idaho, south of the Salmon River. The statement indicates that a minor amount of the chemical may find its way to water supplies and to the soil. Grouse, antelope, and mule deer are among the wildlife species which are dependent upon sagebrush for either cover or food; some nontarget species of plants will be affected. (157 pages) Comments made by: EPA, USDA, DOI, State agencies, and concerned citizens. (ELR Order No. 00422) (NTIS Order No. EIS 73 0422-F)

RURAL ELECTRIFICATION ADMINISTRATION

Draft, March 15

230 kv. line, Henning to Rush Lake, Minn., county: Otter Tail. The action involves the proposed use of REA loan funds by Cooperative Power Association for the construction of 12 miles of 230 kv. transmission line, with a tap switching station at one terminal and a 230-41.6 kv. substation at the other terminal. There will be some construction disruption and adverse visual impact. (93 pages) (ELR Order No. 00458) (NTIS Order No. EIS 73 0458-D)

SOIL CONSERVATION SERVICE

Draft, March 12

Oil Creek Watershed, Pa., counties: Several The proposal is for a watershed protection and flood prevention project for the 112,000 acre watershed. Project measures include land treatment on 12,585 acres, the development or improvement of 1,575 acres for recreation and upland habitat, and the construction of 6 single purpose dams. One hundred and forty-three acres will be committed to the project; 1 mile of stream will be inundated. (43 pages) (ELR Order No. 00423) (NTIS Order No. EIS 73 0423–D)

Final, March 14

Georgetown Creek Watershed, Idaho county: Bear Lake. The proposed project, for watershed protection, flood prevention and irrigation, consists of land treatment measures, 8,500 feet of channel works, and the conversion from a surface irrigation system to a pressure system for 3,500 acres of cropland. There will be adverse impact to stream fish habitat. (69 pages). Comments made by: COE, EPA, HEW, DOI, State agencies, and concerned citizens. (ELR Order No. 04949) (NTIS Order No. EIS 73 0436–F)

ATOMIC ENERGY COMMISSION

Contact: For nonregulatory matters: Mr. Robert J. Catlin, Director, Division of Environmental Affairs, Washington, D.C. 20545, 202—973–5391.

For regulatory matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, 202—973–7373, Washington, D.C. 20545.

Addendum, March 12

Rio Blanco Gas Stimulation Project, Colo. county: Rio Blanco. The document is an addendum to the final statement (ELR Order No. 4318, NTIS Order No. PB–205 782–F) which was filed with the council on May 28, 1972. The addendum is intended to reflect the consideration of comments which were filed too late to be incorporated in the environmental impact statement, and to present additional information. (2 volumes) (ELR Order No. 00417) (NTIS Order No. EIS 73 0417–D)

Final, March 12

Davis-Besse Nuclear Power Station, Ohio county: Ottawa. The statement refers to the proposed continuation of a construction permit and the issuance of an operating license to the Toledo Edison Co. and the Cleveland Electric Illuminating Co. for the station. A pressurized water reactor will be employed to produce 2,633 MWt and 872 MWe (net): ultimate outputs of 2,722 MWt and 906 MWe are anticipated. Cooling water will be drawn from Lake Erie and circulated through a natural draft tower; discharge will be at 20 feet above ambient. Approximately 600 acres of the 954-acre site is marsh which will be maintained as a wildlife refuge. As the station is located in a migratory bird flyway and near refuges, birds may be killed from striking the tower. (199 pages) Comments made by: AHP, USDA, COE, DOC, HEW, DOT, EPA, FPC, and State agencies. (ELR Order No. 0418) (NTIS Order No. EIS 73 0418–F)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202—967–4335.

Draft, March 15

Tanker Construction Program. The program involves the subsidized construction of liquid bulk carriers under the Merchant Marine Act of 1970. Included is a mix of vessels, such as handy size tankers (35,000 d.w.t.), intermediate tankers (85,000 d.w.t.), supertankers (250,000 d.w.t.), jumbo supertankers (400,000 d.w.t.), and combination oil/bulk/oil (OBO) carriers (up to 160,000 d.w.t.). The statement treats the deleterious effects of oil introduced into navigable waters by tankers and secondary effects, particularly in the area of future deep water terminal construction. Special assessments have been made of the effects of catastrophic release from the largest tanker considered under the program, as well as of control and clean-up procedures after spills. (ELR Order No. 00392) (NTIS Order No. EIS 73 0392–D)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN–PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, DC 20314, 202—693–7168.

Draft, March 15

Days Creek. The proposed project involves channel works on 18.74 miles of stream with the city of Texarkana. Flood protection will be provided for 2,900 acres of land; the intensive development of 1,320 acres for urban or industrial use will be enhanced. (80 pages) (ELR Order No. 00450) (NTIS Order No. EIS 73 0450–D)

Draft, March 7

Claiborne Lock and Dam, Ala. The proposed action is the completion of construction and the continued operation of the navigation project on the Alabama River. The dam also reregulates the peaking power releases from the Millers Ferry hydroelectric project. There has been a loss of stream fishery; 2,310 acres of forest and agricultural lands have been committed to the project. (18 pages) (ELR Order No. 00386) (NTIS Order No. EIS 73 0386–D)

Draft, March 14

Ninilchik Small Boat Harbor, Alaska. The proposed action involves annual maintenance operations for the harbor, including dredging to authorized dimensions and repair of beach erosion protection measures. There will be resulting adverse impact to marine biota. (57 pages) (ELR Order No. 00438) (NTIS Order No. EIS 73 0438–D)

Draft, March 15

McKinney Bayou, Ark. and Tex. The proposed project involves the construction of 2 major outlet channels to the Red River, with related control works, channel enlargement of 15.6 miles of McKinney Bayou, and interior drainage improvements. The project will provide flood protection and/or improved drainage to 41,600 acres of cleared land. Counties affected are Miller in Arkansas and Bowie in Texas. As a result of the project 3,600 acres of bottom forest will be cleared for agricultural production, with adverse impact to wildlife and fish resources. (103 pages) (ELR Order No. 00449) (NTIS Order No. EIS 73 0449–D)

Draft, March 14

Nawiliwili Small Boat Harbor, Hawaii. The proposed project involves the construction of a small boat harbor in Nawiliwili Bay on Kauai. Project features include a breakwater, and navigation channels. There will be some loss of crab habitat. (13 pages) (ELR Order No. 00442) (NTIS Order No. EIS 73 0442–D)

Draft, March 15

West Agurs Levee, La., county: Caddo. The proposed action involves the construction of 232 wells along the levee at Twelvemile Bayou, in order to insure the integrity of the structure at high-water levels. Approximately 600 cu. yds. of material will be removed and spread on the levee. (36 pages) (ELR Order No. 00448) (NTIS Order No. EIS 73 0448–D)

Final, March 15

Rush Island, Mo., county: Jefferson. The statement refers to the proposed granting of a permit to the Union Electric Co. for the construction of two 600,000 kw. coal-fueled electrical generating units on the west bank of the Mississippi River. Approximately 150 acres of flood plain land would be committed to the action; cooling water would be drawn from and returned to the Mississippi. The plant would consume 2.5 million tons of coal per year; oxides of nitrogen and sulfur and particulate matter would be released. Fish and larvae may be lost on intake screens and in the cooling system. (approx. 400 pages) Comments made by: EPA, OEO, USDA, DOI, DOT, agencies of Illinois and Missouri, and concerned citizens. (ELR Order No. 00454) (NTIS Order No. EIS 73 0454–F)

NAVY

Contact: Mr. Joseph A. Grimes, Jr., Special Civilian Assistant to the Secretary of the Navy, Washington, D.C. 20350, 202—697–0892.

Draft, March 15

Trident Wharf and Turning Basin, Port Canaveral, Fla., county: Brevard. The proposed project involves the construction of a new turning basin, the deepening of an existing harbor entrance channel, and the construction of a wharf and attendant facilities in order to serve *Trident* missile-carrying submarines. Approximately 12,600,000 cubic yards of spoil will be dredged. One hundred acres of terrestrial environment will be converted to marine environment; 150 acres of upland will be covered with spoil; 2.8 miles of Atlantic shoreline beach will be restored. There will be adverse impact upon marine biota. (199 pages) (ELR Order No. 00452) (NTIS Order No. EIS 73 0452–D)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Rod Kreger, Acting Administrator, GSA–AD, Washington, D.C. 20405, 202—343–6077.

Draft, March 12

Social Security Administration Payment Center, California. The proposed project is the construction of a new building to house the Department of Health, Education, and Welfare Social Security Payment Center for the San Francisco Bay area. The 554,900 square foot building will be six stories above grade, located on a 10.62-acre site in an urban renewal area of Richmond. There will be some construction disruption. (47 pages) (ELR Order No. 00421) (NTIS Order No. EIS 73 0421–D)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202—343–3891.

BUREAU OF RECLAMATION

Draft, March 14

Granite Reef Aqueduct, Ariz. The proposed project is a feature of the Central Arizona Project. The aqueduct and its pumping plants will convey water from Lake Havasu at Buckskin Mountains Tunnel, 182 miles southeast to the Central Arizona service area. An annual average of 1.1 million acre-feet will be pumped through the system for multiple-use purposes. This import of water will utilize the major portion of Arizona's remaining entitlement to Colorado River water. Approximately 8,900 acres will be committed to the project. (Approximately 350 pages) (ELR Order No. 00447) (NTIS Order No. EIS 73 0447–D)

NATIONAL PARK SERVICE

Draft, March 15

Moores Creek National Military Park, N.C., county: Pender. The proposed action is the adjustment of the east, west, and north boundaries of the park, and the relocation of the present State highway around rather than through the park, in order to protect and interpret those areas of prime historical importance with the lands acquired. There will be displacement of one store and six residences. (28 pages). (ELR Order No. 00456) (NTIS Order No. EIS 73 0456–D)

Final, March 14

John D. Rockefeller, Jr., National Memorial Parkway, Wyo., county: Teton. The proposed action is the legislative designation of a corridor between Grand Teton and Yellowstone National Parks, along with connecting roads, as the John D. Rockefeller, Jr., National Memorial Parkway. The action will result in increased visitation, and the possible disturbance of wildlife. (51 pages). Comments made by: USDA, DOI, DOT, EPA, and one State agency. (ELR Order No. 00439) (NTIS Order No. EIS 73 0439–F)

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Francis Gartrell, Director of Environmental Research and Development, 720 Edney Building, Chattanooga, Tenn. 37401, 615—755–2002.

Draft, March 12

Bellefonte Nuclear Plant, Ala., county: Jackson. The project involved is a two-unit, 2,664 mw. generator name plate rated nuclear power plant, which would be constructed on a 1,500-acre tract on a peninsula of the Tennessee River, at Guntersville Lake. The plant will utilize two natural draft towers for cooling. Excess heat will be discharged to Guntersville Lake; there will be releases of minute quantities of radioactivity to the air and water; land use at the site will be changed from agricultural to industrial. (Two volumes). (ELR Order No. 00424) (NTIS Order No. EIS 73 0424–D)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 Seventh Street SW., Washington, DC 20590. 202—426–4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft, March 12

Safety Sound Estuary Bridge, Alaska. The statement refers to the proposed replacement of an existing ferry facility on the Nome-Council Highway. The 805-foot-long bridge and 900-foot-long causeway would provide passage across Safety Inlet. Two approaches to the bridge and causeway, 2,400 feet and 1,900 feet respectively, will tie the new facility to the existing road. Some turbidity and siltation will result from causeway construction. (13 pages). (ELR Order No. 00433) (NTIS Order No. EIS 73 0433–D)

Fifth Street Bridge (Kentucky 8), Ky., counties: Campbell and Kenton. The statement refers to the proposed construction of an additional bridge across the Licking River on Kentucky 8. The 0.48 mile facility will provide a one-way roadway for eastbound traffic between Covington and Newport. Adverse effects include displacement of residences and noise and air pollution. (59 pages) (ELR Order No. 00428) (NTIS Order No. EIS 73 0428–D)

U.S. Highway 30, Nebr., county: Hall. The statement refers to the proposed improvement and/or relocation of a segment of existing U.S. 30 and the extension of First Street in Grand Island. The purpose of the project is to provide a highway facility which will extend the present one-way system and merge the traffic on the one-way system through the Central Business District of Grand Island back into the two-directional traffic on U.S. 30. Adverse effects include acquisition of right of way and relocation impacts on wildlife. (28 pages) (ELR Order No. 00429) (NTIS Order No. EIS 73 0429–D)

Vermont Route 100, Vt., county: Lamoille. The proposed project is the reconstruction on new location of 1.8 miles of Route 100 to provide a bypass of the village of Morrisville. The highway will provide a two-lane facility and a new crossing of Lake Lamoille. Thirty-eight acres of agricultural land will be acquired for right of way; three residences, one commercial operation and a warehouse will be dislocated. (110 pages) (ELR Order No. 00426) (NTIS Order No. EIS 73 0426–D)

State Route 93, Wis., county: Trempealeau. The proposed project is the reconstruction of 6 miles of Highway 93 from north of Elk Creek to the village of Eleva. Grading, placing of base course, and surfacing of the roadbed will be involved. One farm family will be displaced; 55 acres of crop, wood, and pastureland will be acquired for right of way. (10 pages) (ELR Order No. 00431) (NTIS Order No. EIS 73 0431–D)

Final, March 6

FAS Route 09, Ala., county: Clay. The statement refers to the proposed construction of approximately 500 feet of bridge over Crooked Creek and the Seaboard Coastline Railroad, with approximately 1,500 feet of approaches. The project is located on Federal Aid Secondary Route No. 09. Six acres of land will be committed to right of way. Unavoidable effects include inconvenience to the traveling public during construction. (28 pages) Comments made by: EPA, DOI, DOT, HUD, and State agencies. (ELR Order No. 00367) (NTIS Order No. EIS 73 0367–F)

U.S. 280, Ala., counties: Shelby and Talladega. The proposed project is the improvement of present two-lane U.S. 280 to a four-lane facility with a new bridge over the Coosa River. The facility will extend from Harpersville to Childersburg, a distance of 8.04 miles. Approximately 94 acres of land will be acquired for right of way; 18 families and six businesses will be dislocated. Temporary inconvenience to traffic during construction, and its associated dust and noise are adverse effects of the action. (66 pages) Comments made by: EPA, DOD, HUD, DOI, USDA, HEW, State, and regional agencies. (ELR Order No. 00375) (NTIS Order No. EIS 73 0375–F)

Final, March 6

M–24 Extension, Michigan, counties: Tuscola and Huron. The statement refers to a corridor location study for the construction of a 15-mile extension to M–24. Approximately 150 acres of agricultural land and 150 acres of marginal wildlife habitat will be committed to right-of-way. Adverse effects will include loss of local tax base, displacement of residential and farm structures, disruption of surface drainage patterns, and erosion and sedimentation of existing watercourses. (122 pages) Comments made by: USDA, DOC, EPA, COE, DOI, DOT, State, and local agencies. (ELR Order No. 00374) (NTIS Order No. EIS 73 0374–F)

Final, March 5

U.S. 82, N. Mex., county: Eddy. The statement refers to the proposed ungrading of U.S. 82 from Artesia to Loco Hills, a distance of 25 miles. The facility will consist of two 12-foot driving lanes, two box culverts and a bridge across the Pecos River flood plain and a 386-foot bridge across the Pecos River. Adverse effects include displacement of three businesses, one individual, and five vacant structures; conversion of 19.9 acres of farmland and minor acreage of grazing land to right-of-way; and pollution and erosion during construction. (26 pages) Comments made by: USDA, COE, DOI, and State agencies. (ELR Order No. 00365) (NTIS Order No. EIS 73 0365–F)

Final, March 6

Bridge replacement for County Road No. 8, Ohio, county: Shelby. The statement refers to the proposed replacement of the bridge carrying County Road No. 8 over the Penn Central Railroad and the improvement of the approaches to the bridge. Three families will be displaced by the project; 3.849 acres of open space will be committed to road use. (48 pages) Comments made by: USDA, EPA, HUD, DOI, DOT, and State agencies. (ELR Order No. 00377) (NTIS Order No. EIS 73 0377–F)

State Route 3, Covington, Tenn., counties: Tipton and Lauderdale. The proposed project is the improvement of a 6.71-mile section of State Route 3 from Main Street in Covington to north of the Tipton-Lauderdale County line. The project consists of a four-lane facility throughout, and crosses three watercourses (Hatchie River, Town Creek, and a drainage ditch). Adverse effects include relocation of 12 families, loss of esthetic quality, siltation of water courses during construction, and increases in the emission of carbon monoxide and hydrocarbons. (68 pages) Comments made by: USDA, COE, EPA, DOI, TVA, and State agencies. (ELR Order No. 00376) (NTIS Order No. EIS 73 0376–F)

Reconstruction of Century Avenue (CTH "M"), Wisconsin, county: Dane. The statement refers to the proposed reconstruction of Century Avenue, also known as County Trunk Highway "M", in the city of Middleton, between U.S. Highway 12 and County Trunk Highway "Q". The action consists of replacing the existing two-lane roadway with four lanes, and widening two bridges crossing Pheasant Branch Creek. The 2.37-mile project will be constructed on existing alinement. Temporary erosion and siltation to Pheasant Branch Creek and an increase in the ambient noise level will occur. (31 pages) Comments made by: EPA, DOI, State, and regional agencies. (ELR Order No. 00368) (NTIS Order No. EIS 73 0368-F)

TIMOTHY ATKESON,
General Counsel.

[FR Doc.73-5664 Filed 3-23-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 73-269]

FOREIGN LANGUAGE PROGRAMS

Licensee Responsibility to Exercise Adequate Control

In the matter of licensee responsibility to exercise adequate control over foreign language programs.

Memorandum opinion and order. 1. The Commission has before it a request of the National Association of Broadcasters (NAB) filed September 8, 1971, in accordance with § 1.2 of the rules for a declaratory ruling "concerning acceptable modes of station operation in the foreign language programing area." (32 FR 5523.)

2. NAB seeks clarification of the Commission's policies regarding licensee knowledge of and control over foreign language programing in light of the Commission's public notice of March 30, 1967, 9 RR 2d, 1901, the Commission's rulings in various individual cases, and particularly, the language of the Hearing Examiner in his initial decision in "Trans America Broadcasting Corp.", 33 FCC 2d 606 (1970).

3. In the cited public notice we cautioned licensees to maintain adequate controls over foreign language programing, pointing out that in order to exercise such responsibility the licensee must have knowledge of the content of such broadcasts. We pointed out that certain procedures then being followed by some licensees were, in and of themselves, inadequate; i.e., permitting "only persons of established reputation for judgment and integrity to use their facilities; requiring submission in advance of English translations of copies of commercial announcements used in such programs; making recordings of all such broadcasts and retaining them for future reference." We stated further that,

> Licensee responsibility requires that internal procedures be established and maintained to insure sufficient familiarity with the foreign languages to know what is being broadcast and whether it conforms to the station's policies and to requirements of the Commission's rules.

> Failure of licensees to establish and maintain such control over foreign language programing will raise serious questions as to whether the station's operation serves the public interest, convenience, and necessity.

4. NAB contrasts this general language with a passage from the Hearing Examiner's initial decision in Trans America, supra, at page 620:

> In particular, there must be assurance that the licensee will exercise real control over the foreign language programs which are broadcast over its facilities. This control must encompass a systematic and regular preaudit of all foreign language programs by a paid employee of the station who has demonstrated capability to understand the language involved.

NAB states that,

> Several broadcast licensees have demonstrated to NAB that strict compliance with the FCC directive specified in the "Trans America" case effectively precludes continued broadcast of their foreign language programing and denies service to a significant segment of their audience which looks to this programing as their only real source of broadcast service. Yet, judged by a general standard of licensee responsibility for, and control over, programing, these licensees in the past have made more than scrupulous efforts to insure that their broadcasts in foreign languages are consistent with the public interest.

NAB does not deny "the clear responsibility of all licensees to maintain control over their programing," but it believes that "licensees fully aware and/or fully reminded of their duty with respect to specific subjects of programing are, in turn, fully capable on their own of establishing the appropriate and effective internal procedures demanded." NAB asserts that the propriety of the "self-determination" approach was recognized by the Commission itself in its report and order in Docket No. 18928, terminating a rule-making proceeding regarding telephone interview programs.

5. Petitioner contends that "several of the controls which the Commission has spelled out are really no controls at all; licensees are thus bound to implement a set of awkward and costly procedures which in fact still don't create any greater protection against programing problems." It asks what insurance there is that a person paid to monitor a foreign language program is any more or less trustworthy than the individual presenting the program, and states that "a thorough background check on a particular performer or announcer and a determination of his reliability is worth more than a routine hiring of someone who simply speaks the language in question" and that "This is all the more true when the performer or announcer is a paid station employee himself." NAB further states that the problem of program content "is evidenced more frequently in English programing than in programing presented in a foreign language." Accordingly, NAB believes "the Commission should relegate the matter of control over foreign language programing to the same general status of the well established treatment licensees are expected to give all programing * * *"

6. Specifically, NAB objects to a requirement that all foreign language programing be monitored or preaudited by a paid employee with a demonstrated capability to understand the language involved. It believes "stations should be permitted to use their own regular employees in foreign language programing without the need for additional monitors." When a foreign language program is presented by a nonemployee, NAB asserts use of a monitor should not be required (1) "where a thorough background check of the performing individual(s) has been undertaken, (2) the station is satisfied with his judgment and integrity and has apprised the person of the station's policies and the FCC requirements and (3) has received from the performer a certification that his presentation contains no improper material." If a background check is not possible or the FCC will not accept the above-proposed arrangement, NAB states that "a station should be permitted to use as a monitor any individual with a demonstrated capability to understand the language involved, whether he be a paid employee or not, so long as he is of known good character, has been apprised of the station's policies and the requirements of the Commission's rules, and certifies as to the propriety of the foreign language broadcast which he has monitored." NAB concludes that,

> Overall, a relaxation of the apparent Commission policy on foreign language programing control would return to the air a needed and highly valuable type of program matter upon which so many individuals newly arrived to this country depend.

DISCUSSION

7. We agree that a clarification of our policies in this area is desirable, in view of the apparent (and perhaps understandable) confusion among some licensees as to their responsibilities, and of some of the arguments set forth in NAB's petition—most particularly that as the result of some licensees' understanding of our requirements, broadcast service to persons unfamiliar with the English language has been seriously curtailed. It should be noted initially that we have never held or implied that foreign-language programing should be denied when a demonstrable need for it exists. Thus, the Review Board in "La Fiesta Broadcasting Co.," 6 FCC 2d 65 (1965), found in a comparative proceeding that an applicant which proposed to broadcast all-Spanish-language programing was entitled to a preference in satisfying demonstrated needs over another which proposed only part-Spanish-language programing, on the basis of a showing of an unfilled need for Spanish-language programing. Moreover, as set forth in our Programing Policy Statement, 25 FR 7291, 7295, one of the major elements usually necessary to meet the needs of the community is "Service to Minority Groups," and from the earliest days of regulation the FRC and the FCC have commended broadcasters for foreign language programing designed to serve the

needs of minority groups in their communities. Johnson-Kennedy Radio Corp., (WJKS), Docket No. 1156, affirmed sub nom "F.R.C. v. Nelson Bros. Co.," 289 U.S. 266, 270–71 (1933); United States Broadcasting Corp., 2 FCC 208, 233 (1935).

8. The desirability of foreign-language program service does not, however, relieve the broadcaster of his responsibility for his programing, which in turn necessarily depends upon his adoption of reasonable procedures for assuring himself that the programing conforms to his policies and the requirements of the law. We cannot carve out in this area a special exception to licensee responsibility. Rather, our task is to set forth policies and to suggest certain procedures for implementation of them which will substantially assure exercise of licensee responsibility, while at the same time seeking to avoid imposition of unnecessary burdens.

9. We begin by reaffirming the general policy set forth in our public notice, supra, including our conclusion that certain procedures upon which some licensees were relying for knowledge of and control over foreign language programing appeared, in and of themselves, to be inadequate. For the same reasons, we must reject some of the contentions of the petitioner here: e.g., that a "background check" of a performer would assure licensee control and that letting a performer monitor his own program would be as efficacious as arranging for another party to monitor it. Nor do we agree with NAB that our termination of the proposed rule making in Docket No. 18928 is precedent for the requested relief sought. The proposed rules would not have required greater licensee knowledge of or control over what was being broadcast in telephone interview programs; rather, they would have required the licensee to obtain (but not broadcast) the names of persons who called in, and to retain such names, as well as recordings of the programs, for 15 days in order that they might be inspected or auditioned by "interested parties," e.g., persons attacked by anonymous callers.

10. Although we reaffirm our policy statement of 1967, we believe in light of NAB's petition and numerous inquiries the Commission itself has received as to interpretation of that statement, that amplification of it is in order. First, we disavow any requirement that every foreign language broadcast be preauditioned by a paid, outside monitor. In many cases, such programs are broadcast by regular employees of the stations—employees who are familiar with statutory requirements and the Commission's rules and policies on program matters, as well as the licensee's own policies, and who have demonstrated such knowledge to the licensee as well as their own responsibility. This does not mean, of course, that the licensee can disclaim responsibility for the content of such broadcast by employees any more than he can disclaim responsibility for violations by his English-language announcers.

11. Moreover, we think that, so long as the licensee recognizes his responsibility for overall adherence to the statutes, rules and Commission policies, and has fully familiarized those using his facilities with them and station policies, the licensee could conclude that he need not engage an outside monitor to listen to and report on every broadcast by a nonemployee in a language with which no employee of the licensee is familiar.[1] Unless the licensee has reason to suspect that the nonemployee is violating the requirements of the licensee and the Commission, he may, for example, arrange for an outside monitor to listen to, and report to the licensee on such broadcasts on a spot basis, choosing broadcasts at random—for example, one or more broadcasts a week of a daily program and one or more a month of a weekly program. It is, of course, assumed that the outside monitor has been made familiar with the licensee's policies and the Commission's requirements with respect to the programing; e.g., obscenity, personal attacks, the fairness doctrine, broadcast of false or misleading advertising, lottery information, fraudulent schemes, equal opportunities for political candidates, the licensee's limitations on total commercial content, sponsorship identification. On the other hand, a licensee could reasonably conclude that more stringent precautions are required to carry out his public trust.

12. As for NAB's contention that there is no assurance that a person paid to monitor a program is any more trustworthy than the individual presenting the program, we believe it is obvious that a third party, independent of the performer and responsible only to the licensee, is likely to be a more reliable source of information regarding violations than the performer himself. Many foreign-language programs are broadcast by independent time-brokers, who buy time in blocks from the station, sell their own advertising, and produce their own programs. Thus, there may be a basic conflict of interest between the time-broker's tendency to increase his income by accepting false or misleading commercials, for example, and his duty to observe the Commission's and the licensee's policies. Similarly, the Commission has discovered over the years many instances in which time-brokers were devoting more of their broadcast time to commercials than the licensee's policy permitted; also instances in which brokers have sold time to competing political candidates at different rates, or at higher than regular commercial rates, in violation of the statute and the Commission's rules. Thus, mere reliance on a foreign-language broadcaster who is not a station employee to report his own violations to the licensee obviously would not be likely to assure licensee exercise of his responsibilities.

13. NAB also apparently objects to a condition that outside monitors be paid. We will not lay down a flat requirement that the monitors be paid, but it has been our experience in many cases that where monitors are not paid by the licensee they do not regularly monitor and report on the programs; in fact, in most cases coming to our attention, the device of unpaid, voluntary monitors has proved to be a sham. We do not rule, however, that there may not be circumstances in which an unpaid monitor would serve as efficiently and responsibly as one who is paid. We merely point out that it is the licensee's responsibility to assure that his and the Commission's requirements are complied with in his programming, and that if unpaid monitors are used, the licensee should take special precautions to assure himself that his purpose in engaging a monitor is being fulfilled.

14. In the foregoing paragraphs, we have suggested some guidelines for the licensee, and have tried to make clear that although some procedures have proven inadequate for that purpose, we do not intend to lay down any rigid formula for achievement of it. It is clear that a licensee cannot insure operation in the public interest unless he has a familiarity with the content of his programs; for example, he cannot provide suitable access to ideas, opinions, and information of public importance if he has no such familiarity, nor can he comply with the fairness doctrine, personal attack rules, or any of the other requirements of the statute or the Commission's rules and policies. However, as we stated in Wolfe Broadcasting Corp., 32 FCC 2d 761, 763 (1971):

> [W]e believe it would be administratively impossible to determine for each licensee who presents foreign language programing, whether or not the internal procedures he has implemented to exercise proper control are "required," unnecessarily stringent, or "reasonable" in light of all the factors involved. Certainly the individual licensee is in a far better position than we to assess his problems and requirements in this area. Again, we state that, absent substantial extrinsic evidence of intentional abuse, our only legitimate concern can be whether the procedures followed allow a broadcaster to maintain sufficient control over his programing.

15. Thus, while again reminding licensees of their responsibility in this matter and pointing out some methods of exercising this responsibility which have in our experience proved effective and others which have proved ineffective, we still leave to the licensee the determination of what particular procedures are in his case necessary to the exercise of proper control over programing.

16. Accordingly, the request of the National Association of Broadcasters is to the extent reflected above granted and, in certain respects, as also indicated above, is denied.

Adopted: March 7, 1973.

Released: March 13, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.73-5688 Filed 3-23-73;8:45 am]

[1] If any responsible employee of the licensee understands the language and monitors the programs of nonemployees, there obviously is no need to engage outside monitors.

[Dockets Nos. 19709, 19710; FCC 73-295]

RADIO GENEVA, INC., AND BUCCANEER BROADCASTING LTD.

Order Designating Applications on Consolidated Hearing on Stated Issues

In regard applications of Radio Geneva, Inc., Geneva, N.Y., requests: 101.7 MHz, No. 269A; 3 kW (H & V); 222 feet. Docket No. 19709, File No. BPH-7645; Buccaneer Broadcasting Ltd., Geneva, N.Y., requests: 101.7 MHz, No. 269A; 3 kW (H & V); 125 feet, Docket No. 19710, File No. BPH-7821; for construction permits.

1. The Commission has before it the captioned applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. Therefore, a comparative hearing is required to determine which of the applications should be granted.

2. Based on cost estimates contained in its application, Buccaneer Broadcasting Ltd. (Buccaneer), will require $48,983 to construct and operate the proposed station for 1 year.[1] To meet this requirement, Buccaneer relies on $3,295 in cash, a $10,000 bank loan, an $11,000 loan from Bogart Plumbing and Heating Co., Inc., and $25,120 in anticipated advertising revenues. Although Buccaneer has established the availability of $24,295 in cash and loans, it has not adequately documented the availability of the $25,120 in anticipated advertising revenues.

3. In "Ultravision Broadcasting Company," 1 FCC 2d 544, 547 (1965), we instituted a policy of requiring each applicant for commercial broadcast facilities to demonstrate its financial ability to construct and operate its proposed station for 1 year. We further stated that if an applicant relies on expected advertising revenues to meet its first-year costs, it must submit a convincing evidentiary showing that revenues are, in fact, available. Buccaneer has submitted 14 agreements, all of which are presented on identical standard forms with appended standard conditions, by which potential advertisers appear to agree to purchase up to $25,120 of advertising once Buccaneer's proposed station is on the air. After careful scrutiny of these agreements, however, we find that they are too conditional to demonstrate the availability of any significant amount of advertising revenues for Buccaneer's proposed station. Six of the agreements indicate that they may be canceled at any time. In addition, the standard conditions include a provision which allows any advertiser to terminate its commitment to buy advertising time by giving written notice of cancellation within 28 days after Buccaneer is on the air. Furthermore, most of the commitments are for broadcasts of less than 5 minutes' duration. For these latter broadcasts, the standard form permits an advertiser to terminate its commitment by giving written notice of cancellation within 14 days after broadcasts under the agreement have begun. These conditions and ambiguities pertaining to the duration of the agreements leave the actual amount of advertising to be purchased in considerable doubt. In view of the foregoing, we find that Buccaneer has not established the validity of its estimated advertising revenues. Thus, since Buccaneer has not established the availability of sufficient funds to meet its first-year costs, appropriate financial issues will be specified.

4. In their original applications, Radio Geneva, Inc. (Radio Geneva), and Buccaneer filed for authority to construct an FM broadcast station on Channel 272A, which was then allocated to Geneva. At that time, both applicants complied with our spacing requirements (§ 73.207(a) of the rules). Subsequently, in our report and order in Docket No. 19244 (RM-1632), adopted March 23, 1972, we allocated Channel 272A to Canandaigua, N.Y., and assigned Channel 269A to Geneva. Radio Geneva and Buccaneer later amended their applications to specify operation on Channel 269A. The transmitter sites of both Geneva applicants are approximately 14 miles from the current reference point in Canandaigua instead of the 15 miles required by our spacing rules. Section 73.207(a) requires that applicants for new FM broadcast stations must meet certain specified spacing limitations in regard to proposed and existing stations, while § 73.208 (b) of our rules requires an applicant for a new FM station to meet the spacing requirements of § 73.207(a) with respect to specific reference points in communities if the channels allocated there are not assigned to stations. Thus, we note that although the Geneva applicants are short spaced to the current reference point in Canandaigua, they are more than the required 15 miles from the transmitter site proposed by Canandaigua Broadcasting Co., Inc., the only present applicant for Channel 272A in Canandaigua (File No. BPH-7950). In addition, the transmitter site proposed in the Canandaigua application is more than the required 15 miles from the reference point in Geneva. Moreover, engineering studies indicate that if some other applicant should apply for Channel 272A in Canandaigua, there would be a considerable number of areas where another site could be selected which would not involve short spacings with the Geneva reference point or the sites proposed in the two Geneva applications. Radio Geneva requested a waiver of § 73.207 of our rules in the event that we did not approve and authorize a site for Channel 272A in Canandaigua which met the required mileage separation to Radio Geneva's proposed site. Since Canandaigua Broadcasting Co., Inc.'s application for an FM construction permit in Canandaigua has not yet been granted, we find that a waiver of § 73.207(a) of our rules is warranted with respect to both Geneva applicants.[2] A waiver in this instance would preserve the integrity of our spacing requirements since no de facto short spacing is likely to occur. Any future applicants for Channel 272A in Canandaigua must propose transmitter sites which are at least 15 miles from each of the Geneva applicants' transmitter sites. In light of this fact, the apparent availability of such sites, and the slight amount of short spacing between the current Canandaigua reference point and the Geneva applicants' transmitter sites, the provisions of § 73.207 will be waived for both applicants.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

6. *Accordingly, it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine, with respect to the application of Buccaneer Broadcasting, Ltd.:

(a) Whether the applicant can demonstrate the availability of advertising revenues in the amount of $25,000, and if not, whether the applicant has available other sources of funds to meet its requirements;

(b) Whether, in light of the evidence adduced under the preceding issue, the applicant is financially qualified.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications for construction permit should be granted.

7. *It is further ordered*, That the request of Radio Geneva, Inc., for waiver of § 73.207(a) of the rules is granted; and that on our own motion, § 73.207(a) of the rules is waived with respect to Buccaneer Broadcasting, Ltd.'s application.

8. *It is further ordered*, That the applicants shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by § 1.221(c) of our rules.

9. *It is further ordered*, That the applicants shall give notice of the hearing within the time and in the manner specified in § 1.594 of the rules, and shall

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[1] Buccaneer's first-year costs consist of the following: Down payment on equipment, $4,341; first-year equipment payments; $3,580; remodelling and lease payments, $2,500; interest on bank loan, $900; miscellaneous expenses, $3,000; and working capital, $34,662.

[2] Sec. 73.208(b) provides that, in licensing proceedings, station separations shall be determined by the coordinates of authorized transmitter sites where such sites exist. Thus, the current Canandaigua reference point would not be considered under our spacing rules if Canandaigua Broadcasting Co., Inc., had an FM construction permit. Furthermore, as explained previously, Canandaigua Broadcasting Co., Inc.'s proposed transmitter site is not short spaced with the transmitter site of either Geneva applicant.

seasonably file the statement required by § 1.594(g).

Adopted: March 13, 1973.

Released: March 21, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.73-5689 Filed 3-23-73;8:45 am]

[Dockets Nos. 19519, 19581]

WESTERN COMMUNICATIONS, INC., AND LAS VEGAS VALLEY BROADCASTING CO.

Memorandum Opinion and Order Enlarging Issues; Correction

In regard Applications of Western Communications, Inc. (KORK-TV), Las Vegas, Nev., Docket No. 19519, File No. BRCT-327, for renewal of license; Las Vegas Valley Broadcasting Co., Las Vegas, Nev., Docket No. 19581, File No. BPCT-4465; for construction permit for new television broadcast station.

The citation in paragraph 13 of the Review Board's memorandum opinion and order, FCC 73R-100, released March 9, 1973, and published at 38 FR 7140, March 16, 1973, is corrected to read as follows: "See 'Calojay Enterprises, Inc.,' 33 FCC 2d 690".

Released March 16, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.73-5690 Filed 3-23-73;8:45 am]

DIALER DEVICES ADVISORY SUBCOMMITTEE

Notice of Public Meeting

MARCH 20, 1973.

In accordance with Public Law 92-463, announcement is made of a public meeting of the Dialer Devices Advisory Subcommittee of the Dialer and Answering Advisory Committee to be held April 17 and 18, 1973, at the Executive House Hotel, 71 East Wacker, Chicago, IL. The meeting will commence at 10:30 a.m.

1. *Purpose.* The purpose of this Subcommittee is to prepare recommended standards and procedures to the FCC, in order to permit the interconnection of customer provided dialer devices to the public switched network without the need for carrier provided connecting arrangements.

2. *Activities.* As at prior meetings, subcommittee members and observers present their suggestions and recommendations regarding the various technical criteria and standards that should be considered with respect to the interconnection of dialer devices to the public telephone network. Subcommittee members include representatives of the Federal Government, State regulatory bodies, manufacturers, carriers, and users.

3. *Agenda.* The agenda for the April 17 and 18, 1973, meeting will be as follows:

1. Review of enforcement procedures.
2. Review of equipment standards.
3. Review of quality control.
4. Plan future work.

It is suggested that those desiring more specific information about the meeting, contact the Domestic Rates Division on 202-632-6457.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.73-5692 Filed 3-23-73;8:45 am]

DIALER DEVICES AD HOC TASK GROUP

Notice of Public Meeting

MARCH 20, 1973.

In accordance with Public Law 92-463, announcement is made of a public meeting of the Dialer Devices Ad Hoc Task Group to be held April 2 and 3, 1973. The Task Group will meet at the Executive House, 71 East Wacker, Chicago, IL, at 10:30 a.m.

1. *Purposes.* The purpose of the Dialer Devices Subcommittee is to prepare recommended standards and procedures for submission to the FCC, in order to permit the interconnection of dialer devices to the public switched network without the need for carrier provided connecting arrangements. The purpose of the Ad Hoc Task Group is to prepare recommended procedures for review and approval by the Dialer Devices Subcommittee.

2. *Activities.* The Ad Hoc Task Group will prepare a recommended draft of procedures and enforcement to the Dialer Devices Subcommittee.

3. *Agenda.* The agenda for the April 2 and 3, meeting will be as follows:

a. Review of Procedures and Enforcement Document PED-12.

b. Review anticipated submission on procedures, administration, records, and reporting procedures.

c. Review enforcement criteria and/or submission.

It is suggested that those desiring more specific information, contact the Domestic Rates Division on 202—632-6457.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.73-5693 Filed 3-23-73;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-7832 etc.]

FILING OF RATE SCHEDULES

Notice of Applications

MARCH 13, 1973.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 205 of the Federal Power Act and Part 35 of the regulations issued thereunder.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 28, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The applications are on file with the Commission and available for public inspection.

Dockets Nos.	Date filed	Name of applicant	Action
E-7832	10-20-72	Central Maine Power Co.	Applicant files July 1, 1971, agreement between Central Maine Power Co. and Bangor Hydro-Electric Co., providing for the sale of a portion of Central Maine's power purchases from the New England Power Co. and Connecticut Light & Power Co. to Bangor Hydro-Electric. The arrangement also includes a transmission agreement with the Public Service Company of New Hampshire. This rate filing covers the terms for billing purposes over the life of the contract from July 1, 1971, to Apr. 30, 1972.
E-8000	12- 1-72	Iowa Public Service Co.	Applicant files Oct. 29, 1971, agreement between Corn Belt Power Cooperative and Iowa Public Service Co., supplementing the Nov. 20, 1961, interchange agreement between the companies, designated Iowa Public Service Co. Rate Schedule FPC No. 16, to the extent of providing an additional point of interconnection on Iowa Public Service Co.'s Black-Hawk-Fort Dodge 161 kv. transmission line near Fort Dodge, Iowa. This 6th supplement to interchange agreement also eliminates the monthly carrying charges presently being paid by Iowa Public Service Co. to Corn Belt Power Cooperative for facilities provided by Corn Belt in the first and second supplement to interchange agreement.
E-8037	2-16-73	Duke Power Co.	Applicant files Jan. 29, 1973, supplement to Duke Power Co.'s electric power contract with South Carolina Electric & Gas Co. designated Duke Power Co. Rate Schedule FPC No. 197. The supplement provides for a temporary delivery point, to be put into service Mar. 21, 1973, for approximately 1 year, and abandoned thereafter.
E-8040	2-20-73	Central Hudson Gas & Electric Corp.	Applicant files Dec. 29, 1972, Rock Tavern Substation Agreement between Central Hudson and Consolidated Edison Company of New York, providing for the installation, operation, and maintenance by Central Hudson of certain substation facilities for the sole use and benefit of Con Edison. The agreement provides for an effective date of Sept. 1, 1972.
E-8044	2-26-73	Consumers Power Co.	Applicant files Feb. 6, 1973, Supplemental Agreement No. 2 to the wholesale rate contract between Consumers Power Co. and the city of Lansing, Mich., designated Consumers Pow-Co. Rate Schedule FPC No. 18. The supplement provides terms and deadlines for contract termination.

Docket# Nos.	Date filed	Name of applicant	Action
E-8047	2-26-73	Arizona Public Service Co.	Applicant files Nov. 1, 1972, Amendment No. 1 to the wholesale power supply agreement between Arizona Public Service Co. and the Navajo tribe of Indians, designated Arizona Public Service Co. Rate Schedule FPC No. 6. This amendment permits the tribe to commingle power and energy purchased from the Colorado River Storage Project with power and energy purchased from Arizona Public Service at a point near Kayenta, Ariz. The amendment provides the procedure to determine the quantities of power and energy delivered by Arizona Public Service at Four Corners for the Kayenta delivery point, and is to take effect Dec. 1, 1972, retroactively.
E-8049	2-26-73	Wisconsin Public Service Corp.	Applicant files Feb. 22, 1973, interconnection and emergency energy agreement between Consolidated Water Power Co. and Wisconsin Public Service Corp. The new agreement, effective Apr. 1, 1973, revises and replaces in its entirety the Aug. 1, 1967, agreement between the parties, and amendments and supplements thereto, designated Wisconsin Public Service Corp. Rate Schedule FPC No. 23 and Consolidated Water Power Co. Rate Schedule FPC No. 1.
E-8051	2-28-73	Virginia Electric & Power Co.	Applicant files Dec. 4, 1972, contract supplement between Virginia Electric & Power Co. and Mecklenburg County, Va., to be designated Clarksville Delivery Point upon the projected connection date in April 1973. The Clarksville Delivery Point replaces the Buffalo Delivery Point established by Virginia Electric & Power Co. Rate Schedule FPC No. 79-20, dated Apr. 10, 1970.
E-8054	12-18-72	Washington Water Power Co.	Applicant files seven amendatory agreements which revise transfer limits of parent agreements under Washington Water Power Co. Rate Schedule FPC No. 40. The revisions reasonably reflect load requirements, and affect the following recipients of service: Kootenai REA, Lincoln Electric Cooperative, Idaho-Country Light & Power Association, Northern Lights, Inland Power & Light Co., and Clearwater Power Co.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-5624 Filed 3-23-73;8:45 am]

[Docket No. E-7709]

BANGOR HYDRO-ELECTRIC CO.

Notice of Proposed Changes in Rates and Charges

MARCH 20, 1973.

Take notice that Bangor Hydro-Electric Co. (Bangor), on February 11, 1972, filed proposed changes in its FPC Rate Schedules 1, 2, 4, 5, 6, and 7. The proposed effective date was March 1, 1972, and the company requested waiver of the notice requirement. By letter of March 17, 1972, the Secretary requested that certain deficiencies in Bangor's filing be corrected, and on February 26, 1973, Bangor refiled its application. The refiled application requests that Rate Schedule No. 6 be canceled. The proposed changes would increase by $15,357.13 revenues from jurisdictional sales and service based on a volume of sales for the 12-month period preceding March 1972. The proposed rate change is described in the company's transmittal letter as being necessary to meet increased operating costs. Bangor proposes an effective date of May 1, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 3, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-5696 Filed 3-23-73;8:45 am]

[Docket No. E-8078]

BUCKEYE POWER, INC.

Notice of Application

MARCH 20, 1973.

Take notice that on March 14, 1973, Buckeye Power, Inc. (Applicant), of Columbus, Ohio, filed an application seeking an order for approval of the issuance of short-term obligations in the form of promissory notes to commercial banks, such notes to be issued on or before December 31, 1973, with a final maturity date of not later than December 30, 1974.

The net proceeds from the notes will be used to provide general funds for the company's construction program.

Any person desiring to be heard or to make any protest with reference to such application should on or before April 4, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commisison will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-5697 Filed 3-23-73;8:45 am]

[Docket No. E-7918]

CAROLINA POWER AND LIGHT CO.

Order Approving Proposed Settlement and Instituting Investigation

MARCH 12, 1973.

On December 18, 1972, Carolina Power and Light Co. (Carolina), filed a proposed increase in rates to its municipal and private utility customers. Notice of this filing was issued on January 10, 1973, with comments due on January 30, 1973. A petition to intervene was filed on January 29, 1973, by Electricities of North Carolina (Electricities), representing 24 of the 26 municipal customers of Carolina affected by the proposed increase. No other protests or petitions to intervene have been filed.

On February 1, 1973, Carolina filed a motion requesting a 30-day suspension in this proceeding and indicated that Carolina and Electricities intended to file a proposed settlement agreement in this proceeding. The proposed settlement agreement (Agreement) with an accompanying cost of service was filed on February 2, 1973. Public notice of the proposed settlement agreement was issued on February 6, 1973, with comments due February 26, 1973.

By order issued February 16, 1973, we suspended the proposed increase for 30 days, acknowledging the fact that Carolina had filed the motion and settlement.

The proposed Agreement would reduce the amount of the proposed increase from the $2,889,015, or a percentage increase of 13.3 percent to $2,243,630, or an increase of 10.4 percent, based on 1971 billing data. The proposed Agreement would reduce Carolina's indicated rate of return from the affected customers from 7.73 percent to 7.28 percent. The changes in the proposed rates consist of reductions in the demand and energy charges and elimination of the Reactive KVA charge of 10 cents.

The Commission Staff filed its comments on February 26, 1973, in which the Staff concurred in the Agreement and recommended its adoption by the Commission. No other comments were filed.

Staff, in its comments, pointed out that the Agreement contained a moratorium provision which prevents Carolina from unilaterally changing the Agreement rates until January 1, 1975. Staff noted that this moratorium coincided with the moratorium presently in effect between Carolina and its cooperatives as a result of a settlement in Docket No. E-7564.

We have previously stated that moratorium provisions may not be in the public interest. (Illinois Power Co., Docket No. E-7806, order issued December 29, 1972.) Such provisions would appear to be the equivalent of fixed rate contracts, albeit for a limited term. (cf.

Philadelphia Electric Co., Docket No. E-7795, ordered issued January 4, 1973.) While moratorium provisions are commonly included in settlement proposals and, furthermore, appear to be a positive inducement to settlement, our policy in favor of settlements must be balanced against the positive public interest considerations inherent in the Commission's maintainance of continuous surveillance of wholesale rates. Since the moratorium contained in this settlement is of unusually long duration, it is proper that the justness and reasonableness of such provision should be further investigated.

Finally, we note that the availability clause of Carolina's proposed tariff contains a provision which might not be in the public interest. The clause provides that service under Rate Schedule RS-9B is available "* * * for use and resale to its ultimate consumers by a private or municipal utility." This clause, on its face, appears to prevent further wholesaling of the purchased power and thereby limits the customers' use of power purchased under Rate schedule RS-9B. In the investigation instituted herein, Carolina will be expected to show how this clause is not anticompetitive and that it is in the public interest.

The record in this case consists of the original filing of Carolina, the filed Agreement and accompanying cost of service, and Staff's comments.

Based on our review of the terms and provisions of the Agreement, and the cost of service which accompanied the Agreement (Appendices A and B), we conclude that the proposed Agreement provides a reasonable and appropriate resolution of the issues herein and that the public interest will be served by our approval of the settlement.

With respect to the moratorium and the availability clause we will, however, institute an investigation under section 206 of the Federal Power Act to determine whether or not the moratorium and the availability clause contained in the Agreement is in the public interest.

The Commission finds:

(1) The settlement of these proceedings on the basis of the Agreement as filed on February 2, 1973, and subject to the terms and conditions of this order is reasonable and proper in the public interest in carrying out the provisions of the Federal Power Act, and should be approved and made effective as hereinafter provided.

(2) The rate increase granted in this case has been reviewed in light of and is consistent with the Economic Stabilization Act of 1970 as amended, Executive Order 11695, and the rules and regulations issued thereunder.

(3) An investigation under section 206 of the Federal Power Act should be ordered to determine whether the moratorium provision and availability clause contained in the Agreement is in the public interest.

The Commission orders:

(A) The Settlement Agreement submitted by Carolina on February 2, 1973, is incorporated herein by reference, and is approved and made effective, subject to the terms and conditions of this order, as of March 1, 1973.

(B) Carolina shall fully comply with each of the provisions of the Agreement and the terms and conditions of this order.

(C) On or before April 11, 1973, Carolina shall file revised tariff sheets conforming to the terms and conditions of the Agreement.

(D) In view of our approval of the Agreement the procedures set forth in our order of February 16, 1973, are hereby canceled.

(E) This order is without prejudice to any findings or orders which have been made, or may hereafter be made, by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, or any other party or person affected by this order, in any proceeding now pending or hereafter instituted by or against Carolina Power and Light Co., or any other person or party.

(F) An investigation into the justness and reasonableness of the moratorium provision and the availability clause contained in the Agreement is hereby instituted under section 206 of the Federal Power Act. Those parties wishing to file testimony and exhibits supporting or opposing these provisions shall file such testimony and exhibits on or before April 3, 1973. Cross examination of the testimony and exhibits filed shall take place on April 24, 1973, before a Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge (see Delegation of Authority, 18 CFR 3.5(d)), beginning at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426.

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

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

CAROLINA POWER & LIGHT CO. SETTLEMENT COST OF SERVICE

[Docket No. E-7918—Test year 1971]

Description	Present rates		Settlement increase	Proposed rate—municipals and private utilities
	Utility total	Municipals and private utilities		
(1)	(2)	(3)	(4)	(5)
Operating revenues	$270,328,303	$21,695,765	$2,243,629	$23,939,394
Operating expenses:				
Operation and maintenance	130,138,170	12,831,226		12,831,226
Depreciation	22,515,197	1,818,648		1,818,648
Taxes other than income	23,417,397	2,018,417	125,636	2,144,053
State income taxes	3,359,889	179,209	127,080	306,289
Federal income taxes	20,534,805	459,498	965,639	1,425,137
Taxes deferred prior years	(662,966)	(93,484)		(93,484)
Provision for deferred taxes	4,142,648	520,540		520,540
Investment tax credit	1,277,248	180,323		180,323
Total operating expenses	204,722,388	17,924,377	1,208,355	19,132,732
Operating income	65,605,915	3,771,388	1,035,274	4,806,662
Average rate base:				
Electric plant in service	855,419,824	75,837,679		75,837,679
Accumulated provision for depreciation	(169,597,640)	(14,554,182)		(14,554,182)
Net plant in service	685,822,184	61,283,497		61,283,497
Net plant held for future use	7,264,030	979,570		979,570
Net nuclear fuel	8,040,863	1,032,512		1,032,512
Materials and supplies	27,853,552	2,935,009		2,935,009
Prepayments	1,859,256	157,906		157,906
Cash working capital	15,736,708	1,539,001		1,539,001
Contribution in aid of construction	(3,480,563)	0		0
Deferred income taxes—liberalized depreciation	(13,706,064)	(1,899,528)		(1,899,528)
Total rate base	729,389,966	66,027,967		66,027,967
Rate of return (in percent)	8.99	5.71		7.28

APPENDIX B

CAROLINA POWER & LIGHT CO. RESULTING RATE OF RETURN—DECEMBER 31, 1972

		Percent	Percent	Percent
Long-term debt	$684,140,000	52.22	6.41	3.35
Preferred stock	173,801,000	13.26	7.17	0.95
Common equity	443,449,000	33.85	8.80	2.98
Deferred income taxes	8,750,000	0.67	0	0
Total	1,310,140,000	100.00		7.28

[FR Doc.73-5558 Filed 3-23-73;8:45 am]

[Dockets Nos. CP72-277, CP72-278]

MICHIGAN WISCONSIN PIPE LINE CO. AND MICHIGAN CONSOLIDATED GAS CO.

Notice of Petition to Amend and of Petition to Continue Exemption

MARCH 20, 1973.

Take notice that on March 8, 1973, Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin), One Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP72-277 a petition to amend the Commission's order of October 2, 1972, in said docket (48 FPC —) issuing a certificate of public convenience and

necessity pursuant to section 7(c) of the Natural Gas Act by authorizing Michigan Wisconsin to continue for 1 year the storage and related transportation service for Northern Natural Gas Co. (Northern), and Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the subject petition which is on file with the Commission and open to public inspection.

Take further notice that on March 8, 1973, Michigan Consolidated Gas Co. (Consolidated), 1 Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP72-278 a petition pursuant to section 1(c) of the Natural Gas Act to amend the Commission's order issued October 2, 1972, in said docket to continue Consolidated's exemption from the provisions of the Natural Gas Act, all as more fully set forth in said petition which is on file with the Commission and open to public inspection.

The order of October 2, 1972, among other things, authorized Michigan Wisconsin to render for 1 year a transportation and related underground natural gas storage service for Natural and Northern. During off-peak periods in 1972, Michigan Wisconsin received, transported, and stored a total of 2,800,000 Mcf of gas for Northern and 5,800,000 Mcf of gas for Natural. Michigan Wisconsin redelivered equivalent volumes during the period November 1972, through February 1973. Incident thereto, Michigan Wisconsin arranged for storage of the gas by Consolidated. Said order, in connection with the implementation of these arrangements, continued Consolidated's exemption under section 1(c) of the Natural Gas Act and excused said company from the Commission's accounting and reporting requirements.

Northern and Natural have requested Michigan Wisconsin to continue the transportation and storage service for a 1-year period and Consolidated states that it has the temporary ability to provide the required storage capacity. Michigan Wisconsin states that the continued service will have the effect of converting off-peak gas supplies to winter high end-use utilization by the customers of Northern and Natural and will thus assist Northern and Natural in meeting the requirements of their customers for the 1973-74 heating season. No additional facilities are required for the proposed continued service.

Any person desiring to be heard or to make any protest with reference to said petitions to amend should, on or before April 13, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commisison's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-5698 Filed 3-23-73;8:45 am]

[Docket No. RP73-88]

NORTHERN NATURAL GAS CO.

Notice of Proposed Changes in Rates and Charges

MARCH 20, 1973.

Take notice that on March 12, 1973, Northern Natural Gas Co. (Northern), tendered for filing revised tariff sheets, Original Volume No. 2, First Revised Sheet Nos. 440 and 443. Northern states that the sheets are being filed to effectuate an increase in the rate for Rate Schedule X-32 of its FPC Gas Tariff from 33 cents per Mcf to 34.19 cents per Mcf. The proposed effective date is February 27, 1973. Northern states that the 1.19 cents increase represents the estimated increase in its average cost of purchased gas, per Mcf of gas sales volumes for the year 1973. Northern requests the Commission to waive the notice requirements of 18 CFR 154.22. Northern also states that a copy of this filing has been mailed to Southern Union Gas Co.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 6, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-5699 Filed 3-23-73;8:45 am]

[Docket No. RP73-83]

NORTHERN NATURAL GAS CO.

Notice of Proposed Changes in Rates and Charges

MARCH 20, 1973.

Take notice that on March 12, 1973, Northern Natural Gas Co. (Northern), tendered for filing amended Tariff Sheets, Original Volume No. 2, Substitute Original Sheet Nos. 442, 454, and 455, Second Substitute Original Sheet Nos. 440 and 443. Northern states that Substitute Original Sheet Nos. 440 and 443 were submitted for filing by letter of February 16, 1973, for the purpose of increasing the rate from 27 cents per Mcf to 33 cents. The February 16 filing is currently pending in Docket RP73-83. Northern states that these sheets are being resubmitted at this time for the purpose of requesting a waiver of 18 CFR 154.22 to permit these tariff sheets to become effective December 26, 1972, and with regard to Sheet No. 440 to indicate maximum volumes of 536,000 Mcf. Northern also states that Sheets Nos. 454 and 455 are being tendered for filing at this time to provide for new Delivery Stations. Northern further states that a copy of this filing was mailed to Southern Union Gas Co.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 6, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-5700 Filed 3-23-73;8:45 am]

[Docket No. E-7802]

PACIFIC POWER & LIGHT CO.

Notice of Proposed Changes in Rates and Charges

MARCH 19, 1973.

Take notice that Pacific Power & Light Co. (Pacific), on February 12, 1973, tendered for filing an executed sales agreement between Pacific and Southern California Edison Co. (Edison), dated January 29, 1973, to become effective February 1, 1973. Services will be rendered to Edison under Pacific's "Wholesale Nonfirm Energy Rates Tariff" filed October 31, 1972, in this docket.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1:10). All such petitions or protests should be filed on or before March 30, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-5701 Filed 3-23-73;8:45 am]

[Dockets Nos. E-7795, E-7989]

PHILADELPHIA ELECTRIC CO.

Accepting for Filing and Suspending Tendered Filing; Consolidation of Proceedings; Hearing; and Submission of Updated Cost Data

MARCH 19, 1973.

On January 19, 1973, Philadelphia Electric Co. (PE), tendered for filing a Notice of Cancellation [1] of Rate Schedule FPC No. 24 which provides for service to the Borough of Lansdale (Lansdale) up to 8,000 kw. demand, to become effective March 20, 1973. Concurrently with the cancellation, PE proposes that the terms of the Supplemental Rate Schedule filed October 24, 1972, for demand greater than 8,000 kw.[2] be made effective for all of Lansdale's service from PE, thereby effecting an increase in rates of approximately $229,122 based upon the test year ended December 31, 1971, as adjusted.

The instant filing was noticed on February 22, 1973. On March 12, 1973, Lansdale filed a "Protest, Motion to Reject and Petition to Intervene * * *. In support of its motion to reject. Lansdale incorporates by reference its objections to the original filing of PE's Supplemental Rate Schedule on October 24, 1972, in Docket No. E-7795 which requested rejection of such filing as a violation of the Mobile-Sierra doctrine. Lansdale also alleges that PE's filing does not comply with § 35.13 of the Commission's regulations under the Federal Power Act since it incorporates by reference cost data filed by PE on May 1, 1972, in Docket No. E-7726 and on October 24, 1972, in Docket No. E-7795 which is based on the test year 1971, as adjusted. Alternatively, Lansdale requests that the Commission suspend the proposed rate increase for 5 months, consolidate the proceeding with Docket No. E-7795 and set new dates for hearing.

Our review of Lansdale's pleadings indicates that rejection of the filing is not justified. Lansdale's Mobile-Sierra arguments were answered in our order issued January 4, 1973, in Docket No. E-7795 and require no further discussion in this order. However, our review of the filing indicates that certain issues are raised which require development in evidentiary proceedings. The proposed rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Moreover, the fact that certain issues of law and fact in this proceeding are substantially the same in Docket No. E-7795 makes it appropriate that the filing in Docket No. E-7989 be suspended for 1 day until March 21, 1973, subject to refund, and consolidated with the proceedings in Docket No. E-7795 for purposes of hearing and decision.

Finally, so that the Commission will have a full, complete, and up-to-date record on all of the issues presented we shall require PE to submit cost and revenue data for calendar year 1972 in both parts of this consolidated proceeding. In this connection we would point out that our caveat on page 7 in Duke Power Company, Opinion No. 641 in Docket No. E-7557, is particularly appropriate, wherein we stated:

> * * * our filing requirements are not to be construed as a limitation on evidence which may be proferred as an aid to us in determining just and reasonable rates. All evidentiary material relevant to a fair determination of cost and revenue expectations may be appropriately presented in filings before us.

In view of this action, we will extend the present service and hearing dates set in Docket No. E-7795 as noted below.

The Commission finds:

It is reasonable and appropriate in the public interest and to aid in the enforcement of the Federal Power Act that:

(1) PE's filing be accepted for filing, suspended, and the use thereof deferred as hereinafter provided.

(2) The Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in PE's filing.

The Commission orders:

(A) Pursuant to the authority of the Federal Power Act, including sections 205, 308, and 309 thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act, a public hearing shall be held concerning the lawfulness of the rates, charges, classifications, and services contained in PE's filing.

(B) Dockets Nos. E-7989 and E-7795 are hereby consolidated for purposes of hearing and decision.

(C) Pending hearing and a final decision in these consolidated proceedings, PE's filing is hereby accepted for filing, suspended, and the use thereof deferred until March 21, 1973.

(D) Lansdale's motion to reject is hereby denied.

(E) PE's Supplemental Rate Schedule filed October 24, 1972, in Docket No. E-7795 is hereby redesignated Rate Schedule FPC No. 38 and the revised fuel adjustment clause filed on January 2, 1973, in Docket No. E-7795 is hereby redesignated as Supplement No. 1 thereto, effective March 21, 1973.

(F) On or before May 1, 1973, PE shall file cost and revenue data for the 1972 calendar year. Staff and intervenors will serve their prepared testimony and exhibits on or before June 12, 1973. Any rebuttal evidence by PE shall be served on or before June 28, 1973. Cross-examination of the evidence shall commence on July 17, 1973, at 10 a.m., e.d.t.

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

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-5702 Filed 3-23-73;8:45 am]

[1] Designated as Philadelphia Electric Co., Supp. No. 4 to Rate Schedule No. 24. (Supp. No. 4 cancels FPC No. 24 and Supp. No. 1 thereto.)

[2] Supp. No. 2 to Rate Schedule FPC No. 24. This supplemental schedule is currently in effect, subject to refund, in Doc. No. E-7795. See Ordering Paragraph (E) below for redesignation of this schedule.

[Docket No. E-7768]

PUBLIC SERVICE ELECTRIC & GAS CO.

Order Permitting Proposed Rates To Become Effective and Initiating Investigation

MARCH 9, 1973.

On August 30, 1972, Public Service Electric & Gas Co. (PSE&G) tendered for filing proposed changes in its Electric Rate Schedules FPC Nos. 47, 48, and 49.[1] These proposed rates would constitute a revenue increase of approximately $785,238 based on a 1971 test year.

The notice of proposed increase, issued on September 12, 1972, provided that the closing date for petitions to intervene, protests, and comment would be September 29, 1972. However, on October 10, 1972, the borough of Milltown (Milltown), a municipal customer of PSE&G, filed a letter protesting the proposed rate increase and requesting intervention. By order issued October 30, 1972, we suspended the proposed increase 1 day, allowed Milltown to intervene in the proceeding and requested that the parties (Milltown and Staff) file offers of proof within thirty (30) days supporting their positions as to the necessity of an evidentiary hearing to assist the Commission in determining whether such a hearing is justified in this case. PSE&G was allowed 15 days from the filing of these pleadings to answer. Milltown, upon petition to the Commission, was allowed until December 11, 1972, to file its offer of proof, and PSE&G was allowed until December 27, 1972, to answer. Pleadings were filed by all the parties of record within the time specified.

Finally, on December 11, 1972, the borough of South River filed an untimely petition to intervene.

Staff filed its offer of proof, consisting of two documents, on November 28 and 29, 1972, stating its position that the proposed increase is completely cost justified. Furthermore, staff states it does not intend to sponsor an evidentiary case in its own behalf. Staff's offer of proof showed an adjusted rate of return under Rate Schedule LPL-R (Milltown) of 5.51 percent compared to the company's figure of 5.30 percent. However, staff points out that certain of its downward adjustments to PSE&G's expenses, notably charitable contributions, may be found to be reasonable allowable expenses. On that basis, the rate of return shown in staff's offer of proof may be

[1] These schedule designations supersede FPC Rate Schedules Nos. 39, 40, and 41, respectively.

above the return the proposed rates would actually produce.

Milltown's offer of proof does not dispute the cost justification of PSE&G's proposed increased rates, but rather attacks the proposed increase on the grounds it is discriminatory to Milltown.

Milltown's allegations as to discrimination are as follows:

(1) Milltown's charge per kw.-hr. is greater than the charge of the other two customers served under Rate Schedule HTS–R, the other wholesale tariff proposed to be changed in this docket.

(2) Jersey Central Power & Light, another customer of PSE&G, is currently paying too low a rate and the losses alleged in PSE&G's filing are due to this low rate.

(3) The proposed rates produce a higher rate of return on service to Milltown under Rate Schedule LPL–R than on service under Rate Schedule HTS–R (applicable to Jersey Central Power & Light and the borough of South River).

(4) PSE&G currently has a rate proceeding pending before the New Jersey Board of Public Utility commissioners which amounts to lesser increase, percentagewise, to retail customers than the percentage increase of this proposed increase to jurisdictional customers.

(5) PSE&G may be attempting to eliminate municipal distribution of electricity, or force Milltown to accept service at a higher voltage.

PSE&G's principal answer to the above allegations can be summarized by saying that comparisons with the Rate Schedule HTS–R are irrelevant because the services are completely different. Furthermore, PSE&G states that the allegations with regard to the percentage of the proposed increase in its retail rates are meaningless standing alone. Finally, PSE&G denies there is discrimination between its retail and jurisdictional rate structures.

We believe the proposed rates should be approved as filed without further proceedings and that the refund provision contained in our October 30, 1972, order should be lifted. Our review of the cost of service accompanying PSE&G's filing indicates that PSE&G has properly allocated costs including return to each class of wholesale service and the rates are properly designed to recover those allocated costs and produce no more than a just and reasonable return on both classes of service. Furthermore, although we do not here decide whether comparisons with retail service are relevant to a charge of discrimination, the bare allegations of Milltown, based on percentage of increases in pending dockets in different jurisdictions, do not convince us that a hearing is merited on the issue of discrimination. The rate of return shown in PSE&G's filing, as well as that shown in Staff's Offer of Proof, is well within the limits of reasonableness.

Finally, it should be noted that the Borough of South River on December 11, 1972, filed an untimely petition to intervene and also petitioned for leave to file an offer of proof. This petition is opposed in all respects by PSE&G. The Borough of South River (South River) alleges that PSE&G's sales to South River and Milltown have been "lumped" with sales to Jersey Central Power and Light in order to justify the proposed increase. PSE&G denies this allegation. Our analysis of PSE&G's filing shows us that PSE&G has provided an allocated cost of service for each class of service rather than "lumping" sales to different customers. While we will allow South River to intervene as a party in this proceeding, we will not further delay this proceeding for purposes of its filing an offer of proof. Furthermore, as we have found, our investigation of the data supporting the proposed rates assures us that they are just and reasonable. In view of our findings that the proposed rates are clearly just and reasonable, further delay would not be in the public interest.

Milltown, in its December 11, 1972, offer of proof, also seeks to challenge the general terms and conditions of PSE&G's rate schedules. Milltown's challenge is directed at the provisions in the existing rate schedules the substance of which PSE&G is not proposing to change in this proceeding. Specifically, Milltown objects to the 1-year term of the rate schedule and the 5-day notice of termination provision, to the inclusion of special provisions "c" and "d" in the schedule, and to the inclusion in the schedule of the following standard terms and conditions: paragraphs 3, 4, 8, 9, 12, 13, 14, 15, 21, and 29. Finally Milltown requests that the Federal Power Commission order PSE&G not to limit the amount of power Milltown can purchase at 4kV. Since Milltown is challenging existing provisions, we shall construe their offer of proof as it relates to the terms and conditions as a complaint for the initiation of an investigation under section 206 of the Federal Power Act and shall order such an investigation.

The Commission finds:

(1) The proposed rates, filed by PSE&G on August 2, 1972, are just and reasonable within the meaning of section 205 of the Federal Power Act and should be approved without further proceedings.

(2) Granting of the Borough of South River's petition to intervene may be in the public interest.

(3) The rate increase granted in this case has been reviewed in the light of the Economic Stabilization Act of 1970 as amended, Executive Order 11695, and the rules and regulations issued thereunder and is consistent therewith.

The Commission orders:

(A) The Borough of South River is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting rights and interests specifically set forth in its petition to intervene and shall not further delay this proceeding; and, *Provided further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(B) The request by the Borough of Milltown for an evidentiary hearing on the justness and reasonableness of the proposed rates and charges is denied.

(C) The proposed rate schedules tendered herein are accepted for filing to be effective as of November 1, 1972, without further refund liability.

(D) Milltown's challenge to the terms and conditions of PSE&G's Rate Schedule FPC No. 48 as hereinbefore specified is accepted as a complaint for an investigation under section 206 of the Federal Power Act.

(E) On or before April 6, 1973, Milltown shall file its prepared testimony and exhibits to support its position that the terms and conditions of Rate Schedule FPC No. 48 (LPL–R) are unjust or unreasonable. PSE&G shall file its direct testimony on or before April 20, 1973. Milltown shall file its rebuttal testimony and exhibits on May 2, 1973. Cross-examination of the testimony and exhibits of the parties shall commence on May 8, 1973, commencing at 10 a.m. e.d.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426. Cross-examination shall take place before a Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge (See Delegation of Authority 19 CFR 3.5(d)) for that purpose.

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

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-5695 Filed 3-23-73;8:45 am]

[Docket No. CP72-118]

SEA ROBIN PIPELINE CO.

Notice of Amendment to Application

MARCH 20, 1973.

Take notice that on March 12, 1973, Sea Robin Pipeline Co. (Applicant), Post Office Box 1407, Shreveport, LA 71158, filed in Docket No. CP72-118 an amendment to its application filed November 3, 1971, in said docket, pursuant to section 7(c) of the Natural Gas Act, providing for a contract demand level of 35,000 Mcf of gas per day for the transportation service proposed to be performed for Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

The original application in this docket requests authorization, among other things, for Applicant to transport up to 102,000 Mcf of natural gas per day for Tennessee from various points offshore Louisiana to the terminus of Applicant's pipeline near Erath, Vermilion Parish, onshore Louisiana. The two companies entered into a transportation agreement, dated September 29, 1971, providing for the proposed service. On December 29, 1972, Applicant and Tennessee entered into a letter agreement reducing from 102,000 Mcf per day to 35,000 Mcf per day the maximum daily quantity of gas

to be transported and the subject amendment reflects this reduction.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before April 13, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-5703 Filed 3-23-73;8:45 am]

[Docket No. E-7711]

SOUTHWESTERN ELECTRIC POWER CO.

Order Providing for Hearing

MARCH 20, 1973.

On February 7, 1972, Southwestern Electric Power Co. (the Company) filed in this docket a notice of cancellation of its FPC Rate Schedule No. 56 under which it sells electric power to Tex-La Electric Cooperative, Inc. of Quitman, Tex., for resale to Tex-La's distribution cooperative members. After all participants agreed it was preferable to continue existing service arrangements, the Company filed rate schedule SPA/Tex-La/SWEPCO applicable to existing service arrangements. By order issued August 8, 1972, the Commission accepted this rate schedule for filing, the rates thereunder to be effective August 9, 1972, subject to refund. Tex-La objects to the new rate schedule, contending that service should continue under FPC Rate Schedule 56 because the Company had no right to cancel it. Staff and the Company say the contract cancellation is valid. This matter is before the Commission without an initial decision.

The Southwest Power Authority (SPA) sells to Tex-La 142 megawatts of power and 1,800 hours per kilowatt of energy. The entire output of Narrows Dam Project, about 25,000 kilowatts, is included in the sale; the remaining 117,000 kilowatts comes from other reservoir projects. The power and energy Tex-La buys from SPA is sold to the Company at no profit. The Company then resells power and energy to Tex-La.

The Company claimed the right to cancel the old rate agreement under section 5 of article VII, which provides:

SEC. 5. Review of compensation to the Company. The rates and terms and conditions of the compensation paid by Tex-La to the Company under section 4 of this article VII shall be reviewed at the time of receipt of notice from SPA under either section 4, article I, or section 5, article II, of the SPA contract, of any modification, amendment, or supersession of the then existing schedule of rates and compensation to be paid by Tex-La in connection with the purchase by Tex-La from SPA of Narrows Dam power and energy and peaking power capacity and peaking energy upon written request of:

* * * * *

(ii) The Company, if such modification, amendment, or supersession puts into effect an increase in the cost to Tex-La for such Narrows Dam power and energy or for such peaking capacity and peaking energy; and if, within 5 months after the receipt of such notice from SPA, Tex-La and the Company are unable to agree upon a new schedule of compensation to be paid by Tex-La to the Company for service rendered by the Company under this article VII, the Company may at its option terminate this agreement in its entirety upon written notice to Tex-La at any time within 1 year after the end of such review, such termination to be effective on the date specified by the Company, but not later than 36 months from the date of such notice.

* * * * *

There was no agreement upon a new schedule of compensation within 5 months. On August 5, 1971, President Pirkey of the Company wrote to President Nichols of Tex-La: "Pursuant to the terms of section 5 of article VII, you are hereby notified that [the Company] hereby exercises its option to terminate the agreement dated the 11th day of May 1960, * * * the effective date of such termination to be on the 29th day of February 1972.

Tex-La argues that the cancellation clause was intended to be used only to compensate the Company for the increased cost of purchases from Tex-La, and since Tex-La did not increase its rates to the Company when SPA rates were increased,[1] Section 5 does not apply. Tex-La also introduced evidence that it was intended in the 1962 and 1963 amendments to the 1960 contract to obtain firm prices subject only to a revision to reflect increased SPA hydro costs, whereas the Company now seeks cancellation to obtain rate increases reflecting increased costs throughout its system, including thermal generation. Tex-La says it would never have approved, nor would the REA have approved, the contract amendments had they known of the Company's "present strained interpretation of section 5, allowing immediate cancellation following a failure to agree on thermal rates * * *." (Tex-La Brief, pages III-10—III-11)

Whatever the original reasons for section 5, the plain language of that section permits the Company to cancel under the circumstances here set forth. A hearing will be ordered as to the justness and reasonableness of the latest rate schedule.

The Commission orders:

(A) Pursuant to the authority of the Federal Power Act, particularly sections 205, 206, 308, and 309 thereof, and the Commission's rules and regulations, a public hearing shall be held commencing with a prehearing conference on September 20, 1973, at 10 a.m. (e.d.t.), in a hearing room of the Federal Power Commission, 441 G Street, NW., Washington, DC 20426, concerning the lawfulness of the rates, charges, classifications, services and other provisions contained in Southwestern Electric Power Company's Rate Schedule SPA/Tex-La/SWEPCO.

(B) At the prehearing conference on September 20, 1973, Southwestern Electric Power Co.'s prepared testimony pertaining to the rate level issues, together with its rate filing relevant to those issues, shall be admitted to the record as Southwestern Electric Power Co.'s complete case-in-chief, subject to appropriate motions, if any, by parties to the proceeding. Any prepared testimony and exhibits of the Commission staff shall also be admitted to the record subject to appropriate motions. All parties shall be prepared to effectuate the provisions of § 1.18 of the Commission's rules of practice and procedure.

(C) On or before May 21, 1973, Southwestern Electric Power Co. shall file a complete cost of service presentation based upon 1972 calendar year data.

(D) On or before September 13, 1973, the Commission staff shall serve its prepared testimony if any and exhibits if any on the rate level issues. The prepared testimony if any and exhibits if any on those issues of any and all intervenors shall be served on or before September 27, 1973. Any rebuttal evidence by Southwestern Electric Power Co. shall be served on or before October 11, 1973. Cross-examination of all evidence relevant to the rate level issues shall commence October 29, 1973. The Presiding Administrative Law Judge, upon a showing of good cause, may grant such extensions of time as he deems appropriate.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearings in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 1.18 of the Commission's rules of practice and procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73-5704 Filed 3-23-73;8:45 am]

FEDERAL RESERVE SYSTEM

DEARBORN FINANCIAL CORP.

Formation of Bank Holding Company

Dearborn Financial Corp., Chicago, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of Upper Avenue National Bank of Chicago, Chicago, Ill. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System,

Washington, D.C. 20551, to be received not later than April 9, 1973.

Board of Governors of the Federal Reserve System, March 20, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.

[FR Doc.73-5673 Filed 3-23-73;8:45 am]

GENEVA INVESTMENT CO.

Formation of Bank Holding Company and Proposed Retention of Bixby Insurance Agency

Geneva Investment Co., Lincoln, Nebr., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 94.67 percent or more of the voting shares of Fillimore County Bank, Geneva, Nebr. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Geneva Investment Co., has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to retain the assets of Bixby Insurance Agency, Geneva, Nebr. Notice of the application was published on December 7, 1972, in the Nebraska Signal, a newspaper circulated in Geneva, Nebr.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agency in a community of less than 5,000 people. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 16, 1973.

Board of Governors of the Federal Reserve System, March 19, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.

[FR Doc.73-5666 Filed 3-23-73;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

EXPANSION ARTS ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Commitee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Expansion Arts Advisory Panel to the National Endowment for the Arts will be held at 9:30 a.m., on March 28, 1973, 9:30 a.m., on March 29, 1973, and 9:30 a.m., on March 30, 1973, in Washington, D.C.

This meeting is for the purpose of Council review, discussion, and evaluation of grant applications. It has been determined by the Chairman in accordance with section 10(d) of the Act, that the meeting involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)).

Further information with reference to this meeting can be obtained from Mrs. Eleanor A. Snyder, Advisory Committee Management Officer, National Endowment for the Arts, 806 15th Street NW., Washington, DC 20506, or call area code 202—382-2854.

PAUL BERMAN,
Director of Administration, National Foundation on the Arts and the Humanities.

[FR Doc.73-5665 Filed 3-23-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

AADAN CORP.

Order Suspending Trading

MARCH 19, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 par value, and all other securities of Aadan Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 11 a.m. (e.s.t.), March 19, 1973 through March 28, 1973.

By the Commisison.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-5677 Filed 3-23-73;8:45 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

MARCH 20, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value, of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, 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 March 21, 1973, through March 30, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-5678 Filed 3-23-73;8:45 am]

[70-5320]

GULF POWER CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

Notice is hereby given that Gulf Power Co., 75 North Pace Boulevard, Pensacola, FL 32502 (Gulf), an electric utility subsidiary company of the Southern Co. (Southern), a registered holding company, has filed a declaration with this Commission 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 proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Gulf 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 _____. The proposed series of bonds will bear a single maturity date within the range of 5 to 30 years, such maturity date to be determined prior to the filing of the registration statement relating to the bonds. The interest rate (which will be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest, to be paid to Gulf (which will be not less than 99 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under the provisions of the indenture dated as of September 1, 1941, between Gulf and the Chase Manhattan Bank (National Association) and the Citizens & Peoples National Bank of Pensacola, as trustees, as heretofore supplemented and as to be further supplemented by a supplemental indenture to be dated as of May 1, 1973. It is provided that the bonds will not be refunded prior to May 1, 1978, directly or indirectly, with funds borrowed at a lower effective interest cost.

The net proceeds received from the issue and sale of the bonds, together with $6 million in equity funds from Southern and any excess cash on hand, will be used by Gulf (1) to finance, in part, its 1973 construction program estimated at $40,750,000, (2) to pay outstanding short-term notes incurred for construction purposes (of which it is estimated

$22,300,000, will be outstanding at the time of the sale of the new bonds), and (3) for other lawful purposes. Gulf estimates that it will not be necessary to sell any additional securities in 1973 for construction purposes except for short-term notes estimated to be outstanding in the amount of $9,500,000 on December 31, 1973.

The Florida Public Service Commission has authorized the proposed issue and sale of the bonds. It is stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment.

Notice is further given that any interested person may, not later than April 16, 1973, 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 filed or as it may be 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.73-5679 Filed 3-23-73;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

ADVISORY COUNCIL ON EMPLOYEE WELFARE AND PENSION BENEFIT PLANS

Recommendations for Appointment

Section 14 of the Welfare and Pension Plans Disclosure Act Amendments of 1962 (76 Stat. 40, 41, 29 U.S.C. 308e) provides for the establishment of an "Advisory Council on Employee Welfare and Pension Benefit Plans" which is to consist of 13 members to be appointed as follows: One from the insurance field, one from the corporate trust field, two from management, four from labor, and two from other interested groups, all of whom are to be appointed by the Secretary from among persons recommended by organizations in the respective groups. The additional three representatives are to be appointed from the general public by the Secretary. The prescribed duties of the Council are to advise the Secretary with respect to the carrying out of his functions under the Welfare and Pension Plans Disclosure Act, as amended, and to submit to the Secretary recommendations with respect thereto. The Council is required to meet at least twice each year and at such other times as the Secretary requests.

To assure continuity in the handling of the business of the Council, a rotation system is provided whereby the 2-year terms of approximately half the members expire each year. The groups represented by the members whose terms expire on June 30, 1973, are as follows: Labor (2), the insurance field (1), management (1), the public (1), and other interested groups (1). Appointments of new members will be for terms beginning July 1, 1973.

Accordingly, notice is hereby given that any organization desiring to recommend persons for appointment to the "Advisory Council on Employee Welfare and Pension Benefit Plans" may submit recommendations to the Secretary of Labor, 14th and Constitution Avenue NW., Washington, D.C. 20210, on or before June 1, 1973. The recommendation may be in the form of a letter, resolution, or petition, signed by an authorized official of the organization. Each recommendation shall identify the candidate by name, occupation, or position, and address. It shall specify the field or group which he would represent for purposes of section 14 of the Act, and whether he is available and would accept.

Signed at Washington, D.C., this 21st day of March 1973.

W. J. USERY, Jr.,
Assistant Secretary for Labor-Management Relations.

[FR Doc.73-5706 Filed 3-23-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[S.O. 1124]

ARCHER DANIELS MIDLAND CO.

Demurrage and Free Time on Freight Cars

Order. At a session of the Interstate Commerce Commission, Division 3, acting as an appellate division, held at its office in Washington, D.C., on the 15th day of March 1973.

Upon consideration of the petition filed by the Archer Daniels Midland Co. on March 15, 1973, requesting revision of Service Order No. 1124.

It appearing, that Service Order No. 1124 was issued by Division 3 in accordance with applicable law and upon its determination that an emergency exists because of an acute shortage of freight cars in all sections of the country; that the petitioner has had ample opportunity to review its operations to avoid the excessive detention of freight cars; that numerous cars are held idle for excessive periods awaiting loading or unloading; that the petition seeks to insert the element of car hire into a proceeding relating only to detention of cars by shippers; that, however, such proposal is not of an emergency nature, and, therefore, its consideration is inappropriate herein; and that the petition states no errors of fact or law warranting the relief sought, and for good cause appearing;

It is ordered, That the petition be, and it is hereby, denied.

By the Commission, Division 3, acting as an appellate division.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-5719 Filed 3-23-73;8:45 am]

[Notice 205]

ASSIGNMENT OF HEARINGS

MARCH 21 1973.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-F-11697, Gerson Transportation—purchase (portion)—Watkins Motor Lines, Inc., MC-C-7950, Thomas R. Rocap, Charles A. Biddinger, Jr., Motor Cargo Transport Corp., Gerson Transportation, a corporation, and Watkins Motor Lines, Inc.—investigation of operations and revocation of certificates, continued to May 16, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 115826 Sub 247, W. J. Digby, Inc., application dismissed.

MC 127355, M & N Grain Co., now being assigned April 11, 1973 (3 days), at St. Louis, Mo., in Room 507, 1114 Market Street.

MC-119968 Sub 6, A. J. Weigand, Inc., now being assigned hearing May 14, 1973 (2 weeks), at Columbus, Ohio, in a hearing room to be later designated.

MC 134599 Sub 39, Interstate Contract Carrier Corp.—extension—cups, MC 134599 Sub 40, Interstate Contract Carrier Corp.—extension—Scott Graphics Division, MC 134599 Sub 41, Interstate Contract Carrier Corp.—extension—Scott Warren Division, now being assigned May 16, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

AB-10 Sub 3, Norfolk & Western Railway Co. abandonment between Abingdon, Va., and West Jefferson, N.C., in Washington and Grayson Counties, Va., and Ashe County, N.C., now being assigned hearing May 21, 1973 (1 week), at West Jefferson, N.C.

MC 60066 Sub 8, Bee Line Motor Freight, Inc., now being assigned hearing May 22, 1973 (3 days), at Lincoln, Nebr., in a hearing room to be later designated.
MC 110563 Sub 94, Coldway Food Express, Inc., now being assigned May 14, 1973, at Omaha, Nebr., in Room 106, Federal Building, 106 South 15th Street.
MC 127042 Sub 95, Hagen, Inc., now being assigned May 15, 193 (2 days), at Omaha, Nebr., in Room 106, Federal Building, 106 South 15th Street.
MC 127042 Sub 97, Hagen, Inc., now being assigned May 17, 1973 (2 days), at Omaha, Nebr., in Room 106, Federal Building, 106 South 15th Street.
MC 125869 Sub 113, Nolte Bros. Truck Line, Inc., now being assigned May 21, 1973 (2 days), at Omaha, Nebr., in Room 106, Federal Building, 106 South 15th Street.
MC 123639 Sub 149, J. B. Montgomery, Inc., now being assigned May 23, 1973 (3 days), at Omaha, Nebr., in Room 106, Federal Building, 106 South 15th Street.
MC-F-11704, Mohawk Motor, Inc.—purchase (portion)—Michigan Express, Inc., MC-F-11707, Indianhead Truck Line, Inc.—purchase (portion)—Michigan Express, Inc., now being assigned hearing May 21, 1973 (1 week), at Detroit, Mich., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-5714 Filed 3-23-73;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MARCH 21, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed on or before April 10, 1973.

FSA No. 42649—*Joint Water-Rail Container Rates—American President Lines, Ltd.* Filed by American President Lines, Ltd., (No. 4 (APL Series)), for itself and interested rail carriers. Rates on general commodities, between ports in the Orient as shown in the application, and rail stations on the U.S. Atlantic and Gulf Seaboard.

Grounds for relief—Water competition.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-5715 Filed 3-23-73;8:45 am]

[Notice 238]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before April 16, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-35452. By order of March 7, 1973, the Motor Carrier Board approved the lease by The Tri-State Transit Authority, Huntington, W. Va., of the operating rights in Certificates Nos. MC-5008 and MC-5008 (Sub-No. 10) issued December 12, 1955, and April 16, 1962, respectively, to Ohio Valley Bus Co., a corporation, Huntington, W. Va., authorizing the transportation of passengers and their baggage, and express and newspapers in the same vehicle with passengers, between the junction of the highway of the Ashland-Coal Grove Bridge across the Ohio River and U.S. Highway 52, and South Point, Ohio, between Russell, Ky., and Ironton, Ohio, and between Russell, Ky., and Flatwoods, Ky., serving all intermediate points in each instance, restricted, however, to the pickup and discharge of passengers originating at or destined to the junction of the highway over the Ashland-Coal Grove Bridge and U.S. Highway 52, South Point and Ironton, Ohio, Russell and Flatwoods, Ky., and intermediate points; between Huntington, W. Va., and Ashland, Ky., between Huntington, W. Va., and Burlington, Ohio, and between Huntington, W. Va., and Proctorville, Ohio, serving all intermediate points in each instance; between Burlington, Ohio, and the site of the Ordnance plant near South Point, Ohio, serving all intermediate points within 1 mile of South Point; between Ashland, Ky., and Russell, Ky., serving all intermediate points, restricted to the transportation of passengers moving between points both of which are on carrier's authorized routes, and from Proctorville, Ohio, to Proctorville, Ohio, over a circular route, serving all intermediate points; and passengers and their baggage, between Ashland, Ky., and Hanging Rock, Ohio, serving all intermediate points restricted to the pickup and discharge of passengers originating at or destined to Ashland, Ky., Hanging Rock, Ohio, and intermediate points, and between Huntington, W. Va., and the U.S. Veterans Hospital, Wayne County, W. Va., serving all intermediate points. Amos A. Bolen, Post Office Box 2185, Huntington, W. Va. 25722, attorney for applicants.

No. MC-FC-74144. By order entered March 9, 1973, the Motor Carrier Board approved the transfer to Sam Crain, doing business as Sam Crain Trucking, Dove Creek, Colo., of the operating rights set forth in Certificate No. MC-112079 (Sub-No. 1), issued October 16, 1967, to Vernon C. Rowley, doing business as Vernon C. Rowley Trucking, Blanding, Utah, authorizing the transportation of uranium and vanadium ores, in bulk, from points in San Juan County, Utah, to Naturita, Durango and Uravan, Colo., and Thompson, Utah. F. Bennon Redd, Monticello, Utah 84535, attorney for applicants.

No. MC-FC-74206. By order of March 9, 1973, the Motor Carrier Board approved the transfer to Ernest W. Wessner, Womelsdorf, Pa., of Certificate No. MC-95161 issued to Ralph R. Boltz, doing business as Boltz Brothers, Myerstown, Pa., authorizing the transportation of: Agricultural commodities, feeds, fertilizer, etc., between specified points in Maryland and Pennsylvania. James E. Fullerton, attorney, 407 North Front Street, Harrisburg, PA 17101.

No. MC-FC-74237. By order of March 9, 1973, the Motor Carrier Board approved the transfer to Joseph Sabini, John Sabini, Angelo Sabini, a partnership, doing business as Sabini's Moving and Storage Co., Stamford, Conn., of Certificate No. MC-93461 issued October 8, 1959, to David Sabini, Joseph Sabini and John Sabini, a partnership, doing business as Sabini's Moving and Storage Co., Stamford, Conn., authorizing the transportation of: Household goods, as defined, between Stamford, Conn., and points within 15 miles thereof, on the one hand, and, on the other, points in Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island. Roy Pelton, Sabini's Moving and Storage Co., 614 Shippan Avenue, Stamford, CT 06902, applicants' representative.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-5716 Filed 3-23-73;8:45 am]

[Sec. 5a App. No. 2, Amdt. 21]

WESTERN RAILROAD TRAFFIC ASSOCIATION

Application for Approval of Amendments to Agreement

MARCH 14, 1973.

The Commission is in receipt of an application in the above-entitled proceeding for approval of amendments to the agreement therein approved.

Filed February 6, 1973 by:

J. M. Souby, Jr., 222 South Riverside Plaza, Suite 1200, Chicago, IL 60606 (Attorney-in-Fact).

Ed White, Attorney for Applicants, 222 South Riverside Plaza, Suite 1200, Chicago, IL 60606.

The amendments seek to broaden the jurisdiction of the Association by inclusion of Illinois Freight Association territory rail carriers as subregional organizations of Western Trunk Line

Committee subject to separate organizational and procedural provisions as set forth in newly added sections 12, 13, and 14 to Article VII, and to make other incidental changes made necessary by the foregoing changes.

The complete application may be inspected at the Office of the Commission, in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before April 16, 1973. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-5718 Filed 3-23-73;8:45 am]

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MONDAY, MARCH 26, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 57

PART II

DEPARTMENT OF DEFENSE

Department of the Navy

■

UNITED STATES NAVY REGULATIONS, 1973

Notice of Implementation

DEPARTMENT OF DEFENSE

Department of the Navy

UNITED STATES NAVY REGULATIONS, 1973

Notice of Implementation

On February 26, 1973, the President of the United States approved United States Navy Regulations, 1973, which replaced United States Navy Regulations, 1948. United States Navy Regulations are issued in accordance with the provisions of title 10, United States Code, section 6011, for the government of all persons in the Department of the Navy, and are endowed with the sanction of law as to duty, responsibility, authority, distinctions, and relationships of various commands, officials, and individuals. The full text of United States Navy Regulations, 1973, is published at this time for notice to the public. Appropriate articles of United States Navy Regulations, 1973, will be codified and incorporated in Title 32, Code of Federal Regulations.

[SEAL] MERLIN H. STARING,
Rear Admiral, JAGC, U.S. Navy,
Judge Advocate General of the Navy.

MARCH 19, 1973.

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CHAPTER 1

THE DEPARTMENT OF THE NAVY

0101. Origin and Authority.

1. The naval affairs of the country began with the war for independence, the American Revolution. On 13 October 1775, Congress passed legislation forming a committee to purchase and arm two ships. This in effect created the Continental Navy. Two battalions of Marines were authorized on 10 November 1775. Under the Constitution, the First Congress on 7 August 1789, assigned responsibility for the conduct of naval affairs to the War Department. On 30 April 1798, the Congress established a separate Navy Department with the Secretary of the Navy as its chief officer. On 11 July 1798, the U. S. Marine Corps was established as a separate service, and in 1834 was made a part of the Department of the Navy.

2. The National Security Act of 1947, as amended, is the fundamental law governing the position of the Department of the Navy in the organization for national defense. In 1949, the Act was amended to establish the Department of Defense as an Executive Department, and to establish the Departments of the Army, Navy and Air Force (formerly established as Executive Departments by the 1947 Act) as military departments within the Department of Defense.

3. The responsibilities and authority of the Department of the Navy are vested in the Secretary of the Navy, and are subject to his reassignment and delegation. The Secretary is bound by the provisions of law, the direction of the President and the Secretary of Defense, and, along with all Government agencies, the regulations of certain non-defense agencies in their respective areas of functional responsibility.

0102. Objectives.

The fundamental objectives of the Department of the Navy, within the Department of Defense, are (a) to organize, train, equip, prepare, and maintain the readiness of Navy and Marine Corps forces for the performance of military missions as directed by the President or the Secretary of Defense, and (b) to support Navy and Marine Corps forces, including the support of such forces and the forces of other military departments, as directed by the Secretary of Defense, which are assigned to unified or specified commands. Support, as here used, includes administrative, personnel, material and fiscal support, and technological support through research and development.

0103. Composition.

The Department of the Navy is separately organized under the Secretary of the Navy. It operates under the authority, direction, and control of the Secretary of Defense. It is composed of the executive part of the Department of the Navy; the Headquarters, United States Marine Corps; the entire operating forces, including naval aviation, of the United States Navy and of the United States Marine Corps, and the reserve components of those operating forces; and all shore activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Secretary of the Navy. It includes the United States Coast Guard when it is operating as a service in the Navy.

0104. The Principal Parts of the Department of the Navy.

1. Functionally, organizationally and geographically the Department of the Navy has from practically the beginning of the Federal Government under the Constitution consisted of three parts: the Operating Forces of the Navy, the Navy Department, and the Shore Establishment.

2. The OPERATING FORCES OF THE NAVY comprise the several fleets, sea-going forces, sea-frontier forces, district forces, Fleet Marine Forces, other assigned Marine Corps Forces, the Military Sealift Command, and other forces and activities that may be assigned thereto by the President or the Secretary of the Navy.

3. The NAVY DEPARTMENT refers to the central executive offices of the Department of the Navy located at the seat of the government. The Navy Department is organizationally comprised of the Office of the Secretary of the Navy, which includes his Civilian Executive Assistants, Offices of his Staff Assistants, and the headquarters organizations of the Office of Naval Research, the Office of the Judge Advocate General, and the Office of the Comptroller of the Navy; the Office of the Chief of Naval Operations, the Headquarters, United States Marine Corps; and, under the command of the Chief of Naval Operations, the Headquarters, Naval Material Command, and the headquarters organizations of the Bureau of Naval Personnel and the Bureau of Medicine and Surgery. In addition, the Headquarters, United States Coast Guard, is included when the United States Coast Guard is operating as a service in the Navy.

4. The SHORE ESTABLISHMENT is comprised of shore activities with defined missions approved for establishment by the Secretary of the Navy.

CHAPTER 2

THE SECRETARY OF THE NAVY

0201. Responsibilities of the Secretary of the Navy.

The Secretary of the Navy is the head of the Department of the Navy. Under the direction, authority, and control of the Secretary of Defense, he is responsible for the policies and control of the Department of the Navy, including its organization, administration, operation, and efficiency.

0202. Succession to Duties.

1. When there is a vacancy in the Office of the Secretary of the Navy, or during the absence or disability of the Secretary, the Under Secretary of the Navy, and, in the order prescribed by the Secretary of the Navy, the Assistant Secretaries of the Navy succeed to the duties of the Secretary. If the Secretary does not prescribe an order for succession to his duties, the Assistant Secretaries shall succeed to those duties after the Under Secretary in the order in which they took office as Assistant Secretaries.

2. During the temporary absence of the above officials, the Chief of Naval Operations or, in his absence, the Vice Chief of Naval Operations succeeds to the duties of the Secretary.

0203. The Civilian Executive Assistants.

1. The Civilian Executive Assistants to the Secretary of the Navy are the Under Secretary of the Navy and the Assistant Secretaries of the Navy and the Deputy Under Secretary of the Navy. It is the policy of the Secretary to assign Department-wide responsibilities essential to the efficient administration of the Department of the Navy to and among his Civilian Executive Assistants.

2. Each Civilian Executive Assistant, within his area of responsibility, is the principal adviser and assistant to the Secretary on the administration of the affairs of the Department of the Navy. In carrying out these duties, the Civilian Executive Assistants shall do so in harmony with the statutory position of the Chief of Naval Operations as "the principal naval adviser and naval executive to the Secretary on the conduct of activities of the Department of the Navy" and the responsibilities of the Chief of Naval Operations and the Commandant of the Marine Corps as set forth in these regulations. Each is authorized and directed to act for the Secretary within his assigned area of responsibility.

3. The Under Secretary of the Navy is designated as the deputy and principal assistant to the Secretary of the Navy, and acts with full authority of the Secretary in the general management of the Department of the Navy, and supervision of offices and organizations as assigned by the Secretary.

4. The Assistant Secretary of the Navy (Financial Management) is the Comptroller of the Navy, and is responsible for all matters related to the financial management of the Department of the Navy, including budgeting, accounting, disbursing, financing, progress and statistical reporting, auditing, management information systems, automatic data processing systems and equipment (less that integral to a weapons system), and supervision of offices and organizations as assigned by the Secretary. Under the Comptroller, the Deputy Comptroller of the Navy shall, in addition to his other duties, serve as an adviser and assistant to the Chief of Naval Operations and the Commandant of the Marine Corps with respect to financial and budgetary matters.

5. The Assistant Secretary of the Navy (Installations and Logistics) is responsible for all matters related to the procurement, production, supply, distribution, alteration, maintenance, and disposal of material; all transportation matters; the acquisition, construction, utilization, improvement, alteration, maintenance, and disposal of real estate and facilities, including capital equipment, utilities, housing, and public quarters; printing and publications; labor relations with respect to contractors with the Department of the Navy; industrial security; the Mutual Defense Assistance Program, as related to the supplying of material; and supervision of offices and organizations as assigned by the Secretary.

6. The Assistant Secretary of the Navy (Manpower and Reserve Affairs) is responsible for the overall supervision of manpower and reserve component affairs of the Department of the Navy, including policy and administration of affairs related to military (active and inactive) and civilian personnel, and supervision of offices and organization as assigned by the Secretary.

7. The Assistant Secretary of the Navy (Research and Development) is responsible for all matters related to research, development, engineering, test, and evaluation efforts within the Department of the Navy, including management of the appropriation, "Research, Development, Test and Evaluation, Navy," and for oceanography, ocean engineering and closely related matters, and supervision of offices and organizations as assigned by the Secretary.

8. The Deputy Under Secretary of the Navy is responsible to the Secretary or Under Secretary for acting as a focal point and coordinator for the resolution of problems which require high-level special attention. He shall maintain a general awareness of actual or potential problems and issues and take steps to prevent their development or aggravation.

0204. The Staff Assistants.

The Staff Assistants to the Secretary of the Navy are the Administrative Officer, Navy Department; the General Counsel; the Director of Civilian Manpower Management; the Chief of Information; the Chief of Legislative Affairs; the Director, Office of Management Information; the Director, Office of Naval Petroleum and Oil Shale Reserves; the Director, Office of Program Appraisal; and the heads of such other offices and boards as may be established by law or by the Secretary for the purpose of assisting the Secretary or one or more of his Civilian Executive Assistants in the administration of the Department of the

Navy. Each of the foregoing shall supervise all functions and activities internal to his office and assigned shore activities, if any. Each shall be responsible to the Secretary or to one of his Civilian Executive Assistants for the utilization of resources by and the operating efficiency of all activities under his supervision. The duties of the individual Staff Assistants and their respective offices will be as provided by law or as assigned by the Secretary.

0205. The Chief of Naval Research, The Judge Advocate General, The Deputy Comptroller of the Navy.

The Chief of Naval Research shall command the Office of Naval Research and assigned shore activities. The Judge Advocate General shall command the Office of the Judge Advocate General and assigned shore activities. The Deputy Comptroller of the Navy shall command the Office of the Comptroller of the Navy and assigned shore activities. Each of them shall be responsible to the Secretary of the Navy or to one of his Civilian Executive Assistants, as assigned, for the utilization of resources by and the operating efficiency of all activities under their respective commands. The duties of the Chief of Naval Research, the Judge Advocate General, and the Comptroller of the Navy will be as provided by law or as assigned by the Secretary.

0206. Authority Over Organizational Matters.

Subject to the approval of the Secretary of the Navy or guidance hereafter furnished by him, the Civilian Executive Assistants, the Chief of Naval Operations, the Commandant of the Marine Corps, the Chief of Naval Research, the Judge Advocate General, the Deputy Comptroller of the Navy, and the Staff Assistants are individually authorized to organize, assign, and reassign responsibilities within their respective commands or offices in the organization of the Department of the Navy, including the establishment and disestablishment of such component organizations as may be necessary, subject to the following:

a. The authority to disestablish may not be exercised with respect to any organizational component of the Department established by law.

b. The Secretary retains unto himself the authority to approve the establishment of and disestablishment of shore activities, which will be done in accordance with procedures prescribed by him.

CHAPTER 3

THE CHIEF OF NAVAL OPERATIONS

0301. Senior Military Officer of the Department of the Navy.

1. The Chief of Naval Operations is the senior military officer of the Department of the Navy, and takes precedence above all other officers of the naval service, except an officer of the naval service who is serving as Chairman of the Joint Chiefs of Staff.

2. The Chief of Naval Operations is the principal naval adviser to the President and to the Secretary of the Navy on the conduct of war, and the principal naval adviser and naval executive to the Secretary on the conduct of the activities of the Department of the Navy.

3. The Chief of Naval Operations is the Navy member of the Joint Chiefs of Staff and is responsible for keeping the Secretary of the Navy fully informed on matters considered or acted upon by the Joint Chiefs of Staff. In this capacity, he is responsible, under the President and the Secretary of Defense, for duties external to the Department of the Navy, as prescribed by law.

0302. Succession to Duties.

The Vice Chief of Naval Operations, and then the officers of the Navy, eligible for command at sea, on duty in the office of the Chief of Naval Operations in the order of their seniority, shall, unless otherwise directed by the President, perform the duties of the Chief of Naval Operations during his absence, or disability, or in the event of a temporary vacancy in that office.

0303. Specific Authority and Duties of the Vice Chief of Naval Operations.

1. The Vice Chief of Naval Operations has such authority and duties with respect to the Department of the Navy as the Chief of Naval Operations, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Vice Chief of Naval Operations in performing such duties have the same force and effect as those issued by the Chief of Naval Operations.

2. Orders issued by the Vice Chief of Naval Operations in performing other duties have the same force and effect as those issued by the Chief of Naval Operations.

0304. Authority and Responsibility.

1. Internal to the administration of the Department of the Navy, the Chief of Naval Operations, under the direction of the Secretary of the Navy, shall command the Operating Forces of the Navy. The Chief of Naval Operations shall also command the Naval Material Command, the Bureau of Naval Personnel, and the Bureau of Medicine and Surgery. In addition, he shall command such shore

activities as may be assigned to him by the Secretary. He shall be responsible to the Secretary for the utilization of resources by, and the operating efficiency of, all commands and activities under his command.

2. In addition, the Chief of Naval Operations has the following specific responsibilities:

a. To organize, train, equip, prepare, and maintain the readiness of Navy forces, including those for assignment to unified or specified commands for the performance of military missions as directed by the President, the Secretary of Defense, or the Joint Chiefs of Staff. Naval forces, when assigned to a unified or specified command, are under the full operational command of the commander to whom they are assigned.

b. To determine and direct the efforts necessary to fulfillment of current and future requirements of the Navy (less Fleet Marine Forces and other assigned Marine Corps forces) for manpower, material, weapons, facilities, and services, including the determination of quantities, military performance requirements, and times, places, and priorities of need.

c. To exercise leadership in maintaining a high degree of competence among Navy officer and enlisted and civilian personnel in necessary fields of specialization, through education, training, and equal opportunities for personal advancement, and maintaining the morale and motivation of Navy personnel and the prestige of a Navy career.

d. To plan and provide health care for personnel of the naval service and their dependents.

e. To direct the organization, administration, training, and support of the Naval Reserve.

f. To inspect and investigate components of the Department of the Navy to determine and maintain efficiency, discipline, readiness, effectiveness, and economy, except in those areas where such responsibility rests with the Commandant of the Marine Corps.

g. To determine the needs of naval forces and activities for research, development, test and evaluation; to plan and provide for the conduct of development, test, and evaluation which are adequate and responsive to long-range objectives, immediate requirements, and fiscal limitations; and to provide assistance to the Assistant Secretary of the Navy (Research and Development) in the direction, review, and appraisal of the overall Navy RDT&E Program to insure fulfillment of stated requirements.

h. To formulate Navy strategic plans and policies and participate in the formulation of joint and combined strategic plans and policies and related command relationships.

i. To budget for commands, bureaus, and offices assigned to the command of the Chief of Naval Operations, and other activities and programs as assigned, except as may be otherwise directed by the Secretary of the Navy.

3. The Chief of Naval Operations, under the direction of the Secretary of the Navy, shall (except for those areas wherein such responsibility rests with the Commandant of the Marine Corps) exercise overall authority throughout the Department of the Navy in matters related to the effectiveness of the support of the Operating Forces of the Navy, the coordination and direction of assigned Navy-wide programs and functions including those assigned by higher authority, the coordination of activities of the Department of the Navy in matters concerning effectiveness, efficiency, and economy, and matters essential to naval military administration, such as security, intelligence, discipline, communications, and matters related to the customs and traditions of the naval service.

0305. Naval Vessel Register, Classification of Naval Craft, and Status of Ships and Service Craft.

1. The Chief of Naval Operations shall be responsible for the Naval Vessel Register (except the Secretary of the Navy shall strike vessels from the Register) and the assignment of classification for administrative purposes to water-borne craft and the designation of status for each ship and service craft. The classification of water-borne craft and the status of ships and service craft are found in the glossary.

2. Commissioned vessels and craft shall be called "United States Ship——" or "U.S.S.——".

3. Civilian manned ships of the Military Sealift Command or other commands designated "active status, in service" shall be called "United States Naval Ship——" or "U.S.N.S.——".

4. The Chief of Naval Operations shall designate hospital ships and medical aircraft as he deems necessary. Such designation shall be in compliance with the Geneva Convention for the Amelioration of the Conditions of Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea of 12 August 1949 and he shall ensure compliance with the notice provisions of that Convention.

0306. The Chief of Naval Material.

The Chief of Naval Material, under the command of the Chief of Naval Operations, shall command the Naval Material Command. In addition to the tasks which may be assigned by the Chief of Naval Operations, he shall:

a. Provide direct staff assistance to the Secretary of the Navy and the Civilian Executive Assistants in matters pertaining to contracting, procurement, production and exploratory development, laboratories assigned to the Chief of Naval Material and to related matters. In these areas, the Chief of Naval Material shall inform the Chief of Naval Operations and, when appropriate, the Commandant of the Marine Corps in matters of policy and significant actions.

b. Be responsive directly to the Commandant of the Marine Corps in providing necessary planning and programming data requirements and in meeting those particular material support needs of the U. S. Marine Corps which are

required to be provided by the Naval Material Command.

c. Provide the Commandant of the Marine Corps with timely advice concerning training and technical requirements essential for the operation and maintenance by Marine Corps personnel of new equipment under development.

d. Be responsive to the heads of other organizations in meeting their material support needs which are provided by the Naval Material Command.

e. Provide guidance to Navy and Marine Corps Commands, as required, on functional areas related to Naval Material Command acquisition and logistics support responsibilities and other technical or professional matters as appropriate.

0307. The Chief of Naval Personnel and the Chief, Bureau of Medicine and Surgery.

The Chief of Naval Personnel, under the command of the Chief of Naval Operations, shall command the Bureau of Naval Personnel. The Chief, Bureau of Medicine and Surgery, (who is also the Surgeon General of the Navy), under the command of the Chief of Naval Operations, shall command the Bureau of Medicine and Surgery. In addition to the tasks which may be assigned by the Chief of Naval Operations, they shall:

a. Be responsive directly to the Commandant of the Marine Corps in meeting those particular needs of the United States Marine Corps which are required to be provided by their respective bureaus.

b. Be responsive to the heads of other organizations in meeting the particular needs of such organizations which are provided by the Chief of Naval Personnel and the Chief, Bureau of Medicine and Surgery.

0308. Naval Inspector General.

There is in the Office of the Chief of Naval Operations the Office of the Naval Inspector General. The Naval Inspector General, when directed, shall inquire into and report upon any matter which affects the discipline or military efficiency of the Department of the Navy; however, the Secretary of the Navy shall direct inquiry when such matters are related to the Marine Corps. He shall make such inspections, investigations, and reports as the Secretary or the Chief of Naval Operations directs. The Naval Inspector General shall periodically propose programs of inspections to the Chief of Naval Operations and shall recommend additional inspections or investigations as may appear appropriate.

0309. Commander In Chief U.S. Atlantic Fleet.

1. The Commander in Chief of U. S. Atlantic Fleet is a naval commander in chief of the Operating Forces of the Navy under the command of the Chief of Naval Operations. He shall command the U. S. Atlantic Fleet and is responsible for the administration, training, maintenance, support and readiness of the Atlantic Fleet, including those forces temporarily assigned to the operational command of other commanders.

2. The Commander in Chief U. S. Atlantic Fleet is a naval component commander of the unified command under the Commander in Chief, Atlantic.

3. The organization of the Atlantic Fleet, the forces assigned and their employment shall be as specified by the Chief of Naval Operations except for the employment of forces assigned to the operational command of unified and specified commanders.

0310. Commander In Chief U.S. Pacific Fleet.

1. The Commander in Chief U. S. Pacific Fleet is a naval commander in chief of the Operating Forces of the Navy under the command of the Chief of Naval Operations. He shall command the U. S. Pacific Fleet and is responsible for the administration, training, maintenance, support and readiness of the Pacific Fleet, including those forces temporarily assigned to the operational command of other commanders.

2. The Commander in Chief U. S. Pacific Fleet is a naval component commander of the unified command under the Commander in Chief, Pacific.

3. The organization of the Pacific Fleet, the forces assigned and their employment shall be as specified by the Chief of Naval Operations except for the employment of forces assigned to the operational command of unified and specified commanders.

0311. Commander In Chief U.S. Naval Forces, Europe.

1. The Commander in Chief U. S. Naval Forces, Europe is a naval commander in chief of the Operating Forces of the Navy under the command of the Chief of Naval Operations. He shall represent the Chief of Naval Operations for U. S. naval matters in the general areas of Europe, North Africa, and the Middle East. He shall command those forces assigned by the Chief of Naval Operations or by other naval commanders.

2. The Commander in Chief U. S. Naval Forces, Europe is the naval component commander of the unified command under the Commander in Chief, U. S. European Command.

0312. Commander, Military Sealift Command.

1. The Commander, Military Sealift Command is a naval commander of the Operating Forces of the Navy under the command of the Chief of Naval Operations. He shall provide ocean transportation for personnel and cargo of the Department of Defense (excluding that transported by units of the fleet) in accordance with policies and procedures of the Single Manager for Ocean Transportation (Secretary of the Navy) and the Secretary of Defense. He shall also operate ships in support of scientific projects and other programs for agencies or departments of the United States.

2. The Military Sealift Command shall operate and maintain government owned ships and augment operational capability by shipping cargo and passengers on commercially operated ships, chartering ships, and exercising operational control over ships activated from National Defense Reserve Fleet to meet emergency needs.

0313. Commander, Naval Intelligence Command.

The Commander, Naval Intelligence Command, under the command of the Chief of Naval Operations, shall be responsible for directing and managing the activities of the Naval Intelligence Command to insure fulfillment of the intelligence, counterintelligence, investigative, and security requirements of the Department of the Navy.

0314. Commander, Naval Communications Command.

The Commander, Naval Communications Command, under the command of the Chief of Naval Operations, shall exercise overall responsibility throughout the Department of the Navy for the coordination of the provision, operation, and maintenance of adequate and secure naval communications.

0315. Oceanographer of the Navy.

The Oceanographer of the Navy, under the command of the Chief of Naval Operations, shall act as the Naval Oceanographic Program Director under the policy direction of the Secretary of the Navy. He shall be responsible for an integrated and effective Naval Oceanographic Program and the management of all national oceanographic facilities and efforts assigned to the Department of the Navy.

0316. Commander, Naval Weather Service Command.

The Commander, Naval Weather Service Command, under the command of the Chief of Naval Operations, shall insure that Department of the Navy meteorological requirements and Department of Defense requirements for oceanographic analyses and forecasts are met. He shall provide technical guidance in meteorological matters throughout the naval service.

0317. Commander, Naval Security Group Command.

The Commander, Naval Security Group Command, under the command of the Chief of Naval Operations, shall be responsible for the provision, operation, and maintenance of an adequate Naval Security Group and shall perform cryptologic and related functions.

0318. Chief of Naval Training.

The Chief of Naval Training, under the command of the Chief of Naval Operations, shall be responsible for the training of Navy personnel, other than training assigned by the Chief of Naval Operations to other authorities, and for the training of Marine Corps aviation personnel.

0319. Chief of Naval Reserve

The Chief of Naval Reserve, under the command of the Chief of Naval Operations, shall be responsible for the administration of Naval Reserve programs, the management of Naval Reserve resources, and for logistic support of the Marine Corps air program.

0320. Commandants of Naval Districts.

1. The Commandants of Naval Districts, under the command of the Chief of Naval Operations, shall command assigned naval shore activities; exercise area coordination over all shore activities in the district; represent the Secretary of the Navy, the Chief of Naval Operations and other officials in such matters as may be assigned; execute responsibilities with respect to specified functions as assigned by Sea Frontier Commanders and Chief of Naval Reserve; administer Naval Reserve elements and naval reservists, as assigned; and coordinate public affairs matters throughout the district.

2. Naval districts within the continental United States are defined by statute (10 USC 5221).

0321. President, Board of Inspection and Survey.

The President of the Board of Inspection and Survey, assisted by such other officers and such permanent and semi-permanent sub-boards as may be designated by the Secretary of the Navy, shall:

a. Conduct acceptance trials and inspections of all ships and service craft prior to acceptance for naval service.

b. Conduct acceptance trials and inspections on one or more aircraft of each type or model prior to final acceptance for naval service.

c. Examine, at least once every three years, if practicable, each naval ship to determine its material condition and, if found unfit for continued service, report to higher authority.

d. Perform such other inspections and trials of naval ships, service craft, and aircraft as may be directed by the Chief of Naval Operations.

CHAPTER 4

THE COMMANDANT OF THE MARINE CORPS

0401. Senior Officer of the Marine Corps.

1. The Commandant of the Marine Corps is the senior officer of the United States Marine Corps.

2. While matters which directly concern the Marine Corps are under consideration by the Joint Chiefs of Staff, and with respect to such matters, the Commandant has coequal status with the members of the Joint Chiefs of Staff. He is responsible for keeping the Secretary of the Navy fully informed on these matters. In this capacity as a coequal member of the Joint Chiefs of Staff, he is responsible to the President and the Secretary of Defense for duties external to the Department of the Navy as prescribed by law.

0402. Succession to Duties.

The Assistant Commandant of the Marine Corps, and then the officers of the Marine Corps, not restricted in the performance of duty, on duty at the headquarters of the Marine Corps in the order of their seniority, shall, unless otherwise directed by the President, perform the duties of the Commandant of the Marine Corps during his absence, disability, or in the event of a temporary vacancy in that office.

0403. Authority and Responsibilities.

1. The Commandant of the Marine Corps, under the direction of the Secretary of the Navy, shall command the United States Marine Corps, which shall include Headquarters, United States Marine Corps; the Operating Forces of the Marine Corps; Marine Corps Supporting Establishments and the Marine Corps Reserve.

2. The Commandant of the Marine Corps advises the Secretary of the Navy on matters pertaining to the Marine Corps. He is directly responsible to the Secretary for the administration, discipline, internal organization, training, requirements, efficiency, and readiness of the Marine Corps; for the operation of the Marine Corps material support system; and the total performance of the Marine Corps. He shall command such shore activities as may be assigned by the Secretary, and is responsible to the Secretary for the utilization of resources by and the operating efficiency of all activities under his command. When performing these functions, the Commandant is not a part of the command structure of the Chief of Naval Operations. There must, however, be a close cooperative relationship between the Chief of Naval Operations, as the senior military officer of the Department of the Navy, and the Commandant, as the one having command responsibility over the Marine Corps.

3. The Commandant of the Marine Corps is directly responsible to the Chief of Naval Operations for the organization, training, and readiness of those elements of the Operating Forces of the Marine Corps assigned to the Operating Forces of the Navy. Such Marine Corps forces, when so assigned, are subject to the command exercised by the Chief of Naval Operations over the Operating Forces of the Navy. Likewise, members or organizations of the Navy, when assigned to the Marine Corps, are subject to the command of the Commandant of the Marine Corps.

0404. Specific Responsibilities.

In addition, the Commandant of the Marine Corps has the following specific responsibilities:

a. To plan for and determine the support needs of the Marine Corps for equipment, weapons or weapons systems, materials, supplies, facilities, maintenance, and supporting services. This responsibility includes the determination of Marine Corps characteristics of equipment and material to be procured or developed, and the training required to prepare Marine Corps personnel for combat. It also includes the operation of the Marine Corps Material Support System.

b. To budget for the Marine Corps, except as may be otherwise directed by the Secretary of the Navy.

c. To develop, in coordination with other military services, the doctrines, tactics, and equipment employed by landing forces in amphibious operations.

d. To formulate Marine Corps strategic plans and policies and participate in the formulation of joint and combined strategic plans and policies and related command relationships.

e. To plan for and determine the present and future needs, both quantitative and qualitative, for personnel, including reserve personnel and civilian personnel, of the United States Marine Corps. This includes responsibility for leadership in maintaining a high degree of competence among Marine Corps officer and enlisted personnel and Marine Corps civilian personnel in necessary fields of specialization through education, training, and equal opportunities for personal advancement; and for leadership in maintaining the morale and motivation of Marine Corps personnel and the prestige of a career in the Marine Corps.

f. To plan for and determine development requirements of the Marine Corps. To provide for the development, test, and evaluation of new weapon systems and equipment, to ensure that such are adequate and responsive to immediate and long-range objectives and are within available resources. To provide direct staff assistance to the Assistant Secretary of the Navy (Research and Development) in the direction, review, and appraisal of the overall USMC RDT&E Program.

g. To plan for and determine the needs for health care for personnel of the Marine Corps and their dependents.

0405. Composition of the Marine Corps.

1. The major components of the regular establishment of the Marine Corps

consist principally of the Headquarters of the Marine Corps, the Operating Forces, and the Supporting Establishment. In addition, there is another element of the Marine Corps, the Marine Corps Reserve.

2. The Operating Forces of the Marine Corps include the Fleet Marine Forces, detachments afloat, and security forces. There are two Fleet Marine Forces: Fleet Marine Force, Atlantic, and Fleet Marine Force, Pacific. These Fleet Marine Forces are assigned to, and are integral to, the U. S. fleets as part of the Operating Forces of the Navy.

3. The Supporting Establishment includes those Marine Corps facilities, such as Marine Corps schools, recruit depots, supply installations, bases, barracks, air stations and other miscellaneous small activities which train, maintain, and support the Operating Forces of the Marine Corps.

4. The Marine Corps Reserve has as its mission to provide a trained force of qualified officers and enlisted personnel to be available for active duty in the U. S. Marine Corps in time of war or national emergency.

0406. Relationships Between the Commandant of the Marine Corps and the Chief of Naval Material.

Formal operating relationships with respect to the efforts of determining needs and providing support between the Commandant of the Marine Corps and his organization and the Chief of Naval Material and his organization shall be governed by the following principles:

a. The Commandant of the Marine Corps shall express to the Chief of Naval Material those Marine Corps material needs which are to be provided by the Naval Material Command. With respect to the development of material items, the Commandant of the Marine Corps shall specify the military performance required to meet Marine Corps needs.

b. The Chief of Naval Material shall advise the Commandant of the Marine Corps as to the economic and technological feasibility of meeting such needs, and shall keep the Commandant informed of new capabilities to meet the needs of the Marine Corps which may or may not have been previously expressed. With respect to the development of material items, the Chief of Naval Material shall determine the technical effort necessary to satisfy the specified requirement.

c. The Commandant of the Marine Corps shall select the work to be done to satisfy the needs of the Marine Corps, based upon feasibility data and current estimates of the worth of a particular need in relation to other desirable needs, including, where necessary, the curtailment or cancellation of work already in progress in favor of work which offers greater promise or greater military worth.

d. The Chief of Naval Material shall exercise appropriate supervision over accomplishment of the work selected, and shall ensure that resources available to him are efficiently utilized in meeting Marine Corps needs.

e. Work being accomplished shall be reviewed concurrently by the Commandant of the Marine Corps from the viewpoint of readiness and military worth, and by the Chief of Naval Material from the viewpoint of progress and the efficient utilization of resources available to him.

0407. Serving With the Army by Order of the President.

1. When Marine Corps units are, by order of the President, detached for service with the Army, the Commandant of the Marine Corps is, for the time that the Marine Corps units are thus detached and for the purposes of administering the affairs of such units, responsible to the Secretary of the Army. The Commandant of the Marine Corps shall retain such control and jurisdiction over said detached forces as will enable him to make the necessary transfers of officers and men from and to the commands, and to exercise general supervision over all expenditures and supplies needed for the support of the Marine Corps forces so detached. He shall be responsible to the Secretary of the Army for the general efficiency and discipline of such units of the Marine Corps as are detached for service with the Army.

2. Official correspondence which relates exclusively to the routine business of the Marine Corps and does not involve questions of administrative responsibility under the supervision of the commanding officer of the combined forces, and which is not a matter of a military nature pertaining to an individual requiring the action of said commanding officer, shall be forwarded direct between the Headquarters of the Marine Corps and the senior Marine officer serving with the detached forces.

3. All official correspondence regarding the personnel of the Marine Corps units on duty with the Army shall be addressed to the proper representative of the Marine Corps and forwarded via the Adjutant General of the Army.

CHAPTER 5

THE UNITED STATES COAST GUARD
(WHEN OPERATING AS A SERVICE IN THE NAVY)

0501. Relationship and Operation as a Service in the Navy.

1. Upon declaration of war or when the President directs, the Coast Guard shall operate as a service in the Navy, and shall be subject to the orders of the Secretary of the Navy. While so operating as a service in the Navy and to the extent practicable Coast Guard operations shall be integrated and uniform with Navy operations.

2. Whenever the Coast Guard operates as a service in the Navy:

a. Applicable appropriations of the Coast Guard to cover expenses shall be available for transfer to the Department of the Navy and supplemented, as required, from applicable appropriations of the Department of the Navy.

b. Personnel of the Coast Guard shall be eligible to receive gratuities, medals, and other insignia of honor on the same basis as personnel in the naval service or serving in any capacity with the Navy.

0502. Commandant of the Coast Guard.

1. The Commandant of the Coast Guard is the senior officer of the United States Coast Guard.

2. When reporting in accordance with Section 3, Title 14, U. S. Code to the Secretary of the Navy, the Commandant of the Coast Guard will further report to the Chief of Naval Operations for military functions. The Chief of Naval Operations shall represent the Coast Guard as a member of the Joint Chiefs of Staff.

0503. Duties and Responsibilities.

In exercising command over the Coast Guard while operating as a service of the Navy, the Commandant shall:

a. Organize, train, prepare and maintain the readiness of the Coast Guard to function as a specialized service in the Navy for the performance of military missions, as directed.

b. Plan for and determine the present and future needs of the Coast Guard, both quantitative and qualitative, for personnel, including reserve personnel.

c. Budget for the Coast Guard, except as may be otherwise directed by the Secretary of the Navy.

d. Plan for and determine the support needs of the Coast Guard for equipment, materials, weapons or weapons systems, supplies, facilities, maintenance, and supporting services.

e. Exercise essential military administration of the Coast Guard. This includes, but is not limited to, such matters as security, discipline, intelligence, communications, personnel records and accounting conforming, as practicable, to Navy procedures.

f. Enforce or assist in enforcing Federal laws on the high seas and on waters subject to the jurisdiction of the United States.

g. Administer, promulgate and enforce regulations for the promotion of safety of life and property on the high seas and on waters subject to the jurisdiction of the United States. This applies to those matters not specifically delegated by law to some other executive department.

h. Develop, establish, maintain and operate, with due regard to the requirements of national defense, aids to maritime navigation, ice breaking facilities, and rescue facilities for the promotion of safety on and over the high seas and waters subject to the jurisdiction of the United States.

i. Engage in oceanographic research on the high seas and in waters subject to the jurisdiction of the United States in coordination with the Office of the Oceanographer of the Navy.

j. Continue in effect under the Secretary of the Navy those other functions, powers and duties vested in him by appropriate orders and regulations of the Secretary of Transportation on the day prior to the effective date of transfer of the Coast Guard to the Department of the Navy until specifically modified or terminated by the Secretary of the Navy.

CHAPTER 6

COMMANDERS IN CHIEF AND OTHER COMMANDERS

0601. Titles of Commanders.

1. The commander of a principal organization of the Operating Forces of the Navy, as determined by the Chief of Naval Operations, or the officer who has succeeded to such command as provided elsewhere in these regulations, shall have the title "Commander in Chief." The name of the organization under his command shall be added to form his official title.

2. The commander of each other organization of units of the Operating Forces of the Navy, or organization of units of shore activities, shall have the title "Commander," "Commandant," "Commanding General," or other appropriate title. The name of the organization under his command shall be added to form his official title.

0602. Responsibility and Authority of a Commander.

1. A commander shall be responsible for the satisfactory accomplishment of the mission and duties assigned to his command. His authority shall be commensurate with his responsibilities. Normally, he shall exercise authority through his immediate subordinate commanders; but he may communicate directly with any of his subordinates.

2. A commander shall insure that subordinate commands are fully aware of the importance of strong, dynamic leadership and its relationship to the overall efficiency and readiness of naval forces. A commander shall exercise positive leadership and actively develop the highest qualities of leadership in persons with positions of authority and responsibility throughout his command.

3. Subject to orders of higher authority, a commander shall issue such regulations and instructions as may be necessary for the proper administration and operation of his command.

4. A commander shall hold the same relationship to his flagship, or to a shore activity of his command in which his headquarters may be located, in regard to its internal administration and discipline, as to any other ship or shore activity of his command.

0603. To Announce Assumption of Command.

Upon assuming command, a commander shall so advise appropriate superiors, and the units of his command. When appropriate to his command he shall also advise the senior commanders of other United States armed services and officials of other Federal agencies and foreign governments located within the area encompassed by his command, concerning his assumption of command.

0604. Readiness.

A commander shall take all practicable steps to maintain his command in a state of readiness to perform its mission. In conformity with the orders and policies of higher authority, he shall:

1. Organize the forces and resources under his command and assign duties to his principal subordinate commanders.

2. Prepare plans for the employment of his forces to meet existing and foreseeable situations.

3. Collaborate with the commanders of other United States armed services and with appropriate officials of other Federal agencies and foreign governments located within the area encompassed by his command.

4. Maintain effective intelligence and keep himself informed of the political and military aspects of the national and international situation.

5. Make, or cause to be made, such inspections as necessary to ensure the readiness, effectiveness, and efficiency of the components of his command.

0605. Observance of International Law.

At all times a commander shall observe, and require his command to observe, the principles of international law. Where necessary to fullfillment of this responsibility, a departure from other provisions of Navy Regulations is authorized.

0606. Keeping Immediate Superior Informed.

A commander shall keep his immediate superior appropriately informed of:

1. The organization of his command, the prospective and actual movements of the units of his command, and the location of his headquarters.

2. Plans for employment of his forces.

3. The condition of his command and of any required action pertaining thereto which is beyond his capacity or authority.

4. Intelligence information which may be of value.

5. Any battle, engagement, or other significant action, involving units of his command.

6. Any important service or duty performed by persons or units of his command.

7. Unexecuted orders and matters of interest upon being relieved of command.

0607. Organization of a Staff.

1. The term "staff" shall be construed to mean those officers and other designated persons assigned to a commander to assist him in the administration and operation of his command.

2. The officer detailed as chief of staff and aide to a fleet admiral or admiral normally shall be a vice admiral or a rear admiral. The officer detailed as chief of staff and aide to a vice admiral or rear admiral shall normally be a rear admiral or a captain. The detailing of a vice commander or a deputy to a commander shall be reserved for selected commanders. An officer detailed as chief staff officer to another officer shall normally not be of the same grade.

3. The staff shall be organized into such divisions as may be prescribed by the commander concerned or by higher authority. These divisions shall conform in nature and designation, as practicable and as appropriate, to those of the staffs of superiors.

4. The staff of a flag or general officer may include one or more personal aides.

0608. Authority and Responsibilities of Officers of a Staff.

1. The chief of staff and aide or chief staff officer, under the commander, shall be responsible for supervising and coordinating the work of the staff and shall be kept informed of all matters pertaining to that work. All persons attached to the staff, except a vice commander or deputy responsible directly to the commander, shall be subordinate to the chief of staff and aide or chief staff officer while he is executing the duties of his office.

2. The officers of a staff shall be responsible for the performance of those duties assigned to them by the commander and shall advise him on all matters pertaining thereto. In the performance of their staff duties they shall have no command authority of their own. In carrying out such duties, they shall act for, and in the name of, the commander.

0609. Administration and Discipline - Staff Embarked.

In matters of general discipline, the staff of a commander embarked and all enlisted persons serving with the staff shall be subject to the internal regulations and routine of the ship. They shall be assigned regular stations for battle and emergencies. Enlisted persons serving with the staff shall be assigned to the ship for administration and discipline, except in the case of staffs embarked for passage only, and provided in that case that an organization exists and is authorized to act for such purposes.

0610. Administration and Discipline - Staff Based Ashore.

When a staff is based ashore the enlisted persons serving with the staff shall, when practicable, be assigned to an appropriate activity for purposes of administration and discipline. The staff officers may be similarly assigned. Members of a staff assigned for any purpose to a command or activity shall conform in matters of general discipline to the internal regulations and routine of the command or activity.

0611. Administration and Discipline - Staff Unassigned to an Administrative Command.

1. When it is not practicable to assign enlisted persons serving with the staff of a commander to an established activity for administration and discipline, the commander may designate an officer of his staff to act as the commanding officer of such persons and shall notify the Judge Advocate General and the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, of his action.

2. If the designating commander desires the commanding officer of staff enlisted personnel to possess authority to convene courts-martial, he should request the Judge Advocate General to obtain such authorization from the Secretary of the Navy.

0612. Administration and Discipline - Separate and Detached Command.

Any flag or general officer in command, any officer authorized to convene general courts-martial, or the senior officer present may designate organizations which are separate or detached commands. Such officer shall state in writing that it is a separate or detached command and shall inform the Judge Advocate General of the action taken. If authority to convene courts-martial is desired for the commanding officer or officer in charge of such separate or detached command, the officer designating the organization as separate or detached shall request the Judge Advocate General to obtain authorization from the Secretary of the Navy.

CHAPTER 7

THE COMMANDING OFFICER

0701. Applicability.

In addition to commanding officers, the provisions of this chapter shall apply, where pertinent, to aircraft commanders, officers in charge (including warrant officers and petty officers when so detailed) and those persons standing the command duty.

0702. Responsibility.

1. The responsibility of the commanding officer for his command is absolute, except when, and to the extent, relieved therefrom by competent authority, or as provided otherwise in these regulations. The authority of the commanding officer is commensurate with his responsibility. While he may, at his discretion, and when not contrary to law or regulations, delegate authority to his subordinates for the execution of details, such delegation of authority shall in no way relieve the commanding officer of his continued responsibility for the safety, well-being, and efficiency of his entire command.

2. A commanding officer who departs from his orders or instructions, or takes official action which is not in accordance with such orders or instructions, does so upon his own responsibility and shall report immediately the circumstances to the officer from whom the prior orders or instructions were received.

3. The commanding officer shall be responsible for economy within his command. To this end he shall require from his subordinates a rigid compliance with the regulations governing the receipt, accounting, and expenditure of public money and materials, and the implementation of improved management techniques and procedures.

4. The commanding officer and his subordinates shall exercise leadership through personal example, moral responsibility, and judicious attention to the welfare of persons under their control or supervision. Such leadership shall be exercised in order to achieve a positive, dominant influence on the performance of persons in the Department of the Navy.

0703. Presence of Officer Eligible to Command.

1. Except as otherwise provided herein or otherwise authorized by the Chief of Naval Operations or the Commandant of the Marine Corps, as appropriate, at least one officer, either in command or eligible to succeed to command, shall be present and ready for duty at each command (activity, unit, or office). In the absence of the commanding officer or the executive officer, or both, their duties shall devolve upon the officer next in rank and eligible to succeed to command who is attached to and present in the command. An officer detailed for a day's duty for the purpose of assuming the commanding officer's duties in his absence shall be known as the Command Duty Officer. Upon request of the officer senior in rank, eligible to succeed to command, who is attached to and present in the command, the Command Duty Officer shall defer to him. An officer who succeeds to command or is detailed to assume the commanding officer's duties during his temporary absence shall make no changes in the existing organization and shall endeavor to have the routine and other affairs of the command carried on in the usual manner.

2. A superior, of flag or general grade, shall govern the presence of the officer in command or officer or officers eligible to succeed to command and ready for duty at each command or unit of the Operating Forces of the Navy and the Operating Forces of the Marine Corps. The commanding officer may under criteria or conditions prescribed by a superior of flag or general grade, assign officers not eligible to succeed to command and qualified enlisted men to serve as the Command Duty Officer.

3. Superiors shall determine the need and govern the presence of the officer in command or an officer or officers eligible to succeed to command and ready for duty at commands, offices, or activities not of the Operating Forces of the Navy and not of the Operating Forces of the Marine Corps. Under conditions prescribed by a superior, officers not eligible to command and qualified enlisted men may be assigned a day's command duty.

0704. Organization of Commands.

All commands and other activities of the Department of the Navy shall be organized and administered in accordance with law, the Navy Regulations, and the orders of competent authority, and all orders and instructions of the commanding officer shall be in accordance therewith.

0705. Effective Organized Force Always Present.

Under no circumstances shall any ship or station be left without an organized force that will be effective in any emergency, and consistent with existing requirements, capable of ensuring satisfactory operation.

0706. Relationship With Executive Officer.

The commanding officer shall keep the executive officer informed of his policies and normally shall issue all orders relative to the duties of the command through that officer. Normally, the commanding officer shall require that all communications of an official nature from subordinates to the commanding officer be transmitted through the executive officer.

0707. Relieving Procedures.

1. A commanding officer about to be relieved of his command shall:

a. Inspect the command in company with his successor before the transfer is effected.

b. In the case of a ship, and within other commands where appropriate, cause the crew to be exercised in his presence and in the presence of his relief at general quarters and general drills, unless conditions render it impracticable or inadvisable.

c. Point out defects and peculiarities of the command and account for them to his relief.

d. Deliver to his relief all unexecuted orders, all regulations and orders in force, and all official correspondence and information concerning the command and the personnel thereof as may be of service to his relief. He shall not remove the original records of his official correspondence, original letters, documents, or papers concerning the command and personnel thereof, but he may retain authenticated copies thereof.

e. Deliver to his relief all documents required by these regulations to be either kept or supervised by the commanding officer. If a Navy post office is established within the command, he shall deliver to his relief a current audit of postal accounts and effects.

f. Deliver all magazine and other keys in his custody to his relief.

g. Cause an inventory and audit to be taken of all registered publications charged to the command, in accordance with the provisions of the Registered Publications Manual.

h. Submit reports of fitness of officers and sign all log books, journals, and other documents requiring his signature up to the date of his relief.

i. At the time of turning over command call all hands to muster. The officer about to be relieved shall read his orders of detachment and turn over the command to his successor, who shall read his orders and assume command. At shore activities this procedure may be modified as appropriate.

2. The officer relieved, although without authority after turning over the command, is, until his final departure, entitled to all the ceremonies and distinctions accorded him while in command.

3. The accomplishment of a normal, routine transfer of command shall be reported by the officer who assumes command. For a command of the Operating Forces of the Navy, the report shall be addressed to the immediate superior with copies to the fleet commander in chief and intermediate superiors. For a command not of the Operating Forces of the Navy, the report shall be addressed to the immediate superior with copies to other superiors as appropriate.

4. A report of a transfer of command that contains statements indicating the possible existence of unsatisfactory conditions, or adverse comments with respect to the state of readiness of the command, or its ability to perform its assigned mission, or any other non-routine information of direct concern to higher authority, shall contain the opinion of the succeeding officer in regard thereto, and such explanation by endorsement as the officer being relieved may deem necessary. For a command of the Operating Forces of the Navy the report shall be addressed to the Chief of Naval Operations via the chain of command with a copy direct to the commander in chief of the fleet concerned. For a command not of the Operating Forces of the Navy the report shall be addressed to immediate superior with copies direct to appropriate commands, bureaus, or offices as may have a direct interest. A copy shall be retained by each of the officers between whom the transfer of command takes place.

5. When an officer detailed as commanding officer reports to a command having no regularly detailed commanding officer, the procedure prescribed in the preceding paragraphs of this article shall be followed, insofar as is consistent with the circumstances.

0708. Inspections, Muster, and Sighting of Personnel.

1. The commanding officer shall hold periodic inspections of the material of the command, not on weekends or holidays, to determine deficiencies and cleanliness. When the size of the command precludes completion of the inspection in a reasonable time, he shall designate zones to be inspected by heads of departments or other responsible officers, and he shall inspect at least one zone, alternating his zone(s) in order that he inspects the entire command at minimum intervals.

2. The commanding officer shall ensure that, consistent with their employment, the personnel under his command present at all times a neat, clean and military appearance. To assist in attaining this standard of appearance he shall, in the absence of operational exigency, hold periodic personnel inspections. Saturday inspections may be held at sea and, in port and ashore, with personnel in duty status as participants. Otherwise, inspections shall not be held on weekends or holidays.

3. Quarters or formations are for the purpose of ceremony, inspection, muster, instruction, or passing of orders and should be reserved for those occasions when purpose cannot otherwise be achieved.

4. The commanding officer shall require a daily report of all persons confined, a statement of their offenses, and the dates of their confinement and release.

5. The presence of all persons attached to the command shall be accounted for daily. Persons who have not been sighted by a responsible senior shall be reported absent.

6. The prohibitions concerning weekend or holiday inspections do not apply to commands engaged in training reservists, and, to other commands with the consent of a superior.

0709. Unauthorized Persons on Board.

The commanding officer shall satisfy himself that there is no unauthorized person on board before proceeding to sea or commencing a flight.

0710. Control of Passengers.

1. Control of passage in and protracted visits to aircraft and ships of the Navy by all persons, within or without the Department of the Navy, shall be exercised by the Chief of Naval Operations.

2. Nothing in this article shall be interpreted as prohibiting the senior officer present from authorizing the passage in ships and aircraft of the Navy by such persons as he judges necessary in the public interest or in the interest of humanity. The senior officer present shall report the circumstances to the Chief of Naval Operations when he gives such authorization.

0711. Authority Over Passengers.

Except as otherwise provided in these regulations or in orders from competent authority, all passengers in a ship or aircraft of the naval service are subject to the authority of the commanding officer and shall conform to the internal regulations and routine of the ship or aircraft. The commanding officer of such ship or aircraft shall take no disciplinary action against a passenger not in the naval service, other than that authorized by law; but he may, when he deems such action to be necessary for the safety of the ship or aircraft or of any person embarked, subject a passenger not in the naval service to such restraint as the circumstances require until such time as delivery to the proper authorities is possible. A report of the matter shall be made to an appropriate superior of the passenger.

0712. Relations With Organizations and Military Personnel Embarked for Passage.

1. Personnel of the naval service, and other United States armed forces or services, and foreign armed forces are subject to the orders of the commanding officer of the ship or aircraft commander. The provisions of this article shall be applied to organizations and personnel of foreign armed forces, insofar as is feasible, with regard for their customs and traditions.

2. The commanding officer of the ship or the aircraft commander shall respect the identity and integrity of organizational units; and

a. Shall have all orders to personnel given through their respective chains of command insofar as practicable.

b. Shall require that personnel wear the uniform which corresponds as nearly as practicable to the uniform prescribed for ship's company.

c. May require enlisted persons to perform their proportionate share of mess, watch, police, and guard duty whenever he deems it advisable to divide those duties among personnel on board.

d. May require personnel, when in his opinion an emergency exists, to perform such duties as their special knowledge and skill may enable them to perform.

e. Has the power and authority to order an offender placed in naval or military custody as he considers desirable, but in all cases where the offender is to be disembarked for disciplinary action by military authority, he shall be placed in military custody on board the ship or aircraft, if practicable.

3. The foregoing provisions of this article also apply to the Commanding Officer, Military Department, of an in-service ship of the Military Sealift Command, who is authorized to exercise the powers conferred thereby, subject to the paramount authority of the master.

4. When an organized unit is embarked for transportation only in a ship of the Navy, the officer in command of such organized unit shall retain the authority which he possessed over such unit prior to embarkation, including the power to order special or summary courts-martial upon enlisted persons under his command; but nothing in this paragraph shall be construed as impairing the paramount authority of the commanding officer of the ship over all persons embarked therein.

0713. Persons Found Under Incriminating Circumstances.

1. The commanding officer shall keep under restraint or surveillance, as necessary, any person not in the armed services of the United States who is found under incriminating or irregular circumstances within the command, and shall immediately initiate an investigation.

2. Should an investigation indicate that such person is not a fugitive from justice or has not committed or attempted to commit an offense, he shall be released at the earliest opportunity, except:

a. If not a citizen of the United States, and the place of release is under the jurisdiction of the United States, the nearest Federal immigration authorities shall be notified as to the time and place of release sufficiently in advance to permit them to take such steps as they deem appropriate.

b. Such persons shall not be released in territory not under the jurisdiction of the United States without first obtaining the consent of the proper foreign authorities, except where the investigation shows that he entered the command from territory of the foreign state, or that he is a citizen or subject of that state.

3. If the investigation indicates that such person has committed or attempted to commit an offense punishable under the authority of the commanding officer, the latter shall take such action as he deems necessary.

4. If the investigation indicates that such a person is a fugitive from justice, or has committed or attempted to commit an offense which requires actions beyond the authority of the commanding officer, he shall, at the first opportunity, deliver such person, with full descriptive data,

fingerprints, and a statement of the circumstances to the proper civil authorities.

5. A report shall be made promptly to the Secretary of the Navy, in all cases under paragraph 4 of this article, and in other cases where appropriate.

0714. Rules for Visits.

1. Commanding officers are responsible for the control of visitors to their commands and shall comply with the relevant provisions of the Department of the Navy Security Manual for Classified Information and other pertinent directives.

2. Commanding officers shall take such measures and impose restrictions on visitors as necessary to safeguard the classified material under their jurisdiction. Arrangements for general visiting shall always be based on the assumption that foreign agents will be among the visitors.

3. Commanding officers and others officially concerned shall exercise reasonable care to safeguard the persons and property of visitors to naval activities as well as taking those necessary precautions to safeguard the persons and property within his command.

0715. Dealers, Tradesmen, and Agents.

1. In general, dealers or tradesmen or their agents shall not be admitted within a command, except as authorized by the commanding officer:

a. To conduct public business.

b. To transact specific private business with individuals at the request of the latter.

c. To furnish services and supplies which are necessary and are not otherwise, or are insufficiently, available to the personnel of the command.

2. Personal commercial solicitation and the conduct of commercial transactions are governed by policies of Department of Defense.

0716. Marriages on Board.

The commanding officer shall not perform a marriage ceremony on board his ship or aircraft. He shall not permit a marriage ceremony to be performed on board when the ship or aircraft is outside the territory of the United States, except:

a. In accordance with local laws and the laws of the state, territory, or district in which the parties are domiciled, and

b. In the presence of a diplomatic or consular official of the United States, who has consented to issue the certificates and make the returns required by the consular regulations.

0717. Postal Matters.

Commanding officers shall ensure that mail and postal funds are administered in accordance with instructions issued by the Postmaster General and approved for the naval service by the Chief of Naval Operations, and instructions issued by the Chief of Naval Operations or the Chief of Naval Personnel or the Commandant of the Marine Corps as appropriate; and that postal clerks or other persons authorized to handle mail perform their duties strictly in accordance with those instructions.

0718. Safeguarding Official Funds.

In the event of the death, unauthorized absence, or mental incapacity as determined by the commanding officer on advice of a medical officer, of a person charged with pecuniary responsibility for official funds or Government property, or if it is necessary to relieve him for any cause, including arrest or suspension, the commanding officer shall take immediate steps to safeguard such funds or property in accordance with the procedures prescribed by the Comptroller of the Navy and other competent authority.

0719. Deficit or Excess of Public Money or Property.

1. In all cases involving a deficit or excess of public money in the custody of a person under his command, except in those cases where adjustments in accounting are authorized by the Secretary of the Navy, the commanding officer shall immediately:

a. Request investigation by the Naval Investigative Service, other military agencies, or other Federal authority, if the circumstances warrant.

b. Notify the Navy Accounting and Finance Center, the Chief of Naval Operations and Commander, Naval Supply Systems Command or the Commandant of the Marine Corps as appropriate, and appropriate superiors.

c. Recommend or convene a Judge Advocate General Manual investigation or a court of inquiry to determine the facts.

2. Judge Advocate General Manual investigations and courts of inquiry in these cases shall include in the records of their proceedings the testimony of such investigators as may have been employed in each case, and shall render an opinion as to whether or not there exist indications of criminal guilt on the part of the custodians of the money or of other persons.

3. In cases involving a deficit or excess of public property, similiar action shall be taken or, when appropriate, the commanding officer shall cause a survey to be made.

0720. Deaths.

The commanding officer, in the event of death of any person within his command, shall ensure that the cause of death and the circumstances under which death occurred are established, and the appropriate casualty report is submitted.

0721. The American National Red Cross.

1. Pursuant to the request of the Secretary of the Navy and subject to such instructions as he may issue, the American National Red Cross is authorized to conduct a program of welfare, including social, financial, and medical and dental aid, for naval personnel; to assist in matters pertaining to prisoners of war; and to provide such other services as are appropriate functions for the Red Cross. The American National Red Cross is the only volunteer society authorized by the Government to render medical and dental aid to the armed forces of the United States. Other organizations desiring to render medical and dental aid may do so only through the Red Cross.

2. Requests for Red Cross services shall be made to the Chief of Naval Personnel or the Commandant of the Marine Corps or, in the case of medical services, to the Chief, Bureau of Medicine and Surgery.

3. Activities and personnel of the American National Red Cross in areas subject to naval jurisdiction shall conform to such administrative regulations as may be prescribed by appropriate naval authority.

4. Red Cross personnel shall be considered to have the status of commissioned officers, subject to such restrictions as may be imposed by the Chief of Naval Personnel or the Commandant of the Marine Corps.

0722. Observance of Sunday.

1. Except by reason of necessity or in the interest of the welfare and morale of the command, the performance of work shall not be required on Sunday. Except by reason of necessity, ships shall not be sailed nor units of aircraft or troops be deployed on Sunday. The provisions of this paragraph need not apply to commands engaged in training reserve components of the Navy and the Marine Corps.

2. Divine services shall be conducted on Sunday if possible. All assistance and encouragement shall be given to chaplains in the conduct of these services, and music shall be made available, if practicable. The chaplain shall be permitted to conduct public worship according to the manner and forms of the church of which he is a member. A suitable space shall be designated and properly rigged for the occasion, and quiet shall be maintained throughout the vicinity during divine services. The religious preferences and the varying religious needs of individuals shall be recognized, respected, encouraged, and ministered to as practicable. Daily routine in ships and activities shall be modified on Sunday as practicable to achieve this end.

3. When there is no chaplain attached to the command, the commanding officer shall engage the services of any naval or military chaplain who may be available; or, failing in this, shall, when practicable, invite and may remunerate a civilian clergyman to conduct religious services. Services led by laymen are encouraged. Provision shall be made for sending and receiving church parties as appropriate and practicable.

0723. Publishing and Posting Orders and Regulations.

1. In accordance with Article 137 of the Uniform Code of Military Justice the articles specifically enumerated therein shall be carefully explained to each enlisted person:

a. At the time of entrance on active duty or within six (6) days thereafter,

b. Again, after completion of six months active duty; and

c. Again, upon the occasion of each reenlistment.

2. A text of the articles specifically enumerated in Article 137 of the Uniform Code of Military Justice shall be posted in a conspicuous place or places, readily accessible to all personnel of the command.

3. Instructions concerning the Uniform Code of Military Justice and appropriate articles of Navy Regulations shall be included in the training and educational program of the command.

4. Such general orders, orders from higher authority and other matters which the commanding officer considers of interest to the personnel or profitable for them to know shall be published to the command as soon as practicable. Such matters shall also be posted in whole or in part, in a conspicuous place or places readily accessible to personnel of the command.

5. Upon the request of any person on active duty in the armed services, the following publications shall be made available for his personal examination:

a. A complete text of the Uniform Code of Military Justice,

b. Manual for Courts-Martial,

c. Navy Regulations,

d. Manual of the Judge Advocate General,

e. Marine Corps Manual (for Marine Corps personnel),

f. Manual of the Bureau of Naval Personnel (for Navy personnel), or Marine Corps Personnel Manual (for Marine Corps personnel).

0724. Maintenance of Logs.

1. A deck log and an engineering log shall be maintained by each ship in

commission, and by such other ships and craft as may be designated by the Chief of Naval Operations.

2. A quartermaster's notebook and a magnetic compass record shall be maintained as adjuncts to the deck log. An engineer's bell book shall be maintained as an adjunct to the engineering log.

3. The Chief of Naval Operations shall prescribe regulations governing the contents and preparation of the deck and engineering logs and adjunct records.

0725. Status of Logs.

The deck log, the engineering log, the quartermaster's notebook, the magnetic compass record, and the engineer's bell book shall each constitute an official record of the command.

0726. Records.

The commanding officer shall require that records relative to personnel, material, and operations as required by current instructions are maintained properly by those responsible therefor.

0727. Welfare of Personnel.

The commanding officer shall:

a. Use all proper means to foster high morale, and to develop and strengthen the moral and spiritual well-being of the personnel under his command, and ensure that chaplains are provided the necessary logistic support for carrying out the command's religious program.

b. Maintain a satisfactory state of health and physical fitness of the personnel under his command.

c. Afford an opportunity, with reasonable restrictions as to time and place, for the personnel under his command to make requests, reports, or statements to him, and shall ensure that they understand the procedures for making such requests, reports, or statements.

d. Ensure that noteworthy performances of duty of personnel under his command receive timely and appropriate recognition and that suitable notations are entered in the official records of the individuals.

e. Ensure that timely advancement in rating of enlisted persons is effected in accordance with existing instructions.

0728. Training and Education.

The commanding officer shall:

a. Endeavor to increase the specialized and general professional knowledge of the personnel under his command by the frequent conduct of drills, classes, and instructions, and by the utilization of appropriate fleet and service schools.

b. Encourage and provide assistance and facilities to the personnel under his command who seek to further their education in professional or other subjects.

c. Afford frequent opportunities to the executive officer, and to other officers of the ship as practicable, to improve their skill in ship handling.

d. Require those lieutenants (junior grade) and first lieutenants who have less than two years commissioned or warrant service, and all ensigns and second lieutenants:

(1) To comply with the provisions prescribed for their instruction by the Chief of Naval Operations, the Commandant of the Marine Corps, or other appropriate authorities.

(2) To receive appropriate practical instruction, as the commanding officer deems advisable and to be detailed to as many duties successively as may be practicable.

e. When practicable, designate a senior officer or officers to act as advisers to junior officers. These senior officers shall assist junior officers to a proper understanding of their responsibilities and duties, and shall endeavor to cultivate in them officer-like qualities, a sense of loyalty and honor, and an appreciation of naval customs and professional ethics.

0729. Delivery of Personnel to Civil Authorities and Service of Subpoena or Other Process.

1. Commanding officers or other persons in authority shall not deliver any person in the naval service to civil authorities except as provided by the Manual of the Judge Advocate General.

2. Commanding officers are authorized to permit the service of subpoena or other process as provided by the Manual of the Judge Advocate General.

0730. Delivery of Orders to Personnel.

The commanding officer shall not withold any orders or other communications received from higher authority for any person under his command, except for good and sufficient reasons, which he shall at once report to such higher authority. Communications of a personal nature may be withheld by a commanding officer for good reason until completion of mission or duty.

0731. Use and Transportation of Marijuana, Narcotics, and Drugs.

1. The commanding officer shall conduct a rigorous program to prevent the illegal introduction, transfer, possession or use of marijuana, narcotics, or other controlled substances as defined in these regulations. The program shall include publicity and instruction covering:

a. The dangers involved in drug abuse.

b. The Federal, state, and local criminal liabilities which may result from introduction, possession, transfer, or use, including penalties under the Uniform Code of Military Justice, and other foreign law to which individuals may be subjected.

c. The administrative measures, including discharge under other than honorable conditions, which may result.

2. The commanding officer shall exercise utmost diligence in preventing illegal importation of marijuana, narcotics, or other controlled substances on board his command.

0732. Safety Precautions.

The commanding officer shall require that persons concerned are instructed and drilled in all applicable safety precautions and procedures, that these are complied with, and that applicable safety precautions, or extracts therefrom, are posted in appropriate places. In any instance where safety precautions have not been issued or are incomplete, he shall issue or augment such safety precautions as he deems necessary, notifying, when appropriate, higher authorities concerned.

0733. Responsibility of a Master of an In-Service Ship of the Military Sealift Command.

In an in-service ship of the Military Sealift Command, the master is responsible for the safety of his ship and all persons on board. He is responsible for the safe navigation and technical operation of his ship and has paramount authority over all persons on board. The master is responsible for the preparation of the abandon ship bill and has exclusive authority to order the ship abandoned. He has full authority to enforce appropriate laws of the United States and all applicable orders and regulations of the Navy, Military Sealift Command, and the Civil Service Commission.

0734. Relations With Merchant Seamen.

When in foreign waters, the commanding officer, with the approval of the senior officer present, may receive on board as supernumeraries for rations and passage:

1. Distressed seamen of the United States for passage to the United States, provided they bind themselves to be amenable in all respects to Navy Regulations.

2. As prisoners, seamen from merchant vessels of the United States, provided that the witnesses necessary to substantiate the charges against them are received, or adequate means adopted to ensure the presence of such witnesses on arrival of the prisoners at the place where they are to be delivered to the civil authorities.

0735. Security of Magazines and of Dangerous Materials.

1. The commanding officer shall be the custodian of the keys to all spaces and receptacles containing projectiles, explosives, and radioactive material, and when fitted, of all magazine flood cocks; but he may designate such persons under his command to have custody of duplicate keys as he considers necessary. He shall prescribe conditions under which those persons may grant access to such spaces; but otherwise they shall not be opened without his consent.

2. Keys affiliated with nuclear weapons shall be maintained and with custody as directed by orders from competent authority.

3. He shall ensure that, except when undergoing test or overhaul, the flooding and sprinkling systems are ready for use at all times.

4. He shall ensure that inflammable and other dangerous materials are stored and handled in a safe manner, and, when conditions warrant, he himself shall be the custodian of the keys to the spaces involved.

0736. Physical Security.

1. The commanding officer shall take action to protect and maintain the security of the command from the dangers of attack, sabotage or other actions of subversive or militant groups or of any person with intent to do harm.

2. The commanding officer shall take action to protect and maintain the security of the command against dangers from fire, windstorms, or other acts of nature.

0737. Effectiveness for Service.

The commanding officer shall:

1. Exert every effort to maintain his command in a state of maximum effectiveness for war or other service consistent with the degree of readiness as may be prescribed by proper authority. Effectiveness for service is directly related to state of personnel and material readiness.

2. Make himself aware of the progress of any repairs, the status of spares, repair parts and other components, personnel readiness and other factors or conditions that could lessen the effectiveness of his command. When the effectiveness is lessened appreciably it shall be reported to appropriate superiors.

0738. Request for Inspection by Board of Inspection and Survey.

The commanding officer shall report to the Chief of Naval Operations without delay whenever the condition of his ship, or any department therein, is such as to require an inspection by the Board of Inspection and Survey. Such report shall be forwarded through official channels and bear the recommendations of the superiors concerned.

0739. Action With the Enemy.

The commanding officer shall:

a. Before going into battle or action communicate to his officers, if possible, his plans for battle or action and such other information as may be of operational value should any of them succeed to command.

b. During action, station the executive officer where he can best aid the commanding officer, and, if practicable, where he could probably escape the effects of a casualty disabling the commanding officer, and yet would be able to assume command promptly and efficiently.

c. During action, engage the enemy to the best of his ability. He shall not, without permission, break off action to assist a disabled ship or to take possession of a captured one.

d. Immediately after a battle or action, repair damage so far as possible, exert every effort to prepare his command for further service, and make accurate, explicit, and detailed reports as required.

0740. Search by Foreign Authorities.

1. The commanding officer shall not permit a ship under his command to be searched on any pretense whatsoever by any person representing a foreign state, nor permit any of the personnel within the confines of his command to be removed from the command by such person, so long as he has the capacity to repel such act. If force should be exerted to compel submission, he is to resist that force to the utmost of his power.

2. Except as may be provided by international agreement, the commanding officer of a shore activity shall not permit his command to be searched by any person representing a foreign state, nor permit any of the personnel within the confines of his command to be removed from the command by such person, so long as he has the power to resist.

0741. Prisoners of War.

On taking or receiving prisoners of war, the commanding officer shall ensure that such prisoners are treated with humanity; that their personal property is preserved and protected; that they are allowed the use of such of their effects as may be necessary for their health; that they are supplied with proper rations; that they are properly guarded and deprived of all means of escape and revolt and that the applicable provisions of the 1949 Geneva Conventions relative to the treatment of prisoners of war are followed.

0742. Captured Material.

On taking possession of any enemy ship, aircraft, installation, or other property or equipment, the commanding officer shall:

a. Adopt all possible measures to prevent recapture.

b. Secure or remove enemy personnel.

c. Secure and preserve the logs, journals, signal books, codes and ciphers, charts, maps, orders, instructions, blueprints, plans, diaries, letters and other documents found, and forward or deliver them at the earliest possible moment to the designated authority.

d. Preserve all captured enemy ordnance, machinery, fire-control equipment, electronic equipment, aviation equipment, and other property of possible intelligence value, unless destruction is necessary to prevent recapture, and make this material promptly available for intelligence evaluation or other authorized use.

0743. Casualty and Damage.

1. Immediately after its occurrence, the commanding officer shall submit a detailed report of the facts to the senior officer present, the Chief of Naval Operations or the Commandant of the Marine Corps as appropriate, and other superiors when:

a. A ship under his command touches the ground (except for landing ships or ships of a similar design making a landing without damage, or for a submarine resting on bottom as part of normal operations).

b. A ship under his command has a collision or other serious accident.

c. An aircraft under his command is involved in an accident which necessitates extensive repairs, or otherwise requires review or action by higher authority.

2. As soon as possible, the commanding officer of a shore activity shall report a serious fire or other material casualty, or a serious personnel casualty within his command to the Chief of Naval Operations, or the Commandant of the Marine Corps, as appropriate, to other superiors in command, and to the senior officer present in the area.

0744. Loss of a Ship.

1. In the case of the loss of a ship, the commanding officer shall remain by her with officers and crew so long as necessary and shall save as much Government property as possible. Every reasonable effort shall be made to save the quartermaster's notebook, deck log, personnel diary and pay records of officers and crew, and other valuable papers.

2. If it becomes necessary to abandon the ship, the commanding officer should be the last person to leave.

3. The commanding officer shall:

a. Take all possible precautions to protect the survivors and such Government property as has been saved.

b. Report to the nearest United States naval or military command and request instructions and such assistance as is required.

c. Report the circumstances to the Secretary of the Navy and the Chief of Naval Operations as soon as possible.

0745. Continuation of Authority After Loss of Ship or Aircraft.

When the crew of any naval vessel or naval aircraft is separated from their vessel or aircraft because of its wreck, loss, or destruction, all the command and authority given to the officers of the vessel or aircraft shall remain in full force until the crew shall be regularly discharged or reassigned by competent authority.

0746. Hospital Ship or Medical Aircraft.

1. The commanding officer of a hospital ship or the commander of a medical aircraft shall be responsible for complying with the appropriate provisions of the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea of 12 August 1949. Where necessary to the fulfillment of this responsibility, a departure from other provisions of Navy Regulations is authorized.

2. One of the central requirements under the 1949 Geneva Convention is that the ship or aircraft maintain a non-combatant status. Under this Convention, the following conditions do not deprive hospital ships or medical aircraft of their non-combatant status:

a. The fact that the crews are armed for the maintenance of order, for their own defense or that of the sick and wounded.

b. The presence on board of apparatus exclusively intended to facilitate navigation or unclassifed communications.

c. The discovery on board hospital ships or in sick bays of portable arms and ammunition taken from the wounded, sick and shipwrecked and not yet handed to proper authorities.

d. The fact that humanitarian activities of hospital ships or of the crews extend to the care of the wounded, sick or shipwrecked persons.

e. The transport of equipment and of personnel intended exclusively for medical duties, over and above normal requirements of the hospital ship.

0747. Status of Boats.

1. Boats shall be regarded in all matters concerning the rights, privileges, and comity of nations as part of the ship or aircraft to which they belong.

2. In ports where war, insurrection or armed conflict exists or threatens, the commanding officer shall:

a. Require that boats away from the ship or aircraft have some appropriate and competent person in charge.

b. See that steps are taken to make their nationality evident at all times.

0748. Proper Use of Labor and Materials.

1. No Government materials shall be diverted from their intended use, except for proper purposes, nor shall any buildings or portions thereof be occupied or used by other than authorized persons.

2. Civilian employees who are paid from appropriated funds shall not be permitted to perform, during the hours for which they are paid from such funds, any work other than that authorized to be done for the Government, or as otherwise prescribed by the Secretary of the Navy.

0749. Work, Facilities, Supplies, or Services for Other Government Departments, State or Local Governments, Foreign Governments, Private Parties and Morale, Welfare, and Recreational Activities.

1. Work may be done for or facilities, supplies, or services furnished to departments and agencies of the Federal and State governments, local governments, foreign governments, private parties, and morale, welfare, and recreational activities with the approval of a commanding officer provided:

a. The cost does not exceed limitations the Secretary of the Navy may approve or specify; and,

b. In the case of private parties, it is in the interest of the Government to do so and there is no issue of competition with private industry; and,

c. In the case of foreign governments a disqualification of a government has not been issued for the benefits of this article.

2. Work shall not be started nor facilities, supplies, or services furnished, morale, welfare, and recreational activities not classified as instrumentalities of the United States, or state or local governments or private parties until funds to cover the estimated cost have been deposited with the commanding officer, or unless otherwise provided by law.

3. Work shall not be started, nor facilities, supplies, or services furnished other Federal Government departments and agencies, or expenses charged to non-appropriated funds of morale, welfare, and recreational activities classified as instrumentalities of the United States until reimbursable funding arrangements have been made.

4. Work, facilities, supplies, or services furnished non-appropriated fund activities classified as instrumentalities of the United States in the Navy Comptroller Manual shall be funded in accordance with regulations of the Comptroller of the Navy.

5. Supplies or services may be furnished to naval vessels and military aircraft of friendly foreign governments (unless otherwise provided by law or international treaty or agreement):

a. On a reimbursable basis without an advancement of funds, when in the best interest of the United States;

(1) Routine port services (including pilotage, tugs, garbage removal, linehandling, and utilities) in territorial waters or waters under United States control,

(2) Routine airport services (including air traffic control, parking, servicing, use of runways),

(3) Miscellaneous supplies (including fuel, provisions, spare parts, and general stores) but not ammunition. Supplies are subject to approval of the cognizant fleet or force commanders when provided overseas,

(4) With approval of the Chief of Naval Operations in each instance, overhauls, repairs, and alterations together with necessary equipment and its installation required in connection therewith, to vessels and military aircraft.

b. Routine port and airport services may be furnished at no cost to the foreign government concerned where such services are provided by persons of the naval service without direct cost to the Department of the Navy.

6. In cases of emergency involving possible loss of life or valuable property, work may be started or facilities furnished prior to authorization, or provision for payment, but in all such cases a detailed report of the facts and circumstances shall be made promptly to the Secretary of the Navy or the appropriate authority.

7. Charges and accounting for any work, supplies, or services shall be as prescribed in the Navy Comptroller Manual.

0750. Relations With Personnel of Naval Shipyard or Station.

Except in matters coming within the security and safety regulations of the ship, the commanding officer shall exercise no control over the officers or employees of a naval shipyard or station where his ship is moored, unless with the permission of the commander of the naval shipyard or station.

0751. Movement of Ships at a Naval Station.

1. No ship or craft shall be moved or undergo dock trials during its stay at a naval station, except by direction or with the approval of the commanding officer of such station.

2. A ship arriving at, or departing from, a naval station shall be furnished such assistance, including tugs, when available, as in the opinion of the commanding officer of the naval station or the ship may be necessary for her safe handling.

0752. Responsibility for Safety of Ships and Craft at a Naval Station or Shipyard.

1. The commanding officer of a naval station or shipyard shall be responsible for the care and safety of all ships and craft at such station or shipyard not under a commanding officer or assigned to another authority, and for any damage that may be done by or to them. In addition, the commanding officer of a naval station or shipyard shall be responsible for the safe execution of work performed by his activity upon any ship located at that activity.

2. It shall be the responsibility of the commanding officer of a ship in commission which is undergoing overhaul, or which is otherwise immobilized at a naval station or shipyard, to request such services as are necessary to ensure the safety of his ship. The commanding officer of the naval station or shipyard shall be responsible for providing requested services in a timely and adequate manner.

3. When a ship or craft not under her own power is being moved by direction of the commanding officer of a naval station or shipyard, that officer shall be responsible for any damage that may result therefrom; the pilot or other person designated for the purpose shall be in direct charge of such movement, and all persons on board shall cooperate with and assist him as necessary.

4. When a ship operating under her own power is being drydocked, the commanding officer shall be fully responsible for the safety of his ship until the extremity of the ship first to enter the drydock reaches the dock sill and the ship is pointed fair for entering the drydock. The docking officer shall then take charge and complete the docking, remaining in charge until the ship has been properly landed, bilge blocks hauled, and the dock pumped down. In undocking, the docking officer shall assume charge when flooding the dock preparatory to undocking is started, and shall remain in charge until the extremity of the ship last to leave the dock clears the sill, and the ship is pointed fair for leaving the drydock, when the ship's commanding officer shall assume responsibility for the safety and control of the ship.

5. If the ship is elsewhere than at a naval station or shipyard, the relationship between the commanding officer and the supervisor of shipbuilding, or other appropriate official, shall be the same as that between the commanding officer and the commanding officer of a naval station or shipyard as specified in this article.

0753. Ships in Drydock.

1. The commanding officer of a ship in drydock shall be responsible for effecting adequate closure, during such periods as they will be unattended, of all openings in the ship's bottom upon which no work is being undertaken

by the docking activity. The commanding officer of the docking activity shall be responsible for the closing, at the end of working hours, of all valves and other openings in the ship's bottom upon which work is being undertaken by the docking activity, when such closing is practicable.

2. Prior to undocking, the commanding officer of a ship shall report to the docking officer any material changes in the amount and location of weights on board which have been made by the ship's force while in dock, and shall ensure, and so report, that all sea valves and other openings in the ship's bottom are properly closed. The level of water in the dock shall not be permitted to rise above the keel blocks prior to receipt of this report. The above valves and openings shall be tended during flooding of the dock.

3. When a ship or craft, not in commission, is in a naval drydock, the provisions of this article shall apply, except that the commanding officer of the docking activity or his representative shall act in the capacity of the commanding officer.

0754. Pilotage.

1. The commanding officer shall:

a. Pilot the ship under all ordinary circumstances, but he may employ pilots whenever in his judgment such employment is prudent.

b. Not call a pilot on board until the ship is ready to proceed.

c. Not retain a pilot on board after the ship has reached her destination or point where pilot is no longer required.

d. Give preference to licensed pilots.

e. Pay pilots no more than the local rates.

2. A pilot is merely an adviser to the commanding officer. His presence on board shall not relieve the commanding officer or any of his subordinates from their responsibility for the proper performance of the duties with which they may be charged concerning the navigation and handling of the ship. For an exception to the provisions of this paragraph, see "Rules and Regulations Covering Navigation of the Panama Canal and Adjacent Waters," which directs that the pilot assigned to a vessel in those waters shall have control of the navigation and movement of the vessel. Also see the provisions of these regulations concerning the navigation of ships at a naval shipyard or station, or in entering or leaving drydock.

0755. Safe Navigation and Regulations Governing Operation of Ships and Aircraft.

1. The commanding officer is responsible for the safe navigation of his ship or aircraft, except as prescribed otherwise in these regulations for ships at a naval shipyard or station in drydock, or in the Panama Canal. In time of war or armed conflict, or in exercises simulating war or armed conflict, competent authority may modify the use of lights or other safeguards required by law to prevent collisions at sea, in port, or in the air. In exercises, such modifications will be employed only when ships or aircraft clearly will not be hazarded.

2. Professional standards and regulations governing ship handling, safe navigation, safe anchoring and related operational matters shall be promulgated by the Chief of Naval Operations.

3. Professional standards and regulations governing the operation of naval aircraft and related matters shall be promulgated by the Chief of Naval Operations or the Commandant of the Marine Corps as appropriate.

0756. Duties of the Prospective Commanding Officer of a Ship.

1. Except as may be prescribed by the Chief of Naval Operations, the prospective commanding officer of a ship not yet commissioned shall have no independent authority over the preparation of the ship for service by virtue of his assignment to such duty, until the ship is commissioned and transferred to his command. As the prospective commanding officer, he shall:

a. Procure from the commander of the naval shipyard or the supervisor of shipbuilding the general arrangement plans of the ship, and all the pertinent information relative to the general condition of the ship and the work being undertaken on the hull, machinery, and equipment, upon reporting for duty.

b. Inspect the ship as soon after reporting for duty as practicable, and frequently thereafter, in order to keep himself informed of the state of her preparation for service. If, during the course of these inspections, he notes an unsafe or potentially unsafe condition, he shall report such condition to the commander of the naval shipyard or the supervisor of shipbuilding and to his superior for resolution.

c. Keep himself informed as to the progress of the work being done, including tests of equipment, and make such recommendations to the commander of the naval shipyard or the supervisor of shipbuilding as he deems appropriate.

d. Ensure that requisitions are submitted for articles to outfit the ship which are not otherwise being provided.

e. Prepare the organization of the ship.

f. Make such reports as may be required by higher authority, and include therein a statement of any deficiency in material or personnel.

2. If the prospective commanding officer does not consider the ship in proper condition to be commissioned at the time the commander of the naval shipyard or the supervisor of shipbuilding signifies his intention of transferring the ship to him, he shall report that conclusion with his reasons therefor, in writing, to the commander of the naval shipyard or the supervisor of shipbuilding and to the appropriate higher authority.

3. If the ship is elsewhere than at a naval shipyard, the relationship

between the prospective commanding officer and the supervisor of shipbuilding, or other appropriate official, shall be the same as that between the prospective commanding officer and the commander of a naval shipyard as specified in this article.

0757. Authority of the Commanding Officer or Prospective Commanding Officer of a Naval Nuclear Powered Ship.

The Chief of Naval Operations shall be responsible for providing the commanding officer or prospective commanding officer of a naval nuclear powered ship with the authority and direction necessary to carry out his responsibilities for the safety of the ship and crew, and the health and safety of the general public in surrounding area.

0758. Inspection Incident to Commissioning of Ships.

When a ship is to be commissioned, the authority designated to place such ship in commission shall, just prior to commissioning, cause an inspection to be made to determine the cleanliness and readiness of the ship to receive its crew and outfit. In the case of the delivery of a ship by a contractor, the above inspection shall precede acceptance of the ship. A copy of the report of this inspection shall be furnished the officer detailed to command the ship and to appropriate commands, bureaus or offices.

0759. Commissioning and Assuming Command.

A ship shall be transferred to the prospective commanding officer and placed in commission in accordance with the following procedure:

a. The formal transfer shall be effected by the district commandant or his representative.

b. As many of the officers and crew of the ship as circumstances permit, and a guard and music, shall be assembled and properly distributed on the quarter-deck or other suitable part of the ship.

c. The officer effecting the transfer shall cause the national ensign and the proper insignia of command to be hoisted with the appropriate ceremonies, and shall turn the ship over to the prospective commanding officer.

d. The prospective commanding officer shall read his orders, assume command, and cause the watch to be set.

0760. Preparing for Sea After Commissioning.

In preparing the ship for sea after commissioning, the commanding officer shall endeavor to discover and correct any defect or inadequacy in the crew or in the ship, her installations, equipment, ammunition, and stores; and shall ensure that all installations and equipment can be operated satisfactorily by the crew.

0761. Personnel Organized and Stationed.

Before departure for sea the commanding officer shall ensure that the officers and crew have been properly organized, stationed, and trained to cope effectively with any emergency that might arise in the normal course of scheduled operations.

0762. Entering a Port or Landing at a Place not Designated.

When a ship or aircraft enters a port or lands at a place not designated or permitted by instructions, the commanding officer shall promptly report to his immediate superior the cause for doing so, and an estimate of the delay which will be incurred. When such port or place is within foreign jurisdiction, the nearest United States diplomatic or consular representative, accredited to the government concerned, shall also be informed.

0763. Quarantine.

1. The commanding officer or aircraft commander of a ship or aircraft shall comply with all quarantine regulations and restrictions, United States or foreign, for the port or area within which his ship or aircraft is located.

2. Whether or not liable to quarantine, the commanding officer shall afford every facility to visiting health officers, United States or foreign, and shall give all information required by the latter, insofar as permitted by the requirements of military security.

3. The commanding officer shall allow no intercourse with a port or area or with other ships or aircraft until he has consulted local health authorities when:

a. Doubt exists as to the sanitary regulations or health conditions of the port or area.

b. A quarantine condition exists aboard his ship or aircraft.

c. Coming from a suspected port or area, or one actually under quarantine.

4. No concealment shall be made of any circumstance that may subject a ship or aircraft of the Navy to quarantine.

5. Should there appear at any time on board a ship or aircraft conditions which present a hazard of introduction of a communicable disease outside the ship or aircraft, the commanding officer or aircraft commander shall at once report the fact to the senior officer present, to other appropriate higher authorities and, if in port, to the health authorities having quarantine jurisdiction. He shall prevent all contacts likely to spread disease until pratique is received. The commanding officer of a ship in port shall hoist the appropriate signal.

0764. Customs and Immigration Inspections.

1. The commanding officer or aircraft commander shall facilitate any proper examination which it may be the duty of a customs officer or an immigration officer of the United States to make on board the ship or aircraft under his command. He shall not permit a foreign customs officer or an immigration officer to make any examination whatsoever, except as hereinafter provided, on board the ship, aircraft, or boats under his command.

2. When a ship or aircraft of the Navy or a public vessel manned by naval personnel and operating under the direction of the Department of the Navy is carrying cargo for private commercial account, such cargo shall be subject to the local customs regulations of the port, domestic or foreign, in which the ship or aircraft may be, and in all matters relating to such cargo, the procedure prescribed for private merchant vessels and aircraft shall be followed. Government-owned stores or cargo in such ship or aircraft not landed nor intended to be landed nor in any manner trafficked in, are, by the established precedent of international courtesy, exempt from customs duties, but a declaration of such stores or cargo, when required by local customs regulations, shall be made. Commanding officers shall prevent, as far as possible, disputes with the local authorities in such cases, but shall protect the ship or aircraft and the Government-owned stores and cargo from any search or seizure.

3. Upon arrival from a foreign country, at the first port of entry in United States territory, the commanding officer, or the senior officer of ships or aircraft in company, shall notify the collector of the port. Each individual aboard shall, in accordance with customs regulations, submit a list of articles purchased or otherwise acquired by him abroad. Dutiable articles shall not be landed until the customs officer has completed his inspection.

4. Commanding officers of naval vessels and aircraft transporting United States civilian and foreign military and civilian passengers shall satisfy themselves that the passenger clearance requirements of the Immigration and Naturalization Service are complied with upon arrival at points within the jurisdiction of the United States. Clearance for such passengers by an immigration officer is necessary upon arrival from foreign ports and at the completion of movements between any of the following: Continental United States (including Alaska and Hawaii), Canal Zone, Puerto Rico, Virgin Islands, Guam, American Samoa, or other outlying places subject to United States jurisdiction. Commanding officers prior to arriving shall advise the cognizant naval or civilian port authority of the aforementioned passengers aboard and shall detain them for clearance as required by the Immigration and Naturalization service.

5. The provisions of this article shall not be construed to require delaying the movements of any ship or aircraft of the Navy in the performance of her assigned duty.

0765. Environmental Pollution.

The commanding officer shall cooperate with local, state and other governmental authorities in the prevention, control and abatement of environmental pollution to the extent resources and operational considerations permit. He shall be aware of existing policies regarding pollution control and he should recommend remedial measures when appropriate.

0766. When Acting Singly.

When acting singly, the commanding officer shall conform to the applicable regulations for the senior officer present.

0767. Issue of Personal Necessaries.

1. The commanding officer is authorized to direct, in writing, the issue of clothing and small stores to enlisted persons in a nonpay status, including those in debt to the Government, in such amount as he deems necessary for their health and comfort.

2. He is likewise authorized to direct, in writing, the issue to such enlisted persons of certain other necessaries, including toilet articles and tobacco, in the manner and amount prescribed by the Commander Naval Supply Systems Command or the Commandant of the Marine Corps.

0768. Care of Ships, Aircraft, Vehicles and Their Equipment.

The commanding officer shall cause such inspections and tests to be made and procedures carried out as are prescribed by competent authority, together with such others as he deems necessary, to ensure the proper preservation, repair, maintenance, and operation of any ship, aircraft, vehicle, and their equipment assigned to his command.

CHAPTER 8

PRECEDENCE, AUTHORITY AND COMMAND

0801. Officers of the Naval Service.

1. Officers of the United States naval service shall be known as officers in the line, officers in the staff corps, chief warrant officers, and warrant officers. Midshipmen are, by law, officers in a qualified sense and are classed as being in the line.

2. Officers in the line of the Navy include the following officers in the grade of ensign and above:

a. Line officers not restricted in the performance of duty.

b. Limited duty officers designated for duty in line technical fields.

c. Line officers restricted in the performance of duty designated for engineering duty; aeronautical engineering duty; and types of special duty which include cryptology, intelligence, public affairs, meterology and oceanography/hydrography.

3. Officers in the staff corps of the Navy include:

a. Officers in the Medical, Supply, Chaplain, Civil Engineer, Judge Advocate General's, Dental, Medical Service, and Nurse Corps, not restricted in the performance of duty within their respective corps.

b. Officers in staff corps designated for limited duty within their respective corps.

4. In the Navy there are: chief warrant officers, W-4; chief warrant officers, W-3; chief warrant officers, W-2; and warrant officers, W-1. Chief warrant officers and warrant officers whose technical specialty is within the cognizance of a staff corps are classed as chief warrant officers or warrant officers in the staff corps. All other chief warrant officers and warrant officers are classed as in the line.

5. Officers of the Marine Corps of and above the grade of second lieutenant are officers in the line and include those:

a. Not restricted in the performance of duty.

b. Designated for limited duty in appropriate technical fields.

6. Chief warrant officers and warrant officers of the Marine Corps are classed as in the line.

7. The term "line officer of the naval service" shall be construed to refer to line officers of both the Navy and the Marine Corps.

8. Within the Manual for Courts-Martial, United States, 1969 (Revised Edition) and the Manual of the Judge Advocate General, the term "officer" includes chief warrant officers W-4, W-3, and W-2, but does not include a warrant officer W-1 unless the context indicates otherwise.

0802. Precedence of Officers.

1. The date of rank of an officer is that stated in his commission, or when no commission for his current grade has been issued to him, the date established by the Secretary of the Navy.

2. All line officers of the same grade take precedence with each other, (except as provided for when a naval officer is serving as Chairman of the Joint Chiefs of Staff) according to their respective dates of rank, but when such officers have the same date of rank or have gained or lost numbers, their precedence shall be as indicated in the appropriate lineal lists maintained in accordance with law, and provided that the Assistant Commandant of the Marine Corps, if and when appointed to the grade of lieutenant general pursuant to 10 U.S.C. 5232(a), ranks first for all purposes among the officers serving in that grade under that section.

3. Line and staff corps officers of the naval service, when of the same grade, shall take precedence with all other line and staff corps officers of the same grade from the dates of rank stated in their commissions. Line officers and staff corps officers having the same date of rank shall take precedence with respect to other line and staff corps officers, respectively, in accordance with their lineal order as shown in the appropriate lineal lists. Staff corps officers having the same date of rank as their line running mates shall take precedence after their line running mates but ahead of all line and staff officers junior to their line running mates. When there are officers of more than one staff corps having the same line running mate and the same date of rank as their line running mate they shall take precedence in the following order:

a. Officers in the Medical Corps.

b. Officers in the Supply Corps.

c. Officers in the Chaplain Corps.

NAVY	MARINE CORPS	ARMY AND AIR FORCE	COAST GUARD	NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION	PUBLIC HEALTH SERVICE
ADMIRAL	GENERAL	GENERAL	ADMIRAL		
VICE ADMIRAL	LIEUTENANT GENERAL	LIEUTENANT GENERAL	VICE ADMIRAL		
REAR ADMIRAL (UPPER HALF)	MAJOR GENERAL	MAJOR GENERAL	REAR ADMIRAL (UPPER HALF)	REAR ADMIRAL (UPPER HALF)	SURGEON GENERAL[1] DEPUTY SURGEON GENERAL
REAR ADMIRAL (LOWER HALF) AND COMMODORE	BRIGADIER GENERAL	BRIGADIER GENERAL	REAR ADMIRAL (LOWER HALF) AND COMMODORE	REAR ADMIRAL (LOWER HALF)	ASSISTANT SURGEON GENERAL[2]
CAPTAIN	COLONEL	COLONEL	CAPTAIN	CAPTAIN	MEDICAL DIRECTOR[3]
COMMANDER	LIEUTENANT COLONEL	LIEUTENANT COLONEL	COMMANDER	COMMANDER	SENIOR SURGEON[3]
LIEUTENANT COMMANDER	MAJOR	MAJOR	LIEUTENANT COMMANDER	LIEUTENANT COMMANDER	SURGEON[3]
LIEUTENANT	CAPTAIN	CAPTAIN	LIEUTENANT	LIEUTENANT	SENIOR ASSISTANT SURGEON[3]
LIEUTENANT (jg)	FIRST LIEUTENANT	FIRST LIEUTENANT	LIEUTENANT (jg)	LIEUTENANT (jg)	ASSISTANT SURGEON[3]
ENSIGN	SECOND LIEUTENANT	SECOND LIEUTENANT	ENSIGN	ENSIGN	JUNIOR ASSISTANT SURGEON[3]

[1] Surgeon General's grade corresponds to that of Surgeon General of the Army.
[2] May hold grade corresponding to Major General or Brigadier General.
[3] And other officers of same grade, with titles appropriate to their duties.

d. Officers in the Civil Engineer Corps.

e. Officers in the Judge Advocate General's Corps.

f. Officers in the Dental Corps.

g. Officers in the Medical Service Corps.

h. Officers in the Nurse Corps.

4. Chief warrant officers (Grades W-2, W-3, and W-4) of the Navy or Marine Corps, in the same grade, take precedence with each other according to the dates of rank stated in their commissions. When the commissions of two or more of them are of the same date, they take precedence according to the order in which their names are shown in the appropriate lineal lists.

5. Warrant officers (Grade W-1) of the Navy or Marine Corps take precedence with each other according to the dates of rank stated in their warrants. When the warrants of two or more of them are the same date, they take precedence according to the order in which their names are shown in the appropriate lineal lists.

6. The details of computing precedence of officers of the reserve components shall be as prescribed by the Commandant of the Marine Corps or the Chief of Naval Personnel, as appropriate.

0803. Relative Rank and Precedence of Officers of Different Services.

1. Relative rank of grades of officers of the Army, Navy, Marine Corps, Air Force, and Coast Guard, whether on the active or retired lists, and of the National Oceanic and Atmospheric Administration and Public Health Service when serving with the military, is indicated in the following table:

2. The precedence of officers of the Army, Navy, Marine Corps, Air Force, Coast Guard, and Public Health Service of the same relative grade shall be in accordance with their respective dates of rank, the senior in date of rank taking precedence over the junior.

3. When officers of the Army, Navy, Marine Corps, Air Force, Coast Guard, and Public Health Service, having the same or relative grade and the same date of rank, are serving together they shall have precedence according to the time each has served on active duty as a commissioned officer of the United States.

4. When serving with the Army, Navy, Marine Corps, or Air Force, commissioned officers of the National Oceanic and Atmospheric Administration shall rank with and after officers of corresponding grade in the Army, Navy, Marine Corps, or Air Force of the same length of service in grade.

5. A Public Health Service Officer in uniform may use, for the purpose of identification and address, the military or naval rank corresponding to the grade marking worn. An officer of the Public Health Service detailed for duty with the Navy, Marine Corps, Army, Air Force, Coast Guard or National Oceanic and Atmospheric Administration may use in official correspondence the title of military or naval rank corresponding to the grade marking worn.

0804. Precedence of an Officer in Command.

An officer, either of the line or of a staff corps, detailed to command by competent authority or who has succeeded to command has precedence over all officers or other persons attached to the command of whatever rank and whether they are of the line or of a staff corps.

0805. Precedence of the Executive Officer.

The executive officer, while in the execution of his duties as such, shall take precedence over all persons under the command of the commanding officer.

0806. Precedence on Courts and Boards.

The precedence established by these regulations shall be observed on all courts and boards.

0807. Precedence in Processions on Shore.

1. Officers in processions on shore shall be placed in formation according to their grade but not necessarily according to their order of precedence in grade. All processions on shore where officers appear in an official capacity, and where formation is necessary, shall be regarded as military formations. The command thereof shall devolve upon the senior line officer in the formation, except when the commander or commanding officer of the unit in formation is a member of a staff corps, the senior officer in the formation who is a member of the same staff corps as the commander or commanding officer shall be in command thereof.

2. When serving on shore with a mixed detachment composed of seamen and marines, the marines shall always be placed on the right in battalion or other infantry formation on occasions of ceremony.

0808. Title of Officers Holding Acting Appointments.

An officer holding an acting appointment shall have the title of his acting grade, and when such appointment is revoked, he shall resume the title of his actual grade.

0809. Titles and Authority of Certain Officers.

1. The Commander Naval Supply Systems Command, the Commander Naval Facilities Engineering Command, and the Chief of the Dental Division shall have, while so serving, the additional titles of Chief of Supply Corps, Chief of Civil Engineers, and Chief of Dental Corps, respectively.

2. The Surgeon General, the Chief of Supply Corps, the Chief of Chaplains, the Chief of Civil Engineers, the Judge Advocate General, the Chief of the Dental Corps, the Chief of the Medical Service Corps, the Director of the Nurse Corps, shall be the principal advisors and sponsors on matters concerned with officers in their respective corps and enlisted personnel with ratings associated with the corps. Also, as heads of corps, they shall be spokesmen regarding professional matters with the military and civilian communities.

0810. Manner of Addressing Officers.

1. Except as provided in paragraph 2, every officer in the naval service shall be designated and addressed in official communications by the title of his or her grade, preceding the name.

2. In oral official communications, officers will be addressed by their grade except that officers of the Medical Corps, the Dental Corps and those officers of the Medical Service Corps and the Nurse Corps having doctoral degrees may be addressed as "Doctor" and officers of the Chaplain Corps may be addressed as "Chaplain". When addressing an officer whose grade includes a modifier, the modifier may be dropped.

3. In written communications the name of the corps to which any staff corps officer belongs shall be indicated immediately after his name.

0811. Exercise of Authority.

1. All persons in the naval service on active service, and those on the retired list with pay, and transferred members of the Fleet Reserve and the Fleet Marine Corps Reserve, are at all times subject to naval authority. While on active service they may, if not on leave of absence except as noted below, on the sick list, taken into custody, under arrest, suspended

from duty, in confinement, or otherwise incapable of discharging their duties, exercise authority over all persons who are subordinate to them.

2. A person in the naval service, although on leave, may exercise authority:

a. When in a naval ship or aircraft and placed on duty by the commanding officer or aircraft commander.

b. When in a ship or aircraft of the armed services of the United States, other than a naval ship or aircraft, as the commanding officer of naval personnel embarked, or when placed on duty by such officer.

c. When senior officer at the scene of a riot or other emergency, or when placed on duty by such officer.

0812. Authority Over Subordinates.

All officers of the naval service, of whatever designation or corps, shall have all the necessary authority for the performance of their duties and shall be obeyed by all persons, of whatever designation or corps, who are, in accordance with these regulations and orders from competent authority, subordinate to them.

0813. Delegation of Authority.

The delegation of authority and the issuance of orders and instructions by a person in the naval service shall not relieve such person from any responsibility imposed upon him. He shall ensure that the delegated authority is properly exercised and that his orders and instructions are properly executed.

0814. Abuse of Authority.

Persons in authority are forbidden to injure their subordinates by tyrannical or capricious conduct, or by abusive language.

0815. Contradictory and Conflicting Orders.

1. An officer who diverts another from any service upon which he has been ordered by a common superior, or requires him to act contrary to the orders of such superior, or interferes with those under such superior's command, must immediately report his action to the officer whose orders he has contravened, and show that the public interest required such action. All orders under such circumstances shall be given in writing when possible.

2. If an officer receives an order which annuls, suspends, or modifies one received from another superior, or one contrary to instructions or orders from the Secretary of the Navy, he shall exhibit his first orders, unless he has been instructed not to do so, and represent the facts in writing to the superior from whom the last order was received. If, after such representation, the officer from whom the last order was received should insist upon the execution of his order, it shall be obeyed. The officer receiving and executing such order shall report the circumstances to the superior from whom he received the original order.

0816. Authority of an Officer in Command.

An officer, either of the line or a staff corps, detailed to command by competent authority, has authority over all officers or other persons attached to the command, whatever their rank, and whether they are of the line or of a staff corps.

0817. Authority of an Officer Who Succeeds to Command.

1. An officer who succeeds to command due to incapacity, death, departure on leave, detachment without relief, or absence due to orders from competent authority of the officer detailed to command has the same authority and responsibility as the officer whom he succeeds.

2. An officer who succeeds to command during the temporary absence of the commanding officer shall make no changes in the existing organization, and shall endeavor to have the routine and other affairs of the command carried on in the usual manner.

3. When an officer temporarily succeeding to command signs official correspondence, the word "Acting" shall appear below his signature.

0818. Authority of a Vice Commander or a Deputy.

A vice commander or a deputy shall exercise command or control only over activities and matters specified in his orders or as directed by his superior.

0819. Authority of the Commander or Commanding Officer of a Base or Station Over Visiting Commands.

While at a naval base or naval station and not under the command of the naval base commander or naval station commanding officer, the officer in command or in charge of a ship, craft, unit of aircraft or troops shall conform to the orders of the naval base commander or naval station commanding officer related to common or specific services he may provide. Such common or specific services may include waterfront operations, airfield operations, security, fire protection, safety, defense, sanitation, recreation, and welfare.

0820. Authority Over Fleet Aircraft at a Naval Station.

1. Fleet aircraft personnel and aircraft units based on shore at a naval station shall constitute the Fleet Air Detachment at that station.

Squadrons and larger tactical units of fleet aircraft, however, shall retain their identity as such, including command of all regularly assigned personnel.

2. The senior officer in command of a unit of fleet aircraft based at a naval station shall have the title Commander Fleet Air Detachment. He shall coordinate the operations of units of fleet aircraft present when required for common purpose. He shall require that personnel attached to such units conform to the orders of the commanding officer of the station in matters under the authority of the latter, including, insofar as operating conditions permit, the routine of the station. He shall make such special details of fleet personnel to assist the various departments of the station as may be determined to be necessary by higher authority.

0821. Authority of the Commanding Officer of a Hospital Ship.

1. The naval hospital in a hospital ship embraces all persons attached to the hospital either for duty or for treatment, all activities within the ship which are devoted to the care or treatment of the sick or injured, and all parts of the ship which are used for the care and treatment of the sick or injured, as living quarters by persons attached to the hospital, or for the stowage of the supplies or equipment belonging to the hospital.

2. The commanding officer of the naval hospital is under the command of the commanding officer of the hospital ship. The commanding officer of the ship shall normally limit the exercise of command over the naval hospital to such military matters as discipline, security, intelligence, communications, fire protection, watertight integrity, stability, preservation, and maintenance, and overall cleanliness with regard for the responsibility of the commanding officer of the naval hospital for the sanitary conditions of the naval hospital. Except as above stated, he shall not exercise control, within the hospital, over its administration or organization, including the expenditure or accountability of funds allotted the hospital, the assignment of personnel and work, and the establishment of technical methods and procedures, unless such control has been specifically delegated to him by competent authority. Nothing in this article shall be construed to prevent the appropriate assignment of a proportionate share of work of a general nature to personnel attached to the naval hospital.

0822. Authority of an Officer of the Marine Corps Over Naval Forces.

Officers of the Marine Corps may not command ships or naval shipyards. This article shall not be construed to prevent an officer of the Marine Corps, when so detailed by the Secretary of the Navy or a commander in chief, from having and exercising such authority as may be necessary to direct the operations of all forces assigned to him.

0823. Authority of Officers Embarked as Passengers.

1. The commanding officer of a ship or aircraft, not a flagship, with a flag officer eligible for command at sea embarked as a passenger shall be subject to the orders of such flag officer. Other officers embarked as passengers, senior to the commanding officer, shall have no authority over him.

2. Officers embarked as passengers who are junior to the commanding officer, or commanding officer of the transport unit of a ship of the Military Sealift Command, if not on the staff of an officer also embarked, may be assigned to duty when the exigencies of the service render it necessary. The commanding officer or commanding officer of the transport unit shall be the judge of such necessity. Passengers thus assigned shall have the same authority as though regularly attached to the ship.

0824. Authority to Place Self on Duty.

No officer can place himself on duty by virtue of his commission or warrant alone.

0825. Authority in a Boat.

Except when embarked in a boat authorized by the Chief of Naval Operations to have an officer or petty officer in charge, the senior line officer (including commissioned warrant and warrant officers) eligible for command at sea has authority over all persons embarked therein, and is responsible for the safety and management of the boat.

0826. Authority and Responsibility of a Senior Officer Under Certain Circumstances.

1. In the event of a riot or quarrel between persons in the naval service or in other circumstances not provided for in these regulations in which persons in the naval service are involved and the exercise of naval authority is necessary, the senior officer in the naval service at the scene shall assume command and take the action necessary, until relieved of this responsibility by competent authority. All persons in the naval service in the vicinity shall render prompt assistance and obedience to the officer thus engaged in the restoration of order.

2. Should there be no commissioned officer or warrant officer at the scene, the senior petty officer or non-commissioned officer present shall assume command.

3. The person who assumed command under the above circumstances shall have the authority to apprehend any person in the naval service if necessary.

0827. Authority and Status of Persons in the Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service.

Whenever, by order of the President, personnel of the Coast Guard and the National Oceanic and Atmospheric Administration, and officers of the Public Health Service, are serving as part of the naval service, they shall be subject to the laws, regulations, and orders which pertain to the Navy insofar as may be necessary for command discipline, and effective naval administration. Otherwise they shall continue to be subject to laws, regulations, and orders of their respective services. They shall have the same

authority and control over officers and enlisted persons of the other services as that to which their grade, rank or rate entitles them in their respective services.

0828. Authority of Officers With Acting Appointments.

An officer duly appointed to act in any grade shall, while serving under such appointment, have the same authority as if he held a commission in that grade.

0829. Authority of Warrant Officers, Non-Commissioned Officers, and Petty Officers.

Chief warrant officers, warrant officers, non-commissioned officers, and petty officers shall have, under their superiors, all necessary authority for the proper performance of their duties, and they shall be obeyed accordingly.

0830. Authority of a Sentry.

A sentry, within the limits stated in his orders, has authority over all persons on his post.

0831. Authority of Juniors to Issue Orders to Seniors.

No officer is authorized by virtue of his rank alone to give any order or grant any privilege, permission, or liberty to any officer his senior. A senior officer is not required to receive such order, privilege, permission, or liberty from his junior, unless such junior is at the time in command of the ship or other command to which the senior is attached, or in command or direction of the military expedition or duty on which such senior is serving, or as executive officer is executing an order of the commanding officer.

0832. Basis for Details.

Appointments, details, transfers, and assignments shall be made on the basis of official records.

0833. Changes in Details to Duty.

No officer, except the senior officer present, shall change the detail of a person assigned by a superior to a specific duty without the permission of that superior. The senior officer present shall not change the detail of any person without good and sufficient reason and shall report all changes and the reasons for them to the superior without delay.

0834. Orders to Active Service.

1. No person who is not on active service or leave of absence shall be ordered into active service or on duty without permission of the Commandant of the Marine Corps or the Chief of Naval Personnel, except:

a. In the case of a person on leave of absence by the officer who granted the leave or a superior.

b. By the senior officer present on a foreign station.

2. In the event that the senior officer present of a foreign station issues any orders as contemplated by this article, he shall report the facts, including the reasons for issuing such orders, to the Chief of Naval Personnel or the Commandant of the Marine Corps, without delay.

3. Retired officers of the Navy and Marine Corps may be ordered to active service, with their consent, in time of peace. In time of war or a national emergency, such retired officers may, at the discretion of the Secretary of the Navy, be ordered to active service.

0835. Command of A Task Force.

A commander in chief and any other naval commander, may detail in command of a task force, or other task command, any eligible officer under his command whom he desires, and all other officers ordered to the task force or other task command shall be considered subordinate to the designated commander. All orders issued under the authority of this article shall continue in effect after the death or disability of the officer issuing them until revoked by his successor in command or by higher authority. The powers delegated to a commander by this article are not conferred on any other officer by virtue of the fact that he is senior officer present.

0836. Command of Naval Districts.

The officer detailed as commandant of a naval district shall be an officer of the line in the Navy, eligible for command at sea.

0837. Command of Naval Bases.

The officer detailed to command a naval base shall be an officer of the line in the Navy, eligible for command at sea.

0838. Command of Naval Shipyards.

The officer detailed to command a naval shipyard shall be trained in the technical aspects of building and repair of ships and shall have had substantial previous experience in the technical and management phases of such work. Such officer may have been designated for engineering duty.

0839. Command of Ships and Submarines.

1. The officer detailed to command a commissioned ship shall be an officer of the line in the Navy eligible for command at sea.

2. The officer detailed to command an aircraft carrier, an aircraft tender, or a ship with a primary task of operating or supporting aircraft shall be an officer of the line in the Navy, eligible for command at sea, designated as a naval aviator or naval flight officer.

3. The officer detailed to command a submarine shall be an officer of the line in the Navy, eligible for command at sea, and qualified for command of submarines.

0840. Command of Air Activities.

1. The officer detailed to command a naval aviation school, a naval air station, or a naval air unit organized for flight tactical or administrative purposes shall be an officer of the line in the Navy, designated as a naval aviator or naval flight officer, eligible for command at sea.

2. The officer detailed to command a naval air activity of a technical nature on shore may be an officer of the line in the Navy not eligible for command at sea but designated as a naval aviator or naval flight officer or designated for aeronautical engineering duty.

3. The officer detailed to command a Marine Corps aviation school, a Marine Corps air activity on shore or a Marine Corps air unit organized for flight tactical purposes shall be an officer of the Marine Corps, designated as a naval aviator or naval flight officer.

4. An officer of the Navy shall not normally be detailed to command an aviation unit of the Marine Corps nor shall an officer of the Marine Corps normally be detailed to command an aviation unit of the Navy. Aircraft units of the Marine Corps may, however, be assigned to ships or to naval air activities in the same manner as aircraft units of the Navy and, conversely, aircraft units of the Navy may be so assigned to Marine Corps air activities. A group composed of aircraft units of the Navy and aircraft units of the Marine Corps may be commanded either by an officer of the Navy or Marine Corps.

0841. Multiservice Commands.

1. When different commands of the Army, Navy, Air Force, Marine Corps, and Coast Guard join or serve together, the officer highest in rank in the Army, Navy, Air Force, Marine Corps, or Coast Guard on duty there, who is otherwise eligible to command, commands all those forces unless otherwise directed by the President.

2. An officer of the naval service in command of a unified, specified, joint, or combined command is not authorized to exercise operational control over U.S. naval forces not specifically assigned to him for operations, nor is he authorized to exercise authority as senior officer present or senior officer present afloat over such U.S. naval forces.

0842. Command of Staff Corps Activities.

An officer in a staff corps shall be detailed to command only such activities as are appropriate to his corps.

0843. Detail of Executive Officer.

1. The officer detailed as executive officer shall be the officer eligible to succeed to command and who, when practicable, is next in rank to the commanding officer. In the case of a naval hospital, a medical officer not next in rank may be detailed as executive officer by the Chief of Naval Personnel.

2. When no officer has been detailed as executive officer by the Commandant of the Marine Corps or the Chief of Naval Personnel, as appropriate, or when the officer detailed is absent or incapable of performing the duties of his office, the commanding officer shall detail the senior line officer under his command and eligible to succeed to command as executive officer except that, if the commanding officer is a member of a staff corps, he may detail as executive officer the next senior officer in the appropriate staff corps.

0844. Detail of Heads of Department and Other Officers.

When no officer has been detailed by the Commandant of the Marine Corps, or the Chief of Naval Personnel, as head of a department or other subdivision of the command, or to specific duty within the department or subdivision, or when the officer so detailed is absent or incapable of performing his duty, the commanding officer may detail a suitable officer to perform such duty.

0845. Detail of Persons Performing Medical or Religious Services.

Members of Medical, Dental, Chaplain, Medical Service, Nurse, or Hospital Corps shall be detailed or permitted to perform only such duties, in peace or war, as are related to medical, dental, or religious service and the administration of medical, dental, or religious units and establishments. Such duties are in accord with the permissible functions of the Geneva Conventions of August 12, 1949.

0846. Detail of Women.

Women members of the naval service shall not be detailed to duty in aircraft that are engaged in combat missions nor shall they be detailed to ships of the Navy other than hospital ships and transports.

0847. Detail of Enlisted Persons for Certain Duties.

1. Petty officers and noncommissioned officers shall not be detailed as messmen, except when nonrated men are not available.

2. Marines shall not be detailed to perform the duties of master-at-arms, yeoman, or hospital corpsman, except in case of emergency, which shall be determined by the commanding officer. When necessary to make such assignment, it shall continue only until a suitable person can be selected for the required duty.

3. Enlisted naval personnel may be assigned to duty in a service capacity in officers' messes and public quarters only when such assignment is

authorized by the Secretary of the Navy. This shall not be construed to prevent the voluntary employment, in any such capacity, of a retired enlisted person or a transferred member of the Fleet Reserve or Fleet Marine Corps Reserve without additional expense to the Government.

0848. Rank and Grade of an Officer Who Succeeds to Command.

An officer who succeeds to command acquires no increase of rank nor change in grade by virtue of such succession alone.

0849. Succession of a Deputy or Vice Commander.

Except as otherwise provided for specific cases, a deputy or vice commander shall succeed to command or control, as appropriate, in the case of the incapacity or death of the officer whose deputy or vice commander he is, and, unless the latter directs otherwise, at other times during the absence of such officer.

0850. Succession to Command of a Bureau.

1. When there is a vacancy in the office of the chief of a bureau, or during the disability of the chief of a bureau, or during his absence and unless he directs otherwise, the deputy chief of the bureau shall command the bureau until a successor takes office or the disability or the absence ceases.

2. When the foregoing paragraph cannot be complied with because of the disability or absence of the deputy chief of the bureau, the heads of the major divisions of the bureau, in the order recommended by the Chief of Naval Operations and directed by the Secretary of the Navy, shall command the bureau until a successor takes office or the disability or the absence of the chief or deputy ceases.

0851. Succession to Command of the Naval Material Command.

1. When there is a vacancy in the office of the Chief of Naval Material or during the disability of the Chief of Naval Material, or during his absence and unless he directs otherwise, the Vice Chief of Naval Material shall command the Naval Material Command until a successor takes office, or the disability or the absence ceases.

2. When the foregoing paragraph cannot be complied with because of disability or absence of the Vice Chief of Naval Material, the officer next senior in rank on the staff of the Chief of Naval Material shall succeed to command of the Naval Material Command, unless otherwise directed by the Chief of Naval Operations or the Secretary of the Navy, until a successor takes office or the disability or the absence of the Chief or the Vice Chief ceases.

0852. Succession to Command of a Naval Systems Command.

1. When there is a vacancy in the office of a commander of a naval systems command or during the disability of a commander of a naval systems command, or during the absence of a commander of a naval systems command and unless he directs otherwise, the vice commander shall succeed to the command of the naval systems command until a successor takes office, or the disability or the absence ceases.

2. When the foregoing paragraph cannot be complied with because of the absence or disability of the vice commander, the officer on the staff of the commander next senior in rank of the line or same staff corps as the commander, as appropriate, shall succeed to command of the naval systems command, unless otherwise directed by the Chief of Naval Material or the Chief of Naval Operations, until a successor takes office or the absence or disability of commander or vice commander ceases.

0853. Succession of a Chief of Staff and Other Staff Officers.

In the absence or incapacity of the officer on whose staff he is serving, a chief of staff, chief staff officer, or other officer on a staff may succeed to command if next in rank within the command and otherwise eligible as provided in these regulations.

0854. Succession Prescribed by a Commander in Chief.

A commander in chief and, when empowered by the Chief of Naval Operations, any other naval commander may prescribe the order of succession to command, including his own, among the various officers whom he has detailed to command task forces or other task commands. All orders issued under the authority of this article shall continue in effect after the incapacity or death of the officer issuing them until revoked by his successor in command or by higher authority. The powers delegated to a naval commander by this article are not conferred on any other officer by virtue of the fact that he is the senior officer present.

0855. Succession to Command of a Fleet, Subdivision of a Fleet, Fleet Marine Force, or Subdivision of a Fleet Marine Force.

1. In the event of the incapacity, death, departure on leave, or detachment without relief of a commander in chief of a fleet, a commander of a subdivision of a fleet, a commanding general of a fleet marine force, or a commanding general of a subdivision of a fleet marine force, or when such officer is absent from his command due to orders from competent authority and so directs, the following applies with regard to succession to command, unless competent authority prescribes that a deputy or other officer shall succeed to command. With respect to:

a. A fleet, the senior line officer of the Navy, eligible for command at sea, in the fleet or subdivision of a fleet shall succeed to command.

b. A fleet marine force, the senior officer of the Marine Corps, eligible for command, in the fleet marine force or subdivision of a Fleet Marine force shall succeed to command.

2. During the absence from his command or headquarters of any of the commanders referred to in paragraph 1 of this article, and when such officer has not directed that he be succeeded in command as provided in the preceding paragraph, succession to command shall be as follows:

a. The chief of staff or chief staff officer within a fleet.

b. The deputy or assistant commander within a fleet marine force, or the chief of staff if a deputy or assistant commander is not assigned.

3. An officer succeeding to command shall have authority to issue orders required to carry on the established routine and to perform the administrative functions of the command. He shall be the officer commanding for the time being for the administration and for the exercise of general court martial jurisdiction within the command. This shall not be construed to limit the authority and responsibility of the senior officer present in emergency or other foreseen situations which demand his action.

0856. Succession in Battle.

When a flag officer or other commander of ships is incapacitated in battle the officer next in rank in the flagship and eligible to succeed him shall succeed provisionally until the officer who would succeed as provided in the preceding article announces that he has taken command. It is the duty of the officer who succeeds provisionally to report, as soon as practicable, the incapacity of the flag officer to the officer who will succeed him and to the immediate superior of the flag officer.

0857. Succession to Command of a Ship.

In the event of the incapacity, death, relief from duty, or absence of the officer detailed to command a ship, he shall be succeeded by the line officer in the Navy, eligible for command at sea, next in rank and regularly attached to and on board the ship, until relieved by competent authority or until the regular commanding officer returns.

0858. Succession to Command of Aircraft Units and Submarines.

1. In the event of the incapacity, death, relief from duty, or absence of the officer detailed to command an aircraft squadron, group, or wing, the line officer regularly attached to and on board the aircraft unit who is next in rank and qualified as a naval aviator or naval flight officer shall succeed him, until relieved by competent authority or until the regular commanding officer returns.

2. In the event of the incapacity, death, relief from duty, or absence of the officers detailed to command a submarine, the line officer regularly attached to and on board the submarine who is next in rank and qualified for command in submarines shall succeed him, until relieved by competent authority or until the regular commanding officer returns.

0859. Succession to Command of a Sea Frontier or of a Naval District.

1. In the event of the incapacity or death of a commander of a sea frontier or of a commandant of a naval district, or when he is absent from the limits of his command and so directs, he shall be succeeded by the officer eligible for command at sea, designated by the commander or by the commandant with the knowledge of the Chief of Naval Operations.

2. During the absence of a commander of a sea frontier or of a commandant of a naval district and when he has not directed that he be succeeded in command as provided in the preceding paragraph, the deputy or the chief of staff or chief staff officer shall have authority to issue the orders required to carry on the established routine and to perform the administrative functions of the command. This shall not be construed to limit the authority or responsibility of the senior officer present in emergencies or other unforeseen situations which demand his action.

0860. Succession to Command of a Naval Base.

1. In the event of the incapacity or death of the commander of a naval base, or when he is absent and provided he so directs, he shall be succeeded by the officer, eligible for command at sea, designated by the commander of the naval base, with the approval of the immediate superior.

2. During the absence of a commander of a naval base, and when he has not directed that he be succeeded in command as provided in the preceding paragraph, the chief of staff or chief staff officer shall have authority to issue the orders required to carry on the established routine and perform the administrative functions of the naval base. This shall not be construed to limit the authority or responsibility of the senior officer present in emergencies or other unforeseen situations which demand his action.

0861. Succession to Command of a Naval Shore Activity.

In the event of incapacity, death or absence of the commanding officer or officer in charge of a naval shore activity not otherwise provided for in these regulations, the officer next in rank shall succeed him, except:

a. The commanding officer of a naval hospital shall be succeeded by the executive officer who, if so detailed by the Chief of Naval Personnel, need not be next in rank.

b. An officer in the staff corps may succeed to command only at such activities as are appropriate to his corps.

c. When appropriate, the Chief of Naval Operations may specify that the commanding officer shall be succeeded by an officer eligible for command at sea who need not be next in rank.

0862. Succession to Command by Officers Designated for Engineering Duty or Special Duty.

Officers designated for engineering duty, aeronautical engineering

duty, or special duty, who are otherwise eligible as provided in these regulations, may succeed to command only on shore.

0863. Succession to Command by Officers of the Marine Corps.

An officer of the Marine Corps shall not succeed to command of any ship or naval shipyard, or of a naval station, except when the officer detailed to command the station is an officer of the Marine Corps.

0864. Succession to Command on Detachment of an Officer in Command Without Relief.

Should an officer in command be detached without relief, he shall be succeeded in command by that officer who, in accordance with these regulations, would succeed to command in case of the incapacity, death, or absence of the officer in command.

0865. Succession to Command by Line Officers Designated for Limited Duty.

Officers of the line designated for limited duty may succeed to command of an activity in conformity with the following:

a. In ships, officers of the line of the Navy designated for limited duty, who are authorized to perform all deck duties afloat, may succeed to command.

b. Within other commands of the naval service, any limited duty officer with a designator appropriate to the function of the activity may succeed to command.

0866. Succession to Command by Chief Warrant Officers and Warrant Officers.

Chief warrant officers and warrant officers may succeed to command of an activity in conformity with the following:

a. In ships, chief warrant and warrant officers who are authorized to perform all deck duties afloat may succeed to command.

b. Within other commands of the naval service, any chief warrant or warrant officer, with a designator appropriate to the function of the activity may succeed to command.

0867. Relief of a Commanding Officer by a Subordinate.

1. It is conceivable that most unusual and extraordinary circumstances may arise in which the relief from duty of a commanding officer by a subordinate becomes necessary, either by placing him under arrest or on the sick list; but such action shall never be taken without the approval of the Commandant of the Marine Corps or the Chief of Naval Personnel as appropriate, or the senior officer present, except when reference to such higher authority is undoubtedly impracticable because of the delay involved or for other clearly obvious reasons. In any event, a complete report of the matter shall be made to the Commandant of the Marine Corps or the Chief of Naval Personnel as appropriate, and the senior officer present, setting forth all facts in the case and the reasons for the action or recommendation, with particular regard to the degree of urgency involved.

2. In order that a subordinate officer, acting upon his own initiative, may be vindicated for relieving a commanding officer from duty, the situation must be obvious and clear, and must admit of the single conclusion that the retention of command by such commanding officer will seriously and irretrievably prejudice the public interests. The subordinate officer so acting must be next in succession to command; must be unable to refer the matter to a common senior for one of the reasons set forth in the preceding paragraph; must be certain that the prejudicial actions of his commanding officer are not caused by instructions unknown to the subordinate officer; must have given the matter such careful consideration, and must have made such exhaustive investigation of all the circumstances as may be practicable; and finally, must be thoroughly convinced that the conclusion to relieve his commanding officer is one which a reasonable, prudent, and experienced officer would regard as a necessary consequence from the facts thus determined to exist.

3. Intelligent, fearless initiative is an important trait of military character; and it is not the purpose of these regulations to discourage its employment in cases of this nature. However, as the action of relieving a senior from command involves most serious possibilities, a decision to do so, or to so recommend should be based upon facts established by substantial evidence, and upon the official views of others in a position to form valid opinions, particularly of a technical character. An officer relieving his commanding officer or recommending such action, together with all others who so counsel, must bear the legitimate responsibility for, and must be prepared to justify, such action.

CHAPTER 9

THE SENIOR OFFICER PRESENT

0901. The Senior Officer Present.

Unless some other officer has been so designated by competent authority, the "senior officer present" is the senior line officer of the Navy on active duty, eligible for command at sea, who is present and in command of any part of the Department of the Navy in the locality or within an area prescribed by competent authority, except where personnel of both the Navy and the Marine Corps are present on shore and the officer of the Marine Corps who is in command is senior to the senior line officer of the Navy. In such cases, the officer of the Marine Corps shall be the senior officer present on shore.

0902. Eligibility for Command at Sea.

The term "eligible for command at sea" shall be construed to apply to all male officers of the line of the Navy, including Naval Reserve, on active duty, except those designated for the performance of engineering, aeronautical engineering or special duties, and except those limited duty officers who are not authorized to perform all deck duties afloat.

0903. Authority and Responsibility.

At all times and places not excluded in these regulations, or in orders from competent authority, the senior officer present shall assume command and direct the movements and efforts of all persons in the Department of the Navy present, when, in his judgment, the exercise of authority for the purpose of cooperation or otherwise is necessary. He shall exercise his authority in a manner consistent with the full operational command vested in the commanders of unified or specified commands.

0904. Authority of Senior Officer of the Marine Corps Present.

The authority and responsibility of the senior officer present are also conferred upon the senior commanding officer of the Marine Corps present with respect to those units of the Marine Corps, including Navy personnel attached, which are in the locality and not under the authority of the senior officer present.

0905. Commands Diverted by the Senior Officer Present.

The senior officer present shall not divert a command from an operation or duty assigned by another authority unless the public interest demands. When orders issued by the senior officer present conflict with an operation or duty assigned to a command, the commanding officer of such command shall disclose his orders to the senior officer present, to the extent permitted by the instructions contained therein, in order that the senior officer present may give them due consideration. The senior officer present shall inform a common senior promptly when he has diverted any command from a previously assigned operation or duty and shall release such command when its assistance is no longer required.

0906. Authority Within Commands.

In the exercise of his authority, the senior officer present normally shall not concern himself with the administrative matters within commands other than his own, except to the extent necessary to secure such uniformity and coordination of effort as may be required.

0907. Distinctions Ashore.

The responsibilities, authorities, and distinctions of commanders, officers in command, and others of the shore establishment are as stated by superiors or other competent authorities, and are not necessarily dependent upon relative seniority among the individuals concerned.

0908. To Make Known His Identity as Senior Officer Present.

When doubt may exist or when circumstances require, the senior officer present shall inform all commanding officers concerned in the locality or prescribed geographical area that he is the senior officer present.

0909. Reports and Calls by Juniors.

All commanding officers shall keep themselves informed of the identity of the senior officer present. The senior commander of each unit present shall inform the senior officer present of the orders under which he is acting to the extent permitted therein and of the condition of his command. When circumstances permit, he shall call upon the senior officer present.

0910. Concert of Action With Other Armed Forces.

When in the vicinity of other armed forces of the United States or of an ally of the United States, the senior officer present shall maintain, to the extent possible, a complete concert of action with the commander of these forces. He shall cooperate with the commander of such forces in the preparation and execution of plans for such joint action as may be necessary.

0911. Relations With Diplomatic and Consular Representatives.

The senior officer present, insofar as possible, shall preserve close relations with the diplomatic and consular representatives of the United States. He shall consider recommendations, requests or other communications from such representatives. While due weight should be given to the opinions and advice of such representatives, the senior officer present is solely and entirely responsible for his official acts.

0912. Communications With Foreign Officials.

1. As a general rule, when in foreign countries, the senior officer present shall communicate with foreign civil, diplomatic, or consular officials through the local United States diplomatic or consular representatives.

2. In the absence of a diplomatic or consular representative of the United States, the senior officer present in a foreign country has authority to:

a. Communicate or remonstrate with foreign civil authorities as may be necessary.

b. Urge upon citizens of the United States the necessity of abstaining from participation in political controversies or violations of the laws of neutrality.

0913. Coordination Procedures Established by a Unified or Specified Command.

In areas where the commander of a unified or specified command has established procedures for coordination of military matters affecting United States and host country relationships, the senior officer present shall adhere to such procedures.

0914. Violations of International Law and Treaties.

On occasions when injury to the United States or to citizens thereof is committed or threatened in violation of the principles of international law or in violation of rights existing under a treaty or other international agreement, the senior officer present shall consult with the diplomatic or consular representatives of the United States, if possible, and he shall take such action as is demanded by the gravity of the situation. In time of peace, action involving the use of force may be taken only in consonance with the provisions of the succeeding article of these regulations. The responsibility for any application of force rests wholly upon the senior officer present. He shall report immediately all the facts to the Secretary of the Navy.

0915. Use of Force Against Another State.

1. The use of force in time of peace by United States naval personnel against another nation or against anyone within the territories thereof is illegal except as an act of self-defense. The right of self-defense may arise in order to counter either the use of force or an immediate threat of the use of force.

2. The conditions calling for the application of the right of self-defense cannot be precisely defined beforehand, but must be left to the sound judgment of responsible naval personnel who are to perform their duties in this respect with all possible care and forebearance. The right of self-defense must be exercised only as a last resort, and then only to the extent which is absolutely necessary to accomplish the end required.

3. Force must never be used with a view to inflicting punishment for acts already committed.

0916. Territorial Integrity of Foreign Nations.

The senior officer present shall respect the territorial integrity of foreign nations. Unless permission has been obtained from foreign authorities:

a. No armed force for exercise, target practice, funeral escort, or other purposes shall be landed.

b. No persons shall be allowed to visit the shore, except as necessary to conduct official business.

c. No men shall be landed to capture deserters.

d. No target practice with guns, torpedoes, rockets, guided missiles, or other weapons shall be conducted within foreign territorial waters or at any point from which projectiles, torpedoes, or missiles may enter therein.

0917. Dealings With Foreigners.

The senior officer present shall uphold the prestige of the United States. He shall impress upon officers and men that, when in foreign ports, it is their duty to avoid all possible cause of offense to the authorities and inhabitants; that due deference must be shown by them to local laws, customs, ceremonies, and regulations; that moderation and courtesy should be displayed in all dealings with foreigners; and that a feeling of good will and mutual respect should be cultivated.

0918. Readiness and Safety of Forces.

1. The senior officer present shall prescribe the conditions of readiness of all the forces present and under his authority.

2. To the extent which the situation demands, the senior officer present shall be prepared for action and shall guard against surprise attack. With the means at his disposal, he shall put into effect such measures as are necessary to minimize the possibility of the undetected approach of hostile air, surface, or subsurface forces.

3. The senior officer present is responsible for the safety of the units in company and, at sea, shall direct the course to be

steered and the disposition to be employed. Nothing in this article will be construed as abrogating the authority of the commander of a task force or task command.

0919. Information Furnished to Subordinates.

Before engaging in any operation in time of war, if practicable, the senior officer present shall supply the commanding officers present with his operation plan and battle plan and shall communicate to the principal subordinates present such information as will assist them if called upon to assume command.

0920. Protection of Commerce of the United States.

Acting in conformity with the international law and treaty obligations, the senior officer present shall protect, insofar as lies within his power, all commercial craft of the United States in their lawful occupations; and he shall advance the commercial interests of this country.

0921. Leave and Liberty.

Subject to such orders as he may have received from competent authority, the senior officer present shall regulate leave and liberty.

0922. Shore Patrol.

1. When liberty is granted to any considerable number of persons, except in an area that can absorb them without danger of disturbance or disorder, the senior officer present shall cause to be established, temporarily or permanently, in charge of an officer, a sufficient patrol of officers, petty officers, and noncommissioned officers to maintain order and suppress any unseemly conduct on the part of any person on liberty. The senior patrol officer shall communicate with the chief of police or other local officials and make such arrangements as may be practicable to aid the patrol in carrying out its duties properly. Such duties may include providing assistance to military personnel in relations with civil courts and police, arranging for release of service personnel from civil authorities to the parent command, and providing other services that favorably influence discipline and morale.

2. A patrol shall not be landed in any foreign port without first obtaining the consent of the proper local officials. Tact must be used in requesting permission; and, unless it is given willingly and cordially, the patrol shall not be landed. If consent cannot be obtained, the size of liberty parties shall be held to such limits as may be necessary to render disturbances unlikely.

3. Officers and men on patrol duty in a foreign country normally should not be armed. In the United States, officers and men may be armed as prescribed by the senior officer present.

4. No officer or man who is a member of the shore patrol or beach guard, or is assigned in support thereof, shall partake of or indulge in any form of intoxicating beverage or other form of intoxicant while on duty, on post, or at other times prescribed by the senior patrol officer. The senior patrol officer shall ensure that the provisions of this paragraph are strictly observed and shall report promptly in writing to the senior officer present all violations of these provisions that may come to his notice. All officers and men of the patrol shall report to the senior patrol officer all violations of the provisions of this paragraph on the part of those under them.

0923. Precautions for Health.

The senior officer present shall take precautions to preserve the health of the persons under his authority. He shall obtain information regarding the healthfulness of the area and medical facilities available therein and shall adopt such measures as are required by the situation.

0924. Medical or Dental Aid to Persons Not in the Naval Service.

The senior officer present may require the officers of the Medical Corps and Dental Corps under his authority to render emergency professional aid to persons not in the naval service when such aid is necessary and demanded by the laws of humanity or the principles of international courtesy.

0925. Assistance to Persons, Ships and Aircraft in Distress.

1. Insofar as he can do so without serious danger to his ship or crew, the commanding officer or the senior officer present as appropriate shall:

a. Proceed with all possible speed to the rescue of persons in distress if informed of their need for assistance, insofar as such action may reasonably be expected of him.

b. Render assistance to any person found at sea in danger of being lost.

c. Afford all reasonable assistance to distressed ships and aircraft.

d. Render assistance to the other ship, after a collision, to her crew and passengers and, where possible, inform the other ship of his identity.

2. Actions taken pursuant to this article shall be promptly reported to the Chief of Naval Operations and other appropriate superiors.

3. The accounting for rendering assistance and repairs pursuant to this article shall be as prescribed by the Comptroller of the Navy.

0926. Admiralty Claims.

Admiralty claims for or against the United States involving Navy ships and craft shall be processed and disposed of in accordance with the procedures set forth in the Manual of the Judge Advocate General of the Navy.

0927. Repairs to Merchant Vessels.

1. There is no authority to effect repairs to a merchant vessel in collision with a Navy ship or craft except:

a. When specifically approved by Congress.

b. When, in the opinion of the senior officer present, the exigencies of war or of national defense so require.

c. When, in the opinion of the senior officer present, repairs are necessary to save life or to prevent the merchant vessel from sinking.

2. A report of repairs effected under authority of this article, including labor and material costs and a certification by the senior officer present as to why such repairs were undertaken, will be included in the senior officer present's report or forwarding endorsement to the Chief of Naval Operations and other appropriate superiors.

0928. Detail of Subordinate to Perform Administrative Duties.

When no officer has been detailed by other competent authority to perform administrative duties, the senior officer present may detail a subordinate officer to carry out the routine administrative duties of the senior officer present, but in no way shall such detail relieve the senior officer present of his responsibilities.

0929. The Senior Officer Present Afloat.

Unless some other officer has been so designated by competent authority, the "senior officer present afloat" is the senior line officer of the Navy, on active service, eligible for command at sea, who is present and with primary duty as commander of any unit or force of the Operating Forces of the Navy in the locality or within an area prescribed by competent authority, whether afloat or based ashore, except such units as may be assigned to shore commands by competent authority.

0930. Relations Between the Senior Officer Present and the Senior Officer Present Afloat.

1. When the senior officer present afloat is not the senior officer present, all matters affecting the units under the authority of the senior officer present afloat shall normally be referred to him by the senior officer present for appropriate action.

2. When an officer of the Marine Corps is the senior officer present on shore, and senior to the senior officer present afloat, the latter shall refer all matters, except those directly connected with units under his authority, to the former for appropriate action.

0931. General Duties of the Senior Officer Present Afloat.

As the common superior of commanders of all Navy units of the Operating Forces of the Navy in a locality, except such units as may be assigned to shore commands by competent authority, the senior officer present afloat is responsible for matters which affect these naval commands collectively. In the exercise of his authority, he normally shall not concern himself with the administrative matters within commands other than his own, except to the extent necessary to secure such uniformity and coordination of effort as may be required. In case of emergency or enemy attack, subject to the orders of the senior officer present, he shall assume command of all Navy units of the Operating Forces of the Navy present.

0932. Relations With Commanders Ashore.

When within the prescribed limits of authority of the commandant of a naval district or the commander of a naval shore activity, the senior officer present afloat and all other commanders of Navy units of the Operating Forces of the Navy present shall conform to the standing orders of such authority in all matters of common interest. Even though senior to the commandant or commander, the senior officer present afloat shall make no changes in local orders, plans, and arrangements, except as necessary to carry out his duties or for other causes which unquestionably demand a change, and then only after consultation with the commandant or commander, if practicable.

0933. Juniors to Obtain Permission From the Senior Officer Present.

A junior in command shall when meeting a senior at sea or in port, obtain permission by signal or otherwise to continue on duty assigned, to anchor or get underway, or to perform any evolution or other act of importance.

0934. Authority to Alter Organization.

The senior officer present afloat may organize the forces present under his command into such task organizations as he may deem desirable, but in so doing, he shall preserve their existing tactical organization insofar as practicable.

0935. Exercise of Power of Consul.

When upon the high seas or in any foreign port where there is no resident consul of the United States, the senior officer present afloat has the authority to exercise all powers of a consul in relation to mariners of the United States.

0936. File of the Senior Officer Present Afloat.

1. While in port, the senior officer present afloat shall require that a file of all orders issued by him or other competent authority which are applicable to the naval forces present be maintained. This file shall be transferred to the succeeding senior officer present afloat.

2. Whenever circumstances warrant and for any continuity purposes, the senior officer present afloat may detail a subordinate officer to carry out routine administrative duties and maintain a SOPA (Administration) file. In event a subordinate officer is not available or it is not appropriate for such detailing, the senior officer present afloat may arrange for the detail of an officer for the task.

0937. Medical, Dental, Communication, and Other Guard.

When two or more ships are in the vicinity of each other while liberty is being granted, the senior officer present afloat shall designate the daily order in which each ship having a medical officer shall take the medical guard unless facilities or services are available ashore or other adequate provision has been made. Similar provisions shall be made with respect to the establishment of a dental guard, communication guard, shore patrol, or any other guard as may be necessary in support of his responsibility.

0938. Responsibilities of Subordinates.

The regulations contained in this chapter shall not be construed to relieve commanders junior to the senior officer present, or the senior officer present afloat from their individual responsibilities in relation to their commands.

0939. Boarding Calls.

1. When he considers it appropriate, the senior officer present shall send an officer to board and report on ships and craft displaying United States colors found in or arriving at foreign ports.

2. The following information normally shall be obtained by boarding officers:

a. Name, nationality, owner, and type of craft.

b. Number and names of persons in crew.

c. Tonnage and cargo.

d. Place from and time out of port.

e. Probable date of departure and destination.

f. Unusual events during passage, general route taken, and weather conditions encountered.

3. Under ordinary circumstances the boarding officer can offer assistance in United States postal matters and provide medical and technical advice.

0940. Granting of Asylum and Temporary Refuge.

1. If an official of the Department of the Navy is requested to provide asylum or temporary refuge, the following procedures shall apply:

a. On the high seas or in territories under exclusive United States jurisdiction (including territorial seas, territories and possessions):

(1) At his request, an applicant for asylum will be received on board any naval aircraft or water-borne craft or naval station.

(2) Under no circumstances shall the person seeking asylum be surrendered to foreign jurisdiction or control, unless at the direction of the Secretary of the Navy or higher authority. Persons seeking asylum should be afforded every reasonable care and protection permitted by the circumstances.

b. In territories under foreign jurisdiction (including territorial seas, territories, and possessions):

(1) Temporary refuge shall be granted for humanitarian reasons on board a naval aircraft or water-borne craft or naval station only in extreme or exceptional circumstances wherein the life or safety of a person is put in danger, such as pursuit by a mob. When temporary refuge is granted, such protection shall be terminated only when directed by the Secretary of the Navy or higher authority.

(2) While temporary refuge can be granted in the circumstances set forth above, permanent asylum will not be granted.

(3) Requests for asylum shall be referred to the U.S. Embassy, if any, in the foreign jurisdiction. Individuals requesting asylum shall be afforded temporary refuge only in the circumstances outlined in subparagraph (1).

c. The Chief of Naval Operations or Commandant of the Marine Corps, as appropriate, will be informed by the most expeditious means of all action taken pursuant to a. and b. above as well as the attendant circumstances. The appropriate U.S. Embassy or consular post will be similarly informed of actions taken pursuant to subparagraph 1.b.(3) of this article. The Chief of Naval Operations or Commandant of the Marine Corps will cause the Secretary of the Navy and Department of State to be notified without delay.

2. Personnel of the Department of the Navy shall neither directly nor indirectly invite persons to seek asylum or temporary refuge.

CHAPTER 10

HONORS AND CEREMONIES

1001. Authority for Dispensing With Honors.

The honors and ceremonies prescribed in these regulations may be dispensed with when directed by the Secretary of the Navy, or when requested by an individual to whom such honors and ceremonies are due.

1002. Honors Restricted to Recognized Governments.

No salute shall be fired in honor of any nation or of any official of any nation not formally recognized by the Government of the United States; and, except as authorized by the Secretary of the Navy, no other honors or ceremonies prescribed in these regulations shall be rendered or exchanged with such nations or officials.

1003. International Honors Modified by Agreement.

Should the required number or frequency of international salutes, official visits, or other honors and ceremonies be deemed excessive, the senior officer present in the United States naval service may make, subject to the requirements of international courtesy, such modification as circumstances warrant and as may be agreed upon with the responsible officials or the senior officer present of the nation involved.

1004. Manner of Playing National Anthems.

1. The National Anthem of the United States, "The Star Spangled Banner," when played by a naval band shall be played in its entirety as written and as prescribed in the official U.S. Navy Band arrangement which is designated as the official Department of Defense arrangement.

2. The playing of the National Anthem of the United States, or of any other country, as a part of a medley is prohibited.

3. When a foreign national anthem is prescribed in connection with honors,, and it is considered appropriate to perform the National Anthem of the United States therewith, the National Anthem of the United States will be performed last.

4. On other occasions when a foreign national anthem (or anthems) is performed, the National Anthem of the United States will be performed last, except when performed in conjunction with Morning Colors.

1005. Procedure During Playing of National Anthems.

1. Whenever the National Anthem is played, all naval service personnel not in formation shall stand at attention and face the national ensign; but in the event that the national ensign is not being displayed, they shall face the source of the music. When covered they shall come to the salute at the first note of the anthem, and shall remain at the salute until the last note of the anthem. Persons in formation are brought to order arms or called to attention as appropriate. The formation commander shall face in the direction of the ensign or in the absence of the ensign shall face in the direction of the music and shall render the appropriate salute for his unit. Persons in formation participating in a ceremony shall, on command, follow the procedure prescribed for the ceremony. Persons in vehicles or in boats shall follow the procedure prescribed for such persons during colors; persons in civilian clothes shall comply with the rules and customs established for civilians.

2. The same marks of respect prescribed during the playing of the National Anthem shall be shown during the playing of a foreign national anthem.

1006. Morning and Evening Colors.

1. The ceremonial hoisting and lowering of the national ensign at 0800 and sunset at a naval command ashore or aboard a ship of the Navy not under way shall be known as Morning Colors and Evening Colors, respectively, and shall be carried out as prescribed in this article.

2. The guard of the day and the band shall be paraded in the vicinity of the point of hoist of the ensign.

3. "Attention" shall be sounded, followed by the playing of the National Anthem by the band.

4. At Morning Colors, the ensign shall be started up at the beginning of the music and hoisted smartly to the peak or truck. At Evening Colors, the ensign shall be started from the peak or truck at the beginning of the music and the lowering so regulated as to be completed at the last note.

5. At the completion of the music, "Carry On" shall be sounded.

6. In the absence of a band, or an appropriate recording to be played over a public address system, "To the Colors" shall be played by the bugle at Morning Colors, and "Retreat" at Evening Colors, and the salute shall be rendered as prescribed for the National Anthem.

7. In the absence of music, "Attention" and "Carry On" shall be the signals for rendering and terminating the salute. "Carry On" shall be sounded as soon as the ensign is completely lowered.

8. During colors, a boat under way within sight or hearing of the ceremony shall lie to, or shall proceed at the slowest safe speed. The boat officer, or in his absence the coxswain, shall stand and salute except when dangerous to do so. Other persons in the boat shall remain seated or standing and shall not salute.

9. During colors, vehicles within sight or hearing of the ceremony shall be stopped. Persons riding in such vehicles shall remain seated at attention.

10. After Morning Colors, if foreign warships are present, the national anthem of each nation so represented shall be played in the order in which a gun salute would be fired to, or exchanged with, the senior official or officer present of each such nation; provided that, when in a foreign port, the national anthem of the port shall be played immediately after Morning Colors, followed by the national anthems of other foreign nations represented.

1007. Salutes to the National Ensign.

1. Each person in the naval service, upon coming on board a ship of the Navy, shall salute the national ensign if it is flying. He shall stop on reaching the upper platform of the accommodation ladder, or the shipboard end of the brow, face the national ensign, and render the salute, after which he shall salute the officer of the deck. On leaving the ship, he shall render the salutes in inverse order. The officer of the deck shall return both salutes in each case.

2. When passed by or passing the national ensign being carried, uncased, in a military formation, all persons in the naval service shall salute. Persons in vehicles or boats shall follow the procedure prescribed for such persons during colors.

3. The salutes prescribed in this article shall also be rendered to foreign national ensigns and aboard foreign men-of-war.

1008. "Hail to the Chief."

1. The traditional musical selection "Hail to the Chief" is designated as a musical tribute to the President of the United States, and as such will not be performed by naval bands as a tribute to other dignitaries. The same honor as accorded during renditions of the National Anthem or "To the Colors" will be given to "Hail to the Chief" by naval personnel.

2. When performed by naval bands, renditions of "Hail to the Chief" shall be as prescribed in the official U. S. Marine Corps Band arrangement which is designated as the official Department of Defense arrangement.

1009. Exchange of Hand Salutes.

1. The hand salute is the long-established form of greeting and recognition exchanged between persons in the armed services. All persons in the naval service shall be alert to render or return the salute as prescribed in these regulations.

2. The salute by persons in the naval service shall be rendered and returned with the right hand, when practicable; except that, with arms in hand, the salute appropriate thereto shall be rendered or returned.

3. Juniors shall salute first. All salutes received when in uniform and covered shall be returned; at other times salutes received shall be appropriately acknowledged. Persons uncovered shall not salute, except when failure to do so would cause embarrassment or misunderstanding.

4. Civilians may be saluted by persons in uniform when appropriate, but the uniform hat or cap shall not be raised as a form of salutation.

5. A person in the naval service not in uniform shall, in rendering salutes or exchanging greetings, comply with the rules and customs established for a civilian; except that when saluting another person in the armed services, the hand salute shall be used.

1010. Occasions for Rendering Hand Salutes.

1. Salutes shall be rendered by persons in the naval service to officers of the armed forces of the United States, the National Oceanic and Atmospheric Administration, the Public Health Service and foreign armed services.

2. All persons in the naval service shall salute all officers senior to themselves on each occasion of meeting or passing near or when addressing or being addressed by such officers; except that:

a. On board ship salutes shall be dispensed with after the first daily meeting, except for those rendered to the commanding officer and officers senior to him, to visiting officers, to officers making inspections, and to officers when addressing or being addressed by them.

b. When such procedure does not conflict with the spirit of these regulations, at crowded gatherings or in congested areas, salutes shall be rendered only when addressing or being addressed by an officer who is senior to them.

c. Persons at work or engaged in games shall salute only when addressed by an officer senior to them and then only if circumstances warrant.

d. Persons in formation shall salute only on command.

e. When boats pass each other with embarked officers or officials in view, hand salutes shall be rendered by the senior officer and coxswain in each boat. Officers seated in boats shall not rise when saluting; coxswains shall rise unless dangerous or impracticable to do so.

f. Persons operating moving motor vehicles should not render or return salutes. Passengers will render and return salutes.

g. Persons guarding prisoners will not salute.

1011. Other Marks of Respect.

1. Juniors shall show deference to seniors at all times by recognizing their presence and by employing a courteous and respectful bearing and mode of speech toward them.

2. Juniors shall stand at attention, unless seated at mess, or unless circumstances make such action impracticable or inappropriate:

a. When addressed by an officer senior to them.

b. When an officer of flag or general rank, the commanding officer, or an officer senior to him in the chain of command, or an officer making an official inspection enters the room, compartment, or deck space where they may be.

3. Juniors shall walk or ride on the left of seniors whom they are accompanying.

4. Officers shall enter boats, aircraft and automobiles in inverse order of rank and shall leave them in order of rank, unless there is special reason to the contrary. The seniors shall be accorded the more desirable seats.

5. Subject to the requirements of the rules for preventing collisions, junior boats shall avoid crowding or embarrassing senior boats.

1012. Saluting Ships and Stations.

Saluting ships and stations of the naval service are those designated as such by the Secretary of the Navy or his duly authorized representative. The gun salutes prescribed in these regulations shall be fired by such ships and stations. Other ships and stations shall not fire gun salutes, unless directed to do so by the senior officer present on exceptional occasions when courtesy requires.

1013. Gun Salutes to the Flag of the President or the Secretary of State.

1. A 21-gun salute shall be fired to the flag of the President:

a. By each ship falling in with a ship displaying such flag, arriving at a place where such flag is displayed ashore, or present when such flag is broken.

b. By a naval station when a ship displaying such flag arrives at the naval station, or when such flag is broken by a ship present.

c. By a flag or general officer assuming command or, while in command, breaking the flag of an increased grade, in the presence of a ship or naval station displaying the flag of the President.

2. Under the circumstances prescribed by this article, a 19-gun salute shall be fired to the flag of the Secretary of State when he is acting as special foreign representative of the President.

1014. Gun Salutes to the Flag of the Secretary of Defense, Deputy Secretary of Defense, the Secretary of the Navy, Director of Defense Research and Engineering, an Assistant Secretary of Defense, the General Counsel, Under Secretary or an Assistant Secretary of the Navy.

1. A 19-gun salute shall be fired to the flag of the Secretary of Defense, Deputy Secretary of Defense, Director of Defense Research and Engineering, or the Secretary of the Navy, and a 17-gun salute shall be fired to the flag of an Assistant Secretary of Defense, the General Counsel, the Under Secretary of the Navy or an Assistant Secretary of the Navy:

a. By a ship falling in with a ship displaying such flag, arriving at a place where such flag is displayed ashore, or present when such flag is broken. In case of two or more ships in company, only the senior shall salute.

b. By a naval station when a ship displaying such flag arrives at the naval station, or when such flag is broken by a ship present.

c. By a flag or general officer assuming command, or breaking the flag of an increased grade in the presence of a ship or naval station displaying the flag of such official; provided that such officer is the senior officer present or the senior officer present on shore.

2. When the flags of two or more such officials are displayed under the circumstances prescribed in this article, only the flag of the senior shall be saluted.

1015. Gun Salute to a Foreign Nation.

1. When a ship enters a port of a foreign nation, the government of which is formally recognized by the Government of the United States, she shall fire a salute of 21 guns to that nation unless:

a. There is present no saluting battery or warships of that nation capable of returning the salute.

b. The ship is returning from a temporary absence from port, when, by agreement with local authorities, the salute may be dispensed with.

2. When a ship is passing through the territorial waters of a foreign nation with no intention of anchoring therein, the salute to the nation need not be fired unless unusual circumstances make it desirable to do so.

3. In case of two or more ships arriving in port or passing through territorial waters of a foreign nation in company, only the senior shall fire the salute prescribed in this article.

4. The salute to the nation, if fired, shall precede any salutes fired in honor of individuals.

1016. Returning Salute to the Nation Fired by Foreign Warship.

A salute to the nation fired by a foreign warship entering a port of the United States shall be returned by the senior ship present, provided no saluting battery of an armed service of the United States, designated to return such salutes, is present in the area.

1017. Gun Salutes to the Flag of a Foreign President, Sovereign, or Member of a Reigning Royal Family.

1. A 21-gun salute shall be fired by a ship or station to the flag or standard of the president, sovereign, or member of a reigning royal family under the circumstances prescribed in these regulations for firing a salute to the flag of the President of the United States.

2. In some foreign countries it is the national custom to fire special 21-gun salutes on certain occasions in honor of the president, sovereign, or a member of the reigning royal family. In such cases, ships shall conform to the national custom when requested by the proper local authorities.

1018. Gun Salutes When Several Heads of State are Present.

1. Each ship upon entering a port where the personal flags or standards of several presidents, sovereigns, or members of reigning royal families are displayed, shall fire a 21-gun salute to each of the several flags or standards displayed, in the following order:

a. The president, sovereign, or member of the reigning royal family of the nation to which the port belongs.

b. The President of the United States.

c. The presidents or sovereigns of other nations, in alphabetical order of the names of the nations in the English language.

d. Members of reigning royal families of other nations, in the same order as in subparagraph c. above.

2. In the circumstances set forth in this article, only the flag or standard of the senior dignitary of each nation shall be saluted.

1019. Authority to Fire Gun Salutes to Officers in the United States Naval Service.

Gun salutes prescribed in these regulations for officers and officials entitled to 17 or more guns shall be fired on the occasion of each official visit of the individual concerned. Gun salutes prescribed in these regulations for officers and officials entitled to 15 guns or less shall not be fired unless so ordered by the senior officer present or higher authority.

1020. Gun Salutes to the Senior Officer Present.

1. A flag officer who is the senior officer present shall be saluted by the senior of one or more ships arriving in port.

2. When a flag officer embarked in a ship of his command arrives in port and is the senior officer present, or when a flag officer assumes command and becomes the senior officer present, he shall be saluted by the former senior officer present.

3. A gun salute shall be fired by his flagship when a flag officer who is the senior officer present assumes or is relieved of command, or is advanced in grade.

4. When a flag officer who is not the senior officer present assumes command, he shall fire a salute to the senior officer present.

5. The provisions of this article shall be subject to the provisions of article 1026.4 and shall apply, where appropriate, to officers of the naval service in command ashore.

1021. Gun Salutes to Foreign Flag Officers.

1. When a ship enters a port where there is present no officer of the naval service senior to the senior arriving officer, and finds displayed there, afloat or ashore, the flags of foreign flag officers of one or more nations, salutes shall be exchanged with the senior flag officer present of each nation.

2. The senior officer present of the United States Navy in a port shall exchange gun salutes with the senior foreign flag officer displaying his flag in an arriving warship, provided such flag officer is the senior officer present of his nation.

3. Upon departure from port of the senior officer present of the United States Navy, his successor shall exchange gun salutes with the senior flag officer present of each foreign nation.

4. The senior officer present of the United States Navy shall exchange gun salutes with the senior officer present of a foreign nation when either hoists the flag of an increased grade.

5. In firing the salutes prescribed by this article, the following rules shall govern:

a. An officer of a junior grade shall fire the first salute.

b. When officers are of the same grade, the arriving officer shall fire the first salute.

c. Seniors shall be saluted in order of rank except that when firing salutes to two or more foreign officers of the same grade, the first salute

fired to an officer in that grade shall be to the flag officer of the nationality of the port.

6. When a ship of the Navy falls in at sea with a foreign warship displaying the flag of a flag officer, an exchange of salutes shall be fired; the junior saluting first. Such salutes shall be exchanged only between the senior United States ship and the senior foreign ship. Should flag officers be of the same grade and their relative rank be unknown or in doubt, they should mutually salute without delay.

7. The provisions of this article shall be subject to the provisions of article 1026.4.

1022. Notification of Gun Salute.

Whenever practicable, an official or officer to be saluted shall be notified of the salute and the time that it is to be fired.

1023. Procedure During a Gun Salute.

1. The interval between guns in salutes normally shall be five seconds.

2. During the gun salute, persons on the quarter-deck, or in the ceremonial party, if ashore, shall render the hand salute; observers on deck, or in the vicinity of the ceremonial party if ashore, shall stand at attention facing the personage, or if he is not in view, toward the ceremonial party, and if in uniform, shall salute.

3. Officers being saluted shall render the hand salute during the firing of the gun salute.

4. The boat or vehicle in which a person being saluted is embarked shall be stopped, if practicable to do so, during the firing of the gun salute.

1024. Inability to Render or Return a Gun Salute.

1. A gun salute shall not be fired when a return salute is required and cannot be fired, but shall be considered as having been rendered and returned.

2. In cases where, from any special cause, a ship, from which a salute in compliment to a foreign power or official may reasonably be expected, is unable to salute, the circumstances are to be explained immediately to the representative of such foreign power.

3. In cases where, from any special circumstances, the failure to salute cannot be explained without giving offense to a foreign power or official, salutes shall be fired by any ship which can do so with safety.

1025. Returning Gun Salutes.

1. The following rules shall be observed by United States ships and stations:

a. A salute fired to the nation by a foreign ship arriving in port shall be returned gun for gun.

b. A salute fired to a flag or general officer by a foreign ship or station shall be returned gun for gun.

c. A salute fired in honor of the President of the United States, or of the Secretary of State when acting as special representative of the President, shall not be returned.

d. A salute fired in honor of any official or officer on the occasion of an official visit or inspection shall not be returned.

e. A salute fired by his flagship or headquarters in honor of a flag or general officer shall not be returned.

f. A salute fired in honor of an anniversary, celebration, or solemnity shall not be returned.

g. Subject to the provisions of this article, a salute fired in honor of a United States officer or official shall be returned with the number of guns specified for the grade of the flag or general officer rendering the salute, or, if not a flag or general officer, with seven guns.

2. No return salute may be expected in the case of a salute fired by a United States ship or station in honor of a foreign sovereign, head of state, member of a reigning royal family, or special representative of a head of state, or on the occasion of a foreign anniversary, celebration, or solemnity, or on the occasion of an official visit; otherwise a salute fired in honor of a foreign nation, or of a foreign official or officer, may be expected to be returned gun for gun.

1026. Restrictions on Gun Salutes.

1. In the presence of the President of the United States, or the president, sovereign, or a member of the reigning royal family of a foreign nation, no gun salute which may be prescribed elsewhere in these regulations shall be fired to any other official of lesser rank of that nation.

2. When two or more officials or officers, each entitled to a gun salute, make an official visit in company to a ship or station, only the senior shall be saluted. If they arrive or depart at different times, each shall be rendered the gun salute to which he is entitled.

3. Salutes shall not be fired in ports or locations where they are forbidden by local regulations.

4. No official or officer, United States or foreign, except those entitled to 17 or more guns, shall be saluted by the same ship or station more than once in twelve months unless, and subject to the other provisions of these regulations, such official or officer has been advanced in grade, makes an official visit or inspection, or is on special duty in which international

courtesy is involved or exceptional circumstances exist; in which latter case the commanding officer, in the absence of instructions, shall exercise his discretion.

5. No officer, except a flag or general officer, shall be saluted with guns except in return for a gun salute rendered by him.

6. No officer of the armed services, while in civilian clothes, shall be saluted with guns, unless such officer is at the time acting in an official civil capacity.

7. No salute shall be fired between sunset and sunrise, before 0800, or on Sunday except when international courtesy so dictates, or when related to death ceremonies. Subject to the provisions of this paragraph, a gun salute in honor of an official or officer who arrives before 0800 shall be fired at 0800; provided, that if the day is Sunday the salute shall be fired on Monday; and further provided, that the salute shall not be fired if the official or officer has departed meanwhile. In case of a gun salute at 0800, the first gun of the salute shall be fired immediately upon the completion of Morning Colors or the last note of the last national anthem.

1027. "Passing Honors" and "Close Aboard" Defined.

"Passing honors" are those honors, other than gun salutes, rendered on occasions when ships or embarked officials or officers pass, or are passed, close aboard. "Close aboard" shall mean passing within six hundred yards for ships and four hundred yards for boats. These rules shall be interpreted liberally, to insure that appropriate honors are rendered.

1028. Passing Honors Between Ships.

1. Passing honors, consisting of sounding "Attention" and rendering the hand salute by all persons in view on deck and not in ranks, shall be exchanged between ships of the Navy and between ships of the Navy and the Coast Guard, passing close aboard.

2. In addition, the honors prescribed in the following table shall be rendered by a ship of the Navy passing close aboard a ship or naval station displaying the flag of the officials indicated therein; and by naval stations, insofar as practicable, when a ship displaying such flag passes close aboard. These honors shall be acknowledged by rendering the same honors in return.

Official	Uniform	Ruffles and flourishes	Music	Guard	Remarks
President	As prescribed by senior officer present.	4	National Anthem	Full	Man rail, unless otherwise directed by senior officer present.
Secretary of State when special foreign representative of the President.	----do----------	4	----do----------	----do----	Crew at quarters.
Vice President	Of the day ----	--------	Hail Columbia	----do----	Do.
Secretary of Defense, Deputy Secretary of Defense, the Secretary of the Navy or Director of Defense Research and Engineering	----do----------	--------	National Anthem	----do----	Do.
An Assistant Secretary of Defense, Under Secretary or an Assistant Secretary of the Navy.	----do----------	--------	----do----------	----do----	Do.

1029. Passing Honors to Officials and Officers Embarked in Boats.

1. The honors prescribed in this table shall be rendered by a ship of the Navy being passed close aboard by a boat displaying the flag or pennant of the following officials and officers.

Official	Ruffles and flourishes	Music	Guard	Remarks
President	4	National Anthem	Full	"Attention" sounded, and salute by all persons in view on deck. If directed by the senior officer present, man rail.
Secretary of State when special foreign representative of President.	4	Do.	Do.	"Attention" sounded, and salute by all persons in view on deck.
Vice President	4	Hail Columbia	Do.	Do.
Secretary of Defense, Deputy Secretary of Defense, Secretary of the Navy, Director of Defense Research and Engineering, an Assistant Secretary of Defense, Under Secretary or an Assistant Secretary of the Navy.	4	Admiral's March	Do.	Do.
Other civil official entitled to honors on official visit.	.....	.....	.....	Do.
Officer of an armed service	.....	.....	.....	Do.

2. Persons on the quarter-deck shall salute when a boat passes close aboard in which a flag officer, a unit commander or a commanding officer is embarked under the following circumstances:

a. When the officer in the boat is in uniform as indicated by the display of the national ensign in United States ports; or

b. When a miniature of a flag or pennant is displayed in addition to the national ensign in foreign ports.

1030. Passing Honors to Foreign Dignitaries and Warships.

1. The honors prescribed for the President of the United States shall be rendered by a ship of the Navy being passed close aboard by a ship or boat displaying the flag or standard of a foreign president, sovereign, or member of a reigning royal family, except that the foreign national anthem shall be played in lieu of the National Anthem of the United States.

2. Passing honors shall be exchanged with foreign warships passed close aboard and shall consist of parading the guard of the day, sounding "Attention," rendering the salute by all persons in view on deck, and playing the foreign national anthem.

1031. Sequence in Rendering Passing Honors.

1. "Attention" shall be sounded by the junior when the bow of one ship passes the bow or stern of the other, or, if a senior be embarked in a boat, before the boat is abreast, or nearest to abreast, the quarter-deck.

2. The guard, if required, shall present arms, and all persons in view on deck shall salute.

3. The music, if required, shall sound off.

4. "Carry on" shall be sounded when the prescribed honors have been rendered and acknowledged.

1032. Dispensing With Passing Honors.

1. Passing honors shall not be rendered after sunset or before 0800 except when international courtesy requires.

2. Passing honors shall not be exchanged between ships of the Navy engaged in tactical evolutions outside port.

3. The senior officer present may direct that passing honors be dispensed with in whole or in part.

4. Passing honors shall not be rendered by nor be required of ships with small bridge areas, such as submarines, particularly when in restricted waters.

1033. Crew at Quarters on Entering or Leaving Port.

The crew shall be paraded at quarters during daylight on entering or leaving port on occasions of ceremony except when weather or other circumstances make it impracticable or undesirable to do so. Ordinarily, occasions of ceremony shall be construed as visits that are not operational; at homeport when departing for or returning from a lengthy deployment; and visits to foreign ports not visited recently; and other special occasions so determined by a superior. In lieu of parading the entire crew at quarters, an honor guard may be paraded in a conspicuous place on weather decks.

1034. Definitions.

1. The term "official visit" shall be construed to mean a formal visit of courtesy requiring special honors and ceremonies.

2. The term "call" shall be construed to mean an informal visit of courtesy requiring no special ceremonies.

1035. Table of Honors for Official Visits of United States Officers.

Except as modified or dispensed with by these regulations, the honors prescribed in this table shall be rendered by a ship or station on the occasion of the official visits of the following United States officers (ashore, the single gun salute, when prescribed below, shall be fired on arrival instead of on departure):

Officer	Uniform	Gun Salute		Ruffles and flourishes	Music	Guard	Side boys[2]
		Arrival	Departure				
Chairman, Joint Chiefs of Staff[3]	Full dress	19	19	4	General's or Admiral's march	Full	8
Chief of Staff, U.S. Army[3]	do	19	19	4	General's march	do	6
Chief of Naval Operations[3, 6]	do	19	19	4	Admiral's march	do	6
Chief of Staff, U.S. Air Force[3]	do	19	19	4	General's march	do	6
Commandant of the Marine Corps[3, 6]	do	19	19	4	Admiral's march	do	6
General of the Army[3]	do	19	19	4	General's march	do	6
Fleet Admiral[3]	do	19	19	4	Admiral's march	do	6
General of the Air Force[3]	do	19	19	4	General's march	do	6
Generals[4]	do	17	17	4	do[1]	do	6
Admirals[4]	do	17	17	4	Admiral's march	do	6
Naval or other Military Governor, commissioned as such by the President, within the area of his jurisdiction.	do		17	4	General's[1] or Admiral's march	do	6
Vice Admiral or Lieutenant General[5]	do		15	3	do[1]	do	6
Rear Admiral or Major General	do		13	2	do[1]	do	6
Commodore or Brigadier General	do		11	1	do[1]	do	6
Captain, Commander, Colonel, or Lieutenant Colonel	Of the day					Of the day	4
Other commissioned officers	do					do	2

[1]Marine Corps general officers receive the Admiral's March.

[2]Not appropriate on shore installations.

[3]Take precedence, in order, after Secretary of the Air Force. (Art. 1036 Table)

[4]Take precedence, after Under Secretary of the Air Force. (Art. 1036 Table)

[5]Take precedence, after other Under Secretaries of Cabinet. (Art. 1036 Table)

[6]On official occasions, honors may be rendered to retired flag and general officers with their permission and at discretion of local commanders. Honors so rendered will be in accord with retired (Fuels except former Chiefs of Naval Operations and former Commandants of the Marine Corps will receive the honors prescribed for these officers.

1036. Table of Honors for Official Visits of United States Civil Officials.

Except as modified or dispensed with by these regulations, the honors prescribed in this table shall be rendered by a single ship or station on the occasion of the official visit of the following United States civil officials. (Ashore, the single gun salute, when prescribed below, shall be fired on arrival instead of on departure.)

HONORS AND CEREMONIES [1]

Official	Uniform	Gun Salute		Ruffles and Flourishes	Music	Guard	Side boys [2]	Crew [3]	Within what limits	Flag [4]		
		Arrival	Departure							What	Where	During
The President	Full Dress	21	21	4	National Anthem [5]	Full	8	Man Rail		President's	Main Truck	Visit
Former Presidents	Do		21	4	Admiral's March	Do	8	Quarters		National	Do	Salute
Vice President	Do		19	4	All Columbia Admiral's March	Do	8	Quarters		Vice President's	Do	Visit
Governor of a State	Do		19	4		Do	8		Area under his jurisdiction	National	Fore Truck	Salute
Speaker of the House of Representatives	Do		19	4	Do	Do	8			Do	Do	Do
The Chief Justice of the United States	Do		19	4	Do	Do	8			Do	Do	Do
Ambassador, High Commissioner, or special diplomatic representative whose credentials give him authority equal to or greater than that of an Ambassador	Do		19	4	National Anthem	Do	8		Nation or nations to which accredited	Do	Do	Do
Secretary of State	Do		19	4	Do	Do	8			Do	Do	Do
U.S. Representative to the U.N.	Do		19	4	Admiral's March	Do	8			Do	Do	Do
Associate Justices of the Supreme Court	Do		19	4	Do	Do	8			Do	Do	Do
Secretary of Defense	Do	19	19	4	Honor's March [3]	Do	8	Quarters		Secretary's	Main Truck	Visit

HONORS AND CEREMONIES [1]

Official	Uniform	Gun Salute		Ruffles and Flourishes	Music	Guard	Side boys [2]	Crew [3]	Within what limits	Flag [4]		
		Arrival	Departure							What	Where	During
Cabinet Officers (other [2] than Secretaries of State and Defense)	Full Dress		19	4	Admiral's March	Full	8			National	Fore Truck	Salute
President Pro Tempore of Senate	Do		19	4	Admiral's March	Do	8			Do	Do	Do
United States Senators	Do		19	4	Do	Do	8			Do	Do	Do
Governor of a State of the United States	Do		19	4	Do	Do	8		Out of jurisdiction	Do	Do	Do
Members of the House of Representatives	Do		19	4	Do	Do	8			Do	Do	Do
Deputy Secretary of Defense	Do	19	19	4	Honor's [3] March	Do	8	Quarters		Deputy Secretary's	Main Truck	Visit
Secretary of the Army	Do	19	19	4	Do	Do	8			National	Fore Truck	Salute
Secretary of the Navy	Do	19	19	4	Do	Do	8	Quarters		Secretary's	Main Truck	Visit
Secretary of the Air Force	Do	19	19	4	Do	Do	8			National	Fore Truck	Salute
Director of Defense Research and Engineering	Do	19	19	4	Do	Do	8	Quarters		Director's	Main Truck	Visit
Assistant Secretaries of Defense and General Counsel of DoD	Do	17	17	4	Do	Do	8	Quarters		Assistant Secretary's	Do	Do
Under Secretary of the Army	Do	17	17	4	Do	Do	8			National	Fore Truck	Salute
Under Secretary of the Navy	Do	17	17	4	Do	Do	8	Quarters		Under Secretary's	Main Truck	Visit
Under Secretary of the Air Force	Do	17	17	4	Do	Do	8			National	Fore Truck	Salute
Assistant Secretaries of the Army	Do	17	17	4	Do	Do	8			National	Do	Do

HONORS AND CEREMONIES[1]

Official	Uniform	Gun Salute		Ruffles and Flourishes	Music	Guard	Side boys[2]	Crew[3]	Within what limits	Flag		
		Arrival	Departure							What	Where	During
Assistant Secretaries of the Navy	Full Dress	17	17	4	Honor's[3] March	Full	8	Quarters		Assistant Secretary's	Main Truck	Visit
Assistant Secretaries of the Air Force	Do	17	17	4	Do	Do	8			National	Fore Truck	Salute
Governor General or Governor of a Commonwealth or Possession of the United States, or area under United States jurisdiction	Do		17	4	Admiral's March	Do	8		Area under his jurisdiction	Do	Do	Do
Other Under Secretaries of Cabinet, and the Deputy Attorney General	Do		17	4	Do	Do	8			Do	Do	Do
Envoy Extraordinary and Minister Plenipotentiary	Do		15	3	Do	Do	8		Nation to which accredited	Do	Do	Do
Minister Resident	Do		13	2	Do	Do	6		Do	Do	Do	Do
Chargé d' Affaires	Do		11	1	Do	Do	6		Do	Do	Do	Do
Career Minister, or Counselor of Embassy or Legation	Do			1	Do	Do	6		Do			
Consul General or Consul or Vice Consul or Deputy Consul General when in charge of a Consulate General	Do		11	1	Do	Do	6		District to which assigned	Do	Do	Do
First Secretary of Embassy or Legation	Of the day					Of the day	4		Nation to which accredited			
Consul or Vice Consul when in charge of a Consulate	Do		7			Do	4		District to which assigned	Do	Do	Do
Mayor of an incorporated city	Do					Do	4		Within limits of mayoralty			
Second or Third Secretary of Embassy or Legation	Do						2		Nation to which accredited			

HONORS AND CEREMONIES [5]

Official	Uniform	Gun Salute		Ruffles and Flourishes	Music	Guard	Side boys[2]	Crew[3]	Within what limits	Flag		
		Arrival	Departure							What	Where	During
Vice Consul when only representative of United States, and not in charge of a Consulate General or Consulate	Of the day		3			Of the day	2		District to which assigned	National	Fore Truck	Salute
Consular Agent when only representative of the United States	Do						2		Do			

[1] See Article regarding musical honors to President

[2] In the order of precedence as follows:
Secretary of State
Secretary of the Treasury
Secretary of Defense
Attorney General

Secretary of the Interior
Secretary of Agriculture
Secretary of Commerce
Secretary of Labor
Secretary of Health, Education, and Welfare
Secretary of Housing and Urban Development
Secretary of Transportation

[3] 12-bar melody in the trio of "Stars and Stripes Forever"

[4] Not appropriate on shore installations

[5] Not to be considered as a precedence list

1037. Table of honors for Official Visits of Foreign Officials and Officers.

Except as modified or dispensed with by these regulations, the honors prescribed in this table shall be rendered by a ship or station on the occasion of the official visit of the following foreign officials and officers (shore, the single gun salute, when prescribed below, shall be fired on arrival instead of on departure):

Official or officer	Uniform	Gun Salute			Music	Guard	Side boys, etc.	Crew[1]	Flag		
		Arrival	Departure	Marines and Marksmen					What	Where	During
President or Sovereign.	Full dress	21	21	4	Foreign national anthem	Full	8	Man rail	Foreign ensign	Main Truck	Visit
Member of reigning royal family.	do	21	21	4	do	do	8	do	do	do	Salute
Prime Minister or other cabinet officer.	do		19	4	Admiral's march	do	6		do	Bow Truck	do
Officer of armed forces, diplomatic or consular representative in country to which accredited, or other distinguished official.	Civil officials: Honors as for official of the United States of comparable position. For example, foreign civil officials, occupying positions comparable to U.S. Department of Defense civil officials, shall receive equivalent honors. Officers of Armed Forces: Honors as for officer of the United States of the same grade, except, that equivalent honors shall be rendered to foreign officers who occupy a position comparable to Chairman JCS, CNO, Chief of Staff Army, Chief of Staff Air Force, or CMC.										
Official not herein provided for.	Honors as prescribed by the senior officer present; such honors normally shall be those accorded the foreign official when visiting officially a ship of his own nation, but a gun salute, if prescribed, shall not exceed 19 guns.										

[1] Not appropriate on shore installations.

1038. Table of Precedence of Diplomatic and Consular Representatives.

A diplomatic representative in a country to which accredited, and a consular representative in a district to which assigned, takes precedence as follows:

Official	Takes precedence
Chief of a United States diplomatic mission, including a Chargé d' Affaires.[1]	Over any officer of the armed services of the United States; and over any United States civil official, except the Secretary of State, whose official salute is less than 21 guns.
Career Minister	With, but before, commodore or brigadier general.
Counselor	With, but after, commodore or brigadier general
First Secretary, when no Counselor is assigned	
Consul General, or Consul or Vice Consul or Deputy Consul General when in charge of a Consulate General	
First Secretary, when a Counselor is assigned	With, but after, captain in the Navy.
Consul or Vice Consul when in charge of a Consulate	
Second Secretary	
Vice Consul	
Third Secretary	With, but after, lieutenant in the Navy.
Consular Agent	

[1] No acting chief of a United States diplomatic mission when holding the title of Chargé d' Affaires takes precedence as specified in this table but shall be accorded the honors specified for a Chargé d' Affaires on the occasion of an official visit.

1039. Official Visits to the President and to Civil Officials of Department of Defense.

When the President, the Secretary of Defense, Deputy Secretary of Defense, the Secretary of the Navy, Director of Defense Research and Engineering, an Assistant Secretary of Defense, the Under Secretary of the Navy, or an Assistant Secretary of the Navy, away from the seat of government, arrives in the vicinity of a naval command, the senior officer present shall, if practicable and appropriate, pay him an official visit. Such visit ordinarily is not returned.

1040. Official Visits and Calls Among Officers of the Naval Service.

1. An officer assuming command shall, at the first opportunity thereafter, make an official visit to the senior to whom he has reported for duty in command, and to any successor of that senior; except that for shore commands a call shall be made in lieu of such official visit.

2. Unless dispensed with by the senior, calls shall be made:

a. By the commander of an arriving unit upon his immediate superior in the chain of command if present; and, when circumstances permit, upon the senior officer present.

b. By an officer in command upon an immediate superior in the chain of command on the arrival of the latter.

c. By an officer who has been the senior officer present, upon his successor.

d. By the commander of a unit arriving at a naval base or station upon the commander of such base or station; except that when the former is senior, the latter shall make the call.

e. By an officer reporting for duty, upon his commanding officer.

3. When arrivals occur after 1600, or on Sunday, or on a holiday, the required calls may be postponed until the next working day.

1041. Official Visits or Calls Between Officers of the Naval Service and Other Armed Services.

When in the vicinity of a command of another armed service of the United States, the senior officer present in the naval service shall arrange with the commander concerned for the exchange of official visits, or calls, as appropriate.

1042. Official Visits With United States Diplomatic and Consular Representatives.

1. Upon arrival in a foreign port where United States diplomatic or consular representatives accredited to that foreign government are present, the senior officer present, shall, if time and circumstances permit, exchange official visits with both the senior diplomatic representative, and the senior consular representative present. When practicable, prior notice of his arrival in port, and the probable duration of stay, shall be given to such representative. A suitable boat shall be furnished them for making official visits.

2. Officers of the naval service shall make the first visit to the chief of a diplomatic mission of or above the rank of charge d'affaires.

3. In the exchange of visits with consular representatives, officers in the naval service shall make or receive the first official visit in accordance with their relative precedence with the consular representatives concerned, as set forth in the precedence table of this chapter.

1043. Official Visits With Governors of United States Territories, Commonwealths, and Possessions.

1. At the seat of government of a United States territory, commonwealth or possession having a governor general or governor commissioned as such by the President, the senior officer present shall, within twenty-four hours after arrival or assuming command, make an official visit to the governor general or governor; or in his absence to the acting governor general or governor.

2. When the senior officer permanently established in command ashore in such territory, commonwealth or possession is not the senior officer present, he shall also make an official visit to the governor general or governor as soon as practicable after assuming command.

3. Similar visits shall be made whenever a governor general or governor assumes office.

4. A flag or general officer may expect such visits to be returned in person by the official to whom it was made. Other officers may expect such visits to be returned by a suitable representative.

5. The provisions of this article shall apply in the case of an officer of the armed services commissioned as governor general or governor by the President, regardless of his naval or military rank.

6. Modification of the provisions of this article may be effected upon agreement with the governor general or governor.

1044. Official Visits With Foreign Officials and Officers.

1. The senior officer present shall make official visits to foreign officials and officers as custom and courtesy demand.

2. When in doubt as to what foreign officials and officers are to be visited, saluted, or otherwise honored, or as to the rank of any official or officer, or whether a gun salute involving a return will be returned, the senior officer present shall send an officer to obtain the required information.

3. When exchanging official visits with a foreign officer who occupies a position comparable to the Chairman, Joint Chiefs of Staff, Chief of Staff, U. S. Army, Chief of Naval Operations, Chief of Staff, U. S. Air Force, or Commandant of the Marine Corps, the rank of the foreign officer shall be considered equivalent to these United States officers and the first official visit shall be made accordingly.

4. The following rules, in which the maritime powers generally have concurred, shall be observed by officers of the naval service, and their observance by foreign officers may be expected:

a. The senior officer present shall, upon the arrival of foreign warships, send an officer to call upon the officer in command of the arriving ships to offer customary courtesies and exchange information as appropriate; except that in a foreign port such calls shall be made only if the officer in command of the arriving ships is the senior officer present afloat of his nation. This call will be returned at once.

b. Within twenty-four hours after arrival, the senior officer in command of arriving ships shall, if he be the senior officer present of his nation, make an official visit to the senior officer present of each foreign nation who holds a grade equal or superior to his; and the senior officer present of each foreign nation who holds a grade junior to his will make an official visit to him within the same time limit.

c. After the interchange of visits between the senior officers specified above, other flag officers in command and the commanding officers of ships arriving shall exchange official visits, when appropriate, with the flag and commanding officers of ships present. An arriving officer shall make the first visits to officers present who hold grades equal or superior to his, and shall receive the first visits from others.

d. It is customary for calls to be exchanged by committees of wardroom officers of the ships of different nations present, in the order in which their respective commanding officers have exchanged visits.

e. Should another officer become the senior officer present of a nation, he shall exchange official visits with foreign senior officers present as prescribed in this article.

1045. Uniform for Official Visits.

Unless otherwise prescribed by the senior concerned:

a. A junior making an official visit shall wear the uniform prescribed in the tables of this chapter opposite the grade of the senior to whom the visit is made.

b. A senior returning an official visit shall wear the uniform corresponding to that which the junior has worn.

c. An officer receiving an official visit, and all participants in the reception, including the crew if paraded, shall wear the uniform prescribed in the tables of this chapter opposite the grade of the official or officer from whom the visit is received.

d. Boat crews shall wear the uniform corresponding to that worn by the senior officer embarked.

1046. Honors on Departure for, or Return From, an Official Visit.

An officer leaving or returning to his flagship or command upon the occasion of an official visit shall be rendered the honors prescribed for an official visit except that, aboard his flagship, the uniform of the day normally shall be worn and gun salutes shall not be fired.

1047. Procedure for Official Visits.

1. The honors prescribed for an official visit shall be rendered on arrival as follows:

a. When the rail is manned, men shall be uniformly spaced at the rail on each weather deck, facing outboard.

b. "Attention" shall be sounded as the visitor's boat or vehicle approaches the ship.

c. If a gun salute is prescribed on arrival, it shall be fired as the visitor approaches and is still clear of the side. The prescribed flag or pennant shall be broken on the visited ship on the first gun and hauled down on the last gun except where prescribed in the Table of Honors for the duration of the visit. Other ships firing a concurrent salute shall on the last gun haul down the flag or pennant displayed in honor of the visitor. If the ship being visited is moored to a pier in such a position that it is not practicable to render the gun salute prior to the arrival on board, the salute shall be rendered, provided local regulations do not forbid gun salutes, after the official has arrived on board and the commanding officer has assured himself that the official and his party are moved to a position in the ship that is well clear of the saluting battery.

d. The boat or vehicle shall be piped as it comes alongside.

e. The visitor shall be piped over the side, and all persons on the quarter-deck shall salute and the guard shall present arms until the termination of the pipe, flourishes, music, or gun salute, whichever shall be the last rendered. If the gun salute is not prescribed on arrival and a flag or pennant is to be displayed during the visit, it shall be broken at the start of the pipe.

f. The piping of the side, the ruffles and flourishes, and the music shall be rendered in the order named. In the absence of a band, "To the Colors" shall be sounded by bugle in lieu of the National Anthem, when required.

g. The visitor, if entitled to 11 guns or more, shall be invited to inspect the guard upon completion of such honors as may be rendered.

2. The honors prescribed for an official visit shall be rendered on departure as follows:

a. The rail shall be manned, if required.

b. "Attention" shall be sounded as the visitor arrives on the quarter-deck.

c. At the end of leave taking the guard shall present arms, all persons on the quarter-deck shall salute, and the ruffles and flourishes, followed by the music, shall be rendered. As the visitor enters the line of side boys, he shall be piped over the side. The salute and present arms shall terminate with the pipe; and, unless a gun salute is to be fired, a flag or pennant displayed in honor of the visitor shall be hauled down.

d. The boat or vehicle shall be piped away from the side.

e. If a gun salute is prescribed on departure, it shall be fired when the visitor is clear of the side and the flag or pennant displayed in honor of the visitor shall be hauled down with the last gun of the salute.

3. The same honors and ceremonies as for an official visit to a ship of the Navy shall be rendered, insofar as practicable and appropriate, on the occasion of an official visit to a naval station except that manning the rail, piping the side, and parading side boys are not considered appropriate. When, in the opinion of the senior officer present, such honors will serve a definite purpose, they may be rendered.

1048. Returning Official Visits and Calls.

1. An official visit shall be returned within twenty-four hours, when practicable.

2. A flag or general officer shall, circumstances permitting, return the official visits of officers of the grade of captain in the Navy or senior thereto, and to officials of corresponding grade. He may send his chief of staff to return other official visits.

3. Officers other than flag or general officers shall personally return all official visits.

4. Flag and general officers may expect official visits to be returned in person by foreign governors, officers, and other high officials except chiefs of state. Other officers may expect such visits to be returned by suitable representatives.

5. Calls made by juniors upon seniors in the naval service shall be returned as courtesy requires and circumstances permit; calls made by persons not in the naval service shall be returned.

1049. Side Honors.

1. On the arrival and departure of civil officials and foreign officers, and of United States officers when so directed by the senior officer present, the side shall be piped and the appropriate number of side boys paraded.

2. Officers appropriate to the occasion shall attend the side on the arrival and departure of officials and officers.

1050. Dispensing With Side Boys and Guard and Band.

1. Side boys shall not be paraded on Sunday, or on other days between sunset and 0800, or during meal hours of the crew, general drills and evolutions, and periods of regular overhaul; except in honor of civil officials or foreign officers, when they may be paraded at any time during daylight. Side boys shall be paraded only for scheduled visits.

2. Except for official visits and other formal occasions, side boys shall not be paraded in honor of officers of the armed services of the United States, unless otherwise directed by the senior officer present.

3. Side boys shall not be paraded in honor of an officer of the armed services in civilian clothes, unless such officer is at the time acting in an official civil capacity.

4. The side shall be piped when side boys are paraded, but not at other times.

5. The guard and band shall not be paraded in honor of the arrival or departure of an individual at times when side boys in his honor are dispensed with except at naval shore installations.

1051. Uniform for Members of the Marine Corps.

Members of the Marine Corps will wear dress uniform when full dress is prescribed for naval personnel.

1052. Honors to an Official Entitled to 19 or More Guns.

An official or officer entitled to a salute of 19 or more guns shall receive the honors for an official visit, subject to the regulations pertaining to gun salutes, on the occasion of every visit.

1053. Honors for a Flag or General Officer, or Unit Commander, Assuming or Relieving Command.

1. On the occasion of a flag or general officer or unit commander assuming command, and on the departure of such officer after being relieved, honors shall be rendered as for an official visit; subject to the regulations pertaining to gun salutes.

2. If the flag officer or unit commander is assuming a command, he shall read his orders to the assembled officers and crew, immediately after which his flag or command pennant shall be broken, and a gun salute, if required by these regulations, shall be fired.

3. If the flag officer or unit commander is relieving another officer in command, the officer being relieved shall read his orders

to the assembled officers and crew, and on completion thereof, or after the gun salute, if fired, his flag or command pennant shall be hauled down. The officer succeeding to command shall then read his orders, and on the completion thereof his flag or command pennant shall be broken. Aboard ship the commission pennant shall be displayed while no personal flag or command pennant is flying.

1054. Honors at Official Inspection.

1. When a flag officer or unit commander boards a ship of the Navy to make an official inspection, honors shall be rendered as for an official visit, except that the uniform shall be as prescribed by the inspecting officer. His flag or command pennant shall be broken upon his arrival, unless otherwise prescribed in these regulations, and shall be hauled down on his departure.

2. The provisions of this article shall apply, insofar as practicable and appropriate, when a flag or general officer, in command ashore, makes an official inspection of a unit of his command.

1055. Honors for a Civil Official Taking Passage.

When a civil official of the United States takes passage officially in a ship of the Navy, he shall on embarking and disembarking be rendered honors as prescribed for an official visit for such official. In addition, if entitled to a gun salute, he shall be rendered this salute when he disembarks in a port of the foreign nation to which he is accredited.

1056. Quarter-Deck.

The commanding officer of a ship shall establish the limits of the quarter-deck and the restrictions as to its use. The quarter-deck shall embrace so much of the main or other appropriate deck as may be necessary for the proper conduct of official and ceremonial functions.

1057. Musical Honors to the President of the United States.

1. If, in the course of any ceremony, it is required that honors involving musical tribute to the President of the United States be performed more than one time, "Hail to the Chief" may be used interchangeably with the National Anthem as honors to the President of the United States.

2. When specified by the President of the United States, the Secretary of State, the Chief of the Secret Service, or their authorized representatives, "Hail to the Chief" may be used as an opportunity for the President and his immediate party to move to or from their places while all others stand fast.

1058. Authorized Display of Flags and Pennants.

1. When the national ensign is displayed on occasions other than those prescribed in these regulations, the manner of display shall be as prescribed in Navy Department publications.

2. No flags or pennants, other than as prescribed by these regulations or as may be directed by the Secretary of the Navy, shall be displayed from a ship or craft of the Navy, or from a naval station, as an honor to a nation or an individual or to indicate the presence of any individual.

3. All flags and pennants displayed in accordance with these regulations shall conform to the pattern prescribed in Navy Department publications.

4. Flags or pennants of officers not eligible for command at sea shall not be displayed from ships of the United States Navy.

1059. Display of National Ensign, Union Jack and Distinctive Mark From Ships and Craft.

1. The national ensign, union jack, personal flag or pennant, or commission pennant shall be displayed from ships and craft of the Navy as specified in the following table:

Ships or craft	National ensign displayed	Union jack displayed	Personal flag, command pennant, or commission pennant displayed
Active:			
In commission	Yes.	Yes.	Yes.
In service	Yes.	Yes.	No.[2]
Inactive:			
In commission, in reserve	Yes.	Yes.	Yes.
In service, in reserve	Yes.	Yes.	No.
Out of commission, in reserve	No[1].	No.	No.
Out of service, in reserve	No[1].	No.	No.
Special status:			
In commission, special	Yes.	Yes.	Yes.
In service, special	Yes.	Yes.	No.
Out of Commission, special	No[1].	No.	No.
Out of service, special	No[1].	No.	No.

[1] National ensign shall be displayed if necessary to indicate the national character of the ship or craft.

[2] Applies to display of commission pennant only. A flag officer or unit commander embarked may display a personal flag or command pennant.

2. The distinctive mark of a ship or craft of the Navy in commission shall be a personal flag or command pennant of an officer of the Navy, or a commission pennant. The distinctive mark of a hospital ship of the Navy, in commission, shall be the Red Cross flag.

a. Not more than one distinctive mark shall be displayed by a ship or craft at one time, nor shall the commission pennant and the personal flag of a civil official be displayed at one time.

b. Except as prescribed in these regulations for certain occasions of ceremony and when civil officials are embarked, the distinctive mark shall be displayed day and night at the after masthead or, in a mastless ship, from the loftiest and most conspicuous hoist.

3. When not underway the national ensign and the union jack shall be displayed from 0800 until sunset from the flagstaff and the jack staff respectively. A ship which enters port at night shall, when appropriate, display the national ensign from the gaff at daylight for a time sufficient to establish her nationality; it is customary for other ships of war to display their national ensigns in return.

4. The national ensign shall be displayed during daylight from the gaff (or from the triatic stay in the case of those ships with mast mounted booms and stays which would interfere with the hoisting, lowering or flying of the ensign) of a ship under way under the following circumstances, unless or as otherwise directed by the senior officer present.

a. Getting underway and coming to anchor.

b. Falling in with other ships.

c. Cruising near land.

d. During battle.

5. The union jack displayed from the jack staff shall be the size of the union of the national ensign displayed from the flagstaff.

6. The union jack shall be displayed at a yardarm to denote that a general court-martial or court of inquiry is in session.

1060. National Ensign at Commands Ashore.

The national ensign shall be displayed from 0800 to sunset near the headquarters of every command ashore, or at the headquarters of the senior when the proximity of headquarters of two or more commands makes the display of separate ensigns inappropriate. When an outlying activity of the command is so located that its governmental character is not clearly indicated by the display of the national ensign as prescribed above, the national ensign shall also be displayed at that activity.

1061. Display of National Ensign During Gun Salute.

1. A ship of the Navy shall display the national ensign at a masthead while firing a salute in honor of a United States national anniversary or officials, as follows:

a. At the main during the national salute prescribed for the third Monday in February and the 4th of July.

b. At the main during a 21-gun salute to a United States civil official, except by a ship displaying the personal flag of the official being saluted.

c. At the fore during a salute to any other United States civil official, except by a ship which is displaying the personal flag of the official being saluted.

2. During a gun salute, the national ensign shall remain displayed from the gaff or the flagstaff, in addition to the display of the national ensign prescribed in this article.

1062. Display of National Ensign in Boats.

The national ensign shall be displayed from water-borne boats of the naval service:

a. When under way during daylight in a foreign port.

b. When ships are required to be dressed or full-dressed.

c. When going alongside a foreign vessel.

d. When an officer or official is embarked on an official occasion.

e. When a flag or general officer, a unit commander, a commanding officer, or a chief of staff, in uniform, is embarked in a boat of his command or in one assigned to his personal use.

f. At such other times as may be prescribed by the senior officer present.

1063. Dipping the National Ensign.

1. When any vessel, under the United States registry or the registry of a nation formally recognized by the Government of the United States, salutes a ship of the Navy by dipping her ensign, it shall be answered dip for dip. If not already being displayed, the national ensign shall be hoisted for the purpose of answering the dip. An ensign being displayed at half-mast shall be hoisted to the truck or peak before a dip is answered.

2. No ship of the Navy shall dip the national ensign unless in return for such compliment.

3. Of the colors carried by a naval force on shore, only the battalion or regimental colors shall be dipped in rendering or acknowledging a salute.

4. Submarines, or such other ships of the line in which it would be considered hazardous for personnel to do so, shall not be required to dip the ensign.

1064. Half-Masting the National Ensign and Union Jack.

1. In half-masting the national ensign it shall, if not previously hoisted, first be hoisted to the truck or peak and then lowered to half-mast. Before lowering from half-mast, the ensign shall be hoisted to the truck or peak and then lowered.

2. When the national ensign is half-masted, the union jack, if displayed from the jack staff, shall likewise be half-masted.

3. Personal flags, command pennants, and commission pennants shall not be displayed at half-mast except as prescribed in these regulations for a deceased official or officer.

4. When directed by the President the national ensign shall be flown at half-staff at military facilities and naval vessels and stations abroad whether or not the national ensign of another nation is flown ful-staff alongside that of the United States.

1065. Following Motions of Senior Officer Present in Hoisting and Lowering the National Ensign.

1. On board ship or at a command ashore, upon all occasions of hoisting, lowering, or half-masting the national ensign, the motions of the senior officer present shall be followed, except as prescribed for answering a dip or firing a gun salute.

2. A ship displaying the flag of the President, Secretary of Defense, Deputy Secretary of Defense, Secretary of the Navy, Director of Defense Research and Engineering, an Assistant Secretary of Defense, Under Secretary of the Navy, or an Assistant Secretary of the Navy shall be regarded as the ship of the senior officer within the meaning of this article.

1066. Personal Flags and Pennants Afloat.

1. Except as otherwise prescribed in these regulations, a flag officer or a unit commander afloat shall display his personal flag or command pennant from his flagship. At no time shall he display it from more than one ship.

2. When a flag officer eligible for command at sea is embarked for passage in a ship of the Navy, his personal flag shall be displayed from such ship, unless there is already displayed from such ship the flag of an officer his senior.

3. When a civil official, in whose honor the display of a personal flag is prescribed during an official visit, is embarked for passage in a ship of the Navy, his personal flag shall be displayed from such ship.

4. A personal flag or command pennant may be hauled down during battle or at any time when the officer concerned, or the senior officer present, considers that it is desirable thus to render a flagship less distinguishable. When hauled down it shall be replaced with a commission pennant.

5. An officer of the Navy commanding a ship engaged otherwise than in the service of the United States shall not display a personal flag, command pennant, or commission pennant from such ship, or in the bow of a boat.

6. A ship under way shall not display a personal flag or command pennant unless a flag officer or unit commander is aboard. Should a flagship get under way during the absence of the flag officer or unit commander, the personal flag or command pennant shall be hauled down and replaced with a commission pennant.

1067. Broad or Burgee Command Pennant.

1. The broad or burgee command pennant shall be the personal command pennant of an officer of the Navy, not a flag officer, commanding a unit of ships or aircraft.

2. The broad command pennant shall indicate command of:

a. A division of battleships, aircraft carriers, or cruisers.

b. A force, flotilla, or squadron of ships or craft of any type.

c. An aircraft wing, carrier air wing, or carrier air group.

3. The burgee command pennant shall indicate command of:

a. A division of ships or craft other than battleships, aircraft carriers, or cruisers.

b. A major subdivision of an aircraft wing or group.

1068. Display of More Than One Personal Flag or Pennant Aboard Ship.

1. When the personal flag of a civil official is displayed aboard a ship of the Navy, a personal flag or command pennant of an officer of the Navy, shall be displayed, if required, as follows:

a. Aboard a single-masted ship, at the starboard yardarm.

b. Aboard a two-masted ship, at the fore truck.

c. Aboard a ship with more than two masts, at the after truck.

2. When, in accordance with these regulations, the personal flag of a civil official and the personal flag or command pennant of an officer of the Navy are displayed at the starboard yardarm, the personal flag of the civil official shall be displayed outboard.

3. When two or more civil officials, for each of whom the display of a personal flag is prescribed, are embarked in the same ship of the Navy, the flag of the senior only shall be displayed.

1069. Display of a Personal Flag or Command Pennant When a National Ensign is at Masthead.

1. The President's flag, if displayed at a masthead where a national ensign is required to be displayed during an official visit or during periods of dressing or full-dressing ship, shall remain at that masthead to port of the United States national ensign and to starboard of a foreign national ensign.

2. Except as provided above, a personal flag or command pennant shall not be displayed at the same masthead with a national ensign, but shall:

a. During a gun salute, be lowered clear of the ensign.

b. During an official visit, be shifted to the starboard yardarm in a single-masted ship and to the fore truck in a two-masted ship.

c. During periods of dressing or full-dressing ship:

(1) If displayed from the fore truck or from the masthead of a single-masted ship, be shifted to the starboard yardarm.

(2) If displayed from the main truck, be shifted to the fore truck in lieu of the national ensign at that mast.

(3) If displayed from the after truck of a ship with more than two masts, remain at the after truck in lieu of the national ensign at that mast.

1070. Personal Flags and Pennants Ashore.

1. A flag or general officer in command ashore shall display his personal flag day and night at a suitable and conspicuous place within his command. When such officer makes an official inspection at an outlying activity of his command, his flag shall, if practicable and appropriate, be shifted to such outlying activity.

2. A flag officer or unit commander of the operating forces whose headquarters are ashore shall display his personal flag or pennant day and night at a suitable and conspicuous place at his headquarters, unless it is displayed from a ship of his command.

3. When the points for display of two or more personal flags ashore are in such close proximity as to make their separate display inappropriate, that of the senior officer present only shall be displayed.

4. When a personal flag or a foreign ensign is required to be displayed ashore during the official visit of, or a gun salute to, a civil official or foreign officer, it shall be displayed from the normal point of display of a personal flag or pennant of the officer in command, and the latter's flag or pennant shall be displayed at some other point within the command.

5. During the official inspection by a flag or general officer of a unit of his command ashore, his personal flag shall displace a personal flag or pennant of the officer in command.

6. If two or more civil officials, for each of whom the display of a personal flag is prescribed, are present officially at a command ashore at the same time, the flag of the senior only shall be displayed.

1071. Personal Flag or Command Pennant, When Officer Temporarily Succeeded in Command.

1. When a flag or general officer or a unit commander has been succeeded temporarily in command, as prescribed in these regulations, his personal flag or command pennant shall be hauled down. The officer who has succeeded temporarily to the command shall display the personal flag or command pennant to which he is entitled by these regulations.

2. In a foreign port upon the occasion of the absence of a flag officer from his command for a period exceeding 72 hours, the command subject to any directions from the flag officer, shall devolve upon the senior officer present of the unit who is eligible for the exercise of command at sea, but as standard procedure the flag officer's flag shall continue to be flown in his regular flagship until that ship is under way, at which time the personal flag shall be hauled down and not again hoisted until the flag officer returns to his flagship. Commanders in chief and fleet commanders have authority to modify this procedure with respect to their personal flags as the exigencies of the service require.

1072. Absence Indicators.

In ships, the absence of an official or officer whose personal flag or pennant is displayed, a chief of staff, or a commanding officer shall be indicated from sunrise to sunset by the display of an absence indicator as prescribed in current instructions.

1073. Personal Flags and Pennants of Officers in Boats and Automobiles and Aircraft.

1. An officer in command, or a chief of staff when acting for him, when embarked in a boat of the naval service on official occasions, shall

display from the bow his personal flag or command pennant or, if not entitled to either, a commission pennant.

2. An officer entitled to the display of a personal flag or command pennant may display a miniature of such flag or pennant in the vicinity of the coxswain's station when embarked on other than official occasions in a boat of the naval service.

3. An officer entitled to the display of a personal flag or command pennant may, when riding in an automobile on an official occasion, display such flag or pennant forward on such vehicle.

4. An officer entitled to the display of a personal flag or command pennant may, when embarked in an aircraft on an official occasion, display such flag or pennant on both sides just forward and below the cockpit of such aircraft at rest.

1074. Flags of Civil Officials in Boats and Automobiles and Aircraft.

A flag shall be displayed in the bow of a boat in the naval service whenever a United States civil official is embarked on an official occasion, as follows:

a. A union jack for:

(1) A diplomatic representative of or above the rank of charge d'affaires, within the waters of the country to which he is accredited.

(2) A governor general or governor commissioned as such by the President, within the area under his jurisdiction.

b. The consular flag for a consular representative.

c. The prescribed personal flag for other civil officials when such officials are entitled to the display of a personal flag during an official visit.

d. A civil official entitled to the display of a personal flag may, when riding in an automobile on an official occasion, display such flag forward on such vehicle.

e. A civil official entitled to the display of a personal flag may, when embarked in an aircraft, display a miniature of such flag on both sides just forward and below the cockpit of such aircraft at rest.

1075. Bow Insignia and Flagstaff Insignia for Boats.

1. A boat regularly assigned to an officer for his personal use shall carry insignia on each bow as follows:

a. For a flag or general officer, the stars as arranged in his flag.

b. For a unit commander not a flag officer, a replica of his command pennant.

c. For a commanding officer, or a chief of staff not a flag officer, an arrow.

2. Staffs for the ensign, and for the personal flag or pennant in a boat assigned to the personal use of a flag or general officer, unit commander, chief of staff, or commanding officer, or in which a civil official is embarked, shall be fitted at the peak with devices as follows:

a. A spread eagle: For an official or officer whose official salute is 19 or more guns.

b. A halberd:

(1) For a flag or general officer whose official salute is less than 19 guns.

(2) For a civil official whose official salute is 11 or more guns but less than 19 guns.

c. A ball:

(1) For an officer of the grade, or relative grade, of captain in the Navy.

(2) For a career minister, a counselor or first secretary of embassy or legation, or a consul.

d. A star: For an officer of the grade, or relative grade, of commander in the Navy.

e. A flat truck:

(1) For an officer below the grade, or relative grade, of commander in the Navy.

(2) For a civil official not listed above, and for whom honors are prescribed for an official visit.

1076. Display of Foreign National Ensign During Gun Salutes.

1. While firing a salute to the nation upon entering a foreign port, returning such salute fired by a foreign warship, or firing a salute on the occasion of a foreign national anniversary, celebration, or solemnity, a ship shall display the ensign of the foreign nation at the main truck.

2. While firing a salute to a foreign dignitary or offical entitled to 21 guns, a ship shall display the national ensign of such dignitary or official at the main truck. While firing a salute to the foreign official entitled to less than 21 guns, or to a foreign officer, or when returning

a salute fired by a foreign officer, the national ensign of the foreign official or officer shall be displayed at the fore truck.

3. At a naval station, under the circumstances set forth in the preceding paragraphs of this article, the appropriate foreign ensign shall be displayed from the normal point of display of the personal flag or pennant of the officer in command, and the latter's flag or pennant shall be displayed at some other point within the command.

1077. Display of National Ensigns of Two or More Nations.

1. When the national ensigns of two or more nations are required to be displayed from the same masthead, the United States national ensign, if required, shall be displayed to starboard of all others. The national ensigns of other nations shall be displayed, starboard to port, in the alphabetical order of the names of the nations in the English language; except that the ensign of a foreign nation within whose waters the ship is located, if displayed, shall be to starboard of other foreign ensigns.

2. While a salute is being fired under the foregoing conditions, the ensign of the nation being honored, or whose dignitary is being honored, shall be displayed alone.

3. In rendering honors, the national ensign of one nation shall not be displayed above that of another nation at the same masthead.

1078. Choice of Foreign Flag or Ensign in Rendering Honors.

In rendering honors requiring the display of a foreign flag or ensign:

a. In the case of a government having both a national flag and a national ensign (man-of-war flag), the national ensign shall be displayed except under the conditions set forth in this article.

b. In the case of a commonwealth, dominion, or similar government recognized as independent by the Government of the United States, which has a national flag of its own but which also employs the national ensign (man-of-war flag) of the empire or federation to which it belongs, the national flag of the commonwealth or dominion shall be displayed except when rendering honors to naval officers; in which latter case the national ensign (man-of-war flag) shall be displayed.

c. In the case of a government not recognized as independent by the Government of the United States, such as a protectorate or colony, the flag of the government exercising protective or colonial power shall be displayed except when otherwise directed by the Secretary of the Navy.

d. In the case of a government carried on by a joint mandate or trusteeship and having no distinct national flag of its own, the flags of the several countries comprising the mandate shall be displayed when rendering honors.

1079. Dressing and Full-Dressing Ship.

1. On occasions of dressing ship the largest national ensign with which the ship is furnished shall be displayed from the flagstaff, and except as prescribed for a ship displaying a personal flag or command pennant, a national ensign shall be displayed from each masthead. The national ensigns displayed at the masthead shall be of uniform size, except when, due to a substantial difference in heights of masthead, a difference in the size of national ensigns is appropriate.

2. On occasions of full-dressing ship, in addition to the dressing of the mastheads, a rainbow of signal flags, arranged in the order prescribed in Navy Department publications, shall be displayed, reaching from the foot of the jackstaff to the mastheads and thence to the foot of the flagstaff. Peculiarly masted or mastless ships shall make a display as little modified from the rainbow effect as is practicable.

3. When dressing or full-dressing ship in honor of a foreign nation, the national ensign of that nation shall replace the United States national ensign at the main, or at the masthead in the case of a single-masted ship; provided that when a ship is full-dressed or dressed in honor of more than one nation, the ensign of each such nation shall be displayed at the main, or at the masthead in a single-masted ship.

4. Should half-masting of the national ensign be required on occasions of dressing or full-dressing ship, only the national ensign at the flagstaff shall be half-masted.

5. When full-dressing is prescribed, the senior officer present may direct that dressing be substituted if, in his opinion, the state of the weather makes such action advisable. He may also, under such circumstances, direct that the ensigns be hauled down from the mastheads after being hoisted.

6. Ships not under way shall be dressed or full-dressed from 0800 until sunset. Ships under way shall not be dressed or full-dressed.

1080. Senior Officer Present Afloat Pennant.

If two or more ships of the Navy are together in port, the senior officer present afloat pennant shall be displayed from the ship in which the senior officer present afloat is embarked, except when the personal flag of the senior officer present afloat clearly indicates his seniority. It shall be displayed from the inboard halyard of the starboard main yardarm.

1081. Ships Passing Washington's Tomb.

When a ship of the Navy is passing Washington's tomb, Mount Vernon, Virginia, between sunrise and sunset, the following ceremonies shall be observed insofar as may be practicable: The full guard and band shall be paraded, the bell tolled, and the national ensign half-masted at the beginning of the tolling of the bell. When opposite Washington's tomb, the guard shall present arms, persons on deck shall salute, facing in the

direction of the tomb, and "Taps" shall be sounded. The national ensign shall be hoisted to the truck or peak and the tolling shall cease at the last note of "Taps", after which the National Anthem shall be played. Upon completion of the National Anthem, "Carry on" shall be sounded.

1082. National Holidays.

1. The following shall be observed as holidays on board ships of the Navy and at naval stations and activities: New Year's Day, the 1st of January; Washington's Birthday, the third Monday in February; Memorial Day, the last Monday in May; Independence Day, the 4th of July; Labor Day, the first Monday in September; Columbus Day, the second Monday in October; Veterans Day, the fourth Monday in October; Thanksgiving Day, the fourth Thursday in November; and Christmas Day, the 25th of December, and such other days as may be designated by the President.

2. Whenever any of the above-designated dates falls on Saturday, the preceding day shall be observed as a holiday, and whenever such date falls on Sunday, the following day shall be observed.

1083. Ceremonies for National Holidays.

1. On Washington's Birthday, the third Monday in February, and on Independence Day, the 4th of July, every ship of the Navy in commission, not under way, shall full-dress ship. At noon each saluting ship, and each naval station equipped with a saluting battery, shall fire a national salute of 21 guns.

2. On Memorial Day, the last Monday in May, each saluting ship, and each naval station having a saluting battery, shall fire at noon a salute of 21 minute-guns. All ships and naval stations shall display the national ensign at half-mast from 0800 until the completion of the salute or until 1220 if no salute is fired or to be fired.

3. When the 4th of July occurs on Sunday, all special ceremonies shall be postponed until the following day.

1084. Foreign Participation in United States National Anniversaries or Solemnities.

1. Prior to celebrating a United States national anniversary, or observing a national solemnity, in a foreign place or in the presence of foreign warships, the senior officer present of the United States naval service shall give due notice to the foreign port authorities, and to the senior officer of each nationality present, of the time and manner of conducting the celebration or solemnity, and shall, as appropriate, invite their participation therein. An officer shall be sent to thank the foreign authorities or ships which participate in such celebration or solemnity.

2. When foreign troops participate in parades within the territorial jurisdiction of the United States, they shall be assigned a position of honor ahead of United States troops, except that a small detachment of United States troops will immediately precede the foreign troops as a guard of honor.

3. On occasions when troops of two or more foreign nations participate, the troops of the nation in whose honor the parade is held will be assigned a position ahead of all others, otherwise the order of precedence among foreign troops will be determined, as appropriate, by:

a. The relative ranks of the commanders of the forces from which the parade detachments are drawn; or

b. The relative ranks of the commanders of the parade detachments; or

c. The alphabetical order in the English language of the names of the nations concerned.

1085. Observance of Foreign Anniversaries and Solemnities.

1. In a foreign place, or when in company with a foreign warship, when a national anniversary or solemnity is being observed by foreign port authorities or a foreign warship, a ship of the Navy shall, upon official invitation, follow the example of the foreign authority or warship in full-dressing or dressing ship, firing salutes, and half-masting ensigns. Salutes shall not exceed 21 guns unless the senior officer present deems it proper to fire a larger number in order to participate properly in the ceremony, or to avoid giving offense. Upon all such occasions efforts shall be made to accord, so far as practicable, with the foreign authorities in the time and manner of conducting the ceremonies.

2. Uniform accoutrements of mourning, including mourning badges or bands, may be worn on the uniform when appropriate, or when directed by competent authority, by persons in the naval service who are stationed in, or who are officially visiting, a foreign nation during the period that the foreign government ordains as the period of national mourning.

1086. Ships Passing USS ARIZONA Memorial.

When a ship of the Navy is passing the USS ARIZONA Memorial, Pearl Harbor, Hawaii between sunrise and sunset, passing honors consisting of sounding "Attention" and rendering the hand salute by all persons in view on deck and not in ranks shall be executed by that ship.

1087. Death of United States Civil Official.

1. Upon the death of a United States Civil Official listed below, the following ceremonies shall be observed:

Official	National ensign half-masted		Gun salute	
	By—	Period of Display	Fired by—	How and when fired
President, former President, or a President-elect.	All ships and stations of the Department of the Navy.	For 30 days from the day of death.	(a) All saluting ships, not under way, in ports under United States jurisdiction, and each naval station having a saluting battery.	1 gun every half hour from 0800 till sunset on day after receipt of official notice of death.
			(b) Senior saluting ship present in each port under United States jurisdiction, and each naval station having a saluting battery.	21 minute-guns fired at noon on day of funeral.
Vice President, Chief Justice or retired Chief Justice of the United States, or the Speaker of the House of Representatives.	Do.	For 10 days from the day of death.	(a) All saluting ships, not under way, in ports under United States jurisdiction, and each naval station having a saluting battery.	Minute-guns equal in number to official salute of deceased, fired at noon on day after receipt of official notice of death.
			(b) Senior saluting ship present, and naval station having saluting battery, in port where funeral occurs.	Minute-guns equal in number to official salute of deceased, fired at noon on day of funeral.
An Associate Justice of the Supreme Court, a member of the Cabinet, a former Vice President, the President pro tempore of the Senate, the Majority Leader of the Senate, the Minority Leader of the Senate, the Majority Leader of the House of Representatives, the Minority Leader of the House of Representatives, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force.	Do.	From the day of death until interment.	Do.	Do.
Governor of a state, territory, commonwealth or possession.	All ships and stations in such state, territory, commonwealth or possession.	Do.	Ship and station as designated by senior officer present in port where funeral honors are directed to be rendered.	Do.
United States Senator, Representative, Territorial Delegate, or the Resident Commissioner from the Commonwealth of Puerto Rico.	All ships and stations in the metropolitan area of the District of Columbia, and	On the day of death and the following day.	Do.	Do.
	All ships and stations in the applicable state, congressional district, territory or commonwealth.	From the day of death until interment.	Do.	Do.
Civil official not listed above, but entitled to gun salute on official visit.	Ships and stations in the vicinity when directed by senior officer present or other competent authority to join in funeral honors.	From 0800 till sunset on day of funeral.	Ship and station as designated by senior officer present in port where funeral honors are directed to be rendered.	Do.

2. When the day after receipt of notice of death falls upon a Sunday or a national holiday, gun salutes will be fired on the day following Sunday or a national holiday.

3. The national ensign shall be half-masted upon receipt of notification from any reliable source, including news media, of the death of one of the designated civil officials.

1088. Death of a Person in the Military Service.

1. Upon the death of a person in the military service, the following ceremonies shall be observed:

Deceased	National ensign half-masted		Personal flag or command pennant of deceased, ensign-staff pennant of ship commanded	Gun salute	
	By—	Period of Display		Fired by—	How and when fired
Chairman or former Chairman of the Joint Chiefs of Staff, United States military officer of 5-star rank, Chief or former Chief of Naval Operations, Commandant or former Commandant of the Marine Corps.	All ships and stations of the Department of the Navy.	From the time of death until sunset of the day of the funeral.	Half-masted from time of death until sunset of day of funeral, or removal of the body, and then hauled down.	Flagship or station commanded, or as designated by senior officer present.	Minute-guns equal in number to official salute of deceased, fired during funeral.
Flag or general officer (Marine) in command.	All ships present, and under way, and by naval stations in vicinity.	From time of death until sunset of day of funeral, or removal of the body.	Do.	Do.	Do.
Flag or general officer (Marine) not in command.	Do.	From the beginning of the funeral until sunset of that day.		Ship or station designated by senior officer present.	Do.
Unit commander not a flag officer, commanding officer.	Do.	Do.	Half-masted from time of death until sunset of day of funeral, or removal of the body, and then hauled down; except commodore pennant rounded up.	Flagship, or ship or station commanded, or as designated by senior officer present.	7 minute-guns, fired during funeral.
All other persons in the naval service.	Do.	During funeral and for 1 hour thereafter.			

2. At joint installations or commands the procedures prescribed by the responsible military commander or the executive agent will be executed uniformly by all the United States military units present.

3. The national ensign shall be half-masted upon receipt of notification of death of one of the designated officials from any reliable source, including news media.

4. If he deems it appropriate, the senior officer present may direct that the ceremonies prescribed in this article be observed during the transfer of the body of the deceased from the ship or naval station, rather than during the funeral.

5. In the event of a military funeral of a person in the naval service on the retired list, ceremonies as prescribed in this article shall be rendered insofar as may be practicable.

6. On the occasion of conducting the funeral of a person in the naval service near posts, stations, or ships of other armed services of the United States, or the Coast Guard, the commanding officers thereof shall be duly notified of the time and the honors to be rendered by ships of the Navy or by naval stations.

7. During the funeral of a flag officer of the Coast Guard, or a general officer of the armed services of the United States, other than naval, and other than those listed in paragraph 1 of this article, at a place where there is a naval station, or where one or more ships of the Navy are present, the ensigns of such stations and ships shall be half-masted during the funeral service and for one hour thereafter; and minute-guns, of the number prescribed for the funeral of the deceased by the regulations of the service to which he belonged, shall be fired by the naval station, if practicable, and by the senior saluting ship present.

1089. General Provisions Pertaining to Funerals.

1. If there is no chaplain or clergyman available, the commanding officer, or his representative, shall conduct the funeral service.

2. There shall be six pallbearers and six body bearers. The pallbearers shall, if practicable, be of the same grade or rating as the deceased. If a sufficient number of foreign officers of appropriate grade attend the funeral, they may be invited to serve as additional pallbearers. Pallbearers and body bearers shall follow the procedure prescribed in the Landing Party Manual, U. S. Navy.

3. The wearing of the mourning badge is discretionary for those in attendance at a funeral and shall be worn by the escort for a military funeral as prescribed in the respective Uniform Regulations.

4. Boats taking part in a funeral procession shall display the national ensign at half-mast. If the deceased was a flag or general officer, or at the time of his death a unit commander, or a commanding officer of a ship, his flag or command pennant, or a commission pennant, shall be draped in mourning and displayed at half-mast from a staff in the bow of the boat carrying the body. A funeral procession of boats shall, in general, be formed in the order prescribed in the Landing Party Manual, U. S. Navy, for a funeral procession on shore.

5. The casket shall be covered with the national ensign, so placed that the union is at the head and over the left shoulder of the deceased. The ensign shall be removed from the casket before it is lowered into the grave or committed to the deep.

6. Persons in the naval service shall salute when the body is carried past them, while the body is being lowered into the grave or commited to the deep, and during the firing of volleys and the sounding of "Taps."

7. Three rifle volleys shall be fired after the body has been lowered into the grave or committed to the deep, following which "Taps" shall be sounded by the bugle; except that in a foreign port, when permission has not been obtained to land an armed escort, the volleys shall be fired over the body after it has been lowered into the boat alongside.

8. During burial at sea, the ship shall be stopped, if practicable, and the ensign shall be displayed at half-mast from the beginning of the funeral service until the body has been committed to the deep. Further display of the ensign at half-mast may be prescribed according to circumstances by the senior officer present.

9. Funeral honors shall not be rendered between sunset and sunrise. When it is necessary to bury the dead at night, such funeral services as are practicable shall take place.

1090. Funeral Escorts.

1. An escort under arms shall, when practicable, accompany the funeral cortege to the place of interment, and shall follow the procedure prescribed in the Landing Party Manual, U. S. Navy.

2. The funeral escort for a President, Vice President, Secretary of Defense, Secretary of the Navy, Under Secretary of the Navy, Assistant Secretary of the Navy, Fleet Admiral, Chief of Naval Operations, or Commandant of the Marine Corps shall be as prescribed by the Secretary of the Navy.

3. Unless otherwise prescribed by the senior officer present, the funeral escort for other persons in the Navy or the Marine Corps shall comprise commands equivalent to the following infantry units, insofar as is practicable with the Navy or Marine Corps forces available.

Admiral, Navy and General, Marine Corps	1 Battalion
Other Flag Officers, Navy and General Officers, Marine Corps	1 Company
Captain, Navy and Colonel, Marine Corps	1 Company
Other commissioned officers, warrant officers and midshipmen of the Navy and Marine Corps	1 Platoon
Chief Petty Officer, Navy and Gunnery Sergeant and above, Marine Corps	2 Squads
Other enlisted persons, Navy and Marine Corps	1 Squad

4. The grade or rating of the escort commander normally shall be the same as, or higher than, that of the deceased.

1091. Display of Personal Flag, Command Pennant, Or Commission Pennant in Funerals on Shore.

If the deceased was a flag or general officer, or at the time of his death, a unit commander or commanding officer of a ship, his personal flag or command pennant, or commission pennant, shall be draped in mourning and carried immediately in advance of the body in the funeral procession to the grave.

1092. Burial in a Foreign Place.

Before a person in the naval service is buried in a foreign place, the senior officer present shall arrange with the local authorities for the interment of the body and shall also request permission to parade an escort under arms. He shall inform the senior foreign officers present and the appropriate local officials of the time and place of the funeral, and of the funeral honors to be rendered by United States forces present.

1093. Death of Diplomatic, Consular, or Foreign Official.

1. On the death in a foreign place of a diplomatic or consular representative of the United States, the senior officer present shall, as circumstances permit, arrange for appropriate participation in the funeral ceremonies by persons in the naval service.

2. When the senior officer present receives official notice of the death or funeral of a foreign official, or member of a foreign armed service, he shall, as circumstances warrant and as international courtesy demands, direct visits of condolence to be made, and arrange for participation by persons in the naval service in the funeral ceremonies.

1094. Transporting Body of Deceased Official.

When a ship of the Navy is transporting the body of a deceased official, the honors and ceremonies prescribed for an official visit shall, if directed by the senior officer present or higher authority, be rendered when the body is received aboard or leaves the ship.

CHAPTER 11

RIGHTS AND RESPONSIBILITIES OF PERSONS IN THE DEPARTMENT OF THE NAVY

1101. Officer's Duties Relative to Laws, Orders and Regulations.

Every officer in the naval service shall acquaint himself with, obey, and, so far as his authority extends, enforce the laws, regulations and orders relating to the Department of the Navy. He will faithfully and truthfully discharge the duties of his office to the best of his ability in conformance with existing orders and regulations and his solemn profession of the oath of office. In the absence of instructions he shall act in conformity with the policies and customs of the service to protect the public interest.

1102. Requirement of Exemplary Conduct.

All commanding officers and others in authority in the naval service are required to show in themselves a good example of virtue, honor, patriotism, and subordination; to be vigilant in inspecting the conduct of all persons who are placed under their command; to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Navy, all persons who are guilty of them; and to take all necessary and proper measures, under the laws, regulations, and customs of the naval service, to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge. (10 USC 5947).

1103. Conduct of Persons in the Naval Service.

All persons in the naval service shall show in themselves a good example of subordination, courage, zeal, sobriety, neatness and attention to duty. They shall aid, to the utmost of their ability and to the extent of their authority, in maintaining good order and discipline as well as in other matters concerned with the efficiency of the command.

1104. Compliance With Lawful Orders.

All persons in the naval service are required to obey readily and strictly, and to execute promptly, the lawful orders of their superiors.

1105. Appeal From Decision of a Superior.

An official appeal by a person in the Department of the Navy from an order or decision of an immediate superior shall be addressed to the next higher common superior having power to act in the matter and shall be forwarded through such immediate superior, except in the case of the latter's refusal or failure to forward it, when it may be forwarded direct with an explanation of such course. If the officer whose order or decision is appealed from is the commanding officer of the person appealing and if such commanding officer refuses or fails to forward the appeal, the person appealing may appeal to any officer superior to such commanding officer; the latter officer shall forward the appeal directly to the officer exercising general court-martial jurisdiction over the commanding officer. The officer exercising general court-martial jurisdiction shall examine into said appeal and take proper measures; and he shall, as soon as possible, transmit to the Secretary of the Navy a true statement of such appeal, with the proceedings had thereon.

1106. Oppression or Other Misconduct by a Superior.

1. If any person in the naval service considers himself oppressed by his superior, or observes in him any misconduct, he shall not fail in his respectful bearing towards such superior, but shall report such oppression or misconduct to the proper authority. Such person will be held accountable if his report is found to be vexatious, frivolous, or false.

2. A report of oppression by, or misconduct of, a superior shall be made to the immediate commanding officer of the person making the report unless the commanding officer is himself the subject of the report, or is the subordinate of the officer who is the subject of the report.

3. If the immediate commanding officer is the subject of the report, the report shall be in writing and shall be forwarded to the superior who exercises general court-martial jurisdiction over the commanding officer reported on, through the immediate commanding officer and any other officers who may be in the chain of command. If the immediate commanding officer reported on or if any superior in the chain of command not having general court-martial jurisdiction shall refuse or fail within a reasonable time to forward the report received to his immediate superior having such jurisdiction, the person making the report may complain to any officer superior to himself and such officer shall forward the complaint directly to the immediate superior exercising general court-martial jurisdiction over the immediate commanding officer.

4. If a superior of the immediate commanding officer is the subject of the report, the report shall be in writing and shall be forwarded through the immediate commanding officer and the officer who is the subject of the report, and any other officers who may be in the chain of command, to the immediate superior exercising general court-martial jurisdiction over the officer reported on. If any officer through whom the report is forwarded refuses or fails to forward the report within a reasonable time, the person making the report may complain to any officer superior to himself, and such officer shall forward the complaint directly to the immediate superior exercising general court-martial jurisdiction over the officer reported on.

5. Any officer exercising general court-martial jurisdiction over a person reported on shall, upon receiving a report of oppression or

misconduct, examine into the matter, and take such action in conformity with the Uniform Code of Military Justice and these regulations as may be proper to redress wrong, if any, complained of; and he shall, as soon as may be practicable, transmit to the Secretary of the Navy a true statement of the report and any proceedings had in connection therewith.

1107. Direct Communication With the Commanding Officer.

1. The right of any person in the naval service to communicate with the commanding officer at a proper time and place is not to be denied or restricted.

2. Officers who are senior to the executive officer have the right to communicate directly with the commanding officer, but they shall keep the executive officer informed on matters related to the functioning of the command.

3. A head of department, or of any other major subdivision of an activity, has the right to communicate directly with the commanding officer concerning any matter relating to his department or subdivision, but shall keep the executive officer informed.

1108. Forwarding Individual Requests.

Requests from persons in the naval service shall be acted upon promptly. When addressed to higher authority, requests shall be forwarded without delay. The reason should be stated when a request is not approved or recommended.

1109. Accusations, Replies, and Counter Charges.

1. Whenever an accusation is made against a person in the naval service, either by report or by endorsement upon a communication, a copy of such report or endorsement shall be furnished him at the time.

2. Reports or complaints, and statements submitted in reply to written accusations or in explanation thereof, shall be couched in temperate language and shall be confined to pertinent facts. Opinions shall not be expressed nor the motives of others impugned.

3. Persons in the naval service to whom reports or complaints are submitted for statement shall not reply by making counter charges.

1110. Adverse Matter in the Record of a Person in the Naval Service.

Adverse matter shall not be placed in the record of a person in the naval service without his knowledge. Except for the medical and dental entries referred to in the following article, such matters shall be first referred to the person reported upon for such statement as he may choose to make. If the person reported upon does not desire to make a statement, he shall so state in writing.

1111. Adverse Entries in Medical and Dental Records.

1. The medical officer or dental officer shall inform the person concerned whenever an entry is made in such person's medical record or dental record of a serious illness, operation, injury, or physical defect which may adversely affect, in other than a temporary degree, his efficiency in the performance of duty.

2. The medical officer or dental officer shall inform, in writing, the commanding officer and the person concerned whenever an entry is made in the latter's medical record which indicates that a disease or injury may be attributable to misconduct, or indicating the use by such person of intoxicants, marijuana, narcotic substances or other controlled substances as defined in these regulations to a degree presumed to disqualify him physically, mentally, or morally for performance of duty.

3. The medical officer or dental officer normally shall permit access to the record by the person concerned when adverse entries are made. Should the medical officer or dental officer deem the condition of the person concerned to be such as to make it inadvisable or impractical to inform him of the entry or to permit his access to the record, he shall so advise the commanding officer, and shall make a notation of this action and opinion in the record. As soon as circumstances permit the person concerned shall be notified of the adverse entry and this fact shall be noted in the record. The person concerned shall have the right to make and have entered in the record such statement in rebuttal as he may desire. If the person concerned does not desire to make a statement, he shall so state in writing.

1112. Misconduct and Line of Duty Findings.

Except for the medical and dental entries referred to in the preceding article, no adverse entry concerning misconduct and line of duty shall be made in any person's official record except in accordance with the provisions of the Manual of the Judge Advocate General.

1113. Inspection of the Record of a Person in the Naval Service.

The record of a person of the naval service maintained by the Chief of Naval Personnel or the Commandant of the Marine Corps shall be available for inspection by him or his duly authorized agent, designated as such by him in writing.

1114. Correction of Naval Records.

1. Any military record in the Department of the Navy may be corrected by the Secretary of the Navy, acting through the Board for Correction of Naval Records, when he considers that such action should be taken in order to correct an error or to remove an injustice.

2. Applications for corrections under this article may be made only after exhaustion of all other administrative remedies afforded by law or regulation.

3. Applications for such corrections should be submitted to the Secretary of the Navy (Board for Correction of Naval Records) in accordance with procedural regulations established by the Secretary of the Navy and approved by the Secretary of Defense.

1115. Control of Official Records.

No person, without proper authority, shall withdraw official records or correspondence from the files, or destroy them, or withhold them from those persons authorized to have access to them.

1116. Disclosure and Publication of Information.

1. No person in the Department of the Navy shall convey or disclose by oral or written communication, publication, graphic (including photographic) or other means, any classified information except as provided in the Department of the Navy Security Manual for Classified Information. Additionally, no person in the Department of the Navy shall communicate or otherwise deal with foreign entities, even on an unclassified basis, when such would commit the Department of the Navy to disclose classified military information, except as may be required in his official duties and only after coordination with and approval by the release authority stipulated in the Department of the Navy Security Manual for Classified Information.

2. No person in the Department of the Navy shall convey or disclose by oral or written communication, publication, or other means, except as may be required by his official duties, any information concerning the Department of Defense or forces, or any person, thing, plan or measure pertaining thereto, where such information might be of possible assistance to a foreign power; nor shall any person in the Department of the Navy make any public speech or permit publication of any article written by or for him which is prejudicial to the interests of the United States. The regulations concerned with the release of information to the public through any media will be as prescribed by the Secretary of the Navy.

3. No person in the Department of the Navy shall, other than in the discharge of his official duties, disclose any information whatever, whether classified or unclassified, or whether obtained from official records or within the knowledge of the relator, which might aid or be of assistance in the prosecution or support of any claim against the United States.

4. Any person in the Department of the Navy receiving a request from the public for Department of the Navy records shall be governed by security classification markings, distribution statements on technical documents, and the term "For Official Use Only" which may be used to identify material or records not to be released to the general public. The general regulations concerned with the availability to the public of the Department of the Navy records shall be as prescribed by the Secretary of the Navy.

5. Persons in the Department of the Navy desiring to submit manuscripts to commercial publishers, on professional, political or international subjects shall comply with regulations promulgated by the Secretary of the Navy.

6. No person in the naval service on active duty or civilian employee of the Department of the Navy shall act as correspondent of a news service or periodical, or as a television or radio news commentator or analyst, unless assigned to such duty in connection with the public affairs activities of the Department of the Navy, or authorized by the Secretary of the Navy. Except as authorized by the Secretary of the Navy, no person assigned to duty in connection with public affairs activities of the Department of the Navy shall receive any compensation for acting as such correspondent, commentator, or analyst.

1117. Official Records in Civil Courts.

No person in the Department of the Navy shall produce or release any official record in response to a subpoena duces tecum, motion for discovery, interrogatory or otherwise in a civil suit, or in connection with preliminary investigations by attorneys or others except in accordance with the provisions of the Manual of the Judge Advocate General.

1118. Leave and Liberty.

It is the policy of the Department of the Navy that leave and liberty will be granted to the maximum extent practicable.

1119. Quality and Quantity of Rations.

1. Meals served in the general mess shall be sampled, regularly, by an officer detailed by the commanding officer for that purpose. Should this officer find the quality or quantity of the food unsatisfactory, or should any member of the mess object to the quality or quantity of the food, the commanding officer shall be notified and he shall take appropriate action.

2. No person employed in the service of the general mess shall receive any subscription from persons entitled to subsist in the mess.

1120. Rules for Preventing Collisions, Afloat and in the Air.

1. All persons in the naval service responsible for the operation of naval ships, craft and aircraft shall diligently observe the International Rules for Preventing Collisions at Sea, (commonly called International Rules of the Road) Inland Rules of the Road, domestic and international air traffic regulations, and such other rules and regulations as may be established by the Secretary of Transportation or other competent authority for regulating traffic and preventing collisions on the high seas, in inland waters, or in the air, where such laws, rules and regulations are applicable to naval ships and aircraft. In those situations where such law, rule or regulation is not applicable to

naval ships, craft or aircraft they shall be operated with due regard for safety of others.

2. Any significant infraction of the laws, rules and regulations governing traffic or designed to prevent collisions on the high seas, in inland waters, or in the air, which may be observed by persons in the naval service shall be promptly reported to their superiors, including the Chief of Naval Operations or Commandant of the Marine Corps when appropriate.

3. Reports need not be made under this article if the facts are otherwise reported in accordance with other directives, including duly authorized safety programs.

1121. Discharge of Oil, Trash, and Garbage.

1. Except as authorized by law or regulation, no oil, oily waste, or trash shall be discharged into United States or foreign internal waters or prohibited areas. The United States prohibited area is designated as waters within 50 miles of the United States coastline. The Chief of Naval Operations shall provide descriptions of prohibited areas for other nations. Trash discharged at sea should have, or be packaged for, negative buoyancy.

2. Garbage shall not be thrown overboard within a contiguous zone, which is 12 miles from any coastline.

3. Any oil slick within 50 miles of the coastline of the United States shall be reported as soon as possible to nearest Coast Guard District Headquarters.

1122. Code of Conduct for Members of the Armed Forces of the United States.

1. The code of Conduct for Members of the Armed Forces of the United States shall he carefully explained to each enlisted person:

a. Within six days of his initial enlistment.

b. After completion of six month's active service, and

c. Upon the occasion of each reenlistment.

2. Instruction in the Code of Conduct for Members of the Armed Forces of the United States shall be included in the general military training program of the command.

3. A text of the Code of Conduct for Members of the Armed Forces of the United States shall be posted in one or more conspicuous places, readily accessible to personnel of the command.

1123. Capture by an Enemy.

1. A person in the naval service who is captured by the enemy is bound to give only his name, grade or rate, file or serial number and date of birth. In order to communicate with his family, as guaranteed in the Geneva Convention Relative to the Treatment of Prisoners of War, he may give the names and addresses of his parents, guardian, or next of kin.

2. Except as provided in the foregoing any person in the naval service captured by the enemy shall evade further questions and shall make no oral or written statement disloyal to, critical of, or harmful to, the United States or its allies.

1124. Relations With Foreign Nations.

1. Persons in the Department of the Navy, in their relations with foreign nations, and with the governments or agents thereof, shall conform to international law and to the precedents established by the United States in such relations.

2. The religious institutions and customs of foreign countries visited by persons in the Department of the Navy shall be respected.

1125. Language Reflecting Upon a Superior.

No person in the naval service shall use language which may tend to diminish the confidence in or respect due to his superior officer.

1126. Suggestions for Improvement.

Any person in the Department of the Navy may address to the Secretary of the Navy via chain of command, suggestions or constructive criticism pertaining to improvements in efficiency or more economical methods of administration or management in the Department of the Navy.

1127. Exchange of Duty.

No person in the naval service shall exchange an assigned duty with another without permission from his commanding officer or appropriate superior.

1128. Unavoidable Separation From a Command.

Any person in the naval service who is separated from his ship, station, or unit due to shipwreck, disaster, or other unavoidable circumstances, shall proceed as soon as possible to the nearest United States military activity and report to the commanding officer thereof.

1129. Combinations for Certain Purposes Prohibited.

Combinations of persons in the naval service for the purpose of remonstrating against orders or details to duty, complaining of particulars of duty or procuring preferences are forbidden.

1130. Making of Gifts or Presents.

1. No person in the Department of the Navy shall at any time solicit contributions from other persons in the naval service or from other officers, clerks, or employees in the Government service for a gift or present to persons in superior official positions; nor shall any persons in such superior official positions receive any gift or present offered or presented them as a contribution from persons in Government employ (including persons in the naval service) receiving a less rate of pay than themselves, nor shall any of said persons make any donation as a gift or present to any such official superiors. However, this paragraph does not prohibit a voluntary gift of nominal value or donation in nominal amount made on a special occasion such as marriage, illness or retirement.

2. No person in the Department of the Navy shall solicit subscriptions for the purpose of making a gift to a member of the immediate family of a person in a superior official position.

1131. Pecuniary Dealings With Enlisted Persons.

1. No officer shall borrow money or accept deposits from, or have any pecuniary dealings with an enlisted person, except as may be required in the performance of his duty, and except for the sale of an item of personal property which is for sale to other persons under the same conditions of guarantee and for same consideration, and never having been the property of a government.

2. Superiors of flag or general grade, may authorize, as a duty, an officer or officers to accept deposits from an enlisted person for the sole purpose of temporarily safeguarding his personal funds under emergency or operational situations.

1132. Lending Money and Engaging in a Trade or Business.

1. No person in the naval service, on active service, shall, for profit or benefit of any kind, lend money to another person in the armed services, except by permission of his commanding officer; nor, having made a loan to another person in the armed services, shall he take or receive, in payment therefor, then or later, directly or indirectly, without the approval of the commanding officer, a sum of money, or any other thing or service, of a greater amount or value than the sum of money loaned.

2. Unless authorized by his commanding officer or higher authority, no person in the naval service on active service, either for himself or as an agent for another, shall engage in trade or business on board any ship of the Navy or within any naval activity or introduce any article for purposes of trade on board any ship of the Navy or within any naval activity.

1133. Use of Title for Commercial Enterprises.

No person in the naval service shall, while on extended naval service, use his grade or rating in connection with a commercial enterprise. "Extended naval service," for the purposes of this article, is defined as active duty, other than active duty for training, under a call or order that does not specify a period of thirty days or less. This article shall not apply to a person who is not on active service, nor shall it apply to authorship of any material for publication, by persons on either active or inactive service, provided that such material is published in accordance with existing regulations.

1134. Report of a Communicable Disease.

All persons in the naval service shall report promptly to a medical representative, or where no medical officer is readily available, to his higher authority the existence or suspicion of communicable disease in persons with whom they are living or otherwise come in contact.

1135. Immunization.

Persons in the naval service shall permit such action to be taken to immunize them against disease as is prescribed by competent authority.

1136. Possession of Weapons.

Except as may be necessary to the proper performance of his duty or as may be authorized by proper authority, no person in the naval service shall:

a. Have concealed about his person any dangerous weapon, instrument or device; or any highly explosive article or compound.

b. Have in his possession any dangerous weapon, instrument, or device, or any highly explosive article or compound on board any ship, craft, aircraft, or in any vehicle of the naval service or within any base, or other place under naval jurisdiction.

1137. Report of Deficit or Excess of Public Money or Property.

Any person in the Department of the Navy who has knowledge of a deficit or excess of public money or public property shall take prompt and appropriate action to bring the matter to the attention of his commanding officer or appropriate superior.

1138. Use and Expenditure of Equipage and Supplies.

All persons in the Department of the Navy shall ensure that equipage and supplies in their charge are properly cared for, preserved, and economically used. They shall avoid any unnecessary expenditure of public money. To the extent of their authority, they shall prevent infractions of this regulation by others.

1139. Obligation to Report Offenses.

Persons in the Department of the Navy shall report to proper authority offenses committed by persons in the Department of the Navy which come under their observation.

1140. Report of Fraud.

If any person in the Department of the Navy has knowledge of any fraud, collusion, or improper conduct on the part of any purchasing or other agent or contractor, or on the part of any person employed in superintending repairs, receiving or receipting for supplies, or has knowledge of any fraud, collusion, or improper conduct in such matters connected with the Department of the Navy, he shall report the same immediately in writing to the proper authority, specifying the particular act, or acts of misconduct, fraud, neglect, or collusion and describing any evidence which may assist in proving same.

1141. Possession of Government Property.

No person in the Department of the Navy shall have in his possession any property of the United States, except as may be necessary to the proper performance of duty or as may be authorized by proper authority.

1142. Uniforms, Arms, and Outfits.

1. The clothing, arms, and accouterments which are sold or issued by the United States to any person in the naval service shall not be sold, bartered, exchanged, pledged, loaned or given away, except as may be authorized by proper authority.

2. No person in the naval service shall have in his possession, without permission from proper authority, any article of wearing apparel or bedding belonging to any other person in the naval service.

1143. Return of Government Property on Release From Active Service.

When a person is released from active service, he shall return all Government property in his possession to his commanding officer or other competent authority.

1144. Issue or Loan of Public Property.

1. Except as prescribed in this article, public property including supplies, shall not be issued, on loan or otherwise, to any state, organization, or private individual except by special authority of Congress.

2. When so authorized by the senior officer present, a commanding officer may issue such supplies as can be spared to those in distress in the event of a public exigency or calamity, or to vessels in distress, and, when so authorized, he may issue rations and necessities to destitute seamen and airmen of the United States who are received on board. The supply officer making such an issue shall do so only pursuant to an order in writing, shall procure receipts when practicable for the supplies issued, and shall render accounts for such supplies in accordance with the instructions contained in the Naval Supply System Command Manual or the Marine Corps Supply Manual, as appropriate.

3. Public property, except aircraft, may be loaned by the commandant of a naval district to a state located within the district and maintaining naval militia organizations, for use by a naval militia organization in that state, provided that 95 percent of the personnel of the last-mentioned organization are attached to or associated with a unit of the naval reserve, and provided that the naval militia organization conforms to the standards prescribed by the Secretary of the Navy for similar organizations of the Naval Reserve. A report of such loans shall be made by the commandant to the interested bureaus, offices or commands of the Navy Department.

1145. Administrative Control of Funds.

No person in the Department of the Navy shall make or authorize an expenditure from or create or authorize an obligation under any appropriation or fund in excess of the amount available therein; nor shall any such person involve the Government in any contract or other obligation for the payment of money for any purpose in advance of appropriations made for such purpose, unless such contract or obligation is authorized by law. No person in the Department of the Navy shall accept voluntary service for the United States or employ personal service in excess of that authorized by law, except in cases of emergency involving the safety of human life or the protection of property.

1146. Adoption or Use of Proprietary Articles, Inventions or Copyrighted Material.

1. Except as prescribed in this article, no person in the Department of the Navy shall adopt or use or shall authorize the adoption or use for or on behalf of the Government of:

a. Any article when it is known to be proprietary.

b. Any invention when it is known, or there is reason to believe, that the invention is or will be patented.

c. Any matter in which it is known, or there is reason to believe, a copyright exists.

2. Adoption or use of any of the above mentioned classes shall not be made unless consent of the owner has been obtained or, lacking consent of the owner, such use or adoption has been authorized by the Secretary of the Navy; provided, however, that when the

exigencies of the naval service necessitate, adoption or use of any of the classes above mentioned may be made without waiting to obtain prior consent or authorization of either the owner or the Secretary of the Navy. In any case where such adoption or use is made without obtaining prior consent or authorization, a full and complete report of all facts and circumstances relevant thereto shall be made promptly to the Secretary of the Navy.

1147. Service Examinations.

1. No person in the Department of the Navy, without proper authority, shall:

a. Have in his possession, obtain, sell, publish, give, purchase, receive, or reproduce; or

b. Attempt or offer to have in his possession, obtain, sell, publish, give, purchase, receive, or reproduce; any examination paper, or any part or copy thereof, or answer sheet thereto, for any examination whatsoever which has been, is, or is to be, administered within the Department of the Navy.

2. Prior to, during, or after any examination which is to be, is being, or has been administered within the Department of the Navy, no person in the Department of the Navy shall, without proper authority, disclose, or solicit the disclosure of, any information regarding questions or answers to questions on such examination.

3. No person in the Department of the Navy shall engage in any unauthorized form of giving or accepting assistance or of self-help during the administration of any examination within the Department of the Navy.

1148. Dealings With Members of Congress.

No person may restrict any member of an armed force in communicating with a member of Congress, unless the communication is unlawful or violates a regulation necessary to the security of the United States. (10 USC 1034).

1149. Communications to the Congress.

No person in the naval service shall, in his official capacity, apply to the Congress or to either house thereof, or to any committee thereof, for legislation or for appropriations or for Congressional action of any kind except with the consent and knowledge of the Secretary of the Navy. Nor shall any such person, in his official capacity, respond to any request for information from Congress, or from either house thereof, or from any committee of Congress, except through, or as authorized by, the Secretary of the Navy, or as provided by law.

1150. Alcoholic Liquors.

1. Except as may be authorized by the Secretary of the Navy, the introduction, possession or use of alcoholic liquors for beverage purposes on board any ship, craft, aircraft, or in any vehicle of the Department of the Navy is prohibited. The transportation of alcoholic liquors for personal use ashore is authorized, subject to the discretion of the officer in command or officer in charge, or higher authority, when the liquors are delivered to the custody of the officer in command or officer in charge of the ship, craft, or aircraft in sealed packages, securely packed, properly marked and in compliance with customs laws and regulations, and stored in securely locked compartments, and the transportation can be performed without undue interference with the work or duties of the ship, craft, or aircraft. Whenever alcoholic liquor is brought on board any ship, craft, or aircraft for transportation for personal use ashore, the person who brings it on board shall at that time file with the officer in command or officer in charge of the ship, craft, or aircraft, a statement of the quantity and kind of alcoholic liquor brought on board by him, together with his certification that its importation will be in compliance with customs and internal revenue laws and regulations and applicable State or local laws at the place of debarkation.

2. The introduction, possession, and use of alcoholic liquors for beverage purposes or for sale is authorized within naval activities and other places ashore under naval jurisdiction, to the extent and in such manner as the Secretary of the Navy may prescribe.

1151. Responsibilities Concerning Marijuana, Narcotics, and Other Controlled Substances.

1. All personnel shall endeavor to prevent and eliminate the unauthorized use of marijuana, narcotics, and other controlled substances within the naval service.

2. Except for authorized medicinal purposes, the introduction, possession, use, sale, or other transfer of marijuana, narcotic substances or other controlled substances on board any ship, craft, or aircraft of the Department of the Navy or within any naval station or other place under the jurisdiction of the Department of the Navy, or the possession, use, sale, or other transfer of marijuana, narcotic substances or other controlled substances by persons in the naval service, is prohibited.

3. The term "controlled substance" means: a drug or other substance included in Schedule I, II, III, IV, or V established by section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236), as updated and republished under the provisions of that Act.

1152. Records of Fitness.

1. Records will be maintained on officers and enlisted persons of the Navy and Marine Corps which reflect their fitness for the service and performance of duties. Promotion and assignment to duty is determined by an individual's record of which the record of fitness and performance is an essential part.

2. The fitness and performance report is decisive in the service career of the individual officer and enlisted person and has an important influence on the efficiency of the entire Department of the Navy. The preparation of these reports shall be regarded by superior and commanding officers as one of their most important and responsible duties.

3. The Chief of Naval Operations and the Commandant of the Marine Corps shall be responsible for the maintenance and administration of the records and reports in their respective services.

1153. Demand for Court-Martial.

Except as otherwise provided in the Uniform Code of Military Justice, no person in the naval service may demand a court-martial either on himself or on any other person in the naval service.

1154. Suspension or Arrest of an Officer.

1. An officer placed under arrest or restriction (with or without suspension from duty) on board ship shall not be confined to his room or restrained from the proper use of any part of the ship to which, before his suspension, arrest, or confinement, he had a right, except the quarter-deck and bridges, unless such arrest or restriction shall be necessary for the safety of the ship or of the officer, or for the preservation of good order and discipline. Similarly, at a naval station or other place on shore, the arrest or restriction imposed shall not be unduly rigorous.

2. An officer when placed under arrest shall not visit his commanding officer or other superior officer unless sent for or to obtain medical treatment or in case of emergency, but in case of business requiring attention, he shall make it known in writing.

1155. Temporary Restoration to Duty.

A commanding officer or other competent authority may temporarily release and restore to duty an officer in custody or under restriction, arrest, or confinement, should an emergency of the service or other sufficient cause make such measure necessary. The order for temporary release shall be in writing and shall assign the reasons. Should the officer be under charges, they need not be withdrawn, and such temporary release and restoration to duty shall not be a bar to any subsequent investigation or trial of the case that the convening authority may think proper to order, nor to the investigation of any complaint the accused may make in regard to the custody, restriction, arrest or confinement.

1156. Refusal to Return to Duty.

No person in the naval service shall persist in considering himself in custody or under restriction, arrest, or confinement, after he has been released by proper authority, nor shall he refuse to return to duty.

1157. Reprimand or Admonition.

Any letter of censure to a subordinate from any officer in command is a nonjudicial punishment within the purview of Article 15, Uniform Code of Military Justice, except when issued pursuant to the sentence of a court-martial, if a copy thereof is forwarded to the Headquarters, United States Marine Corps or Bureau of Naval Personnel. Any other criticism, reproof, or instructions, written or oral, shall not in itself constitute a punishment in that sense.

1158. Limitations on Certain Punishments.

1. Instruments of restraint, such as handcuffs, chains, irons, and straitjackets, shall not be applied as punishment. Furthermore, chains shall not be applied as restraints. Other instruments of restraint may not be used except for safe custody and no longer than is strictly necessary under the following circumstances:

(a) As a precaution against escape during the transfer of a person in custody or confinement;

(b) On medical grounds by direction of the medical officer;

(c) By order of the commanding officer or officer in charge, if necessary to prevent a person from injuring himself or others or from damaging property, provided that other methods of control are considered ineffectual. In such instances a medical examination shall be made at the earliest practicable time, preferably in advance of the restraint, to ensure that no medical contraindication exists. The commanding officer or officer in charge shall submit a letter report of the details to the next superior authority and, if no medical officer is available to conduct the examination, shall submit a message report in lieu thereof.

2. The punishments of extra duties and hard labor without confinement shall not be performed on Sunday although Sunday counts in the computation of the period for which such punishments are imposed.

3. Guard duty shall not be inflicted as punishment.

1159. Treatment and Release of Prisoners.

1. Persons in confinement shall be in the custody of a master-at-arms or other person designated by the commanding officer. They shall not be subjected to cruel or unusual treatment. They shall be visited as necessary, but at least once every 4 hours to ascertain their condition, and to care, as may be appropriate, for their needs.

2. The commanding officer shall direct their release promptly upon the expiration of their confinement. In case of fire or other sudden danger which may imperil their lives, they shall, subject to such special orders as the commanding office may have issued, be removed to a place of safety

or, when appropriate, released within the limits of the command by the master-at-arms, or other custodian, and the commanding officer shall be promptly informed of the action taken.

3. No greater force than that required to restrain or confine the offender shall be used in taking into custody a person intoxicated from indulgence in alcoholic liquors, or under the influence of marijuana, narcotic substances, or other controlled substances as defined in these regulations.

1160. Places of Confinement.

1. Prisoners shall be confined only in brigs or other facilities designated as naval places of confinement by the Secretary of the Navy. However, in cases of necessity, the senior officer present may authorize temporary confinement in spaces which provide sufficient security features, safety for both the prisoner and guard personnel, and adequate living conditions.

2. Intoxicated persons or persons under the influence of marijuana, narcotic substances, or controlled substances as defined in these regulations shall not be confined in any place or manner that may be dangerous to them in their condition.

1161. Endorsement of Commercial Product or Process.

Except as necessary during contract administration to determine specification or other compliance, no person in the Department of the Navy, in his official capacity, shall endorse or express an opinion of approval or disapproval of any commercial product or process.

1162. Action Upon Receipt of Orders.

1. An order from competent authority to an officer requiring such officer to report for duty at a place, or to proceed to any point and report for duty, but fixing no date and not expressing haste, shall be obeyed by reporting within four days, exclusive of travel time, after its receipt for execution. If the order read "without delay," the officer shall report within forty-eight hours, exclusive of travel time, after its receipt for execution; and if "immediately," within twelve hours, exclusive of travel time, after its receipt for execution. Officers receiving "proceed without delay" and "proceed immediately" orders shall endorse on their orders the date and hour of their receipt for execution. Any delay in carrying out orders granted by competent authority is in addition to the time allowed by this article.

2. The time allowed by this article may be taken any time between the time of detachment from the officer's original station and the time of reporting at the new permanent duty station. It may, however, be taken only once regardless of whether the officer avails himself at that time of all or part of the proceed time.

3. An application for the revocation or modification of orders will not justify any delay in their execution, if the officer ordered is able to travel.

4. Proceed time for enlisted personnel will be as prescribed by the Chief of Naval Operations or the Commandant of the Marine Corps.

1163. Equal Opportunity and Treatment.

Equal opportunity and treatment shall be accorded all persons in the Department of the Navy irrespective of their race, color, religion, sex, or national origin consistent with requirements for physical capabilities.

CHAPTER 12

PURPOSE AND FORCE OF REGULATIONS
WITHIN THE DEPARTMENT OF THE NAVY

1201. PURPOSE AND FORCE OF UNITED STATES NAVY REGULATIONS.

United States Navy Regulations is the principal regulatory document of the Department of the Navy, endowed with the sanction of law, as to duty, responsibility, authority, distinctions, and relationships of various commands, officials, and individuals. Other regulations, instructions, orders, manuals, or similar publications, shall not be issued within the Department of the Navy which conflict with, alter or amend any provision of Navy Regulations.

1202. ISSUANCES CONCERNING MATTERS OVER WHICH CONTROL IS EXERCISED.

Responsible officers and officials of the Department of the Navy may issue, or cause to be issued, orders, instructions, directives, manuals or similar publications concerning matters over which they exercise command, control, or supervision.

1203. IMPOSITION OF WORKLOAD.

Orders, instructions or directives will be issued with due regard for the imposition of workload resulting therefrom and benefits or advantages to be gained, particularly, when the imposition of requirements is outside of command lines of authority.

1204. NAVY REGULATIONS CHANGES.

1. The Chief of Naval Operations is responsible for ensuring that Navy Regulations conform to the current needs of the Department of the Navy. When any person in the Department of the Navy deems it advisable that a correction, change or addition should be made to Navy Regulations, he shall forward a draft of the proposed correction, change or addition, with a statement of the reasons therefor to the Chief of Naval Operations via the chain of command. The Chief of Naval Operations shall endeavor to obtain the concurrence of the Commandant of the Marine Corps, the Judge Advocate General, and other appropriate offices and bureaus. Unresolved disputes concerning such corrections, changes or additions shall be forwarded to the Secretary of the Navy for appropriate action.

2. Changes to Navy Regulations will be numbered consecutively and contained in page changes. Advance changes may be used when required. Advance changes will be numbered consecutively and incorporated in page changes at frequent intervals.

GLOSSARY

Command --- (DOD) 1. The authority which a commander in the military service lawfully exercises over his subordinates by virtue of rank or assignment. Command includes the authority and responsibility for effectively using available resources and for planning the employment of, organizing, directing, coordinating, and controlling military forces for the accomplishment of assigned missions. It also includes responsibilities for health, welfare, morale, and discipline of assigned personnel. 2. An order given by a commander; that is, the will of the commander expressed for the purpose of bringing about a particular action. 3. A unit or units, an organization, or an area under the command of one individual. 4. To dominate by a field of weapon fire or by observation from a superior position.

Superior --- A commander or officer in command of a senior force, unit, or organization in line of command. Also, a senior person in line of command.

Flag and General Officers --- Flag officer means an officer of the Navy or Coast Guard above the grade of captain. General officer means an officer of the Marine Corps, the Army, or the Air Force above the grade of colonel.

Person in the naval service --- Means a person, male or female, appointed or enlisted in, or inducted or conscripted into, the Navy or the Marine Corps. Also, same meaning for member of the naval service.

Persons in the Department of the Navy --- All persons in the naval service and civilians employed under the Department of the Navy.

Ships --- A classification of water-borne craft which comprises generally the ocean-going vessels and craft of the Navy, and such other water-borne craft as may be assigned this classification.

Service Craft --- A classification of water-borne craft which comprises generally the water-borne utilitarian craft not classified as ships or boats.

Boats --- A classification of water-borne craft which comprises generally the water-borne craft suitable primarily for shipboard and similar use.

Active Status --- A status of ships and service craft. Active status ships or service craft are assigned to the active fleets and to their supporting activities. Ships and service craft in active status are "in commission" or "in service."

Inactive Status --- A status of ships and service craft. Inactive status ships and service craft are in reserve and not currently required for duty in the active fleets or supporting forces. Ships and service craft in inactive status are "in commission, in reserve," or "in service, in reserve" or "out of commission, in reserve" or "out of service, in reserve."

Special Status --- A status of ships and service craft. Ships and service craft in special status shall include those units for which the Navy is charged with certain responsibilities by reason of custody or title, but which are not in the active or inactive status. Ships and service craft in special status are "in commission, special" or "in service, special" or "out of commission, special" or "out of service, special."

Vessel --- Includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water. (1 USC 3).

Naval Activity --- A unit of the Department of the Navy, of distinct identity, and established under an officer in command or in charge.

Naval Station --- A naval activity on shore, having a commanding officer, and located in an area having fixed boundaries, within which all persons are subject to naval jurisdiction and immediate authority of the commanding officer.

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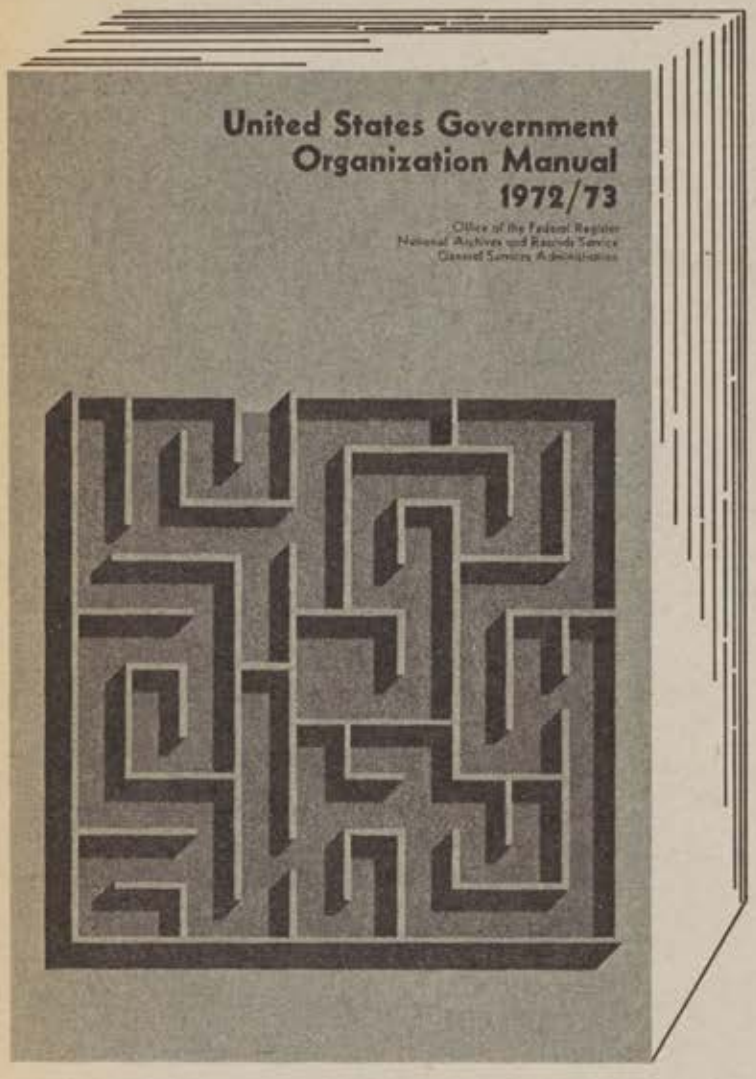

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