

currently permits a member to withdraw an erroneous transaction complaint at any time. Because there are no restrictions on when a complaint can be withdrawn, market participants have in the past withdrawn their complaints when the market moved in their favor subsequent to filing the complaint. Accordingly, in order to facilitate the maintenance of fair and orderly markets and the equitable resolution of erroneous transaction disputes, the NASD and Nasdaq believe that Rule 11890 should be amended to prohibit the withdrawal of a complaint or an appeal of an erroneous transaction determination unless both parties to the trade agree to withdraw the matter.

(v) *Time Parameter to Appeal Erroneous Transaction Determinations:* Presently, members have four "market" hours to appeal an erroneous transaction determination. This period of time is too long in that it unduly extends the period of time that both parties to the trade are subject to market risk. Accordingly, the NASD has proposed that, once a member has received verbal notification of an erroneous transaction determination from the staff, it shall have thirty minutes to appeal the determination. The NASD and Nasdaq also propose that Rule 11890 should be amended to clarify that once a written appeal has been received, the counter-party to the trade will be notified of the appeal and both parties will be able to submit any additional supporting written information up until the time the appeal is considered by the Committee. In addition, the NASD and Nasdaq believe that the Rule should be amended to provide that either party to a disputed trade may request the written information provided by the other party during the appeal process.

(vi) *Clarification of the Appeal Process for Erroneous Transaction Determinations:* In order to clarify the current operation of the appeal process for erroneous transaction determinations, Rule 11890(b)(3) should be amended to provide that:

(a) an appeal of an erroneous transaction determination does not operate as a stay of the initial ruling; and

(b) any decisions by the MORC or the staff are rendered without prejudice as to the rights of the parties to seek arbitration of the disputed transactions.

In proposing these rule changes, the NASD and Nasdaq believe that the process for resolving erroneous transaction complaints will become fairer, more efficient, and more timely, thereby promoting the maintenance of fair and orderly markets and exposing

the parties to an allegedly erroneous transaction to less market risk. In addition, allowing Nasdaq officials to cancel or adjust erroneous transactions on their own motion in the event a disturbance or malfunction with a Nasdaq system will serve to protect the interests of investors. Accordingly, the NASD and Nasdaq believe that the proposed rule change is consistent with the provisions of Section 15A(b)(6) in that it promotes the protection of investors and the public interest.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The NASD and Nasdaq do not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in

the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-96-51 and should be submitted by February 19, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,  
*Deputy Secretary.*

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DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 2506]

**Extension of the Restriction on the Use of United States Passports for Travel to, in or Through Lebanon**

On January 26, 1987, pursuant to the authority of 22 U.S.C. 211a and Executive Order 11295 (31 FR 10603), and in accordance with 22 CFR 51.73(a)(3), all United States passports, with the exception of passports of immediate family members of hostages in Lebanon, were declared invalid for travel to, in or through Lebanon unless specifically validated for such travel. This action was taken because the situation in Lebanon was such that American citizens there could not be considered safe from terrorist acts, and has since been periodically renewed.

Although security conditions in Lebanon continue to improve, the situation there has led me to conclude that Lebanon remains an area ". . . where there is imminent danger to the public health or the physical safety of United States travelers" within the meaning of 22 U.S.C. 211a and 22 CFR 51.73(a)(3).

Accordingly, all United States passports shall remain invalid for travel to, in, or through Lebanon unless specifically validated for such travel under the authority of the Secretary of State.

This Public Notice shall be effective upon publication in the Federal Register and shall expire at midnight July 31, 1997, unless extended or sooner revoked by Public Notice. Upon publication, this Public Notice shall supersede Public Notice 2429, published August 22, 1996 (61 FR 43395).

Dated: January 15, 1997.  
 Warren Christopher,  
*Secretary of State.*  
 [FR Doc. 97-2182 Filed 1-28-97; 8:45 am]  
 BILLING CODE 4710-10-M

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

[FHWA Docket No. MC-96-45]

#### Winter Home Heating Oil Delivery State Flexibility Program; Hours of Service

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of final determination.

**SUMMARY:** The FHWA is announcing the implementation of a Winter Home Heating Oil Delivery State Flexibility Program for motor carriers making intrastate home heating oil deliveries within a 100 air-mile radius of a central terminal or distribution point. The FHWA has selected the States of Connecticut, New Jersey, New York, and Pennsylvania to participate in the program.

**DATES:** States are authorized to begin granting exemptions under this program on January 29, 1997. This authorization expires April 30, 1997.

**FOR FURTHER INFORMATION CONTACT:** Mr. Nathan C. Root, Office of Motor Carrier Research and Standards, (202) 366-8759, or Mr. Charles Medalen, Office of the Chief Counsel, (202) 366-1354, Federal Highway Administration, DOT, 400 Seventh Street, SW., Washington, DC, 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** Section 346 of the National Highway System Designation Act of 1995 (NHS Act) (Pub. L. 104-59, 109 Stat. 568, 615, November 28, 1995, 49 U.S.C. 31136 note) requires the Secretary of Transportation to develop and implement a Winter Home Heating Oil Delivery State Flexibility Program (Heating Oil Program). Pursuant to the NHS Act, the FHWA published a notice in the Federal Register requesting comments on the development and implementation of the program and State applications to participate in the program on October 2, 1996 (61 FR 5146). The program will permit any period of 7 or 8 consecutive days to end for any driver who has been off-duty for a period of 24 or more consecutive hours for the purposes of determining maximum on-duty time under 49 CFR 395.3(b) for drivers of vehicles making intrastate home heating oil deliveries within 100 air-miles of a

central terminal or distribution point of the delivery of such oil. The NHS Act allows the Secretary to approve up to 5 States to participate in the program during the winter heating season beginning November 1, 1996, without jeopardizing Motor Carrier Safety Assistance Program (MCSAP) funding to those States. The State participants were required to meet criteria set forth in the NHS Act. This includes having a substantial number of citizens relying upon home heating oil, indicating the current hours-of-service regulations may endanger the welfare of these citizens by impeding timely deliveries of home heating oil, and ensuring that participating motor carriers maintain a level of safety equal to or greater than that produced by compliance with the current regulations through proper monitoring of their safety performance and reporting their performance to the FHWA.

Under the Heating Oil Program, the States will limit participation to those motor carriers with commercial motor vehicles (CMVs) that make intrastate home heating oil deliveries within a 100 air-mile radius of a central terminal or distribution point. The relief provided by participating States will be effective for an initial 15-day period. Each State will be able to continue in the program unless the FHWA finds that a State's continued participation is inconsistent with the NHS Act, or until April 30, 1997.

Comments on all aspects of the program were welcomed. However, the FHWA also requested comments on a number of specific issues. Namely, the 15-day and 30-day reporting and program extension requirements, the definition of a "substantial number of citizens relying on home heating oil," and the implementation plan requirements. The comment period for the Notice ended November 2, 1996.

#### Discussion of Comments

The FHWA received sixteen comments to the notice. The American Trucking Association (ATA) and National Tank Truck Carriers, Inc. (NTTC), provided comments. Four comments were received from petroleum industry associations: the Petroleum Marketers Association of America (PMAA), the Empire State Petroleum Association, the Pennsylvania Petroleum Association, and the Oil Heat Task Force (OHTF). The Wisconsin State Patrol and the Commonwealth of Massachusetts also provided comment, as did the Advocates for Highway and Auto Safety (AHAS) and two private companies. Applications for participation were

received from four States. All comments to the docket were in favor of the implementation of the Heating Oil Program with the exception of those of AHAS and Wisconsin. Massachusetts indicated that a substantial number of their citizens rely on home heating oil and that they are reviewing the October 2nd notice to determine if it is in the Commonwealth's best interest to participate. To date, no application from Massachusetts has been received by the FHWA.

#### Reporting and Program Extension Requirements

The NHS Act directs the Secretary to select up to 5 States to participate in the program for an initial period of 15 days during the winter heating season. If the Secretary finds that a State's continued participation in the program has not resulted in a significant adverse impact upon public safety, the NHS Act directs the Secretary to extend the State's participation in the program for periods of up to 30 days. Accordingly, the FHWA indicated that it would require each participating State to submit a preliminary report of its evaluation of carrier performance within 5 days after the initial 15 days. A State's participation in the program could be suspended at any time if: (1) The State had not complied with any criteria established for participation in the program; (2) The motor carriers found eligible by the State were causing a significant adverse impact upon public safety; or (3) The State elected to end its participation in the program on its own initiative.

The FHWA also indicated that it would require each participating State to submit a report of carrier performance within 5 days of the close of each 30-day reporting period. In the October 2nd notice, the FHWA asked for comments on the requirement that extensions be granted to the States after each reporting period, given the fact that program participation may be suspended at any time during the program for individual carriers or for an entire State. The applications of each State that applied for participation included plans for submitting a report at the end of the initial 15-day period, and at the end of each 30-day period for the duration of the program. The ATA and the AHAS also provided discussion on this issue.

The ATA commented that States should periodically report safety performance data to the FHWA and suggested a 60-day reporting interval to reduce the burdens on the States and the carriers participating in the program. The ATA also believed that requiring the FHWA to grant extensions to the