AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

VOLUME 31 • NUMBER 242

Thursday, December 15, 1966 • Washington, D.C.

Pages 15785–16119

(Part II begins on page 16001)
(Part III begins on page 16109)

Agencies in this issue—

The President
Agricultural Research Service
Agricultural Stabilization and Conservation Service
Agriculture Department
Atomic Energy Commission
Civil Aeronautics Board
Consumer and Marketing Service
Engineers Corps
Federal Aviation Agency
Federal Deposit Insurance Corporation
Federal Maritime Commission
Federal Reserve System
Federal Trade Commission
Fish and Wildlife Service
Food and Drug Administration
General Services Administration
International Pacific Halibut Commission
Interstate Commerce Commission
Land Management Bureau
Maritime Administration
National Park Service
Navy Department
Oil Import Administration

Detailed list of Contents appears inside.





5-Year Compilations of Presidential Documents

Supplements to Title 3 of the Code of Federal Regulations

The Supplements to Title 3 of the Code of Federal Regulations contain the full text of proclamations, Executive orders, reorganization plans, trade agreement letters, and certain administrative orders issued by the President and published in the Federal Register during the period June 2, 1938–December 31, 1963. Tabular finding aids and subject indexes are included. The individual volumes are priced as follows:

1938–1943 Compilation*

1943–1948 Compilation—$7.00

1949–1953 Compilation—$7.00

1954–1958 Compilation—$4.00

1959–1963 Compilation—$6.00

Compiled by Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from Superintendent of Documents, U.S. Government Printing Office Washington, D.C. 20402

* Temporarily out of print

FEDERAL REGISTER

Area Code 202 Phone 963-3261

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration (mail address National Archives Building, Washington, D.C. 20408), pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15 per year, payable in advance. The charge for individual copies varies in proportion to the size of the issue (15 cents for the first 80 pages and 5 cents for each additional group of 40 pages, as actually bound). Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended. The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of books and pocket supplements are listed in the first FEDERAL REGISTER issue of each month.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER or the CODE OF FEDERAL REGULATIONS.

Contents

THE PRESIDENT

EXECUTIVE ORDER

Foreign gifts and decorations; delegation of authority to prescribe rules and regulations ---- 15789

EXECUTIVE AGENCIES

AGRICULTURAL RESEARCH SERVICE

Proposed Rule Making

Laboratory animal welfare ---- 16110

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Agricultural conservation; assignment of payment; miscellaneous amendments ---- 15791
Cotton, upland and extra long staple; marketing quotas, 1966 and succeeding crops ---- 15791
Wheat, 1966–1969; miscellaneous amendments ---- 15792

Proposed Rule Making

Acreage and compliance; basic commodities for which marketing quotas are established ---- 15810

AGRICULTURE DEPARTMENT

See also Agricultural Research Service; Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.

Rules and Regulations

Milk indemnity payment program; definitions and application for payment; correction ---- 15791

ARMY DEPARTMENT

See Engineers Corps.

ATOMIC ENERGY COMMISSION

Notices

Allis-Chalmers Manufacturing Co.; authority to dismantle facility ---- 15816
Vermont Yankee Nuclear Power Corp.; receipt of application for construction permit and facility license ---- 15816

CIVIL AERONAUTICS BOARD

Proposed Rule Making

Study group charters ---- 15811

Notices

IATA Traffic Conferences; agreement regarding reduced-fare transportation for cargo agents ---- 15820

COMMERCE DEPARTMENT

See Maritime Administration.

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Milk in Southern Illinois marketing area; order amending order; correction ---- 15793

Proposed Rule Making

Milk in Massachusetts-Rhode Island marketing area; hearing ---- 15811

Notices

Peoria Union Stock Yards Co., Inc.; petition to vacate order and dismiss proceeding ---- 15818

DEFENSE DEPARTMENT

See Engineers Corps; Navy Department.

ENGINEERS CORPS

Proposed Rule Making

Great Lakes pilot vessels; lights ---- 15810

FEDERAL AVIATION AGENCY

Rules and Regulations

Federal airways:
Alterations (2 documents) ---- 15796, 15797
Extension ---- 15798
Federal airways and jet routes; alterations and designation ---- 15799
Jet route and advisory areas; extension and designation ---- 15799
Restricted area; designation of period of use ---- 15799
Transition areas:
Alterations (2 documents) ---- 15798
Designation ---- 15798

Proposed Rule Making

Airworthiness directive; Lycoming engines with Bendix RSA–5 Series fuel injection systems ---- 15813
Federal airways:
Alteration ---- 15814
Extension ---- 15815
Federal airway segments; alteration, designation, and revocation ---- 15814
Restricted areas; alteration; correction ---- 15815
Transition area; designation ---- 15814

FEDERAL DEPOSIT INSURANCE CORPORATION

Rules and Regulations

Assessments, and payment of deposits and interest thereon by insured nonmember banks; miscellaneous amendments ---- 15794

FEDERAL MARITIME COMMISSION

Notices

Agreements filed for approval:
American Mail Line, Ltd., and Rederiaktiebolaget Nordstjernan ---- 15822
Associated Latin American Freight Conference ---- 15823
Australia-West Pacific Line and American President Lines, Ltd ---- 15822
D. Hauser, Inc., et al ---- 15822
Flota Mercante Gran Centroamericana, S.A., et al ---- 15822
Italy, South France/U.S. Gulf Conference ---- 15823
Doranco, Inc., et al.; Independent ocean freight forwarder licenses and applications ---- 15821
U.S. Atlantic ports to ports in Puerto Rico; reduced rates on machinery and tractors; amended order ---- 15821

FEDERAL RESERVE SYSTEM

Rules and Regulations

Reserve percentages ---- 15793
Savings deposits ---- 15793

FEDERAL TRADE COMMISSION

Rules and Regulations

Prohibited trade practices:
Dean Foods Co. et al ---- 15800
Star of Siam et al ---- 15801

FISH AND WILDLIFE SERVICE

Rules and Regulations

Sport fishing at Ruby Lake National Wildlife Refuge, Nevada ---- 15809
Wildlife and fisheries; republication of regulations ---- 16002

FOOD AND DRUG ADMINISTRATION

Notices

Richardson-Merrell, Inc.; opportunity for hearing ---- 15819
Stauffer Chemical Co.; filing of petition regarding pesticides ---- 15820

GENERAL SERVICES ADMINISTRATION

Rules and Regulations

Procurement by negotiation; negotiated overhead rates ---- 15805

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Food and Drug Administration.

(*Continued on next page*)

INTERIOR DEPARTMENT

See Fish and Wildlife Service; International Pacific Halibut Commission; Land Management Bureau; National Park Service; Oil Import Administration.

INTERNATIONAL PACIFIC HALIBUT COMMISSION

Rules and Regulations

Wildlife and fisheries; republication of regulations 16002

INTERSTATE COMMERCE COMMISSION

Notices

Fourth section applications for relief (2 documents) 15831
Motor carrier:
Broker, water carrier, and freight forwarder applications 15823
Temporary authority applications 15832

LAND MANAGEMENT BUREAU

Notices

Nevada; proposed withdrawal and reservation of lands 15816
Oregon; opening of public lands 15816

MARITIME ADMINISTRATION

Notices

American Export Isbrandtsen Lines, Inc.; application 15819

NATIONAL PARK SERVICE

Rules and Regulations

Olympic National Park; land use 15804

NAVY DEPARTMENT

Rules and Regulations

Medical trainees, and reporting of births and deaths 15801

OIL IMPORT ADMINISTRATION

Rules and Regulations

Refinery inputs; amendment of OI Reg. 1 15803

List of CFR Parts Affected

(Codification Guide)

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 at the end of each issue beginning with the second issue of the month.

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, 1966, and specifies how they are affected.

3 CFR

EXECUTIVE ORDER:
11320 15789

7 CFR

16 15791
709 15791
722 15791
728 15792
1032 15793
PROPOSED RULES:
718 15810
1001 15811
1015 15811

9 CFR

PROPOSED RULES:
1 16110
2 16110
3 16112

12 CFR

204 (2 documents) 15793
217 15793
327 15794
329 15794

14 CFR

71 (7 documents) 15796–15799
73 15799
75 (2 documents) 15799
PROPOSED RULES:
39 15813
71 (4 documents) 15814, 15815
73 15815
208 15811
214 15811
295 15811

16 CFR

13 (2 documents) 15800, 15801

32 CFR

731 15801
735 15801

32A CFR

OIA (Ch. X)
OI Reg. 1 15803

33 CFR

PROPOSED RULES:
201 15810

36 CFR

29 15804

41 CFR

1–3 15805

50 CFR 16002

33 15809

Presidential Documents

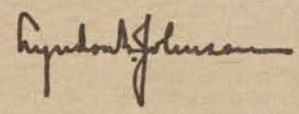
Title 3—THE PRESIDENT

Executive Order 11320

DELEGATING AUTHORITY TO PRESCRIBE RULES AND REGULATIONS RELATING TO FOREIGN GIFTS AND DECORATIONS

By virtue of the authority vested in me by Section 7 of the Foreign Gifts and Decorations Act of 1966 (Public Law 89–673; 80 Stat. 952) and Section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

The Secretary of State, and, when designated by the Secretary of State for such purpose, the Under Secretary of State, are hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority conferred upon the President by Section 7 of the Foreign Gifts and Decorations Act of 1966 to prescribe rules and regulations to carry out the purposes of that Act. Such rules and regulations shall be published in the FEDERAL REGISTER.



THE WHITE HOUSE,
December 12, 1966.

[F.R. Doc. 66-13501; Filed, Dec. 13, 1966; 3:02 p.m.]

Rules and Regulations

Title 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

[Amdt. 4]

PART 16—MILK INDEMNITY PAYMENT PROGRAM

Subpart—Regulations Governing Milk Indemnity Payments

DEFINITIONS AND APPLICATION FOR PAYMENT

Correction

In F.R. Doc. 66-13204, appearing at page 15483 of the issue for Thursday, December 8, 1966, the citation in the first paragraph which reads "30 F.R. 1897" should read "30 F.R. 13897".

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

SUBCHAPTER A—AGRICULTURAL CONSERVATION PROGRAMS

[Amdt. 4]

PART 709—ASSIGNMENT OF PAYMENT

Miscellaneous Amendments

Part 709 of Chapter VII of Title 7 of the Code of Federal Regulations is amended as follows:

§ 709.2 [Amended]

1. The title of § 709.2 is amended by changing the words "Payment may be assigned to finance making a crop" to "Purposes for which payment may be assigned".

2. The first sentence of § 709.2 is amended by inserting after the words "making a crop" a comma and the words "handling or marketing an agricultural commodity, or performing a conservation practice,".

3. The second sentence of § 709.2 is amended by inserting the word "or" immediately preceding paragraph (b), by deleting the semicolon at the end of paragraph (b), and by deleting the words "or (c) to finance the carrying out of soil or water conservation practices".

§ 709.3 [Amended]

4. The first sentence of § 709.3 is amended by inserting immediately preceding the semicolons at the end of paragraphs (a) and (b) a comma and the words "handle or market an agricultural commodity, or perform a conservation practice".

§ 709.5 [Amended]

5. The first sentence in paragraph (a) and the first sentence in paragraph (b) of § 709.5 are amended by inserting after the words "making a crop" a comma and the words "handling or marketing an agricultural commodity, or performing a conservation practice,".

§ 709.10 [Amended]

6. The first sentence of § 709.10 is amended by changing the words "or to finance the carrying out of soil or water conservation practices" to "handling or marketing an agricultural commodity, or performing a conservation practice,".

7. Section 709.12 is amended to read as follows:

§ 709.12 Execution of Part I of Form ACP-69.

Part I of Form ACP-69 shall be signed by the assignor and witnessed by a member of the county or community Agricultural Stabilization and Conservation Committee (referred to in this part as the county or community committee) for the county or community in which the farm is deemed to be situated, or by an employee of the county committee. In the case of an assignment of a payment under the Naval Stores Conservation Program, the witness shall be an inspector of the U.S. Forest Service or State Forest Agency. Notwithstanding any other provision of this section, where the assignee is a bank whose deposits are insured by the Federal Deposit Insurance Corporation, the Farmers Home Administration, or a production credit association supervised by the Farm Credit Administration, such assignment may be witnessed by a bonded officer of the lending institution.

§ 709.16 [Amended]

8. The second sentence of paragraph (b) of § 709.16 is amended by inserting after "as defined in § 709.2," the words "handling or marketing an agricultural commodity, or performing a conservation practice,".

§ 709.20 [Amended]

9. The first sentence of § 709.20 is amended by changing the words "part is executed" to "executed part was received in the county office".

(Sec. 8(g), 52 Stat. 35, as amended; 52 Stat. 205, 80 Stat. 1167; 16 U.S.C. 590h(g))

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on December 9, 1966.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 66-13451; Filed, Dec. 14, 1966; 8:47 a.m.]

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 3]

PART 722—COTTON

Subpart—Marketing Quotas for the 1966 and Succeeding Crops of Upland Cotton and Extra Long Staple Cotton

DESIGNATION OF REPRESENTATIVES OF THE SECRETARY TO EXAMINE RECORDS

Basis and purpose. This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). The purpose of this amendment is to change a statutory reference to conform to Pub. L. 89-554, 80 Stat. 378, approved September 6, 1966, and to change the reference to accountants and investigators of the Office of the Inspector General.

Since this amendment is technical in nature and makes no substantive changes, it is hereby determined that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 (80 Stat. 383) is unnecessary. Accordingly, this amendment shall be effective upon publication of this document in the FEDERAL REGISTER.

Section 722.99 of the regulations for Marketing Quotas for the 1966 and Succeeding Crops of Upland Cotton and Extra Long Staple Cotton (31 F.R. 6573, as amended) is amended to read as follows:

§ 722.99 Designation of representatives of the Secretary to examine records.

(a) *Designation of representatives.* In order to carry out the provisions of §§ 722.89 to 722.92, relating to the examination of records, the deputy administrator is hereby authorized and directed to designate in writing with the counter signature of the State executive director, an appropriate number of persons from the officers or employees of the Department of Agriculture to act as the authorized representatives of the Secretary for the purposes of such provisions. In addition, Auditors and Special Agents, Office of the Inspector General, U.S. Department of Agriculture, are hereby designated as authorized representatives of the Secretary for the purposes of such provisions.

(b) *Authorization to administer oaths and affirmations.* Each person designated pursuant to this section to act as the authorized representative of the Secretary is hereby authorized and empowered under 5 U.S.C. 303 (80 Stat. 379) to administer oaths and affirmations to any person giving a statement

or affidavit in connection with any authorized investigation.

(Secs. 303, 80 Stat. 379, 5 U.S.C. 303, 375, 52 Stat. 66, as amended; 7 U.S.C. 1375)

Effective date: Date of publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on December 9, 1966.

R. P. BEACH,
Acting Administrator.

[F.R. Doc. 66-13473; Filed, Dec. 14, 1966; 8:49 a.m.]

[Amdt. 6]

PART 728—WHEAT

Subpart—Regulations Pertaining to Acreage Allotments, Yields, Wheat Diversion and Wheat Certificate Programs for the Crop Years 1966 Through 1969

MISCELLANEOUS AMENDMENTS

The Regulations Pertaining to Acreage Allotments, Yields, Wheat Diversion and Wheat Certificate Programs for the Crop Years 1966 Through 1969, as amended, are amended as follows:

§ 728.309 [Amended]

1. Section 728.309(a) is amended by changing subparagraph (3) of the second sentence to read as follows: "(3) the wheat diversion program for the 1966 crop year; and".

§ 728.310 [Amended]

2. Section 728.310(k) is amended by adding a new sentence at the end thereof to read as follows: "For 1967, this percentage is 35."

§ 728.400 [Amended]

3. Section 728.400 is amended by deleting the words "through 1969" from the first sentence of paragraph (a).

4. Section 728.400 is further amended by adding a new paragraph (d) to read as follows:

(d) No diversion program shall be in effect for the 1967 crop year and, except as otherwise provided in the regulations governing the wheat certificate program, §§ 728.400 through 728.414 shall be applicable only to the 1966 crop year.

§ 728.401 [Amended]

5. Section 728.401(b)(4) is amended by deleting the words "more of the conservation uses also speci-" in the second sentence thereof.

6. Section 728.401(c)(2)(ii) is amended by inserting immediately before the second sentence the words "For the 1966 crop year,".

§ 728.500 [Amended]

7. Section 728.500(a) is amended by deleting the words "through 1969" from the first sentence thereof.

8. Section 728.500(a) is further amended by inserting immediately after the first sentence the following new sentence: "Under the wheat certificate program for 1967, wheat marketing certificates are issued to producers who comply with the regulations governing the program."

§ 728.501 [Amended]

9. Section 728.501(b) is amended by inserting the words "For 1966," immediately preceding the first sentence after the words "farm requirements:".

10. Section 728.501(b) is further amended by inserting immediately after the first sentence the following new sentence: "For 1967, a farm shall be eligible for wheat marketing certificates if producers on the farm file a Form ASCS-477 for the current year in accordance with § 728.409 and comply with all the regulations governing this program, the conserving base requirements of §§ 728.401 (b)(4) and 728.404, and the producer requirements of § 728.401(c) (2) and (3).

11. Section 728.501(b) is further amended by changing the period at the end of the next to last sentence thereof to a colon and adding the following: *"Provided further,* That, for the 1967 crop year, a producer producing excess wheat on the basis of this provision need not devote an acreage of cropland equal to the minimum diversion requirement of § 728.401(b) to conservation uses as provided in subparagraph (5) of this paragraph."

12. Section 728.501 is further amended by adding a new paragraph (d) to read as follows:

(d) The provisions of § 728.408, relating to Form ASCS-477-1, and of § 728.412, relating to determination of compliance, shall be applicable to the wheat certificate program.

13. A new § 728.501a is inserted after § 728.501 to read as follows:

§ 728.501a Permitted acreage of wheat—1967 crop year.

For the 1967 crop year, the acreage of wheat planted on the farm for harvest in the current year shall not exceed the farm acreage allotment. Notwithstanding the foregoing, in the case of any farm participating in the CRP, CCP, or CAP, the acreage of wheat and other nonconserving crops other than approved crops on acreage diverted under the upland cotton program and the feed grain program, plus the designated diverted acreages under such programs, shall not exceed the smallest number of acres of nonconserving crops permitted under the CRP, CCP, or CAP.

14. A new § 728.501b is inserted after § 728.501a to read as follows:

§ 728.501b Oats-rye base; barley base; substitution of feed grains for wheat and wheat for feed grains, oats and rye, and barley; for 1967 crop year.

Notwithstanding any other provision of the regulations in this subpart and Part 775 of this chapter, the following provisions shall be applicable for the 1967 crop year:

(a) *Oats-rye base and barley base.* (1) On a farm participating in the wheat certificate program, an oats-rye base or a barley base, or both, shall be established for the farm upon request of the farm operator. The preliminary oats-rye base determined for the farm shall be the average of the 1959 and 1960 acreage of oats and rye planted for harvest as grain, as adjusted in accordance with instructions issued by the Deputy Administrator to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, and topography. The final oats-rye base shall be determined by multiplying the preliminary oats-rye base by the State wheat unit reduction factor that is applicable. The State wheat unit reduction factors are: 90 percent for the States of Montana, North Dakota, Minnesota, South Dakota, and Iowa; 80 percent for the States of Washington, Oregon, Idaho, California, Wyoming, Colorado, Utah, Nevada, Arizona, and New Mexico; 70 percent for the States of Nebraska, Kansas, Oklahoma, Texas, and Missouri; and 85 percent for all other States. The barley base shall be determined under Part 775 of this chapter.

(2) No diversion or price support payments shall be made for oats and rye or barley.

(3) The permitted acreage of oats and rye shall be the oats-rye base. The permitted acreage of barley shall be the barley base. The permitted acreage of feed grains may be devoted to oats and rye or barley.

(4) The oats-rye base and the barley base shall not be in effect if the total feed grain acreage exceeds the permitted acreage of feed grains.

(5) Upon request of the operator at any time, the oats-rye base or the barley base, or both, shall not be in effect for the farm.

(b) *Substitution.* Feed grain acreage in excess of the permitted acreage of feed grains shall be considered as wheat acreage and wheat acreage in excess of the permitted acreage of wheat shall be considered as feed grain acreage, barley acreage, or oats and rye acreage: *Provided,* That if an oats-rye base or barley base is in effect for the farm, feed grain acreage in excess of the permitted acreage of feed grains shall not be considered as wheat acreage.

(c) *Diversion payment under substitution.* Diversion payments for feed grains for which the farm is otherwise eligible shall be made only where there has been an actual reduction from the feed grain base.

(d) *Applicability.* This section shall be applicable only if the farm is in total compliance with all the requirements of the regulations governing this program and with all the requirements of the regulations governing the feed grain program with the exception that the acreage of wheat, feed grains, barley, or oats and rye may exceed the permitted acreage for the crop in accordance with this section. The provisions of this section are not applicable if excess wheat produced on the farm is stored under the provisions of § 728.505.

§ 728.502 [Amended]

15. Section 728.502(a)(2)(i) is amended by changing the reference to "§ 728.310(j)" to read "§ 728.310(l)".

(Secs. 339(g), 375(b), 379j; 52 Stat. 66, 76 Stat. 624, 76 Stat. 630; 7 U.S.C. secs. 1339(g), 1375(b), 1379j)

Effective date: Upon filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on December 9, 1966.

R. P. BEACH,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 66-13474; Filed, Dec. 14, 1966; 8:49 a.m.]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order No. 32]

PART 1032—MILK IN THE SOUTHERN ILLINOIS MARKETING AREA

Order Amending Order

Correction

In F.R. Doc. 66-12858, appearing at page 15064 of the issue for Thursday, December 1, 1966, the date reading "Dec. 30" in the file line should read "Nov. 30".

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. D]

PART 204—RESERVES OF MEMBER BANKS

Reserve Percentages

1. Effective as to all member banks at the opening of business on January 5, 1967, § 204.5 (Supplement to Regulation D) is amended to read as follows:

§ 204.5 Supplement.

(a) *Reserve percentages.* Pursuant to the provisions of section 19 of the Federal Reserve Act and § 204.2(a) and subject to paragraph (b) of this section, the Board of Governors of the Federal Reserve System hereby prescribes the following reserve balances which each member bank of the Federal Reserve System is required to maintain on deposit with the Federal Reserve bank of its district:

(1) If not in a reserve city—

(i) 4 percent of (*a*) its savings deposits and (*b*) its time deposits, open account, that constitute deposits of individuals, such as Christmas club accounts and vacation club accounts, that are made under written contracts providing that no withdrawal shall be made until a certain number of periodic deposits have been made during a period of not less than 3 months, plus

(ii) 4 percent of its other time deposits up to $5 million and 6 percent of such deposits in excess of $5 million, plus

(iii) 12 percent of its net demand deposits.

(2) If in a reserve city (except as to any bank located in such a city which is permitted by the Board of Governors of the Federal Reserve System, pursuant to § 204.2(a)(2), to maintain the reserves specified in subparagraph (1) of this paragraph)—

(i) 4 percent of (*a*) its savings deposits and (*b*) its time deposits, open account, that constitute deposits of individuals, such as Christmas club accounts and vacation club accounts, that are made under written contracts providing that no withdrawal shall be made until a certain number of periodic deposits have been made during a period of not less than 3 months, plus

(ii) 4 percent of its other time deposits up to $5 million and 6 percent of such deposits in excess of $5 million, plus

(iii) 16½ percent of its net demand deposits.

(b) *Currency and coin.* The amount of a member bank's currency and coin shall be counted as reserves in determining compliance with the reserve requirements of paragraph (a) of this section.

2a. This amendment is issued pursuant to the authority granted to the Board of Governors by section 19 of the Federal Reserve Act to change reserve requirements (12 U.S.C. 462). The only change is to eliminate from the category of time deposits against which the 6 percent requirement might be applicable those time deposits, open account, that constitute deposits of individuals, such as Christmas club accounts and vacation club accounts, that are made under written contracts providing that no withdrawal shall be made until a certain number of periodic deposits have been made during a period of not less than 3 months.

b. There was no notice and public participation with respect to this amendment as such procedure would result in delay that would be contrary to the public interest and serve no useful purpose. The effective date was deferred for less than the 30-day period referred to in section 553(d) of title 5, United States Code, because the action falls within the exception thereto with respect to granting relief from a restriction.

Dated at Washington, D.C., this 8th day of December 1966.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 66-13443; Filed, Dec. 14, 1966; 8:46 a.m.]

[Regs. D, Q]

PART 204—RESERVES OF MEMBER BANKS

PART 217—PAYMENT OF INTEREST ON DEPOSITS

Savings Deposits

1. Effective January 1, 1967, Parts 204 and 217 are amended as follows:

§§ 204.1, 217.1 [Amended]

a. Section 204.1 (d) and (e) and § 217.1 (d) and (e) are amended to read as follows:

(d) *Time deposits, open account.* The term "time deposit, open account" means a deposit, other than a "time certificate of deposit," with respect to which there is in force a written contract with the depositor that neither the whole nor any part of such deposit may be withdrawn, by check or otherwise, prior to the date of maturity, which shall be not less than 30 days after the date of the deposit,[2] or prior to the expiration of the period of notice which must be given by the depositor in writing not less than 30 days in advance of withdrawal.[3]

(e) *Savings deposits.* The term "savings deposit" means a deposit—

(1) Which consists of funds deposited to the credit of one or more individuals, or of a corporation, association, or other organization operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes and not operated for profit;[4] or in which the entire beneficial interest is held by one or more individuals or by such a corporation, association, or other organization; and

(2) With respect to which the depositor is not required by the deposit contract but may at any time be required by the bank to give notice in writing of an intended withdrawal not less than 30 days before such withdrawal is made[5]

[2] Deposits, such as Christmas club accounts and vacation club accounts, which are made under written contracts providing that no withdrawal shall be made until a certain number of periodic deposits have been made during a period of not less than 3 months constitute "time deposits, open account" even though some of the deposits are made within 30 days from the end of the period.

[3] A deposit with respect to which the bank merely reserves the right to require notice of not less than 30 days before any withdrawal is made is not a "time deposit, open account," within the meaning of the above definition.

[4] Deposits in joint accounts of two or more individuals may be classified as savings deposits if they meet the other requirements of the above definition, but deposits of a partnership operated for profit may not be so classified. Deposits to the credit of an individual of funds in which any beneficial interest is held by a corporation, partnership, association, or other organization operated for profit or not operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes may not be classified as savings deposits.

[5] The exercise by the bank of its right to require such notice shall not cause the deposit to cease to be a savings deposit.

and which is not payable on a specified date or at the expiration of a specified time after the date of deposit.

b. Footnotes, 5, 6, and 7 in Part 204 are redesignated footnotes 6, 7, and 8, respectively; footnotes 7 and 8 in Part 217 are redesignated footnotes 6 and 7, respectively.

c. Section 217.5 is amended to read as follows:

§ 217.5 Withdrawal of savings deposits.

(a) *Requirements regarding notice of withdrawal.* Whether or not interest is paid, no member bank shall require or waive notice of withdrawal as to any amount or percentage of the savings deposit of any depositor unless it shall similarly require or waive such notice as to the same amount or percentage of the savings deposits of every other depositor which are subject to the same contractual provisions with respect to notice of withdrawal. If a member bank, without requiring notice of withdrawal, pays interest that has accrued on a savings deposit during the preceding interest period, it shall, upon request and without requiring such notice, pay interest that has accrued during said period on the savings deposits of every other depositor. No member bank shall change its practice with respect to the requiring or waiving of notice of withdrawal of savings deposits for the purpose of discriminating in favor of or against any depositor or depositors, and no such change of practice shall be made except pursuant to duly recorded action of the bank's board of directors or a properly authorized committee thereof.

(b) *Loans on security of savings deposits.* If it is not the practice of a member bank to require notice of withdrawal of savings deposits, no restrictions are imposed by this part upon loans by such bank to its depositors upon the security of such deposits. If it is the practice of a member bank to require notice of withdrawal of a savings deposit, such bank may make loans to a depositor upon the security of such deposit, but the rate of interest on such loans shall be not less than 2 percent per annum in excess of the rate of interest paid on such deposit.

(c) *Manner of payment of savings deposits.* (1) Subject to the provisions of subparagraph (2) of this paragraph, a member bank may permit withdrawals to be made from a savings deposit only through payment [8] to the depositor himself (but not to any other person whether or not acting for the depositor), except

(i) Where the deposit is represented by a passbook, to any person presenting the passbook; [8]

(ii) To an executor, administrator, trustee, or other fiduciary holding the savings deposit as part of a fiduciary estate, or to a person, other than the bank, holding a general power of attorney granted by the depositor;

(iii) To any person, including the bank, that has extended credit to the depositor on the security of the savings deposit, where such payment is made in order to enable the creditor to realize upon such security;

(iv) Pursuant to the order of a court of competent jurisdiction;

(v) Upon the death of the depositor, to any person authorized by law to receive the deposit; or

(vi) Interest paid to a third person pursuant to written instruction or assignment by the depositor accepted by the bank, and placed on file therein.

(2) Notwithstanding the provisions of subparagraph (1) of this paragraph, no withdrawal shall be permitted by a member bank to be made from a savings deposit, through payment to the bank itself or through transfer of credit to a demand or other deposit account of the same depositor (other than of interest on the savings deposit) if such payment or transfer is made pursuant to any advertised plan or any agreement, written or oral,

(i) Which authorizes such payments or transfers of credit to be made as a normal practice in order to cover checks or drafts drawn by the depositor upon the bank; or

(ii) Which provides that such payments or transfer of credit shall be made at daily, monthly, or other such periodic intervals, except where made to enable the bank, on the depositor's behalf and pursuant to his written instructions, to effect the payment of instalments of principal, interest, or other charges (including taxes or insurance premiums) due on a real estate loan or mortgage.

(3) Where a savings deposit is evidenced by a passbook, every withdrawal made upon presentation of the passbook shall be entered in the passbook at the time of withdrawal, and every other withdrawal from such a deposit shall be entered in the passbook as soon as practicable after the withdrawal is made.

2a. The purpose of these amendments is to sharpen the distinction between savings deposits and time deposits and thereby facilitate interpretation and administration of the regulations. Specifically, under the amendments

(1) Deposits payable at a specified date or at the expiration of a specified period of time after the date of deposit are excluded from savings deposits;

(2) Deposits as to which 30 days' notice of withdrawal is required by the contract are excluded from savings deposits, but the exercise of a bank's reserved right to require such notice does not cause a savings deposit to cease to be such;

(3) The provisions of § 217.5 relating to notice of withdrawal of savings deposits are editorially revised and the provisions of former subparagraphs (2), (3), and (4) of § 217.1(e) are transferred to § 217.5 as paragraph (c).

b. Although the amendments were not designed for the purpose of increasing reserve requirements, it is understood that they have that incidental effect for a small number of banks. For example, a bank may currently have a classification of savings deposits with respect to which the deposit contract requires 30 days' written notice for withdrawals in excess of a certain amount in any one month and reserves to the bank the right to require such notice for all other withdrawals. After December 31, 1966, such a hybrid deposit would be a demand deposit, since it would not qualify as either a savings or a time deposit. However, the bank may avoid this result by modifying the deposit contract either (1) to substitute a reservation of the right to require 30 days' notice for the requirement of such notice, or (2) to change the requirement to less than 30 days' notice, while also retaining the right to require 30 days' notice.

c. Notice of proposed rule making with respect to these amendments was published in the FEDERAL REGISTER of September 29, 1966 (31 F.R. 12730). The amendments were adopted by the Board after consideration of all relevant material, including communications received from interested persons. The effective date was deferred for less than the 30-day period referred to in section 553(d), title 5, United States Code, because the Board found that the administration of the amendments, which are technical in nature, would be facilitated by making them effective at the beginning of a calendar year.

Dated at Washington, D.C., this 8th day of December 1966.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 66-13444; Filed, Dec. 14, 1966; 8:47 a.m.]

[8] Payment from a savings deposit or presentation of a passbook may be made over the counter, through the mails, or otherwise.

Chapter III—Federal Deposit Insurance Corporation

SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

PART 327—ASSESSMENTS

PART 329—PAYMENT OF DEPOSITS AND INTEREST THEREON BY INSURED NONMEMBER BANKS

Miscellaneous Amendments

On September 29, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 12727) stating that the Board of Directors of the Federal Deposit Insurance Corporation was considering the amendment of Parts 327 and 329 of its rules and regulations. Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. After consideration of all such relevant matter as was submitted by interested persons, the amendment as so proposed is hereby adopted, with certain changes, as set forth below:

1. Subparagraphs (2) and (4) of paragraph (b) of § 327.2 are amended to read as follows:

§ 327.2 Classification of deposits.

* * * * *

(b) * * *

(2) Time deposits, open account, being deposits, other than time certificates of deposit, with respect to which there is in force a written contract with the depositor that neither the whole nor any part of such deposit may be withdrawn prior to the date of maturity, which shall not be less than 30 days after the date of the deposit, or prior to the expiration of the period of notice which must be given by the depositor in writing not less than 30 days in advance of withdrawals, including deposits such as Christmas club accounts and vacation club accounts, which are made under written contracts providing that no withdrawal shall be made until a certain number of periodic deposits have been made during a period of not less than 3 months, even though some of the deposits are made within 30 days from the end of such period; and

* * * * *

(4) Savings deposits being deposits:

(i) Which consist of funds deposited to the credit of one or more individuals, or of a corporation, association, or other organization operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes and not operated for profit, or in which the entire beneficial interest is held by one or more individuals or by such a corporation, association, or other organization; and

(ii) With respect to which the depositor is not required by the deposit contract but may at any time be required by the bank to give notice in writing of an intended withdrawal not less than 30 days before such withdrawal is made and which is not payable on a specified date or at the expiration of a specified time after the date of deposit.

* * * * *

2. Paragraphs (d) and (e) of § 329.1 are amended to read as follows:

§ 329.1 Definitions.

* * * * *

(d) *Time deposits, open account.* The term "time deposit, open account" means a deposit, other than a "time certificate of deposit," with respect to which there is in force a written contract with the depositor that neither the whole nor any part of such deposit may be withdrawn, by check or otherwise, prior to the date of maturity, which shall be not less than 30 days after the date of the deposit,[2] or prior to the expiration of the period of notice which must be given by the depositor in writing not less than 30 days in advance of withdrawals.[3]

(e) *Savings deposits.* The term "savings deposit" means a deposit:

(i) Which consists of funds deposited to the credit of one or more individuals, or of a corporation, association, or other organization operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes and not operated for profit,[4] or in which the entire beneficial interest is held by one or more individuals or by such a corporation, association, or other organization; and

(ii) With respect to which the depositor is not required by the deposit contract but may at any time be required by the bank to give notice in writing of an intended withdrawal not less than 30 days before such withdrawal is made[5] and which is not payable on a specified date or at the expiration of a specified time after the date of deposit.

* * * * *

3. Section 329.5 is amended to read as follows:

§ 329.5 Withdrawal of savings deposits.

(a) *Requirements regarding notice of withdrawal.* Whether or not interest is paid, no insured nonmember bank shall require or waive notice of withdrawal as to any amount or percentage of the savings deposits of any depositor unless it shall similarly require or waive such notice as to the same amount or percentage of the savings deposits of every other depositor which are subject to the same contractural provisions with respect to notice of withdrawal. If an insured nonmember bank, without requiring notice of withdrawal, pays interest that has accrued on a savings deposit during the preceding interest period, it shall, upon request and without requiring such notice, pay interest that has accrued during that period on the savings deposits of every other depositor. No insured nonmember bank shall change its practice with respect to the requiring or waiving of notice of withdrawal of savings deposits for the purpose of discriminating in favor of or against any depositor or depositors, and no such change of practice shall be made except pursuant to duly recorded action of the bank's board of directors or a properly authorized committee thereof.

(b) *Loans on security of savings deposits.* If it is not the practice of an insured nonmember bank to require notice of withdrawal of savings deposits, no restrictions are imposed by this part upon loans by such bank to its depositors upon the security of such deposits. If it is the practice of an insured nonmember bank to require notice of withdrawal of a savings deposit, such bank may make loans to a depositor upon the security of such deposit, but the rate of interest on such loans shall be not less than 2 percent per annum in excess of the rate of interest paid on such deposit.

(c) *Manner of payment of savings deposits.* (1) Subject to the provisions of subparagraph (2) of this paragraph, an insured nonmember bank may permit withdrawals to be made from a savings deposit only through payment[12] to the depositor himself (but not to any other person whether or not acting for the depositor), except:

(i) Where the deposit is represented by a passbook, to any person presenting the passbook;[12]

(ii) To an executor, administrator, trustee, or other fiduciary holding the savings deposit as part of a fiduciary estate, or to a person, other than the bank, holding a general power of attorney granted by the depositor;

(iii) To any person, including the bank, that has extended credit to the depositor on the security of the savings deposit, where such payment is made in order to enable the creditor to realize upon such security;

(iv) Pursuant to the order of a court of competent jurisdiction;

(v) Upon the death of the depositor, to any person authorized by law to receive the deposit; or

(vi) Interest paid to a third person pursuant to written instruction or assignment by the depositor, accepted by the bank, and placed on file therein.

(2) Notwithstanding the provisions of subparagraph (1) of this paragraph, no withdrawal shall be permitted by an insured nonmember bank to be made from a savings deposit, through payment to the bank itself or through transfer of credit to a demand or other deposit account of the same depositor (other than of interest on the savings deposit) if such payment or transfer is made pursuant to any advertised plan or any agreement, written or oral:

(i) Which authorizes such payments or transfers of credit to be made as a normal practice in order to cover checks or drafts drawn by the depositor upon the bank; or

(ii) Which provides that such payments or transfers of credit shall be made at daily, monthly, or other such periodic intervals, except where made

[2] Deposits, such as Christmas club accounts and vacation club accounts, which are made under written contracts providing that no withdrawal shall be made until a certain number of periodic deposits have been made during a period of not less than 3 months, constitute "time deposits, open account," even though some of the deposits are made within 30 days from the end of such period.

[3] A deposit with respect to which the bank merely reserves the right to require notice of not less than 30 days before any withdrawal is made is not a "time deposit, open account," within the meaning of the above definition.

[4] Deposits in joint accounts of two or more individuals may be classified as savings deposits if they meet the other requirements of the above definition, but deposits of a partnership operated for profit may not be so classified. Deposits to the credit of an individual of funds in which any beneficial interest is held by a corporation, partnership, association, or other organization operated for profit or not operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes may not be classified as savings deposits.

[5] The exercise by the bank of its right to require such notice shall not cause the deposit to cease to be a savings deposit.

[12] Payment from a savings deposit or presentation of a passbook may be made over the counter, through the mails, or otherwise.

to enable the bank, on the depositor's behalf, and pursuant to his written instruction, to effect the payment of installments of principal, interest, or other charges (including taxes or insurance premiums) due on a real estate loan or mortgage.

(3) Where a savings deposit is evidenced by a passbook, every withdrawal made upon presentation of the passbook shall be entered in the passbook at the time of withdrawal, and every other withdrawal from such a deposit shall be entered in the passbook as soon as practicable after the withdrawal is made.

§§ 329.6, 329.7 [Amended]

4. Footnote 12 in § 329.6 and footnote 13 in § 329.7 are redesignated as footnotes 13 and 14, respectively.

Effective date. This amendment is effective January 1, 1967.

The purpose of the amendment is to sharpen the distinction between savings deposits and time deposits in order to facilitate interpretation and administration of the Corporation's rules and regulations.

Specifically, the amendment to the rules and regulations amends the definition of time deposit, open account and savings deposit so that—

(1) Deposits payable at a specified date or at the expiration of a specified period of time after the date of deposit are excluded from the definition of the term "savings deposit"; and

(2) Deposits as to which 30 days' notice of withdrawal is required by the contract are excluded from the definition of the term "savings deposit," but the exercise of a bank's reserved right to require such notice does not cause a savings deposit to cease to be such.

The amendment revises § 329.5 of the rules and regulations, relating to notice of withdrawal of savings deposits, to conform to the amendment made by the Board of Governors of the Federal Reserve System to § 217.5 of its regulations, and subparagraphs (2), (3), and (4) of the present § 329.1(e), relating to the manner of payment of savings deposits, are transferred to the revised § 329.5 as paragraph (c).

The effective date of the amendment was deferred for less than the 30-day period referred to in section 553(d) of Title 5, United States Code, because the Board of Directors found that administration of the amendment, which is technical in nature, would be facilitated by making it effective at the beginning of a calendar year.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
Secretary.

[F.R. Doc. 66-13387; Filed, Dec. 14, 1966; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Airspace Docket No. 66-CE-9]

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

Alteration of Federal Airways

On August 11, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER stating that the Federal Aviation Agency was considering amendments to Part 71 of the Federal Aviation Regulations that would raise the floors of Federal airway segments in the Minneapolis, Minn., Air Route Traffic Control Center area.

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

The Aircraft Owners and Pilots Association concurred in the proposal.

The Air Transport Association of America (ATA) in commenting on the notice stated that several approved air carrier direct routes would no longer be contained within control area at the lower altitudes. They objected to the loss of air traffic control service now provided at these altitudes. A review of these objections disclosed that scheduled air carriers, in serving Brookings, S. Dak., and Mitchell, S. Dak., traverse the control area associated with segments of V-26 and V-120, respectively. Accordingly, to assure continued air traffic control service to the IFR operations of these carriers, action is taken herein to raise the floors V-26 and V-26 south alternate from Huron, S. Dak., to Redwood Falls, S. Dak., and the floor on V-120 from Pierre, S. Dak., to Sioux Falls, S. Dak., to 1,200 feet above the surface in lieu of 3,300 feet MSL and 5,300 feet MSL, respectively. A third direct route from Hibbing, Minn., direct to a radio broadcasting station at International Falls, Minn., has a minimum en route altitude of 2,900 feet MSL. This route is alined along the centerline of V-129 which has a minimum en route altitude of 3,500 feet MSL. Since this route is seldom used, and as an adequate route exists along the airway, it would not be in the public interest to assign additional control area to the direct air carrier route at an altitude lower than the floor proposed for the airway.

ATA also expressed concern about the loss of a number of minimum obstruction clearance altitudes and the possible loss of cardinal altitudes that would result from the actions proposed in the notice. The Agency has determined that the pertinent minimum obstruction clearance altitudes are not used operationally for air traffic control purposes and that no presently established cardinal altitudes will be affected.

As stated in the notice, a floor of 3,300 feet MSL was proposed for the segment of V-2 and V-2N alternate between Bismarck, N. Dak., and Jamestown, N. Dak., for continuity of the floor of the airway segments and the control area between the two. This was based on an MEA of 3,800 feet MSL on V-2N alternate and 3,900 feet MSL on V-2. Subsequent to publication of the notice, the MEA on this segment of V-2N alternate has been raised to 3,900 feet MSL. Accordingly, action is taken herein to raise the floor of these airway segments to 3,400 feet MSL.

Since the action to further raise the floor on V-2 and V-2N alternate is minor in nature and reduces assigned airspace, and since the action to lower the floor on V-26, V-26S alternate and V-120 is in the interest of safety, the Administrator has determined that notice and public procedure thereon is impracticable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001, e.s.t., February 2, 1967, as hereinafter set forth.

Section 71.123 (31 F.R. 2009, 4839, 5057, 5287, 5823, 6484, 6487, 6582, 6791, 7171, 7507, 7556, 8046, 8117, 8747, 9602, 10026, 10516, 11286, 11861, 11934, 13315, 14261, 14423) is amended as follows:

1. In V-2 all between "Bismarck, N. Dak.," and "12 AGL Lone Rock, Wis.;" is deleted and "including an N alternate; 14 miles, 12 AGL, 62 miles, 34 MSL, 12 AGL Jamestown, N. Dak., including an N alternate from Bismarck 14 miles, 12 AGL, 65 miles, 34 MSL, 12 AGL Jamestown; 7 miles, 12 AGL, 43 miles, 28 MSL, 12 AGL Fargo, N. Dak., including an N alternate from Jamestown 7 miles, 12 AGL, 46 miles, 28 MSL, 12 AGL Fargo; 25 miles, 12 AGL, 50 miles, 30 MSL, 12 AGL Alexandria, Minn., including an N alternate from Fargo, 25 miles, 12 AGL, 52 miles, 30 MSL, 12 AGL Alexandria; 5 miles, 12 AGL, 70 miles, 25 MSL, 12 AGL Minneapolis, Minn.; 12 AGL Nodine, Minn., including a 12 AGL N alternate;" is substituted therefor.

2. In V-9 all after "12 AGL Green Bay, Wis.;" is deleted and "12 AGL Iron Mountain, Mich.; 12 AGL Houghton, Mich.; including a 12 AGL E alternate via Marquette, Mich." is substituted therefor.

3. In V-13 all after "Fort Dodge, Iowa," is deleted and "excluding the airspace between the main and this W alternate; 12 AGL Farmington, Minn.; 12 AGL Grantsburg, Wis., including a 12 AGL W alternate from Mason City to Grantsburg via INT Mason City 349° and Minneapolis, Minn., 188° radials and Minneapolis, excluding the airspace between the main and W alternate; 12 AGL Duluth, Minn., including a 12 AGL E alternate; 36 miles, 12 AGL, 35 MSL Lakehead, Ontario, Canada. The airspace outside the United States and the portion of the W alternate within R-2401 is excluded." is substituted therefor.

4. In V-15 all after "12 AGL Sioux City;" is deleted and "12 AGL INT Sioux City 340° and Sioux Falls, S. Dak., 169°

radials; 12 AGL Sioux Falls, including a 12 AGL E alternate; 12 AGL Huron, S. Dak., including a 12 AGL W alternate via INT Sioux Falls 288° and Huron 140° radials; 12 AGL Aberdeen, S. Dak., including a 12 AGL W alternate; 18 miles, 12 AGL, 89 miles, 42 MSL, 12 AGL Bismarck, N. Dak.; Minot, N. Dak." is substituted therefor.

5. V–24 is amended to read as follows:

V–24 From Aberdeen, S. Dak., 12 AGL Watertown, S. Dak., including a 12 AGL N alternate; 15 miles, 12 AGL, 64 miles, 33 MSL, 12 AGL Redwood Falls, Minn.; 12 AGL Rochester, Minn.; 12 AGL Lone Rock, Wis., including a 12 AGL S alternate from Rochester to Lone Rock via Wankon, Iowa.

6. In V–26 all between "12 AGL Rapid City, S. Dak.;" and "12 AGL Wausau, Wis.;" is deleted and "43 miles, 12 AGL, 35 MSL Philip, S. Dak.; 56 miles, 35 MSL, 12 AGL Pierre, S. Dak.; 26 miles, 12 AGL, 41 miles, 35 MSL, 12 AGL Huron, S. Dak.; 12 AGL Redwood Falls, Minn., including a 12 AGL S alternate; 12 AGL Farmington, Minn.; 12 AGL Eau Claire, Wis.;" is substituted therefor.

7. In V–55 all after "12 AGL Eau Claire;" is deleted and "9 miles, 12 AGL, 55 miles, 25 MSL, 12 AGL Grantsburg, Wis.; 9 miles, 12 AGL, 45 miles, 26 MSL, 12 AGL Brainard, Minn.; 13 miles, 12 AGL, 29 miles, 27 MSL, 12 AGL Park Rapids, Minn.; 7 miles, 12 AGL, 58 miles, 30 MSL, 31 miles, 28 MSL, 12 AGL Grand Forks, N. Dak." is substituted therefor.

8. V–78 is amended to read as follows:

V–78 From Huron, S. Dak., 12 AGL Watertown, S. Dak., including a 12 AGL S alternate; 12 AGL Darwin, Minn.; 12 AGL Minneapolis, Minn.; 12 AGL Eau Claire, Wis.

9. In V–82 all before "12 AGL Dells, Wis.;" is deleted and "From Grand Forks, N. Dak., 12 AGL Bemidji, Minn., including a 12 AGL N alternate via Thief River Falls, Minn.; 20 miles, 12 AGL, 51 miles, 29 MSL, 12 AGL Brainard, Minn.; 11 miles, 12 AGL, 52 miles, 25 MSL, 12 AGL Minneapolis, Minn.; 12 AGL Farmington, Minn.; 12 AGL Rochester, Minn.; 12 AGL Nodine, Minn.;" is substituted therefor.

10. In V–97 "INT of Nodine direct radial to Minneapolis, Minn., and Minneapolis-St. Paul, Minn., International Airport ILS 121° localizer course." is deleted and "12 AGL INT Nodine 313° and the Minneapolis-St. Paul, Minn., International Airport ILS localizer 121° course." is substituted therefor.

11. In V–100 "Sioux City, Iowa;" is deleted and "12 AGL Sioux City, Iowa;" is substituted therefor.

12. In V–120 all after "Dupree, S. Dak.;" is deleted and "60 miles, 38 MSL, 12 AGL Pierre, S. Dak.; 12 AGL Sioux Falls, S. Dak.; 12 AGL Mason City, Iowa." is substituted therefor.

13. In V–129 all after "12 AGL Eau Claire, Wis." is deleted and "From Duluth, Minn., 12 AGL Hibbing, Minn., including a 12 AGL E alternate; 24 miles, 12 AGL, 47 miles, 30 MSL, 12 AGL International Falls, Minn., including a W alternate from Hibbing, 24 miles, 12 AGL, 50 miles, 30 MSL, 12 AGL International Falls; 12 AGL INT International Falls 336° radial and the United States/Canadian border." is substituted therefor.

14. In V–133 "to Marquette, Mich." is deleted and "12 AGL Marquette, Mich." is substituted therefor.

15. In V–148 all between "O'Neill, Nebr.;" and "12 AGL Minneapolis, Minn.," is deleted and "10 miles, 12 AGL, 62 miles, 35 MSL, 12 AGL Sioux Falls, S. Dak.; 29 miles, 12 AGL 46 miles, 31 MSL, 12 AGL Redwood Falls, Minn., including an S alternate from Sioux Falls, 29 miles 12 AGL, 49 miles, 31 MSL, 12 AGL Redwood Falls," is substituted therefor.

16. In V–161 all after "Waterloo 241° radials;" is deleted and "12 AGL Rochester, Minn.; 12 AGL INT Rochester 365° and Minneapolis, Minn., 116° radials; 12 AGL Minneapolis; 14 miles, 12 AGL, 52 miles, 25 MSL, 12 AGL Brainerd, Minn.; 12 AGL INT Brainerd 022° and Hibbing, Minn., 258° radials; 12 AGL Hibbing." is substituted therefor.

17. In V–170 all before "From Nodine, Minn.," is deleted and "From Sioux Falls, S. Dak., 12 AGL Worthington, Minn.; 12 AGL Fairmont, Minn.; 12 AGL Minkato, Minn.; 12 AGL Farmington, Minn." is substituted therefor.

18. In V–171 all after "12 AGL Nodine, Minn.;" is deleted and "12 AGL INT Nodine 298° and Farmington, Minn., 124° radials; 12 AGL Farmington; 12 AGL Darwin, Minn.; 6 miles, 12 AGL, 51 miles, 27 MSL, 12 AGL Alexandria, Minn. From Bemidji, Minn., 12 AGL INT Bemidji 027° and Baudette, Minn., 178° radials, 12 AGL Baudette. The airspace outside the United States is excluded." is substituted therefor.

19. In V–181 all after "12 AGL Yankton, S. Dak.;" is deleted and "12 AGL Sioux Falls, S. Dak., including a 12 AGL W alternate via INT Yankton 016° and Sioux Falls 230° radials; 29 miles, 12 AGL, 27 miles, 30 MSL, 12 AGL Watertown, S. Dak.; 34 miles, 12 AGL, 24 miles, 34 MSL, 12 AGL Fargo, N. Dak.; 12 AGL Grand Forks, N. Dak., including a 12 AGL E alternate; 12 AGL Pembina, N. Dak.; 12 AGL INT Pembina 356° radial and the United States/Canadian border." is substituted therefor.

20. In V–191 all after "12 AGL Rhinelander, Wis.;" is deleted and "12 AGL Ironwood, Mich.; 12 AGL Duluth, Minn." is substituted therefor.

21. In V–217 all after "12 AGL Green Bay;" is deleted and "32 miles, 12 AGL, 39 miles, 31 MSL, 12 AGL Rhinelander, Wis.; 24 miles, 12 AGL, 80 miles, 55 MSL, 12 AGL Duluth, Minn." is substituted therefor.

22. In V–219 "to Farmington, Minn." is deleted and "12 AGL Farmington, Minn." is substituted therefor.

23. In V–263 "From Pierre, S. Dak., to Aberdeen, S. Dak." is deleted and "From Pierre, S. Dak., 12 AGL Aberdeen, S. Dak." is substituted therefor.

24. In V–300 all between "Vancouver, British Columbia, Canada." and "From Sherbrook," is deleted and "From Lakehead, Ontario, Canada, 27 miles, 12 AGL, 165 miles, 50 MSL, 12 AGL Whitefish, Mich.; 12 AGL Sault Ste. Marie, Mich., including a 12 AGL N alternate via INT Whitefish 084° and Sault Ste. Marie 328° radials; 12 AGL Wiarton, Ontario, Canada, including a 12 AGL N alternate." is substituted therefor.

25. In V–316 "to Sudbury," is deleted and "12 AGL Sudbury," is substituted therefor.

26. In V–430 all after "12 AGL Devils Lake;" is deleted and "12 AGL Grand Forks, N. Dak. From Duluth, Minn., 12 AGL Ironwood, Mich.; 12 AGL Iron Mountain, Mich.; 12 AGL Escanaba, Mich.," is substituted therefor

27. V–462 is amended to read as follows:

V–462 From Bemidji, Minn., 12 AGL Duluth, Minn. From Houghton, Mich., 10 miles, 12 AGL, 80 miles, 30 MSL, 44 miles, 25 MSL, 12 AGL Whitefish, Mich.; 12 AGL Sault Ste. Marie, Mich. The airspace within Canada is excluded.

28. V–470 is amended to read as follows:

V–470 From Lakehead, Ontario, Canada, 65 miles 26 MSL, 12 AGL Houghton, Mich.; 12 AGL Marquette, Mich.; 35 miles, 12 AGL, 20 miles, 25 MSL INT Marquette 067° and Whitefish, Mich., 282° radials; 44 miles, 25 MSL, 12 AGL Whitefish. The airspace within Canada is excluded.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 8, 1966.

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

[F.R. Doc. 66–13428; Filed, Dec. 14, 1966; 8:45 a.m.]

[Airspace Docket No. 66–CE–65]

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

Alteration of Federal Airways

On August 26, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 11319) stating that the Federal Aviation Agency was considering amendments to Part 71 of the Federal Aviation Regulations that would realign V–63 and V–129 in the vicinity of Dubuque, Iowa.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. The Air Transport Association of America concurred in the proposals. No other comments were received.

In consideration of the foregoing Part 71 of the Federal Aviation Regulations is amended effective 0001 e.s.t., February 2, 1967, as hereinafter set forth.

Section 71.123 (31 F.R. 1009, 6484, 6582, 7556, 8750) is amended as follows:

1. In V–63 "Janesville, Wis., 239°" is deleted and "Janesville, Wis., 238°" is substituted therefor.

2. In V–129 all before "12 AGL Dubuque, Iowa" is deleted and "From Cordovia, Ill.," is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 7, 1966.

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

[F.R. Doc. 66-13429; Filed, Dec. 14, 1966; 8:45 a.m.]

[Airspace Docket No. 66-WE-66]

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

Alteration of Transition Area

On October 29, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 13916) stating that the Federal Aviation Agency proposed to alter the transition area in the Montrose, Colo., terminal area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. One objection to the proposal was received from the Aircraft Owners and Pilots Association.

The Aircraft Owners and Pilots Association objected on the basis that the proposed 700 feet above the surface transition area was much larger than necessary to protect an instrument approach procedure at the Montrose County Airport.

In the development of an approach procedure, whenever possible, the procedure turn altitude is established at or above 1,500 feet above the highest terrain within the required airspace. In this manner, a transition area floored at 1,200 feet above the surface will suffice to provide the necessary controlled airspace. In the case of the Frontier Airlines ADF-1 (Special) approach for Montrose County, the procedure turn altitude could not be raised to 1,500 feet without derogating the approach minima due to descent problems; therefore, the procedure turn is conducted at 1,000 feet above terrain and a transition area floored at 700 feet above the surface is required.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., March 2, 1967, as hereinafter set forth:

In § 71.181 (31 F.R. 2226) the Montrose, Colo., transition area is amended as follows:

MONTROSE, COLO.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Montrose County Airport (latitude 38°29'55" N., longitude 107°53'35" W.); within 8 miles SW and 5 miles NE of a 329° bearing from the Montrose RBN (latitude 38°30'00" N., longitude 107°54'00" W.), extending from the RBN to 13 miles NW of the RBN; and that airspace extending upward from 1,200 feet above the surface within 9 miles SW and 6 miles NE of the 329° and 149° bearings from the Montrose RBN, extending from 19 miles NW to 8 miles SE of the RBN.

(Sec. 307(a), the Federal Aviation Act of 1958, as amended, 72 Stat. 749; 49 U.S.C. 1348)

Issued in Los Angeles, Calif., on December 6, 1966.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 66-13430; Filed, Dec. 14, 1966; 8:45 a.m.]

[Airspace Docket No. 66-SO-89]

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

Alteration of Transition Areas

The purpose of these amendments to Part 71 of the Federal Aviation Regulations is to alter the Myrtle Beach, S.C., and the Goldsboro, Raleigh, and Wilmington, N.C., transition areas.

The Myrtle Beach transition area is described in § 71.181 (31 F.R. 2149, 13315).

The Goldsboro transition area is described in § 71.181 (31 F.R. 2149, 12084).

The Raleigh transition area is described in § 71.181 (31 F.R. 2149, 6297).

The Wilmington transition area is described in § 71.181 (31 F.R. 2149, 9447).

Because of an inadvertent omission in the present descriptions, it is necessary to alter the transition areas by deleting "* * * extending upward from 1,200 feet above the surface * * *" and substituting "* * * extending upward from 1,200 feet above the surface to the base of the continental control area * * *."

Since these amendments are editorial in nature and impose no additional burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.181 (31 F.R. 2149) the Myrtle Beach, S.C. (31 F.R. 13315), Goldsboro, N.C. (31 F.R. 12084), Raleigh, N.C. (31 F.R. 6297), and Wilmington, N.C. (31 F.R. 9447), transition areas are amended by deleting "* * * extending upward from 1,200 feet above the surface * * *" and substituting "* * * extending upward 1,200 feet above the surface to the base of the continental control area * * *."

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on December 6, 1966.

WILLIAM M. FLENER,
Acting Director, Southern Region.

[F.R. Doc. 66-13431; Filed, Dec. 14, 1966; 8:45 a.m.]

[Airspace Docket No. 66-EA-68]

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

Extension of Federal Airway

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to extend VOR Federal airway No. 20 from Tappahannock, Va., intersection to Nottingham, Md.

The Federal Aviation Agency is taking action herein to extend V-20 with a 1,200-foot AGL floor from Tappahannock to Nottingham to provide a route with a continuous designated number for flight planning purposes for air traffic enroute to the Washington, D.C., terminal area from the Richmond, Va., area. This extension of V-20 would coincide with VOR Federal airway No. 213 to the Coles Point intersection, and with VOR Federal airway No. 33 from Coles Point to Nottingham, and would not require the designation of additional airspace.

Since this action is editorial in nature and does not require the designation of additional airspace and imposes no additional burden on any person, notice and public procedure hereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, § 71.123 (31 F.R. 2009, 5056, 6484, 7507, 10248, 11286) is amended, effective 0001 e.s.t., February 2, 1967, as hereinafter set forth.

In V-20 "12 AGL INT Richmond 039° and Brooke, Va., 131° radials." is deleted and "12 AGL INT Richmond 039° and Brooke, Va., 131° radials; 12 AGL INT Patuxent, Md., 228° and Nottingham, Md., 174° radials; 12 AGL Nottingham." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 7, 1966.

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

[F.R. Doc. 66-13432; Filed, Dec. 14, 1966; 8:45 a.m.]

[Airspace Docket No. 66-WE-67]

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

Designation of Transition Area

On October 27, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 13801) stating that the Federal Aviation Agency proposed to designate additional controlled airspace in the Kingman, Ariz., terminal area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. Objections to the proposal were received from the Aircraft Owners and Pilots Association.

The Aircraft Owners and Pilots Association objected to the 1,200-foot transition area described on the Kingman, Ariz., VOR 025° and 205° radials on the basis that insufficient justification was provided in the notice of proposed rule making. They further objected to the transition area described on the Kingman VOR 115° radial on the basis that

existing airways provide adequate controlled airspace between Kingman and Prescott, Ariz., VOR's.

Due consideration has been given to the objections and the final rule reflects such consideration. The 1,200-foot transition area based upon the 025° and 205° radials is required to provide controlled airspace for IFR approach, departure, and holding procedures at Kingman, Ariz. Holding procedures are to be established southwest of the Kingman VOR on the 207° M (222° T) radial and northeast of the Music Intersection (Peach Springs 226° M (241° T) and Kingman 010° M (025° T) radials). The 1,200-foot transition area designated to encompass the holding procedures is sufficient to contain other prescribed instrument procedures. Action on the portion of the 1,200-foot transition area described on the Kingman VOR 115° radial is deferred pending further review.

Since the changes made in the proposed amendment are less restrictive in nature and impose no additional burden on any person, further notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., February 2, 1967, as hereinafter set forth:

In § 71.181 (31 F.R. 2149) the following transition area is added:

KINGMAN, ARIZ.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Kingman Municipal Airport (latitude 35°15'31" N., longitude 113°56'20" W.); within 2 miles each side of the Kingman VOR 025° radial, extending from the 5-mile radius area to 7 miles NE of the VOR; that airspace extending upward from 1,200 feet above the surface within 5 miles SE and 9 miles NW of the Kingman VOR 025° and 205° radials, extending from 38 miles NE to 13 miles SW of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 72 Stat. 749; 49 U.S.C. 1348)

Issued in Los Angeles, Calif., on December 5, 1966.

JOSEPH H. TIPPETS,
Director, Western Region.

[F.R. Doc. 66-13433; Filed, Dec. 14, 1966; 8:46 a.m.]

[Airspace Docket No. 66-WE-50]

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

PART 75—ESTABLISHMENT OF JET ROUTES

Alteration and Designation of Federal Airways; Alteration of Jet Route

On September 29, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 12726) stating that the Federal Aviation Agency was considering amendments to Parts 71 and 75 of the Federal Aviation Regulations that would realign VOR Federal airways and jet route in the vicinity of Seattle, Wash.

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

In consideration of the foregoing, Part 71 and Part 75 of the Federal Aviation Regulations are amended, effective 0001, e.s.t., February 2, 1967, as hereinafter set forth.

1. Section 71.123 (31 F.R. 2009, 6582, 7171, 7610, 8747) is amended as follows:

a. In V-4 "INT of Port Angeles 090° and Seattle, Wash., 322° radials;" is deleted and "INT of Port Angeles 090° and Seattle, Wash., 329° radials;" is substituted therefor.

b. In V-287 "INT of Olympia 010° and Seattle, Wash., 322° radials; INT of Seattle 322° and Port Angeles, Wash., 090° radials;" is deleted and "INT of Olympia 010° and Seattle, Wash., 329° radials; INT of Seattle 329° and Port Angeles, Wash., 090° radials;" is substituted therefor.

2. In § 71.125 (31 F.R. 2045, 9001) V-440 is amended by adding: "From Seattle, Wash., to Victoria, British Columbia." at the beginning of the text.

3. In § 75.100 (31 F.R. 2346, 12433) Jet Route No. 501 is amended by deleting "to the INT of the Seattle 331° radial and the United States/Canadian border." and substituting "to Victoria, British Columbia." therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 7, 1966.

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

[F.R. Doc. 66-13434; Filed, Dec. 14, 1966; 8:46 a.m.]

[Airspace Docket No. 66-WA-36]

PART 73—SPECIAL USE AIRSPACE

Designation of Period of Use for Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to designate a period of use for Restricted Area R-6410 at Blanding, Utah.

On May 13, 1966, a rule designating Restricted Area R-6410 at Blanding, Utah, was published in the FEDERAL REGISTER (31 F.R. 7032). The time of designation for this restricted area was established as follows:

Time of designation. Continuous, June 23, 1966, through August 15, 1966. All subsequent firing periods will be designated by a rule published in the FEDERAL REGISTER.

Since the precise periods when R-6410 would be needed during each year, subsequent to the first designated period, were not capable of determination at the time the rule designating the first period was published, it was determined, as set forth above, to establish subsequent biannual firing periods by a rule published in the FEDERAL REGISTER.

Since this amendment is made in accordance with the procedures set forth in the notice and previous rule, additional notice and public procedure hereon are unnecessary.

Therefore, action is taken herein to amend Part 73 of the Federal Aviation Regulations, effective 0001, e.s.t., March 1, 1967, as hereinafter set forth.

In § 73.64 (31 F.R. 2336, 7032, 11863), the Blanding, Utah, Restricted Area R-6410 is amended by deleting the present time of designation and substituting the following therefor:

Time of designation. Continuous, March 1, 1967, through April 10, 1967. All subsequent firing periods will be designated by a rule published in the FEDERAL REGISTER.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 6, 1966.

WILLIAM E. MORGAN,
Acting Director, Air Traffic Service.

[F.R. Doc. 66-13435; Filed, Dec. 14, 1966; 8:46 a.m.]

[Airspace Docket No. 66-CE-69]

PART 75—ESTABLISHMENT OF JET ROUTES

Extension of Jet Route and Designation of Radar and Nonradar Jet Advisory Areas

On September 7, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 11725) stating that the Federal Aviation Agency was considering amendments to Part 75 of the Federal Aviation Regulations that would extend Jet Route No. 515 from Pembina, N. Dak., direct to Fargo, N. Dak.; designate J-515 radar jet advisory area from Pembina to 14 nautical miles south of Pembina; designate J-515 nonradar jet advisory area from 14 nautical miles south of Pembina to Fargo; and designate Jet Route No. 36 nonradar jet advisory area from Fargo to the positive control area boundary southeast of Fargo.

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

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., February 2, 1967, as hereinafter set forth.

1. In § 75.100 (31 F.R. 2346, 9400) Jet Route No. 515 is amended to read:

Jet Route No. 515 (Fargo, N. Dak., via the United States/Canadian border, to Fairbanks, Alaska). (Joins Canadian high level airway No. 515.)

From Fargo, N. Dak., via Pembina, N. Dak., to the INT of Pembina 356° radial and the United States/Canadian border. From the INT of Northway, Alaska, 121° radial and the United States/Canadian border via Northway to Fairbanks, Alaska.

2. Section 75.200 (31 F.R. 2361) is amended as follows:

a. Jet Route No. 36 Jet Advisory Area is added:

JET ROUTE NO. 36 JET ADVISORY AREA

Nonradar: From Fargo, N. Dak., to the positive control area boundary SE of Fargo.

b. Jet Route No. 515 Jet Advisory Area is amended to read:

JET ROUTE NO. 515 JET ADVISORY AREA

Radar: From 14 nautical miles S of Pembina, N. Dak., to the United States/Canadian border.

Nonradar: From Fargo, N. Dak., to 14 nautical miles S of Pembina, N. Dak.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 7, 1966.

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

[F.R. Doc. 66-13436; Filed, Dec. 14, 1966; 8:46 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 8674o.]

PART 13—PROHIBITED TRADE PRACTICES

Dean Foods Co. and Bowman Dairy Co.

Subpart—Acquiring corporate stock or assets: § 13.5 *Acquiring corporate stock or assets:* 13.5–20 *Federal Trade Commission Act.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

[Order of divestiture, Franklin Park, Ill., Docket 8674, Nov. 14, 1966]

In the Matter of Dean Foods Co., a Corporation. Bowman Dairy Co., a Corporation

Order requiring a large producer of packaged milk and other dairy products in the Chicago area, to divest itself of the assets and properties of a former major competitor which it acquired in December 1965 and to refrain from further acquisition in the dairy industry without prior Commission approval for the next 10 years.

The order of divestiture, including further order requiring report of compliance therewith, is as follows:

It is hereby ordered, That:

I. The initial decision of the hearing examiner be and hereby is, set aside and the facts and conclusions set forth in the findings, conclusions, and opinion herein shall constitute the findings of fact and conclusions of fact and law of the Commission.

II. Respondent Dean Foods Corp. (hereinafter referred to as "Dean"), through its officers, directors, agents, representatives, and employees, shall divest itself absolutely, in good faith, of all right, title, and interest and all assets, properties, rights, and privileges, tangible and intangible, including without limitation all manufacturing plants, equipment and operating facilities, lands, leases and the warehousing facilities, machinery, inventory, trade names, trademarks, and good will, acquired by Dean as a result of its acquisition of certain assets of Bowman Dairy Co. (hereinafter referred to as "Bowman"), pursuant to their purchase agreement of December 13, 1965, together with all additions thereto of whatever description which are presently utilized or which may hereafter and prior to such divestiture be utilized by Dean in its operation of the acquired assets, excluding therefrom the retail routes and assets connected therewith which shall have been as of the effective date of this order divested by Dean with the approval of the Federal Trade Commission (which assets, including such additions, less such excluded assets, are hereinafter referred to as the "Bowman Assets") to a purchaser approved by the Federal Trade Commission who shall operate said assets as a going concern in the dairy industry.

III. The Bowman Assets shall not be sold or transferred, directly or indirectly, to any person who at the time of the divestiture is a stockholder, officer, director, employee, or agent of, or otherwise directly or indirectly connected with, or under the control or influence of, Dean or any of Dean's subsidiaries or affiliated companies, or who owns or controls, directly or indirectly, more than one (1) percent of the outstanding stock of Dean.

IV. Pending effectuation of the divestiture required under paragraph II hereof, Dean shall not make any material changes, directly or indirectly, with respect to the Bowman Assets, including the operation and policies affecting said assets, except such changes which may be required in the ordinary course of business or which may be required to improve the saleability of said assets or to prevent the impairment of value of said assets or of the business conducted through the use of said assets.

V. In effectuating paragraph II hereof, Dean shall divest the Bowman Assets in the following manner and subject to the following conditions:

A. Beginning promptly after the effective date of this order and for a period of one (1) year thereafter, Dean shall make a diligent effort in good faith to effectuate the divestiture required by paragraph II hereof.

B. If Dean is unable to effectuate such divestiture within such one (1) year period, Dean shall, within thirty (30) days after the termination of such period, submit a plan in form and substance satisfactory to the Commission in accordance with the provisions of subparagraphs V(B)(1) or V(B)(2) hereof, the purpose and probable effect of which plan shall be to effectuate such divestiture promptly thereafter:

(1) Under the first alternative plan Dean shall submit a program which may encompass, inter alia, (a) the transfer to any purchaser not only of the Bowman Assets but also of such additional assets, including without limitation processing plants, equipment, and customer lists, which may be used in connection with or consolidated with the Bowman Assets, as are necessary to insure the prompt sale of and the continued use of the Bowman Assets as a going concern in the dairy industry; and (b) the extension of credit by Dean to such purchaser for the purpose of enabling such purchaser, otherwise unable to do so, to purchase the Bowman Assets: *Provided, however,* In the plan provided for herein Dean may include such additional or alternative provisions which may be sufficient to implement the objective of effectuating the prompt divestiture by Dean of the Bowman Assets.

(2) Under the second alternative plan Dean shall submit a plan providing for the creation of a new and separate corporation (hereinafter referred to as "New Bowman") with sufficient assets as will restore Bowman as it existed prior to the acquisition as a going concern in the dairy business.

Such a plan may encompass

(a) Transfer to New Bowman of the Bowman Assets as defined herein and also sufficient cash and cash equivalents to provide New Bowman with an adequate working capital ratio which shall be not less than a ratio of 2 to 1;

(b) Distribution of its capital stock to the stockholders of Dean; and

(c) A provision that any direct or indirect holder of more than 1 percent of the outstanding capital stock of Dean shall divest all stock interest in New Bowman within a period of six (6) months from the date of incorporation of New Bowman.

C. If Dean has failed to complete the divestiture required by paragraph II hereof within one (1) year after the effective date of this order and if the parties fail to submit a feasible and acceptable plan within the meaning of paragraph V(B) hereof, and divestiture under such plan is not effectuated promptly thereafter, the Commission may issue an order to show cause as to why some other form of relief which may be necessary to effectuate divestiture should not be ordered.

D. Within thirty (30) days from the effective date of this order, and every thirty (30) days thereafter until it has fully complied with this order, Dean shall submit in writing, to the Federal Trade Commission, a report setting forth in detail the manner and form in which it intends to comply, is complying, or has complied with this order. All compliance reports shall include without limitation a specification of the steps taken by Dean to make public its desire to sell these assets, a list of all the persons, including dairy and nondairy companies, bankers, brokers, and management consultant firms to whom this notice of sale has been given, a summary of all discussions and negotiations, together with the identity of all such potential purchasers or intermediaries with whom these discussions or negotiations were undertaken and copies of all written communications to and from all such intermediaries or potential purchasers and all contracts entered into with purchasers.

VI. Dean, for a period of ten (10) years from the date this order becomes final, shall cease and desist from acquiring, directly or indirectly, by any device or through subsidiaries or otherwise, the whole or any part of the stock, share capital, or assets (other than products sold in the course of business), of any firm engaged in the manufacture, processing, distribution or sale of dairy products (Standard Industrial Classification Group No. 202) without the prior approval of the Federal Trade Commission.

VII. As used in this order, the word "person" shall include all members of the immediate family of the individual specified and shall include corporations, partnerships, associations, and other legal entities as well as natural persons.

Issued: November 14, 1966.

By the Commission.

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

[F.R. Doc. 66-13445; Filed, Dec. 14, 1966; 8:47 a.m.]

[Docket C-1136]

PART 13—PROHIBITED TRADE PRACTICES

Star of Siam et al.

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods;* § 13.130 *Manufacture or preparation;* § 13.170 *Qualities or properties of product or service;* § 13.285 *Value.* Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception.* Subpart—Misrepresenting oneself and goods—goods: § 13.1590 *Composition;* § 13.1680 *Manufacture or preparation;* § 13.1710 *Qualities or properties;* § 13.1775 *Value.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 15 U.S.C. 45) [Cease and desist order, Star of Siam et al., Lakewood, Calif., Docket C-1136, Nov. 8, 1966.]

In the Matter of Star of Siam, a Corporation, and Ben A. McOsker and A. C. Novick, Individually and as Officers of Said Corporation

Consent order requiring a Lakewood Calif., corporation to cease misrepresenting the nature and composition of its imitation pearls.

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

It is ordered, That respondents Star of Siam, a corporation, and its officers, and Ben A. McOsker and A. C. Novick, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of imitation pearls, or any other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "Nacreated," "Nacreations," or any other words or terms of similar import or meaning, as a name for or to describe or refer to imitation pearls.

2. Using the word "Pearls," or any other word or term of similar import or meaning, as a name for or to describe or refer to imitation pearls, unless such word is immediately preceded with equal conspicuousness by the word "Imitation" or "Simulated".

3. Representing, directly or by implication, that their imitation pearls:

(a) Are man-made pearls, are created pearls, or are synthetic pearls, or are a new kind of pearl;

(b) Are coated or are covered with or are dipped in the oyster's own substance, lustre mined from oysters, essence of pearl, nacre or mother-of-pearl; or using any other word or term of the same import or meaning as descriptive of or with reference to imitation pearls;

(c) Are different in composition from or are superior to all other imitation pearls;

(d) Are a duplication of the oyster's secret; or that their process duplicates the oyster's function in producing cultured or natural pearls;

(e) Are chemically virtually identical to cultured or natural pearls, or are created by a process which is identical with that of cultured pearls; or

(f) Are superior in appearance to cultured pearls or to natural pearls.

4. Misrepresenting, in any manner, or placing in the hands of others the means or instrumentalities of misrepresenting, the composition, nature or identity of coating, covering, ingredients or elements, method of manufacture, creation, or production, or the characteristics or qualities of imitation pearls or any other imitation or synthetic product or of any precious or semiprecious stone.

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

Issued: November 8, 1966.

By the Commission.

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

[F.R. Doc. 66-13446; Filed, Dec. 14, 1966; 8:47 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

SUBCHAPTER C—PERSONNEL

PART 731—TRAINEES FROM ACCREDITED NONFEDERAL INSTITUTIONS AT NAVAL MEDICAL DEPARTMENT FACILITIES

PART 735—REPORTING BIRTHS AND DEATHS IN COOPERATION WITH OTHER AGENCIES

Scope and purpose. Parts 731 and 735 reproduce the substance of Bureau of Medicine and Surgery Instructions 12000.5A and 6000.3, respectively. Part 735 includes Department of the Navy implementation of Part 138 of this title.

Chapter VI is amended by adding Parts 731 and 735 to read as follows:

Sec.
731.1 Purpose.
731.2 Program information.
731.3 Policy.
731.4 Requirements.
731.5 Appointment requirements.
731.6 Prior approval.
731.7 Reporting.
731.8 Sample arrangement for use of clinical and related facilities.
731.9 Procedures for appointment of trainees.

AUTHORITY: The provisions of this Part 731 issued under secs. 301, 5102(c)(16), 5351-5356, 8144, 8331-8332, 80 Stat. 379, 446, 472, 553, 564-569; 5 U.S.C. 301, 5102(c)(16), 5351-5356, 8144, 8331-8332.

§ 731.1 Purpose.

This part authorizes acceptance of trainees pursuant to 5 U.S.C. 5351-5356 from accredited non-Federal institutions as affiliates for part of their training in naval Medical Department facilities, and provides procedures for their appointment.

§ 731.2 Program information.

Navy Medical Department activities have developed effective working relationships with educational institutions and professional groups through such means as exchange of information and use of services of outstanding civilian specialists in Medical Department training programs. There is a need and opportunity to further this cooperation with local educational institutions through acceptance of trainees from accredited non-Federal institutions as affiliates for part of their training. Programs have been approved for use of clinical and related facilities of some naval hospitals to provide training on a part-time basis for residents, medical students (third and fourth year), clinical psychology interns, student nurses, and other students. Such programs have proven mutually beneficial to the medical activity and to the community.

§ 731.3 Policy.

Within available resources and to the extent that it does not interfere with the naval Medical Department facility's basic mission, addressees may, after Bureau of Medicine and Surgery and primary support bureau, systems command or office approval, as applicable, participate in cooperative programs with accredited non-Federal educational institutions for the use of clinical and related services of naval Medical Department facilities to provide clinical learning experience for trainees assigned as affiliates for part of their training.

§ 731.4 Requirements.

Formal contracts will not be entered into. An exchange of letters will normally suffice; if desired, however, a memorandum of understanding (§ 731.8), may be entered into as a basis for assignment of trainees by the educational institution and their acceptance by the naval activity. The memorandum shall state conditions for the

assignment and acceptance of trainees and the areas and extent of their training assignments. Care shall be taken to assure that documents are no more than statements of cooperative arrangements for making available existing clinical and related facilities. There shall be no obligation, expressed or implied, for the naval activity to expand its facilities or other resources for the purpose of providing training under the program.

§ 731.5 Appointment requirements.

To provide for the acceptance of trainees into the naval activity, excepted appointments shall be made under appropriate sections of schedule A of Part 213 of the Civil Service Regulations (5 CFR Part 213) and only to positions excluded from the Classification Act (5 U.S.C. 5101–5115) under 5 U.S.C. 5102(c)(16). Detailed procedures and requirements for appointment of trainees accepted from non-Federal institutions for a part of their training are contained in § 731.9.

§ 731.6 Prior approval.

On receipt of a request from an accredited non-Federal institution for assignment of trainees as affiliates, a copy of the request, together with the commanding officer's comments and recommendations, should be forwarded to the Bureau of Medicine and Surgery, or to the appropriate primary support bureau, systems command or office, via the Bureau of Medicine and Surgery, for approval. If approved, the commanding officer will be authorized to complete arrangements by exchange of letters or memorandums of understanding.

§ 731.7 Reporting.

When a program is operative, a letter report shall be submitted to the Bureau of Medicine and Surgery. The report shall consist of: (a) A listing by parent institution and category of trainee, e.g., "student nurses," "resident-in-training (plus specialty designation)," the number of persons receiving training, and the total of trainees' time spent at the naval activity during the reported period; (b) a narrative statement giving the highlights of clinical experience and training assignments engaged in by the group; and (c) an evaluation by, and recommendations of, the command. Reports shall be submitted within 30 days after completion of each program. (Reports Symbol MED–12195–2.) In the event of unsatisfactory performance of a trainee, the parent institution should be notified as soon as possible, with copy to the Bureau of Medicine and Surgery, Navy Department, Washington, D.C.

§ 731.8 Sample arrangement for use of clinical and related facilities.

BACKGROUND

The (trustees, administrators, etc., of the _____) have established an approved professional program of special training in preparation for _____, and such an approved program requires the provision of clinical facilities in which the _____
_____
(Student, resident, etc., trainees)
can obtain the required clinical learning experience set forth in the curriculum of the approved program.

The U.S. Naval _____, which is under the jurisdiction of the U.S. Navy, has the required clinical facilities in which the trainees in the basic professional _____ program at _____
(Category)
_____
(Non-Federal institution)
can obtain a part of the required clinical learning experience set forth in the curriculum of the approved program.

It is to the benefit of the _____ that the trainees
(Non-Federal institution)
in the basic professional _____ program
(Category)
be permitted to use the clinical facilities of the U.S. Naval _____, to obtain their clinical learning experience.

It is to the benefit of the U.S. Naval _____ to make its clinical facilities available to the trainees in the basic professional _____ program of the
(Category)
_____ for the obtaining
(Non-Federal institution)
of their clinical learning experience, thereby contributing to the educational preparation of a future supply of _____
_____
(Category of personnel, medical specialists, _____,
professional nurses, etc.)

UNDERSTANDING

The Facility will:

1. Make available its clinical and related facilities for obtaining of the required clinical learning experience in (_____) by _____ enrolled in
(Student, resident, etc., trainees)
the basic professional _____ program at
(Category)
the _____, who are designated by the _____ for such learning experience under the supervision of the _____.
(Non-Federal institution teaching staff)

2. Arrange clinical learning experience schedules in such a manner as to prevent conflict of schedules among educational institutions.

3. Designate an _____
(Appropriate Corps officer)
to coordinate the trainees' clinical learning experiences within the (appropriate) service. This involves the planning with faculty or staff members for the assignment of trainees to specific clinical cases and experiences, including their attendance at selected conferences, clinics, courses, and programs conducted under the direction of the Facility.

4. Provide, whenever possible, in connection with the trainees' clinical learning experience, reasonable classroom, conference room, office, and storage space for participating trainees and their faculty or staff supervisors, if assigned; also, whenever feasible, dressing and locker room space.

5. Permit, upon request, the inspection of its clinical and related facilities by agencies charged with the responsibility for accreditation of the _____
(Non-Federal institution)

The _____ will:

1. Provide the Commanding Officer of the Facility with the number of trainees to be assigned, the dates and hours that they will be assigned, and the clinical service to which they will be assigned, no later than the beginning of each training period.

2. Where indicated provide faculty or staff members to assume the responsibility for instruction and supervision of the trainees' clinical learning experiences.

3. Have the supervising faculty or staff member, if any, plan in coordination with designated (_____ Corps officers) the assignment that will be assumed by the trainees while participating in their clinical learning experience; also, their attendance at selected conferences, clinics, courses, and programs conducted under the direction of the Facility.

4. Provide and maintain the personal records and reports necessary for the conduct of the trainees' clinical learning experience.

5. Enforce rules and regulations governing the trainees mutually agreed upon by the non-Federal institution and the Facility.

6. Be responsible for health examinations and such other medical examinations and protective measures as the Facility and non-Federal institution mutually find to be necessary.

7. Permit designated trainees to accept part-time limited appointment under Civil Service Schedule A for purpose of participating in the program.

8. Prohibit the publication by the trainees and faculty or staff members of any material relative to their clinical learning experience that has not been approved for release for publication by the Facility and the _____
(non-Federal institution)

TRAINING

The term of Training shall be from _____ to _____. Termination will be effected by either institution with written information to the other. Except under unusual conditions, such information shall be submitted prior to the beginning of a particular training period.

Date _____ _____
(Signature, title)

_____
(Signature, title)

§ 731.9 Procedures for appointment of trainees.

(a) *General.* The trainees accepted for training under the program authorized by this part shall be given limited, excepted appointments for temporary, intermittent, or part-time training assignments. A general statement of the program with typical training duties and areas should be stated in writing. Positions of certain trainees assigned or attached to a Federal hospital, clinic, or medical or dental laboratory are excluded from the Classification Act (5 U.S.C. 5101–5115) and the Federal Employees Pay Act (5 U.S.C. 5504, 5505, 5541–5548, 6101) in accordance with the provisions of 5 U.S.C. 5102(c)(16), 5351–5356 and Federal Personnel Manual, chapter 534, subchapter 2, and Regulation 534 FPM Supplement 990–I (5 CFR Part 534).

(b) *Stipends.* The Civil Service Commission establishes maximum stipends for trainees. However, trainees from non-Federal institutions assigned to Federal facilities as affiliates for part of their training shall receive no stipend from the Federal facility other than any maintenance that may be provided (Civil Service Regulations—Part 534, FPM Supplement 990–1; 5 CFR Part 534).

(c) *Appointing authority and nature of action.* (1) Authority has been delegated for the making of excepted appointments under Schedule A to certain trainee positions. In processing appoint-

ments, the nature of action should be "Excepted Appointment—NTE_____—" (add "part-time" or "intermittent" as applicable). The authority to be cited on the personnel action is the applicable subdivision and paragraph of Schedule A. Schedule A exceptions which apply to all agencies are listed in Appendix C to Chapter 213 of the Federal Personnel Manual. Sections of Schedule A which apply only to the Department of the Navy are printed in the FEDERAL REGISTER. See 5 CFR Part 213, particularly § 213.3108. A partial listing of Navy exceptions is printed in Navy Civilian Personnel Instruction 310.3–6.

(2) Requests for exclusion of other positions from the Classification and Pay Acts and/or requests for excepting other positions from the competitive service and including them under Schedule A should be submitted to the Bureau of Medicine and Surgery with full supporting information. See Part 534 of the Civil Service Regulations and Appendix B of Chapter 213 of the Federal Personnel Manual; 5 CFR Parts 213, 534.

(d) *Physical fitness.* The Commission does not require that a Certificate of Medical Examination be obtained for Schedule A appointees. The physical examination requirements met by the trainees for admission to their parent institution should be adequate assurance of their physical qualifications for the training program. Therefore no additional requirements are imposed by the Bureau of Medicine and Surgery.

(e) *Security investigation.* (1) Due to the nature of the assignment, appointments of trainees should normally be limited to 6 months or less. The security investigation required would be that determined by the commanding officer in accordance with Navy Civilian Personnel Instruction 732.7–8. The investigation normally would not be more than a check of references and local agencies.

(2) Appointments for periods extending beyond 6 months and all appointments where incumbent will be considered as occupying a sensitive-noncritical or sensitive-critical positon will require that the additional investigative and security requirements of NCPI 732 be met.

(f) *Employment documents and records.* The following documents and records must be maintained:

(1) Standard Form 57 or 60—Application for Federal Employment.

(2) Standard Form 50—Notification of Personnel Action.

(3) Standard Form 61—Appointment Affidavits (Part E—Declaration of Appointee—is not required).

(4) Statement of duties or services performed (see paragraph (a) of this section).

(5) Record of time and attendance.

(g) *Exemption from personnel ceiling.* Trainees appointed as affiliates from non-Federal institutions to naval facilities for a part of their training are not counted against personnel ceiling limitations.

Sec.
735.1 Purpose.
735.2 Births.
735.3 Deaths.
735.4 Policy.

AUTHORITY: The provisions of this Part 735 issued under sec. 5031, 70A Stat. 278, as amended, secs. 301, 552, 80 Stat. 379, 383; 5 U.S.C. 301, 552, 10 U.S.C. 5031.

§ 735.1 Purpose.

This part promulgates information about reporting births and deaths, including births to which Part 138 of this title is applicable.

§ 735.2 Births.

(a) In accordance with local health laws and regulations the commanding officer of a naval hospital in the United States shall report to proper civil authorities all births including stillbirths occurring at the hospital. Medical officers at stations other than naval hospitals in the United States, or on ships and aircraft shall report births (including stillbirths) occurring within their professional cognizance. It shall be the duty of the medical officer to determine the requirements of local civil authority for these reports.

(b) Births occurring on aircraft or ships operating beyond political boundaries shall be reported by the medical officer responsible for delivery as follows:

(1) To the commanding officer or master of the ship or to the officer in command of any aircraft, in every case to be recorded in the ship or aircraft log.

(2) For births occurring on course inbound to the United States, to local civil authorities in the first port of entry if required by law and regulation of such authorities. The medical officer shall furnish the parents with appropriate certificates and shall, if the report is not accepted by the local registrar of vital statistics or other civil authority, or in any case in which local authority has indicated in writing that such a report will not be accepted, advise the parents to seek the advice of the cognizant District Director, Immigration and Naturalization Service, at the earliest practicable time. Officers of the Immigration and Naturalization Service are usually located in ports of entry and in major cities of the United States.

(3) For births occurring on courses outbound and beyond the continental limits of the United States, to the U.S. consular representative at the next appropriate foreign port. In any case in which the aircraft or ship does not enter a foreign port, procedure described in subparagraph (2) of this paragraph shall be followed.

(4) Attention is invited to the fact that reports of births may be forwarded to the Bureau of Health Statistics, Department of Health, Honolulu, Hawaii, for any births occurring on courses destined for islands in the Pacific Ocean over which the United States has jurisdiction as well as for those births which are otherwise accepted by civil authorities for Hawaii.

(c) Part 138 of this title provides for registration of certain overseas births and is applicable to the Department of the Navy.

§ 735.3 Deaths.

When a death occurs at a naval activity in any State, Territory, or insular possession of the United States, the commanding officer or his designated representative shall report the death promptly to proper civil authorities. If requested by the civil authorities, the civil death certificate may be prepared and signed by a naval medical officer. Local agreements concerning reporting and preparation of death certificates should be made between the commanding officer, or his designated representative, and the civil authorities.

§ 735.4 Policy.

Registration of vital statistics of Armed Forces members and dependents of members on duty overseas with an appropriate foreign government may be a distinct advantage to the persons concerned should documentary evidence acceptable in all courts be required at any time in the future. Department of Defense policy is that military services will require their members to make official record of births, deaths, marriages, and so forth with local civil authorities in whose jurisdiction such events occur. If the medical officer has knowledge of such a birth or death, he shall refer the matter to the commanding officer for assurance of compliance with the Department of Defense policy.

By direction of the Secretary of the Navy.

[SEAL] R. H. HARE,
Rear Admiral, U.S. Navy, Acting Judge Advocate General of the Navy.

DECEMBER 8, 1966.

[F.R. Doc. 66–13427; Filed, Dec. 14, 1966; 8:45 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter X—Oil Import Administration, Department of the Interior

[Rev. 5, Amdt. 1]

OI REG. 1—OIL IMPORT REGULATION

Refinery Inputs

An analysis of the refinery inputs as reported to the Bureau of Mines and those reported to the Oil Import Administration indicates that a number of companies have reported certain volumes of material to the Bureau of Mines as natural gasoline and have certified the same volumes of material to the Oil Import Administration as refinery inputs.

Investigation has disclosed the fact that, following the issuance of Amendment 10 to Oil Import Regulation 1 (Revision 2) (27 F.R. 5954), different interpretations have been made of those provisions of the regulation relating to refinery inputs. With respect to liquids

(under atmospheric conditions) recovered in natural gas liquids plants, some companies have excluded from their refinery inputs any liquids which had the same general physical and chemical characteristics as gasoline produced in refineries. Others have included liquids which had these characteristics but which were regarded for various reasons as unsuitable for use as finished products or blending components. Uniformity in respect of reported refinery inputs is essential to assure equal treatment under the allocation system. In addition, the nature of the conversion required with respect to ethane, propane, and butanes was not, and should be, expressly described as a chemical conversion. Accordingly, in order to clarify the regulation and to insure uniformity with respect to reported refinery inputs, paragraph (k) of section 22, Oil Import Regulation 1 (Revision 5) (31 F.R. 7750) is amended to read as follows:

Sec. 22. Definitions.

* * * * *

(k) "Refinery inputs" means refinery feedstocks,

(1) And include only—

(i) Crude petroleum as it is produced at the wellhead,

(ii) Liquids which are recovered by a process other than absorption, adsorption, compression, refrigeration, cycling, or a combination of such processes from mixtures of hydrocarbons that existed in a vaporous phase in a reservoir,

(iii) Imported unfinished oils, and

(iv) Ethane, propane, and butanes which are recovered from natural gas and which are chemically converted into other unfinished oils or finished products;

(2) But do not include for the purpose of computing allocations under section 10 or section 11 of this regulation, any crude oil or unfinished oils which are imported into the United States by pipeline, rail, or other means of overland transportation from the country where they were produced, which country, in the case of unfinished oils, is also the country of production of the crude oil from which the unfinished oils were processed or manufactured.

* * * * *

This amendment applies to refinery inputs for the year October 1, 1965, through September 30, 1966, and all applicants for allocations of imports of crude oil and unfinished oils for refineries in Districts I–IV and District V are required to file revised applications for the allocation period beginning January 1, 1967.

Allocations of imports of crude oil and unfinished oil for Districts I–IV and District V must be made and licenses issued by December 31, 1966. Accordingly, it is impracticable to give notice for proposed rule making on, or to delay the effective date of this amendment and it shall become effective immediately.

STEWART L. UDALL,
Secretary of the Interior.

DECEMBER 9, 1966.

[F.R. Doc. 66-13450; Filed, Dec. 14, 1966; 8:47 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 29—OLYMPIC NATIONAL PARK; TEMPORARY LAND USE REGULATION

On page 9278 of the FEDERAL REGISTER of July 7, 1966, there was published a notice and text of a proposed new Part 29 to be added to Chapter 1 of Title 36 of the Code of Federal Regulations. The purpose of the new Part 29 is to further the protection and preservation of Olympic National Park and to ensure the orderly and appropriate development of the lands within this area, regardless of ownership.

Interested persons were given 30 days in which to submit written comments on the proposed regulation. As a result of these comments and after thorough consideration of the effect of the proposed regulation in a wide variety of circumstances, it has been determined that the requirements of the pending study and comprehensive land use plan and regulations will be satisfactorily served by a less inclusive regulation. Accordingly, § 29.3 will prohibit all new commercial or industrial developments as well as new subdivision development. A person or persons owning a tract of land within the park as of the date this regulation appears in the FEDERAL REGISTER may construct one single-family residence and accessory structures on that property.

The cutoff date, which will determine what construction will be considered an existing use, has been changed from July 1, 1966, to "the date of promulgation of this regulation."

Section 29.6 has been reworded to make it clear that the properties within the park which are transferred after the date of issuance of the temporary regulation are subject to restrictions on the uses to which they may be put.

The language of § 29.7 has been revised to put emphasis on the fact that this temporary regulation shall remain in effect no longer than 1 year.

Minor changes in language have been made throughout the regulation to give effect to the revisions described above.

Since substantial developments of lands within the park are now imminent, it has been determined that observance of the usual 30-day waiting period before this regulation becomes effective would be contrary to the public interest. Therefore, this regulation shall become effective upon the date of its publication in the FEDERAL REGISTER.

Title 36, Code of Federal Regulations, Chapter I, is amended by the addition of a new Part 29 which reads as follows:

Sec.
29.1 Scope.
29.2 Purpose.
29.3 Excepted and prohibited uses.
29.4 Special use permits.
29.5 Appeals.
29.6 Transfers.
29.7 Termination.
29.8 Violations.

AUTHORITY: The provisions of this Part 29 issued under 60 Stat. 238; 5 U.S.C. 1003; 39 Stat. 535; 16 U.S.C. 3.

§ 29.1 Scope.

This part shall apply to the lands within the authorized boundary of Olympic National Park, Wash., which is under the exclusive legislative jurisdiction of the United States.

§ 29.2 Purpose.

The purpose of this part is to suspend, for a limited period of time, certain new or additional uses of lands within the said park which lands are under the exclusive legislative jurisdiction of the United States, pending the development and approval of a comprehensive land use management plan which will provide data that may be utilized to establish land use districts within such park and to prescribe more explicit regulations for the use of lands in these districts. While the necessary studies are being conducted and the comprehensive plan for the park is in preparation, it is imperative that certain changes in land use be temporarily suspended. For the purposes of this part, a "use" is the object for which land or premises, or a structure thereon, is or may be occupied or maintained.

§ 29.3 Excepted and prohibited uses.

(a) All new or additional uses of land for commercial, or industrial purposes are prohibited, except, that the Superintendent may, in appropriate cases, issue a special use permit authorizing such new or additional use. A permit for such new or additional use may be granted only if it is determined by the Superintendent that the proposed use is in accord, and will not conflict, with the purposes for which the park was established by the Congress, and upon a showing by the person requesting such permit that denial thereof would cause serious injury to the public welfare or safety, or would cause serious and irreparable financial loss to the person requesting such permit. For the purposes of this section, any construction which has proceeded to the stage of excavation for the foundation as of the date of promulgation of this regulation shall be considered an existing use and may be carried forward to completion.

(b) Subdivisions: (1) The subdivision of lands and the purchase and sale thereof for residential purposes, or the use of subdivided lands for the construction of residences is prohibited; but this shall not preclude the construction of one detached single-family residence and customary accessory structures by the person or persons holding title, as of the date this part is promulgated, to the property on which such residence is constructed.

(2) The word "subdivision" means: The division of a lot, tract or parcel of land into two or more lots, sites or other divisions of land for the purpose, whether immediate or future, of sale or building

development, in such a manner as to require provision for a way, public or private, to furnish access to one or more of such lots, sites or divisions, and shall include resubdivision, and when appropriate to the context, shall relate to the process of subdividing of the land or territory subdivided.

(c) Facilities needed for administration of the park and for the enhancement of visitor use and enjoyment thereof, all in keeping with the purposes for which the park was established by the Congress, may be developed if in accord with an approved National Park Service Master Plan for the park.

(d) All those lands held by the State of Washington within Olympic National Park shall be exempt from the application of this part, so long as such lands remain under State ownership.

§ 29.4 Special use permits.

Applications for a special use permit referred to in § 29.3(a) shall be submitted to the Superintendent. The application shall include the name and address of the owner, the interest of the applicant in the subject property if such person is not the owner, the location of the subject property, a description of the applicant's present and proposed uses, and it shall be signed by the applicant. Upon receipt of such application, the Superintendent shall inform the owners of contiguous properties (including owners of properties separated by road or watercourse from the subject lands), that an application has been filed and that such owners may submit their views or comments in writing to the Superintendent with regard to the proposed use within 30 days of the date of notification. Such notification shall be made by mail to each landowner at his known address, or, when such is not possible, by the posting of such notification on the contiguous properties. The Superintendent, within 15 days after the closing date for the receipt of such comments, shall inform the applicant and the owners of contiguous properties either that the application has been approved or rejected. If the application is rejected, he shall inform the applicant in writing of the reasons therefor. In the event the request for a special use permit is granted, the Superintendent may include in the permit such reasonable terms and conditions as he deems necessary to assure proper administration and use of the part in the public interest.

§ 29.5 Appeals.

Any applicant or owner of contiguous property who is aggrieved by the action of the Superintendent in rejecting or granting an application for a special use permit, or in conditioning such permit, may appeal in writing to the Director of the National Park Service, Washington, D.C. 20240, within 30 days after such persons have been informed by the Superintendent that an application has been approved or rejected. The decision of the Director may be appealed in writing to the Secretary of the Interior within 15 days of notification of such decision.

§ 29.6 Transfers.

The transferor and transferee of any land or interests therein to which this part is applicable are deemed to be on notice that such property is subject to all the penalties, restrictions and limitations prescribed in this part, and the restrictions and limitations on the uses to which such property may be put, and may be subject to further restrictions and limitations on such uses when a comprehensive land use plan and more explicit regulations have been developed and approved for the park.

§ 29.7 Termination.

This part shall in no event continue in effect for a period longer than one year from the date it appears in the FEDERAL REGISTER. Moreover, it shall cease to have effect prior to that time upon the issuance of a land use regulation that is based on a comprehensive plan for the park.

§ 29.8 Violations.

Any person convicted of a violation of the provisions of this part shall be subject to a fine not to exceed $500 or by imprisonment not to exceed 6 months, or both.

STEWART L. UDALL,
Secretary of the Interior.

DECEMBER 7, 1966.

[F.R. Doc. 66-13449; Filed, Dec. 14, 1966; 8:47 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

PART 1-3—PROCUREMENT BY NEGOTIATION

Subpart 1-3.7—Negotiated Overhead Rates

This amendment adds a new Subpart 1-3.7 which prescribes policies and procedures regarding the negotiation of overhead rates.

The table of contents is amended to include new Subpart 1-3.7, as follows:

Subpart 1-3.7—Negotiated Overhead Rates

Sec.

1-3.700 Scope of subpart.
1-3.701 Definitions.
1-3.702 General.
1-3.703 Applicability.
1-3.704 Contract clauses.
1-3.704-1 Contracts with concerns other than educational institutions.
1-3.704-2 Contracts with educational institutions.
1-3.704-3 Modification of contract clauses.
1-3.705 Procedure.
1-3.706 Coordination.
1-3.707 Cost-sharing rates and limitation on overhead cost.

AUTHORITY: The provisions of this Subpart 1-3.7 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 1-3.7 is added to read as follows:

§ 1-3.700 Scope of subpart.

This subpart sets forth the policies and procedures governing the establishment of overhead rates by negotiation (including determination or settlement) for use in cost-reimbursement type contracts.

§ 1-3.701 Definitions.

As used in this subpart:

(a) The term "overhead (indirect costs)" includes, but is not limited to, the general groups of indirect expenses such as those generated in manufacturing departments, engineering departments, tooling departments, general and administrative departments, and, if applicable, indirect costs accumulated by cost centers within these general groups (see § 1-15.203 of this chapter). In the case of contractors using fund accounting systems (e.g., educational institutions), the term includes, but is not limited to, the general groups of expenses such as: General administration and general; operation and maintenance of physical plant; library; and departmental administration (see §§ 1-15.305 and 1-15.306 of this chapter).

(b) The term "billing overhead rate" (or "billing rate") means a tentative percentage or dollar factor which is acceptable to the contracting officer and is established for interim reimbursement purposes. For example, a "billing rate" could be used where the use of a "provisional overhead rate" is not appropriate or desirable, or where such a rate has not yet been negotiated (see § 1-3.703(b)), and pending final settlement of the actual allowable overhead. A "billing rate" is not negotiated and is not incorporated into a contract. It gives the contracting officer a procedure which is more easily administered and provides him with greater flexibility (than would a "provisional overhead rate") for prompt adjustment to meet new or changed circumstances during the rate period.

(c) The term "provisional overhead rate" (or "provisional rate") means a tentative percentage or dollar factor mutually agreed upon by the contracting officer and the contractor. It is negotiated for interim reimbursement pending final settlement of the actual allowable overhead (see § 1-3.703(b)). Such rate shall be incorporated in the contract and changed, if necessary, by contract amendment.

(d) The term "negotiated final overhead rate" means a percentage or dollar factor which expresses the ratio(s) mutually agreed upon by the contracting officer and the contractor after the close of the contractor's fiscal year, unless the parties mutually agree to a different period, of allowable indirect expense incurred in the completed period to direct labor, manufacturing cost, cost of sales, or other appropriate allocation or distribution base of the same period (see §§ 1-15.203 and 1-15.305-2 of this chapter). Ordinarily, such rates are used as a means of determining the amount of reimbursement for the applicable indirect costs for such com-

pleted period; in such cases, they are termed "postdetermined" overhead rates. In certain circumstances involving educational institutions, negotiated final overhead rates may be used as a means of determining the amount of reimbursement for the applicable indirect costs to be incurred during a future period of contract performance; in such cases, they are termed "predetermined" overhead rates (see § 1–3.703(c)).

(e) The term "contracting officer" includes the authorized representative of a contracting officer.

§ 1–3.702 General.

Except for contracts with educational institutions where predetermined overhead rates may be used (see § 1–3.703 (c)), ordinarily the negotiation, determination, or settlement of the reimbursable amount of overhead under cost-reimbursement type contracts is accomplished after the fact on an individual contract basis and is based upon an audit of actual costs incurred during the period involved, in accordance with agency procedures (see § 1–3.705(c)). However, where a contractor performs work in the same period under several contracts for one or more procurement activities or agencies, it may be desirable and appropriate, when mutually agreed to by the agencies and the contractor, to negotiate uniform overhead rates for application to all such contracts, in order to: (a) Effect uniformity of approach, (b) effect economy in administrative effort, and (c) promote timely settlement of reimbursement claims. The foregoing objectives are not intended to preclude the use of an overhead rate which excludes elements of cost which are not allocable to a particular contract. (See, for example, §§ 1–3.807–11 and 1–15.307–1 of this chapter.) The basis or justification for the latter shall be contained in the contract file (see § 1–3.706).

§ 1–3.703 Applicability.

(a) Billing overhead rates (see § 1–3.701(b)) or negotiated (provisional and final) overhead rates (see § 1–3.701 (c) and (d)) may be used in any cost-reimbursement type contract (except facilities contracts) where such use, pursuant to the guidelines of this Subpart 1–3.7, is appropriate; where the use of negotiated rates will accomplish one or more of the purposes enumerated in § 1–3.702; or where the use of either billing or negotiated rates wil be otherwise advantageous to the Government. (See paragraph (c) of this section with respect to predetermined fixed overhead rates with educational institutions.)

(b) Billing or provisional overhead rates should be used for interim reimbursement only after the contracting officer is satisfied either on the basis of a recent review or as a result of previous audits or past experience with the particular contractor, or similar reliable data or experience obtained from another Government agency and included in the contract file, that the contractor's accounting system (including items treated as indirect cost and the method of distributing them) conforms to generally accepted accounting principles; also, that its financial management policies and procdures, including contract financial controls, are adequate for the timely reporting of potential cost overruns and underruns to the contractor's management and subsequently to the Government. Compliance with these criteria is essential in order to avoid the recovery of cost overruns by contractors. If consistent with the foregoing guidelines, a billing or provisional overhead rate or rates may be established, taking into consideration the prior year's experience, adjusted to eliminate nonrecurring costs and to reflect any new or changed conditions which may be applicable to the future. Such rate or rates shall be applied to an appropriate base or bases for computation of the interim payments. The elements of indirect cost and the base or bases used in computing interim payments shall not be construed as indicating the elements of expense to be distributed or the base or bases of distribution to be employed in the determination or settlement of actual allowable overhead. The actual allowable overhead shall be determined or settled not less often than annually and any interim payments made shall be adjusted accordingly.

(c) Predetermined overhead rates may be used in cost-type research and development contracts with educational institutions (Public Law 87–638; 10 U.S.C. 2306 note). The use of such rates is permissive and not mandatory. In determining whether or not predetermined overhead rates should be used in one or more contracts with an institution, consideration should be given to the degree of stability shown in overhead rates and their bases over a period of years. All anticipated changes in the contractor's volume and overhead shall be taken into consideration. In addition the following procedures shall be employed:

(1) When predetermined overhead rates are proposed for the initial period of contract performance and no such rates have been established for the contractor's current fiscal year (or other appropriate period), the contractor shall provide the contracting officer with (i) a proposal for predetermined overhead rates to be applied until the end of such fiscal year or other period, and (ii) complete data on overhead for such preceding fiscal years (or other periods) as the contracting officer may require, including overhead rates, bases, and supporting cost data. As far as practicable, the contractor's proposal for the initial period, with supporting current cost data, shall be based on the contractor's cost experience under similar contracts. Pending mutual agreement on predetermined overhead rates for the initial period, the contractor shall be reimbursed at billing rates acceptable to the contracting officer, subject to appropriate adjustment when the final rates for that period are established. When mutual agreement is reached, the predetermined rates and the applicable bases and period shall be specified in the contract.

(2) Pursuant to the contract clause in § 1–3.704–2(b), the contractor, as soon as possible, but not later than three (3) months after the expiration of each fiscal year, shall submit to the contracting officer a proposed predetermined overhead rate or rates for use during the contract year based on the contractor's actual cost experience during the immediately preceding fiscal year, together with supporting cost data.

(3) Predetermined overhead rates shall be applicable for a period of not more than 1 year, and should generally be based on an audit of the institution's costs for the year immediately preceding the year in which the rate is being negotiated. If this is not possible, an earlier audit may be used, but appropriate steps should be taken to identify and evaluate significant variations in costs incurred or bases used which may have a bearing on the reasonableness of the rate proposed by the contractor. Audits by other Government agencies may be utilized. In the case of smaller contracts (e.g., $100,000 or less), an audit made at an earlier date is acceptable provided (i) there have been no significant changes in the contractor's organization, and (ii) it is reasonably apparent that another audit would have little effect on the rate finally agreed upon.

(4) The use of predetermined overhead rates shall be approved at a level above the contracting officer, in accordance with agency procedures, with respect to any of the following:

(i) Where estimated reimbursable costs for the contract are expected to exceed $1 million annually;

(ii) Where there has been no recent audit of the overhead; or

(iii) Where there have been frequent or wide fluctuations in overhead rates and their bases over a period of years.

§ 1–3.704 Contract clauses.

§ 1–3.704–1 Contracts with concerns other than educational institutions.

Insert the following clause in contracts with concerns other than educational institutions where negotiated overhead rates are to be used pursuant to this subpart.

NEGOTIATED OVERHEAD RATES

(a) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost, Fixed Fee, and Payment,"[1] the allowable indirect costs under this contract shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties, as specified below.

(b) The Contractor, as soon as possible but not later than ninety (90) days after the expiration of his fiscal year, or such other period as may be specified in the contract, shall submit to the Contracting Officer, with a copy to the cognizant audit activity, a proposed final overhead rate or rates for that period based on the Contractor's actual cost experience during that period, together with supporting cost data. Negotiation of overhead rates by the Contractor and the Contracting Officer shall be undertaken as

[1] The contracting agency may substitute the title of its own parallel clause when the title is other than "Allowable Cost, Fixed Fee, and Payment."

promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with [2]_____ as in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in a modification to this contract, which shall specify (1) the agreed final rates, (2) the bases to which the rates apply, and (3) the periods for which the rates apply.

(e) Pending establishment of final overhead rates for any period, the Contractor shall be reimbursed either at negotiated provisional rates as provided in the contract, or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that period are established. To prevent substantial over or under payment, and to apply either retroactively or prospectively: (1) Provisional rates may, at the request of either party, be revised by mutual agreement, and (2) billing rates may be adjusted at any time by the Contracting Officer. Any such revision of negotiated provisional rates provided in the contract shall be set forth in a modification to this contract.

(f) Any failure by the parties to agree on any final rates under this clause shall be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract.

§ 1–3.704–2 Contracts with educational institutions.

(a) Insert the following clause in contracts with educational institutions where postdetermined overhead rates (see § 1–3.701(d)) are to be used pursuant to this subpart.

NEGOTIATED OVERHEAD RATES—POSTDETERMINED

(a) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost and Payment," [3] the allowable indirect costs under this contract shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties, as specified below.

(b) The Contractor, as soon as possible but not later than six (6) months after the close of his fiscal year, or such other period as may be specified in the contract, shall submit to the Contracting Officer, with a copy to the cognizant audit activity, a proposed final overhead rate or rates for that period based on the Contractor's actual cost experience during that period, together with supporting cost data. Negotiation of final overhead rates by the Contractor and the Contracting Officer shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with Subpart 1–15.3 of the Federal Procurement Regulations (41 CFR 1–15.3), as in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in a modification to this contract, which shall specify (1) the agreed final rates, (2) the bases to which the rates apply, and (3) the periods for which the rates apply.

(e) Pending establishment of final overhead rates for any period, the Contractor shall be reimbursed either at negotiated provisional rates as provided in the contract, or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that period are established. To prevent substantial over or under payment, and to apply either retroactively or prospectively: (1) Provisional rates may, at the request of either party, be revised by mutual agreement, and (2) billing rates may be adjusted at any time by the Contracting Officer. Any such revision of negotiated provisional rates specified in the contract shall be set forth in a modification to this contract.

(f) Any failure by the parties to agree on any final rate or rates under this clause shall be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract.

(b) Provision may be made in cost-reimbursement type research and development contracts with educational institutions for payment of reimbursable indirect costs on the basis of predetermined overhead rates (see § 1–3.703(c)). To the extent appropriate and applicable, this basis may be used with respect to all contracts entered into by an agency with such an institution. Insert the following clause in contracts with educational institutions where such negotiated overhead rates are to be used pursuant to this subpart.

NEGOTIATED OVERHEAD RATES—PREDETERMINED

(a) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost and Payment," [4] the allowable indirect costs under this contract shall be obtained by applying predetermined overhead rates to bases agreed upon by the parties, as specified below.

(b) The Contractor, as soon as possible but not later than three (3) months after the close of his fiscal year, or such other period as may be specified in the contract, shall submit to the Contracting Officer, with a copy to the cognizant audit activity, a proposed predetermined overhead rate or rates based on the Contractor's actual cost experience during that period, together with supporting cost data. Negotiation of predetermined overhead rates by the Contractor and the Contracting Officer shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with Subpart 1–15.3 of the Federal Procurement Regulations (41 CFR 1–15.3), as in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in a modification to this contract, which shall specify (1) the agreed predetermined overhead rates, (2) the bases to which rates apply, (3) the fiscal year unless the parties agree to a different period for which the rates apply, and (4) the specific items treated as direct costs or any changes in the items previously agreed to be direct costs.

(e) Pending establishment of predetermined overhead rates for the initial period of contract performance, or for any fiscal year or different period agreed to by the parties, the Contractor shall be reimbursed either at: (1) the rates fixed for the previous fiscal year or other period, or (2) billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that fiscal year or other period are established.

(f) Any failure by the parties to agree on any predetermined overhead rate or rates under this clause shall not be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract. If for any fiscal year or other period of contract performance the parties fail to agree to a predetermined overhead rate or rates, it is agreed that the allowable indirect costs under this contract shall be obtained by applying negotiated final overhead rates in accordance with the terms of the "Negotiated Overhead Rates — Postdetermined" clause set forth in § 1–3.704–2(a) of the Federal Procurement Regulations (41 CFR 1–3.704–2(a)), as in effect on the date of this contract.

§ 1–3.704–3 Modification of contract clauses.

When a separate negotiated overhead rate agreement is used in accordance with § 1–3.705(g), the clauses in §§ 1–3.704–1 and 1–3.704–2 may be appropriately modified.

§ 1–3.705 Procedure.

(a) The procedure for the establishment of overhead rates generally consists of a review of the contractor's overhead rate proposal and the related advisory audit report, conduct of a negotiation conference, preparation of a negotiation report or summary, and execution of contract amendments or supplemental agreements.

(b) When only one procuring activity of an agency is concerned, the contractor's proposal shall be submitted to the contracting officer, with a copy to the cognizant audit activity. Where coordinated negotiations described under § 1–3.706 are involved, the contractor's overhead rate proposals may be submitted to the negotiating activity of the agency sponsoring the negotiation, with a copy to the cognizant audit activity.

(c) The decision to audit or not to audit, and the extent of the audit, involves the exercise of judgment based upon a number of considerations, such as the significance of the amount involved, the dollar volume of Government contracts held by the contractor, previous experience, and the apparent reasonableness of the overhead data furnished by the contractor (see 35 Comp. Gen. 434–436). The determination as to the necessity and extent of an advisory audit report, and the extent of the use of such a report, is solely the responsibility of the contracting officer in accordance with agency procedures. Unless advised to the contrary by the contracting officer, the cognizant audit activity should provide him with an advisory audit report. Such report should set forth the findings of the audit activity, including the results of discussions of such findings with the contractor. The audit or accounting review shall be governed by the contract cost principles which are applicable to the contract.

[2] In paragraph (c), insert the reference which is appropriate to the agency: Subpart 1–15.2 of the Federal Procurement Regulations (41 CFR 1–15.2), or the corresponding agency regulations, or both; or to an "Allowable Cost" clause in the contract, which lists allowable and unallowable costs.

[3] The contracting agency may substitute the title of its own parallel clause when the title is other than "Allowable Cost and Payment."

[4] The contracting agency may substitute the title of its own parallel clause when the title is other than "Allowable Cost and Payment."

(d) To the extent appropriate, particularly when there is a significant difference of opinion between the audit activity and the contractor concerning such matters as the allowability, reasonableness, necessity or allocability of certain indirect costs, the acceptability of the bases used in developing the overhead rates, the specific items to be treated as direct cost, or other matters, the contracting officer, before the negotiation conference with the contractor, shall:

(1) Solicit the comments and recommendations of other Government procurement activities or agenies (doing business with the same contractor) as to: (i) The proposals made by the contractor; and (ii) the related advisory audit report;

(2) Obtain the advisory comment and analyses of appropriate legal, pricing, audit, and technical personnel as to the rate or rates of overhead, application of cost principles, treatment of particular items of cost, and other pertinent issues; and

(3) Develop the position of the procurement agency in coordination with other interested procuring activities (if any) of that agency. Failure of those procuring activities to agree as to the agency position shall be resolved in accordance with agency procedures.

(e) Generally, the negotiation conference should be conducted by a contracting officer of the sponsoring activity (see § 1–3.706). He shall arrange for appropriate legal, pricing, technical, or other specialist personnel of his agency to assist him in the preparation for and conduct of the negotiation conference. The audit activity also should be requested to render appropriate assistance and to participate in the negotiation conference. The negotiation shall be governed by the contract cost principles which are applicable to the contract. In the event provisional overhead rates were utilized to effect a termination settlement (see § 1–8.404–4 of this chapter), that fact will not be considered a precedent when negotiating final rates.

(f) At the completion of the negotiation, the contracting officer shall, as promptly as practicable, prepare, and distribute to all interested Government agencies (see § 1–3.706), a report or summary to become a part of the contract file, to record the results of the negotiation, setting forth information such as the following, to the extent appropriate and applicable:

(1) The name, position, and organization of conferees representing the contractor and the Government;

(2) The purpose of the negotiation;

(3) A summary of the contractor's overhead rate proposal and the pertinent advisory audit report recommendations;

(4) The various overhead rates, and related bases and periods resulting from the negotiation (see §§ 1–15.203 and 1–15.305 of this chapter);

(5) A discussion of the treatment given to cost items requiring specific consideration, including advance understandings (see § 1–15.107 of this chapter), special contract provisions or limitations, and cost-sharing arrangements (see this § 1–3.707); also, where applicable, similar data on the special treatment of cost items agreed upon for the succeeding period;

(6) The specific items treated as direct cost;

(7) The reasons for variation (if any) from the recommendations of the advisory audit report;

(8) A list of the contracts affected by the negotiation, showing identification number and the estimated total dollar value, or a statement that such information is provided in the advisory audit report;

(9) A specific comment as to the percentage (or dollar factor) and amounts allowed for costs of the contractor's independent research and development programs and the effect of such allowance on rates and total amounts of the related overhead cost group (see § 1–15.203(b) of this chapter); and

(10) Where applicable, the billing rates, the provisional rates, or, if appropriate, the predetermined rates, for application in the succeeding period.

(g) Contract administration may be simplified by including, as appropriate, provisional, final (as subsequently established), or predetermined negotiated overhead rates in basic agreements (see § 1–3.410–1) when such agreements exist. When no basic agreement exists and negotiated overhead rates are applicable to a substantial number of contracts, the rates may be set forth in a separate negotiated overhead rate agreement, which may be incorporated by reference in the individual contracts affected in the same way that basic agreements are incorporated in contracts. Any agreement that sets forth overhead rates shall state the bases to which they apply and the period of rate applicability, and the contract file shall contain the negotiation report or summary referenced in paragraph (f) of this § 1–3.705.

§ 1–3.706 Coordination.

When more than one procuring activity of an agency has cost-reimbursement type contracts with the same contractor, the activity having the preponderance of such contracts should, generally, sponsor and conduct any required negotiation of overhead rates. Alternatively, an agency may designate one or more of its offices or activities to sponsor and conduct coordinated negotiation of overhead rates. Each procuring activity of the negotiating agency, as well as other procurement agencies having an interest, should be notified of the pending negotiation, provided (upon request) with a copy of the contractor's overhead rate proposals and pertinent Government data thereon developed for the negotiation, and invited to participate in the negotiation. If a procuring activity or agency has been invited to participate, but does not expect to have a representative at the negotiation, it should provide the sponsoring activity with full information pertinent to its interest therein, such as the specific features or special requirements of its contract(s), the applicable cost principles, its recommendations in the matter, and should request the sponsoring activity to represent it with respect to the matters to be negotiated. At the completion of the negotiation, the sponsoring activity shall, as promptly as practicable, prepare and distribute to all interested activities and agencies the negotiation report or summary as outlined in § 1–3.705(f), including a full report to the procurement activities or agencies which it has represented in the negotiation. All procurement agencies or activities invited to participate (or to be represented) in the negotiations should accept the results thereof unless a contracting officer, with respect to one or more contracts for which he has responsibility, has determined that the acceptance of either (a) the overall results of the negotiations, or (b) one or more negotiated rates, would result in inequitable or improper charges to the affected contract(s). (See also § 1–3.702.) To the extent applicable, each procuring activity and agency should thereupon amend or supplement the affected contracts in accordance with the rates and other data set forth in the negotiation report or summary.

§ 1–3.707 Cost-sharing rates and limitation on overhead cost.

(a) Cost-sharing arrangements may be made wherein cost participation by the contractor is evidenced by a contract provision to accept overhead rates which are lower than the anticipated actual overhead rates. In such cases, a negotiated ceiling overhead rate may be applied prospectively.

(b) In other cases, it may be desirable to provide for a ceiling on overhead rates, beyond which the contractor will absorb the costs. For example:

(1) The proposed contractor is a new company or has been recently reorganized and there may be no past or recent record of indirect costs incurred;

(2) The proposed contractor may have a recent record of rapidly increasing overhead rates due, perhaps, to a declining volume of sales without a commensurate decline in indirect expense; or

(3) The proposed contractor may be seeking to enhance its competitive position in a particular procurement by basing its proposal on overhead rates lower than those which reasonably may be expected to occur during contract performance, thereby causing a cost overrun. When any of the foregoing (or comparable) circumstances are apparent with either a proposed prime or subcontractor, reasonable, realistic, and equitable ceilings should be negotiated on overhead rates, and specified in the contract.

(c) In the cases cited in paragraphs (a) and (b) of this § 1–3.707, the contract should also provide that the Government will not be obligated to pay any additional amount on account of overhead above the negotiated ceiling rates under that (or any other) contract. In the event overhead rates resulting from an audit of allowable costs are less than

the negotiated ceiling rates, the negotiated rates will be reduced in conformity with the lower rates.

Effective date. This amendment is effective February 1, 1967, but may be observed earlier.

Dated: December 9, 1966.

J. E. MOODY,
Acting Administrator of General Services.

[F.R. Doc. 66-13453; Filed, Dec. 14, 1966; 8:47 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Ruby Lake National Wildlife Refuge, Nevada

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NEVADA

RUBY LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Ruby Lake National Wildlife Refuge, Nev., is permitted only on the area designated by signs as open to fishing. This open area, comprising 5,000 acres, is delineated on maps available at the refuge headquarters, Ruby Lake National Wildlife Refuge, Ruby Valley, Nev. 89833, and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 730 Northeast Pacific Street, Portland, Oreg. 97208. Sport fishing shall be in accordance with all applicable State regulations, subject to the following special conditions:

(1) Open seasons:

Elko County. Area north of the south dike, except the collection ditch, open from January 1 through April 2, 1967, and June 17 through October 31, 1967.

The collection ditch north of the south dike open from January 1 through October 31, 1967.

Area south of the south dike—open year around.

White Pine County. Open year around.

(2) Boats:

Elko County. Boats and floating devices, with motors, may be used in the waters south of the south dike only from June 17 through December 31, 1967. Boats and other floating devices, without motors, may be used at all times for the purpose of fishing only.

Airthrust boats over 5 h.p. are prohibited.

White Pine County. Boats and floating devices, with motors, may be used from June 17 through December 31, 1967. Boats and floating devices, without motors, may be used at all times for the purpose of fishing only.

Airthrust boats over 5 h.p. are prohibited.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1967.

PAUL T. QUICK,
Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 6, 1966.

[F.R. Doc. 66-13447; Filed, Dec. 14, 1966; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

[33 CFR Part 201]

LIGHTS FOR GREAT LAKES PILOT VESSELS

Notice of Proposed Rule Making

Notice is hereby given pursuant to the Administrative Procedure Act, approved June 11, 1946, that the Department of the Army is considering amending the general regulations in 33 CFR Part 201 by adding a section to prescribe the lights to be displayed by pilot vessels in the Great Lakes.

Interested parties desiring to submit their views on the proposal may submit them in writing to the Director of Civil Works, Office of the Chief of Engineers, Washington, D.C. 20315. All statements received within 30 days from the date of publication of this notice in the FEDERAL REGISTER will be considered by the Department of the Army before final action is taken on the proposed regulations.

This amendment is proposed pursuant to section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1). It is proposed to add § 201.20 as follows:

§ 201.20 Lights for Great Lakes pilot vessels.

(a) A power-driven pilot vessel when engaged on pilotage duty and underway:

(1) Shall carry a white light at the masthead at a height of not less than 20 feet above the hull, visible all around the horizon at a distance of at least 3 miles and at a distance of 8 feet below it a red light similar in construction and character. If such a vessel is of less than 65 feet in length the vessel may carry the white light at a height of not less than 9 feet above the gunwale and the red light at a distance of 4 feet below the white light.

(2) Shall carry the sidelights prescribed by Great Lakes Rule 3 (33 U.S.C. 252) or by the Act of April 25, 1940 (46 U.S.C. 526b), as appropriate, and a white light at the stern showing an unbroken light over an arc of the horizon of 135°, so fixed as to show the light 67½° from right aft on each side of the vessel, and of such a character as to be visible at a distance of at least 2 miles.

(3) Shall show one or more flareup lights at intervals not exceeding 10 minutes. An intermittent white light visible all round the horizon may be used in lieu of flareup lights.

(b) A sailing pilot vessel when engaged on pilotage duty and under way:

(1) Shall carry a white light at the masthead visible all round the horizon at a distance of at least 3 miles.

(2) Shall be provided with the sidelights prescribed in paragraph (a) (2) of this section or the portable lanterns prescribed by Great Lakes Rule 8 (33 U.S.C. 257), as appropriate, and shall, on the near approach of or to other vessels, have such lights ready for use, and shall show them at short intervals to indicate the direction in which the pilot vessel is heading, but the green light shall not be shown on the port side nor the red light on the starboard side. The vessel shall also carry the stern light prescribed in paragraph (a) (2) of this section.

(3) Shall show one or more flareup lights at intervals not exceeding 10 minutes.

(c) A pilot vessel when engaged on pilotage duty and not under way shall carry the lights and show the flares prescribed in paragraphs (a) (1) and (3) or (b) (1) and (3) of this section, as appropriate, and if at anchor shall also carry the anchor lights prescribed in Great Lakes Rule 9 (33 U.S.C. 258).

(d) A pilot vessel when not engaged on pilotage duty shall show the lights or shapes for a similar vessel of the same length.

KENNETH G. WICKHAM,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 66-13426; Filed, Dec. 14, 1966; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 718]

DETERMINATION OF ACREAGE AND COMPLIANCE

Basic Commodities for Which Marketing Quotas Are Established

Pursuant to the authority contained in the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301 et seq.), the Agricultural Act of 1949, as amended (7 U.S.C. 1441 et seq.), the Sugar Act of 1948, as amended (7 U.S.C. 1100 et seq.), the Soil Bank Act (7 U.S.C. 1801 et seq.), the Food and Agriculture Act of 1962 (Public Law 87-703, approved September 27, 1962, and Public Law 87-801, approved October 11, 1962), the Feed Grain Act of 1963 (Public Law 88-26, approved May 20, 1963), the Agricultural Act of 1964 (Public Law 88-297, approved April 11, 1964), and the Food and Agriculture Act of 1965 (Public Law 89-321, approved November 3, 1965), it is proposed that Part 718 (7 CFR Part 718) be amended in the following respects:

Section 718.8b would be amended by revising paragraph (d) to read as follows:

§ 718.8b Obtaining reports of acreage in certification counties.

* * * * *

(d) *Failure to file a timely certification.* (1) Except as provided in paragraph (e) of this section, if the farm operator does not file a certification of crop or land use acreages by the applicable date prescribed in paragraph (c) of this section, producers on the farm shall be deemed ineligible for any benefits under the program for which the certification was not timely filed.

(2) In addition, except as provided in paragraph (e) of this section, if the operator fails to file the certification required by paragraphs (a), (b), and (c) of this section: (i) For rice, no marketing card shall be issued for the farm; (ii) for cotton, buyers of cotton in the vicinity shall be notified that the farm is considered in excess of the farm marketing quota; and (iii) for peanuts and tobacco a 100-percent excess penalty card will be issued: *Provided,* That (*a*) if the operator files a request to have the acreage of the crop measured, pays the cost of the measurement, and it is possible to measure the acreage accurately within 15 days after the date of such request, the acreage shall be measured; and (*b*) in such case the measured crop acreage shall be used to determine whether a marketing quota penalty is applicable and the amount of any such penalty, and appropriate action with respect to collection of penalties or issuance of marketing cards shall be taken.

* * * * *

This amendment would give an added incentive for farm operators, in counties where crop and land use acreages are obtained by farm operator certification in lieu of a farm visit, to file the required certification of acreage with the county committee. The proposed amendment provides that when the operator fails to file a timely certification, the farm will be considered in excess of the farm marketing quota unless the actual acreage of the crop is determined by measurement. It also makes the farm operator responsible for requesting this measurement while the areas devoted to the crop can still be identified, and for paying the cost of measurement. If the crop is measured at the operator's request, these measurements will be used as the basis for determining the amount of any marketing quota excess penalty.

The proposed amendment would become effective beginning with the determination of acreages for crops planted for harvest in 1967.

Interested persons are invited to submit written comments, suggestions, or

objections regarding the proposed amendment to Director, Farmer Programs Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington, D.C. 20250, within 30 days after date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C., on December 9, 1966.

R. P. BEACH,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 66-13475; Filed, Dec. 14, 1966; 8:50 a.m.]

Consumer and Marketing Service

[7 CFR Parts 1001, 1015]

[Docket Nos. AO—14-A41, AO—305-A15]

MILK IN MASSACHUSETTS-RHODE ISLAND AND CONNECTICUT MARKETING AREAS

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Market Administrator's Office, 230 Congress Street, Room 403, Boston, Mass., beginning at 11 a.m., local time, on December 19, 1966, with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the Massachusetts-Rhode Island and Connecticut marketing areas.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed in behalf of 12 Cooperative Associations associated with one or both markets:

Proposal No. 1.

§§ 1001.62, 1015.62 Zone differentials.

* * * * *

(e) If the lowest highway mileage distance between Boston (Hartford) and a named point has been determined and used as the basis for a plant zone location by the market administrator prior to the effective date of a determination of such distance required to be made under paragraphs (b) and (c) of this section, the lowest highway mileage distance between Boston (Hartford) and that named point shall be the lowest of such distances.

Proposed by the Dairy Division, Consumer and Marketing Service:

Proposal No. 2. Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrators, 230 Congress Street, Room 403, Boston, Mass. 02110, 1049 Asylum Avenue, Hartford, Conn. 06105, or from the Hearing Clerk, Room 112-A Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on December 12, 1966.

CLARENCE H. GIRARD,
Deputy Administrator, Regulatory Programs.

[F.R. Doc. 66-13472; Filed, Dec. 14, 1966; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 208, 214, 295]

[Economic Regs. Docket 18025]

TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION AND FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY; TRANSATLANTIC SUPPLEMENTAL AIR TRANSPORTATION STUDY GROUP CHARTERS

Notice of Proposed Rule Making

DECEMBER 8, 1966.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments of Parts 208, 214, and 295 of its Economic Regulations with respect to the definition of study group charters.

The principal features of the proposed amendments are described in the explanatory statement below and the proposed amendments are set forth below. These amendments are proposed under the authority of sections 204(a), 401, 402, 403, 407, and 417 of the Federal Aviation Act of 1958, 72 Stat. 743, 49 U.S.C. 1324; 72 Stat. 754, as amended by 76 Stat. 143, 49 U.S.C. 1371; 72 Stat. 757, 49 U.S.C. 1372; 72 Stat. 758, as amended by 74 Stat. 445, 49 U.S.C. 1373; 72 Stat. 766, 49 U.S.C. 1377; 76 Stat. 145, 49 U.S.C. 1387; and sec. 7 of Public Law 87-528, 76 Stat. 146, 49 U.S.C. 1371.

Interested persons may participate in the proposed rule making through submission of ten (10) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant matter in communications received on or before January 16, 1967, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof by the Board.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

Explanatory statement. On January 12, 1966 (31 F.R. 557), the Board adopted ER-450 as an amendment of Part 295, the regulation governing transatlantic supplemental air transportation, to become effective on February 11, 1966. The rule defined "study group charter" as a charter of a group of bona fide participants in a formal academic study course abroad where the charterer was a bona fide school which was empowered by state educational authorities to grant either degrees in a college capacity or diplomas as a secondary school, and which was operated as a school on a year-round basis. In promulgating this definition as an interpretative rule, the Board noted, as more fully set forth in ER-450, that there is a growing trend to establish as business undertakings summer programs abroad for students and teachers on a rather extensive scale. Typically, such a program may have a minimal entrance requirement (e.g., junior and senior high school students, and college students with a minimum of two years' study of a foreign language) and may offer a 5- or 6-week stay in Europe either at one location with sightseeing trips on the side or at several locations. These programs may have an announced purpose of studying a particular foreign language, European culture, arts, or perhaps merely becoming better acquainted with foreign countries. Such programs are usually offered as a package costing a fixed amount (generally ranging from $600 to $800 covering transportation, tuition, food, and lodging); and call for the solicitation of teachers as chaperones with their compensation being at least indirectly related to the number of students they enroll in the course.

Pursuant to authorization granted in the rule, petitions for reconsideration were filed by three air carriers [1] and one charterer of study group charters.[2] On February 10, 1966, the Board postponed the effective date of ER-450 until it acted on the petitions for reconsideration (ER-452, 31 F.R. 2681). The stay is still in effect.

After giving further consideration to this matter and in light of the filings by the carriers and other persons with respect to ER-450, supra, as well as other

[1] Saturn Airways, Inc. (Saturn); Trans International Airlines, Inc. (TIA); and World Airways, Inc. (World). The document filed by World, though denominated "Comments * * * to ER-450," was considered by the Board as a petition for reconsideration.

[2] American Institute for Foreign Study, Inc. (Institute).

information available to the Board, we are now proposing a new definition of study group charter.

The new definition proposed herein differs in material respects from that set forth in ER–450. The single standard of ER–450 for qualification of a charterer of a study group; namely, that it be a bona fide school empowered by state educational authorities to grant college degrees or secondary school diplomas and operated as a school on a year-round basis, will be retained. However, we propose to add an alternative standard for a charterer of study groups which would apply when the charterer is not a bona fide school; namely, that the study course be for a period of at least 4 weeks duration at an educational institution abroad and that the charterer file with the Board and with the chartering carrier a surety bond which meets the requirements of Part 378 of the Board's Special Regulations (inclusive tours by supplemental air carriers and tour operators, 14 CFR Part 378). These are the principal changes that we are making from the definition of study group charter set forth in ER–450.[3] Making the eligibility of a nonschool charterer of study group charters dependent upon the furnishing of a bond should not impede the continuance of study group charters similar to those which have been performed in the past and which have offered a useful service to the public; it should at the same time protect the public from fly-by-night or other financially irresponsible charterers which might otherwise be permitted to perform study group charters.[3a]

In addition to defining study group charters in Part 295, Transatlantic Supplemental Air Transportation, we are proposing the same definition in two related regulations, Part 208 dealing with terms, conditions and limitations of certificates to engage in supplemental air transportation other than transatlantic supplemental air transportation, and Part 214 dealing with terms, conditions, and limitations of foreign air carrier permits authorizing charter transportation only (hereinafter called foreign charter carriers).

It should be pointed out that, subject to comments received from interested persons, the Board intends to finalize the proposed rule in early 1967 and to make such definition of study group charters prospectively applicable to charters to be performed during the 1967 season. Supplemental air carriers, foreign charter carriers, study group charterers as well as segments of the public which may be interested in engaging or taking part in 1967 study group charters are apprised that if they enter into study group charter contracts prior to the finalization of this proposed rule (EDR–106), they do so with the full knowledge that such finalization may result in the abrogation of such contracts.

Proposed rule. It is proposed to amend Parts 208, 214, and 295 of the Economic Regulations (14 CFR Parts 208, 214, 295) as follows:

Part 208:

1. Amend the table of contents of Part 208 by adding a new § 208.202a to read as follows:

208.202a Bond required for study group charters by non-school charterer.

2. Amend § 208.3 by adding a new paragraph (r) to read as follows:

§ 208.3 Definitions.

For the purposes of this part:

* * * * *

(r) (1) "Study group" means a charter group comprised of bona fide participants in a formal academic study course abroad and in which (i) the charterer is an educational institution or (ii) such study course is for a period of at least 4 weeks duration at an educational institution abroad and the charterer has furnished a surety bond which meets the requirements of Part 378 of this chapter (Board's Special Regulations), copies of which bond shall be filed with the Civil Aeronautics Board and the chartering supplemental carrier.

(2) As used in this paragraph, the term "educational institution" means a bona fide school which (i) is empowered to grant college degrees or secondary school diplomas by the government of one of the 50 States of the United States, the District of Columbia, a U.S. Territory or possession or a foreign country and (ii) is operated as a school on a year-round basis.

3. Add a new § 208.202a to read as follows:

§ 208.202a Bond required for study group charters by nonschool charterer.

No air carrier shall perform any supplemental air transportation for a charterer of study groups unless such charterer has filed with the Civil Aeronautics Board and with such air carrier a surety bond which meets the requirements of Part 378 of this chapter (Board's Special Regulations): *Provided, however,* That this section shall not apply to study group charters where the charterer is an educational institution.

4. Amend § 208.212 to read as follows:

§ 208.212 Participation of immediate families in charter flights.

The immediate family of any bona fide member of a charter organization may participate in a charter flight: *Provided, however,* That this section shall not apply to study group charters as defined herein (§ 208.3(r)).

Part 214:

5. Amend the table of contents of Part 214 by adding a new § 214.17 to read as follows:

214.17 Bond required for study group charters by nonschool charterer.

6. Amend § 214.2 by modifying paragraph (k) and by adding a new paragraph (m) defining "study group." As amended § 214.2 will read in part as follows:

§ 214.2 Definitions.

* * * * *

(k) "*Bona fide* members" means those members of a charter organization who have not joined the organization merely to participate in the charter as the result of solicitation directed to the general public. Presumptively, persons are not bona fide members of a charter organization unless they are members at the time the organization first gives notice to its members of firm charter plans and unless they have actually been members for a minimum period of 6 months prior to the starting flight date. This presumption will not be applicable in the case of charters composed of (1) students and educational staff of a single school, and immediate families thereof, (2) employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof, or (3) participants in a study group. In the case of all other charters, rebuttal to this presumption may be offered for the Board's consideration by request for waiver.

* * * * *

(m) (1) "Study group" means a charter group comprised of bona fide participants in a formal academic study course abroad and in which (i) the charterer is an educational institution or (ii) such study course is for a period of at least 4 weeks duration at an educational institution abroad and the charterer has furnished a surety bond which meets the requirements of Part 378 of this chapter (Board's Special Regulations), copies of which bond shall be filed with the Civil Aeronautics Board and the chartering carrier.

(2) As used in this paragraph, the term "educational institution" means a bona fide school which (i) is empowered to grant college degrees or secondary school diplomas by the government of one of the 50 States of the United States, the District of Columbia, a U.S. Territory or possession or a foreign country and (ii) is operated as a school on a year-round basis.

7. Add a new § 214.17 to read as follows:

§ 214.17 Bond required for study group charters by nonschool charterer.

No foreign air carrier shall provide foreign air transportation to a charterer of study groups unless such charterer has filed with the Civil Aeronautics Board and with such carrier a surety bond which meets the requirements of Part 378 of this chapter (Board's Special Regulations): *Provided, however,* That this section shall not apply to study

[3] Further, we shall include a self-policing provision prohibiting air carriers from providing air transportation to nonschool charterers of study group charters unless such charterer has filed a surety bond with the Board and with the carrier. (See e.g., § 295.17, infra.) We shall expect the carrier to ascertain in the first instance compliance of the bond with the requirements of Part 378.

[3a] The Board will entertain alternative proposals for the protection of the public in lieu of the bond requirement set forth in the proposed rule.

group charters where the charterer is an educational institution.

8. Amend § 214.31 to read as follows:

§ 214.31 Passengers on charter flights.

Only bona fide members of the charterer, and their immediate families (except as provided in § 214.32), may participate as passengers on a charter flight. The charterer must maintain a central membership list, available for inspection by the carrier or Board's representative, which shows the date each person became a member.[4] Where the charterer is engaging round-trip transportation, one-way passengers shall not participate in the charter flight except as provided in § 214.14(c). When more than one round trip is contracted for, intermingling between flights or reforming of plane-load groups (or in the case of carriers authorized to operate charter flights under § 214.2(b)(2) one-half plane-load groups) shall not be permitted and each such group must move as a unit in both directions.

9. Amend § 214.32 to read as follows:

§ 214.32 Participation of immediate families in charter flights.

The immediate family of any bona fide member of a charter organization may participate in a charter flight: *Provided, however,* That this section shall not apply to study group charters as defined herein (§ 214.2(m)).

10. Amend § 214.35(d) to read as follows:

§ 214.35 Passenger manifests.

* * * * *

(d) Attached to such manifest must be a certification, signed by a duly authorized representative of the charterer, reading:

The attached list of persons includes every individual who may participate in the charter flight. Every person as identified on the attached list (1) was a bona fide member of the chartering organization at the time the chartering organization first gave notice to its members of firm charter plans, and will have been a member for at least 6 months prior to the starting flight date, or (2) is a bona fide member of an entity consisting of (a) students and educational staff of a single school, or (b) employees of a single Government agency, industrial plant, or mercantile establishment, or (3) is a person whose participation has been specifically permitted by the Civil Aeronautics Board, or (4) is the spouse, dependent child, or parent of a person described hereinbefore and lives in such person's household, or (5) is a bona fide participant in a study group charter.

(Signature)

Part 295:

11. Amend Part 295 as set forth in ER-450 (31 F.R. 557) except with respect to § 295.2(m). Section 295.2(m) shall read as follows:

§ 295.2 Definitions.

* * * * *

(m) (1) "Study group" means a charter group comprised of bona fide participants in a formal academic study course abroad and in which (i) the charterer is an educational institution or (ii) such study course is for a period of a least 4 weeks duration at an educational institution abroad and the charterer was furnished a surety bond which meets the requirements of Part 378 of this chapter (Board's Special Regulations), copies of which bond shall be filed with the Civil Aeronautics Board and the chartering supplemental carrier.

(2) As used in this paragraph, the term "educational institution" means a bona fide school which (i) is empowered to grant college degrees or secondary school diplomas by the government of one of the 50 States of the United States, the District of Columbia, a U.S. Territory or possession or a foreign country and (ii) is operated as a school on a year-round basis.

12. Amend the table of contents of Part 295 by adding a new § 295.17 to read as follows:

295.17 Bond required for study group charters by nonschool charterer.

13. Add a new § 295.17 to read as follows:

§ 295.17 Bond required for study group charters by nonschool charterer.

No air carrier shall perform any supplemental air transportation for a charterer of study groups unless such charterer has filed with the Civil Aeronautics Board and with such air carrier a surety bond which meets the requirements of Part 378 of this chapter (Board's Special Regulations): *Provided, however,* That this section shall not apply to study group charters where the charterer is an educational institution.

[F.R. Doc. 66-13455; Filed, Dec. 14, 1966; 8:48 a.m.]

[4] Where the charter is based on employment in one entity or student status at a college, records of the corporation, agency or college will suffice to meet this requirement.

FEDERAL AVIATION AGENCY

[14 CFR Part 39]

[Docket No. 7797]

AIRWORTHINESS DIRECTIVES

Lycoming Engines Equipped With Bendix RSA-5 Series Fuel Injection Systems

The Federal Aviation Agency is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Lycoming engines equipped with Bendix RSA-5 series fuel injection systems. There have been reported failures of the Delrin stemmed fuel diaphragm in the Bendix RSA-5 series fuel injectors. These failures cause the fuel supply to be cut off from the engine, resulting in a hazardous condition. Since this condition is likely to exist or develop in other Lycoming engines similarly equipped, the proposed airworthiness directive would preclude the possibility by requiring the replacement of the Delrin stemmed fuel diaphragm with a steel stemmed diaphragm assembly in the Lycoming engines using the Bendix RSA-5 fuel injection systems.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20553. All communications received on or before January 16, 1967, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

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

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

LYCOMING. Applies to Model IO-320 series, IO-360-A1A, -A2A, -B1B, -B1C, -B1D, -C1A, IVO-360-A1A, HIO-360-A1A, -B1A, B1B, -C1A, IO-540-C1B5, -C1C5, -C2C, C4B5 and D4A5 engines. Engines equipped with the latest Bendix RSA-5 series fuel injectors listed below are excepted as follows:

Parts list numbers with suffix numbers after the serial number as shown or higher are excepted. (Where a suffix number does not appear, compliance is required.)

Parts list	Serial No./ Suffix No.	Parts list	Serial No./ Suffix No.
2524054-2	S.N./33	2524189-2	S.N./10
2524119-2	S.N./15	2524213-2	S.N./7
2524145-3	S.N./24	2524216-2	S.N./12
2524147-3	S.N./14	2524199-2	S.N./15
2524171-2	S.N./10		

Compliance required within the next 100 hours' time in service after the effective date of this AD unless already accomplished.

To prevent possible failures of the Delrin stemmed fuel diaphragm assembly P/N 2520887 or 2523067, accomplish the following:

Remove fuel diaphragm assembly P/N 2520887 or P/N 2523067, and spring holder P/N 2520636 and replace with fuel diaphragm assembly P/N 2523307, either uncoated or green Teflon coated, retainer cup P/N 2523478 and nut P/N 178491. (Lycoming Service Bulletin No. 305B covers this subject.)

Issued in Washington, D.C., on December 8, 1966.

C. W. WALKER,
Director, Flights Standards Service.

[F.R. Doc. 66-13438; Filed, Dec. 14, 1966; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 66-EA-88]

FEDERAL AIRWAY

Proposed Alteration

The Federal Aviation Agency is considering an amendment to Part 71 of the Federal Aviation Regulations that would realign VOR Federal airway No. 39 segment between Augusta, Maine, and Millinocket, Maine.

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, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER 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 Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20553. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Federal Aviation Agency is considering the realignment of V-39 segment from Augusta with a 1,200 AGL floor direct Bangor, Maine, direct to Millinocket. The recent revocation of the Dow AFB Restricted Area/Military Climb Corridor R-3903 (31 F.R. 13699) with revised departure and arrival procedures in the Bangor terminal area facilitates the alignment of this airway segment via the Bangor VOR. This proposed alignment would make V-39 as a common segment with VOR Federal airway Nos. 3 and 93 between Augusta and Bangor and with VOR Federal airway No. 471 between Bangor and Millinocket.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on December 7, 1966.

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

[F.R. Doc. 66-13439; Filed, Dec. 14, 1966; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 66-SO-64]

FEDERAL AIRWAY SEGMENTS

Proposed Alteration, Designation and Revocation

The Federal Aviation Agency (FAA) is considering amendments to Part 71 of the Federal Aviation Regulations that would alter, designate and revoke VOR Federal airway segments in the Memphis, Tenn., terminal area.

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 Agency, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals 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 Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20553. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA has conducted a review of the airway configuration north of Memphis, Tenn. As a result of this review, the FAA proposes the following amendments to Part 71 of the Federal Aviation Regulations.

1. Realign VOR Federal airway No. 11 segment from Paducah, Ky., with a 1,200 feet AGL floor direct to Evansville, Ind.

2. Realign VOR Federal airway No. 11 west alternate segment from Memphis to Dyersburg, Tenn., with a 1,200 feet AGL floor via the intersection of Memphis 001° T (356° M) and Dyersburg 235° T (231° M) radials.

3. Realign VOR Federal airway No. 11 east alternate from Memphis to Dyersburg with a 1,200 feet AGL floor via the intersection of Memphis 045° T (040° M) and Dyersburg 182° T (178° M) radials, and from Dyersburg to Paducah with a 1,200 feet AGL floor standard east alternate.

4. Designate VOR Federal airway No. 16 north alternate segment from Memphis to Jacks Creek, Tenn., with a 1,200 feet AGL floor via the intersection of Memphis 045° T (040° M) and Jacks Creek 260° T (256° M) radials.

5. Revoke VOR Federal airway No. 140 south alternate segment from Dyersburg to Nashville, Tenn.

The actions proposed herein would improve air traffic flow in the Memphis terminal area and would provide reduced en route milage for these airway segments. The revocation of V-140S alternate between Dyersburg and Nashville is proposed as it is no longer required for air traffic control purposes.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on December 8, 1966.

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

[F.R. Doc. 66-13440; Filed, Dec. 14, 1966; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 66-SO-88]

TRANSITION AREA

Proposed Designation

The Federal Aviation Agency is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Hazlehurst, Ga., transition area.

The Hazlehurst transition areas would be designated as:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hazlehurst Airport (latitude 31°53'00" N., longitude 82°38'45" W.); within 2 miles each side of the Alma VORTAC 342° radial extending from the 5-mile radius area to 18 miles NE of the VORTAC; and that airspace extending upward from 1,200 feet above the surface bounded on the NE by V-267, on the SE by V-157, and on the SW by V-5/V-51; within the area bounded on the NW by V-157, on the NE by V-267, and on the SW by V-51E.

The proposed transition area is required for the protection of IFR operations at the Hazlehurst Airport. A prescribed instrument approach procedure to this airport utilizing the Alma VORTAC is proposed in conjunction with the designation of this transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Area Manager, Atlanta Area Office, Attention: Chief, Air Traffic Branch, Federal Aviation Agency, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Air Traffic 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 the light of comments received.

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

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)).

Issued in East Point, Ga., on December 2, 1966.

WILLIAM M. FLENER,
Acting Director, Southern Region.

[F.R. Doc. 66-13441; Filed, Dec. 14, 1966; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 66-CE-92]

FEDERAL AIRWAY

Proposed Extension

The Federal Aviation Agency is considering an amendment to Part 71 of the Federal Aviation Regulations that would extend VOR Federal airway No. 332 from Bradford, Ill., to Moline, Ill.

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, Central Region, Attention: Chief, Air Traffic Division, Federal Building, Federal Aviation Agency, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. 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 Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20553. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Federal Aviation Agency proposes to extend V-332 from Bradford direct to Moline. This extended airway segment will complement the existing V-332 airway by providing a connecting route for air traffic to bypass the Chicago, Ill., terminal area and operate via airways west of Moline.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on December 7, 1966.

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

[F.R. Doc. 66-13442; Filed, Dec. 14, 1966; 8:46 a.m.]

[14 CFR Part 73]

[Airspace Docket No. 65-WA-49]

RESTRICTED AREAS

Proposed Alteration

Correction

In F.R. Doc. 66-12141, appearing at page 14412 of the issue for Wednesday, November 9, 1966, under R-2903B Stevens Lake, Fla., Identification R-2904B, Stevens Lake East, Fla., the fifth line of the paragraph headed "Designated altitudes" should read as follows:

tude 29°47'00" N., longitude 81°53'55" W.,

Notices

ATOMIC ENERGY COMMISSION

[Docket No. 50-108]

ALLIS-CHALMERS MANUFACTURING CO.

Notice of Issuance of Order Authorizing Dismantling of Facility

Please take notice that the Atomic Energy Commission has issued an order authorizing the Allis-Chalmers Manufacturing Co. to dismantle its nuclear critical facility, covered by Facility License No. CX-15 and located in Greendale, Milwaukee County, Wis.

Copies of (1) the company's application dated September 12, 1966, and supplement thereto dated October 18, 1966, (2) a related safety evaluation prepared by the Research and Power Reactor Safety Branch of the Division of Reactor Licensing and (3) the Commission's order are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the safety evaluation may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 8th day of December 1966.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 66-13424; Filed, Dec. 14, 1966; 8:45 a.m.]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Notice of Receipt of Application for Construction Permit and Facility License

The Vermont Yankee Nuclear Power Corp., 77 Grove Street, Rutland, Vt. 05701, pursuant to section 104b of the Atomic Energy Act of 1954, as amended, has filed an application, dated November 30, 1966, for a construction permit and facility license to authorize construction and operation of a single cycle, forced circulation, boiling water nuclear reactor having a net electrical capacity of approximately 514 megawatts derived from a thermal capacity of approximately 1600 megawatts.

The proposed reactor, designated by the applicant as the Vermont Yankee Nuclear Power Station, is to be located at the applicant's 125-acre site in the town of Vernon in Windham County, Vt.

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

Dated at Bethesda, Md., this 8th day of December 1966.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 66-13425; Filed, Dec. 14, 1966; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[N-519]

NEVADA

Notice of Proposed Withdrawal and Reservation of Lands

DECEMBER 7, 1966.

The Federal Aviation Agency has filed the above application for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining laws, but not from leasing under the mineral leasing laws.

The applicant desires the land for the construction and operation of a Tactical Air Navigation Facility.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Room 3008, Federal Building, 300 Booth Street, Reno, Nev. 89502.

The Department's regulations (43 CFR 2311.1-3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN, NEVADA

T. 16 N., R. 63 E.,
Sec. 8, lots 7, 8.

The area described contains 80 acres.

DANIEL P. BAKER,
Manager.

[F.R. Doc. 66-13448; Filed, Dec. 14, 1966; 8:47 a.m.]

[Oregon 05290 etc.]

OREGON

Order Providing for Opening of Public Lands

DECEMBER 8, 1966.

1. In exchanges of lands made under provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315g), as amended, the following described lands have been reconveyed to the United States:

WILLAMETTE MERIDIAN

Minerals in the following lands were reconveyed to the United States:

OREGON 05290

T. 33 S., R. 35 E.,
Sec. 18, lots 1, 2, 3, and 4, E½W½.

OREGON 05325

T. 20 S., R. 23 E.,
Sec. 35, W½.
T. 21 S., R. 22 E.,
Sec. 1, SE¼NE¼ and NE¼SE¼;
Sec. 4, SW¼;
Sec. 9, W½NE¼, N½NW¼, and SE¼NW¼;
Sec. 13, NE¼NE¼.
T. 21 S., R. 23 E.,
Sec. 5, SW¼;
Sec. 6, lots 5 and 6, SW¼NE¼, SE¼NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 8, NW¼;
Sec. 21, N½N½.

OREGON 05377

T. 26 S., R. 13 E.,
Sec. 35, NE¼NE¼.
T. 26 S., R. 14 E.,
Sec. 31, lot 4, SE¼SW¼ and SW¼SE¼.
T. 27 S., R. 13 E.,
Sec. 3, S½NW¼ and NW¼SE¼;
Sec. 4, lots 1, 2, and 3.

OREGON 05656

T. 25 S., R. 16 E.,
Sec. 34, N½.

OREGON 05749

T. 30 S., R. 46 E.,
Sec. 21, NE¼, N½NW¼, and SE¼NW¼.

OREGON 05828

T. 40 S., R. 14 E.,
Sec. 16, SE¼.
T. 41 S., R. 14 E.,
Sec. 16, W½.

OREGON 05842

T. 32 S., R. 31 E.,
Sec. 2, SW¼;
Sec. 9, S½NE¼ and N½SE¼;
Sec. 10, NE¼, E½NW¼, and SW¼NW¼;
Sec. 11, NW¼NW¼.
T. 33 S., R. 30 E.,
Sec. 17, lot 4, SE¼SW¼ and S½SE¼;
Sec. 18, lot 1, N½NE¼ and NE¼NW¼.

OREGON 05970

T. 25 S., R. 36 E.,
Sec. 27, W½W½.
T. 26 S., R. 36 E.,
Sec. 33.

OREGON 06276

T. 13 S., R. 41 E.,
Sec. 13, W½SE¼;
Sec. 24, W½NE¼ and SE¼.

OREGON 06294

T. 29 S., R. 25 E.,
Sec. 2, SW¼.

OREGON 06349

T. 12 S., R. 44 E.,
Sec. 12, E½NE¼.
T. 12 S., R. 45 E.,
Sec. 7, lots 1 and 2, SW¼NE¼, E½NW¼, and NW¼SE¼.

OREGON 06598

T. 19 S., R. 32 E.,
Sec. 21, NE¼NE¼;
Sec. 22, NW¼NW¼, S½NW¼, SW¼, and W½SE¼.

OREGON 09909

T. 31 S., R. 29 E.,
Sec. 34, E½SW¼.
T. 31 S., R. 30 E.,
Sec. 19, SE¼SE¼;
Sec. 20, S½SW¼ and SW¼SE¼;
Sec. 29, NW¼NE¼ and N½NW¼;
Sec. 30, NE¼NE¼.
T. 32 S., R. 29 E.,
Sec. 1, lot 3;
Sec. 2, SW¼;
Sec. 3, E½W½ and SE¼;
Sec. 10, NE¼NE¼;
Sec. 11, W½NE¼, N½NW¼, SE¼, and SE¼SW¼;
Sec. 14, N½;
Sec. 36.
T. 32 S., R. 30 E.,
Sec. 23, NE¼ and N½SE¼;
Sec. 24, W½W½ and SE¼SW¼;
Sec. 25, NW¼ and NE¼SW¼;
Sec. 33, S½SE¼;
Sec. 34, SW¼ and S½SE¼.

OREGON 010447

T. 39 S., R. 23 E.,
Sec. 21, SE¼SE¼;
Sec. 22, S½S½;
Sec. 26, S½NW¼, N½SW¼, and SW¼SW¼;
Sec. 27, E½E½;
Sec. 34, NE¼NE¼;
Sec. 35, NW¼NW¼.
T. 40 S., R. 22 E.,
Sec. 1, E½E½;
Sec. 12, N½NE¼, SW¼NE¼, SE¼NW¼, and SW¼.
T. 40 S., R. 23 E.,
Sec. 7, lot 1, W½NE¼ and NE¼NW¼;
Sec. 16;
Sec. 36, E½.
T. 41 S., R. 23 E.,
Sec. 7, lots 2 and 3, SE¼NW¼ and NE¼SW¼;
Sec. 10, SW¼NE¼, SE¼NW¼, and E½SW¼.

OREGON 010531

T. 27 S., R. 32 E.,
Sec. 36.

OREGON 010975

T. 27 S., R. 35 E.,
Sec. 36, all of save and except a State of Oregon Highway right-of-way consisting of approximately 9.15 acres, as described in Book 53 at page 376 of the Deed Records of Harney County, Oreg.
T. 28 S., R. 35 E.,
Sec. 16, N½.

OREGON 011213

T. 13 S., R. 37 E.,
Sec. 1, SE¼.

OREGON 011232

T. 29 S., R. 32 E.,
Sec. 27, SE¼SW¼.

OREGON 011337

T. 30 S., R. 34 E.,
Sec. 15, W½W½;
Sec. 16, E½E½ and SW¼;
Sec. 21, E½NW¼ and NE¼SW¼;
Sec. 22, W½NW¼ and NE¼SW¼.

OREGON 012978

T. 28 S., R. 44 E.,
Sec. 28, lot 12;
Sec. 33, lots 4, 5, and 12;
Sec. 34, lots 1 and 3.
T. 31 S., R. 41 E.,
Sec. 1, lot 1, N½ of lot 2, N½ of lot 3, lot 4, S½SW¼NE¼, S½NW¼, N½SW¼, W½SE¼, and NE¼SE¼;
Sec. 3, lots 1, 2, 3, and 4, S½N½.

OREGON 013010

T. 12 S., R. 44 E.,
Sec. 34, E½SE¼;
Sec. 35, W½NE¼, N½SW¼, SW¼SW¼, and NW¼SE¼.

OREGON 013033

T. 23 S., R. 16 E.,
Sec. 13, NW¼NW¼;
Sec. 14, NE¼NE¼.

OREGON 013038

T. 30 S., R. 41 E.,
Sec. 25, SW¼NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, and SE¼SE¼;
Sec. 27, SE¼SW¼;
Sec. 33, N½NE¼SE¼;
Sec. 35.
T. 31 S., R. 43 E.,
Sec. 11, NE¼NW¼.

OREGON 013080

T. 28 S., R. 13 E.,
Sec. 36, S½S½.

OREGON 013081

T. 23 S., R. 34 E.,
Sec. 10, NW¼NW¼.

OREGON 013102

T. 29 S., R. 45 E.,
Sec. 21, SE¼NE¼, SW¼SW¼, E½SW¼, and SE¼;
Sec. 23, S½ and S½N½;
Sec. 25, N½ and N½SW¼;
Sec. 27;
Sec. 31;
Sec. 33;
Sec. 34, SW¼, N½SE¼, and SW¼SE¼.

OREGON 013196

T. 7 S., R. 40 E.,
Sec. 2, W½SE¼.
T. 7 S., R. 41 E.,
Sec. 19, NW¼NE¼ and SE¼NE¼.

OREGON 013398

T. 15 S., R. 43 E.,
Sec. 13, SW¼ and W½SE¼;
Sec. 23;
Sec. 25.
T. 15 S., R. 44 E.,
Sec. 20, SW¼SW¼ and SW¼SE¼;
Sec. 29, NW¼NE¼, S½NE¼, N½NW¼, and SE¼NW¼.

OREGON 013441

T. 34 S., R. 3 W.,
Sec. 22, N½S½.
T. 37 S., R. 4 W.,
Sec. 18, W½SW¼.

OREGON 013973

T. 18 S., R. 41 E.,
Sec. 15, W½W½.

OREGON 014268

T. 35 S., R. 19 E.,
Sec. 35, S½N½NE¼NE¼, S½NE¼NE¼, W½NE¼, SE¼NE¼, and N½N½NW¼SE¼.

Minerals in the following lands were not reconveyed to the United States:

OREGON 05318

T. 25 S., R. 15 E.,
Sec. 32, E½NE¼ and NE¼SE¼.
T. 33 S., R. 25 E.,
Sec. 33, S½N½.

OREGON 05323

T. 26 S., R. 15 E.,
Sec. 3, SW¼;
Sec. 4, lots 3, 4, 5, and 6;
Sec. 5, lots 8, 9, and 10;
Sec. 10, E½ and E½SW¼;
Sec. 11, N½ and SE¼;
Sec. 12, NE¼, SW¼, and W½SE¼;
Sec. 13, NW¼;
Sec. 15, NE¼, N½SE¼, and SE¼SE¼.

OREGON 05325

T. 20 S., R. 23 E.,
Sec. 35, E½.
T. 21 S., R. 23 E.,
Sec. 35.

OREGON 05375

T. 24 S., R. 13 E.,
Sec. 36, N½SE¼ and SW¼SE¼.
T. 24 S., R. 14 E.,
Sec. 15, SE¼;
Sec. 20, NW¼NE¼, N½NW¼, and SW¼NW¼;
Sec. 22, E½E½ and W½NE¼;
Sec. 23, N½ and W½SW¼;
Sec. 27, E½W½ and W½SW¼;
Sec. 28, SE¼.
T. 24 S., R. 15 E.,
Sec. 7, NE¼NW¼.
T. 25 S., R. 13 E.,
Sec. 15, NW¼.

OREGON 05376

T. 24 S., R. 15 E.,
Sec. 12, E½ and SE¼SW¼;
Sec. 13, NE¼, E½NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 23, E½NE¼;
Sec. 24, NE¼NE¼, SW¼NE¼, NW¼, NE¼SW¼, and NW¼SE¼.
T. 24 S., R. 16 E.,
Sec. 5, lot 2, SW¼NE¼;
Sec. 6, lot 7, SW¼NE¼;
Sec. 7, lots 1, 3, and 4, SE¼NW¼;
Sec. 18, lots 1, 2, 3, and 4, SE¼SW¼;
Sec. 19, lots 1 and 2, NE¼NW¼;
Sec. 20, SW¼NE¼.

OREGON 05377

T. 26 S., R. 13 E.,
Sec. 28, SE¼;
Sec. 33, N½NE¼, SE¼SW¼, and SW¼SE¼.

OREGON 05377—Continued

T. 27 S., R. 13 E.,
Sec. 3, lots 2, 3, and 4, SW¼NE¼, E½SW¼, and SW¼SW¼;
Sec. 9, N½NE¼;
Sec. 10, N½NW¼.

OREGON 05378

T. 25 S., R. 16 E.,
Sec. 36, S½.

OREGON 05383

T. 25 S., R. 14 E.,
Sec. 36, W½NE¼, NW¼, and N½NW¼ SW¼.

OREGON 05394

T. 25 S., R. 15 E.,
Sec. 13, NE¼ and SE¼NW¼;
Sec. 35, N½ and W½SE¼.

OREGON 05514

T. 19 S., R. 42 E.,
Sec. 15;
Sec. 19.

OREGON 05562

T. 25 S., R. 14 E.,
Sec. 9, S½S½;
Sec. 10, S½SW¼;
Sec. 26, SE¼.
T. 24 S., R. 15 E.,
Sec. 31, E½.

OREGON 06036

T. 32 S., R. 32 E.,
Sec. 32, SW¼NE¼, S½NW¼, SW¼, and NW¼SE¼.

OREGON 06274

T. 19 S., R. 45 E.,
Sec. 16, E½.

OREGON 06997

T. 27 S., R. 33 E.,
Sec. 16, S½.
T. 29 S., R. 35 E.,
Sec. 8, NW¼SE¼.

OREGON 09907

T. 27 S., R. 28 E.,
Sec. 5, SE¼SW¼;
Sec. 8, SW¼NE¼, E½NW¼, NW¼SW¼, NW¼SE¼, and S½S½;
Sec. 17, SW¼NE¼, N½N½, and SE¼NW¼.

OREGON 09941

T. 30 S., R. 46 E.,
Sec. 26, W½NW¼.

OREGON 010071

T. 11 S., R. 43 E.,
Sec. 9, N½N½ and SW¼NW¼.

OREGON 010447

T. 38 S., R. 25 E.,
Sec. 36, W½W½ and SE¼SW¼.
T. 39 S., R. 23 E.,
Sec. 36, W½NE¼ and N½NW¼.
T. 40 S., R. 22 E.,
Sec. 36, SE¼.
T. 40 S., R. 26 E.,
Sec. 16, N½.

OREGON 011339

T. 20 S., R. 38 E.,
Sec. 13, NE¼NW¼.
T. 22 S., R. 37 E.,
Sec. 36, N½.

OREGON 012614

T. 30 S., R. 46 E.,
Sec. 2, N½NW¼SW¼, SW¼NW¼SW¼, N½SE¼NW¼SW¼, save and excepting a tract of land conveyed to the State of Oregon, and described in deed recorded in Book 59 at page 581 of the Deed Records of Malheur County, Oreg., containing 0.44 acres, and further excepting the right-of-way for U.S. Highway 95.

OREGON 013010

T. 12 S., R. 44 E.,
Sec. 26, SW¼SW¼;
Sec. 27, SE¼SE¼;
Sec. 34, E½NE¼;
Sec. 35, NW¼.

OREGON 013033

T. 23 S., R. 16 E.,
Sec. 13, E½SE¼;
Sec. 36, S½.

OREGON 013034

T. 23 S., R. 16 E.,
Sec. 1, SE¼SE¼;
Sec. 12, NE¼, E½NW¼, and N½S½.
T. 23 S., R. 17 E.,
Sec. 7, lots 2, 3, and 4.
T. 25 S., R. 16 E.,
Sec. 36, N½.

OREGON 013082

T. 18 S., R. 17 E.,
Sec. 14, E½SW¼, N½SE¼, and SW¼SE¼;
Sec. 16, NE¼NW¼;
Sec. 22, S½NW¼, NE¼SW¼, and N½ SE¼;
Sec. 26, N½SW¼ and S½NW¼;
Sec. 27, SE¼NE¼, SW¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 28, SE¼SE¼;
Sec. 34, N½NW¼.

OREGON 013215

T. 29 S., R. 14 E.,
Sec. 16, N½.

OREGON 013229

T. 32 S., R. 19 E.,
Sec. 27, SW¼.
T. 34 S., R. 19 E.,
Sec. 26, NW¼NW¼.
T. 30 S., R. 17 E.,
Sec. 16, NE¼NE¼, S½NE¼, and N½SE¼.
T. 32 S., R. 17 E.,
Sec. 36, lots 1, 2, 3, and 4.
T. 32 S., R. 18 E.,
Sec. 16, W½ and SE¼;
Sec. 21, NE¼;
Sec. 36, lots 1 and 2, NW¼NW¼ and S½ NW¼.
T. 33 S., R. 18 E.,
Sec. 6, lots 3 and 4, E½SW¼;
Sec. 7, lot 1.
T. 33 S., R. 19 E.,
Sec. 2, lots 3 and 4, S½NW¼.

OREGON 013535

T. 20 S., R. 44 E.,
Sec. 4, S½SW¼ and SE¼;
Sec. 9, N½NW¼.
T. 22 S., R. 43 E.,
Sec. 12, SE¼SW¼;
Sec. 13, NE¼NW¼;
Sec. 35, W½NE¼ and E½NW¼.

OREGON 013877

T. 6 S., R. 48 E.,
Sec. 16.

OREGON 013881

T. 24 S., R. 18 E.,
Sec. 16, SW¼.

OREGON 014032

T. 24 S., R. 18 E.,
Sec. 16, SE¼.

OREGON 014268

T. 28 S., R. 18 E.,
Sec. 16, NE¼, NE¼NW¼, and W½SE¼.
T. 35 S., R. 19 E.,
Sec. 36, N½NE¼.

The areas described aggregate 43,812.19 acres.

2. The lands are for the most part in widely scattered parcels distributed throughout southeastern Oregon. They are generally arid or semiarid in character, and are not suitable for farming. The lands identified by serial number Oregon 013441 are located in Jackson County in southwestern Oregon. They are in an area of moderate rainfall with yearly precipitation averaging 25 inches, and support a growth of young Douglas fir and other associated minor species, and are not suitable for farming.

3. At 10 a.m. on January 13, 1967, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on January 13, 1967, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The lands in which minerals were conveyed to the United States will be open to location under the U.S. mining laws at 10 a.m. on January 13, 1967. They have been open to applications and offers under the mineral leasing laws except for the lands described under Oregon 05325, 05970, 06598, and 010531, in which the oil and gas rights were reserved to the grantors.

Inquiries concerning the lands should be addressed to the Chief, Division of Lands and Minerals Program Management and Land Office, Post Office Box 2965, Portland, Oreg. 97208.

VIRGIL O. SEISER,
Chief, Branch of Lands.

[F.R. Doc. 66-13454; Filed, Dec. 14, 1966; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[P. & S. Docket No. 5]

PEORIA UNION STOCK YARDS CO., INC.

Notice of Petition To Vacate Order and Dismiss Proceeding

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), a basic order was issued in the case of In Re Peoria Union Stock Yards Company, Inc., respondent (P. & S. Docket No. 5), on June 30, 1924, prescribing the rates and charges to be assessed by the respondent for the stockyard services rendered by it at the Peoria Union Stock Yards, Peoria, Ill. Such rates and charges have been modified from time to time by subsequent orders issued in the proceeding. The latest such order was issued on September 9, 1966, prescribing the rates and charges to be assessed by respondent to and including December 31, 1968, unless modified or extended by further order before the latter date.

On November 21, 1966, the respondent filed a petition requesting that the "basic order and any other orders in effect on January 1, 1967," be vacated on that date and that the proceeding in P. & S. Docket

No. 5 be dismissed. The petition reads as follows:

The information in P. & S. Docket No. 5 relates to the furnishing of stockyard facilities and stockyard services and the basic order and subsequent temporary orders relate to the rates and charges therefor.

The basic rate order was issued in 1922 so that today it is antiquated. The conditions that brought about this order no longer are present. At that time terminal markets in general enjoyed a virtual monopoly in livestock marketing. Today, just the opposite is true. In the trade territory adjacent to the Peoria market there are some 50 auction markets and 150 direct buying stations. At the time the order was issued the yardage charge for hogs at Peoria was 11 cents per head contrasted to today's charge of 40 cents per head. Also, at that time the great bulk of all species of livestock purchased by packers were purchased through terminal markets contrasted to the latest figures (1964) when only 36.5 percent of cattle, 18.8 percent of calves, 23.8 percent of hogs, and 28.6 percent of sheep purchased by packers were purchased at terminal markets.

The level of rates at the Peoria market today is very effectively controlled by competition. This market cannot exceed a reasonable level of rates and expect to remain in business. Therefore, the need for a formal rate order to control the level of rates at this market has ceased to exist.

With the termination of this rate order, a burdensome amount of paperwork would be eliminated by both the stockyard company and the Department of Agriculture. From the standpoint of the yard company, the paperwork is expensive at a time when all efforts are directed toward holding expenses down in order to remain competitive. From the standpoint of the Department, it ties up funds and personnel which could be more advantageously used on far more pressing problems than compliance with formal rate orders.

The elimination of the formal rate order at this market would enable the market to adjust its rates more promptly to meet rapidly changing conditions. This would make Peoria subject to the same procedures as competing markets.

Finally, it should be emphasized that the purpose of this request is not to circumvent any existing order or to make easy a modification of rates at this time as our rates have recently been modified, and it is highly unlikely that we will seek any increases in the immediate foreseeable future. However, it would have the effect of making our current rates and charges of a more permanent nature and would eliminate the necessity of seeking an extension from time to time.

It is hereby petitioned, therefore

(1) That the basic order and any other orders in effect on January 1, 1967, in P. & S. Docket No. 5 be vacated on such date;

(2) That the proceedings in such docket be dismissed.

The tariff presently in effect and which became effective September 15, 1966, sets forth the rates and charges to be assessed subsequent to January 1, 1967.

Any interested person may file with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before December 28, 1966, written data, views, comments, or arguments with respect to the petition filed by the respondent.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 9th day of December 1966.

DONALD A. CAMPBELL,
Director, Packers and Stockyards Division, Consumer and Marketing Service.

[F.R. Doc. 66-13471; Filed, Dec. 14, 1966; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

AMERICAN EXPORT ISBRANDTSEN LINES, INC.

Notice of Application

Notice is hereby given that American Export Isbrandtsen Lines, Inc., has applied for an increase in sailings on its subsidized Line "I" (U.S. North Atlantic/United Kingdom & Continent) Containership Service from the present annual minimum of 18 and maximum of 26, to a minimum of 36 and a maximum of 52 per year.

Any person, firm or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1175, should by the close of business on December 30, 1966, notify the Secretary, Maritime Subsidy Board in writing, in triplicate, and file petition for leave to intervene in accordance with the Rules of Practice and Procedure of the Maritime Subsidy Board.

In the event a hearing is ordered to be held on the application under section 605(c), the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated on a service, route or line served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry in such service, route or line is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

Dated: December 13, 1966.

By Order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 66-13492; Filed, Dec. 14, 1966; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-98; NDA No. 15-149]

RICHARDSON-MERRELL, INC.

Relay, Continuous Action Aspirin; Notice of Opportunity for Hearing

Notice is hereby given to the applicant, Richardson-Merrell, Inc., New York, N.Y., that the Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of new-drug application No. 15-149 and all approved amendments and supplements thereto held by Richardson-Merrell, Inc., for the drug Relay, Continuous Action Aspirin, and under the provisions of section 505(d) of the act (21 U.S.C. 355(d)) refusing to approve all pending supplements to the application on the grounds that:

New information before the Food and Drug Administration with respect to such drug evaluated together with the evidence available when the application was approved show that there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof, in that: On reevaluation of all of the clinical data applicable to this drug and other long-acting aspirin there is no adequate basis on which it can fairly and responsibly be concluded, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

The Commissioner also proposes under the provisions of section 505(d) of the act to refuse to approve the supplements pending on new-drug application No. 15-149 on the grounds that substantial evidence has not been included in such supplements to show that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling.

In accordance with the provisions of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and the regulations appearing in Title 21, Code of Federal Regulations, Part 130, the Commissioner will give the applicant named above, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of new-drug application No. 15-149 should not be withdrawn.

Within 30 days from the date of publication of this notice in the FEDERAL REGISTER, such persons are required to

file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Food and Drug Division, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing the approval of the new-drug application. Failure of such persons to file such a written appearance of election within 30 days following the date of publication of this notice in the FEDERAL REGISTER will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public, except that any portion of the hearing that concerns a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing by filing a timely written appearance of election, a hearing examiner will be named by the Commissioner and he shall issue a written notice of the time and place for the hearing.

This notice is issued under the authority contained in the Federal Food, Drug, and Cosmetic Act (secs. 505, 701, 52 Stat. 1052, as amended, 1055, as amended; 21 U.S.C. 355, 371) and delegated by the Secretary of Health, Education, and Welfare to the Commissioner (21 CFR 2.120; 31 F.R. 3008).

Dated: December 7, 1966.

WINTON B. RANKIN,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 66-13457; Filed, Dec. 14, 1966; 8:48 a.m.]

STAUFFER CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 7F0548) has been filed by Stauffer Chemical Co., Richmond Research Center, 1200 South 47th Street, Richmond, Calif. 94800, proposing the establishment of a tolerance of 0.07 part per million for residues of the insecticide *O*-ethyl *S*-phenyl ethylphosphonodithioate in or on asparagus, corn fodder and forage (including sweet corn, field corn, popcorn), corn grain (including sweet corn, field corn, popcorn), corn with kernels plus cob with husks present (including sweet corn, field corn, popcorn), peanuts, peanut hay, potatoes, sugar beets (tops and roots), and sweet potatoes.

The analytical method proposed in the petition for determining residues of the insecticide is gas-liquid chromatography using a phosphorus-specific thermionic detector.

Dated: December 5, 1966.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 66-13458; Filed, Dec. 14, 1966; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 16236; Order No. E-24500]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Relating to Reduced-Fare Transportation for Cargo Agents

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of December 1966.

By Order E-22431, dated July 12, 1965, the Board deferred action on an International Air Transport Association (IATA) agreement adopted at the Venice Cargo Conference last year which would permit the carriers to grant reduced-fare transportation to IATA-approved cargo agents—a 75-percent discount for two air trips per year per carrier for each approved location of the agent. Time was provided therein for the receipt of comments in support of or in opposition to the agreement.

Subsequently the Board decided to reexamine its overall policy and practices in the industry relative to the granting of reduced fares to passenger and cargo agents. By Order E-23186, adopted February 2, 1966, the Board directed the U.S. carrier members of IATA to show cause why its outstanding approval of the IATA resolution granting fare concessions to passenger agents should not be withdrawn. The Board indicated that the program appeared to be deficient in that the concession was not directly related to business interests of the carriers and, thus, encouraged abuses. At the same time, the Board announced its intention to withhold action on the subject agreement relating to the concession for cargo agents pending developments in the show cause proceeding.

A subsequent IATA agreement, modifying the terms of eligibility for reduced fares in international transportation, and an agreement of the member carriers of the Air Traffic Conference of America (ATC), providing similar conditions for reduced fares for passenger sales agents traveling in domestic transportation, were approved in Orders E-24182 and E-24183 dated September 14, 1966. No modification has been made to the IATA agreement, CAB 18375, R-9, relating to international travel for cargo agents, and this order is directed to that resolution.

Numerous comments have been received and, without exception, they support the granting of reduced fares for international travel for IATA cargo agents. The comments assert that sales by cargo agents constitute a significant portion of the air cargo traffic, and it is essential that the cargo agents be as fully informed as possible on all aspects of the air freight industry in order that they may successfully sell and adequately service the movement of air cargo. In this regard, the comments variously refer to the necessity for firsthand information regarding such things as facilities at key airports; the handling of specialized traffic such as perishables, animals and delicate instruments; arrangements with brokers for onward transportation including intermodal transfer of cargo; banking and financial channels; and governmental regulations.

The comments stress the contention that necessary information and knowledge cannot be readily obtained by means other than through local on-the-spot inquiry, observation, and action. As one indication of the need for firsthand knowledge, comments are directed to the use of air transportation for the movement of specialized traffic, such as live animals, where careful timing is of the essence and ground transportation may be involved. The comments indicate that much traffic is controlled by consignees and that, accordingly, there is a need for cargo agents to solicit importers abroad. While cargo agents are moving by air a substantial portion of the cargo tonnage, allegedly their endeavor to increase sales is restricted by the expense involved in their business travel. An additional argument is made that to deny the concession in air transportation would result in an inequality of treatment of U.S. cargo agents vis-a-vis foreign cargo agents, who would assumedly receive reduced fare travel outside of air transportation. Thus, it is contended that U.S. sales agents would be handicapped in soliciting business in countries to which agents from other countries could travel at reduced fares.

The Board believes that the promotion of air cargo traffic, and U.S. foreign trade as well, may be significantly enhanced by the offering of reduced fares for IATA cargo agents. We are inclined to believe that the increased travel in today's market at the discounted fares will broaden the knowledge of the agents and of foreign traffic managers, thus, permitting the establishment of contacts and sales efforts which, in turn, will stimulate air transportation and our foreign trade. The increasing significance to the carriers of promotional activities by cargo agents is indicated by the increasing importance of air cargo to the industry, accentuated by the need to provide traffic for the all-cargo jets now in service. We believe a showing has been made that the information, knowledge and contacts which will result from travel cannot readily be obtained by other means. In our opinion, such knowledge and information should enable the cargo agents to function more effectively in selling air transportation. Since U.S. business and industry are in competition with those of other countries, the availability

of the reduced fares should benefit U.S. foreign trade and commerce.

Although we consider that a fare concession for cargo agents may be warranted, we are not disposed to approve the Venice agreement without modification. There is no showing that the number of permissible trips bears a reasonable relationship to the legitimate business requirements of the carriers and the cargo agents. Eligibility requirements appear vulnerable to abuses as in the earlier agreement relating to passenger sales agents which has now been revised.[1]

It is not necessarily appropriate to relate the concession for cargo agents to the total number of employees as in the case of passenger sales agents. The number of trips required and the persons eligible for reduced-rate transportation may well be quite different for cargo agents than for passenger sales agents. Assumedly, the business interests of the carriers as well as the agents require the latter to travel to familiarize themselves with transportation requirements and cargo facilities abroad and to solicit consignees as a means of increasing air cargo volume. It is incumbent upon the carriers to devise reasonable standards and to support them in relation to the extent of the alleged needs for travel. We would also urge the adoption of a conference-administered program.

In light of the foregoing, the Board, acting pursuant to the provisions of the Federal Aviation Act of 1958, particularly sections 102, 204(a), and 412, finds it in the public interest to continue to defer action on the subject agreement pending appropriate revision of it in accordance with this order.

Accordingly, it is ordered, That:

Action on Agreement CAB 18375, R–9, be deferred for a further period.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 66–13456; Filed, Dec. 14, 1966; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

[Docket Nos. 1187, 1187 (Sub. 1)]

MACHINERY AND TRACTORS FROM U.S. ATLANTIC PORTS TO PORTS IN PUERTO RICO

Amended Order of Remand; Reduced Rates

On November 23, 1966, the Commission remanded the subject proceeding to an examiner for further evidence pursuant to a motion granted by the Court of Appeals for the District of Columbia Circuit where a petition to review the proceeding had been filed. In reopening the proceeding, the Commission stated that it would receive further evidence and argument on four issues, the third of which was "What rate differential is necessary to allow TMT to capitalize on its natural distance advantage."

South Atlantic and Caribbean Line moved to have the issue restated so that the question under consideration would be what differential is necessary to allow Florida ports their natural distance advantage, while American Union Transport, a carrier from North Atlantic ports to Puerto Rico, contends that the issue should be phrased in terms of whether or not greater distances from North Atlantic than from South Atlantic ports to Puerto Rico in themselves justify a differential and, if so, in what amount? The Port of New York Authority contends that the third issue was not before the court of appeals and hence should be deleted altogether from the remanded proceeding.

The Commission in phrasing Issue No. 3 placed the question of rate differential with respect to distance in terms only of TMT because TMT was the party which had instituted the review proceeding in the court. It did not intend to indicate that it is of the belief that in this proceeding distance alone will justify a rate differential or that TMT alone is entitled to such differential if one in which distance is determinative or a contributing factor is awarded. The problem of the extent to which distance may be utilized in setting a differential, however, is basic to a determination of this proceeding. To avoid any confusion which may have arisen with respect to this matter, it is ordered that Issue No. 4 of our order in this proceeding served November 23, 1966, be renumbered 3, the current Issue No. 3 be deleted and the following added:

(4) Are the lesser distances from Florida ports to Puerto Rican ports than from North Atlantic ports to Puerto Rican ports a factor which alone or in conjunction with the other matters in this proceeding warrant a differential in rates between the aforementioned continental range of ports to Puerto Rican ports on the commodities under investigation and, if so, in what amounts?

By the Commission.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 66–13463; Filed, Dec. 14, 1966; 8:48 a.m.]

DORANCO, INC., ET AL.

Independent Ocean Freight Forwarder Licenses and Applications Therefor

Notice is hereby given of the cancellation of the following independent ocean freight forwarder license.

Doranco, Inc., Pier 2, Berth 54, Long Beach, Calif. 90802; License No. 1044, canceled November 10, 1966.

Notice is hereby given of changes in the following applications for independent ocean freight forwarder licenses filed pursuant to section 44, Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

GRANDFATHER APPLICANT

Independent Trade Association, 1805 Wilshire Boulevard, Los Angeles, Calif. 90057; Application No. 519, withdrawn November 18, 1966.

NEW APPLICANT

Hasman & Baxt of Louisiana, Inc., 610 Poydras Street, New Orleans, La.; Application withdrawn November 25, 1966.

Notice is hereby given of changes in the following independent ocean freight forwarder licenses.

ADDRESS CHANGE

Air-Sea Forwarders, Inc. and (Branch), All-Ports Shipping Co., 6850 Beck Avenue, North Hollywood, Calif. 90013; License No. 903.

Air-Sea Forwarders, Inc. and (Branch), All-Ports Shipping Co., 223 World Trade Center, San Francisco, Calif. 94111; License No. 903.

Air-Sea Forwarders, Inc. and (Branch), All-Ports Shipping Co., 819 Mitten Road (Airport Branch), Burlingame, Calif. 94010; License No. 903.

CHANGE OF OFFICERS

Trans World Shipping Service Service, Inc., 505 Board of Trade Building, Post Office Box 1597, Toledo, Ohio; License No. 686; Robert W. Cary, chairman of board and chief executive officer, William M. B. Ajemian, president.

Air-Sea Forwarders, Inc. and All-Ports Shipping Co., 406 South Main Street, Los Angeles, Calif. 90013; License No. 903; Erwin Rautenberg, president and director, Jerome W. Shepard, first vice president and director, Joseph E. Cheap, second vice president, Samuel Keevuk, secretary, Norman C. Baez, assistant secretary, Harry Rautenberg, treasurer and director, Richard J. Walker, assistant treasurer de Vota Wilson Bull, assistant secretary.

CHANGE OF NAME

Albert R. Freglette to Marion International, Inc., 53–28 212th Street, New York, N.Y.; Applicant.

NEW APPLICANTS LICENSED

November 1966

Herbert C. Hosford, 4046 Holly Rue, Erie, Pa. 16506; License No. 1134, issued November 8, 1966.

Crescent Transport Co., 1200 18th Street NW., Washington, D.C.; License No. 1135, issued November 8, 1966.

Marion International, Inc., 53–28 212th Street, New York, N.Y.; License No. 1136, issued November 22, 1966.

Battery Brokers & Forwarders, 198 East Bay Street, Charleston, S.C.; License No. 1137, issued November 30, 1966.

GRANDFATHERS LICENSED

November 1966

Copex America, Inc., 345 Hudson Street, New York, N.Y. 10014; License No. 960, issued November 8, 1966.

International Expediters, Inc., 711 Third Avenue, New York, N.Y. 10017; License No. 961, issued November 8, 1966.

Dorf International, Ltd., 39 Broadway, New York, N.Y.; License No. 882, issued November 21, 1966.

Universal Transcontinental Corp., 325 Spring Street, New York, N.Y. 10013; License No. 394, issued November 22, 1966.

Dated: December 12, 1966.

THOMAS LISI,
Secretary.

[F.R. Doc. 66–13462; Filed, Dec. 14, 1966; 8:48 a.m.]

[1] There is no apparent reason, however, for the cargo agent provisions to be identical to the passenger agent provisions.

AMERICAN MAIL LINE, LTD., AND REDERIAKTIEBOLAGET NORDSTJERNAN (JOHNSON LINE)

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the office of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. W. R. Purnell, District Manager, American Mail Line, 601 California Street, Suite 610, San Francisco, Calif. 94108.

Agreement 9288–2, between American Mail Line, Ltd., and Rederiaktiebolaget Nordstjernan (Johnson Line), amends the transshipment agreement between the parties by expanding the scope thereof to include the movement of cargo to ports in California in addition to Washington and Oregon.

Dated: December 9, 1966.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 66–13464; Filed, Dec. 14, 1966; 8:49 a.m.]

AUSTRALIA-WEST PACIFIC LINE AND AMERICAN PRESIDENT LINES, LTD.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the office of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. D. J. Morris, Manager, Rates and Conferences, American President Lines, Ltd., 601 California Street, San Francisco, Calif. 94108.

Agreements 9602 between Australia-West Pacific Line and American President Lines, Ltd., covers a through billing arrangement for general cargo from Port Moresby, Rabaul, Madang, and Lae, ports of call of the Australia-West Pacific Line in the Territory of New Guinea, to Honolulu and ports of call of American President Lines, Ltd., on the Pacific Coast of the United States of America, with transshipment at Hong Kong, British Colony, under terms and conditions as set forth in the agreement.

Dated: December 12, 1966.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 66–13465; Filed, Dec. 14, 1966; 8:49 a.m.]

FLOTA MERCANTE GRAN CENTROAMERICANA S.A. ET AL.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the office of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Flota Mercante Gran Centroamericana S.A., Continental Lines S.A., and Jan C. Uiterwyk Co., Inc.:

Notice of agreement filed by:

Mr. Thomas K. Roche, Haight, Gardner, Poor and Havens, 80 Broad Street, New York, N.Y. 10004.

Agreement 9597 among Flota Mercante Gran Centroamericana S.A., hereinafter referred to as "Flomerca," and Continental Lines S.A. and Jan C. Uiterwyk Co., Inc., hereinafter referred to as "Operators," permits the operators to enjoy Flomerca's governmental benefits under applicable statutes of Guatemala and Honduras in the trade between these countries and U.S. Gulf of Mexico ports. In return for these benefits, the operators will pay to Flomerca royalties on a graduated scale as set forth in the agreement.

Dated: December 12, 1966.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 66–13466; Filed, Dec. 14, 1966; 8:49 a.m.]

D. HAUSER, INC., ET AL.

Notice of Agreements Filed for Approval

Notice is hereby given that the following freight forwarder cooperative working agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement or request for a hearing should also be forwarded to each of the parties to the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Unless otherwise indicated, these agreements are non-exclusive, cooperative working agreements under which the parties may perform freight forwarding services for each other. Forwarding and service fees are to be agreed upon on each transaction. Ocean freight compensation is to be divided as agreed between the parties.

D. Hauser, Inc., New York, N.Y. and Dickinson, Mikell & Comar, Inc., Charleston, S.C.	FF–3195
John S. James, Savannah, Ga. and W. R. Filbin & Co., Inc., Detroit, Mich	FF–3196
Alltransport, Inc., New York, N.Y. and Interamerican Forwarding Corp., San Francisco, Calif.	FF–3197
Seaport Shipping Co. (Portland), Portland, Oreg. and P. John Hanrahan, Inc., New York, N.Y.	FF–3198
American Union Transport Forwarding, Inc., New York, N.Y. and T. J. Hanson, Inc., Beaumont, Tex	FF–3199
Penson Forwarding Corp., New York, N.Y. (Branches) and N. D. Cunningham & Co., Inc., Mobile, Ala.	FF–3200
Luiga Serra, Inc., New York, N.Y. and Seaway Forwarding Co., Cleveland, Ohio	FF–3203

Wilfred Schade & Co., Inc., Newport News, Va. and Coastal Forwarders, Charleston, S.C. FF–3204
Luiga Serra, Inc., New York, N.Y. and Wm. H. Muller Shipping Corp., Chicago, Ill. FF–3205
William R. Rowe Corp., San Francisco, Calif. and L. B. Watson & Co., Los Angeles, Calif. FF–3206
Morris Friedman & Co., Philadelphia, Pa. and W. R. Zanes & Co., Houston, Tex. FF–3207
General Foreign Freight Forwarders, Norfolk, Va. and Marion International, Inc., New York, N.Y. FF–3208
W. G. Carroll & Co., Inc., Atlanta, Ga. and C. H. Powell Co., Inc., New York, N.Y. FF–3209
Chas. Kurz Co., Philadelphia, Pa., and King Shipping Co., New York, N.Y. FF–3210
Donald R. Winter, Atlanta, Ga., and Oceanic Shipping Co., Mobile, Ala. FF–3211

Agreement No. FF–3202 between H. L. Ziegler, Inc., Houston, Tex., and H. Stone & Co., New York, N.Y., is a cooperative working arrangement whereunder forwarding and service fees are subject to negotiations and agreement on each transaction depending upon the services to be performed. Ocean freight brokerage is to be divided equally (50 percent–50 percent) between the parties. This division of brokerage will be restricted to those shipments handled on behalf of each other.

Agreement No. FF–3212 between Rohner, Gehrig & Co., Inc., New York, N.Y,. and J. W. Newton, Jr., Beaumont, Tex., is a cooperative working arrangement whereunder the fee for forwarding services rendered by either party shall be agreed upon by the parties upon the basis of the services performed on each shipment. Compensation received from ocean carriers shall be shared by the parties namely, one-third for J. W. Newton, Jr. and two-thirds for Rohner, Gehrig & Co., Inc.

Dated: December 9, 1966.

THOMAS LISI,
Secretary.

[F.R. Doc. 66–13467; Filed, Dec. 14, 1966; 8:49 a.m.]

ITALY, SOUTH FRANCE/U.S. GULF CONFERENCE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the office of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. G. Ravera, Secretary, Italy, South France/U.S. Gulf Conference, Vico San Luca 4, Genoa, Italy.

Agreement 9522–2, between the member lines of the Italy, South France/U.S. Gulf Conference, modifies the voting procedure outlined in the basic agreement to provide that members may be represented at Conference meetings by "proxy", provided that each member does not carry more than one proxy, and provided further that the quorum prescribed by the Agreement is made up of members physically attending the meeting.

Dated: December 9, 1966.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 66–13468; Filed, Dec. 14, 1966; 8:49 a.m.]

CONFERENCES IN TRADES TO, FROM, AND BETWEEN U.S. PORTS AND PORTS SITUATED IN CENTRAL AMERICA, SOUTH AMERICA, AND WEST INDIES

Notice of Agreements Filed for Approval

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the office of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of modification of conference agreements filed for approval by:

Mr. C. D. Marshall, Chairman, Associated Latin American Freight Conferences, 11 Broadway, New York, N.Y. 10004.

The agreements listed below modify the basic conference agreements indicated by deleting that part of Article 6 containing the requirements that a record be kept of membership votes on questions considered at Conference meetings or meetings of committees authorized to decide matters for the conference body and by deleting Article 7 pertaining to filing of minutes of such meetings and retention of records pertaining thereto in its entirety.

2744–28 modifying Agreement 2744, Atlantic and Gulf/West Coast of South America Conference.
3868–21 modifying Agreement 3868, Atlantic and Gulf-Panama Canal Zone, Colon and Panama City Conference.
4610–12 modifying Agreement 4610, U.S. Atlantic and Gulf-Jamaica Conference.
6080–16 modifying Agreement 6080, U.S. Atlantic and Gulf-Santo Domingo Conference.
6190–22 modifying Agreement 6190, U.S. Atlantic and Gulf-Venezuela and Netherlands Antilles Conference.
6870–10 modifying Agreement 6870, U.S. Atlantic and Gulf-Venezuela and Netherlands Antilles Conference.
7540–16 modifying Agreement 7540, Leeward and Windward Islands and Guianas Conference.
7590–14 modifying Agreement 7590, East Coast Colombia Conference.
7890–4 modifying Agreement 7890, West Coast South America Northbound Conference.
8120–7 modifying Agreement 8120, U.S. Atlantic and Gulf-Haiti Conference.
8300–7 modifying Agreement 8300, Atlantic and Gulf/West Coast of Central America and Mexico Conference.

These modifications will not relieve the conferences of their obligation to file minutes and maintain records since these duties are fully covered in General Order 18, Revision 3, effective September 1, 1966.

Dated: December 9, 1966.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 66–13470; Filed, Dec. 14, 1966; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 1002]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

DECEMBER 9, 1966.

The following applications are governed by Special Rule 1.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of

[1] Copies of Special Rule 1.247, as amended, can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

opposition and participation in the proceeding. A protest under these rules should comply with § 1.247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirement of § 1.247(d)(4) of the special rule, and shall include the certification required therein.

Section 1.247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 531 (Sub-No. 222), filed November 21, 1966. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Houston, Tex. 77021. Applicant's representative: Wary E. Hughes, 4904 Griggs Road, Houston, Tex. 77021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from Meredosia, Ill., to points in Connecticut, Massachusetts, New Jersey, New York, Oklahoma, Pennsylvania, and Texas. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 1641 (Sub-No. 73), filed November 28, 1966. Applicant: PEAKE TRANSPORT SERVICE, INC., Box 366, Chester, Nebr. 68327. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia and liquid fertilizer materials*, in bulk, in tank vehicles, from the plant and storage site of Mobil Chemical Co., located at or near Meredosia, Ill., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Wisconsin, restricted against tacking or interlining for the purpose of performing through service. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., St. Louis, Mo., or Chicago, Ill.

No. MC 19227 (Sub-No. 114), filed November 21, 1966. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, Fla. 33152. Applicant's representatives: W. O. Turney, 2001 Massachusetts Avenue NW., Washington, D.C. 20036, and Armlon Leonard (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aircraft parts* mounted on jigs, *accompanying parts and equipment and empty jigs*, between plants of Grumman Aircraft Corp., located in Nassau and Suffolk Counties, N.Y., and site of General Dynamics Corp., located in Tarrant County, Tex. NOTE: If a hearing is deemed necessary, applicant requests it be held at Fort Worth, Tex., or Washington, D.C.

No. MC 19311 (Sub-No. 12), filed November 30, 1966. Applicant: CENTRAL TRANSPORT, INC., 3399 East McNichols Road, Detroit, Mich. 48212. Applicant's representative: Robert D. Schuler, Suite 1700, 1 Woodward Avenue, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Ford Motor Co., on Sheldon Road in Plymouth Township, Wayne County, Mich., as an off-route point in connection with applicant's authorized regular route authority. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich.

No. MC 25798 (Sub-No. 148), filed November 27, 1966. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, Post Office Box 1186, Auburndale, Fla. 33823. Applicant's representative: George W. Clapp (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of Oscar Mayer & Co., Inc., Beardstown, Ill., to points in Alabama, Georgia, Kentucky, North Carolina, South Carolina, and Tennessee (except Memphis, Tenn.), restricted to traffic originating at such plantsite. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 35628 (Sub-No. 274), filed November 21, 1966. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a corporation, 134 Grandville SW., Grand Rapids, Mich. 49502. Applicant's representative: Leonard D. Verdier, Jr., 1 Vandenberg Center, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except class A and B explosives, household goods as defined by the Commission, and commodities in bulk), serving Carmichaels, Pa., as an off-route point in connection with applicant's regular route operations between Wheeling, W. Va., and Baltimore, Md. NOTE: Applicant states it would tack the proposed authority at Pittsburgh, Pa., with service to and from authorized points in Pennsylvania. If a hearing is deemed necessary, applicant requests it be held at Syracuse or Albany, N.Y.

No. MC 50069 (Sub-No. 371), filed November 25, 1966. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 930 North York Road, Hinsdale, Ill. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia and liquid fertilizer materials*, in bulk, in tank vehicles, from the plant and storage site of Mobil Chemical Co., located at or near Meredosia, Ill., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Wisconsin, restricted against tacking or interlining for the purpose of performing through service. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 59336 (Sub-No. 17), filed November 28, 1966. Applicant: U.S. TRUCK COMPANY, INC., 2290 24th Street, Detroit, Mich. 48216. Applicant's representative: Wilber M. Brucker, Jr., 2200 Penobscot Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Ford Motor Co. on Sheldon Road in Plymouth Township, Wayne County, Mich., as an off-route point in connection with applicant's regular route operations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich.

No. MC 59680 (Sub-No. 155), filed November 30, 1966. Applicant: STRICKLAND TRANSPORTA-

TION CO., INC., 3011 Gulden Lane, Post Office Box 5689, Dallas, Tex. 75222. Applicant's representative: W. T. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the plantsites of Ford Motor Co. in Plymouth Township, Mich., as intermediate and off-route points in connection with regular route operations to and from Detroit as authorized by certificate No. MC 59680, Sub. 127. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 61396 (Sub-No. 167) (Amendment), filed October 17, 1966, published in FEDERAL REGISTER issue of November 3, 1966, amended November 22, 1966, and republished as amended, this issue. Applicant: HERMAN BROS. INC., 2501 North 11th Street, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk and in bag, from the plantsite of Dundee Cement Co. in Minneapolis, Minn., to points in Wisconsin, Iowa, South Dakota, North Dakota, Minnesota, and the Upper Peninsula of Michigan. NOTE: The purpose of this republication is to include Minnesota in the destination territory. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., Omaha, Nebr., or Chicago, Ill.

No. MC 75320 (Sub-No. 133), filed November 25, 1966. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., 2333 East Mill Street Road, Post Office Box 807, Springfield, Mo. 65801. Applicant's representative: Harold D. Miller, Jr., 700 Petroleum Building, Jackson, Miss. 39201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, and except classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Hazlehurst, Miss., and junction U.S. Highways 61 and 98; from Hazlehurst over Mississippi Highway 28 to Fayette, Miss., thence over U.S. Highway 61 to junction U.S. Highway 98 at or near Washington, Miss., and return over the same route, serving no intermediate points, serving junction U.S. Highways 61 and 98 for purpose of joinder only, and as an alternate route for operating convenience only in connection with applicant's pending regular route authority in its Sub 119, from Hazelhurst, to Summit, to Natchez, Miss., and from Hazlehurst to Brookhaven, Miss., to junction U.S. Highways 98 and 61. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 87720 (Sub-No. 56), filed November 25, 1966. Applicant: BASS TRANSPORTATION CO., INC., Old Croton Road, Flemington, N.J. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hard surface floor coverings*, and *materials and supplies* used in the installation thereof when moving in the same vehicle with hard surface floor coverings, from Hamilton Township, N.J., to points in North Dakota, South Dakota, and Texas, and *returned shipments* of hard surface floor coverings and materials and supplies used in connection therewith, on return, under contract with American Biltrite Rubber Co., Inc., Hamilton Township, N.J. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 93903 (Sub-No. 9), filed November 25, 1966. Applicant: ANDERSON'S TRUCKING CORPORATION, 93 Marcy Avenue, East Orange, N.J. Applicant's representative: Herman B. J. Weckstein, 1060 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete pipe, fittings, forms, molds, and equipment used in the manufacture of concrete pipe*, between Wharton, N.J., on the one hand, and, on the other, points in New Hampshire, Maine, and Vermont, under contract with International Pipe & Ceramics Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 94265 (Sub-No. 193) (Amendment), filed August 30, 1966, published in FEDERAL REGISTER issue of September 29, 1966, amended November 18, 1966, and republished as amended this issue. Applicant: BONNEY MOTOR EXPRESS, INC., Post Office Box 12388, Thomas Corner Station, Norfolk, Va. Applicant's representative: Harry C. Ames, Jr., 529 Transportation Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 272, from Lemont, Ill., and the cold storage facilities of South Chicago Packing Co., at Chicago, Ill., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states it could or would tack with its Sub 26 at Crozet, Va., to transport frozen foods to points in South Carolina, Georgia, and Florida, and at Smithfield, Va., with its Sub 142 to transport meat and meat products to Florence, S.C. The purpose of this republication is to show the cold storage facilities of South Chicago Packing Co., at Chicago, Ill., as an origin point. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 94265 (Sub-No. 198), filed November 29, 1966. Applicant: BONNEY MOTOR EXPRESS, INC., Post Office Box 12388, Thomas Corner Station, Norfolk, Va. Applicant's representative: Wilmer B. Hill, 529 Transportation Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Cleveland, Ohio, to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, Wisconsin, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Cleveland, Ohio.

No. MC 94430 (Sub-No. 29), filed November 25, 1966. Applicant: WEISS TRUCKING COMPANY, INC., Mongo, Ind. Applicant's representative: James R. Stiverson, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, fom Cleveland, Ohio, to points in Pennsylvania on and west of U.S. Highway 219, points in New York, on and west of U.S. Highway 15, and points in Brooke, Hancock, Marshall, and Ohio counties, W. Va. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Columbus, Ohio.

No. MC 95540 (Sub-No. 686), filed November 21, 1966. Applicant: WATKINS MOTOR LINES, INC., Albany Highway, Thomasville, Ga. 31792. Applicant's representative: Jack M. Holloway, Post Office Box XX, Thomasville, Ga. 31792. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, coconuts, and pineapples*, from New Orleans, La., to points in Nebraska. NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Washington, D.C.

No. MC 100152 (Sub-No. 3), filed November 21, 1966. Applicant: CONTAINER TRANSPORT, INC., 5117 Umbria Street, Philadelphia, Pa. 19128. Applicant's representative: Raymond A. Thistle, Jr., Suite 1408–09, 1500 Walnut Street, Philadelphia, Pa. 19102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper articles and plastic containers*, between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey, New York, Delaware, Maryland, and Washington, D.C., under a continuing contract with Container Corp. of America. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 105881 (Sub-No. 38), filed November 21, 1966. Applicant: M. R. & R. TRUCKING COMPANY, a corporation, 715 North Ferdon Boulevard, Post Office Box 727, Crestview, Fla. 32536. Applicant's representative: Borman J. Bolinger, 1730 American Heritage Life Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Com-

mission, livestock, commodities in bulk, and those requiring special equipment), (1) between Greenville, Fla., and Lake City, Fla., over U.S. Highway 90, serving all intermediate points and the plantsite of the Occidental Corp. as an off-route point; (2) between Tallahassee, Fla., and Tampa, Fla., from Tallahassee over U.S. Highway 27 to junction U.S. Highway 19, thence over U.S. Highway 19 to Lebanon Station, thence over Florida Highway 336 to Dunnellon, Fla., thence over U.S. Highway 41 to Tampa, and return over the same route, serving all intermediate points except those between Dunnellon and Tampa; (3) between Jacksonville, Fla., and Dunnellon, Fla., from Jacksonville over Florida Highway 228 to Maxville, Fla., thence over U.S. Highway 301 to Waldo, Fla., thence over Florida Highway 24 to Archer, Fla., thence over U.S. Highway 41 to Dunnellon, and return over the same route, serving all intermediate points except those between Jacksonville and Gainesville; (4) between Lake City, Fla., and Gainesville, Fla., over U.S. Highway 441 with closed doors as an alternate route for operating convenience only; and, (5) serving the plantsite of the Occidental Corp. in Hamilton County, Fla., Mayo, High Springs, Alachua, the plantsite of General Electric Corp. on U.S. Highway 441 between Gainesville and Alachua, Bronson, and Cedar Keys, Fla., as off-route points in connection with its authorized regular route operations. NOTE: Applicant proposes to tack with its present authority to enable it to perform through service between points herein sought to be served and points otherwise served. If a hearing is deemed necessary, applicant requests it be held at Tallahassee, Fla.

No. MC 107403 (Sub-No. 699), filed November 28, 1966. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry bulk materials*, from Pataskala, Ohio, to points in Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107496 (Sub-No. 515), filed November 25, 1966. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer materials*, in bulk, from the plantsite of W. R. Grace & Co., located at Henry, Ill., to points in Iowa, Indiana, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. NOTE: Applicant indicated that by using MC 107496, Sub 220, it would tack through Fort Madison, Iowa, to points in Kansas, Nebraska, North Dakota, and South Dakota. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or St. Louis, Mo.

No. MC 107818 (Sub-No. 42), filed November 25, 1966. Applicant: GREENSTEIN TRUCKING COMPANY, a corporation, 280 Northwest 12th Avenue, Pompano Beach, Fla. Applicant's representative: Martin Sack, Jr., 710 Atlantic Bank Building, 121 West Forsyth Street, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen foods, canned citrus fruit, and canned citrus juices), and *related advertising* and *promotional materials*, when moving with such commodities, in vehicles equipped with mechanical refrigeration, from points in Dade and Broward Counties, Fla., to Boston, Mass.; Bridgeport, Conn.; Albany and Syracuse, N.Y.; Philadelphia and Pittsburgh, Pa.; Wilmington, Del.; Baltimore, Md., Washington, D.C.; Arlington, Alexandria, and Richmond, Va.; Atlanta and Thomasville, Ga.; Birmingham, Ala.; Memphis and Nashville, Tenn.; Lexington and Louisville, Ky.; Akron, Cincinnati, Cleveland, and Toledo, Ohio; Indianapolis, Ind.; Detroit and Kalamazoo, Mich.; Chicago, Ill.; Madison and Milwaukee, Wis.; Minneapolis, Minn.; New Orleans, La.; St. Louis and Kansas City, Mo.; Kansas City, Kans.; Des Moines, Iowa; Lincoln, Nebr., and Charlotte, N.C. NOTE: If a hearing is deemed necessary, applicant requests it be held at Miami, Fla.

No. MC 108068 (Sub-No. 60), filed November 25, 1966. Applicant: U.S.A.C. TRANSPORT, INC., 25200 West Six Mile Road, Detroit, Mich. 48240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aircraft parts*, between Tulsa, Okla., on the one hand, and, on the other, points in California. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Dallas, Tex.

No. MC 108298 (Sub-No. 28), filed November 27, 1966. Applicant: ELLIS TRUCKING CO., INC., 1600 Oliver Avenue, Indianapolis, Ind. 46207. Applicant's representative: Kirkwood Yockey, Suite 501, Union Federal Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, and except livestock, dangerous explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Detroit, Mich., on the one hand, and, on the other, the plantsite of the Ford Motor Co., located in Plymouth Township, Wayne County, Mich. NOTE: Applicant states that tacking is intended at Detroit, Mich., and the territory that would be served through such joinder is all points served by applicant direct on its presently certificated routes and points beyond by way of interchange. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Indianapolis, Ind., or Washington, D.C.

No. MC 108449 (Sub-No. 244), filed November 22, 1966. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: Adolph J. Bieberstein, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer* and *fertilizer materials*, from the plantsite of W. R. Grace & Co. located at or near Henry, Ill., to points in Minnesota, Wisconsin, Iowa, Missouri, Indiana, Kentucky, Ohio, and Michigan. NOTE: Applicant states it intends to tack with Sub 136 (Fort Madison, Iowa), to serve states of North Dakota, South Dakota, Nebraska, and Kansas, and (2) Sub 168 (Clinton, Iowa), to serve states of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Arkansas. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 109637 (Sub-No. 315), filed November 25, 1966. Applicant: SOUTHERN TANK LINES, INC., 4107 Bells Lane, Louisville, Ky. 40211. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia and liquid fertilizer materials*, in bulk, in tank vehicles, from the plant and storage site of Mobil Chemical Co., located at or near Meredosia, Ill., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Wisconsin. Restricted against tacking or interlining for the purpose of performing through service. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., St. Louis, Mo., or Chicago, Ill.

No. MC 110525 (Sub-No. 806), filed November 25, 1966. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representatives: Leonard A. Jaskiewicz, 1155 15th Street NW., Madison Building, Washington, D.C. 20005, and Edwin H. van Deusen, 520 East Lancaster Avenue, Downingtown, Pa. 19335. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum lubricating oil*, in bulk, in tank vehicles, from East Boston, Mass., to Schenectady, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 110525 (Sub-No. 808), filed November 30, 1966. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Leonard A. Jaskiewicz, 1155 15th Street NW., Madison Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia and liquid fertilizer materials*, in bulk, in tank vehicles, from the plant and storage site of Mobil Chemical Co. located at or near Meredosia, Ill., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Wisconsin, restricted against tacking or interlining for the purpose of performing through service. NOTE: If a hearing is deemed

necessary, applicant requests it be held at Washington, D.C., St. Louis, Mo., or Chicago, Ill.

No MC 110832 (Sub-No. 4) (Correction), filed November 9, 1966, published FEDERAL REGISTER of December 1, 1966, and December 8, 1966, as MC 128700, and republished as corrected, this issue. Applicant: PAPER TRANSPORT CO., a corporation, State Road, New Castle, Del. Applicant's representative: Carl Goldstein, 200 West Ninth Street, Wilmington, Del. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, between points in New York, Pennsylvania, New Jersey, Virginia, Connecticut, Massachusetts, Ohio, North Carolina, Rhode Island, South Carolina, Maryland, and the District of Columbia. NOTE: The purpose of this republication is to show that applicant by amendment seeks common carrier authority, inadvertently published as contract. This republication also shows new docket number assigned thereto. If a hearing is deemed necessary, applicant requests it be held at Wilmington, Del., Philadelphia, Pa., or Baltimore, Md.

No. MC 111170 (Sub-No. 116), filed November 21, 1966. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, El Dorado, Ark. 71730. Applicant's representative: Thomas Harper, Post Office Box 43, Fort Smith, Ark. 722901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ammonium nitrate, urea, fertilizer, fertilizer materials, and fertilizer ingredients*, in bulk and in bags (1) from Jonesboro, Ark., to points in Illinois and Missouri, and (2) from Dermott, Ark., to points in Louisiana and Mississippi. NOTE: Applicant states it would tack the proposed authority with its present authority at El Dorado, Ark., to serve a greater area. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Memphis, Tenn.

No. MC 111320 (Sub-No. 47), filed November 28, 1966. Applicant: CURTIS KEAL TRANSPORT COMPANY, INC., 2001 Barlow Road, Hudson, Ohio, 44236. Applicant's representative: J. C. Schriner, 11615 Detroit Avenue, Cleveland, Ohio 44102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile haulaway trailers*, in initial movements, in truckaway service, from Bethlehem, Pa., to Lordstown, Ohio, Detroit and River Rouge, Mich. NOTE: If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 112520 (Sub-No. 153), filed November 21, 1966. Applicant McKENZIE TANK LINES, INC., New Quincy Road, Post Office Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 1730 American Heritage Life Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids and chemicals, petroleum and petroleum products, fertilizer and fertilizer ingredients* in bulk, from Luling, La., to points in the United States (except Hawaii and Alaska). NOTE: Applicant states it could tack with its present authority in Subs 16, 18, 35, 75, 83, 91, 106, 116, and 119, wherein it conducts operations in the States of Florida, Alabama, Georgia, Louisiana, Mississippi, Indiana, Kansas, Kentucky, North Carolina, South Carolina, Texas, Arkansas, Illinois, Missouri, Ohio, Tennessee, Virginia, and Oklahoma. If a hearing is deemed necessary, applicant requests it be held at New Orleans or Baton Rouge, La.

No. MC 112801 (Sub-No. 60), filed November 28, 1966. Applicant: TRANSPORT SERVICE CO., a corporation, 5100 West 41st Street, Chicago, Ill. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia and liquid fertilizer materials*, in bulk, in tank vehicles, from the plant and storage site of Mobile Chemical Co. at or near Meredosia, Ill., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Wisconsin. Restricted against tacking or interlining for the purpose of performing through service. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 113678 (Sub-No. 270), filed November 25, 1966. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. Applicant's representative: Duane W. Acklie, Post Office Box 2028, Lincoln, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from points in Watonwan County, Minn., and Mankato, Minn., to points in Washington, Oregon, Nevada, Utah, Arizona, Colorado, New Mexico, Texas, Oklahoma, Kansas, Nebraska, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, California, Illinois, Indiana, Michigan, Ohio, Pennsylvania, Virginia, West Virginia, District of Columbia, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 113828 (Sub-No. 116), filed November 23, 1966. Applicant: O'BOYLE TANK LINES, INCORPORATED, 4848 Cordell Avenue, Washington, D.C. 20014. Applicant's representative: William P. Sullivan, 1825 Jefferson Place NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, (1) from Marcus Hook, Pa., to points in Georgia and South Carolina, and (2) from Chesapeake, Va., to Charleston, S.C. NOTE: Applicant states it will tack at Chesapeake, Va., with its present authority in its sub 28 to provide through service to Charleston, S.C., from specified counties and points in Pennsylvania, New Jersey, Maryland, Delaware, and Washington, D.C. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114045 (Sub-No. 259), filed November 21, 1966. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Pratt, Kans., to points in Illinois, Indiana, Ohio, Kentucky, Pennsylvania, and New York. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Washington, D.C.

No. MC 114091 (Sub-No. 78), filed November 25, 1966. Applicant: HUFF TRANSPORT CO., INC., 4125 Algonquin Parkway, Louisville, Ky. 40213. Applicant's representative: Rudy Yessin, Box 457, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia and liquid fertilizer materials*, in bulk, in tank vehicles, from the plant and storage site of Mobil Chemical Co., located at or near Meredosia, Ill., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant does not specify a location.

No. MC 114364 (Sub-No. 130), filed November 29, 1966. Applicant: WRIGHT MOTOR LINES, INC., Post Office Box 1191, Cushing, Okla. 74023. Applicant's representative: Alvin J. Meiklejohn, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grape juice*, in bulk, in sealed tanks, from Grandview, Wash., to Oklahoma City, Okla. NOTE: If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC 114699 (Sub-No. 36), filed November 22, 1966. Applicant: TANK LINES, INCORPORATED, Post Office Box 6415, Dabney Road, Richmond, Va. 23230. Applicant's representative: E. Stephen Heisley, 529 Transportation Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal oils*, in bulk, in tank vehicles, from points in the District of Columbia to points in Virginia; and (2) *animal and vegetable oils*, in bulk, in tank vehicles, between Richmond, Va., and points in North Carolina, South Carolina, Georgia, Tennessee, West Virginia, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, and the District of Columbia.

NOTE: Applicant states it could tack over Suffolk, Va., to serve points in North Carolina, South Carolina, Georgia, and Tennessee on animal oils, and could tack over Richmond, Va., to serve points in Georgia, South Carolina, Virginia, Tennessee, Maryland, Delaware, Pennsylvania, and the District of Columbia. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115215 (Sub-No. 10), filed November 21, 1966. Applicant: NEW TRUCK LINES, INC., 500 West Hampton Springs Avenue, Perry, Fla. Applicant's representative: Sol H. Proctor, 1730 American Heritage Life Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dragline mats*, from points in Florida, to points in Alabama, Arkansas, Delaware, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, and Virginia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Miami or Jacksonville, Fla.

No. MC 115331 (Sub-No. 216), filed November 23, 1966. Applicant: TRUCK TRANSPORT, INCORPORATED, 707 Market Street, St. Louis, Mo. 63101. Applicant's representative: Thomas F. Kilroy, 913 Colorado Building, 1341 G Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids and chemicals*, in bulk, from points in St. Charles County, Mo., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states it could tack the proposed authority with its present authority from the plantsite of Olin-Mathieson Chemical Corp., near Ordill, Ill.; from the plantsite of Central Nitrogen near Terre Haute, Ind.; and from the plantsite of Hawkeye Chemical Co. near Clinton, Iowa, to points in Indiana, Kentucky, Iowa, Missouri, and Oklahoma. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 115331 (Sub-No. 217), filed November 23, 1966. Applicant: TRUCK TRANSPORT, INC., 707 Market Street, St. Louis, Mo. 63101. Applicant's representative: Thomas F. Kilroy, 913 Colorado Building, 1341 G Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer materials*, from Henry, Ill., to points in Minnesota, Wisconsin, Iowa, Missouri, Indiana, Kentucky, Ohio, and Michigan. NOTE: Applicant states it would combine its authority to transport chemical fertilizers in hopper type vehicles, from the plantsite of Central Nitrogen near Terre Haute, via Henry, Ill., to serve points in Minnesota. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 115523 (Sub-No. 136), filed November 28, 1966. Applicant: CLARK TANK LINES COMPANY, a corporation, 1450 North Beck Street, Salt Lake City, Utah. Applicant's representative: Franklin D. Johnson, 422 Continental Bank Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt and road oil*, in bulk and tank vehicles, from Salt Lake City and Woods Cross, Utah, and a radius of 10 miles from each of these points to points in Nevada (excepting U.S. Highway 40 from the Utah State line to Elko and U.S. Highway 50 from the Utah State line to Ely, Nev.). NOTE: If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho, or Salt Lake City, Utah.

No. MC 116474 (Sub-No. 8), filed November 21, 1966. Applicant: LEAVITTS FREIGHT SERVICE, INC., Route 1, Box 170B, Springfield, Oreg. Applicant's representative: Earle V. White, 2130 Southwest Fifth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Laminated wood products, prefabricated wood timbers, trusses and beams, and accessories used in the erection, construction, and completion of the foregoing* when shipped therewith, for the account of Duco-Lam, Inc., from Drain, Oreg., to points in Washington. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 116958 (Sub-No. 2), filed November 21, 1966. Applicant: SALVATORE TRUCKING TRUCK LEASING CORP., 915 Douglas Terrace, Union, N.J. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by wholesale grocery houses*, between Mount Vernon, N.Y., on the one hand, and, on the other, points in the District of Columbia, Maryland, Rhode Island, and Massachusetts, under contract with M. De Rosa, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 117344 (Sub-No. 178), filed November 25, 1966. Applicant: THE MAXWELL CO., a corporation, 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: James R. Stiverson, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry commodities*, in bulk, in tank or hopper type vehicles, from Cincinnati, Ohio, to points in Illinois, Indiana, and Kentucky. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 117698 (Sub-No. 3), filed November 28, 1966. Applicant: LEO H. SEARLES, doing business as L. H. SEARLES, South Worcester, N.Y. Applicant's representative: Harold C. Vrooman, 140 Main Street, Oneonta, N.Y. 13820. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods, and processed meats*, from New York, N.Y., to Oneonta, N.Y., (2) *cheese and processed cottage cheese products*, from St. Albans, Vt., to Auburn, Norwich, Saratoga, Syracuse, Cortland, Ithaca, Elmira, Waverly, Owego, Binghamton, Sidney, and Oneonta, N.Y., and (3) *silos and wood laminated beams, saddles, arches, decking, and fixtures* for construction of buildings having wood laminated arches and beams, from Sidney and Unadilla, N.Y., to the construction job site of the designated consignee at points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Pennsylvania, New Jersey, Maryland, Delaware, Virginia, West Virginia, Indiana, Michigan, and Ohio. NOTE: Applicant states no duplication of authority sought. If a hearing is deemed necessary, applicant requests it be held at Binghamton, N.Y.

No. MC 117970 (Sub-No. 3), filed November 22, 1966. Applicant: A. D. STUCKER, Rural Delivery No. 1, Susquehanna, Pa. Applicant's representative: Thomas J. Jones, 502–505 Brooks Building, Scranton, Pa. 18503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flagstone, stone veneer, stone tread, stone coping, broken, and irregular stone*, from points in Susquehanna County, Pa., to points in Connecticut and New York. NOTE: If a hearing is deemed necessary, applicant requests it be held at Scranton or Philadelphia, Pa.

No. MC 118288 (Sub-No. 13), filed November 27, 1966. Applicant: STEPHEN F. FROST, Post Office Box 28, Billings, Mont. 59103. Applicant's representative: Jerome Anderson, Post Office Box 1215, 300 First National Bank Building, Billings, Mont. 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and hides*, from Billings, Mont., to points in California (excluding the transportation of animal fats in bulk in tank vehicles to points in Fresno County, Calif.), Nevada, Utah, and points in Owyhee, Elmore, Custer, Lemhi, Blaine, Camas, Gooding, Twin Falls, Jerome, Lincoln, Cassia, Minidoka, Butte, Power, Oneida, Bannock, Franklin, Bear Lake, Caribou, Bingham, Bonneville, Jefferson, Madison, Teton, Clark, and Fremont Counties, Idaho.

No. MC 118292 (Sub-No. 16), filed November 29, 1966. Applicant: BALLENTINE PRODUCE, INC., Post Office Box 312, Alma, Ark. 72921. Applicant's representative: Lester M. Bridgeman, 1000 Woodward Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Russellville and Dardanelle, Ark., to points in Missouri, Texas, Arizona, and California. NOTE: Applicant holds contract carrier authority in MC 118434, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., Dallas, Tex., or Washington, D.C.

No. MC 119552 (Sub-No. 2), filed November 25, 1966. Applicant: R. J. SNOW

& SON, INC., Putnam Pike, Post Office Box 166, Harmony, R.I. 02857. Applicant's representative: Russell B. Curnett, 36 Circuit Drive, Edgewood Station, Providence, R.I. 02905. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Greenville, Ohio, East Providence, and Providence, R.I., on the one hand, and, on the other, East Hartford, Conn., Reading, Mass., Buffalo and Cohoes, N.Y., Akron, Cleveland, and Columbus, Ohio, under contract with Fram Corp., East Providence, R.I., and Campbell Filter Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Providence, R.I., or Boston, Mass.

No. MC 119767 (Sub-No. 190), filed November 28, 1966. Applicant: BEAVER TRANSPORT CO., a corporation, 100 South Calumet Street, Burlington, Wis. 53105. Applicant's representative: Allan B. Torhorst (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from plantsite or storage facilities used by Stokely Van Camp, Inc., at Fairmont, Winnebago, Albert Lea, Mankato, and Worthington, Minn., to points in Illinois (except Chicago and its commercial zone). NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 123069 (Sub-No. 10), filed November 23, 1966. Applicant: ALLER & SHARP, INC., 817 West Fifth Avenue, Columbus, Ohio 43212. Applicant's representative: Thomas F. Kilroy, Suite 913, Colorado Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packing houses* as described in sections A and C of appendix I to the report of the Commission, in 61 M.C.C. 209 and 766, between Lemont, Ill., on the one hand, and, on the other, points in Indiana, Kentucky, Ohio, and West Virginia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 123393 (Sub-No. 171), filed November 22, 1966. Applicant: BILYEU REFRIGERATED TRANSPORT CORP., 2105 East Dale Street, Springfield, Mo. 65803. Applicant's representative: Harley E. Laughlin, Post Office Box 948, Commercial Station, Springfield, Mo. 65803. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Citrus products, fruit juices, and drinks*, from Waycross, Ga., and points within 3 miles thereof, to points in Arizona, California, and Nevada. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Tampa, Orlando, or Jacksonville, Fla.

No. MC 124078 (Sub-No. 254), filed November 21, 1966. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer materials*, from the plantsite of W. R. Grace & Co., located at Henry, Ill., to points in Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. NOTE: Applicant states it could or would tack the authority sought herein at Henry, Ill., to serve points in Indiana, Kentucky, Michigan, Ohio, Iowa, Minnesota, Missouri, and Wisconsin. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124078 (Sub-No. 255), filed November 21, 1966. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, fertilizers, fertilizer ingredients, feed and feed ingredients, and nitric acids*, from the plantsite of Terra Chemicals International, Inc., at Port Neal, Iowa, to points in Illinois, Iowa, Nebraska, North Dakota, South Dakota, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, or Omaha, Nebr.

No. MC 124402 (Sub-No. 3) filed November 28, 1966. Applicant: FLEET LINE, INC., 3109 Alton Park Boulevard, Chattanooga, Tenn. 37410. Applicant's representative: Robert H. Cowan, 500 Court Square Building, Nashville, Tenn. 37201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fresh meats and packinghouse products*, from Norfolk, Va., to points in North Carolina and South Carolina and (2) *margarine*, from Greenville, S.C., to points in Florida, Mississippi, Alabama, Georgia, North Carolina, South Carolina, Tennessee, Kentucky, Virginia, and West Virginia, under contract with Armour and Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chattanooga or Nashville, Tenn.

No. MC 124669 (Sub-No. 22), filed Novmeber 28, 1966. Applicant: TRANSPORT, INC., OF SOUTH DAKOTA, 1012 West 41st Street, Sioux Falls, S. Dak. 57105. Applicant's representative: Ronald B. Pitsenbarger, Post Office Box 396, Moorhead, Minn. 56561. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquified petroleum gas*, in bulk, from the site of the pipeline terminal of the Mid-America Pipeline Co., at or near Whiting (Monona County), Iowa, to points in Minnesota, Nebraska, North Dakota, and South Dakota, and *returned shipments*, on return. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Sioux Falls, S. Dak.

No. MC 124692 (Sub-No. 25) (Amendment), filed October 28, 1966, published FEDERAL REGISTER issue of November 17, 1966, amended November 28, 1966, and republished as amended, this issue. Applicant: MYRON SAMMONS, Post Office Box 933, Missoula, Mont. Applicant's representative: Gene P. Johnson, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, as described in appendix VI to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 279, and *fabricated iron and steel*, from points in Utah to points in Idaho, Montana, Oregon, and Washington. NOTE: The purpose of this republication is to broaden the commodity description. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, Seattle, or Spokane, Wash., or Portland, Oreg.

No. MC 124802 (Sub-No. 7), filed November 22, 1966. Applicant: CURTIS WOMELDORF, doing business as ACE MOTOR FREIGHT, Post Office Box 331, Summerville, Pa. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron soil pipe and fittings*, from Bridgeton, N.J., to points in those parts of New York and Pennsylvania on and west of U.S. Highway 11. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 126005 (Sub-No. 1), filed November 25, 1966. Applicant: DeHARTE TRUCKING COMPANY, a corporation, Route 60, Olive Hill, Ky. 41164. Applicant's representative: Fred Bradley, 213 St. Clair, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, from Jerry Sand & Gravel Co. (near South Point, Ohio), to points in Bath and Morgan Counties, Ky., and points in Cabell, Putnam, Wayne, Lincoln, and Kanawha Counties, W. Va. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lexington or Louisville, Ky., or Cincinnati, Ohio.

No. MC 126835 (Sub-No. 11), filed November 25, 1966. Applicant: EDGAR BISCHOFF, doing business as CASKET DISTRIBUTORS, Rural Route 5, Brookville, Ind. 47012. Applicant's representative: Jack B. Josselson, 700 Atlas Bank Building, Cincinnati, Ohio 45202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Caskets, casket displays, and funeral supplies* when moving with caskets, from Cincinnati, Ohio, to points in the United States (except Alaska and Hawaii) and *returned shipments*, on return, under continuing contracts with The Crane & Breed Casket Co. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128105 (Sub-No. 2), filed November 21, 1966. Applicant: FRANK R. GIVIGLIANO, 301 Willow Street, Trinidad, Colo. Applicant's representative: Joseph F. Nigro, 400 Denver Hilton Office Building, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, whiskey, wines*, processed produce not otherwise exempt, and *manufactured food products* in containers or cans, (1) from points in California, to Raton, N. Mex., (2) from Saint Helena, Calif., to Trinidad, Colo., (3) from Omaha, Nebr., St. Louis, Mo., Detroit, Mich., and Kansas City, Mo., to Trinidad, Colo., and (4) from Brighton, Colo., to Raton, N. Mex., under contract with Trinidad Wholesale Liquor, Trinidad, Colo., M & M Distributing Co., Trinidad, Colo., and Keeps Wholesale, Raton, N. Mex. NOTE: Applicant states no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Trinidad or Denver, Colo.

No. MC 128220 (Sub-No. 1), filed November 25, 1966. Applicant: RALPH LATHEM, doing business as LATHAM TRUCKING COMPANY, Burnside, Ky. 42519. Applicant's representative: Robert M. Pearce, Central Building, 1033 State Street, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal, charcoal briquettes, wood chips, vermiculite, lighter fluid, and spices and sauces* used in outdoor cooking, between Burnside, Morehead, and Barbourville, Ky. and points within 5 miles thereof on the one hand, and, on the other, Parsons, W. Va., and points within 5 miles thereof. NOTE: Applicant states it intends to tack with pending authority in MC 128220 at Burnside, Ky., serving points in Alabama, Florida Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee (except Knoxville). If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Louisville, Ky.

No. MC 128502 (Sub-No. 1), filed November 25, 1966. Applicant: JIMMY R. SHRUM AND BOBBY SHRUM, a partnership, doing business as SHRUM BROS. TRUCKING, 703 Red Boiling Springs Road, Lafayette, Tenn. 37083. Applicant's representative: A. O. Buck, 500 Court Square Building, Nashville, Tenn. 37201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, between Lafayette, Tenn., on the one hand, and, on the other, points in Indiana south of U.S. Highway 40, and points in Kentucky, under contract with Lafayette Manufacturing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 128607 (Sub-No. 1), filed November 23, 1966. Applicant: BOYD TRUCKING CO., a corporation, Post Office Box 577, First Street and Cemetery Lane, Cottonwood, Calif. Applicant's representative: Marvin Handler, 405 Montgomery Street, Suite 1401, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from points in Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Humboldt, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, Calif., to the port of Stockton, Stockton, Calif. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco or Sacramento, Calif.

No. MC 128705 (Sub-No. 1), filed November 16, 1966. Applicant: JET FORWARDING, INC., 2945 Columbia Street, Torrance, Calif. 90503. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Hawaii, restricted to the handling of traffic originating at or destined to out-of-State points. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 128715, filed November 25, 1966. Applicant: SOL COHEN & SONS, INC., 1208 Channing Road, Far Rockaway, N.Y. Applicant's representative: Arthur J. Piken, 160–16 Jamaica Avenue, Jamaica, N.Y. 11432. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpets, carpeting, carpet lining, underlay and padding*, between Moonachie, N.J., and Baltimore, Md., on the one hand, and, on the other, New York, N.Y., and points in Nassau, Suffolk, Westchester, Rockland, Putnam, Orange, Dutchess, Ulster, Sullivan, Greene, Columbia, Albany, and Rensselaer Counties, N.Y., and Baltimore, Md., and Washington, D.C., under contract with Benj. Berman, Inc. NOTE: Applicant is also authorized to conduct operations as a common carrier in certificate MC 20491 and Sub 2, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 128716 (Sub-No. 1), filed November 29, 1966. Applicant: SYLVESTRO LIOTTA, 131–10 130th Street, Ozone Park, N.Y. 11420. Applicant's representative: William J. Augello, Jr., 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Record changers, tape decks, and component parts*, (1) from the New York, N.Y., commercial zone, to points in Blauvelt, Nassau and Suffolk Counties, N.Y., and points in Bergen, Essex, Hudson, Middlesex, and Union Counties, N.J., and (2) from Blauvelt, N.Y., to points in Nassau and Suffolk Counties, N.Y., and New York City, N.Y., and points in Bergen, Essex, Hudson, Middlesex and Union Counties, N.J., under contract with BSR(USA), Ltd. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 128718, filed November 18, 1966. Applicant: UNION TRANSPORTATION CO., INC., Post Office Box 2347, Sacramento, Calif. 95811. Applicant's representative: Frank Loughran, 100 Bush Street, Shell Building (21st floor), San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from points in Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Humboldt, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, Calif., to the ports of Sacramento, and Stockton at Sacramento and Stockton, Calif. NOTE: Applicant has contract carrier authority in MC 115981, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco or Sacramento, Calif.

No. MC 128719, filed November 17, 1966. Applicant: RAY LA CHAPELLE & SONS, INC., 192 Newell Street, Brooklyn, N.Y. 11222. Applicant's representative: Arthur J. Piken, 160–16 Jamaica Avenue, Jamaica, N.Y. 11432. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing machinery and equipment, including bookbinding, paper cutting, folding machines, and punch presses*, between points in New York, New Jersey, Connecticut, Philadelphia, Pa., and Whitinsville, Mass. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 128720, filed November 14, 1966. Applicant: MERCHANTS FREIGHT LINE, INC., 302 Church Street, Lafayette, Tenn. 37083. Applicant's representative: Robert H. Cowan, 500 Court Square Building, Nashville, Tenn. 37201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (excluding used household goods, commodities in bulk, in tank or hopper vehicles, explosives, and commodities requiring special equipment), (1) from Nashville over U.S. Highway 31E to junction Tennessee Highway 25 at Gallatin, thence over Tennessee Highway 25 to junction Tennessee Highway 10, east of Hartsville, thence over Tennessee Highway 10 to Lafayette, thence over Tennessee Highway 52 to Celina, and return over the same route, serving all intermediate points in Macon and Clay Counties, and serving all points which are within 3 miles of Lafayette, Red Boiling Springs, Hermitage Springs, and Celina, Tenn., and (2) from Red Boiling Springs, Tenn., over Tennessee Highway 56 and Kentucky Highway 100 and 63 to Tompkinsville, Ky., thence over Kentucky Highway 163 and Tennessee Highway 51 to Moss, Tenn., serving all intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 128721, filed November 21, 1966. Applicant: RUSSELL CRAFT, 101 West Whaley Street, Longview, Tex. 75601. Applicant's representative: C. M. Turlington, 1001 First National Bank Building, Longview, Tex. 75601. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Schlitz beer, Schlitz malt liquor, Old Milwaukee beer, empty cartons, bottles, dunnage draft beer (Schlitz and Old Milwaukee) glassware, advertising material*, not in bulk, between Longview, Tex., and Alexandria, La., from Longview over U.S. Highway 80 (also Interstate Highway 20) to Shreveport, La., thence over U.S. Highway 71 to Alexandria, and return over the same route, serving the intermediate point of Shreveport, La., under contract with Shreveport Beverage Agency and other distributors. NOTE: If a hearing is deemed necessary, applicant requests it be held at Shreveport, La., or Dallas, Tex.

No. MC 128722, filed November 21, 1966. Applicant: STANDARD CARTAGE CO., INC., 86–70 Francis Lewis Boulevard, Hollis, N.Y. 11423. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. 10038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are usually dealt in by retail and wholesale hardware stores, between Moonachie, N.J., on the one hand, and, on the other, points in Nassau, Suffolk, and Westchester Counties, N.Y., New York, N.Y., and Hudson County, N.J., under contract with Melnor Industries, Inc., Moonachie, N.J. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 128728, filed November 23, 1966. Applicant: WEICKER TRANSFER & STORAGE COMPANY, INC., 2900 Brighton Boulevard, Denver, Colo. Applicant's representative: Joseph F. Nigro, 400 Denver Hilton Office Building, 1515 Cleveland Place, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured fertilizer and fertilizer compound*, from points in Albany County, Wyo., to points in Montana, North Dakota, South Dakota, Nebraska, Kansas, Colorado, Utah, Minnesota, Arizona, and New Mexico, under contract with Laramie Warehousing Corp., Laramie, Wyo. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., Cheyenne or Laramie, Wyo.

No. MC 128729, filed November 21, 1966. Applicant: DOMINICK GIANNINI, 3016 Memphis Street, Philadelphia, Pa. 19134. Applicant's representative: Raymond A. Thistle, Jr., Suite 1408–09, 1500 Walnut Street, Philadelphia, Pa. 19102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen meats*, from Estherville, Iowa, and Lexington and Minden, Nebr., to Philadelphia, Pa., under continuing contract with A. Servetnick & Sons. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

MOTOR CARRIER OF PASSENGERS

No. MC 228 (Sub-No. 56), filed November 21, 1966. Applicant: HUDSON TRANSIT LINES, INC., 17 Franklin Turnpike, Mahwah, N.J. 07430. Applicant's representative: James F. X. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, (1) between Suffern, N.Y., and Upper Saddle River, N.J., (a) from junction Orange Avenue, and Lafayette Avenue, in the village of Suffern, over Lafayette Avenue to Campbell Avenue, thence over Campbell Avenue, to South Airmont Road; thence over South Airmont Road, to Church Road, thence over Church Road to Smith Hill Road, thence over Smith Hill Road to Shuart Road, thence over Shuart Road to West Saddle River Road at the New York-New Jersey State line, thence over West Saddle River Road to Ramsey Road (Lake Street) in Upper Saddle River, N.J., and return over the same route serving all intermediate points, (b) from junction State Highway 59 (Lafayette Avenue) and Campbell Road over State Highway 59 to South Airmont Road; thence over South Airmont Road to Church Road, and return over the same route, serving all intermediate points, and (c) from junction State Highway 59 and South Airmont Road over State Highway 59 to Cherry Lane; thence over Cherry Lane to West Saddle River Road and return over the same route. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

APPLICATION FOR BROKERAGE LICENSE

No. MC 130023, filed November 15, 1966. Applicant: HELENE B. FISHER, doing business as LONGPORT PLAYGOERS THEATRE CLUB, 2912 Winchester Avenue, Longport, N.J. 08403. For a license (BMC 5) to engage in operations as a *broker* at Longport, N.J., in arranging for transportation of *passengers* (and also their baggage if overnight accommodations are required), in groups, in round trip charter operations, beginning and ending at Longport, N.J., and extending to New York, N.Y. (and also on some occasions possibly beyond).

APPLICATION IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 111401 (Sub-No. 211), filed November 25, 1966. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia and liquid fertilizer materials*, in bulk, in tank vehicles, from the plant and storage site of Mobil Chemical Co. located at or near Meredosia, Ill., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Wisconsin, restricted against tacking or interlining for the purpose of performing through service.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66–13405; Filed, Dec. 14, 1966; 8:45 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 9, 1966.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA 40822—*Vermiculite from Kearney, S.C.* Filed by Southwest Freight Bureau, agent (No. B–8927), for interested carriers. Rates on vermiculite, as described in the application, in carloads, from Kearney, S.C., to Southard, Okla., Roten and Sweetwater, Tex.

Grounds for relief—Import and domestic market competition.

Tariffs—Supplements 60 and 16 to Southwestern Freight Bureau, agent, tariffs ICC 4645 and 4685, respectively.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66–13459; Filed, Dec. 14, 1966; 8:48 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 12, 1966.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA 40823—*Joint motor-rail rates—southern motor carriers.* Filed by Southern Motor Carriers Rate Conference, agent (No. 161), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in southern territory, on the one hand, and points in middlewest and southwestern territories, on the other.

Grounds for relief—Motortruck competition.

Tariffs—Supplements 18 and 11 to Southern Motor Carriers Rate Conference, agent, tariffs MF–ICC 1392 and 1403, respectively.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66–13460; Filed, Dec. 14, 1966; 8:48 a.m.]

[Notice 303]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 12, 1966.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules in Ex Parte No. MC 67 (49 CFR Part 240), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protest must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined, at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 50307 (Sub-No. 34, TA), filed December 8, 1966. Applicant: INTERSTATE DRESS CARRIERS, INC., 247 West 35 Street, New York, N.Y. Applicant's representative: Zelby and Burstein, 160 Broadway, New York, N.Y. 10038. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Wearing apparel and materials and supplies used in the manufacture thereof* between Ridgefield and Jersey City, N.J., and Cleveland, Ohio, on the one hand, and, on the other, Masontown, Charleroi, Youngwood, Greenburg, Beaver Falls, Northampton, and Reading, Pa., and Wheeling, W. Va.; between Ridgefield and Jersey City, N.J., on the one hand, and, on the other, Cleveland, Ohio, for 150 days. Supporting shipper: Associated Sportswear, division of Genesco, Inc., 321 Broad Avenue, Ridgefield, N.J. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations and Compliance, 346 Broadway, New York, N.Y. 10013.

No. MC 107403 (Sub-No. 700 TA) (Correction), filed December 6, 1966, published in FEDERAL REGISTER, in notice No. 301, and republished as corrected this issue. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: C. W. Zook (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Sand*, in bulk, in tank vehicles, from Richmondale, Ohio, to Charleston, W. Va., for 180 days. Supporting shipper: The Keener Sand & Clay Co., 515 Hartman Building, Columbus, Ohio 43215. Send protests to: District Supervisor Ross A. Davis, Interstate Commerce Commission, Bureau of Operations and Compliance, 900 U.S. Customhouse, Philadelphia, Pa. 19106. NOTE: The purpose of this republication is to show that the destination of Charleston is located in West Virginia, and not in Virginia, as previously published in error.

No. MC 119493 (Sub-No. 27 TA), filed December 8, 1966. Applicant: MONKEM COMPANY, INC., Post Office Box 1196, West 20th Street Road, Joplin, Mo. 64802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: (1) *Steel, and* (2) *metal cans and prefabricated containers, and their accessories* (1) from plant and warehouses of United States Steel Corp., Gary, Ind.; Bethlehem Steel Corp., Burns Harbor, Ind.; Korhumel Steel & Aluminum Co., Portage, Ind.; Granite City Steel, Granite City, Ill.; Inland Steel Co., East Chicago, Ind.; Youngstown Sheet & Tune, Indiana Harbor, Ind.; and Caine Steel Co., St. Louis, Mo., to plants and warehouse facilities of Re-Lo Manufacturing Co. located at Joplin, Mo.; (2) from plant and warehouse facilities of Re-Lo Manufacturing Co. located at Joplin, Mo., to Pittsburgh Midway Coal Co., mine No. 19, located 4⅓ airline miles northeast of Hallowell, Kans., for 180 days. Supporting shipper: Re-Lo Manufacturing Co., 1300 West 10th Street, Joplin, Mo. 64801. Send protests to: John C. Barry, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 128735 (Sub-No. 1 TA), filed December 8, 1966. Applicant: ALVIN E. GOLNIK, doing business as GOLNIK TRUCKING, 731 Second Avenue, Kopple, Pa. 16136. Applicant's representaitve: Arthur J. Diskin, 302 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, as follows: *Steel sign posts for gasoline service stations and fabricated metal products*, from Ellwood City, Pa., to points in Minnesota, Wisconsin, Illinois, Michigan, Indiana, Iowa, Kentucky, Tennessee, West Virginia, Virginia, North Carolina, New Jersey, Delaware, Maryland, New York, Ohio, Massachusetts, Rhode Island, Connecticut, Vermont, New Hampshire, and the District of Columbia, and *materials used in the manufacture thereof*, on return, for 180 days. Supporting shippers: Ellwood City Iron & Wire Co., Post Office Box 832, Ellwood City, Pa. 16117. Send protests to: Gasper Piovarchy, District Supervisor, Interstate Commerce Commission, Bureau of Operations and Compliance, 2109 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 66-13461; Filed, Dec. 14, 1966; 8:48 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

Page

PROCLAMATIONS:

3755 ... 15227
3756 ... 15229
3757 ... 15231
3758 ... 15567

EXECUTIVE ORDERS:

10214 (see EO 11317) ... 15305
10707 (amended by EO 11319) ... 15629
11317 ... 15305
11318 ... 15307
11319 ... 15629
11320 ... 15789

5 CFR

213 ... 15133, 15646, 15727
870 ... 15233

6 CFR

73 ... 15233

7 CFR

5 ... 15631
16 ... 15483, 15791
709 ... 15791
722 ... 15142, 15316, 15791
728 ... 15792
730 ... 15529
811 ... 15581
813 ... 15483
905 ... 15059, 15189, 15584
906 ... 15233
907 ... 15190, 15316, 15585, 15727
910 ... 15190, 15585, 15631
911 ... 15484
944 ... 15484
948 ... 15234
959 ... 15530
972 ... 15728
989 ... 15145
1002 ... 15585
1003 ... 15060
1005 ... 15061
1006 ... 15061
1008 ... 15061
1009 ... 15061
1011 ... 15061
1012 ... 15061
1013 ... 15062
1016 ... 15063
1031 ... 15061
1032 ... 15061, 15064, 15631, 15793
1033 ... 15061
1034 ... 15061
1035 ... 15061
1036 ... 15061
1038 ... 15061
1039 ... 15061
1040 ... 15061
1041 ... 15061, 15074
1043 ... 15061
1044 ... 15061
1045 ... 15061
1046 ... 15061
1047 ... 15061
1049 ... 15061
1050 ... 15061, 15076, 15631
1051 ... 15061
1062 ... 15061
1063 ... 15061
1064 ... 15061

7 CFR—Continued

Page

1065 ... 15061
1066 ... 15061
1068 ... 15061, 15086
1069 ... 15061
1070 ... 15061
1071 ... 15061
1073 ... 15061
1075 ... 15061
1076 ... 15061
1078 ... 15061
1079 ... 15061
1090 ... 15061
1094 ... 15061
1096 ... 15061
1097 ... 15061
1098 ... 15061
1101 ... 15061
1102 ... 15061
1103 ... 15061
1106 ... 15061
1108 ... 15061
1125 ... 15061
1126 ... 15061
1131 ... 15061
1132 ... 15061
1133 ... 15061
1136 ... 15061
1137 ... 15061, 15087
1138 ... 15061
1464 ... 15485
1468 ... 15234
1472 ... 15234

PROPOSED RULES:

Ch. IX ... 15594
52 ... 15149, 15151
718 ... 15810
812 ... 15323
817 ... 15147
910 ... 15544
971 ... 15153
987 ... 15746
992 ... 15153
1001 ... 15811
1004 ... 15670
1015 ... 15811
1032 ... 15598
1064 ... 15544
1101 ... 15154
1106 ... 15598
1126 ... 15598

8 CFR

204 ... 15322
245 ... 15235
249 ... 15235
252 ... 15322
299 ... 15235, 15322

9 CFR

PROPOSED RULES:

1 ... 16110
2 ... 16110
3 ... 16112
71 ... 15670

10 CFR

9 ... 15145
20 ... 15145
32 ... 15145

10 CFR—Continued

Page

40 ... 15145
50 ... 15145
150 ... 15145

PROPOSED RULES:

30 ... 15747
32 ... 15747

12 CFR

204 ... 15793
217 ... 15793
327 ... 15794
329 ... 15794
526 ... 15728, 15729
546 ... 15235, 15569
569 ... 15729

PROPOSED RULES:

525 ... 15153

13 CFR

121 ... 15145, 15737

PROPOSED RULES:

107 ... 15603

14 CFR

39 ... 15191, 15317, 15634
47 ... 15349
49 ... 15349
71 ... 15087, 15236, 15237, 15531, 15569, 15635, 15796–15799.
73 ... 15087, 15088, 15531, 15799
75 ... 15088, 15237, 15799
91 ... 15317
97 ... 15134, 15636
121 ... 15191
151 ... 15730

PROPOSED RULES:

39 ... 15813
67 ... 15324
71 ... 15096, 15097, 15242, 15243, 15545, 15600, 15703, 15814, 15815.
73 ... 15815
101 ... 15490, 15750
208 ... 15811
214 ... 15811
295 ... 15811
399 ... 15747

15 CFR

230 ... 15309

16 CFR

13 ... 15192, 15800, 15801
15 ... 15238

17 CFR

PROPOSED RULES:

240 ... 15750

18 CFR

154 ... 15485
260 ... 15309

PROPOSED RULES:

154 ... 15325
260 ... 15325

19 CFR—Continued

Page

1 ... 15193
2 ... 15349
8 ... 15644
16 ... 15644
25 ... 15644

PROPOSED RULES:

6 ... 15587
24 ... 15544

20 CFR

250 ... 15238
345 ... 15238

PROPOSED RULES:

404 ... 15198
602 ... 15490

21 CFR

1 ... 15730
2 ... 15088
5 ... 15730
17 ... 15088
80 ... 15730
121 ... 15089, 15090, 15193, 15239, 15309, 15349, 15570.
125 ... 15730
191 ... 15091

PROPOSED RULES:

17 ... 15095
80 ... 15746
130 ... 15096

22 CFR

121 ... 15174
122 ... 15174
123 ... 15174
124 ... 15174
125 ... 15174
126 ... 15174
127 ... 15174
201 ... 15195
208 ... 15571

23 CFR

215 ... 15197

PROPOSED RULES:

245 ... 15212, 15600

26 CFR

301 ... 15736

PROPOSED RULES:

1 ... 15587
31 ... 15095, 15587

29 CFR

PROPOSED RULES:

4 ... 15702
522 ... 15200

30 CFR

Ch. I ... 15745

32 CFR

713 ... 15531
717 ... 15318
718 ... 15318

32 CFR—Continued

Page

731 ... 15801
735 ... 15801
824 ... 15318
825a ... 15318
861 ... 15540
871 ... 15318

32A CFR

BDSA (Ch. I):

M–11A, Schedule A ... 15319
M–11A, Dir. 1 ... 15320
M–11A, Dir. 2 ... 15321

OIA (Ch. X):

OI Reg. 1 ... 15803

33 CFR

23 ... 15239
203 ... 15310
207 ... 15310

PROPOSED RULES:

201 ... 15810

36 CFR

29 ... 15804

38 CFR

1 ... 15091, 15092
3 ... 15631

39 CFR

Ch. I ... 15350
125 ... 15745

41 CFR

1–3 ... 15805
1–10 ... 15092
1–16 ... 15092
8–1 ... 15311
8–7 ... 15312
8–14 ... 15312
11–50 ... 15239
101–26 ... 15571
101–38 ... 15571
101–45 ... 15094
101–47 ... 15541

42 CFR

73 ... 15092

43 CFR

1820 ... 15541

44 CFR

801 ... 15312
802 ... 15312
803 ... 15312
804 ... 15312

46 CFR

2 ... 15266
3 ... 15266
10 ... 15266, 15669
11 ... 15669
12 ... 15669
25 ... 15267
30 ... 15267
31 ... 15267
32 ... 15267

46 CFR—Continued

Page

33 ... 15268
34 ... 15268
36 ... 15269
35 ... 15268
38 ... 15269
40 ... 15276
43 ... 15280
51 ... 15280
52 ... 15280
54 ... 15280
70 ... 15280
71 ... 15281
72 ... 15281
73 ... 15281
75 ... 15281
76 ... 15282
77 ... 15283
78 ... 15283
90 ... 15284
91 ... 15284
92 ... 15284
94 ... 15284
95 ... 15285
96 ... 15285
97 ... 15286
98 ... 15286
110 ... 15288
111 ... 15288
113 ... 15296
146 ... 15573
157 ... 15296
160 ... 15297
167 ... 15298
176 ... 15298
181 ... 15298
182 ... 15299
185 ... 15300
187 ... 15300

PROPOSED RULES:

540 ... 15703

47 CFR

25 ... 15737
73 ... 15312
74 ... 15313, 15486
87 ... 15315
89 ... 15578, 15741
91 ... 15579, 15741
93 ... 15579, 15741, 15743
95 ... 15580, 15744
97 ... 15543

PROPOSED RULES:

2 ... 15491
18 ... 15158
21 ... 15600
73 ... 15097
74 ... 15491

49 CFR

95 ... 15488, 15581

50 CFR ... 16002

28 ... 15645
33 ... 15133, 15197, 15241, 15489, 15581, 15645, 15809.

FEDERAL REGISTER

VOLUME 31 • NUMBER 242

Thursday, December 15, 1966 • Washington, D.C.

PART II

Department of the Interior

Wildlife and Fisheries



Republication of Regulations

Title 50—WILDLIFE AND FISHERIES

REPUBLICATION OF REGULATIONS

Title 50 of the Code of Federal Regulations is republished as set forth below. This republication includes all amendments of Chapters I, II, and IV, as of November 15, 1966, together with several editorial and typographical corrections, but does not contain any substantive changes.

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER A—GENERAL PROVISIONS

Part
1 Definitions.
2 Field organization.
3 Nondiscrimination—contracts, permits, and use of facilities.
4–9 [Reserved for organization]

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

10 Migratory birds.
11 Protection of bald eagles and golden eagles.
12 Areas closed to hunting.
13 Importation of wildlife or eggs thereof.
14 Importation of feathers of wild birds.
15 Transportation of game mammals to and from Mexico.
16 Migratory bird permits.
17–24 [Reserved for management and enforcement regulations]

SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

25 General provisions.
26 Restricted or prohibited acts.
27 Enforcement provisions.
28 Public access and use, and recreation.
29 Land use management.
30 Range and feral animal management.
31 Wildlife species management.
32 Hunting.
33 Sport fishing.
34 Refuge revenue sharing with counties.

SUBCHAPTER D—MANAGEMENT OF WILDLIFE RESEARCH AREAS

60 Patuxent Wildlife Research Center.

SUBCHAPTER E—MANAGEMENT OF FISHERIES CONSERVATION AREAS

70 National fish hatcheries.
71 Hunting and fishing on national fish hatchery areas.

SUBCHAPTER F—FEDERAL AID TO STATES IN FISH AND WILDLIFE RESTORATION

80 Restoration of game birds, fish, and mammals.

SUBCHAPTER A—GENERAL PROVISIONS

PART 1—DEFINITIONS

Sec.
1.1 Meaning of terms.
1.2 Authorized representative.
1.3 Bureau.
1.4 Director.
1.5 Officer in charge.
1.6 Person.
1.7 Regional Director.
1.8 Secretary.
1.9 Take.
1.10 Wildlife.

AUTHORITY: The provisions of this Part 1 issued under R.S. 161; 5 U.S.C. 22.

§ 1.1 Meaning of terms.

As used in this chapter, unless separately defined, terms shall have the meaning ascribed in this part.

§ 1.2 Authorized representative.

"Authorized representative" means the subordinate official to which a principal official has delegated authority to act on a particular matter or a class of matters. The Director, Bureau of Sport Fisheries and Wildlife is frequently the authorized representative of the Secretary of the Interior, as also may be a regional director or an officer in charge of a Bureau field installation.

§ 1.3 Bureau.

"Bureau" means the Bureau of Sport Fisheries and Wildlife, United States Fish and Wildlife Service, Department of the Interior.

§ 1.4 Director.

"Director" means the Director, Bureau of Sport Fisheries and Wildlife or his authorized representative.

§ 1.5 Officer in charge.

"Officer in charge" means any person in charge of a national fish hatchery, national wildlife refuge area, or wildlife research center, or his authorized representative.

§ 1.6 Person.

"Person" means an individual, club, association, partnership, corporation, or private or public body, any one or all, as the context requires.

§ 1.7 Regional director.

"Regional director" means the officer in charge of a region of the Bureau of Sport Fisheries and Wildlife, or his authorized representative.

§ 1.8 Secretary.

"Secretary" means the Secretary of the Interior or his authorized representative.

§ 1.9 Take.

"Take" means to pursue, hunt, kill, or capture or attempt to hunt, kill, or capture any wildlife. Whenever the taking of wildlife is permitted, reference is had to taking by lawful means and in lawful manner.

§ 1.10 Wildlife.

"Wildlife" means wild mammal, wild bird and nest and egg, crustacean, mollusk, fish, reptile, amphibian, and their eggs.

PART 2—FIELD ORGANIZATION

Sec.
2.1 Regional offices.
2.2 Locations of regional offices.

AUTHORITY: The provisions of this Part 2 issued under R.S. 161; 5 U.S.C. 22.

§ 2.1 Regional offices.

The program operations of the Bureau of Sport Fisheries and Wildlife are performed in various types of field installations. They include national fish hatcheries, national wildlife refuges, game management agent districts, wildlife services districts and research laboratories. All field installations, except those engaged in research, are supervised by a regional director who has jurisdiction over Bureau activities in the States encompassed by his region. Unless otherwise stated for a particular matter in the regulations, all persons may secure from the regional offices information or make submittals or requests, as well as obtain forms and instructions as to the scope and contents of papers or reports required of the public.

§ 2.2 Locations of regional offices.

The geographic jurisdictions and addresses of the Bureau of Sport Fisheries and Wildlife regional offices are as follows:

(a) Pacific Region (Region 1—comprising the States of Alaska, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington) Post Office Box 3737, Portland, Oreg. 97208.

(b) Southwest Region (Region 2—comprising the States of Arizona, Colorado, Kansas, New Mexico, Oklahoma, Texas, Utah, and Wyoming) Post Office Box 1306, Albuquerque, N. Mex. 87103.

(c) North Central Region (Region 3—comprising the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin) 1006 West Lake Street, Minneapolis, Minn. 55408.

(d) Southeast Region (Region 4—comprising: (1) The States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia; and (2) the District of Columbia, Puerto Rico, and the Virgin Islands), Peachtree-Seventh Building, Atlanta, Ga. 30323.

(e) Northeast Region (Region 5—comprising the States of Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia) U.S. Post Office and Court House, Boston, Mass. 02109.

PART 3—NONDISCRIMINATION—CONTRACTS, PERMITS, AND USE OF FACILITIES

Sec.
3.1 Discrimination prohibited.
3.2 Federal financial assistance.
3.3 Discrimination by contractors and permittees prohibited.

AUTHORITY: The provisions of this Part 3 issued under R.S. 161, 5 U.S.C. 22. Interpret or apply sec. 602, 78 Stat. 241, E.O. 10925, E.O. 11114; 26 F.R. 1977, 28 F.R. 6485, 41 CFR Part 60, 43 CFR Part 17.

§ 3.1 Discrimination prohibited.

No person shall, on the ground of race, color, creed, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to any form of discrimination or segregation under any program or activity, or in the use of any facility or accommodation of the Bureau.

§ 3.2 Federal financial assistance.

The provisions of 43 CFR Part 17, which implements Title VI of the Civil Rights Act of 1964, are applicable to any program or activity for which Federal

financial assistance is provided under any law administered by the Bureau, including the programs and activities that are federally assisted under the laws listed in Appendix A of 43 CFR Part 17.

§ 3.3 Discrimination by contractors and permittees prohibited.

The provisions of Part III of Executive Order 10925 (3 CFR, 1959–1963 Comp. p. 448) and the provisions of Executive Order 11114 (3 CFR, 1959–1963 Comp. p. 774), as they may be amended, and the regulations of the President's Council on Equal Opportunity, the President's Committee on Equal Employment Opportunity, contained in 41 CFR Part 60, and the Equal Employment Opportunity Commission are applicable to all agreements, or modifications thereof, between the Bureau and any person for supplies, services or facilities, or for the use of any Government property, services or facilities.

(a) Any person who provides public accommodations, facilities, services, or privileges upon any land under the control or administration of the Bureau through a permit, contract, concession contract, or other form of agreement with the Bureau is prohibited from discriminating by segregation or otherwise against any person because of race, color, creed, or national origin in the furnishing or refusing to furnish such person any accommodation, facility, service, or privilege which is offered to or enjoyed by the general public, and will agree to abide by the prohibitions against discrimination contained in the permit, contract, or agreement.

(b) Any person who uses, occupies, or possesses any land under the administration or control of the Bureau through a permit, contract, concession contract, or other form of agreement with the Bureau is prohibited, in conjunction with the acts or activities authorized or permitted by such permit, contract, or agreement, from discriminating against any employee or applicant for employment or maintaining any employment practice which discriminates in any manner because of race, color, creed, or national origin, and will agree to abide by the prohibitions against discrimination contained in the permit, contract, or agreement.

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 10—MIGRATORY BIRDS

GENERAL

Sec.
10.1 Definitions of migratory birds.
10.2 Definitions of terms.
10.3 Hunting methods.
10.4 Open seasons, limits, and other provisions.

NATIVE USE IN ALASKA

10.5 Taking of certain migratory nongame birds by Eskimos and Indians.

TRANSPORTATION AND IMPORTATION

10.6 Transportation within a State, between States, or to foreign countries.
10.7 Importations from foreign countries.
10.8 Limitations upon transportation and importation.

RESTRICTIONS APPLICABLE TO POSSESSIONS

10.9 Tagging and record keeping requirements.
10.10 Termination of possession by hunters.
10.11 Wounded, live migratory game birds.
10.12 Possession of plumage and skins of migratory game birds.
10.13 Commercial use of feathers.
10.14 Wanton waste of migratory game birds.

STATE LAWS

10.31 State laws for the protection of migratory birds.

SCHEDULES

10.41 Seasons and limits on doves and wild pigeons.
10.46 Seasons and limits on gallinules, rails, woodcock, and common snipe (Wilson's).
10.51 Migratory game bird hunting seasons in Alaska.
10.52 Migratory game bird hunting seasons for Puerto Rico and the Virgin Islands.
10.53 Seasons and limits on waterfowl, coots, gallinules, and Wilson's snipe.
10.54 Seasons and limits on lesser sandhill (little brown) cranes and whistling swans.

WILDLIFE DEVELOPMENT AREAS

10.71 Approval of area development program.
10.72 Revocation of program approval.
10.73 Notice and hearing.

AUTHORITY: The provisions of this Part 10 issued under sec. 3, 40 Stat. 755, as amended; 16 U.S.C. 704, E.O. 10250, 16 F.R. 5385, 3 CFR, 1959–1953 Comp.

GENERAL

§ 10.1 Definitions of migratory birds.

Migratory birds included in the terms of the conventions between the United States and Great Britain (for Canada) for the protection of migratory birds, and between the United States and the United Mexican States for the protection of migratory birds and game mammals concluded, respectively, August 16, 1916 (39 Stat. 1702), and February 7, 1936 (50 Stat. 1311), are all those species of wild birds which (a) are indigenous to the United States and (b) belong to one of the following listed families of birds:

(1) *Migratory game birds.*

(i) Anatidae (wild ducks, geese, brant, and swans);

(ii) Charadriidae (plovers, turnstones, killdeer, and surfbirds);

(iii) Columbidae (wild doves and pigeons);

(iv) Gruidae (little brown, sandhill, and whooping cranes);

(v) Haematopodidae (oystercatchers);

(vi) Phalaropodidae (phalaropes);

(vii) Rallidae (rails including sora, coots, and gallinules);

(viii) Recurvirostridae (avocets and stilts); and

(ix) Scolopacidae (sandpipers, curlews, yellowlegs, knots, dowitchers, godwits, willets, woodcock, snipe, and sanderlings).

(2) *Migratory nongame birds.*

(i) Alaudidae (horned larks);

(ii) Alcidae (auks, auklets, murres, murrelets, puffins, guillemots, and dovekies);

(iii) Apodidae (Micropodidae) (swifts);

(iv) Ardeidae (herons, bitterns, and egrets);

(v) Bombycillidae (waxwings);

(vi) Caprimulgidae (whip-poor-wills, poor-wills, nighthawks, chuck-wills-widows, and pauraques);

(vii) Certhiidae (brown creepers);

(viii) Cuculidae (cuckoos, anis, and roadrunners);

(ix) Fringillidae (cardinals, grosbeaks, buntings, finches, sparrows, towhees, juncos, crossbills, dickcissels, and longspurs);

(x) Gaviidae (loons);

(xi) Hirundinidae (swallows and martins);

(xii) Hydrobatidae (petrels);

(xiii) Icteridae (bobolinks, meadowlarks, orioles, grackles, blackbirds, and cowbirds);

(xiv) Laniidae (shrikes);

(xv) Laridae (gulls, terns, and kittiwakes);

(xvi) Mimidae (mockingbirds, catbirds, and thrashers);

(xvii) Motacillidae (pipits and wagtails);

(xviii) Paridae (titmice, chickadees, bushtits, and verdins);

(xix) Parulidae (compsothlypidae) (warblers, ovenbirds, water thrushes, chats, and redstarts);

(xx) Picidae (woodpeckers, flickers, and sapsuckers);

(xxi) Podicipedidae (grebes);

(xxii) Procellariidae (shearwaters and fulmars);

(xxiii) Ptilogonatidae (phainopeplas);

(xxiv) Sittidae (nuthatches);

(xxv) Stercorariidae (skuas and jaegers);

(xxvi) Sulidae (gannets and boobies);

(xxvii) Sylviidae (kinglets and gnatcatchers);

(xxviii) Thraupidae (tanagers);

(xxix) Trochilidae (hummingbirds);

(xxx) Troglodytidae (wrens);

(xxxi) Turdidae (robins, thrushes, bluebirds, solitaires, and wheatears);

(xxxii) Tyrannidae (tyrant flycatchers, kingbirds, pewees, and phoebes); and

(xxxiii) Vireonidae (vireos).

§ 10.2 Definitions of terms.

For the purposes of this part, the following terms shall be construed, respectively, to mean and to include:

(a) *Secretary.* The Secretary of the Interior or his authorized representative.

(b) *Person.* Individual, club, association, partnership, or corporation, any one or all, as the context requires.

(c) *Take.* Pursue, hunt, shoot, capture, collect, kill, trap, or attempt to pursue, hunt, shoot, capture, collect, kill, or trap.

(d) *Open season.* Time during which migratory game birds may lawfully be taken. Each period of time prescribed as an open season shall be construed to include the first and last days thereof. Unless otherwise specified whenever time is stated in hours it shall be construed to refer to standard time in the area affected.

(e) *Closed season.* Time during which migratory game birds may not be taken.

(f) *Transport.* Ship, carry, export, import, and receive, or deliver for shipment, conveyance, carriage, exportation, or importation.

(g) *State.* Any State, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(h) *Sinkbox.* A raft or any type of low floating device having a depression which affords the hunter a means of concealing himself below the surface of the water.

(i) *Daily bag limit.* The maximum number permitted to be taken by one person in any 1 day during the open season in any one specified geographic area for which a daily bag limit is prescribed.

(j) *Aggregate daily bag limit.* The maximum number permitted to be taken by one person in any 1 day during the open season when such person hunts in more than one specified geographic area for which a daily bag limit is prescribed. The aggregate daily bag limit is equal to but may not exceed the largest daily bag limit prescribed for any one of the specified geographic areas in which taking occurs.

(k) *Possession limit.* The maximum number permitted to be possessed by any one person when lawfully taken in the United States in any one specified geographic area for which a possession limit is prescribed.

(l) *Aggregate possession limit.* The maximum number, lawfully taken in the United States, permitted to be possessed by any one person when taking and possession occurs in more than one specified geographic area for which a possession limit is prescribed. The aggregate possession limit is equal to but may not exceed the largest possession limit prescribed for any one of the specified geographic areas in which taking and possession occurs.

(m) *Personal abode.* One's principal or ordinary home or dwelling place, as distinguished from his temporary or transient place of abode or dwelling such as a hunting club, or any club house, cabin, tent or trailer house used as a hunting club, or any hotel, motel, or rooming house used during a hunting, pleasure, or business trip.

(n) *Commercial preservation facility.* Any person, place, establishment, or cold-storage or locker plant that, for hire or other consideration, receives, possesses, or has in custody any migratory game birds belonging to another person for purposes of picking, cleaning, freezing, processing, storage, or shipment.

§ 10.3 Hunting methods.

The provisions of this section shall govern the methods by which any person may take migratory game birds on which open seasons are prescribed in this part.

(a) *Permitted methods.* Migratory game birds may be taken:

(1) By the aid of dogs, artificial decoys, manually or mouth-operated bird calls, with longbow and arrow or with shotgun (not larger than No. 10 gauge and incapable of holding more than three shells) fired from the shoulder, and by means of falconry;

(2) In the open or from a blind or other place of concealment (except a sinkbox) on land or water;

(3) From any floating craft except a sinkbox, and excluding any boat or other craft having a motor attached or any sailboat unless such boat or other craft with motor attached or such sailboat is beached, resting at anchor, or fastened within or tied immediately alongside of any type of fixed hunting blind: *Provided,* That rails (but not including coots or gallinules) may be taken from a boat with motor attached when (i) the source of power has been completely shut off; (ii) the forward progress of the boat due to the automotive power has ceased; and (iii) the boat is immobile or is being propelled by paddle, oars, or pole;

(4) By the aid of a motorboat, sailboat, or other craft when used solely as a means of picking up dead or injured birds; and

(5) All migratory game birds, including waterfowl, may be taken on or over standing crops (including aquatics), flooded standing crops, flooded harvested crop lands, grain crops properly shocked on the field where grown, or grains found scattered solely as a result of normal agricultural planting or harvesting; and in addition, all migratory game birds, except waterfowl, may be taken on or over lands where shelled, shucked, or unshucked corn, wheat or other grain, salt or other feed has been distributed or scattered solely as a result of valid agricultural operations or procedures.

(b) *Prohibited methods.* Migratory game birds may not be taken:

(1) With a trap, snare, net, crossbow and arrow, rifle, pistol, swivel gun, or machinegun;

(2) With a shotgun of any description originally capable of holding more than three shells, the magazine of which has not been cut off, altered, or plugged with a one-piece filler, incapable of removal without disassembling the gun, so as to reduce the capacity of the said gun to not more than three shells in the magazine and chamber combined;

(3) From or by means, aid, or use of a sinkbox, motor-driven conveyance, motor vehicle, or aircraft of any kind.

(4) From or by means of any boat or other craft having a motor attached or any sailboat unless such boat or other craft with motor attached or such sailboat is beached, resting at anchor, or fastened within or tied immediately alongside of any type of fixed hunting blind, or is used solely as a means of picking up dead or injured birds;

(5) By the use or aid of livestock as a blind or means of concealment;

(6) By the use or aid of live birds as decoys;

(7) By the use or aid of recorded bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds;

(8) By means or aid of any motor-driven land, water, or air conveyance or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of waterfowl, coots, or cranes; or

(9) By the aid of baiting, or on or over any baited area. As used in this subparagraph, "baiting" shall mean the placing, exposing, depositing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat or other grain, salt or other feed so as to constitute for such birds a lure, attraction, or enticement to, on or over any area where hunters are attempting to take them; and "baited area" means any area where shelled, shucked, or unshucked corn, wheat or other grain, salt or other feed whatsoever capable of luring, attracting, or enticing such birds is directly or indirectly placed, exposed, deposited, distributed, or scattered. However, nothing in this subparagraph shall prohibit:

(i) The taking of all migratory game birds, including waterfowl, on or over standing crops, flooded standing crops (including aquatics), flooded harvested crop lands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; and

(ii) The taking of all migratory game birds, except waterfowl, on or over any lands where shelled, shucked, or unshucked corn, wheat or other grain, salt or other feed has been distributed or scattered solely as the result of valid agricultural operations or procedures.

(c) *Exceptions.* Nothing contained in this section shall be construed to apply to the taking of migratory birds as permitted in § 10.5, or to apply to propagating, scientific, depredation-control, or other operations in accordance with the terms of permits or other authorizations issued pursuant to Part 16 of this subchapter.

§ 10.4 Open seasons, limits, and other provisions.

(a) Migratory game birds may be taken only in accordance with the daily bag limits during the open seasons and shooting hours prescribed annually under §§ 10.41 through 10.53, and when so taken may be possessed within the limits prescribed thereunder.

(b) No person may take in any one day more than the daily bag limit or aggregate daily bag limit, whichever applies. No person may possess more birds lawfully taken in the United States than the possession limit or the aggregate possession limit, whichever applies. No person on the opening day of the season may possess any freshly killed migratory game birds in excess of the daily bag limit or aggregate daily bag limit, whichever applies, and no person may possess any freshly killed migratory game birds during the closed season.

(c) Nothing in this part shall be deemed to permit the taking of migratory birds on any reservation or sanctuary established under the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), or any area of the United States set aside under any other law, proclamation, or executive order for use as a bird, game, or other wildlife reservation, breeding ground, or refuge, or on any

area designated as a closed area under the Migratory Bird Treaty Act except so far as may be permitted by the Secretary.

(d) No migratory bird may be taken at any time, by any means, from, on, or across any highway, road, trail, or other right-of-way, whether public or private, within the exterior boundaries of any established national wildlife refuge.

(e) Whenever the Secretary shall find that emergency State action to prevent forest fires in any extensive area has resulted in the shortening of the season during which the hunting of any species of migratory game bird is permitted and that a compensatory extension or reopening of the hunting season for such birds will not result in a diminution of the abundance of birds to any greater extent than that contemplated for the original hunting season, the hunting season for the birds so affected may, subject to all other provisions of this subchapter, be extended or reopened by the Secretary upon request of the chief officer of the agency of the State exercising administration over wildlife resources. The length of the extended or reopened season in no event shall exceed the number of days during which hunting has been so prohibited. The extended or reopened season will be publicly announced.

NATIVE USE IN ALASKA

§ 10.5 Taking of certain migratory nongame birds by Eskimos and Indians.

In Alaska, Eskimos and Indians may take, possess, and transport, in any manner and at any time, auks, auklets, guillemots, murres, and puffins and their eggs for food and their skins for clothing, but the birds and eggs so taken shall not be sold or offered for sale.

TRANSPORTATION AND IMPORTATION

§ 10.6 Transportation within a State, between States, or to foreign countries.

Any person, without a permit, may transport within any State, between States, or to a foreign country, any migratory game birds lawfully killed and possessed under the hunting regulations, subject to the conditions and restrictions specified in this section.

(a) Nothing in this section shall be deemed to permit the importation of such birds from a foreign country.

(b) One fully feathered wing must remain attached to each bird so as to permit species identification at all times while being transported by any means whatsoever (1) from the place where taken until they either have arrived at the personal abode of the possessor or a commercial preservation facility, whichever occurs first, and (2) from the United States to a foreign country.

(c) Any package or container in which such birds are being transported by common carrier must have the name and address of the shipper and of the consignee and an accurate statement of the numbers and kinds of birds contained therein clearly and conspicuously marked on the outside thereof.

§ 10.7 Importations from foreign countries.

Migratory game birds lawfully killed, possessed, and exported in accordance with the hunting laws and regulations of any foreign country or subdivision thereof may be imported and transported in any State by any person, without a permit, subject to the conditions and restrictions specified in this section.

(a) The following listed birds shall be limited as to the numbers any one person is permitted to import and transport during any 1 calendar week beginning on Sunday, either by a single shipment or by multiple shipments, as follows:

(1) *From any foreign country.* Not to exceed (i) 25 doves, singly or in the aggregate of all species, and (ii) 10 pigeons, singly or in the aggregate of all species.

(2) *From Mexico.* Not to exceed (i) 10 ducks, singly or in the aggregate of all species, and (ii) 5 geese including brant, singly or in the aggregate of all species.

(b) All migratory game birds imported from Mexico or any other foreign country except Canada must be dressed, drawn, and have the head and feet removed: *Provided*, That each such bird imported from any foreign country including Canada must have one fully feathered wing attached so as to permit species identification, and such wing must remain attached while being transported between the port of entry and the personal abode of the possessor or between the port of entry and a commercial preservation facility.

(c) Importations from Mexico must be accompanied by a Mexican export permit. Importations from Canada must be accompanied by any tags or permits required by Dominion or Provincial law.

(d) Only such birds shipped or transported from a foreign country during the open season or within 5 days immediately following the close of the open season where taken may be imported. Any such birds shipped or transported not later than 5 days following the close of the open season where taken may continue in transit immediately after importation for such additional time, not to exceed 5 days, as is necessary to deliver them to their destination.

(e) Any package or container in which such birds are transported or shipped shall have the name and address of the shipper and the consignee and an accurate statement of the numbers and kinds of birds therein contained clearly and conspicuously marked on the outside thereof.

§ 10.8 Limitations upon transportation and importation.

Nothing contained in this part shall be construed to permit the transportation of migratory game birds, or parts thereof, from, to, or through any State or to or through Canada, Mexico, or other foreign country contrary to the laws of the place in which taken or from, to, or through which transported; nor shall any such birds be imported from Canada, Mexico, or other foreign country contrary to the laws of the place in which taken or from, to, or through which transported.

RESTRICTIONS APPLICABLE TO POSSESSION

§ 10.9 Tagging and record keeping requirements.

(a) No hunter who legally takes and possesses any migratory game birds shall place or leave any such birds in the custody of any other person for picking, cleaning, processing, shipping, transportation, or storage (including temporary storage) unless such birds have a tag attached signed by the hunter stating his address, the total number and kinds of birds, and the date such birds were killed.

(b) No person may receive or have in custody any migratory game birds belonging to another person unless such birds are tagged as required under paragraph (a) of this section.

(c) No hunter who legally takes and possesses any migratory game birds shall place or leave such birds at any place for storage (including temporary storage) other than at his personal abode unless such birds are tagged as required under paragraph (a) of this section. Legally possessed migratory game birds being transported in any vehicle as the personal baggage of the possessor shall not be deemed to be in storage or temporary storage.

(d) Any commercial preservation facility receiving, possessing, or having in custody any migratory game birds shall maintain accurate records showing the numbers and kinds of such birds, the dates received and disposed of, and the names and addresses of the persons from whom such birds were received and to whom such birds were delivered. Any person authorized to enforce this part may enter such facilities at all reasonable hours and inspect the records and the premises where operations are being carried on. The records required to be maintained shall be retained by the person or persons responsible for their preparation and maintenance for a period of 1 year following the close of the open season on migratory game birds prescribed for the State in which such commercial preservation facility is located.

§ 10.10 Termination of possession by hunters.

For the purposes of this part, the possession of birds legally taken by any hunter shall be deemed to have ceased when such birds have been delivered by him to another person as a gift; or have been delivered by him to a post office, a common carrier, or a commercial cold-storage or locker plant for transportation by the postal service or a common carrier to some person other than the hunter.

§ 10.11 Wounded, live migratory game birds.

Every migratory game bird wounded by hunting and reduced to possession by the hunter shall be immediately killed and become a part of the daily bag limit.

§ 10.12 Possession of plumage and skins of migratory game birds.

Any person, without a permit, may possess and transport for his own use

the plumage and skins of lawfully taken migratory game birds.

§ 10.13 Commercial use of feathers.

Any person, without a permit, may possess, dispose of, and transport for the making of fishing flies, bed pillows, and mattresses, and for similar commercial uses, but not for millinery nor ornamental use, feathers of wild ducks and wild geese lawfully killed, or seized and condemned by Federal or State game authorities.

§ 10.14 Wanton waste of migratory game birds.

No person shall kill or cripple any migratory game bird pursuant to this part without making a reasonable effort to retrieve the bird and include it in his daily bag limit.

STATE LAWS

§ 10.31 State laws for the protection of migratory birds.

Nothing in this part shall be construed to authorize the taking, possession, exchange, or transportation of migratory game birds or parts thereof in any State contrary to the laws and regulations of that State: *Provided*, That such laws and regulations are for the purpose of giving further protection to such birds and are not inconsistent with the conventions between the United States and any foreign country for the protection of migratory birds or with the Migratory Bird Treaty Act.

SCHEDULES

§ 10.41 Seasons and limits on doves and wild pigeons.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species of doves and wild pigeons designated in this section are prescribed between the dates of September 1, 1966, and January 15, 1967, as follows:

(a) *Mourning doves—Eastern Management Unit.*

Daily bag limit 12
Possession limit 24

Shooting hours: 12 o'clock noon (standard time) until sunset.

Seasons in:

Alabama [1]	Sept. 24–Nov. 12. Dec. 22–Jan. 10.
Connecticut	Closed season.
Delaware	Sept. 16–Oct. 25. Dec. 16–Jan. 14.
District of Columbia	Closed season. Oct. 1–Nov. 6.
Florida	Nov. 19–Dec. 4. Dec. 17–Jan. 2.
Georgia	Sept. 9–Oct. 8. Dec. 6–Jan. 14.
Illinois	Sept. 1–Nov. 9.
Indiana	Closed season.
Kentucky	Sept. 1–Oct. 31. Dec. 1–Dec. 9.
Louisiana	Sept. 3–Sept. 18. Oct. 15–Nov. 6. Dec. 16–Jan. 15.
Maine	Closed season.
Maryland	Sept. 6–Oct. 25. Nov. 24–Dec. 13.
Massachusetts	Closed season.
Michigan	Do.
Mississippi	Sept. 10–Oct. 2. Oct. 22–Nov. 6. Dec. 17–Jan. 15.
New Hampshire	Closed season.
New Jersey	Do.
New York	Do.
North Carolina	Sept. 7–Oct. 12. Dec. 10–Jan. 12.
Ohio	Closed season.
Pennsylvania	Sept. 1–Nov. 9.
Rhode Island	Sept. 12–Oct. 12. Oct. 24–Dec. 1.
South Carolina	Sept. 14–Oct. 12. Dec. 5–Jan. 14.
Tennessee	Sept. 1–Sept. 30. Oct. 15–Nov. 12. Dec. 23–Jan. 2.
Vermont	Closed season.
Virginia	Sept. 17–Nov. 5. Dec. 19–Jan. 7.
West Virginia	Sept. 5–Sept. 30. Oct. 15–Nov. 27.
Wisconsin	Closed season.

[1] Check State regulations for additional restrictions.

(b) *Mourning doves—Central Management Unit.*

Daily bag limit ..... [2] 12
Possession limit ..... [2] 24

Shooting hours: One-half hour before sunrise until sunset.[1]

Seasons in:

Arkansas	Sept. 1–Oct. 5. Dec. 18–Jan. 11.
Colorado	Sept. 1—Oct. 30.
Iowa	Closed season.
Kansas	Sept. 1–Oct. 30.
Minnesota	Closed season.
Missouri	Sept. 1–Oct. 10. Nov. 10–Nov. 29.
Montana	Closed season.
Nebraska	Do.
New Mexico [2]	Sept. 1–Oct. 2. Dec. 3–Dec. 30.
North Dakota	Closed season.
Oklahoma	Sept. 1–Sept. 30. Nov. 22–Dec. 21.
South Dakota	Closed season.
Texas [1, 3]	See footnote 3.
Wyoming	Closed season.

[1] In Texas, shooting hours are from 12 o'clock noon (standard time) until sunset on all days in all counties.

[2] In New Mexico, the daily bag limit is 12 and the possession limit is 24 on mourning and white-winged doves, singly or in the aggregate of both kinds.

[3] Texas: Mourning doves in Val Verde, Kinney, Uvalde, Medina, Bexar, Comal, Hays, Travis, Williamson, Milam, Robertson, Leon, Houston, Cherokee, Nacogdoches, and Shelby Counties and all counties north and west thereof, Sept. 1–Oct. 30; in the rest of the State (but not including Cameron, Hidalgo, Starr, Zapata, Webb, Maverick, Dimmit, La Salle, Jim Hogg, Brooks, Kenedy, and Willacy Counties), Sept. 24–Nov. 22, in these latter counties, Sept. 3, 4, and 5 and 9, 10, and 11 and Sept. 24–Nov. 16.

(c) *Mourning doves—Western Management Unit.*

Daily bag limit ..... [1] 12
Possession limit ..... [1] [2] 24

Shooting hours: One-half hour before sunrise until sunset.

Seasons in:

Arizona [2]	Sept. 1–Sept. 25. Dec. 9–Jan. 2.
California [1] [2]	Sept. 1–Oct. 2.[3] Dec. 10–Dec. 18.
Idaho	Sept. 1–Sept. 18.
Nevada [1]	Sept. 1–Oct. 20.
Oregon	Sept. 1–Sept. 30.
Utah [2]	Sept. 1–Sept. 30.
Washington	Sept. 1–Sept. 30.

[1] In those counties of California and Nevada having an open season on white-winged doves, the daily bag limit is 12 and possession limit is 24 mourning and white-winged doves, singly or in the aggregate of both kinds.

[2] Check State regulations for additional restrictions.

(d) *White-winged doves.*

Daily bag and possession limits ..... See footnote 2.

Shooting hours: One-half hour before sunrise until sunset.[1]

Seasons in:

Arizona [2]	Sept. 1–Sept. 25.
California: [2, 3]	
Counties of Imperial, Riverside and San Bernardino.	Sept. 1–Oct. 2.[3] Dec. 10–Dec. 18.
Remainder of State	Sept. 3–Oct. 2.
Nevada: [2]	
Clark and Nye Counties.	Sept. 1–Oct. 20.
Remainder of State	Closed season.
New Mexico [3]	Sept. 1–Oct. 2. Dec. 3–Dec. 30.
Texas: [1, 3]	
Counties of Brewster, Brooks, Cameron, Culberson, Dimmit, El Paso, Hidalgo, Hudspeth, Jeff Davis, Jim Hogg, Kenedy, Kinney, La Salle, Maverick, Presidio, Starr, Terrell, Val Verde, Webb, Willacy, and Zapata.	Sept. 3, 4 and 5. Sept. 9, 10 and 11.
Remainder of State	Closed season.

[1] In Texas, shooting hours are from 12 o'clock noon (standard time) until sunset.

[2] In Arizona, the daily bag and possession limit is 25 white-winged doves. In California, Nevada, and New Mexico the daily bag limit is 12 and the possession limit is 24 white-winged and mourning doves, singly or in the aggregate of both kinds. In Texas, the daily bag limit is 12 and the possession limit is 24 white-winged doves.

[3] Check State regulations for additional restrictions.

(e) *Band-tailed pigeons.*

Daily bag and possession limit 8

Shooting hours: One-half hour before sunrise until sunset.

Seasons in:

California:	
Counties of Butte, Del Norte, Glenn Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity.	Oct. 1–Oct. 30.
Remainder of the State	Dec. 17–Jan. 15.
Oregon	Sept. 1–Sept. 30.
Washington	Do.

§ 10.46 Seasons and limits on gallinules, rails, woodcock, and common snipe (Wilson's).

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shoot-

ing hours, and the daily bag and possession limits on the species designated in this section are prescribed between the dates of September 1, 1966, and January 30, 1967, as follows:

(a) *Atlantic Flyway States.*

	Rails and gallinules (except coots)	Woodcock	Common snipe (Wilson's)
Daily bag limit	15	5	8
Possession limit	30	10	16
Shooting hours	Sunrise until sunset on all species.		
Seasons in:			
Connecticut	Sept. 1–Nov. 9	Oct. 15–Dec. 3	Oct. 15–Dec. 3.
Delaware	do	Nov. 18–Jan. 6	Nov. 4–Dec. 23.
District of Columbia	Closed season	Closed season	Closed season.
Florida	Sept. 17–Nov. 25	Nov. 12–Dec. 31	Nov. 12–Dec. 31.
Georgia	Sept. 15–Nov. 23	Dec. 12–Jan. 30	Nov. 26–Jan. 14.
Maine	Sept. 1–Nov. 9	Sept. 26–Nov. 14	Sept. 26–Nov. 14.
Maryland	Sept. 1–Oct. 20	Oct. 17–Dec. 5	Oct. 17–Dec. 5.
Massachusetts	Sept. 10–Nov. 18	Oct. 10–Nov. 28	Sept. 10–Oct. 29.
New Hampshire	Sept. 1–Nov. 9	Oct. 1–Nov. 19	Oct. 1–Nov. 19.
New Jersey [3]	do	Oct. 8–Nov. 26	See footnote 2.
New York [1]	do	Oct. 3–Nov. 21	Oct. 3–Nov. 21.
North Carolina	do	Nov. 19–Jan. 7	Nov. 19–Jan. 7.
Pennsylvania	do	Oct. 15–Dec. 3	Oct. 1–Nov. 19.
Rhode Island	Sept. 12–Nov. 20	Oct. 24–Dec. 11	Oct. 24–Dec. 11.
South Carolina	Sept. 14–Nov. 22	Dec. 12–Jan. 30	Nov. 26–Jan. 14.
Vermont	Closed season	Oct. 1–Nov. 19	See footnote 2.
Virginia	Sept. 9–Nov. 17	Nov. 21–Jan.	Nov. 21–Jan. 9.
West Virginia	Oct. 15–Dec. 23	Oct. 15–Dec.	Oct. 15–Dec. 3.

[1] In New York, shooting hours for woodcock are from 7 a.m. to 5 p.m. based on official prevailing time.
[2] Season will open and run concurrently with the open season for ducks in the State: *Provided*, That the open season shall not extend beyond the last day of the duck season or 50 consecutive days, whichever is the shorter period.
[3] Check State regulations for additional restrictions.

(b) *Mississippi Flyway States.*

	Rails and gallinules (except coots)	Woodcock	Common snipe (Wilson's)
Daily bag limit	15	5	8
Possession limit	30	10	16
Shooting hours	Sunrise until sunset on all species.		
Seasons in:			
Alabama [4]	Nov. 5–Jan. 13	Dec. 12–Jan. 30	Nov. 26–Jan. 14.
Arkansas	Sept. 1–Nov. 9	do	Nov. 27–Jan. 15.
Illinois [4]	Closed season	Nov. 11–Dec. 30	See footnote 1.
Indiana	Sept. 1–Nov. 9	Oct. 9–Nov. 27	Oct. 9–Nov. 27.
Iowa	Closed season	Closed season	Oct. 1–Nov. 19.
Kentucky	Nov. 17–Jan. 5	Nov. 17–Jan. 5	Nov. 17–Jan. 5.
Louisiana	Nov. 5–Jan. 13	Dec. 10–Jan. 28	Nov. 26–Jan. 14.
Michigan	See footnote 2		See footnote 1.
Zones 1 and 2		Oct. 1–Nov. 10	
Zone 3		Oct. 20–Nov. 18	
Minnesota	Sept. 17–Nov. 5	Sept. 17–Nov. 5	Sept. 17–Nov. 5.
Mississippi	Oct. 8–Dec. 16	Dec. 1–Jan. 19	Dec. 1–Jan. 15.
Missouri	Sept. 1–Nov. 9	Oct. 11–Nov. 29	Oct. 11–Nov. 29.
Ohio	do	Oct. 1–Nov. 19	Oct. 1–Nov. 19.
Tennessee	See footnote 2	Nov. 21–Jan. 9	Nov. 21–Jan. 9.
Wisconsin	do	Oct. 1–Nov. 19	See footnote 3.

[1] Season will open and run concurrently with the open season for ducks in the State: *Provided*, That the open season shall not extend beyond the last day of the duck season or 50 consecutive days, whichever is the shorter period.
[2] Season will open and run concurrently with the open season for ducks in the State: *Provided*, That the open season shall not extend beyond the last day of the duck season or 70 consecutive days, whichever is the shorter period.
[3] Season will open concurrently with the open season for ducks in the State and will run for 50 consecutive days.
[4] Check State regulations for additional restrictions.

(c) *Central Flyway States.*

	Rails and gallinules (except coots)	Woodcock	Common snipe (Wilson's)
Daily bag limit	15	5	8
Possession limit	30	10	16
Shooting hours	Sunrise until sunset on all species.		
Seasons in:			
Colorado [1]	Sept. 1–Nov. 9	Closed season	Sept. 1–Oct. 20.
Kansas	do	Oct. 22–Dec. 10	Oct. 15–Dec. 3.
Montana	Closed season	Closed season	Closed season.
Nebraska	Oct. 1–Dec. 9	do	Oct. 1–Nov. 19.
New Mexico	Sept. 1–Sept. 30	do	Sept. 1–Sept. 30.
North Dakota	Closed season	do	Oct. 1–Nov. 19.
Oklahoma	Sept. 1–Nov. 9	Nov. 22–Jan. 10	Nov. 1–Dec. 20.
South Dakota	Closed season	Closed season	Sept. 1–Oct. 20.
Texas	Sept. 1–Nov. 9	Nov. 27–Jan. 15	Nov. 27–Jan. 15.
Wyoming	Closed season	Closed season	Closed season.

[1] Check State regulations for additional restrictions.

§ 10.51 Migratory game bird hunting seasons in Alaska.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed between the dates of September 1, 1966, and January 27, 1967, as follows:

	Ducks	Geese	Coots	Brant	Common snipe (Wilson's)	Little brown cranes
Daily bag limit	[1] 5	[2] 6	15	3	8	2
Possession limit	[1] 10	[2] 12	15	3	16	4
Season dates in:						
Pribilof and Aleutian Islands except Unimak Island.	Oct. 15–Jan. 27				Sept. 1–Oct. 31	Sept. 1–Oct. 15.
Rest of Alaska and Unimak Island.	Sept. 1–Dec. 14				do	Do.
Shooting hours	One-half hour before sunrise until sunset on all species.					

[1] Ducks: In addition to the basic daily bag and possession limits prescribed above for ducks collectively, a daily bag limit of 2 and a possession limit of 4 scaup ducks is permitted; and a daily bag limit of 15 and a possession limit of 30 is permitted, singly or in the aggregate of the following species: scoter, eider, harlequin, old-squaw and American and red-breasted mergansers.
[2] Geese: The daily bag and possession limits may not include more than 3 daily and 6 in possession, singly or in the aggregate, of white-fronted and Canada geese or their subspecies.

§ 10.52 Migratory game bird hunting seasons for Puerto Rico and the Virgin Islands.

Subject to the applicable provisions of the preceding sections of this part, the open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Puerto Rico.*

	Doves (all species) (singly or in the aggregate)	Pigeons (all species) (singly or in the aggregate)
Daily bag limit	15	8 [1]
Possession limit	15	8 [1]
Open season dates	July 2 to Sept. 18, 1966.	July 2 to Sept. 18, 1966.
Shooting hours	One-half hour before sunrise until sunset.	

[1] On Mona Island the daily bag and possession limit on pigeons is 15, singly or in the aggregate of all species.

(b) *Virgin Islands.*

	Doves (all species) (singly or in the aggregate)	Pigeons [1] (red-neck only)
Daily bag limit	10	5
Possession limit	10	10
Open season dates	July 15 to Sept. 1, 1966.	July 15 to Sept. 1, 1966.
Shooting hours	One-half hour before sunrise until sunset.	

[1] Closed season on all species of pigeons except those known locally as red-neck pigeons.

(c) *Puerto Rico and the Virgin Islands.*

	Ducks	Coots	Gallinules	Common snipe (Wilson's)
Daily bag limit	4	6	8	8
Possession limit	8	12	16	16
Shooting hours	One-half hour before sunrise until sunset daily.			
Seasons in:				
Puerto Rico [1]	December 17, 1966—January 29, 1967.[1]			
Virgin Islands	December 6, 1966—January 29, 1967.			

[1] CHECK PUERTO RICO REGULATIONS FOR ADDITIONAL RESTRICTIONS!

§ 10.53 Seasons and limits on waterfowl, coots, gallinules, and Wilson's snipe.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed between the dates of September 1, 1966, and March 10, 1967, as follows:

(a) An experimental open season for taking teal ducks (blue-winged, green-winged, and cinnamon teal) under authority of a special Federal permit is prescribed in certain areas subject to the following conditions:

(1) Every hunter must have been issued and carry on his person while hunting teal a properly validated 1966 Special Teal Hunting Permit issued by the Bureau of Sport Fisheries and Wildlife;

(2) Daily shooting hours are from sunrise until sunset;

(3) The daily bag limit is four and the possession limit is eight, singly or in the aggregate of blue-winged, green-winged, and cinnamon teal; and

(4) The open season dates and the areas open to hunting are prescribed as follows: Sept. 3–11 in Kentucky, Nebraska, North Dakota, and South Dakota; Sept. 9–17 in Indiana; Sept. 10–18 in Texas, Kansas, and in those parts of Colorado and Wyoming lying east of the Continental Divide; Sept. 12–20 in Michigan; Sept. 16–24 in Ohio and Arkansas; Sept. 17–25 in Illinois, Iowa, Louisiana, Mississippi, Oklahoma, Missouri, and that part of New Mexico lying east of the Continental Divide and outside the boundaries of the Jicarilla Apache Indian Reservation; Sept. 18–26 in the Montana counties of Blaine, Fergus, Judith Basin, Wheatland, Sweet Grass, Stillwater, Carbon and all counties east thereof.

(b) (1) A special open season for taking scoter, eider, and old-squaw ducks is prescribed during the period between September 25 and January 10 in all coastal waters and all waters of rivers and streams lying seaward from the first upstream bridge in the States of Maine, Massachusetts, New Hampshire, Rhode Island, and Connecticut; and in those coastal waters of New York State lying in Long Island and Block Island Sounds and the waters of Gardiner's Bay lying east of a line from the Long Beach Bay lighthouse to the most easterly point of Ram Head on Shelter Island to the Cedar Point light; but not including any coastal waters of New York lying south of Long Island; and the States of New Jersey, Maryland, and North Carolina in any waters of the Atlantic Ocean and/or in any tidal waters of any bay which are separated by at least one (1) mile of open water from any shore, island and emergent vegetation: *Provided,* That any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. The daily shooting hours are from one-half hour before sunrise until sunset, and the daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. In all other areas of these States and in all other States in the Atlantic Flyway, scoter, eider, and old-squaw ducks may be taken only during the open season for taking other ducks. During the open season on other ducks in all States in the Atlantic Flyway, a daily bag limit of 7 and a possession limit of 14 scoter, eider, and old-squaw ducks, singly or in the aggregate of these species, are permitted in addition to the basic daily bag and possession limits prescribed for other ducks.

(2) Notwithstanding the provisions of § 10.3(b)(4), the shooting of crippled waterfowl from a motorboat under power will be permitted on those coastal water areas open to sea duck hunting during the special open season and all waters of rivers and streams lying seaward from the first upstream bridge in the States of Maine, Massachusetts, New Hampshire, Rhode Island, and Connecticut; and in those coastal waters of New York State lying in Long Island and Block Island Sounds and the waters of Gardiner's Bay lying east of a line from the Long Beach Bay lighthouse to the most easterly point of Ram Head on Shelter Island to the Cedar Point light; but not including any coastal waters of New York State lying south of Long Island; and the States of New Jersey, Maryland, and North Carolina, under the following conditions: Any person who cripples any migratory waterfowl while shooting from a fixed position may, within a 200-yard radius of such fixed position, pursue, shoot, and retrieve such crippled waterfowl from a motorboat under power.

(c) *Atlantic Flyway States.*

	Ducks (except mergansers)	Mergansers	Coots	Geese (except snow geese)	Brant
Daily bag limit	(1 2)	3 5	10	2	6
Possession limit	(1 2)	3 10	20	4	6
Shooting hours	One-half hour before sunrise until sunset daily.				
Seasons in:					
Connecticut 3 9	Oct. 15–Oct. 29			Oct. 15–Nov. 3.	
	Nov. 19–Dec. 23			Nov. 19–Jan. 7.	
Delaware 3	Nov. 4–Nov. 26			Nov. 4–Nov. 26.	
	Dec. 12–Jan. 7			Nov. 29–Jan. 14.	
District of Columbia	Closed season.			Closed season.	
Florida 3 10	Nov. 24–Nov. 27			Nov. 24–Nov. 27.	
	Dec. 3–Jan. 8			Dec. 3–Jan. 8.	
Georgia 3 8	Nov. 24–Jan. 7			Nov. 7–Jan. 15.	
Maine 3 4 9	Oct. 8–Dec. 1			Oct. 8–Dec. 16.	
Maryland 3	Nov. 14–Jan. 7			Oct. 31–Jan. 7.	
Massachusetts 3 4 9 10	Oct. 15–Dec. 8			Oct. 15–Nov. 29.	
				Dec. 15–Jan. 7.	
New Hampshire 3 4 9	Oct. 8–Dec. 1			Oct. 8–Dec. 1.	
				Dec. 17–Dec. 31.	
New Jersey 3	Oct. 22–Oct. 29			Oct. 22–Dec. 30.	
	Nov. 22–Jan. 2				
New York 3 6 9 9	Oct. 15–Dec. 8			Oct. 15–Dec. 23.	
North Carolina 3	Nov. 14–Jan. 7			Nov. 7–Jan. 14.	
Pennsylvania 3 7 10	Oct. 8–Oct. 15			Oct. 1–Dec. 9.	
	Nov. 4–Dec. 15				
Rhode Island 3 9	Nov. 15–Jan. 8			Nov. 7–Jan. 15.	
South Carolina 3	Nov. 24–Jan. 7			Nov. 7–Jan. 14.	
Vermont 3	Oct. 8–Dec. 1			Oct. 8–Dec. 16.	
Virginia 3	Nov. 14–Jan. 7			Nov. 5–Jan. 13.	
West Virginia 3	Oct. 15–Oct. 22			Oct. 15–Dec. 23.	
	Nov. 28–Jan. 7				

[1] Ducks other than mergansers: In all States, the daily bag limit may not include more of the following species than: (a) 2 wood ducks, and (b) 2 canvasbacks; and the possession limit may not include more than: (a) 4 wood ducks, and (b) 4 canvasbacks. In the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, the basic daily bag limit on ducks other than mergansers is 3 and the possession limit is 6. In the States of Florida, Georgia, and South Carolina, the basic daily bag limit on ducks other than mergansers is 4 and the possession limit is 8.

[2] Bonus scaup and ringneck ducks: During any portion of the open season for ducks falling on or after November 15, 1966, a bonus daily bag limit of 2 and a possession limit of 4 scaup and ringneck ducks, singly or in the aggregate of these species, is permitted in addition to the basic limits on ducks other than mergansers in the following areas: (a) The entire States of Maine, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Vermont, and West Virginia; and (b) In restricted areas of the States of Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, and Virginia, which are described, delineated, and designated as bonus scaup and ringneck areas under the State hunting regulations adopted by the respective States; and (c) in the Lake Champlain Area only of New York (as defined in footnote 6) from November 15 to December 1, 1966, being the same as Vermont.

[2] Special scaup and ringneck season: During the period from Dec. 24, 1966—Jan. 7, 1967 in the entire State of Connecticut and in all of the State of New York except the Lake Champlain Area (as defined in footnote 6); a special open season for the taking of scaup and ringneck ducks is prescribed, with a daily bag limit of 5 and a possession limit of 10 scaup and ringneck ducks, singly or in the aggregate of these species. During this special scaup and ringneck season the shooting hours in all of the State of New York except the Long Island Area (as defined in footnote 6) are from sunrise to sunset.

[4] An experimental open season for taking black ducks under authority of a special Federal permit is prescribed from December 15, 1966, through January 8, 1967, in those lands and waters of the States of Maine, Massachusetts, and New Hampshire lying seaward from a line starting at Calais, Maine, and running southwesterly following U.S. Highway 1 to the junction with U.S. Highway 4 at Portsmouth, N.H.; thence northwesterly following U.S. Highway 4 to the intersection with State Highway 108; thence southerly following State Highway 108 to its junction with State Highway 101; thence easterly following State Highway 101 to its junction with U.S. Highway 1; thence southwesterly following U.S. Highway 1 to the junction with State Highway 3 at Boston, Mass.; thence southeasterly following State Highway 3 to the intersection with U.S. Highway 6; thence westerly following U.S. Highway 6 to its intersection with the Massachusetts-Rhode Island State line, subject to the following conditions: (a) Every hunter must have been issued and carry on his person while hunting black ducks a properly validated 1966 special black duck hunting permit furnished by the Bureau of Sport Fisheries and Wildlife and issued without charge by the respective State game departments; and (b) The daily bag limit is 4 and the possession limit is 8 black ducks.

[5] Mergansers: In all States, the daily bag limit may not include more than 1 hooded merganser and the possession limit may not include more than 2 hooded mergansers.

[6] New York: In the Long Island area (Long Island and that part of Westchester County lying south of the Hutchinson River Parkway) the open season for taking ducks and coots is Oct. 15–Oct. 29 and Nov. 19–Dec. 23, and for taking geese and brant Oct. 15–Nov. 3 and Nov. 19–Jan. 7.

In the Lake Champlain area (that part of New York lying east of the main line tracks of the Delaware and Hudson Railroad running south from the New York-Canada border to Whitehall, N.Y., and north of the branch line tracks of the Delaware and Hudson Railroad running east from Whitehall, N.Y., to the New York-Vermont State line) the open season for taking ducks and coots is Oct. 8–Dec. 1, and for taking geese and brant Oct. 8–Dec. 16.

[7] Pennsylvania: In Crawford and Erie Counties, the open season for taking geese is Oct. 8–Dec. 9, and in Crawford County the daily bag limit may not include more than 1 Canada goose.

[8] Georgia: No open season for the taking of geese and brant is prescribed in Liberty and McIntosh Counties.

[9] Not withstanding the provisions of 50 CFR 10.3(b)(4), the shooting of crippled waterfowl from a motorboat under power will be permitted on those coastal waters and all waters of rivers and streams lying seaward from the first upstream bridge in the States of Maine, Massachusetts, New Hampshire, Rhode Island, and Connecticut; and in those coastal waters of New York State lying in Long Island and Block Island Sounds and the waters of Gardiner's Bay lying east of a line from the Long Beach Bay lighthouse to the most easterly point of Ram Head on Shelter Island to the Cedar Point light; but not including any coastal waters of New York State lying south of Long Island, under the following conditions: Any person who cripples any migratory waterfowl while shooting from a fixed position may, within a 200-yard radius of such fixed position, pursue, shoot, and retrieve such crippled waterfowl from a motorboat under power.

[10] CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS!

(d) *Mississippi Flyway States.*

	Ducks (except mergansers)	Mergansers	Coots	Geese
Daily bag limit	[1] [2] 4	[3] 5	10	[4] 5
Possession limit	[1] [2] 8	[3] 10	20	[4] 5
Shooting hours	One-half hour before sunrise until sunset daily.			
Seasons in:				
Alabama	Nov. 24–Jan. 7			Nov. 7–Jan. 15.
Arkansas [4] [11]	do			Oct. 30–Jan. 7.
Illinois [5] [11]	Oct. 22–Dec. 5			Oct. 22–Dec. 23.
				Dec. 30–Jan. 5.
Indiana	Oct. 29–Nov. 26			Oct. 14–Dec. 10.
	Dec. 22–Jan. 2			Dec. 22–Jan. 2.
Iowa	Oct. 15–Nov. 28			Oct. 1–Dec. 9.
Kentucky	Nov. 25–Jan. 8			Nov. 7–Jan. 15.
Louisiana [2] [4] [6]	Nov. 18–Jan. 1			Do.
Michigan [2] [11]	Oct. 10–Nov. 23			Oct. 1–Nov. 30.
Minnesota [11]	Oct. 8–Nov. 21			Oct. 1–Dec. 9.
Mississippi [4] [7]	Nov. 25–Jan. 8			Oct. 15–Nov. 8.
				Nov. 25–Jan. 8.
Missouri: [8] [11]				
Squaw Creek Area	Nov. 1–Dec. 15			Oct. 20–Dec. 28.
Swan Lake Area	do			Do.
Remainder of State	do			Oct. 20–Dec. 3.
				Dec. 22–Jan. 15.
Ohio [9]	Oct. 22–Nov. 26			Oct. 22–Dec. 24.
	Dec. 27–Dec. 31			Dec. 26–Dec. 31.
Tennessee [4]	Nov. 25–Jan. 8			Nov. 7–Jan. 15.
Wisconsin [2] [10] [11]	Oct. 8–Nov. 21			Oct. 8–Dec. 16.

[1] Ducks other than mergansers: In all States, the daily bag limit may not include more of the following species than: (a) 2 wood ducks; (b) 2 canvasbacks; and (c) 2 mallards. The possession limit may not include more than: (a) 4 wood ducks; (b) 4 canvasbacks; and (c) 4 mallards.

[2] Bonus scaup and ringneck ducks: A bonus daily bag limit of 2 and a possession limit of 4 scaup and ringneck ducks, singly or in the aggregate of these species is permitted in addition to the basic limits on ducks other than mergansers as follows: (a) During any portion of the regular open season for ducks occurring on or after Nov. 1, 1966, in the entire States of Minnesota and Wisconsin; and in certain areas of the States of Michigan, Missouri, and Ohio as described, delineated, and designated as bonus scaup and ringneck areas in hunting regulations adopted by these States; (b) During any portion of the regular open season for ducks occurring on or after Oct. 20, 1966, in the De Noc Bays area of Michigan as described, delineated and designated as a bonus scaup and ringneck area in hunting regulations adopted by Michigan; (c) during the entire regular open season for ducks in that part of Louisiana lying south and east of a line starting at the intersection of U.S. Highway 90 and the Louisiana-Texas State line; thence east following U.S. Highway 90 to its intersection with U.S. Highway 61; thence northwesterly following U.S. Highway 61 to the junction with U.S. Highway 51; thence north following U.S. Highway 51 to its intersection with U.S. Highway 190; thence easterly following U.S. Highway 190 to its intersection with the Louisiana-Mississippi State line, a daily bag limit of 2 and a possession limit of 4 scaup and ringneck ducks, singly or in the aggregate of these species, are allowed in addition to the basic limits on ducks other than mergansers.

[3] Mergansers: In all States, the daily bag limit may not include more than 1 hooded merganser and the possession limit may not include more than 2 hooded mergansers.

[4] Geese: In all States, the daily bag and possession limit may not include, in the alternative, more than: (a) 2 Canada geese or (b) 2 white-fronted geese or (c) 1 Canada goose and 1 white-fronted goose. No open season is prescribed for the taking of geese in the Mississippi Counties of Issaquena, Sharkey, and Washington; and in the Tennessee Counties of Dyer, Lauderdale, Shelby and Tipton. No open season is prescribed for taking Canada geese in the States of Arkansas and Louisiana.

[5] Illinois: In the State of Illinois, the kill of Canada geese will be limited to a total of 20,000 birds; and when the Director, Bureau of Sport Fisheries and Wildlife has determined the date upon which 20,000 Canada geese will have been killed, the season will be closed by the Director upon having given public notice thereof through public information media no less than 48 hours in advance of the time and date of closing.

[6] Louisiana: For the lands and waters of the State of Louisiana lying easterly of the centerline of the main navigable channel of the Mississippi River between the north boundary of Louisiana to latitude 31° N., the season for taking geese is Oct. 15–Nov. 8 and Nov. 25–Jan. 8. Canada geese may be taken in this area.

[7] Mississippi: For the lands and waters of the State of Mississippi lying westerly of the centerline of the main navigable channel of the Mississippi River between the north boundary of Louisiana to latitude 31° N., the season for taking geese is Oct. 15–Nov. 8 and Nov. 25–Jan. 8. Canada geese may not be taken in this area.

[8] Missouri: In the Swan Lake area consisting of those portions of the Missouri Counties of Livingston, Carroll, Lafayette, Saline, Howard, Chariton, and Linn, bounded by roads starting at the junction of U.S. Highways 36 and 65 at Chillicothe in Livingston County; thence South along U.S. Highway 65 to the junction with State Highway 41 at Marshall in Saline County; thence east along State Highway 41 to the junction with State Highway 240; thence north and east along State Highway 240 to the junction with State Highway 5 at Glascow in Howard County; thence north along State Highway 5 to the junction with U.S. Highway 36 north of Marceline in Linn County; thence west along U.S. Highway 36 to the point of beginning, the combined kill of Canada geese will be limited to a total of 25,000 birds; and when the Director, Bureau of Sport Fisheries and Wildlife has determined the date upon which 25,000 Canada geese will have been killed in this area the season will be closed therein by the Director upon having given public notice thereof through local information media no less than 48 hours in advance of the tine and date of closing.

In the Squaw Creek Area consisting of Atchison and Holt Counties and those portions of Andrew and Nodaway Counties lying west of U.S. Highway 71, Canada geese may be taken only during the period from Oct. 20–Nov. 18 and in this area the daily bag limit may not include more than 1 Canada goose.

[9] Ohio: For Pymatuning reservoir in Ashtabula County and for one-quarter mile in any direction from said reservoir, the open season for taking ducks and coots is Oct. 8–Oct. 15 and Nov. 4–Dec. 15, and the open season for taking geese and brant is Oct. 8–Dec. 9. In this area the basic daily limit for ducks other than mergansers is 3 and the possession limit is 6. In this area the season is closed on snow geese; and the daily bag limit on geese is 2 of which not more than 1 may be a Canada goose and the possession limit is 4 geese; and the daily bag and possession limit is 6 brant.

[10] Wisconsin: In Wisconsin the combined kill of Canada geese will be limited to not more than 14,000 birds; and in the Counties of Columbia, Dodge, Fond Du Lac, Green Lake, Jefferson, Juneau, and Winnebago, Canada geese may be taken only on the days of Saturday, Sunday, and Monday during the open season for taking geese. When it has been determined by the Director, Bureau of Sport Fisheries and Wildlife that 14,000 Canada geese will have been killed, the season for taking Canada geese in the above named 7 Counties will be closed by the Director upon having given public notice thereof through local information media not less than 48 hours in advance of the time and date of closing; and in all other counties of the State the season for taking Canada geese will be closed at the end of the 20th consecutive day following the day of closing in the above named Counties.

[11] CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS!

(e) *Central Flyway States.*

	Ducks (except mergansers)	Mergansers	Coots	Geese
Daily bag limit	(1)	[2] 5	10	[3] 5
Possession limit	(1)	[2] 10	20	[3] 5
Shooting hours	One-half hour before sunrise until sunset daily.			
Seasons in:				
Colorado (east of Continental Divide) [4] [7]	Oct. 22–Dec. 20			Nov. 2–Jan. 15.
Kansas	Oct. 29–Nov. 27			Oct. 8–Dec. 21.
	Dec. 10–Jan. 2			
Montana (see footnote 5 for area description) [7]	Oct. 8–Dec. 6			Oct. 1–Dec. 14.
Nebraska [7]	Oct. 15–Dec. 13			Do.
New Mexico (see footnote 6 for area description) [7]	Nov. 19–Jan. 7			Nov. 19–Jan. 15.
North Dakota [7]	Oct. 8–Nov. 26			Oct. 1–Dec. 14.
Oklahoma	Oct. 29–Dec. 27			Oct. 7–Oct. 29.
				Nov. 25–Jan. 15.
South Dakota [7]	Oct. 8–Dec. 6			Oct. 1–Dec. 14.
Texas	Nov. 19–Jan. 7			Oct. 25–Jan. 7.
Wyoming (east of Continental Divide) [7]	Oct. 8–Nov. 7			Oct. 8–Oct. 31.
	Dec. 17–Jan. 8			Nov. 21–Jan. 15.

[1] Ducks other than mergansers: In all States, the daily bag limit may not include more of the following species than: (a) 2 wood ducks, (b) 2 canvasbacks, and (c) 2 mallards, and the possession limit may not include more than: (a) 4 wood ducks, (b) 4 canvasbacks, and (c) 4 mallards. In the States of Colorado (east of Continental Divide), Kansas, Montana (Central Flyway Area), Nebraska, Oklahoma, South Dakota, and Wyoming (east of Continental Divide) the basic daily bag limit on ducks other than mergansers is 3 and the possession limit is 6. In the States of New Mexico (east of Continental Divide), North Dakota, and Texas, the basic bag limit on ducks other than mergansers is 4 and the possession limit is 8.

[2] Mergansers: In all States, the daily bag limit may not include more than 1 hooded merganser and the possession limit may not include more than 2 hooded mergansers.

[3] Geese: In all States, the daily bag and possession limit may not include more of the following species than: (a) 1 Ross's goose; and (b) in the alternative, 1 white-fronted goose; 1 white-fronted goose and 1 Canada goose or subspecies; or 2 Canada geese or subspecies.

[4] Colorado: In the Colorado Counties of Alamosa, Conejos, Costilla, and Rio Grande, and those portions of Hinsdale, Mineral, and Saguache Counties lying east of the Continental Divide, an experimental open season on ducks and coots is prescribed during the period from Oct. 1–Oct. 18, 1966, under authority of a special Federal permit in accordance with the following conditions: (a) Any person hunting ducks or coots during this special season must have been issued and carry on his person a properly validated special Federal duck and coot hunting permit furnished by the Bureau of Sport Fisheries and Wildlife and issued by the Colorado Game Department; (b) The daily bag limit is 5 ducks and coots singly or in the aggregate of these species and may not include more than 2 canvasbacks; and the possession limit is 10 ducks and coots singly or in the aggregate of these species of which not more than 4 may be canvasbacks; and (c) Daily shooting hours are from one-half hour before sunrise until 12 o'clock noon standard time, including opening day.

No open season is prescribed for the taking of geese in those portions of Conejos, Alamosa, Rio Grande, and Mineral Counties of Colorado bounded by a line beginning at the intersection of U.S. Highway 285 with the Colorado-New Mexico State line; thence north following U.S. Highway 285 to its junction with State Highway 17 in Alamosa; thence north following State Highway 17 to its junction with State Highway 112; thence west and southwest following State Highway 112 to its junction with U.S. Highway 160 in Del Norte; thence west and south following U.S. Highway 160 to its intersection with the Continental Divide; thence south following the Continental Divide to its intersection with the Colorado-New Mexico State line; thence east following the State line to the point of beginning.

[5] Montana Central Flyway area: Consists of the Montana Counties of Blaine, Fergus, Judith Basin, Wheatland, Sweet Grass, Stillwater, Carbon, and all Counties east thereof.

[6] New Mexico Central Flyway area: Consists of all that portion of New Mexico lying east of the Continental Divide and outside the boundaries of the Jicarilla Apache Indian Reservation.

[7] CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS!

(f) *Pacific Flyway States—Waterfowl.*

	Ducks (except mergansers)	Mergansers	Coots and Gallinules (in the aggregate)	Geese	Brant
Daily bag limit	([1] [4])	[2] 5	25	[3] [6]	3
Possession limit	([1] [4])	[2] 10	25	[3] [6]	3
Shooting hours	One-half hour before sunrise until sunset daily.[4]				
Seasons in:					
Arizona	Oct. 11–Jan. 8			Oct. 11–Jan. 8	Closed season.
California [7]	Oct. 22–Jan. 4			Oct. 22–Jan. 8	Nov. 26–Feb. 13.
Colorado (west of Continental Divide) [5]	Oct. 11–Jan. 8			Oct. 11–Jan. 8	Closed season.
Idaho [4]	Oct. 8–Jan. 5			Oct. 8–Jan. 5	Do.
Montana (see footnote 5 for area description) [5]	Oct. 8–Jan. 5			do	Do.
Nevada [8]	Oct. 15–Dec. 28			Oct. 15–Jan. 8	Do.
New Mexico (see footnote 6 for area description) [6]	Oct. 8–Dec. 21			Oct. 8–Dec. 21	Do.
Oregon [4]	Oct. 8–Jan. 5			Oct. 8–Jan. 15	Nov. 28–Feb. 15.
Utah	Oct. 8–Jan. 5			Oct. 8–Jan. 5	Closed season.
Washington [4] [8]	Oct. 15–Jan. 8			Oct. 15–Jan. 8	Nov. 25–Feb. 12.
Wyoming (west of Continental Divide) [5]	Oct. 8–Jan. 5			Oct. 8–Jan. 5	Closed season.

[1] Ducks other than mergansers: In all States and in all areas except the Columbia Basin Areas of Washington, Oregon, and States of Idaho and Montana, the daily bag limit may not include more than 2 wood ducks and the possession limit may not include more than 4 wood ducks. In the States of Arizona, Colorado (west of Continental Divide), Idaho, Oregon, Utah, Washington, and Wyoming (west of Continental Divide) the basic daily bag limit on ducks other than mergansers is 5 and the possession limit is 10. In the States of Nevada and New Mexico (west of Continental Divide) the basic daily bag limit on ducks other than mergansers is 6 and the possession limit is 12. In the State of California the basic daily bag and possession limit on ducks other than mergansers is 7. In the States of Idaho and Montana (Pacific Flyway Area) the basic daily bag and possession limit on ducks other than mergansers is 6.

[2] Mergansers: In all States, the daily bag limit may not include more than 1 hooded merganser and the possession limit may not include more than 2 hooded mergansers.

[3] Geese: In all States and in all areas, the daily bag and possession limit may not include more than 1 Ross's goose; and the daily bag limit may not include more than 3 geese of the dark species: *Provided*, That in the States of Washington and Idaho the daily bag limit is 3 geese and the possession limit is 6 geese; and in the States of Arizona and Utah, in Clark County, Nev., in the Idaho Counties of Bear Lake, Bonneville, and Caribou, and in those portions of the States of Colorado, Montana, New Mexico, and Wyoming lying in the Pacific Flyway, the daily bag and possession limit may not include more than 2 Canada geese. No open season is prescribed for taking snow, blue, and Ross's geese in the Idaho Counties of Clark, Madison, Fremont, and Teton.

[4] In the Columbia Basin Areas of Idaho (counties of Ada, Benewah, Blaine, Bonner, Boundary, Camas, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Kootenai, Latah, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, Twin Falls, and Washington) and Oregon (counties of Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco) the season for taking ducks, coots, and gallinules is Oct. 8–Jan 15. In the Columbia Basin area of Washington (all that portion of the State lying east of the summit of the Cascade Mountains) the open season for taking ducks, coots, and gallinules is Oct. 15–Jan. 22. In these areas, the basic limits on ducks other than mergansers are 6 daily and 12 in possession, and the daily shooting hours for ducks, coots, and gallinules only are from one-half hour before sunrise until one-half hour after sunset.

[5] Montana Pacific Flyway area: Consists of the Montana Counties of Hill, Chouteau, Cascade, Meagher, Parks, and all Counties west thereof.

[6] New Mexico Pacific Flyway area: Consists of all that portion of New Mexico lying west of the Continental Divide and the entire area of the Jicarilla Apache Indian Reservation.

[7] California: In that portion of the State lying east and north of a line beginning at the point where U.S. Highway 99 intersects the California-Oregon State line; thence south and east following U.S. Highway 99 to the junction with State Highway 89; thence south and east on State Highway 89 to the junction with State Highway 49; thence east and north on State Highway 49 to the junction with State Highway 70; thence east on State Highway 70 to the junction with U.S. Highway 395; thence south and east on U.S. Highway 395 to the point of intersection with the California-Nevada State line, the open season for taking ducks, coots, gallinules, and geese is Oct. 8–Jan. 5. In this area the basic daily bag limit on ducks other than mergansers is 5 and the possession limit is 10.

In that portion of California Fish and Game District No. 22 lying east of a line beginning at the point where U.S. Highway 95 intersects the California-Nevada State line; thence south on U.S. Highway 95 to Vidal junction; thence southwesterly on the paved county road through Rice to the junction with U.S. Highway 60–70 at Desert Center; thence easterly 31 miles on U.S. Highway 60–70 to the intersection with the Wiley Wells road; thence south on this road through Wiley Wells and continue southeasterly on the Army-Milpitas road to the Davis Lake intersection with the paved county road running south to Ogilby; thence south on this paved county road through Ogilby to the junction with U.S. Highway 80; thence easterly 7 miles on U.S. Highway 80 to the intersection with the Andrade-Algodones road; thence southerly on the Andrade-Algodones road to the intersection with the California-Mexico border, the open season for taking ducks, coots, gallinules, and geese is Oct. 11–Jan. 8. In this area the daily bag limit on ducks other than mergansers is 5 and the possession limit is 10; and the daily bag and possession limit on geese may not include more than 2 Canada geese. In the remainder of California Fish and Game District No. 22, the open season for taking Canada geese is from Oct. 22–Dec. 25 and the daily bag and possession limit may not include more than 1 Canada goose.

In the entire State of California there is prescribed an open season on snow and Ross's geese from Jan. 9–22, 1967. The daily bag and possession limit is 6 geese of which not more than 1 may be a Ross's goose.
[1] CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS!

(g) *Pacific Flyway States—Common (Wilson's) Snipe.*

Shooting hours	One-half hour before sunrise until sunset daily.
Daily bag limit	8
Possession limit	16
Seasons in:	
Arizona	Nov. 20–Jan. 8.
California	Nov. 19–Jan. 7.
Idaho	Oct. 8–Nov. 26.
Nevada	Oct. 15–Dec. 3.
Oregon	Oct. 22–Dec. 10.
Utah	Nov. 17–Jan. 1.
Washington [1]	Oct. 15–Dec. 3.

[1] CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS!

§ 10.54 Seasons and limits on lesser sandhill (little brown) cranes and whistling swans.

Subject to the applicable provisions of the preceding sections of this part, the open seasons (dates inclusive), the areas open to hunting, the shooting hours, and the daily bag and possession limit on the species of migratory game birds designated in this section are prescribed as follows:

(a) An open season for the taking of lesser sandhill (little brown) cranes of 30 consecutive days between Saturday, October 29, 1966, and Sunday, November 27, 1966, is prescribed in the New Mexico Counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt, and in that portion of the State of Texas lying west of a line from the International Toll Bridge in Del Rio, Val Verde County; thence northward following U.S. Highway 277 to the junction with U.S. Highway 87 at San Angelo, Tom Green County; thence northwesterly following U.S. Highway 87 to the junction with U.S. Highway 287 at Dumas, Moore County; thence northwesterly following U.S. Highway 287 to the point of intersection with the Texas-Oklahoma State line in Dallam County. The daily bag limit is 2 and the possession limit is 4 lesser sandhill (little brown) cranes, and the shooting hours are one-half hour before sunrise until sunset daily.

(b) A limited open season for the taking of whistling swans under special permit is prescribed for the State of Utah subject to the following conditions: (1) The open season dates and shooting hours will run concurrently with those for hunting ducks in the State of Utah; (2) not to exceed 1,000 special permits may be issued authorizing the permittee to take 1 whistling swan; and (3) the special permit forms and correspondingly numbered metal locking seals will be furnished by the Bureau of Sport Fisheries and Wildlife and issued by the Utah State Department of Fish and Game to persons making written application for such permit: *Provided,* That if more than 1,000 applications are received a drawing will be held to determine which applicants shall be issued permits. Each person must have been issued and must carry on his person while hunting a properly validated 1966 whistling swan hunting permit. When a whistling swan has been killed by a hunter he must immediately attach and lock the metal seal and the proper portion of his numbered permit around the upper right wing of the swan.

WILDLIFE DEVELOPMENT AREAS

§ 10.71 Approval of area development program.

With respect to any lands which have been or may hereafter be acquired by the United States for future use as a migratory bird sanctuary or other wildlife refuge, subject to an outstanding possessory estate, the owner of such outstanding estate may, in accordance with a program for the development of the area and the limitation of shooting during such development period, approved by the Secretary, take such measures as are calculated to maintain and increase the waterfowl population of the area in question, and engage in the shooting of migratory birds within the limitations set forth in the approved program.

§ 10.72 Revocation of program approval.

Approval of any such program may be revoked by the Secretary upon a finding that the terms of such program have been violated by the proponents thereof. Following such revocation, all rights and privileges derived from the existence of an approved area development program shall cease.

§ 10.73 Notice and hearing.

Prior to any determination by the Secretary that the terms of an approved area development program have been or are being violated by the proponent thereof, a notice shall be sent to said proponent specifying the character, time, and locality of the alleged violation and designating a representative of the Secretary with whom the proponent of the program may discuss any controverted issue of fact or interpretation in an effort to reach an amicable agreement of understanding. Thereupon, the said proponent shall cease and desist from the commission of acts specified in such notice for a period of 60 days, or if the case be finally determined during such 60-day period then only until such final determination. If, within 30 days after such notice has been received, no such agreement or understanding is reached then the Secretary may, after allowing such further opportunity for hearing as he deems proper, make and promulgate a final order revoking approval of the development area program. Thereupon, the provisions of § 10.3 shall be fully applicable to the area in question.

PART 11—PROTECTION OF BALD EAGLES AND GOLDEN EAGLES

Sec.
11.1 Eagles protected.
11.2 Permits to take for scientific or exhibition purposes.
11.3 Relief from depredating eagles.
11.4 Means for taking; persons authorized to take.
11.5 Possession and use for religious purposes.
11.6 Applications for permits.
11.7 Permit requirements.
11.8 Possession, transportation, and disposition.
11.9 Jurisdiction and address of regional offices.

AUTHORITY: The provisions of this Part 11 issued under sec. 2, 54 Stat. 251, as amended; 16 U.S.C. 668a.

§ 11.1 Eagles protected.

The taking, possession, or transportation of the bald eagle (Haliaeetus leucocephalus), commonly known as the American eagle, or the golden eagle (Aquila chrysaetos), or their parts, nests, or eggs is prohibited, except as permitted in this part. No bald eagle or golden eagle, or their parts, nests, or eggs may be purchased, sold, traded, or bartered, or offered for sale, trade, or barter in the United States or in any place subject to its jurisdiction.

§ 11.2 Permits to take for scientific or exhibition purposes.

Whenever the Secretary determines that it is compatible with the preservation of the bald eagle or the golden eagle to take, possess, or transport such birds or their parts, nests, or eggs for the scientific or exhibition purposes of public museums, scientific societies, or zoological parks, a permit may be issued for such purposes.

§ 11.3 Relief from depredating eagles.

(a) The Secretary may issue permits to take bald eagles or golden eagles when he determines they have become seriously injurious to wildlife or to agricultural or other interests in any particular area in the United States or in any place subject to its jurisdiction, and the injury complained of is substantial and can be abated only by taking some or all of the offending birds.

(b) Whenever the Governor of any State requests permission to take golden eagles to seasonally protect livestock, the Secretary will authorize such taking without a permit in whatever part or parts of the State and for such periods as he determines necessary to protect those interests.

(c) No bald eagle may be taken for any purpose unless, prior to such taking, a permit to do so has been issued by the Secretary.

§ 11.4 Means for taking; persons authorized to take.

(a) Bald eagles may be taken under permit by firearms, traps, or other suitable means except by poison or from aircraft.

(b) Golden eagles may be taken under permit by firearms, traps, or other suit-

able means except by poison or from aircraft.

(c) Whenever the taking of golden eagles without a permit is authorized for the seasonal protection of livestock, such birds may be taken by firearms, traps, or other suitable means except by poison or from aircraft.

(d) The taking of eagles under permit may be done only by the permittee or his agents named in the permit. Whenever the taking of golden eagles without a permit is authorized to seasonally protect livestock, such birds may be taken only by the owner of such livestock or by his agents.

(e) Any person exercising any of the privileges granted by this part must permit at all reasonable times, including during actual operations, any Federal or State game agent or deputy game agent, warden, protector, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require concerning such operations.

§ 11.5 Possession and use for religious purposes.

Whenever the Secretary determines that the taking and possession of bald or golden eagles for the religious purposes of Indian tribes is compatible with the preservation of such birds, he may issue permits for such taking and possession to those individual Indians who are authentic, bona fide practitioners of such religion. Any birds or their parts taken or possessed under permits issued pursuant to this section are not transferable, except such birds or their parts may be handed down from generation to generation or from one Indian to another in accordance with tribal or religious customs.

§ 11.6 Applications for permits.

(a) Applications for permits must be addressed to the Regional Director at the Regional Office of the Bureau of Sport Fisheries and Wildlife having administrative supervision over Bureau functions in the State in which permit activities are proposed. (See § 11.9 of this part for addresses.)

(b) Applications for permits (except as provided under paragraphs (c), (d), and (e) of this section) must state the name and address of the applicant, his age, the species of eagles and the number of such birds, nests, or eggs proposed to be taken, and the State and locality in which such taking is to be done. In the case of permits for taking such birds for scientific or exhibition purposes, the application must include the name and address of the public museum, scientific society, or zoological park for which they are intended. The applicant will furnish such other information as may be requested by the Regional Director.

(c) Requests from the Governor of a State to take golden eagles to seasonally protect livestock must be submitted in writing to the Secretary listing the periods of time during which the taking of such birds is recommended, and including a map of the State indicating the boundaries of the proposed area of taking. The Governor will be advised in writing concerning the request and a notice will be published in the FEDERAL REGISTER.

(d) Applications for permits to take and possess bald eagles or golden eagles for the religious purposes of Indian tribes must be submitted by individual Indians. Such applications must state the name and address of the applicant, his age, the name of his tribe, the species and number of eagles proposed to be taken, and the State and area where taking is to be done. Further, the applicant must name the religious ceremony for which such eagles or their parts will be used and must enclose a statement from a duly authorized official of the religious group in question verifying that the applicant is authorized to participate in such ceremonies.

§ 11.7 Permit requirements.

(a) Any permit issued pursuant to this part will specify the date of issue and expiration, the number of bald eagles or golden eagles or their nests or eggs that may be taken, the person or persons who may take such eagles or their nests or eggs, the places where, the time when, the means or methods by which they may be taken, and the disposition or utilization to be made of such birds, nests, or eggs.

(b) Permits issued under this part are not transferable. In addition to other penalties prescribed for violation of regulations in this part, permits may be revoked at any time by the Regional Director for violation of any requirements of the permit or the provisions of this part. If revoked, they must be surrendered on demand. Within thirty (30) days after the expiration date, the holder must complete and mail to the Regional Director a report of his activities on a form provided for this purpose.

(c) Nothing in this part or in any permit issued thereunder authorizes the taking, possession, or transportation of bald eagles or golden eagles, or their parts, nests, or eggs in any State contrary to the laws and regulations of that State: *Provided*, Such laws and regulations are for the purpose of giving further protection to such eagles and are not inconsistent with the provisions of any Federal law for the protection of such birds. Further, no permit issued under this part authorizes the taking, possession, or transportation of bald eagles or golden eagles or their parts, nests, or eggs unless the holder also possesses whatever permit may be required for such activities by the State concerned.

§ 11.8 Possession, transportation, and disposition.

(a) Any bald eagles or golden eagles or their parts, nests, or eggs, seized for any violation under this part or otherwise acquired, may be disposed of by Regional Directors by loan to public museums, scientific societies, or zoological parks or by gift to Indians authorized under permit to possess such birds or their parts.

(b) Bald eagles, alive or dead, or their parts, nests, or eggs lawfully acquired prior to June 8, 1940, and golden eagles, alive or dead, or their parts, nests, or eggs lawfully acquired prior to October 24, 1962, may be possessed, or transported without a Federal permit, but may not be purchased, sold, traded, bartered, or offered for sale, trade, or barter in the United States or in any place subject to its jurisdiction. All shipments containing such birds, parts, nests, or eggs must be marked as provided in paragraph (c) of this section.

(c) Every package or container in which bald eagles or golden eagles or their parts, nests, or eggs are shipped or transported by any means whatever, must be plainly and clearly marked, labeled, or tagged on the outside thereof showing the names and address of the consignor and consignee, the contents of the package or container, and the number of the permit, where required, under authority of which it is possessed and transported, and the purpose of the shipment.

§ 11.9 Jurisdiction and address of regional offices.

The geographic jurisdictions and addresses of the Bureau of Sport Fisheries and Wildlife regional offices are as follows:

(a) Pacific Region (Region 1—comprising the States of Alaska, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington) Post Office Box 3737, Portland, Oreg. 97208.

(b) Southwest Region (Region 2—comprising the States of Arizona, Colorado, Kansas, New Mexico, Oklahoma, Texas, Utah, and Wyoming) Post Office Box 1306, Albuquerque, N. Mex. 87103.

(c) North Central Region (Region 3—comprising the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin) 1006 West Lake Street, Minneapolis, Minn. 55408.

(d) Southeast Region (Region 4—comprising: (1) The States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee and Virginia; and (2) the District of Columbia, Puerto Rico, and the Virgin Islands). Peachtree-Seventh Building, Atlanta, Ga. 30323.

(e) Northeast Region (Region 5—comprising the States of Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia) U.S. Post Office and Court House, Boston, Mass. 02109.

PART 12—AREAS CLOSED TO HUNTING

§ 12.1 List of areas.

Proclamations and orders No.	Proclamations and orders Date	State	Land and waters within boundary and adjacent to, or in the vicinity of—	Citation
	Nov. 20, 1959	Alabama	Wheeler National Wildlife Refuge	24 F.R. 9513.
	Oct. 15, 1960	do	do	25 F.R. 9899.
2325	Mar. 21, 1939	Arkansas	Big Lake National Wildlife Refuge	3 CFR, Cum. Supp.; 4 F.R. 1309.
	Oct. 24, 1958	do	Holla Bend National Wildlife Refuge	23 F.R. 8429.
2274	Mar. 15, 1938	do	White River National Wildlife Refuge	3 F.R. 591.
	July 13, 1963	Delaware	Bombay Hook National Wildlife Refuge	28 F.R. 7228.
	Oct. 22, 1953	Florida	St. Marks National Wildlife Refuge	18 F.R. 6837.
	Oct. 20, 1960	do	do	25 F.R. 10030.
2758	Dec. 2, 1947	do	Sanibel National Wildlife Refuge	3 CFR, 1947 Supp.; 12 F.R. 8039.
2329	Apr. 10, 1939	Georgia	Savannah National Wildlife Refuge	3 CFR, Cum. Supp.; 4 F.R. 1595.
2748	Oct. 1, 1947	Illinois	Horseshoe Lake, Alexander County	3 CFR, 1947 Supp.; 12 F.R. 6521.
	Sept. 9, 1953	do	do	18 F.R. 5495.
	Oct. 2, 1958	Iowa	Upper Mississippi River Wild Life and Fish Refuge.	3 CFR, 1958 Supp.; 23 F.R. 7825.
2322	Feb. 7, 1939	Louisiana	Lacassine National Wildlife Refuge	3 CFR, Cum. Supp.; 4 F.R. 611.
	Sept. 26, 1962	do	Sabine National Wildlife Refuge.	27 F.R. 9516.
	Oct. 7, 1964	do	Delta National Wildlife Refuge	29 F.R. 13820.
2383	Jan. 24, 1940	Maryland	Susquehanna National Wildlife Refuge	3 CFR, Cum. Supp.; 5 .F.R 313.
2529	Dec. 6, 1941	do	do	3 CFR, Cum. Supp.; 6 F.R. 6347.
	Aug. 13, 1960	do	Martin National Wildlife Refuge	25 F.R. 7741.
2817	Oct. 18, 1948	Massachusetts	Parker River National Wildlife Refuge	3 CFR, 1948 Supp.; 13 F.R. 6115.
2593	Sept. 21, 1943	Michigan	Lake St. Clair National Wildlife Refuge	3 CFR, 1943 Supp.; 8 F.R. 12921.
	Oct. 2, 1958	Minnesota	Upper Mississippi River Wild Life and Fish Refuge.	3 CFR, 1958 Supp.; 23 F.R. 7825.
2200	Oct. 7, 1936	Montana	Red Rock Lakes Migratory Waterfowl Refuge	1 F.R. 1554.
2284	May 9, 1938	North Carolina	Pea Island National Wildlife Refuge	3 F.R. 912.
2129	July 18, 1935	do	Swanquarter National Wildlife Refuge	49 Stat. 3450.
	Aug. 21, 1963	do	Mackay Island National Wildlife Refuge	28 F.R. 9209.
2859	Oct. 20, 1949	Oregon	Malheur National Wildlife Refuge	3 CFR, 1949 Supp.; 14 F.R. 6425.
	Oct. 16, 1953	do	do	18 F.R. 6685.
2000	June 6, 1932	South Carolina	Cape Romain National Wildlife Refuge	47 Stat. 2513.
2329	Apr. 10, 1939	do	Savannah National Wildlife Refuge	3 CFR, Cum. Supp.; 4 F.R. 1595.
	Oct. 8, 1963	Tennessee	Cross Creeks National Wildlife Refuge	28 F.R. 10782.
	Aug. 23, 1956	Texas	Aransas National Wildlife Refuge	21 F.R. 6513.
	Oct. 13, 1964	do	Anahuac National Wildlife Refuge	29 F.R. 14075.
2370	Oct. 16, 1939	Virginia	Back Bay National Wildlife Refuge	3 CFR, Cum. Supp.; 4 F.R. 4285.
	Aug. 13, 1954	do	Presquile National Wildlife Refuge	19 F.R. 5290.
	Jan. 5, 1962	do	Back Bay National Wildlife Refuge	27 F.R. 104; 27 F.R. 858.
	Aug. 21, 1963	do	Mackay Island National Wildlife Refuge	28 F.R. 9209.
2439	Nov. 7, 1940	Washington	Willapa National Wildlife Refuge	3 CFR, Cum. Supp.; 5 F.R. 4443.
	Oct. 2, 1958	Wisconsin	Upper Mississippi River Wild Life and Fish Refuge.	3 CFR, 1958 Supp.; 23 F.R. 7825.

PART 13—IMPORTATION OF WILDLIFE OR EGGS THEREOF

Sec.

13.1 Meaning of terms.
13.2 General restrictions.
13.3 Importation of natural-history specimens.
13.4 Importation by Federal agencies.
13.5 Importation of live wild mammals.
13.6 Importation of live wild birds or their eggs.
13.7 Importation of live fish, mollusks, and crustaceans, or their eggs.
13.8 Importation of live amphibians or their eggs.
13.9 Importation of live reptiles or their eggs.
13.10 Permits.
13.11 General permit provisions.
13.12 Declaration required to be filed upon entry.
13.13 Compliance with other laws and regulations.

AUTHORITY: The provisions of this Part 13 issued under sec. 42, 62 Stat. 687, as amended, 18 U.S.C. 42; 77A Stat. 29, 19 U.S.C. 1202 (Sch. 1, pt. 4E, hdnote 1).

§ 13.1 Meaning of terms.

As used in this part, terms shall have the meaning ascribed in this section.

(a) "Director" refers to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, or his authorized representative.

(b) "Wild" refers to all creatures that, whether raised in captivity or not, normally are found in a wild state.

(c) "Wildlife" refers to all species of mammals, birds, fish, mollusks, crustaceans, amphibians, reptiles, or their progeny or eggs that, whether raised in captivity or not, normally are found in a wild state.

(d) "Migratory birds" refers to those species of wild birds and their eggs which (1) are indigenous to the United States, (2) belong to one of the Families of birds listed under § 10.1 of this chapter, and (3) are afforded protection under the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703).

(e) "Game birds" refers to those species of wild birds belonging to the following Families of birds:

(1) *Anatidae* (wild ducks, geese, brant, and swans).

(2) *Cariamidae* (cariamas).

(3) *Charadriidae* (plovers, turnstones, killdeer, and surfbirds).

(4) *Columbidae* (wild doves and pigeons).

(5) *Cracidae* (curassows, guans, and chachalaca).

(6) *Eurypygidae* (sunbitterns).

(7) *Gruidae* (cranes).

(8) *Haematopodidae* (oystercatchers).

(9) *Meleagrididae* (wild turkeys).

(10) *Numididae* (Guineafowls).

(11) *Otidae* (bustards and floricans).

(12) *Pedionomidae* (collared quail).

(13) *Phalaropodidae* (phalaropes).

(14) *Phasianidae* (quail, partridge, pheasants, and peafowl).

(15) *Pteroclidae* (sandgrouse).

(16) *Rallidae* (rails, gallinules, and coots).

(17) *Recurvirostridae* (avocets and stilts).

(18) *Rostratulidae* (painted snipe).

(19) *Scolopacidae* (woodcock, snipe, yellowlegs, curlews, willets, godwits, dowitchers, knots, sandpipers, and sanderlings).

(20) *Tetraonidae* (grouse and ptarmigan).

(21) *Thinocoridae* (seed snipe).

(22) *Tinamidae* (tinamous).

(23) *Turnicidae* (hemipode quail).

(f) "Nongame birds" refers to all other species of wild birds not considered as game birds under paragraph (e) of this section.

(g) "State" refers to any State, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

§ 13.2 General restrictions.

Any importation or transportation of live wildlife or eggs thereof into the United States or its territories or possessions is deemed to be injurious or potentially injurious to the health and welfare of human beings, to the interests of forestry, agriculture, and horticulture, and to the welfare and survival of the wildlife or wildlife resources of the United States; and any such importation into or the transportation of live wildlife or eggs thereof between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States, by any means whatsoever, is prohibited except for certain purposes and under certain conditions as hereinafter provided in this part: *Provided*, That the provisions of this section shall not apply to game mammals imported from Mexico or to migratory birds, psittacine birds, and bald and golden eagles, the importation of which is governed by other Federal regulations.

§ 13.3 Importation of natural-history specimens.

Nothing in this part shall restrict the importation and transportation, without a permit, of dead natural-history speci-

mens of wildlife or their eggs for museum or scientific collection purposes: *Provided*, That the provisions of this section shall not apply to dead migratory birds, the importation of which is governed by regulations under Parts 10 and 16 of this chapter; to dead game mammals from Mexico, the importation of which is governed by regulations under Part 15 of this chapter; or to dead bald and golden eagles or their eggs, the importation of which is governed by regulations under Part 11 of this chapter.

§ 13.4 Importation by Federal agencies.

Nothing in this part shall restrict the importation and transportation, without a permit, of any live wildlife by Federal agencies solely for their own use, upon the filing of a written declaration with the Collector of Customs at the port of entry as required under § 13.12: *Provided*, That the provisions of this section shall not apply to bald and golden eagles or their eggs, or to migratory birds or their eggs, the importations of which are governed by regulations under Parts 11 and 16 of this chapter, respectively.

§ 13.5 Importation of live wild mammals.

(a) The importation, transportation, or acquisition is prohibited of live specimens of (1) any species of so-called "flying fox" or fruit bat of the genus *Pteropus;* (2) any species of mongoose or meerkat of the genera *Atilax, Cynictis, Helogale, Herpestes, Ichneumia, Mungos,* and *Suricata;* (3) any species of European rabbit of the genus *Oryctolagus;* (4) any species of Indian wild dog, red dog, or dhole of the genus *Cuon;* and (5) any species of multimammate rat or mouse of the genus *Mastomys: Provided*, That the Director shall issue permits authorizing the importation, transportation, and possession of such mammals under the terms and conditions set forth in §§ 13.10 through 13.11.

(b) Upon the filing of a written declaration with the Collector of Customs at the port of entry as required under § 13.12, all other species of live wild mammals may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, but no such live wild mammals or any progeny thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency: *Provided*, That the provisions of this paragraph shall not apply to live game mammals from Mexico, the importation of which is governed by regulations under Part 15 of this chapter.

§ 13.6 Importation of live wild birds or their eggs.

(a) The importation, transportation, or acquisition is prohibited of any live specimen or egg of the species of so-called "pink starling" or "rosy pastor" scientifically classified as *Sturnus roseus: Provided*, That the Director shall issue permits authorizing the importation, transportation, and possession of such live birds under terms and conditions set forth in §§ 13.10 through 13.11.

(b) Upon the filing of a written declaration with the Collector of Customs at the port of entry as required under § 13.12, all species of live wild game birds may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, and the eggs of such birds may be imported, transported, and possessed, without a permit, for propagating or scientific collection purposes, but no such live wild game birds or any progeny thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency: *Provided*, That the provisions of this paragraph shall not apply to live migratory game birds or their eggs, the importation of which is governed by regulations under Part 16 of this chapter.

(c) Upon the filing of a written declaration with the Collector of Customs at the port of entry as required under § 13.12, all species of live, wild nongame birds (other than those listed in paragraph (a) of this section) may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, but no such live, wild nongame birds or any progeny thereof may be released into the wild except by or under the direction of State wildlife conservation agencies when such agencies have received prior written permission from the Director for such release: *Provided*, That the provisions of this paragraph shall not apply to live bald and golden eagles or to live migratory birds, the importation of which is governed by regulations under Parts 11 and 16 of this chapter, respectively, or to birds of the Family *Psittacidae* (parrots, macaws, cockatoos, parakeets, lories, lovebirds, etc.), the importation and transportation of which is governed by U.S. Public Health Service regulations under 42 CFR 71 and 72.

(d) The importation of the eggs of wild nongame birds is prohibited except as permitted under § 13.3.

§ 13.7 Importation of live fish, mollusks, and crustaceans, or their eggs.

Upon the filing of a written declaration with the Collector of Customs at the port of entry as required under § 13.12, all species of live fish, mollusks, and crustaceans, or their eggs may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, but no such live fish, mollusks, and crustaceans, or any progeny or eggs thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency.

§ 13.8 Importation of live amphibians or their eggs.

Upon the filing of a written declaration with the Collector of Customs at the port of entry as required under § 13.12, all species of live amphibians or their eggs may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, but no such live amphibians or any progeny or eggs thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency.

§ 13.9 Importation of live reptiles or their eggs.

Upon the filing of a written declaration with the Collector of Customs at the port of entry as required under § 13.12, all species of live reptiles or their eggs may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, but no such live reptiles or any progeny or eggs thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency.

§ 13.10 Permits.

(a) Applications for permits issued pursuant to this part shall be made by letter addressed to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, and shall contain the following information:

(1) The name, address, and age of the applicant;

(2) The number of specimens and the common and scientific names (genus and species) of each species of live wildlife proposed to be imported or otherwise acquired, transported, and possessed;

(3) The purpose of such importation or other acquisition, transportation, and possession;

(4) The address of the premises where such live wildlife will be kept in captivity;

(5) The name and address of the consignor or other person from whom such wildlife will be acquired; and

(6) A statement of applicant's qualifications and previous experience in caring for and handling captive wildlife.

(b) No permit will be issued unless the Director has determined that:

(1) The wildlife is being imported or otherwise acquired for a bona fide scientific, medical, educational, or zoological exhibition purpose;

(2) The facilities for holding the wildlife in captivity have been inspected and approved, and consist of a basic cage or structure of a design and material adequate to prevent escape which is maintained inside a building or other facility of such structure that the wildlife could not escape from the building or other facility after escaping from the cage or structure maintained therein;

(3) The applicant is a responsible person who is aware of the potential dangers to public interests posed by such wildlife, and who by reason of his knowledge, experience, and facilities reasonably can be expected to provide adequate protection for such public interests; and

(4) If such wildlife is to be imported or otherwise acquired for zoological or aquarium exhibition purposes, such exhibition or display will be open to the public during regular, appropriate hours.

§ 13.11 General permit provisions.

All permits issued pursuant to this part shall be subject to the following conditions:

(a) All live wildlife acquired under permit and all progeny thereof, must be confined in the approved facilities on the premises authorized in the permit.

(b) No live wildlife, acquired under permit, or any eggs or progeny thereof, may be sold, donated, traded, loaned, or transferred to any other person unless such person has a permit issued by the Director under § 13.10 authorizing him to acquire and possess such wildlife or the eggs or progeny thereof.

(c) Permittees shall comply with any special terms, conditions, or restrictions prescribed in the permit.

(d) Permittees shall allow, at all reasonable times, any person authorized to enforce the provisions of this part, free and unrestricted access to the premises where wildlife will be, is, or has been confined.

(e) Permittees shall submit a report of all live wildlife acquired under authority of a permit to the Director within 10 days following the date of such acquisition.

(f) Permittees must notify the Director by letter within 10 days following the death and by telephone or telegraph within 24 hours following the escape of any wildlife or their progeny possessed under authority of a permit, unless specifically exempted from either requirement by special terms of his permit.

(g) Permits issued pursuant to this part shall not be construed to authorize the importation or other acquisition, possession, transportation, or disposal of any live wildlife contrary to any applicable laws or regulations of any State concerned and unless the permittee also possesses whatever State permit may be required for such activities.

§ 13.12 Declaration required to be filed upon entry.

With respect to any authorized importation of live wildlife, without a permit, pursuant to provisions of §§ 13.4 through 13.9, the importer or his broker must file a Declaration for Importation of Wildlife (Bureau of Sport Fisheries and Wildlife Form 3–177 available through Customs at ports of entry) with the Collector of Customs at the port of entry where actual Customs inspection for clearance or release occurs. Such declaration must list the name and address of the importer and the broker if any; the name and address of the consignor; and the number of specimens and the common and scientific names of each species imported: *Provided*, That no such declaration shall be required for the importation of domesticated canaries and psittacine birds.

§ 13.13 Compliance with other laws and regulations.

Any importation or other acquisition, transportation, and possession of wildlife permitted by this part does not relieve or eliminate responsibility for complying with any applicable health, quarantine, agriculture, customs, permit, or other requirements imposed by the laws or regulations of other duly authorized Federal and State agencies.

CROSS REFERENCE: For U.S. Public Health Service regulations see 42 CFR Parts 71 and 72; for Bureau of Customs regulations see 19 CFR Part 12; and for Department of Agriculture regulations see 9 CFR Parts 92, 94, 102, and 122.

PART 14—IMPORTATION OF FEATHERS OF WILD BIRDS

Sec.

14.1 Fees and applications for importation permits.
14.2 Filing dates for applications.
14.3 Allocation of calendar year quotas.
14.4 Reallocation of unused calendar year quotas.
14.5 Issuance of importation permits.
14.6 Tenure of importation permits.
14.7 Compliance with other regulations.

AUTHORITY: The provisions of this Part 14 issued under par. 1518, 46 Stat. 881, as amended; 19 U.S.C. 1202, 66 Stat. 755.

§ 14.1 Fees and applications for importation permits.

(a) Effective September 1, 1961, and thereafter, a fee of $10 will be charged for any importation permit issued pursuant to this part. Such fee must be submitted at the time and in the form prescribed in §§ 14.2(b) and 14.3(d).

(b) All persons desiring to share in the allocation of annual import quotas of skins bearing feathers of the grey jungle fowl (Gallus sonneratii), the mandarin duck (Dendronessa galericulata), and the following species of pheasant: Lady Amherst pheasant (Chrysolophus amherstiae), golden pheasant (Chrysolophus pictus), silver pheasant (Lophura nycthemera), Reeves pheasant (Syrmaticus reevesii), blue-eared pheasant (Crossoptilon auritum), and brown-eared pheasant (Crossoptilon mantchuricum), must apply during the periods specified in § 14.2 by letter addressed to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240. The letter must contain the following information:

(1) Name and address of applicant, nature of business, and the purpose for which feathers are required.

(2) Port at which entry has been or is to be made.

(3) Quantity of each species of bird skin or part thereof for which an importation permit is desired.

(4) Certification, that in the case of grey jungle fowl and mandarin duck, the skins are to be used only in the manufacture of fishing flies.

§ 14.2 Filing dates for applications.

Each application for a quota allocation must be postmarked during the dates set forth in paragraphs (a) and (b) of this section in order to be considered.

(a) Applicants desiring to participate in the allocation of calendar year quotas shall submit applications from September 1 through September 30 of the year preceding the calendar year for which quota allocations are to be made.

(b) Applicants desiring to participate in the reallocation of such portions of the established annual quotas as may become available for reallocation, shall submit applications from July 1 through July 31 of the calendar year for which the unused portions of the quota allocations were originally made, and in order to be considered, such applications must be accompanied by the prescribed $10 fee in the form of a postal money order or a check made payable to the Bureau of Sport Fisheries and Wildlife.

§ 14.3 Allocation of calendar year quotas.

As promptly as possible after the closing date for filing, all applications timely filed will be considered and tentative quotas allocated by the method set forth in paragraphs (a) through (e) of this section. For the purposes of this section, the six species of pheasant named in § 14.1 shall be grouped together and considered as one species.

(a) The number of eligible applicants for skins of grey jungle fowl, mandarin duck, and pheasants, respectively, shall be divided into the quotas of skins available for the ensuing calendar year for the respective species, to determine the number of skins of each species the several applicants would be entitled to import on an equal basis.

(b) Any applicant for an allocation in an amount equal to or less than the average quantity established for all applicants pursuant to paragraph (a) of this section is entitled to receive an allocation of the quantity for which he applied.

(c) After the allocations are made under paragraph (b) of this section, all remaining unallocated quantities of skins of the respective species shall be allocated equally among those applicants who applied for more than the average quantities determined under paragraph (a) of this section. However, no applicant shall be allocated a quantity of skins in excess of the number applied for.

(d) Each applicant shall then be furnished a tabulation by Registered or Certified Mail, Return Receipt requested, of the quantities of each species requested and the quantites proposed to be allocated to each applicant. Each applicant must then report by letter addressed to the Director, postmarked not later than 30 days after date of receipt of the notice of proposed allocations, that he accepts the proposed allocation. The letter must contain satisfactory proof, such as a copy of a currently confirmed order, that orders have been placed for the importing of his allocation of bird skins and must be accompanied by the prescribed $10 fee in the form of a postal money order or a check made payable to the Bureau of Sport Fisheries and Wildlife. Applicants failing to respond to the notice of proposed allocations or failing

to furnish the prescribed fee shall be deemed to have withdrawn their applications. Applicants who submit the required showing and fee by other than Registered or Certified Mail, do so at their own risk.

(e) Any quantities of bird skins of the respective species which become available for allocation through the failure of applicants to submit the proper showing as required in paragraph (d) of this section, shall promptly be allocated among those applicants whose requests were not satisfied in full, using the methods prescribed in paragraphs (a) through (c) of this section to determine the additional quantity of skins allowable to each such applicant.

§ 14.4 Reallocation of unused calendar year quotas.

Any portion of the calendar year quotas which may become available for reallocation through surrender or nonuse, in whole or in part, of permits expiring on June 30 of any year, shall be reallocated as promptly as possible after the closing date for filing among applicants who have submitted proper applications in accordance with § 14.2(b). Such reallocations shall be made by the method prescribed in § 14.3 (a) through (c). If the quantities of the respective species of bird skins are insufficient to permit reallocation among all applicants by such method, preference shall be given to those applications bearing the earliest postmark.

§ 14.5 Issuance of importation permits.

As soon as practicable after the annual quota allocations or reallocations have been determined, the quotas allocated to successful applicants shall be evidenced by importation permits, issued in letter form, directed to the respective Collectors of Customs at the ports of entry specified in the applications. Such permits shall authorize the entry, or withdrawal from warehouse, of the quantities of bird skins allocated to each applicant. Until such time as it shall be found necessary to reduce the import quota established for pheasants, importation permits will not differentiate between the six species of pheasant named in § 14.1, but will authorize the importation of a stated number of pheasant skins in the aggregate, without specifying the species. A copy of the importation permit will be furnished each successful applicant as notice to him of his allocation. Importation permits are nontransferable and are subject to cancellation only if it is determined that the permit has been mistakenly issued, that the applicant has made a material misrepresentation in connection therewith, or if the permittee informs the Director that he will be unable to bring or import his quota of bird skins into the United States during the period specified in the permit. Permits are also subject to the further conditions set forth in § 14.6.

§ 14.6 Tenure of importation.

(a) Importation permits covering the calendar year quota allocations are issued as of January 1, and remain in effect through June 30 of the year of issue. No extension of time shall be granted on such permits and any portion of the quota allocations which become available through surrender or nonuse, in whole or in part, of a permit expiring on June 30, shall be reallocated among applicants who submit proper applications.

(b) Importation permits covering the reallocations made pursuant to § 14.2 (b) shall be issued as promptly as possible after July 31 and remain in effect through December 31 of the year of issue. No extension of time shall be granted on such permits, and any portion of the quotas so reallocated which are not imported through surrender or nonuse of reallocation permits, in whole or in part, on or before December 31 of the year of issue, shall lapse and no further allocation thereof shall be made.

§ 14.7 Compliance with other regulations.

Any importation permitted by the regulations in this part is also subject to any applicable health, quarantine, customs, or other requirements imposed by law or by regulation of duly authorized Federal or State agencies and municipalities.

PART 15—TRANSPORTATION OF GAME MAMMALS TO AND FROM MEXICO

Sec.
15.1 Scope of regulations.
15.2 Transportation to Mexico.
15.3 Transportation from Mexico.

AUTHORITY: The provisions of this Part 15 issued under sec. 4, 40 Stat. 755, as amended; 16 U.S.C. 705. E.O. 10250, 16 F.R. 5385, 3 CFR 1949–1953 Comp.

§ 15.1 Scope of regulations.

The regulations in this part govern the importation and exportation of those species of game mammals specified in the terms of the convention between the United States and the United Mexican States for the protection of migratory birds and game mammals, concluded February 7, 1936 (50 Stat. 1311). These species are antelope, mountain sheep, deer, bear, peccary, squirrel, rabbit, and hare.

§ 15.2 Transportation to Mexico.

Game mammals, dead or alive, or parts or products thereof, taken in and transported from the United States or any territory subject to its jurisdiction may be transported to Mexico, if the importation is not prohibited by Mexican law or regulation. The transporter must present to the Collector of Customs at the port of exit a certificate of an official, warden, agent, or other officer of the game department of the State or territory, that such game mammals, or parts or products thereof, which must be listed in the certificate, were taken or acquired and are being transported in compliance with the laws and regulations of the State or territory.

§ 15.3 Transportation from Mexico.

Game mammals, dead or alive, or their parts or products, may be transported from Mexico into the United States if accompanied by a Mexican export permit. If alive, the mammals must also be accompanied by such permit as may be required under regulations of the Secretary of the Treasury (19 CFR 12.26), relating to the transportation of wild birds and other animals under humane and healthful conditions: *Provided,* That their possession in any State or territory of the United States shall be subject to the laws of such State or territory.

CROSS REFERENCE: For Bureau of Animal Industry regulations relating to importation of certain animals and poultry and certain animal and poultry products from Mexico, see 9 CFR Part 92.

PART 16—MIGRATORY BIRD PERMITS

Sec.
16.1 Meaning of terms.
16.2 Permits required.
16.3 Exceptions to permit requirement.
16.4 General permit authorizations.
16.5 General permit provisions.
16.6 Transportation and shipping requirements.
16.7 Applicability of State laws.
16.8 Revocation of permits.
16.9 Import and export permits.
16.10 Jurisdiction and address of regional offices.
16.11 Scientific collecting and special purpose permits.
16.12 Taxidermist permits.
16.13 Banding permits.
16.14 Waterfowl propagating permits.
16.15 Acquisition, without a permit, of captive-reared migratory waterfowl other than mallard ducks.
16.16 Acquisition, without a permit, of captive-reared mallard ducks.

CONTROL OF DEPREDATING BIRDS

16.21 Depredation permits.
16.22 Depredating blackbirds, cowbirds, and grackles.
16.23 Designated species of depredating birds in California.
16.24 Depredating purple gallinules in Louisiana.
16.25 Authority to issue depredation orders to permit the killing of migratory game birds.

FEEDING OF DEPREDATING WATERFOWL

16.31 Statutory provisions.
16.32 Interpretation.
16.33 Policy.
16.34 Waterfowl depredation complaints; where filed.
16.35 Criteria to govern approval of applications.
16.36 Action following investigation.
16.37 Compliance with other regulations.

AUTHORITY: The provisions of this Part 16 issued under secs. 2, 3, 70 Stat. 492, 40 Stat. 755; 7 U.S.C. 443, 16 U.S.C. 704, E.O. 10250, 16 F.R. 5385, 3 CFR, 1949–1953 Comp.

§ 16.1 Meaning of terms.

As used in this part, terms shall have the meaning ascribed in this section.

(a) "Migratory birds" refers to all those species of birds defined as migratory birds under § 10.1 of Part 10 of this subchapter, and includes all birds of these species which, whether raised in captivity or not, cannot be readily and visibly distinguished by general size or coloration from birds of the same species occurring in a wild state.

(b) "Migratory waterfowl" refers to all those species of wild ducks, geese, brant, and swans included in the definition of migratory birds under § 10.1 of Part 10 of this subchapter and paragraph (a) of this section.

(c) "Public" as used in referring to museums, zoological parks, and scientific or educational institutions refers to such as are open to the general public and either established, maintained, and operated as a governmental service or are privately endowed and incorporated but not operated for profit.

(d) "Take" means to pursue, hunt, shoot, capture, collect, kill, trap, or attempt to pursue, hunt, shoot, capture, collect, kill, or trap.

§ 16.2 Permits required.

Except as permitted by regulations under this part or under Part 10 of this subchapter (the hunting regulations), a permit is required for any person to import, export, take, sell, purchase, otherwise acquire, possess, transport, or dispose of migratory birds or their progeny, parts, nests, or eggs.

§ 16.3 Exceptions to permit requirement.

The following exceptions to the permit requirement are allowed in addition to those allowed in the hunting regulations under Part 10 of this subchapter.

(a) Certain species of migratory birds may, without a permit, be taken and disposed of to control depredations as provided in §§ 16.21 through 16.25.

(b) Employees of the Department of the Interior authorized to enforce the provisions of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703 et seq.), may, without a permit, take or otherwise acquire, hold in custody, transport, and dispose of migratory birds or their parts, nests, or eggs as necessary in performing their official duties.

(c) State game departments, municipal game farms or parks, and public museums, zoological parks, and scientific or educational institutions may acquire by gift or purchase, possess, transport, and by gift or sale dispose of lawfully acquired migratory birds or their progeny, parts, nests, or eggs without a permit: *Provided*, That such birds may be acquired only from persons authorized by this paragraph or by a permit issued pursuant to this part to possess and dispose of such birds, or from Federal or State game authorities by the gift of seized, condemned, or sick or injured birds. Any such birds, acquired without a permit, and any progeny therefrom may be disposed of only to persons authorized by this paragraph to acquire such birds without a permit. Any person exercising a privilege granted by this paragraph must keep accurate records of such operations showing the species and number of birds acquired, possessed, and disposed of; the names and addresses of the persons from whom such birds were acquired or to whom such birds were donated or sold; and the dates of such transactions. These records shall be maintained on a calendar year basis and shall be retained for a period of 1 year following the end of the calendar year covered by the records.

(d) Migratory waterfowl which have been hatched and raised in captivity or the carcasses or eggs of such birds may be lawfully acquired, possessed, transported, and disposed of without a permit in accordance with the conditions and restrictions set forth in the provisions of §§ 16.15 and 16.16.

§ 16.4 General permit authorizations.

(a) Migratory bird permits may be issued to authorize: (1) The importation, exportation, taking, sale, purchase, other acquisition, possession, transportation, and disposal of migratory waterfowl and their progeny or eggs for propagating and food purposes; (2) the taking and disposal of wild migratory birds or their nests or eggs for depredation control purposes; (3) the importation, exportation, taking, sale, purchase, other acquisition, possession, transportation, and disposal of migratory birds or their progeny, parts, nests, or eggs for scientific, educational, and other special purposes; and (4) the receiving, custody or possession, transportation, and mounting or other preparation by a taxidermist of migratory birds or their parts, nests, or eggs for any person other than himself.

(b) Consistent with the preservation of migratory birds and with the purposes of this part, applications for migratory bird permits may be disapproved, or approved and permits issued pursuant to the provisions of this part.

§ 16.5 General permit provisions.

Permits issued pursuant to this part are subject to the following provisions:

(a) Permittees must comply with such special terms, conditions, restrictions, or limitations as may be prescribed in the permit.

(b) Importations from Mexico must be accompanied by Mexican export permits.

(c) Permits are not transferable.

(d) Permittees may not dispose of migratory birds or their progeny, parts, nests, or eggs to any person not authorized by or pursuant to this part to acquire such migratory birds or their parts, nests, or eggs; nor may a permittee acquire any migratory birds or their parts, nests, or eggs from any person not authorized by or pursuant to this part to dispose of such migratory birds or their progeny, parts, nests, or eggs.

(e) Permittees must, during reasonable hours, allow any person authorized to enforce this part to enter and inspect the premises where permit operations are being carried on and any records of such operations required to be maintained.

§ 16.6 Transportation and shipping requirements.

Every package or container, in which migratory birds or their parts, nests, or eggs are shipped by common carrier wholly within a State or are transported by any means whatsoever from one State, territory, or district to or through another State, territory, or district, or to a foreign country, shall be clearly marked, labeled, or tagged on the outside thereof. These labels or tags shall show the name and address of the consignor and consignee; and an accurate statement of the species and number of birds or their parts, nests, or eggs contained therein; and the permit number under authority of which the birds or their parts, nests, or eggs are transported if a permit is required.

§ 16.7 Applicability of State laws.

Nothing in this part or in any permit issued thereunder shall be construed to authorize the taking, possession, sale, purchase, exchange, or transportation of migratory birds or their parts, nests, or eggs in any State contrary to the laws and regulations of that State: *Provided*, That such laws and regulations are for the purpose of giving further protection to such birds and are not inconsistent with the conventions between the United States and any foreign country for the protection of migratory birds or with the Migratory Bird Treaty Act. No permit issued or privilege granted under this part shall authorize the taking, possession, purchase, sale, exchange, or transportation of migratory birds or their parts, nests, or eggs unless the person also possesses whatever permit may be required for such activities by the State concerned.

§ 16.8 Revocation of permits.

(a) Permits issued pursuant to this part may be revoked and the privileges granted thereunder withdrawn:

(1) If the permittee violates any regulation prescribed in this part; or

(2) When the activities of the permittee, involving live birds or feed on the premises of the permittee, are an element in a violation by the permittee or other person of the migratory bird hunting regulations governing the use of live decoys or bait in the taking of migratory game birds (§ 10.3 of this subchapter) on the premises covered by the permit, or where such activities on the premises of the permittee would preclude the legal hunting of migratory game birds on adjacent premises not under control of the permittee.

(b) Any person whose permit has been revoked shall not be issued a like permit until at least 1 year after the date of revocation.

§ 16.9 Import and export permits.

Applications for permits to import or export migratory birds or their parts, nests, or eggs, except captive-reared mallards (§ 16.16), for purposes provided in this part shall be made by letter addressed to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, and shall contain the following information:

(a) Name and address of the applicant and the purpose for which importation or exportation is being made;

(b) Species and number of migratory birds or their parts, nests, or eggs to be imported or exported;

(c) Name and address of the person from whom such birds are being imported or to whom they are being exported;

(d) Estimated date of arrival or departure of shipment, and the port of entry or exit through which the shipment will be imported or exported; and

(e) Federal permit number and type of permit authorizing possession, acquisition, or disposition of such birds or their parts, nests, or eggs, where such a permit is required.

§ 16.10 Jurisdiction and address of regional offices.

Geographic jurisdictions and addresses of Bureau of Sport Fisheries and Wildlife regional offices are as follows:

(a) Pacific Region (Region 1—comprising the States of Alaska, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington) Post Office Box 3737, Portland, Oreg. 97208;

(b) Southwest Region (Region 2—comprising the States of Arizona, Colorado, Kansas, New Mexico, Oklahoma, Texas, Utah, and Wyoming) Post Office Box 1306, Albuquerque, N. Mex. 87103;

(c) North Central Region (Region 3—comprising the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin) 1006 West Lake Street, Minneapolis, Minn. 55408;

(d) Southeast Region (Region 4—comprising the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia, plus Puerto Rico and the Virgin Islands) Peachtree—Seventh Building, Atlanta, Ga. 30323; and

(e) Northeast Region (Region 5—comprising the States of Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia) U.S. Post Office and Courthouse, Boston, Mass. 02109.

§ 16.11 Scientific collecting and special purpose permits.

(a) Applications for scientific collecting and other special purpose permits shall be made by letter addressed to the Regional Director at the regional office having administrative jurisdiction over Bureau functions in the State where permit activities are proposed. (See § 16.10 for geographical jurisdiction and addresses of regional offices.) Such applications shall contain the following information:

(1) Name, address, and age of applicant;

(2) Species and number of migratory birds or their parts, nests, or eggs proposed to be taken or acquired when it is possible to determine same in advance;

(3) Statement of the purpose and a justification for granting such a permit; and

(4) In the case of scientific collecting permits, the name and address of the public scientific or educational institution to which all specimens will ultimately be donated.

(b) The tenure of scientific collecting or other special purpose permits shall be from date of issue through the 31st day of December of the second full calendar year following the year of issue unless a different period of time is prescribed in the permit.

(c) All specimens taken and possessed under authority of a scientific collecting permit must be donated and transferred to the public scientific or educational institution designated in the permit application within 60 days following the date such permit expires or is revoked, unless the permittee has been issued a special permit authorizing possession for a longer period of time.

(d) All permittees must keep accurate records of their operations and file a report of such operations, negative or otherwise, by letter or on a form furnished for that purpose, on or before January 10 of each calendar year following the year of issue unless a different date is stated in the permit.

§ 16.12 Taxidermist permits.

(a) A taxidermist permit is required before any person may perform taxidermy services on migratory birds or their parts, nests, or eggs for any person other than himself. Such permits authorize permittees to receive specimens from, transport, hold in custody or possession, mount or otherwise prepare, and return prepared specimens to another person.

(b) Original applications for a taxidermist permit shall be made by letter addressed to the Regional Director at the regional office having administrative jurisdiction over Bureau functions in the State where permit activities are proposed. (See § 16.10 for geographical jurisdiction and addresses of regional offices.) Such applications shall contain the following information:

(1) Name, age, mailing address, and telephone number of applicant;

(2) Address of premises where taxidermist operations are proposed if different than mailing address;

(3) Statement of applicant's qualifications and experience as a taxidermist; and

(4) Where a State permit is required by State law, whether or not applicant possesses a valid State permit and the number and expiration date of such State permit.

(c) Requests for renewals of existing permits shall be made by letter to the regional office issuing the permit not later than 30 days preceding the expiration date of the permit.

(d) The tenure of taxidermist permits or renewals thereof shall be from date of issue through the 31st day of December of the second full calendar year following the year of issue.

(e) Permittees must keep accurate records of operations, on a calendar year basis, showing the names and addresses of persons from and to whom migratory birds or their parts, nests, or eggs were received or delivered, the number and species of such, and the dates of receipt and delivery. Permittees must retain such records for a period of 1 year following the end of the calendar year covered by the records.

§ 16.13 Banding permits.

(a) A banding permit is required before any person may capture migratory birds for banding purposes or use official bands issued by the Bureau of Sport Fisheries and Wildlife for banding any species of bird.

(b) Applications for banding permits shall be made by letter addressed to the Bird Banding Laboratory, Migratory Bird Populations Station, Bureau of Sport Fisheries and Wildlife, Laurel, Md. 20810. Requests for renewals of existing permits shall be made by letter not later than 30 days prior to the expiration date of the permit.

(c) The banding of migratory birds shall be by official numbered leg bands issued by the Bureau of Sport Fisheries and Wildlife. The use of any other band, clip, dye, or other method of marking is prohibited unless specifically authorized in the banding permit.

(d) All traps or nets used to capture migratory birds for banding purposes shall have attached thereto a tag or label clearly showing the name and address of the permittee and his permit number, or the area in which such traps or nets are located must be posted with Notice of Banding Operations posters (form 3–1155, available upon request from the Bird Banding Laboratory, Migratory Bird Populations Station, Bureau of Sport Fisheries and Wildlife, Laurel, Md. 20810) which shall bear the name and address of the permittee and the number of his permit.

(e) Banding permits may be suspended or revoked for a violation of any provision of the Migratory Bird Treaty Act or the regulations issued thereunder, or for failure to maintain and submit required records and reports or to comply with any special terms, conditions, or restrictions incorporated in the banding permit.

§ 16.14 Waterfowl propagating permits.

(a) A waterfowl propagating permit is required before any person may lawfully sell, trade, donate, or otherwise dispose of, to another person, any species of captive-reared and properly marked migratory waterfowl or their eggs other than mallard ducks.

(b) Original requests for a propagating permit shall be made by letter addressed to the Regional Director at the regional office having administrative jurisdiction over Bureau functions in the State where permit activities are proposed. (See § 16.10 for geographical jurisdiction and addresses of regional offices.) The applicant will then be furnished an application form to be completed and returned to the regional office.

(c) The tenure of propagating permits or renewals thereof shall be from date of issue through the 31st day of December of the second full calendar year following the year of issue.

(d) Requests for renewals of existing permits shall be made by letter to the regional office issuing the permit not later than 30 days preceding the expiration date of the permit.

(e) When issued, these permits will authorize such disposal subject to the following conditions, restrictions, and requirements:

(1) Effective March 1, 1967, all live migratory waterfowl possessed in captivity under authority of a valid Federal propagating permit shall be physically marked within 60 days by removal of the hind toe from the right foot. All such birds hatched, raised and retained in captivity thereafter shall be so marked prior to reaching 4 weeks of age. The preceding does not apply to captive adult geese, swans, and brant which have previously been marked by a "V" notch in the web of one foot, nor to such adult birds held in captivity at public institutions as defined in § 16.1(c).

(2) Such properly marked birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all the applicable hunting regulations governing the taking of like species from the wild.

(3) At all times during possession, transportation, and storage until the raw carcasses of such birds are finally processed immediately prior to cooking, smoking, or canning, the marked foot must remain attached to each carcass: *Provided,* That permittees who are also authorized to sell game under a State license, permit, or authorization may remove the marked foot from raw carcasses if the number of his State license, permit, or authorization has first been legibly stamped in ink on the back of each carcass or on the wrapping or container in which each carcass is maintained, or each carcass is identified by a State band on leg or wing pursuant to requirements of his State license, permit, or authorization.

(4) Such properly marked birds, alive or dead, or their eggs may be disposed of in any number, at any time or place, to any person: *Provided,* That on each date that any such birds or their eggs are transferred to another person, the permittee must complete a form 3–186, Notice of Waterfowl Sale or Transfer. (Bureau will provide supplies of form.) The permittee will furnish the original of completed form 3–186 to the person acquiring the birds or eggs; retain one copy in his files as a record of his operations; and, on or before the last day of each month, mail three copies of each form completed during that month to the regional office of the Bureau of Sport Fisheries and Wildlife which issued his permit.

(5) Within 10 days following December 31 of each calendar year, permittee must file a report, negative or otherwise, on a form furnished for that purpose, listing the number and species of migratory waterfowl and their eggs on hand as of December 31.

§ 16.15 Acquisition, without a permit, of captive-reared migratory waterfowl other than mallard ducks.

Any person may, without a permit, lawfully acquire captive-reared and properly marked migratory waterfowl of all species other than mallard ducks, alive or dead, or their eggs, and possess and transport such birds or eggs and any progeny or eggs therefrom solely for his own use subject to the following conditions and restrictions:

(a) Such birds, alive or dead, or their eggs may be lawfully acquired only from holders of valid Federal waterfowl propagating permits except that properly marked carcasses of such birds may also be lawfully acquired as provided under paragraph (c) of this section.

(b) All progeny of such birds or eggs hatched, raised, and retained in captivity must be physically marked by removal of the hind toe from the right foot prior to reaching 4 weeks of age.

(c) No such birds or eggs or any progeny or eggs thereof may be disposed of by any means, alive or dead, to any other person unless a special Federal permit has first been secured authorizing such disposal: *Provided,* That bona fide clubs, hotels, restaurants, boarding houses, and dealers in meat and game may serve or sell to their customers the carcasses of any such birds which they have acquired from the holder of a valid Federal waterfowl propagating permit.

(d) Lawfully possessed and properly marked birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all applicable hunting regulations governing the taking of like species from the wild. (See Part 10 of this subchapter.)

(e) At all times during possession, transportation, and storage until the raw carcasses of such birds are finally processed immediately prior to cooking, smoking, or canning, the marked foot must remain attached to each carcass unless such carcasses were otherwise properly marked and the foot removed prior to acquisition.

(f) When any such birds, alive or dead, or their eggs are acquired from a Federal waterfowl propagating permittee, the permittee will furnish a copy of form 3–186, Notice of Waterfowl Sale or Transfer, to be retained on file by the buyer during his possession of such birds or eggs or progeny or eggs thereof.

§ 16.16 Acquisition, without a permit, of captive-reared mallard ducks.

Captive-reared and properly marked mallard ducks, alive or dead, or their eggs may be acquired, possessed, sold, traded, donated, transported, exported (but not imported), and disposed of by any person without a permit, subject to the following conditions, restrictions, and requirements:

(a) Effective March 1, 1967, all such live mallard ducks then possessed in captivity, without a permit, shall be physically marked by removal of the hind toe from the right foot within 60 days, and all such ducks hatched, raised, and retained in captivity thereafter shall be so marked prior to reaching 4 weeks of age.

(b) When so marked, such live birds may be disposed of to, or acquired from, any person and possessed and transported in any number at any time or place.

(c) When so marked, such live birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all applicable hunting regulations governing the taking of mallard ducks from the wild: *Provided,* That such birds may be killed by shooting, in any number, at any time, on any premises operated as a shooting preserve under State license, permit, or authorization; or they may be shot, in any number, at any time or place, by any person for bona fide dog training or field trial purposes.

(d) At all times during possession, transportation, and storage until the raw carcasses of such birds are finally processed immediately prior to cooking, smoking, or canning, the marked foot must remain attached to each carcass: *Provided,* That persons, who operate game farms or shooting preserves under a State license, permit, or authorization for such activities, may remove the marked foot when either the number of his State license, permit, or authorization has first been legibly stamped in ink on the back of each carcass or on the container in which each carcass is maintained, or each carcass is identified by a State band on leg or wing pursuant to requirements of his State license, permit, or authorization. When properly marked, such carcasses may be disposed of to, or acquired from, any person and possessed and transported in any number at any time or place.

Control of Depredating Birds

§ 16.21 Depredation permits.

Upon receipt of information from the owner, tenant, sharecropper, or other person that migratory birds are injuring his crops or other property on the land on which he resides, or over which he exercises control, together with a statement of the location of the area; the nature of the crops or other interests being injured; the extent of such injury; and the particular species of birds committing the injury, an investigation will be made. If it is then determined that the injury complained of is substantial and can be abated, a permit to frighten, herd, or kill such birds may be issued. The permit shall specify the person, the time, and the method by which such birds may be frightened, herded, or killed. The permit shall further provide that all dead birds shall be disposed of as prescribed therein; that a report shall be made of the operations; and shall include such other conditions as may be appropriate in each case.

§ 16.22 Depredating blackbirds, cowbirds and grackles.

A permit shall not be required to kill yellow-headed, red-winged, bi-colored red-winged, tri-colored red-winged, and Brewer's blackbirds, cowbirds, and all grackles when found committing or about to commit serious depredations upon ornamental or shade trees or agricultural crops; *Provided:*

(a) That none of the birds killed pursuant to this section, nor their plumage, shall be sold or offered for sale.

(b) That any person exercising any of the privileges granted by this section shall permit at all reasonable times, including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require, concerning said operations.

(c) That nothing in this section shall be construed to authorize the killing of such birds contrary to any State laws or regulations; and that none of the privileges granted under this section shall be exercised unless the person possesses whatever permit as may be required for such activities by the State concerned.

§ 16.23 Designated species of depredating birds in California.

In any county in California in which meadowlarks, horned larks, golden-crowned, white-crowned, and other crowned sparrows, goldfinches, house finches, acorn woodpeckers, Lewis woodpeckers, and flickers are, under extraordinary conditions, seriously injurious to agricultural or other interests, the Commissioner of Agriculture may, without a permit, kill or cause to be killed under his general supervision such of the above migratory birds as may be necessay to safeguard any agricultural or horticultural crop in the county: *Provided:*

(a) That such migratory birds shall be killed only when necessary to protect agricultural or horticultural crops from depredation; that none of the above migratory birds killed, or the parts thereof, or the plumage of such birds, shall be sold or removed from the area where killed; but that all such dead migratory birds shall be buried or otherwise destroyed within this area, except that any specimens needed for scientific purposes, as determined by the State or the Secretary, shall not be destroyed.

(b) That any Commissioner of Agriculture exercising the privileges granted by this section shall keep records of the persons authorized by the Commissioner to kill such migratory birds, and the estimated number of such birds killed pursuant to the exercise of his authority, and the Commissioner shall submit a report thereof to the Secretary on or before December 31 of each year or whenever the Secretary so requests.

§ 16.24 Depredating purple gallinules in Louisiana.

Landowners, sharecroppers, tenants, or their employees or agents, actually engaged in the production of rice in Louisiana, may, without a permit, shoot purple gallinules (Ionornis martinica) when found committing or about to commit serious depredations to growing rice crops on the premises owned or occupied by such persons: *Provided:*

(a) That purple gallinules may only be killed pursuant to this section between May 1 and August 15 in any year.

(b) That purple gallinules killed pursuant to this section shall not be transported or sold or offered for sale except that, such transportation within the area, as may be necessary to bury or otherwise destroy the carcasses of such birds is permitted: *Provided,* That the Secretary, or the State agricultural department, college, or other public institution may requisition such purple gallinules killed as may be needed for scientific investigations: *Provided further,* That any purple gallinules killed under authority of this section may also be donated to charitable institutions for food purposes.

(c) That any person exercising any of the privileges granted by this section shall permit at all reasonable times, including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require, concerning said operations.

(d) That nothing in this section shall be construed to authorize the killing of such migratory birds contrary to any State laws or regulations; and that none of the privileges granted under this section shall be exercised unless the person possesses whatever permit as may be required for such activities by the State of Louisiana.

(e) That any person authorized by this section to exercise the privileges granted therein shall maintain records of the number of birds killed on the premises and shall submit a report thereof, on or before December 31 of each year, to the Secretary.

§ 16.25 Authority to issue depredation orders to permit the killing of migratory game birds.

Upon the receipt of evidence clearly showing that migratory game birds have accumulated in such numbers in a particular area as to cause or about to cause serious damage to agricultural, horticultural, and fish cultural interests, the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, is authorized to issue by publication in the FEDERAL REGISTER a depredation order to permit the killing of such birds under the following conditions:

(a) That such birds may only be killed by shooting with a shotgun not larger than No. 10 gauge fired from the shoulder, and only on or over the threatened area or areas;

(b) That shooting shall be limited to such time as may be fixed by the Director on the basis of all circumstances involved. If prior to termination of the period fixed for such shooting, the Director receives information that there no longer exists a serious threat to the area or areas involved, he shall without delay cause to be published in the FEDERAL REGISTER an order of revocation;

(c) That such migratory birds as are killed under the provisions of any depredation order may be used for food or donated to public museums or public scientific and educational institutions for exhibition, scientific, or educational purposes, but shall not be sold, offered for sale, bartered, or shipped for purpose of sale or barter, or be wantonly wasted or destroyed: *Provided,* That any migratory game birds which cannot be so utilized shall be disposed of as prescribed by the Director;

(d) That any order issued pursuant to this section shall not authorize the killing of the designated species of depredating birds contrary to any State laws or regulations. The order shall specify that it is issued as an emergency measure designed to relieve depredations only and shall not be construed as opening, reopening, or extending any open hunting season contrary to any regulations promulgated pursuant to section 3 of the Migratory Bird Treaty Act.

FEEDING OF DEPREDATING WATERFOWL

§ 16.31 Statutory provisions.

Section 1 of the Act of July 3, 1956, as amended (7 U.S.C. 442 et seq.) provides that the Commodity Credit Corporation shall make available to the Secretary of the Interior such wheat, corn, or other grains, acquired through price support operations and certified by the Corporation to be available for purposes of the Act or in such condition through spoilage or deterioration as not to be desirable for human consumption, as the Secretary shall requisition for the purpose of preventing crop damage by migratory waterfowl. Section 2 of the Act provides that, upon a finding that any area in the United States is threatened with damage to farmers' crops by migratory waterfowl, the Secretary is authorized and directed to requisition from the Commodity Credit Corporation and to make available to Federal, State, or local governmental bodies or officials, or to private organizations or persons, such grain acquired by the Corporation through price support operations in such quantities and subject to such regulations as the Secretary determines will most effectively lure migratory waterfowl away from crop depredations and at the same time not expose such migratory waterfowl to shooting over areas to which the waterfowl have been lured by such feeding programs.

§ 16.32 Interpretation.

The authorization contained in the Act limits the availability of grain acquired through price support operations to the prevention of crop damage by migratory waterfowl (brant, wild ducks, geese, and swans) and such grain may not be made available for the feeding of any other species of migratory birds, whether or not such other species of migratory birds are committing or threatening to commit crop damage. Further, the Act does not authorize the use of such grain to conduct a migratory waterfowl feeding program for the purpose of augmenting natural sources of food available to migratory waterfowl, nor for any

purpose incident to migratory waterfowl management not related to the prevention of crop damage. Accordingly, such grain shall not be made available pursuant to the Act to augment or to substitute for natural sources of migratory waterfowl food except as may be determined by the Secretary to be necessary to aid in the prevention of crop damage by such birds.

§ 16.33 Policy.

Whenever it is found necessary to conduct feeding programs under this section for the purposes of preventing crop damage by migratory waterfowl, it shall be the policy of the Secretary for the purposes of economy and efficiency to accord preference to feeding programs proposed to be executed through the placement of grain upon wildlife management areas or other lands or waters owned, leased, or otherwise controlled by an agency of the United States or a State.

§ 16.34 Waterfowl depredation complaints; where filed.

Any person having an interest in crops being damaged or threatened with damage by migratory waterfowl in circumstances meeting the criteria prescribed in § 16.35 may make application for grain for use in luring such waterfowl away from such crops by submitting a written request to the Regional Director of the Bureau of Sport Fisheries and Wildlife regional office having administrative jurisdiction over the wildlife activities in the State where the affected crops are located. (See § 16.10 for geographical jurisdiction and addresses of regional offices.) Such applications may be in letter form but must contain information disclosing the location, nature, condition and extent of the crops being damaged or threatened, and the particular species of migratory waterfowl committing or threatening to commit damage. For the purposes of this section any authorized official of Federal, State, or local governmental body shall be deemed to be a "person" and to have such an interest in crops threatened with damage as to qualify him as an applicant.

§ 16.35 Criteria to govern approval of applications.

Upon receipt of a written application for such grain for use in preventing crop depredations, the Regional Director shall promptly cause an investigation to be made, when necessary, to determine whether the applicant is in fact entitled to have such grain made available for such purposes. Whenever feasible the required investigation shall be made jointly by a representative of the game department of the State in which the affected crops are located and a representative of the Regional Director. When conducting such investigations, each of the factors set forth in paragraphs (a) to (d) of this section shall be considered separately. An application for grain shall not be approved if it is determined that one or more of these factors minimizes the extent of crop damage or provides another effective method of preventing the complained of damage.

(a) The migratory waterfowl committing or threatening to commit crop damage must be predominantly of a species which are susceptible of being effectively lured away from the crops by the use of such grain.

(b) The crop damage or threatened crop damage must be substantial in nature (when measured by the extent and potential value of the crops involved and the number of birds threatening damage); and must affect growing crops or mature unharvested crops that are in such condition as to be marketable or have value as feed for livestock or other purposes of material value to the applicant.

(c) It must be shown that the damage or threat of damage cannot be abated through the exercise of any of the privileges granted in permits authorized by § 16.21 to frighten or otherwise herd migratory waterfowl away from affected crops.

(d) During an open hunting season, it must be shown that the area affected by crop damage has been and is now open to public hunting and there has been a clear demonstration that such hunting is ineffective, and cannot be made effective, to prevent crop damage on such area.

§ 16.36 Action following investigation.

Upon receipt of a report and recommendations based upon an investigation conducted under § 16.34, the Secretary shall make a determination that the applicant meets the qualifications for receiving grain. He shall then determine the quantity of grain, either bagged or in bulk, to be made available; the means of transportation; and the point of delivery in the vicinity of the crop damage. Before receiving delivery of such grain the applicant shall execute and deliver to any officer authorized to enforce this part written assurances as follows:

(a) That grain made available to him under this part will be used exclusively for the prevention and abatement of crop damage by migratory waterfowl and that no portion of such grain will be sold, donated, exchanged, or used as feed for livestock or other domestic animals or for any other purpose;

(b) That consent is granted to any officer authorized to enforce this part, to inspect, supervise or direct the placement and distribution of grain made available under this part for the prevention of crop damage at all reasonable times;

(c) That free and unrestricted access over the premises on which feeding operations have been or are to be conducted shall be permitted at all reasonable times, by any officer authorized to enforce this part and that such information as may be required by the officer will be promptly furnished; and

(d) That the applicant will not take, nor permit his agents, employees, invitees, or other persons under his control to take migratory game birds on or over any lands or waters subject to his control, during the time such grain is placed, exposed, deposited, distributed, scattered, or present upon such lands or waters, nor for a period of 10 days immediately following the consumption or removal of such grain from such lands or waters.

§ 16.37 Compliance with other regulations.

Nothing in §§ 16.31 to 16.36 shall be construed to supersede or modify any regulations under § 10.3 of this subchapter, nor shall anything in said sections be construed to permit the transportation, distribution, or use of grain contrary to any applicable Federal, State, or local laws or regulations.

SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

PART 25—GENERAL PROVISIONS

Sec.
25.1 Definitions.
25.2 Purpose.
25.3 State cooperation in wildlife refuge area management.
25.4 Joint administration.
25.5 Emergency closure.

AUTHORITY: The provisions of this Part 25 issued under R.S. 161, as amended, sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, as amended, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 22, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; 80 Stat. 926.

§ 25.1 Definitions.

As used in the rules and regulations of this subchapter: "Big game" means large game mammals, including moose, elk, caribou (Rangifer), deer, mountain and Dall's sheep (Ovis), mountain goat, antelope (pronghorn), bear and peccary.

"Game range" means any area of public land administered jointly by the Bureau of Sport Fisheries and Wildlife and the Bureau of Land Management for the protection and management of wildlife resources and for the grazing of domestic livestock under the terms of an Executive or Public Land Order establishing a specific area.

"Migratory game bird" means and refers to those species of birds listed under § 10.1 of this chapter.

"National wildlife refuge" means any of those areas, except game ranges, owned or controlled by the United States and administered for the benefit of wildlife by the Bureau of Sport Fisheries and Wildlife as a part of the National Wildlife Refuge System.

"Range animal" means any animal fenced and managed on any wildlife refuge area.

"Special regulations" mean those regulations within this subchapter used to announce and regulate the annual public hunting and fishing activity, and the public recreation, access, and use activity on the individual wildlife refuge areas.

"Upland game" means any small resident game mammal or any resident game bird.

"Waterfowl production area" means any small wetland or pothole area acquired pursuant to section 3 of the

amended Migratory Bird Hunting Stamp Act (72 Stat. 487; 16 U.S.C. 718b), owned or controlled by the United States and administered by the Bureau of Sport Fisheries and Wildlife as a part of the National Wildlife Refuge System.

"Wildlife refuge area" means any national wildlife refuge, game range, or waterfowl production area.

§ 25.2 Purpose.

All wildlife refuge areas are maintained for the fundamental purpose of developing a national program of wildlife conservation and rehabilitation. These areas are dedicated to wildlife found thereon and for the restoration, preservation, development and management of wildlife habitat; for the protection and preservation of endangered or rare wildlife and their associated habitat; and for the management of wildlife, in order to obtain maximum production for perpetuation, distribution, dispersal, and utilization. This subchapter effectuates these primary objective in accordance with the obligations of the United States under the treaties with Great Britain and the United Mexican States, and allows public enjoyment of wildlife refuge areas consistent with these objectives.

§ 25.3 State cooperation in wildlife refuge area management.

State cooperation may be enlisted in management programs including the regulation and operation of public hunting, fishing, and recreation programs on wildlife refuge areas. The details of these programs shall be mutually agreed upon by the Secretary and the head of the appropriate State agency in cooperative agreements executed for the purpose. Persons entering upon the wildlife refuge area shall comply with all regulations issued by the State agency under the terms of the cooperative agreement.

§ 25.4 Joint administration.

The Bureau, in the development and management of conservation programs on wildlife refuge areas may cooperate with other Federal agencies under the terms of approved agreements. Wildlife refuge areas on lands jointly administered with another Federal agency shall be subject to the laws, rules, and regulations of that agency as well as of the Bureau.

§ 25.5 Emergency closure.

All or any part of a wildlife refuge area my be closed to public access and use in the event of an emergency endangering life or property.

PART 26—RESTRICTED OR PROHIBITED ACTS

Sec.

26.1 General.
26.2 Trespassing.
26.3 Entry and use.
26.4 Animal trespass.
26.5 Hunting.
26.6 Fishing.
26.7 Trapping.
26.8 Molesting, injuring and damaging plant and animal life.
26.9 Introduction of plant and animal life.
26.10 Destruction or removal of property.
26.11 Artificial lights.
26.12 Firearms and explosives.
26.13 Weapons other than firearms.
26.14 Vehicles.
26.15 Use of boats.
26.16 Field trials.
26.17 Fires.
26.18 Private structures.
26.19 Disposal of waste.
26.20 Disorderly conduct.
26.21 Interference with persons engaged in authorized activities.
26.22 Abandonment of property.
26.23 Advertising.
26.24 Private operations.
26.25 Gambling.
26.26 Begging.
26.27 Motion or sound pictures.
26.28 Search for and removal of objects of antiquity.
26.28a Search for and removal of valued objects.
26.29 Prospecting and mining.
26.30 Audio equipment.
26.31 Tampering with equipment.
26.32 Operations of aircraft.

AUTHORITY: The provisions of this Part 26 issued under R.S. 161, as amended, sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 22, 16 U.S.C. 685, 725, 690d, 715i, 664; 43 U.S.C. 315a, 16 U.S.C. 460k; 80 Stat. 926.

§ 26.1 General.

The prohibitions and restrictions enumerated in this part shall apply to all persons entering upon wildlife refuge areas and to their conduct thereon. These prohibitions and restrictions do not apply to official Federal operations nor to State operations permitted by the regulations in this subchapter, nor to persons engaged in performing these operations.

§ 26.2 Trespassing.

Trespassing on any wildlife refuge area is prohibited.

§ 26.3 Entry and use.

The entering, occupying, using, or being upon any wildlife refuge area is prohibited except as may be otherwise authorized in this subchapter or in other applicable Federal regulations.

§ 26.4 Animal trespass.

Cats, dogs, cattle, and other domestic animals shall not be permitted to enter upon any wildlife refuge area or to roam at large upon such an area, except as specifically authorized in this subchapter or in other applicable Federal regulations.

§ 26.5 Hunting.

Hunting, killing, capturing, taking, or attempting to hunt, kill, capture or take any animal on any wildlife refuge area is prohibited except as may be authorized under the provisions of Parts 28, 31, and 32 of this chapter.

§ 26.6 Fishing.

Fishing, taking, seining, or attempting to fish, take, seine, any fish, amphibian, or other aquatic animal on any wildlife refuge area is prohibited except as may be authorized under the provisions of Parts 28, 31, and 33 of this chapter.

§ 26.7 Trapping.

Trapping or attempting to trap animal life on any wildlife refuge area is prohibited except as may be authorized under the provisions of Parts 28 and 31 of this chapter.

§ 26.8 Molesting, injuring, and damaging plant and animal life.

Molesting, disturbing, injuring, spearing, poisoning, destroying or attempting to molest, disturb, injure, spear, poison or destroy any plant or animal life on any wildlife refuge area is prohibited.

§ 26.9 Introduction of plant and animal life.

Plant and animal life taken elsewhere shall not be introduced, liberated, or placed on any wildlife refuge area.

§ 26.10 Destruction or removal of property.

The destruction, injury, defacement, disturbance, or removal of any public property from any wildlife refuge area is prohibited.

§ 26.11 Artificial lights.

No person shall use or direct the rays of a spotlight or other artificial light, or automotive headlights for the purpose of spotting, locating, or taking any animal within the boundaries of any wildlife refuge area or along rights-of-way for public or private roads within a wildlife refuge area, except under the provisions of this subchapter.

§ 26.12 Firearms and explosives.

Carrying, possessing, or discharging firearms or explosives on any wildlife refuge area is prohibited except as may be authorized under the provisions of Part 28 of this chapter.

§ 26.13 Weapons other than firearms.

The possession or use of cross bows, bows and arrows, air guns, or other weapons on wildlife refuge areas is prohibited except that bows and arrows may be used in approved hunting and recreation programs when authorized under the provisions of this subchapter.

§ 26.14 Vehicles.

Travel in or use of vehicles is prohibited in wildlife refuge areas except on public highways and on roads, camp grounds and parking areas designated and posted for travel and public use by the officer in charge.

§ 26.15 Use of boats.

The use of boats in wildlife refuge areas is prohibited except as may be authorized under the provisions of Part 28 of this chapter.

§ 26.16 Field trials.

The conducting or operation of field trials for dogs on wildlife refuge areas is prohibited except as may be authorized by special permit.

§ 26.17 Fires.

On all wildlife refuge areas persons are prohibited from (a) setting on fire or causing to be set on fire any timber, brush, grass, or other inflammable material except as authorized by the officer in charge or at locations designated by him for that purpose within the public-use areas; (b) building a campfire in such manner that it is likely to spread or be difficult to extinguish; (c) leaving a fire unattended or not completely extinguished; (d) throwing or placing a burning cigarette, match, or any other ignited substance in any place where it may start a fire; (e) discharging any kind of fireworks or explosive on any part of such areas; or (f) smoking on any lands including roads which have been designated and posted with no smoking signs.

§ 26.18 Private structures.

No person shall without proper authority construct, install, or maintain any building, log boom, pier, dock, fence, wall, pile, anchorage, or other structure or obstruction on any wildlife refuge area.

§ 26.19 Disposal of waste.

The dumping, disposing or littering in any manner of garbage, refuse, spoil, sludge, earth, rock, or other debris on any wildlife refuge area except at points designated by the officer in charge, or the draining or dumping of oil, acids, or poisons in, or otherwise polluting any waters, water holes, streams or other areas within any wildlife refuge area is prohibited.

§ 26.20 Disorderly conduct.

Disturbance of the peace or other disorderly conduct on any wildlife refuge area is prohibited. No person who is obviously intoxicated shall enter or remain upon any wildlife refuge area.

§ 26.21 Interference with persons engaged in authorized activities.

The disturbing, molesting, or interfering with any employee of the United States or of any local or State government engaged in official business, or with any private person engaged in the pursuit of an authorized activity on any wildlife refuge area is prohibited.

§ 26.22 Abandonment of property.

Abandoning, discarding, or otherwise leaving any personal property in any wildlife refuge area is prohibited.

§ 26.23 Advertising.

Posting, distributing, or otherwise displaying private or public notices, advertisements, announcements or displays of any kind in any wildlife refuge area, other than business designations carried on private vehicles or boats, is prohibited.

§ 26.24 Private operations.

Soliciting business or conducting a commercial enterprise on any wildlife refuge area is prohibited unless properly authorized.

§ 26.25 Gambling.

Gambling in any form, or the operation of gambling devices, for money or otherwise, on any wildlife refuge area is prohibited.

§ 26.26 Begging.

Begging on any wildlife refuge area is prohibited. Soliciting of funds for the support or assistance of any cause or organization is also prohibited unless properly authorized.

§ 26.27 Motion or sound pictures.

The taking or filming of any motion or sound picture which needs a script, cast, schedule, or "props" on any wildlife refuge area is prohibited unless authorized under the provisions of 43 CFR Part 5.

§ 26.28 Search for and removal of objects of antiquity.

Persons are prohibited from searching for or removing from wildlife refuge areas objects of antiquity except as may be authorized by 43 CFR Part 3.

§ 26.28a Search for and removal of valued objects.

Persons are prohibited from searching for buried treasure, treasure trove, valuable semiprecious rocks, stones, or mineral specimens unless authorized by special permit or in a special Regulation issued under the provisions of § 28.25 of this chapter.

§ 26.29 Prospecting and mining.

Prospecting for metal deposits or locating or filing mining claims on National Wildlife Refuges is prohibited. Prospecting or removal of minerals from wildlife refuge areas is prohibited except as may be authorized under the provisions of 43 CFR 192.9.

§ 26.30 Audio equipment.

The operation or use of radios, recording devices, loudspeakers or other sound or electrical equipment in a manner which disturbs animal life or annoys other persons on any wildlife refuge area is prohibited.

§ 26.31 Tampering with equipment.

No person shall operate or tamper with any motor vehicle, boat, equipment, machinery, or other implement on any wildlife refuge area unless he has been authorized to do so.

§ 26.32 Operations of aircraft.

The unauthorized operation of aircraft at low altitudes over, or the unauthorized landing of aircraft on a wildlife refuge area is prohibited, except in the event of emergency.

PART 27—ENFORCEMENT PROVISIONS

Sec.
27.1 Exhibition of permits.
27.2 Revocation of permits.
27.3 Impoundment of abandoned property.
27.4 Impounding of domestic animals.
27.5 Control of dogs and cats.
27.6 Traffic violations; penalties.
27.7 Boating violations; penalties.
27.8 Fires.
27.9 Timber trespass.
27.10 Penalties.

AUTHORITY: The provisions of this Part 27 issued under R.S. 161, as amended, sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 22, 16 U.S.C. 685, 725, 690d, 715i, 664, 43 U.S.C. 315a, 16 U.S.C. 460k; 80 Stat. 926.

§ 27.1 Exhibition of permits.

Any person on a wildlife refuge area shall upon request by an authorized employee of the Department exhibit the required Federal or State permit or license authorizing his presence and activity on the area and shall furnish such other information for identification purposes as may be requested.

§ 27.2 Revocation of permits.

If advantageous to the United States, a permit may be terminated at any time by agreement with the permittee; it may be revoked for noncompliance with the terms thereof or of the regulations in this subchapter, for nonuse, or for violation of any law, regulation, or order applicable to the area, or for violation of any State or Federal wildlife conservation law; and it is at all times subject to discretionary revocation.

§ 27.3 Impoundment of abandoned property.

Any property abandoned or left unattended without authority on any wildlife refuge area for a period in excess of 72 hours is subject to removal. The expense of the removal shall be paid for by the person owning or claiming ownership of the property. Such property is subject to sale or other disposal after 3 months, in accordance with section 203m of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. sec. 484m) and regulations issued thereunder. Former owners may apply within 3 years for reimbursement for such property, subject to disposal and storage costs and similar expenses, upon sufficient proof of ownership.

§ 27.4 Impounding of domestic animals.

(a) Any animal trespassing on the lands of any wildlife refuge area may be impounded and disposed of in accordance with State statutes insofar as they may be applicable. In the absence of such State statutes, the animals shall be disposed of in accordance with this section.

(b) If the owner is known, prompt written notice of the impounding will be served in person with written receipt obtained or delivery by certified mail with return receipt requested. In the event of his failure to remove the impounded animal within five (5) days from receipt of such notice, it will be sold or otherwise disposed of as prescribed in this section.

(c) If the owner is unknown, no disposition of the animal shall be made until at least fifteen (15) days have elapsed from the date a legal notice of the impounding has been posted at the

county courthouse and in a newspaper of general circulation in the county in which the trespass took place.

(d) The notice shall state when and where the animal was impounded and shall describe it by brand or earmark, or distinguishing marks or by other reasonable identification. The notice shall specify the time and place the animal will be offered at public sale to the highest bidder, in the event it is not claimed or redeemed. The notice shall reserve the right of the official conducting the sale to reject any and all bids so received.

(e) Prior to such sale, the owner may redeem the animal by submitting proof of ownership and paying all expenses of the United States for capturing, impounding, advertising, care, forage, and damage claims.

(f) If an animal impounded under this section is offered at public sale and no bid is received or if the highest bid received is an amount less than the claim of the United States, the animal may be sold at private sale for the highest amount obtainable, or be condemned and destroyed or converted to the use of the United States by order of the Secretary. Upon the sale of any animal in accordance with this section, the buyer shall be issued a certificate of sale.

(g) In determining the claim of the Government in all livestock trespass cases on wildlife refuge areas, the value of forage consumed shall be computed at the commercial unit rate prevailing in the locality for that class of livestock. In addition, the claim shall include damages to wildlife refuge area property injured or destroyed, and all the related expenses incurred in impounding, caring for and disposing of the animal. The salary of Bureau employees for the time spent in and about the investigations, reports, and settlement or prosecution of the case shall be pro rated in computing the expense. Payment of claims due the United States shall be made by certified check or postal money order payable to the Bureau of Sport Fisheries and Wildlife.

§ 27.5 Control of dogs and cats.

Dogs or cats running at large on a wildlife refuge area or found in the act of pursuing or molesting wildlife may be impounded pursuant to the provisions of § 27.4 or if necessary may be killed to protect wildlife.

§ 27.6 Traffic violations: penalties.

Persons on a wildlife refuge area violating Federal or State traffic laws or regulations may be required to remove themselves from the area. Such offenders may further be subject to the penalty provisions of § 27.10.

§ 27.7 Boating violations: penalties.

Persons on a wildlife refuge area violating Federal or State boating laws or regulations may be required to remove themselves from the area. Such offenders may further be subject to the penalty provisions of § 27.10.

§ 27.8 Fires.

Any person violating sections 1855–1856 of the Criminal Code (18 U.S.C. 1855–1856) as they pertain to fires on wildlife refuge area lands of the United States shall be subject to civil action and to the penalty provisions of the law.

§ 27.9 Timber trespass.

Any person violating sections 1852–1853 of the Criminal Code (18 U.S.C. 1852–1853) as they pertain to timber on wildlife refuge area lands of the United States shall be subject to civil action and to the penalty provisions of the law.

§ 27.10 Penalties.

Failure of any person, utilizing the resources of any wildlife refuge area or enjoying any privilege of use thereon for any purpose whatsoever, to comply with any of the provisions, conditions, restrictions, or requirements of this subchapter or to comply with any applicable provisions of Federal or State law may render such person liable to:

(a) The penalties as prescribed by law. (Sec. 4, 76 Stat. 654, 16 U.S.C. 460k–3; Sec. 7, 60 Stat. 1080, 16 U.S.C. 666a; Sec. 9, 45 Stat. 450, 16 U.S.C. 690g; Sec. 6, 40 Stat. 756, as amended, 16 U.S.C. 707; Sec. 14, 45 Stat. 1225, 16 U.S.C. 715m; Sec. 7, 48 Stat. 452, 16 U.S.C. 718g; Sec. 11, 43 Stat. 652, 16 U.S.C. 730; Sec. 2, 33 Stat. 614, as amended, 18 U.S.C. 41)

(b) Invalidation of permission to enter or be upon the area.

(c) Denial of future privileges on wildlife refuge areas.

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Sec.

28.1 Access to areas.
28.2 Access to headquarters.
28.3 Access when escorted.
28.4 Access for economic use privileges.
28.5 Emergency shelter.
28.6 Use of roads and trails.
28.7 Operation of vehicles.
28.8 Firearms.
28.9 Fires.
28.10 Scientific study.
28.11 Scientific specimens.
28.12 Archeological and paleontological studies; search and removal of valued objects.
28.13 Public safety.
28.14 Public sanitation.
28.15 Reporting of accidents.
28.16 Lost and found articles.
28.17 Public recreation.
28.18 Sightseeing, nature observations, and photography.
28.19 Hunting and fishing.
28.20 Limitation on certain recreational uses.
28.21 Operation of boats.
28.22 Water skiing.
28.23 Facilitating services.
28.24 Fees, charges, and permits.
28.25 Special regulations.
28.26 Penalties; visitor control and protection.
28.27 Public notice and posting.
28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

AUTHORITY: The provisions of this Part 28 issued under R.S. 161, as amended, sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 1270, sec. 401, 49 Stat. 383, as amended, sec. 4, 76 Stat. 653; 5 U.S.C. 22, 16 U.S.C. 685, 725, 690d, 715l, 664, 43 U.S.C. 315a, 16 U.S.C. 715s, 460k; 80 Stat. 926.

§ 28.1 Access to areas.

(a) Any person entering or using any wildlife refuge area will comply with the regulations in this subchapter, the provisions of any special regulations, and all official notices posted in the area.

(b) A permit may be required for any person to enter a wildlife refuge area, unless otherwise provided in this subchapter. The permittee will abide by all the terms and conditions set forth in the permit.

§ 28.2 Access to headquarters.

The headquarters office of any wildlife refuge area will be open to public access and admission during regularly established business hours.

§ 28.3 Access when escorted.

A permit is not required for access to any part of a wildlife refuge area by a person when accompanied by the officer in charge.

§ 28.4 Access for economic use privileges.

Access to and travel upon wildlife refuge areas by a person granted economic use privileges on a wildlife refuge area are to be in strict accordance with the provisions of his agreement, lease, or permit.

§ 28.5 Emergency shelter.

A permit is not required for access to any wildlife refuge area for temporary shelter or temporary protection in the event of emergency conditions.

§ 28.6 Use of roads and trails.

Entrance to, travel on, and exit from any wildlife refuge area are permitted only on such roads, trails, footpaths, walkways, or other routes which may be designated for public use under the provisions of this subchapter. (See also §§ 26.3 and 26.14 of this subchapter.)

§ 28.7 Operation of vehicles.

When the operation of vehicles is permitted within a wildlife refuge area, under § 26.14 of this subchapter, the vehicles will be subject to the following operating requirements:

(a) The vehicles are to be mechanically safe and are to be operated in a safe and proper manner so as not to endanger life and property.

(b) The operation of vehicles will conform to the laws of the State in which the area is located governing the operation of such vehicles, except where further restricted under the provisions of this subchapter.

(c) No person is to operate any vehicle while under the influence of intoxicating liquor, narcotics, or tranquilizing drugs.

(d) Drivers of all vehicles are to comply with the directions of all official traffic signs posted on the area and with the directions of authorized Federal or State personnel.

(e) The speed of any vehicle must be reasonable and proper for the existing road conditions and at all times be within

the established speed limits. Vehicle speed limits are 35 miles an hour except where otherwise posted.

(f) Load and weight limitations, as may be necessary, are those prescribed and posted from time to time. Such limitations are to be complied with by the operators of all vehicles. Schedules showing load and weight limitations are available at the wildlife refuge area headquarters.

(g) The parking or leaving unattended of any vehicle on any wildlife refuge area, or upon public roads where title to the land is vested in the United States, is permitted only in those places which are designated for that purpose under the provisions of this subchapter.

(h) Such other requirements which are established under the provisions of this subchapter. (See also § 27.6 of this subchapter.)

§ 28.8 Firearms.

Only the following persons may possess, use, or transport firearms on wildlife refuge areas, in accordance with applicable Federal and State law:

(a) Persons authorized to take specimens of wildlife for scientific purposes when the use of firearms is necessary for such purposes.

(b) Persons authorized by special permit to possess or use firearms for the protection of property, for field trials, and for other special purposes.

(c) Persons carrying unloaded firearms that are dismantled or cased over regularly established routes of travel.

(d) Persons commercially transporting weapons and explosives in accordance with applicable State or Federal laws and regulations.

(e) Persons using firearms for public hunting under the provisions of Part 32 of this subchapter.

(f) Such other persons as may be permitted under this subchapter. (See also § 26.12 of this subchapter.)

§ 28.9 Fires.

When the use of fires on wildlife refuge areas is permitted, under § 26.17 of this subchapter, such use must be in accordance with State or local law, and approved recreational and management rules established under the provisions of this subchapter. (See also § 27.8 of this subchapter.)

§ 28.10 Scientific study.

The use of wildlife refuge areas for scientific study is encouraged. Permits are required and may be obtained without charge for entry on such areas for scientific study and for similar purposes.

§ 28.11 Scientific specimens.

The collection of specimens of plant and animal life by recognized scientific institutions and Government agencies may be authorized under special permit. (See also § 26.8 of this subchapter.)

§ 28.12 Archeological and paleontological studies; search and removal of valued objects.

(a) Permits are required for archeological studies on wildlife refuge areas in accordance with the provisions of 43 CFR, Part 3.

(b) Permits are required for paleontological studies on wildlife refuge areas in accordance with the provisions of this subchapter.

(c) Persons may not search for or remove semiprecious rocks or mineral specimens, except as provided in § 26.28 of this subchapter.

§ 28.13 Public safety.

Persons using wildlife refuge areas are to comply with the safety requirements which are established under the provisions of this subchapter for each individual area, and with any safety provisions which may be included in leases, agreements, or use permits.

§ 28.14 Public sanitation.

Persons using a wildlife refuge area are to comply with the sanitary requirements which are established under the provisions of this subchapter for each individual area, and with the sanitation provisions which may be included in leases, agreements, or use permits. (See also § 26.19 of this subchapter.)

§ 28.15 Reporting of accidents.

(a) Accidents of whatever nature occurring within the boundaries of any wildlife refuge area are to be reported as soon as possible by the persons involved, to the officer in charge or other Federal personnel on duty at the wildlife refuge area headquarters.

(b) A motor vehicle involved in an accident is not to be moved until an investigating officer arrives at the scene of the accident, unless such vehicle constitutes a traffic or safety hazard.

§ 28.16 Lost and found articles.

Lost articles or money found on a wildlife refuge area are to be immediately turned in to the nearest refuge office.

§ 28.17 Public recreation.

(a) Wildlife refuge areas offer unusual opportunities for outdoor recreation that constitute a beneficial and proper use of national significance. Wildlife refuge areas vary greatly in their physical adaptability and accessibility for public recreational use.

(b) Public recreation of the types set forth in §§ 28.18 and 28.20 (a) and (b), will be permitted on wildlife refuge areas as an appropriate incidental or secondary use, only after it has been determined that such recreational use is practicable and not inconsistent with the primary objectives for which each particular area was established or with other previously authorized Federal operations.

(c) After consideration of all authorized uses, purposes, and other pertinent factors relating to individual areas, all public recreational use or certain types of public recreational uses within individual areas or in portions thereof may be curtailed whenever it is considered that such action is necessary. The public will be notified of such curtailment under the provisions of this subchapter.

§ 28.18 Sightseeing, nature observations, and photography.

Priority is given to the development of facilities and services which will enhance those recreational uses directly associated with wildlife in its habitat, and which give the public enjoyment from observation, appropriate utilization, interpretation, and a better understanding of wildlife populations, habitat, and conservation values. These recreational uses include sightseeing, nature observation and photography, interpretive centers and exhibits, fishing and hunting, and other similar activities. Tour routes may be closed when these activities may disturb wildlife during the breeding, concentration, or hunting seasons and when roads are damaged or susceptible to damage, or fire hazards are high. When these recreational uses and activities are permitted, the public will be notified under the provisions of this subchapter. The recreational uses and activities will be limited to designated portions of the wildlife refuge area, to specific times, and to those periods of the year which will result in the least disturbance to wildlife and its habitat.

§ 28.19 Hunting and fishing.

Hunting and fishing are permitted only in accordance with Parts 32 and 33, respectively, of this subchapter. (See also §§ 26.5, 26.6, 26.7, and 26.8 of this subchapter.)

§ 28.20 Limitation on certain recreational uses.

(a) When recreational uses, which are not directly related to the primary function of wildlife refuge areas, such as bathing, boating, camping, ice skating, picnicking, swimming, water skiing, and other similar activities are permitted, the public will be notified under the provisions of this subchapter. These recreational uses will be limited to designated portions of the wildlife refuge area, to specific times, and to those periods of the year which will result in the least disturbance to wildlife and its habitat.

(b) If golf, baseball, target shooting, and other similar activities which are foreign to the concept of conservation areas are permitted, the public will be notified under the provisions of this subchapter.

§ 28.21 Operation of boats.

When the use of boats is permitted on any wildlife refuge area, the public will be notified under the provisions of this subchapter, and the following operational requirements and limitations will apply:

(a) A permit may be required before any boat is placed in or allowed to operate upon the waters of any wildlife refuge area. (See also § 26.15 of this subchapter.)

(b) All boats operated on wildlife refuge area waters are to conform with the provisions of applicable Federal, State, and local laws, and regulations, and the provisions of this subchapter. (See also § 27.7 of this subchapter.)

(c) All boats are to conform with the terms and conditions of boat and motor specifications which are posted or other-

wise established under the provisions of this subchapter.

(d) No person will operate any boat in a manner which unreasonably interferes with other boats or with the free and proper navigation of the waterways of the areas.

(e) Government-owned docks, piers, and floats are not to be used for loading and unloading of boats, except in emergencies or unless specifically authorized by the provisions of this subchapter.

(f) Boats will be operated in a safe and reasonable manner, at speeds which are reasonable and proper for existing conditions.

(g) No boats, except sailboats, are to be operated with any person riding or sitting on the gunwales or on the decking over the bow.

(h) No person is to operate any boat while under the influence of intoxicating liquor, narcotics, or tranquilizing drugs.

(i) Such other requirements or limitations which are established under the provisions of this subchapter.

§ 28.22 Water skiing.

When water skiing is permitted upon wildlife refuge area waters, the public will be notified under the provisions of this subchapter and the following requirements and limitations will apply:

(a) Water skiing is permitted only in large deep water areas during periods of low waterfowl use, in daylight hours and on those waters of the area which are posted or otherwise designated under the provisions of this subchapter.

(b) There must be two persons in the boat at all times when a skier is in "tow", with one person acting as an observer of the skier in tow.

(c) The direction of a tow boat when circling will be counter clockwise.

(d) Skiers must wear ski belts, or U.S. Coast Guard approved life jackets or buoyant vests.

(e) Water skiing is prohibited within 300 feet of harbors, swimming beaches, and mooring areas, and within 100 feet of any person swimming outside a designated swimming area.

(f) Such other requirements and limitations which are established under the provisions of this subchapter.

§ 28.23 Facilitating services.

(a) Recreational facilities may be operated by concessionaires under appropriate contract on wildlife refuge areas where there is a demonstrated justified need for large scale recreational activities such as boat rentals, swimming facilities, conducted tours of special natural attractions, shelters, tables, trailer lots, food, lodging, and related services.

(b) Facilities and services directly supporting interpretation, fishing, or hunting activity will be provided and managed either by the Bureau, by State conservation agencies, or by nonprofit organizations under appropriate arrangements.

§ 28.24 Fees, charges, and permits.

(a) Reasonable charges and fees may be established and permits issued for public recreational use of national wildlife refuges.

(b) The Bureau encourages private capital or local sponsoring groups to provide and maintain recreational services or facilities whenever it is feasible. This is normally done through contracting authority of the Department of the Interior, and when so done, may allow for the charging of fees and charges commensurate with the cost of furnishing the services, providing a fair profit to the concessionaire and an equitable return to the Government.

§ 28.25 Special regulations.

(a) Special regulations may be issued for public use, access, and recreation within certain individual wildlife refuge areas where special control problems exist or where the posting of official signs would be inadequate to afford the public notice. The issued special regulations will supplement the provisions in this Part 28.

(b) Special recreational use regulations may contain the following items:

(1) Recreational uses authorized.

(2) Seasons, periods, or specific time of use.

(3) Description of areas open to recreation.

(4) Specific conditions or requirements.

(5) Other provisions.

(c) Special regulations for public use, access, and recreation are published in the daily issue of the FEDERAL REGISTER but are not codified in the Code of Federal Regulations. They are limited to one season, issued annually, and are effective upon publication in the FEDERAL REGISTER or in as many days thereafter as it is practical to allow under the circumstances. Such special regulations will be available at the headquarters of the wildlife refuge to which they relate.

§ 28.26 Penalties; visitor control and protection.

(a) Any person who violates any of the provisions, rules, regulations, posted signs, or special regulations of this subchapter, or any items, conditions or restrictions in a permit, license, grant, privilege, or any other limitation established under this subchapter shall be subject to the penalty provisions of § 27.10 of this subchapter.

(b) Refuge managers are authorized pursuant to authority delegated from the Secretary and which has been published in the FEDERAL REGISTER (Administrative Manual 4 AM 4.9), to protect fish and wildlife and their habitat and prevent their disturbance, to protect Bureau property and facilities, and to insure the safety of the using public to the fullest degree possible. The control of recreational use will be enforced to meet these purposes pursuant to Federal, State and local laws and regulations; the provisions of this subchapter and any special regulation issued pursuant thereto; and the prohibitions and restrictions as posted.

§ 28.27 Public notice and posting.

(a) Whenever a particular public access, use, or recreational activity of any type whatsoever, not otherwise expressly permitted under this subchapter, is permitted on a wildlife refuge area, or where public access, use, or recreational activities previously permitted are curtailed, the public will be notified by one of the following methods, all of which supplement this subchapter:

(1) Official signs posted conspicuously at appropriate intervals and locations;

(2) Special regulations issued under the provisions of this subchapter;

(3) Maps available in the office of the refuge manager; and

(4) Other appropriate methods which will give the public actual or constructive notice of the permitted public access, use, or recreational activity.

(b) All public access, use, or recreational activity is prohibited in a wildlife refuge area unless the public is notified that such activity is permitted by the provisions of this subchapter. At no time will the public be notified when public access, use, or recreational activity is prohibited, unless such activity is being curtailed.

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

NOTE: For FEDERAL REGISTER citations to regulations affecting temporary and special regulations of wildlife refuge areas, see List of Sections Affected.

PART 29—LAND USE MANAGEMENT

Subpart A—General Rules

Sec.
29.1 Use of natural resources.
29.2 Cooperative land management
29.3 Nonconforming uses.
29.4 [Reserved]
29.5 Fees.

Subpart B—Rights-of-Way

29.21 Rights-of-way.
29.22 Fees.

Subpart C—Mineral Operations

29.31 Mineral ownerships in the United States.
29.32 Mineral rights reserved and excepted.

AUTHORITY: The provisions of this Part 29 issued under R.S. 161, as amended, sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 22, 16, U.S.C. 685, 725, 690d, 715i, 664, 43 U.S.C. 315a, 16 U.S.C. 460k; 80 Stat. 926.

Subpart A—General Rules

§ 29.1 Use of natural resources.

Public or private economic use of the natural resources of any wildlife refuge area may be authorized in accordance with section 401 of the Act of June 15, 1935 (49 Stat. 383, 16 U.S.C., sec. 715s), where the use may contribute to or is related to the administration of the area. Economic use shall be authorized by appropriate permit only when the authorized activity on a wildlife refuge area will not be incompatible with the purposes for which the refuge was established. Persons exercising economic privileges on refuge areas will be subject to the applicable provisions of this subchapter and of other applicable laws and regulations governing wildlife refuge

areas. Permits for economic use will contain such terms and conditions as are determined to be necessary for the proper administration of the resources. Economic use in this section includes but is not limited to grazing livestock; harvesting hay and stock feed; removing timber, firewood or other natural products of the soil; removing shell, sand, or gravel; cultivating areas; or engaging in operations that facilitate approved programs on wildlife refuge areas.

§ 29.2 Cooperative land management.

Cooperative agreements with persons for crop cultivation, haying, grazing, or the harvest of vegetative products, including plantlife, growing with or without cultivation on wildlife refuge areas may be executed on a share-in-kind basis when such agreements are in aid of or benefit to the wildlife management of the area.

§ 29.3 Nonconforming uses.

Uses of wildlife refuge area lands that make no contribution to the primary objective of the program for any individual area or are in no way related to that objective are classed as nonconforming uses. Permission for such uses will be granted only when it is in the public interest to do so.

§ 29.4 [Reserved]

§ 29.5 Fees.

Fees and charges for the grant of privileges on wildlife refuge areas and for the sale of products taken therefrom, where not otherwise prescribed by law or regulation, shall be set at a rate commensurate with fees and charges for similar privileges and products made by private land owners in the vicinity or in accordance with their local value. Fees or rates of charge for products and privileges may be based either on a monetary exchange or on a share in kind of the resource or product.

Subpart B—Rights-of-Way

§ 29.21 Rights-of-way.

(a) Rights-of-way for various purposes on wildlife refuge areas are the subject of various Federal statutes and regulations, including provisions contained in 43 CFR Part 244. Rights-of-way on wildlife refuge lands may also be granted by revocable permit where such rights-of-way will not interfere with the operation of the refuge and are deemed to be in the public interest.

(b) Permits for rights-of-way shall require of the permittee that in the exercise of his privilege he will comply with all applicable Federal laws and regulations and that he will not interfere with the development, maintenance, or management of the refuge. In addition, the permit may contain such special terms and conditions, not inconsistent with law or with other applicable regulations, as may be deemed necessary by the Bureau or the Bureau of Land Management.

§ 29.22 Fees.

(a) Charges for rights-of-way on wildlife refuge areas, where not prescribed by law or by other regulations of the Department, shall be set at a rate commensurate with charges made for similar rights-of-way privileges by private landowners in the vicinity.

(b) Payment of fees may be either on an annual rental basis or by lump sum payments covering specified periods.

Subpart C—Mineral Operations

§ 29.31 Mineral ownerships in the United States.

Where mineral rights to lands in wildlife refuge areas are vested in the United States, the provisions of 43 CFR 3103.2 and 3120.3–3 govern.

§ 29.32 Mineral rights reserved and excepted.

Persons holding mineral rights in wildlife refuge lands by reservation in the conveyance to the United States and persons holding mineral rights in such lands which rights vested prior to the acquisition of the lands by the United States shall, to the greatest extent practicable, conduct all exploration, development, and production operations in such a manner as to prevent damage, erosion, pollution, or contamination to the lands, waters, facilities, and vegetation of the area. So far as is practicable, such operations must also be conducted without interference with the operation of the refuge or disturbance to the wildlife thereon. Physical occupancy of the area must be kept to the minimum space compatible with the conduct of efficient mineral operations. Persons conducting mineral operations on refuge areas must comply with all applicable Federal and State laws and regulations for the protection of wildlife and the administration of the area. Oil field brine, slag, and all other waste and contaminating substances must be kept in the smallest practicable area, must be confined so as to prevent escape as a result of rains and high water or otherwise, and must be removed from the area as quickly as practicable in such a manner as to prevent contamination, pollution, damage, or injury to the lands, waters, facilities, or vegetation of the refuge or to wildlife. Structures and equipment must be removed from the area when the need for them has ended. Upon the cessation of operations the area shall be restored as nearly as possible to its condition prior to the commencement of operations. Nothing in this section shall be applied so as to contravene or nullify rights vested in holders of mineral interests on refuge lands.

PART 30—RANGE AND FERAL ANIMAL MANAGEMENT

Subpart A—Range Animals

Sec.
30.1 Surplus range animals.
30.2 Disposition of surplus range animals.

Subpart B—Feral Animals

30.11 Control of feral animals.
30.12 Disposition of feral animals.

AUTHORITY: The provisions of this Part 30 issued under R.S. 161, as amended, sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, sec. 5, 45 Stat. 449, sec. 10, 45 Stat. 1224, sec. 4, 48 Stat. 402, as amended, sec. 2, 48 Stat. 1270; 5 U.S.C. 22, 16 U.S.C. 685, 725, 690d, 715i, 664, 43 U.S.C. 315a; 80 Stat. 926.

Subpart A—Range Animals

§ 30.1 Surplus range animals.

Range animals on fenced wildlife refuge areas, including buffalo, elk, and longhorn cattle, determined to be surplus to the needs of the conservation program may be planned and scheduled for disposal.

§ 30.2 Disposition of surplus range animals.

Disposition shall be made only during regularly scheduled disposal program periods, except in the event of emergency conditions affecting the animals or their range. Surplus range animals may be disposed of subject to State and Federal health laws and regulations and to the following:

(a) Live animals may be:

(1) Sold on the open market.

(2) Donated to public agencies or institutions that are entirely tax supported, for scientific, exhibition, or propagation purposes.

(b) Butchered, dressed and processed animals shall be sold on the open market.

Subpart B—Feral Animals

§ 30.11 Control of feral animals.

(a) Feral animals, including horses, burros, cattle, swine, sheep, goats, reindeer, dogs, and cats, without ownership that have reverted to the wild from a domestic state may be taken by authorized Federal or State personnel or by private persons operating under permit in accordance with applicable provisions of Federal or State law or regulation.

§ 30.12 Disposition of feral animals.

Feral animals taken on wildlife refuge areas may be disposed of by sale on the open market, gift or loan to public or private institutions for exhibition or propogation, and as otherwise provided in section 401 of the Act of June 15, 1935 (49 Stat. 383, 16 U.S.C. 715s).

PART 31—WILDLIFE SPECIES MANAGEMENT

Subpart A—Surplus Wildlife

Sec.
31.1 Determination of surplus wildlife populations.
31.2 Methods of surplus wildlife population control and disposal.

Subpart B—Terms and Conditions of Wildlife Reduction and Disposal

31.11 Donation and loan of wildlife specimens.
31.12 Sale of wildlife specimens.
31.13 Commercial harvest of fishery resources.
31.14 Official animal control operations.
31.15 Public hunting and fishing programs.
31.16 Trapping programs.
31.17 Disposal of furs and pelts.

AUTHORITY: The provisions of this Part 31 issued under R.S. 161, as amended, sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 4, 2, 48 Stat. 402, as amended, 451, as amended, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 22, 16 U.S.C.

685, 725, 690d, 715i, 664, 718(b), 43 U.S.C. 315a, 16 U.S.C. 460k; 80 Stat. 926.

Subpart A—Surplus Wildlife

§ 31.1 Determination of surplus wildlife populations.

The populations and requirements of wildlife species on wildlife refuge areas shall be determined by population census, habitat evaluation, and other means of ecological study.

§ 31.2 Methods of surplus wildlife population control and disposal.

Upon a determination that wildlife are surplus to a balanced conservation program on any wildlife refuge area, the surplus may be reduced or utilized in accordance with Federal and State law and regulation by:

(a) Donation or loan to public agencies and institutions.

(b) Sale to public or private agencies and institutions.

(c) Commercial harvest of fishery resources.

(d) Official wildlife control operations.

(e) Public hunting or fishing.

(f) Trapping.

Subpart B—Terms and Conditions of Wildlife Reduction and Disposal

§ 31.11 Donation and loan of wildlife specimens.

Wildlife specimens may be donated or loaned to public institutions for purposes of propagation or exhibit. All costs incurred shall be charged to the recipient. Donation or loans of resident species of wildlife will not be made unless the recipient has secured the approval of the State.

§ 31.12 Sale of wildlife specimens.

Surplus wildlife specimens may be sold alive or butchered, dressed and processed subject to Federal and State laws and regulations and the provisions of this part.

§ 31.13 Commercial harvest of fishery resources.

Fishery resources of commercial importance on wildlife refuge areas may be taken under permit in accordance with Federal and State law and regulation.

§ 31.14 Official animal control operations.

(a) Animal species which are surplus or detrimental to the management program of a wildlife refuge area may be taken in accordance with Federal and State laws and regulations by Federal or State personnel or by permit issued to private individuals.

(b) Animal species which are damaging or destroying Federal property within a wildlife refuge area may be taken or destroyed by Federal personnel.

§ 31.15 Public hunting and fishing programs.

The privilege of hunting and fishing may be extended to the general public under the provisions of regulations cited in Parts 32 and 33 of this subchapter.

§ 31.16 Trapping programs.

Persons trapping animals on wildlife refuge areas where trapping has been authorized shall secure and comply with the provisions of a Federal permit issued for that purpose. This permit shall specify the terms and conditions of trapping activity and the rates of charge or the division of pelts, hides, and carcasses. The permittee also shall possess the required State license or permit and shall comply with the provisions of State laws and regulations.

§ 31.17 Disposal of furs and pelts.

The disposition of animals and the pelts or carcasses thereof accruing to the United States through the trapping programs shall be sold by public auction or on the open market unless required for official purposes.

PART 32—HUNTING

Subpart A—General Provisions

Sec.

32.1 Opening of wildlife refuge areas to hunting.
32.2 General provisions.
32.3 Procedure for publication of special regulations.

Subpart B—Migratory Game Bird Hunting

32.11 List of open areas; migratory game birds.
32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Subpart C—Resident Game Hunting

32.21 List of open areas; upland game.
32.22 Special regulations; upland game; for individual wildlife refuge areas.
32.31 List of open areas; big game.
32.32 Special regulations; big game; for individual wildlife refuge areas.

AUTHORITY: The provisions of this Part 32 issued under R.S. 161, as amended, sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 4, 2, 48 Stat. 402, as amended, 451, as amended, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 22, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; 80 Stat. 926.

Subpart A—General Provisions

§ 32.1 Opening of wildlife refuge areas to hunting.

The opening of a wildlife refuge area to hunting will be dependent upon the provisions of law applicable to the area and upon a determination by the Secretary that the opening of the area to the hunting of migratory game birds, upland game, or big game will be compatible with the principles of sound wildlife management and will otherwise be in the public interest. The opening or closing of wildlife refuge areas to hunting shall be in accordance with the rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 1001–1011). Lands acquired pursuant to the Act of May 18, 1948 (62 Stat. 238, 16 U.S.C. 695) will be opened to hunting only after it has been determined that the major portion of the crops in the vicinity of the area involved have been harvested, that the period of susceptibility of such crops to wildfowl depredation has passed, or that the possibility of these crops being damaged by waterfowl is minor. Lands acquired as "waterfowl production areas" shall annually be open to the hunting of migratory game birds, upland game, and big-game subject to the provisions of State law and regulations and the pertinent provisions of Parts 25 through 31 of this subchapter: *Provided*, That all forms of hunting or entry on all or any part of individual areas may be temporarily suspended by posting upon occasions of unusual or critical conditions of, or affecting land, water, vegetation, or wildlife populations.

§ 32.2 General provisions.

The following provisions shall apply to each person while engaged in public hunting on a wildlife refuge area:

(a) Each person shall secure and possess the required State license.

(b) Each person 16 years of age and older shall secure and possess a Migratory Bird Hunting Stamp while hunting migratory waterfowl.

(c) Each person shall comply with the applicable provisions of Federal law and regulations including this subchapter and the current Federal Migratory Bird Regulations.

(d) Each person shall comply with the applicable provisions of the laws and regulations of the State wherein any area is located unless further restricted by Federal law or regulation.

(e) Each person shall comply with the terms and conditions authorizing access or use of the wildlife refuge areas.

(f) Each person shall comply with the provisions of any special regulations governing hunting on the wildlife refuge area. Such special regulations will be published in the FEDERAL REGISTER and will be available at the headquarters of the wildlife refuge area to which they relate. The special regulations in effect may be had upon request to the Director. A reference to special regulations governing hunting on wildlife refuge areas will be made in §§ 32.12, 32.22, and 32.32, but these special regulations will not be set forth in their entirety in the Code of Federal Regulations.

§ 32.3 Procedure for publication of special regulations.

(a) Special hunting regulations are issued only after determination and publication of the opening of an area to hunting for migratory game birds, upland game, or big-game animals.

(b) Special hunting regulations are issued only after the announcement of applicable annual State and Federal hunting regulations.

(c) Special hunting regulations may contain the following items:

(1) Wildlife species which may be hunted.

(2) Seasons.

(3) Bag limits.

(4) Methods of hunting.

(5) Description of areas open to hunting.

(6) Other provisions as required.

(d) Special hunting regulations will not liberalize existing State laws or regulations.

(e) Special regulations are limited to one season and are issued annually and are effective upon publication in the FEDERAL REGISTER or in as many days thereafter as it is practical to allow under the particular circumstances.

(f) Special regulations are subject to change and the public is invited to submit suggestions and comments for consideration at any time.

(g) Special regulations are published in the daily issue of the FEDERAL REGISTER but are not codified in the Code of Federal Regulations.

(h) Special regulations may be amended as needed to meet management responsibility due to unpredictable seasonal variation in wildlife population, habitat conditions, and other changeable factors.

Subpart B—Migratory Game Bird Hunting

§ 32.11 List of open areas; migratory game birds.

The hunting of migratory game birds is authorized on the following wildlife refuge areas in accordance with the provisions of Subpart A of this part and § 32.12.

ALABAMA

Eufaula National Wildlife Refuge.
Wheeler National Wildlife Refuge.

ALASKA

Aleutian Islands National Wildlife Refuge.
Arctic National Wildlife Range.
Clarence Rhode National Wildlife Range.
Izembek National Wildlife Range.
Kenai National Moose Range.
Kodiak National Wildlife Refuge.
Nunivak National Wildlife Refuge.

ARIZONA

Havasu Lake National Wildlife Refuge.
Imperial National Wildlife Refuge.

CALIFORNIA

Clear Lake National Wildlife Refuge.
Colusa National Wildlife Refuge.
Delevan National Wildlife Refuge.
Havasu Lake National Wildlife Refuge.
Imperial National Wildlife Refuge.
Kern National Wildlife Refuge.
Lower Klamath National Wildlife Refuge.
Merced National Wildlife Refuge.
Modoc National Wildlife Refuge.
Sacramento National Wildlife Refuge.
Salton Sea National Wildlife Refuge.
Sutter National Wildlife Refuge.
Tule Lake National Wildlife Refuge.

COLORADO

Monte Vista National Wildlife Refuge.

DELAWARE

Bombay Hook National Wildlife Refuge.

FLORIDA

Chassahowitzka National Wildlife Refuge.
Loxahatchee National Wildlife Refuge.
Merritt Island National Wildlife Refuge.

GEORGIA

Eufaula National Wildlife Refuge.
Savannah National Wildlife Refuge.

IDAHO

Camas National Wildlife Refuge.
Deer Flat National Wildlife Refuge.
Kootenai National Wildlife Refuge.
Minidoka National Wildlife Refuge.

ILLINOIS

Chautauqua National Wildlife Refuge.
Crab Orchard National Wildlife Refuge.
Mark Twain National Wildlife Refuge.
Upper Mississippi River Wildlife and Fish Refuge.

IOWA

Mark Twain National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

KANSAS

Flint Hills National Wildlife Refuge.
Kirwin National Wildlife Refuge.

MASSACHUSETTS

Parker River National Wildlife Refuge.

MINNESOTA

Tamarac National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

MISSISSIPPI

Noxubee National Wildlife Refuge.
Yazoo National Wildlife Refuge.

MISSOURI

Mark Twain National Wildlife Refuge.
Swan Lake National Wildlife Refuge.

MONTANA

Benton Lake National Wildlife Refuge.
Bowdoin National Wildlife Refuge.
Charles M. Russell National Wildlife Range.
Medicine Lake National Wildlife Refuge.
Ravalli National Wildlife Refuge.
Red Rock Lakes National Wildlife Refuge.

NEVADA

Fallon National Wildlife Refuge.
Pahranagat National Wildlife Refuge.
Ruby Lake National Wildlife Refuge.
Stillwater Wildlife Management Area.

NEW JERSEY

Brigantine National Wildlife Refuge.

NEW MEXICO

Bitter Lake National Wildlife Refuge.
Bosque del Apache National Wildlife Refuge.

NEW YORK

Iroquois National Wildlife Refuge.
Montezuma National Wildlife Refuge.

NORTH CAROLINA

Mattamuskeet National Wildlife Refuge.

NORTH DAKOTA

Lower Souris National Wildlife Refuge.

OKLAHOMA

Tishomingo National Wildlife Refuge.

OREGON

Ankeny National Wildlife Refuge.
Baskett Slough National Wildlife Refuge.
Cold Springs National Wildlife Refuge.
Hart Mountain National Antelope Refuge.
Klamath Forest National Wildlife Refuge.
Lower Klamath National Wildlife Refuge.
Malheur National Wildlife Refuge.
McKay Creek National Wildlife Refuge.
Upper Klamath National Wildlife Refuge.
William L. Finley National Wildlife Refuge.

PENNSYLVANIA

Erie National Wildlife Refuge.

SOUTH CAROLINA

Santee National Wildlife Refuge.
Savannah National Wildlife Refuge.

SOUTH DAKOTA

Lacreek National Wildlife Refuge.

UTAH

Bear River Migratory Bird Refuge.
Fish Springs National Wildlife Refuge.

VERMONT

Missisquoi National Wildlife Refuge.

WASHINGTON

Columbia National Wildlife Refuge.
McNary National Wildlife Refuge.
Ridgefield National Wildlife Refuge.
Willapa National Wildlife Refuge.

WISCONSIN

Horicon National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

WYOMING

Pathfinder National Wildlife Refuge.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

NOTE: For Federal Register citations affecting § 32.12, see List of Section Affected.

Subpart C—Resident Game Hunting

§ 32.21 List of open areas; upland game.

The hunting of upland game is authorized on the following wildlife refuge areas in accordance with the provisions of Subpart A of this part and § 32.22.

ALABAMA

Wheeler National Wildlife Refuge.

ALASKA

Aleutian Islands National Wildlife Refuge.
Arctic National Wildlife Range.
Clarence Rhode National Wildlife Range.
Izembek National Wildlife Range.
Kenai National Moose Range.
Kodiak National Wildlife Refuge.
Nunivak National Wildlife Refuge.

ARKANSAS

Big Lake National Wildlife Refuge.
Wapanocca National Wildlife Refuge.
White River National Wildlife Refuge.

ARIZONA

Havasu Lake National Wildlife Refuge.
Imperial National Wildlife Refuge.

CALIFORNIA

Colusa National Wildlife Refuge.
Delevan National Wildlife Refuge.
Havasu Lake National Wildlife Refuge.
Imperial National Wildlife Refuge.
Lower Klamath National Wildlife Refuge.
Merced National Wildlife Refuge.
Sacramento National Wildlife Refuge.
Sutter National Wildlife Refuge.
Tule Lake National Wildlife Refuge.

COLORADO

Monte Vista National Wildlife Refuge.

DELAWARE

Bombay Hook National Wildlife Refuge.
Killcohook National Wildlife Refuge.

FLORIDA

St. Marks National Wildlife Refuge.

GEORGIA

Blackbeard Island National Wildlife Refuge.
Piedmont National Wildlife Refuge.

IDAHO

Camas National Wildlife Refuge.
Deer Flat National Wildlife Refuge.
Kootenai National Wildlife Refuge.
Minidoka National Wildlife Refuge.

ILLINOIS

Crab Orchard National Wildlife Refuge.
Mark Twain National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

IOWA

Mark Twain National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

KANSAS

Flint Hills National Wildlife Refuge.
Kirwin National Wildlife Refuge.

KENTUCKY

Kentucky Woodlands National Wildlife Refuge.
Reelfoot National Wildlife Refuge.

MINNESOTA

Tamarac National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

MISSISSIPPI

Noxubee National Wildlife Refuge.
Yazoo National Wildlife Refuge.

MISSOURI

Mark Twain National Wildlife Refuge.

MONTANA

Bowdoin National Wildlife Refuge.
Charles M. Russell National Wildlife Range.
Ravalli National Wildlife Refuge.

NEBRASKA

Crescent Lake National Wildlife Refuge.
Valentine National Wildlife Refuge.

NEVADA

Charles Sheldon Antelope Range.
Desert Game Range.
Fallon National Wildlife Refuge.
Pahranagat National Wildlife Refuge.
Stillwater Wildlife Management Area.

NEW JERSEY

Killcohook National Wildlife Refuge.

NEW MEXICO

Bitter Lake National Wildlife Refuge.

NEW YORK

Iroquois National Wildlife Refuge.
Montezuma National Wildlife Refuge.

NORTH DAKOTA

Lower Souris National Wildlife Refuge.
Tewaukon National Wildlife Refuge.

OKLAHOMA

Tishomingo National Wildlife Refuge.
Washita National Wildlife Refuge.

OREGON

Baskett Slough National Wildlife Refuge.
Charles Sheldon Antelope Range.
Cold Springs National Wildlife Refuge.
Hart Mountain National Antelope Refuge.
Lower Klamath National Wildlife Refuge.
McKay Creek National Wildlife Refuge.
William L. Finley National Wildlife Refuge.
Ankeny National Wildlife Refuge.

PENNSYLVANIA

Erie National Wildlife Refuge.

SOUTH CAROLINA

Cape Romain National Wildlife Refuge.

SOUTH DAKOTA

Sand Lake National Wildlife Refuge.

TENNESSEE

Lake Isom National Wildlife Refuge.
Reelfoot National Wildlife Refuge.
Tennessee National Wildlife Refuge.

UTAH

Ouray National Wildlife Refuge.
Bear River Migratory Bird Refuge.

WASHINGTON

Columbia National Wildlife Refuge.
McNary National Wildlife Refuge.
Willapa National Wildlife Refuge.

WISCONSIN

Horicon National Wildlife Refuge.
Ridgefield National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.
Necedah National Wildlife Refuge.

WYOMING

Pathfinder National Wildlife Refuge.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

NOTE: For Federal Register citations affecting § 32.22, see List of Sections Affected.

§ 32.31 List of open areas; big game.

The hunting of big game is authorized on the following wildlife refuge areas in accordance with the provisions of Subpart A of this part and § 32.32.

ALASKA

Aleutian Islands National Wildlife Refuge.
Arctic National Wildlife Range.
Bering Sea National Wildlife Refuge.
Izembek National Wildlife Range.
Kenai National Moose Range.
Kodiak National Wildlife Refuge.

ARIZONA

Kofa Game Range.

ARKANSAS

White River National Wildlife Refuge.

CALIFORNIA

Clear Lake National Wildlife Refuge.

DELAWARE

Bombay Hook National Wildlife Refuge.

FLORIDA

St. Marks National Wildlife Refuge.

GEORGIA

Blackbeard Island National Wildlife Refuge.
Piedmont National Wildlife Refuge.

IDAHO

Camas National Wildlife Refuge.
Deer Flat National Wildlife Refuge.
Kootenai National Wildlife Refuge.

ILLINOIS

Crab Orchard National Wildlife Refuge.
Mark Twain National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

IOWA

De Soto National Wildlife Refuge.
Mark Twain National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

KANSAS

Flint Hills National Wildlife Refuge.

KENTUCKY

Kentucky Woodlands National Wildlife Refuge.

MAINE

Moosehorn National Wildlife Refuge.

MARYLAND

Chincoteague National Wildlife Refuge.
Eastern Neck National Wildlife Refuge.

MASSACHUSETTS

Parker River National Wildlife Refuge.

MICHIGAN

Seney National Wildlife Refuge.
Shiawassee National Wildlife Refuge.

MINNESOTA

Agassiz National Wildlife Refuge.
Rice Lake National Wildlife Refuge.
Tamarac National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

MISSISSIPPI

Noxubee National Wildlife Refuge.

MISSOURI

Mark Twain National Wildlife Refuge.

MONTANA

Charles M. Russell National Wildlife Range.
Medicine Lake National Wildlife Refuge.
Ravalli National Wildlife Refuge.
Red Rock Lakes National Wildlife Refuge.

NEBRASKA

Crescent Lake National Wildlife Refuge.
De Soto National Wildlife Refuge.
Valentine National Wildlife Refuge.

NEVADA

Charles Sheldon Antelope Range.
Desert Game Range.

NEW MEXICO

San Andres National Wildlife Refuge.

NEW YORK

Iroquois National Wildlife Refuge.
Montezuma National Wildlife Refuge.

NORTH DAKOTA

Arrowwood National Wildlife Refuge.
Chase Lake National Wildlife Refuge.
Des Lacs National Wildlife Refuge.
Long Lake National Wildlife Refuge.
Lostwood National Wildlife Refuge.
Lower Souris National Wildlife Refuge.
Slade National Wildlife Refuge.
Snake Creek National Wildlife Refuge.
Tewaukon National Wildlife Refuge.
Upper Souris National Wildlife Refuge.

OKLAHOMA

Salt Plains National Wildlife Refuge.
Tishomingo National Wildlife Refuge.

OREGON

Charles Sheldon Antelope Range.
Hart Mountain National Antelope Refuge.
Malheur National Wildlife Refuge.
William L. Finley National Wildlife Refuge.

PENNSYLVANIA

Erie National Wildlife Refuge.

SOUTH CAROLINA

Cape Romain National Wildlife Refuge.
Carolina Sandhills National Wildlife Refuge.

SOUTH DAKOTA

Lacreek National Wildlife Refuge.
Sand Lake National Wildlife Refuge.
Waubay National Wildlife Refuge.

TENNESSEE

Tennessee National Wildlife Refuge.

TEXAS

Aransas National Wildlife Refuge.

UTAH

Ouray National Wildlife Refuge.

VERMONT

Missisquoi National Wildlife Refuge.

VIRGINIA

Chincoteague National Wildlife Refuge.

WASHINGTON

Columbia National Wildlife Refuge.
Little Pend Oreille National Wildlife Refuge.
Willapa National Wildlife Refuge.

WISCONSIN

Horicon National Wildlife Refuge.
Necedah National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

WYOMING

National Elk Refuge.
Pathfinder National Wildlife Refuge.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

NOTE: For Federal Register citations affecting § 32.32, see List of Sections Affected.

PART 33—SPORT FISHING

Sec.
33.1 Public fishing authorization.
33.2 General regulations.
33.3 Procedure for publication of special regulations.
33.4 List of open areas; sport fishing.
33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

AUTHORITY: The provisions of this Part 33 issued under R.S. 161, as amended, sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, 1270, sec. 4, 76 Stat. 654, 5 U.S.C. 22, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; 80 Stat. 926.

§ 33.1 Public fishing authorization.

Wildlife refuge areas are opened to sport fishing except when a determination has been made that such activity is detrimental to the objectives for which the area was established. The opening or closing of wildlife refuge areas to sport fishing shall be in accordance with the rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 1001–1011).

§ 33.2 General regulations.

The following provisions shall apply to each person while engaged in public sport fishing on a wildlife refuge area:

(a) Each person shall secure and possess the required State license.

(b) Each person shall comply with the applicable provisions of Federal law and regulation including this subchapter.

(c) Each person shall comply with the applicable provisions of the laws and regulations of the State wherein any area is located unless the same are further restricted by Federal law or regulation.

(d) Each person shall comply with the terms and conditions authorizing access and use of the wildlife refuge area.

(e) Each person shall comply with the provisions of any special regulations governing fishing on the wildlife refuge area. Such special regulations will be published in the FEDERAL REGISTER and will be available at the headquarters of the wildlife refuge area to which they relate. The special regulations in effect may be had upon request to the Director. A reference to special regulations governing fishing on wildlife refuge areas will be made in § 33.5, but these special regulations will not be set forth in their entirety in the Code of Federal Regulations.

§ 33.3 Procedure for publication of special regulations.

(a) Special fishing regulations are issued only after determination and publication of the opening of an area to fishing.

(b) Special fishing regulations are issued only after the announcement of the applicable annual State fishing regulations.

(c) Special fishing regulations may contain the following items:

(1) Species of fish which may be taken.
(2) Seasons.
(3) Creel limits.
(4) Methods of fishing.
(5) Description of areas open to fishing.
(6) Other provisions as required.

(d) Special fishing regulations will not liberalize existing State laws or regulations.

(e) Special regulations are limited to one season and are issued annually and are effective upon publication in the FEDERAL REGISTER or in as many days thereafter as it is practical to allow under the particular circumstances.

(f) Special regulations are subject to change and the public is invited to submit suggestions and comments for consideration at any time.

(g) Special regulations are published in the daily issue of the FEDERAL REGISTER but are not codified in the Code of Federal Regulations.

(h) Special regulations may be amended as needed to meet management responsibility due to unpredictable seasonal variation in wildlife population, habitat conditions, and other changeable factors.

§ 33.4 List of open areas; sport fishing.

Sport fishing is authorized on the following wildlife refuge areas in accordance with the provisions of §§ 33.1, 33.2, and 33.5.

ALABAMA

Choctaw National Wildlife Refuge.

ALASKA

Aleutian Islands National Wildlife Refuge.
Arctic National Wildlife Range.
Bering Sea National Wildlife Refuge.
Clarence Rhode National Wildlife Range.
Izembek National Wildlife Range.
Kenai National Moose Range.
Kodiak National Wildlife Refuge.
Nunivak National Wildlife Refuge.

ARIZONA

Havasu Lake National Wildlife Refuge.
Imperial National Wildlife Refuge.

ARKANSAS

Big Lake National Wildlife Refuge.
Wapanocca National Wildlife Refuge.
White River National Wildlife Refuge.

CALIFORNIA

Colusa National Wildlife Refuge.
Delevan National Wildlife Refuge.
Havasu Lake National Wildlife Refuge.
Imperial National Wildlife Refuge.
Modoc National Wildlife Refuge.
Sacramento National Wildlife Refuge.
Tule Lake National Wildlife Refuge.

COLORADO

Monte Vista National Wildlife Refuge.

DELAWARE

Bombay Hook National Wildlife Refuge.

FLORIDA

Chassahowitzka National Wildlife Refuge.
Loxahatchee National Wildlife Refuge.
Merritt Island National Wildlife Refuge.
St. Marks National Wildlife Refuge.
Lake Woodruff National Wildlife Refuge.

GEORGIA

Blackbeard Island National Wildlife Refuge.
Okefenokee National Wildlife Refuge.
Piedmont National Wildlife Refuge.
Savannah National Wildlife Refuge.

IDAHO

Deer Flat National Wildlife Refuge.
Kootenai National Wildlife Refuge.
Minidoka National Wildlife Refuge.

ILLINOIS

Chautauqua National Wildlife Refuge.
Crab Orchard National Wildlife Refuge.
Mark Twain National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

IOWA

De Soto National Wildlife Refuge.
Mark Twain National Wildlife Refuge.
Union Slough National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

KANSAS

Flint Hills National Wildlife Refuge.
Kirwin National Wildlife Refuge.

KENTUCKY

Kentucky Woodlands National Wildlife Refuge.

LOUISIANNA

Lacassine National Wildlife Refuge.
Sabine National Wildlife Refuge.

MAINE

Moosehorn National Wildlife Refuge.

MARYLAND

Chincoteague National Wildlife Refuge.

MASSACHUSETTS

Monomoy National Wildlife Refuge.
Parker River National Wildlife Refuge.

MICHIGAN

Seney National Wildlife Refuge.

MINNESOTA

Rice Lake National Wildlife Refuge.
Tamarac National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

MISSISSIPPI

Noxubee National Wildlife Refuge.
Yazoo National Wildlife Refuge.

MISSOURI

Mark Twain National Wildlife Refuge.
Mingo National Wildlife Refuge.
Squaw Creek National Wildlife Refuge.
Swan Lake National Wildlife Refuge.

MONTANA

Bowdoin National Wildlife Refuge.
Charles M. Russell National Wildlife Range.
Medicine Lake National Wildlife Refuge.
National Bison Range.
Nine-Pipe National Wildlife Refuge.
Pablo National Wildlife Refuge.
Pishkun National Wildlife Refuge.
Ravalli National Wildlife Refuge.
Red Rock Lakes National Wildlife Refuge.
Willow Creek National Wildlife Refuge.

NEBRASKA

Crescent Lake National Wildlife Refuge.
De Soto National Wildlife Refuge.
North Platte National Wildlife Refuge.
Valentine National Wildlife Refuge.

NEVADA

Charles Sheldon Antelope Range.
Desert Game Refuge.
Ruby Lake National Wildlife Refuge.
Sheldon National Antelope Refuge.
Stillwater National Wildlife Refuge.

NEW JERSEY

Brigantine National Wildlife Refuge.

NEW MEXICO

Bitter Lake National Wildlife Refuge.
Bosque Del Apache National Wildlife Refuge.

NEW YORK

Elizabeth Morton National Wildlife Refuge.
Iroquois National Wildlife Refuge.
Montezuma National Wildlife Refuge.

NORTH CAROLINA

Mackay Island National Wildlife Refuge.
Mattamuskeet National Wildlife Refuge.
Pea Island National Wildlife Refuge.

NORTH DAKOTA

Arrowwood National Wildlife Refuge.
Des Lacs National Wildlife Refuge.
Lake Ilo National Wildlife Refuge.
Long Lake National Wildlife Refuge.
Lower Souris National Wildlife Refuge.
Snake Creek National Wildlife Refuge.
Tewaukon National Wildlife Refuge.
Upper Souris National Wildlife Refuge.

OKLAHOMA

Salt Plains National Wildlife Refuge.
Tishomingo National Wildlife Refuge.
Washita National Wildlife Refuge.
Wichita Mountains Wildlife Refuge.

OREGON

Cold Springs National Wildlife Refuge.
Hart Mountain National Antelope Refuge.
Klamath Forest National Wildlife Refuge.
Malheur National Wildlife Refuge.
McKay Creek National Wildlife Refuge.
Upper Klamath National Wildlife Refuge.
William L. Finley National Wildlife Refuge.
Ankeny National Wildlife Refuge.

PENNSYLVANIA

Erie National Wildlife Refuge.

SOUTH CAROLINA

Cape Romain National Wildlife Refuge.
Carolina Sandhills National Wildlife Refuge.
Santee National Wildlife Refuge.
Savannah National Wildlife Refuge.

SOUTH DAKOTA

Lacreek National Wildlife Refuge.
Sand Lake National Wildlife Refuge.
Waubay National Wildlife Refuge.

TENNESSEE

Cross Creeks National Wildlife Refuge.
Hatchie National Wildlife Refuge.
Lake Isom National Wildlife Refuge.
Reelfoot National Wildlife Refuge.

TEXAS

Buffalo Lake National Wildlife Refuge.
Hagerman National Wildlife Refuge.
Muleshoe National Wildlife Refuge.

UTAH

Bear River Migratory Bird Refuge.

VERMONT

Missisquoi National Wildlife Refuge.

VIRGINIA

Back Bay National Wildlife Refuge.
Chincoteague National Wildlife Refuge.
Mackay Island National Wildlife Refuge.

WASHINGTON

Columbia National Wildlife Refuge.
Little Pend Oreille National Wildlife Refuge.
McNary National Wildlife Refuge.

WISCONSIN

Horicon National Wildlife Refuge.
Necedah National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

WYOMING

National Elk Refuge.
Pathfinder National Wildlife Refuge.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NOTE: For Federal Register citations affecting § 33.5, see List of Sections Affected.

PART 34—REFUGE REVENUE SHARING WITH COUNTIES

Sec.
34.1 Purpose.
34.2 Authority.
34.3 Areas of the System.
34.4 Distribution of revenues.
34.5 Adjustment of land costs.
34.6 Administrative determinations.
34.7 Adjustment of payment.

AUTHORITY: The provisions of this Part 34 issued under 78 Stat. 701; 16 U.S.C. 715s.

§ 34.1 Purpose.

The purpose of the regulations contained in this part is to prescribe the procedures for sharing with certain counties the revenues derived from the management and administration of areas of the National Wildlife Refuge System.

§ 34.2 Authority.

(a) The Act of August 30, 1964 (78 Stat. 701, 16 U.S.C. 715s) amended section 401 of the Act of June 15, 1935 (45 Stat. 378, 383), by providing new formulas for sharing with certain counties the revenues derived from areas of the National Wildlife Refuge System that are solely or primarily administered by the Fish and Wildlife Service of the Department of the Interior. Payments to the counties under the Act must be used for the benefit of public schools and roads.

(b) Pursuant to Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d), and the regulations issued pursuant thereto, which are contained in 43 CFR Part 17, counties must file an assurance with the Department, comply with the terms of the assurances, and comply with regulations contained in 43 CFR Part 17 in order to continue to receive this Federal financial assurance.

§ 34.3 Areas of the System.

In order for any county to share in the revenues, there must be located within the county, areas of land and/or water administered by the Secretary of the Interior as wildlife refuges, wildlife ranges, game ranges, wildlife management areas, or waterfowl production areas, and these areas must be solely or primarily administered by the Fish and Wildlife Service.

§ 34.4 Distribution of revenues.

The Act provides that the Secretary of the Interior, at the end of each fiscal year, shall pay out of the net revenues deposited into the National Wildlife Refuge Fund for such fiscal year:

(a) To each county in which reserved public lands in areas of the System are situated, an amount equal to 25 per centum of the net receipts collected by the Secretary from such reserved public lands in that particular area of the System: *Provided*, That when any such area is situated in more than one county the distributive share to each county from the aforesaid receipts shall be proportional to its acreage of such public lands therein; and

(b) To each county in which areas in the System are situated that have been acquired in fee by the United States, either (1) three-fourths of one per centum of the cost of the areas, exclusive of any improvements to such areas made subsequent to Federal acquisition, such cost to be adjusted to represent current values as determined by the Secretary for the first full fiscal year after enactment of this Act and as redetermined by him at 5-year intervals thereafter, or (2) 25 per centum of the net receipts collected by the Secretary from such acquired lands in that particular area of the System within such counties, whichever is greater.

§ 34.5 Adjustment of land costs.

(a) Section 401(c)(2) of the Act (16 U.S.C. 715s(c)(2)), provides for the adjustment of costs of acquired lands to represent current values with readjustments at 5-year intervals. The costs of all tracts acquired in each year for each county will be adjusted every 5 years to reflect increases or decreases in land costs. The cost of the land is adjusted according to Tables of Index Numbers of Average Values of Farm Real Estate compiled by the Economic Research Service of the U.S. Department of Agriculture as published in its semiannual "Farm Real Estate Market Development." All land costs will be adjusted as of June 30, 1966, and at each 5-year interval thereafter.

(b) The "cost" of lands before adjustment is the purchase price; condemnation award; or the appraised value of areas acquired by gift, donation or exchange as of the date of acquisition.

§ 34.6 Administrative determinations.

(a) When an area consists of both acquired lands and reserved public lands, standard accounting techniques will be used to allocate net revenues to each type of land. All areas which are part of the System as of June 30 will be included in calculating the revenues due to each county for the fiscal year ending that date.

(b) The Secretary will determine in accordance with section 401(b) (16 U.S.C. 715s(b)) those expenses which may be paid from the Fund and deducted from revenues in establishing the net receipts for an area.

§ 34.7 Adjustment of payment.

The payments to the counties for any fiscal year shall not exceed the net receipts in the National Wildlife Refuge Fund for that fiscal year, and in case the net receipts for a particular fiscal year are insufficient to pay the full amounts due, the payment to each county will be reduced proportionately.

SUBCHAPTER D—MANAGEMENT OF WILDLIFE RESEARCH AREAS

PART 60—PATUXENT WILDLIFE RESEARCH CENTER

Sec.
60.1 Public use policy.
60.2 Emergency closure.
60.3 Restricted or prohibited acts.
60.4 Enforcement provisions.
60.5 Public access and use.
60.6 Land use management.
60.7 Range and feral animal management.
60.8 Wildlife species management.
60.9 Public hunting in aid of research.
60.10 Public sport fishing in aid of research.
60.11 Special regulations; hunting and sport fishing.

AUTHORITY: The provisions of this Part 60 issued under sec. 10, 45 Stat. 1224, as amended; 16 U.S.C. 715i; 80 Stat. 926.

§ 60.1 Public use policy.

The primary purpose of the Patuxent Wildlife Research Center is to provide an outdoor laboratory and other facilities for conducting investigations, tests, and experiments on wildlife diseases, populations, and habitat as a means of providing a sound basis for the administration and management of wildlife resources. In general, public uses of the research center are restricted to those which will contribute to the projects being conducted thereon. Public hunting, fishing, trapping, and recreational activities not provided for in §§ 60.9 and 60.10, are considered to be detrimental to the fulfillment of the objectives of the center.

§ 60.2 Emergency closure.

All or any part of the Patuxent Wildlife Research Center may be closed to public access and use in the event of an emergency endangering life or property.

§ 60.3 Restricted or prohibited acts.

The restricted or prohibited acts enumerated in Part 26 of this chapter are equally applicable to the Patuxent Wildlife Research Center with the exception of §§ 26.5 and 26.6 of this chapter, relating to hunting and fishing, which are treated separately in this part.

§ 60.4 Enforcement provisions.

The enforcement provisions set forth in Part 27 of this chapter are equally applicable to the Patuxent Wildlife Research Center.

§ 60.5 Public access and use.

The public access and use provisions set forth in Part 28 of this chapter are equally applicable to the Patuxent Wildlife Research Center.

§ 60.6 Land use management.

The land use management provisions set forth in Part 29 of this chapter are equally applicable to the Patuxent Wildlife Research Center.

§ 60.7 Range and feral animal management.

The range and feral animal management provisions set forth in Part 30 of this chapter are equally applicable to the Patuxent Wildlife Research Center.

§ 60.8 Wildlife species management.

The wildlife species management provisions set forth in Part 31 of this chapter are equally applicable to the Patuxent Wildlife Research Center.

§ 60.9 Public hunting in aid of research.

The research center may be opened to public hunting, under such conditions and restrictions as may be required, when public hunting activities will facilitate the collection of reliable data for investigations, tests, or experiments. The hunting provisions set forth in Part 32 of this chapter are equally applicable to the Patuxent Wildlife Research Center.

§ 60.10 Public sport fishing in aid of research.

The research center may be opened to public sport fishing, under such conditions and restrictions as may be required, when public sport fishing activities will facilitate the collection of reliable data for investigations, tests, or experiments. The sport fishing provisions set forth in Part 33 of this chapter are equally applicable to the Patuxent Wildlife Research Center.

§ 60.11 Special regulations; hunting and sport fishing.

NOTE: For Federal Register citations affecting § 60.11 see List of Sections Affected.

SUBCHAPTER E—MANAGEMENT OF FISHERIES CONSERVATION AREAS

PART 70—NATIONAL FISH HATCHERIES

Sec.
70.1 Purpose.
70.2 State cooperation in national fish hatchery area management.
70.3 Emergency closure.
70.4 Restricted or prohibited acts.
70.5 Enforcement provisions.
70.6 Public access, use, and recreation.
70.7 Land-use management.
70.8 Range and feral animal management.
70.9 Wildlife species management.

AUTHORITY: The provisions of this Part 70 issued under R.S. 161, sec. 4, 48 Stat. 402, as amended, sec. 4, 76 Stat. 654; 5 U.S.C. 22, 16 U.S.C. 664, 460k; 80 Stat. 926.

§ 70.1 Purpose.

All national fish hatchery areas are maintained for the fundamental purpose of the propagation and distribution of fish and other aquatic animal life and managed for the protection of all species of wildlife.

§ 70.2 State cooperation in national fish hatchery area management.

State cooperation may be enlisted in management programs including public hunting, fishing and recreation. The details of these programs shall be mutually agreed upon by the Secretary and the head of the appropriate State agency in cooperative agreements executed for the purpose. Persons entering upon a national fish hatchery area shall comply with all regulations issued by the State agency under the terms of the cooperative agreement.

§ 70.3 Emergency closure.

All or any part of a national fish hatchery area may be closed to public access and use in the event of an emergency endangering life or property.

§ 70.4 Restricted or prohibited acts.

(a) The restricted or prohibited acts enumerated in Part 26 of this chapter are equally applicable to national fish hatchery areas with the exception of §§ 26.5 and 26.6 of this chapter, relating to hunting and fishing, which are treated separately in this part.

(b) Fishing, taking, seining, or attempting to fish, take, seine, any fish, amphibian, or other aquatic animal on any national fish hatchery area is prohibited except as may be authorized under the provisions of Part 71 of this chapter.

(c) Hunting, killing, capturing, taking, or attempting to hunt, kill, capture, or take any animal on any national fish hatchery area is prohibited except as may be authorized in the provisions of Part 71 of this chapter.

(d) Disturbing spawning fish or fish preparing to spawn in ponds, raceways, streams, lakes, traps, and below traps, ladders, fish screens, fishways and racks is prohibited.

§ 70.5 Enforcement provisions.

The enforcement provisions set forth in Part 27 of this chapter are equally applicable to national fish hatchery areas.

§ 70.6 Public access, use, and recreation.

The public access, use, and recreation provisions set forth in Part 28 of this chapter are equally applicable to national fish hatchery areas.

§ 70.7 Land-use management.

The land-use management provisions set forth in Part 29 of this chapter are equally applicable to national fish hatchery areas.

§ 70.8 Range and feral animal management.

The range and feral animal management provisions set forth in Part 30 of this chapter are equally applicable to national fish hatchery areas.

§ 70.9 Wildlife species management.

The wildlife species management provisions set forth in Part 31 of this chapter are equally applicable to national fish hatchery areas.

PART 71—HUNTING AND FISHING ON NATIONAL FISH HATCHERY AREAS

Subpart A—Hunting

Sec.
71.1 Opening of national fish hatchery areas to hunting.
71.2 General provisions.

Subpart B—Fishing

Sec.
71.11 Opening of national fish hatchery areas to fishing.
71.12 General provisions.

AUTHORITY: The provisions of this Part 71 issued under R.S. 161, sec. 4, 48 Stat. 402, as amended, sec. 4, 76 Stat. 654; 5 U.S.C. 22, 16 U.S.C. 664, 460k; 80 Stat. 926.

Subpart A—Hunting

§ 71.1 Opening of national fish hatchery areas to hunting.

National fish hatchery areas may be opened to hunting wildlife when such activity is not detrimental to the propagation and distribution of fish or other aquatic wildlife.

§ 71.2 General provisions.

The following provisions shall apply to public hunting on a national fish hatchery area:

(a) Each person shall secure and possess the required State license.

(b) Each person 16 years of age and older shall secure and possess a Migratory Bird Hunting Stamp while hunting migratory waterfowl.

(c) Each person shall comply with the applicable provisions of Federal laws and regulations including this subchapter and the current Federal Migratory Bird regulations.

(d) Each person shall comply with the applicable provisions of the laws and regulations of the State wherein any hatchery is located unless further restricted by Federal law or regulation.

(e) Each person shall comply with the terms and conditions authorizing access and use of the national fish hatchery area.

(f) Each person shall comply with the provisions of any special notices governing hunting on the national fish hatchery area. Such special notices will be posted throughout the area and will be available at the headquarters of the fish hatchery to which they relate.

(1) Special notices are issued only after the announcement of applicable annual State and Federal hunting regulations.

(2) Special notices may contain the following items:

(i) Wildlife species which may be hunted;

(ii) Seasons;

(iii) Bag limits;

(iv) Methods of hunting;

(v) Description of areas open to hunting;

(vi) Other provisions as required.

(3) Special notices will not liberalize existing State law or regulations.

(4) Special notices may be amended as needed to meet management responsibilities for the area.

Subpart B—Fishing

§ 71.11 Opening of national fish hatchery areas to fishing.

National fish hatchery areas may be opened to sport fishing when such activity is not detrimental to the propagation and distribution of fish or other aquatic animal life.

§ 71.12 General provisions.

The following provisions shall apply to public sport fishing on a national fish hatchery area:

(a) Each person shall secure and possess the required State license.

(b) Each person shall comply with the applicable provisions of Federal law and regulation including this subchapter.

(c) Each person shall comply with the applicable provisions of the laws and regulations of the State wherein any area is located unless the same are further restricted by Federal law or regulation.

(d) Each person shall comply with the terms and conditions authorizing access and use of the national fish hatchery area.

(e) Each person shall comply with the provisions of any special notices governing fishing on the national fish hatchery area. Such special notices will be posted throughout the area and will be available at the headquarters of the fish hatchery to which they relate.

(1) Special notices are issued only after announcement of the applicable annual State fishing regulation.

(2) Special notices may contain the following items:

(i) Species of fish which may be taken;

(ii) Seasons;

(iii) Creel limits;

(iv) Method of fishing;

(v) Description of areas open to fishing;

(vi) Other provisions as required.

(3) Special notices will not liberalize existing State law or regulations.

(4) Special notices may be amended as needed to meet management responsibilities for the area.

SUBCHAPTER F—FEDERAL AID TO STATES IN FISH AND WILDLIFE RESTORATION

PART 80—RESTORATION OF GAME BIRDS, FISH AND MAMMALS

Sec.
80.1 Definitions.
80.2 Apportionment and certification.
80.3 Notice of desire to participate.
80.4 Diversion of funds.
80.5 Participation by State subdivisions.
80.6 General information for the Secretary.
80.7 Hunting and fishing license information.
80.8 Preliminary project statement.
80.9 Plans, specifications and estimates.
80.10 Project agreement.
80.11 Project standards.
80.12 Federal Aid payments.
80.13 Prosecution of work.
80.14 Economy and efficiency.
80.15 Contracts.
80.16 Maintenance of completed projects.
80.17 Form of vouchers.
80.18 Credit for receipts.
80.19 Safety and accident prevention.
80.20 Personnel.
80.21 Equal employment opportunity.
80.22 Statements and payrolls.
80.23 Officials not to benefit.
80.24 Inspection.
80.25 Samples of materials to be submitted.
80.26 Submission.
80.27 Records and reporting.
80.28 Records retention period.

AUTHORITY: The provisions of this Part 80 issued under sec. 10, 50 Stat. 919, as amended, sec. 10, 64 Stat. 434, as amended; 16 U.S.C. 669i, 777l.

§ 80.1 Definitions.

As used in this part, terms shall have the meanings ascribed in this section.

(a) *Federal Aid Act(s).* (1) The Act of Congress, approved September 2, 1937, entitled "An Act to provide that the United States shall aid the States in wildlife restoration projects, and for other purposes," (50 Stat. 917, as amended; 16 U.S.C. sec. 669–669i), commonly referred to as the Pittman-Robertson Act; and (2) the Act of Congress, approved August 9, 1950, entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes," (64 Stat. 430, as amended; 16 U.S.C. sec. 777–777k), commonly referred to as the Dingell-Johnson Act.

(b) *State.* Any State of the United States, the territorial areas of Guam and the Virgin Islands, and the Commonwealth of Puerto Rico.

(c) *State Fish and Game Department.* Any department or division, or commission, or official, of a State empowered under its laws to exercise the functions ordinarily exercised by a State Fish and Game Department, the Commissioner of Agriculture and Commerce of Puerto Rico, or the Governor of Guam or the Virgin Islands.

(d) *Project.* An undertaking involving acquisition of areas of land or water or interests therein, for feeding, resting, or breeding places for fish or wildlife; restoration, rehabilitation, or improvement, by construction of necessary works or otherwise, of land and water areas for the benefit of fish or wildlife or both; maintenance of completed projects; management (exclusive of law enforcement and public relations) of fish or wildlife areas and resources; conduct of research into problems of fish or wildlife management, and the coordination of projects necessary to efficient administration affecting fish and wildlife resources.

(e) *Project segment.* Considering the nature, objectives and fiscal aspects of a project, when viewed as a completed project, a segment is an essential part, section, division or logical work unit.

(f) *Completed project.* A project will be considered completed when the area has been acquired or the work or capital improvements have been finished, inspected, and approved.

(g) *Fish and wildlife.* (1) The term "fish" is limited to aquatic, gill breathing, vertebrate animals bearing paired fins; and (2) the term "wildlife" is limited to wild birds and wild mammals.

§ 80.2 Apportionment and certification.

The Secretary shall apportion funds in the manner prescribed in the Acts, as soon as possible after receiving notification of the amounts which have become available for the purposes of the Acts. He shall promptly certify to the Secretary of the Treasury and to each State Fish and Game Department the

respective sums which he has deducted for administering and executing the Acts and the respective sums which he has apportioned to each State for the ensuing fiscal year.

§ 80.3 Notice of desire to participate.

Any State Fish and Game Department desiring to avail itself of the benefits of the Acts shall notify the Secretary within 60 days after it has received from him a certificate of apportionment of funds available to the State.

§ 80.4 Diversion of funds.

A diversion of funds occurs when a State Fish and Game Department, through legislative action or otherwise, loses control over the expenditure of any portion of its hunting license or sport fishing license revenues or expends such revenues for any purpose other than the administration of the State Fish and Game Department. When a diversion of funds occurs a State thereby becomes ineligible to receive Federal Aid funds under the pertinent Act(s) from the date the diversion occurs until:

(a) Action is taken to return the administration of hunting and sport fishing license fees to the State Fish and Game Department; and

(b) Hunting and sport fishing license fees used for purposes other than the administration of the State Fish and Game Department are replaced: *Provided, however,* That, where any projects were approved in compliance with the terms of the pertinent Act(s) prior to diversion, and Federal Aid funds were obligated to carry out such projects, such funds shall remain available therefor until expended; without regard for the intervening period of the State's ineligibility under the Act(s).

§ 80.5 Participation by State subdivisions.

When any part of the cost of a project is to be furnished by a county or any other subdivision of a State, the plans, specifications and estimates shall be accompanied by a certified copy of each resolution or order, if any, of the appropriate local officials, or by such other showing as the Secretary may require. The plans, specifications and estimates shall show the funds that are made available, indicate the control of the money provided for paying such cost, and state whether the State, county, or other subdivision will own the lands and improvements; and state which agency shall have immediate responsibility for administration and maintenance after completion of the project.

§ 80.6 General information for the Secretary.

Before any Federal funds may be obligated for any project to be undertaken in a State, there shall be furnished to the Secretary upon his request, information regarding the laws affecting fish or wildlife conservation and the authority of the State and of local officials with respect to the establishment and maintenance of projects; and the existing provisions of the State constitution or laws relating to revenues for the protection, restoration and management of fish or wildlife.

(a) *Document signature.* The Secretary of State of each State or an authorized official of the State shall certify as to the duly appointed official(s) authorized in accordance with State law to commit the State to participation under the provisions of the Acts and to sign Federal Aid project documents. The Secretary shall be advised promptly of any change made in such authorizations to sign Federal Aid documents.

(b) *Program information.* The Secretary may, from time to time, request and the State Fish and Game Department shall furnish information relating to the administration and maintenance of any project established under the Acts.

§ 80.7 Hunting and fishing license information.

Certified information concerning the number of holders of paid hunting licenses and holders of paid fishing licenses of the State in the preceding fiscal year shall be furnished the Secretary by the Fish and Game Department of each State on or before December 15 of each year.

§ 80.8 Preliminary project statement.

A preliminary project statement shall be submitted for each proposed project, which shall contain such fundamental information as the Secretary may require, in order that he may determine if a project is substantial in character and design.

§ 80.9 Plans, specifications and estimates.

Plans, specifications and estimates shall be submitted for each project segment showing in prescribed form and detail the work to be performed and its estimated cost.

§ 80.10 Project agreement.

After the Secretary shall have approved a preliminary project statement and the plans, specifications and estimates of costs, the mutual obligations to be undertaken by the cooperating agencies shall be evidenced by a project agreement to be executed between the State Fish and Game Department and the Secretary for each such project or project segment.

§ 80.11 Project standards.

Standards for Federal Aid projects are:

(a) Sufficient funds must be available for expenditure by the State Fish and Game Department for the purpose of originally financing the cost of the projects.

(b) Projects must be substantial in character and design.

(c) Federal Aid participation in the cost of acquisition of lands under a project shall not exceed the amounts determined by the Secretary to be the fair and reasonable value of said lands.

(d) Projects for development, maintenance or management shall have as their objectives the improvement of conditions suitable for fish or wildlife, or both, the upkeep and repair of structures that have been acquired or constructed under either of the Acts or the management of fish or wildlife or both.

(e) Projects dealing with fish or wildlife research shall be concerned with basic studies and with problems having direct management application.

(f) With respect to projects which are designed to include uses other than for fish or wildlife, reimbursement of costs from funds under the Acts shall be limited to the extent of the benefits to fish or wildlife resulting from such projects.

(g) Each project agreement shall contain a provision as follows:

1. The State Fish and Game Department, its employees, operators, lessees, and sublessees in the operation of any structure or other facility acquired or constructed under the Acts, shall not:

(a) Publicize the facilities, accommodations, or any activity conducted therein in any manner that would directly or inferentially reflect upon or question the acceptability of any person because of race, creed, color, ancestry, or national origin;

(b) Discriminate, by segregation or other means, against any person or persons because of race, creed, color, ancestry, or national origin in furnishing or refusing to furnish such person the use of any accommodations, facilities, services, or privileges available to the general public.

2. The State Fish and Game Department shall post the following notice in such a manner where any facility is available as to insure that its contents will be conspicuous to any person seeking the use of any facility:

> No discrimination by segregation or other means in the furnishing of accommodations, facilities, services, or privileges on the basis of race, creed, color, ancestry, or national origin is permitted in the use of this facility.

3. The State Fish and Game Department shall in all of its contracts or other forms of agreement require inclusion and compliance with provisions identical with those stated in 1 and 2 herein.

§ 80.12 Federal Aid payments.

Federal Aid payments under the Acts, including such preliminary costs and expenses as may be incurred in and about such projects, shall not be made on any project unless the preliminary project statement, the plans, specifications and estimates, and all other documents that may be necessary or required in the administration of these Acts, shall have first been submitted to and approved by the Secretary.

(a) Federal Aid payments shall not exceed 75 percent of the cost of a project or the amount specified in the project agreement, whichever is less: *Provided,* That Federal Aid payments to the territorial areas of Guam, the Virgin Islands and the Commonwealth of Puerto Rico shall not exceed the amount specified in the project agreement and in no event shall they be required to pay an amount which will exceed 25 percent of the cost of any project.

(b) Federal Aid payments on projects terminated prior to completion shall be limited to the cost of benefits produced, provided the work accomplished is substantial in character and design.

(c) A minimum of 10 percent Federal Aid payment of the cost of each project is required to qualify land acquisition and development projects for maintenance of capital improvements with Federal Aid funds.

§ 80.13 Prosecution of work.

(a) The State Fish and Game Department shall carry all approved projects through to satisfactory completion with reasonable promptness. Should the funds provided the State for prosecution of a given project segment be insufficient to finish all work proposed in the preliminary project statement and in the plans, specifications, and estimates submitted and approved in connection therewith, additional projects segments will be submitted and will be considered by the Secretary as additional funds become available, unless the State elects to complete the project with other than Federal Aid funds. Federal participation in the cost of acquisition of lands under a project segment shall not exceed 75 percent of the amounts determined by the Secretary to be the fair and reasonable value of said lands.

(b) All construction work will be performed by contract when practicable.

(c) Research work shall be continuously coordinated with other studies conducted by the State and other agencies in order to avoid unnecessary duplication.

(d) All work shall be performed in accordance with applicable State laws.

§ 80.14 Economy and efficiency.

No project shall be approved until the State has shown to the satisfaction of the Secretary that appropriate and adequate means shall be employed to insure economy and efficiency in the completion of the project.

§ 80.15 Contracts.

Supply, service, equipment and construction contracts involving an expenditure of $2,500.00 or more entered into by a State for the execution of approved project activities shall be based upon free and open competitive bids. If a contract is awarded to other than the lowest responsible bidder, the Federal Aid payment shall be based on the lowest responsible bid, unless it is satisfactorily shown that it was advantageous to the the project to accept a higher bid. Upon request, the State Fish and Game Department shall certify and promptly furnish to the Secretary a copy of each contract as executed.

§ 80.16 Maintenance of completed projects.

The State Fish and Game Department shall exercise all reasonable means to insure permanent and proper management and maintenance of each completed project involving the acquisition, lease or development of lands or waters.

§ 80.17 Form of vouchers.

Vouchers on forms provided by the Secretary and certified as therein prescribed, showing amounts expended on each project segment and the Federal Aid claimed to be due on account thereof, shall be submitted to the Secretary by the State Fish and Game Department, either after completion of each project segment or as the work progresses.

§ 80.18 Credit for receipts.

The Federal Aid program in the State shall be credited with the amount of any net income derived by the State from operation of a project or project segment to the extent of and in the same ratio that Federal Aid funds are used in the production of income. The Federal Aid program in the State shall be credited by reduction of Federal Aid payments with the amount of any net proceeds resulting from the disposal of real or personal property, including supplies and equipment to the extent of and in the same ratio that Federal Aid funds were utilized in the project or segment thereof for which the property was acquired. In no case, however, shall the amount of such credit exceed the amount of Federal Aid funds which were approved for use in the operation of the project or in the acquisition of the property involved. When property acquired with Federal Aid funds is used for non-Federal aid program purposes compensation shall be made in like manner as disposal of such property except that, in the case of temporary non-program use of equipment the Federal Aid program shall be credited on the basis of the established Federal Aid rental rates for the type of equipment concerned during the period of non-program use. All credits shall be applied to current year funds.

§ 80.19 Safety and accident prevention.

In the performance of each project, the State shall comply with all applicable Federal, State and local laws governing safety, health and sanitation. The State shall be responsible that all safeguards, safety devices and protective equipment are provided and will take any other needed actions reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the plans, specifications and estimates.

§ 80.20 Personnel.

The State Fish and Game Department shall maintain an adequate and competent force of employees to initiate and carry Federal Aid projects through to satisfactory completion. Federal Aid personnel employed by a State Fish and Game Department shall be selected on the basis of their competence to perform the services required and shall conduct their duties in a manner acceptable to the Secretary.

§ 80.21 Equal employment opportunity.

Each project agreement shall contain the equal employment opportunity provisions of Executive Orders 10925 (26 F.R. 1977; 3 CFR, 1959–1963 Comp., p. 448) and 11114 (28 F.R. 6485; 3 CFR, 1959–1963 Comp., p. 774), and as they may be amended.

§ 80.22 Statements and payrolls.

The regulations of the Secretary of Labor applicable to contractors and subcontractors (29 CFR Part 3), made pursuant to the Copeland Act, as amended (40 U.S.C. 276c), and to aid in the enforcement of the Anti-Kickback Act (18 U.S.C. 874) are made a part of this regulation by reference. The State will comply with these regulations and any amendments or modifications thereof and the State Prime Contractor will be responsible for the submission of statements required of subcontractors thereunder. The foregoing shall apply except as the Secretary of Labor may specifically provide for reasonable limitations, variations, tolerances, and exemptions.

§ 80.23 Officials not to benefit.

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

§ 80.24 Inspection.

Supervision of each project by the State Fish and Game Department shall include adequate and continuous inspection. The project will be subject at all times to Federal inspection.

§ 80.25 Samples of materials to be submitted.

Whenever requested, suitable samples of materials to be used in construction work shall be submitted to the Secretary by or on behalf of the State Fish and Game Department to be tested for suitability and conformity with standard specifications.

§ 80.26 Submission.

Papers and documents required by the Acts or by the regulations in this part shall be deemed submitted to the Secretary from the date of delivery to the Director of the Bureau of Sport Fisheries and Wildlife, or to the appropriate Regional Director of the Bureau.

§ 80.27 Records and reporting.

Progress and completion reports shall be furnished as requested by the Secretary. Cost records of the cost of land acquired, improvements made thereon, construction work, overhead costs, and of maintenance done by or on behalf of the State shall be kept separately for each project segment. The accounts and records, together with all supporting documents, shall be open at all times to the inspection of authorized representatives of the United States, and copies thereof shall be furnished when requested.

§ 80.28 Records retention period.

The records, accounts, and supporting documents required to be maintained under the regulations in this part shall be retained by the State Fish and Game Department until such time as the Secretary shall have made a final audit of the project accounts and notified such de-

partment of the acceptability of project claims and accomplishments, and for a period of 3 years following the receipt of such notification.

NOTE: All recordkeeping and reporting requirements of the regulations in this part have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Chapter II—Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior

Subchapter A—General Provisions

Part
201 Field organization.

Subchapter B—North Pacific Commercial Fisheries

210 North Pacific area.

Subchapter C—Aquatic Mammals Other Than Whales

215 Administration of the Pribilof Islands.

Subchapter D—Whaling

230 Whaling provisions.

Subchapter E—Northwest Atlantic Commercial Fisheries

240 Haddock and cod fisheries.

Subchapter F—Aid to Fisheries

250 Fisheries loan fund procedures.
253 Commercial fisheries research and development.
255 Fishing vessel mortgage insurance procedures.
256 Fishing vessel construction differential subsidy procedures.
257 Notice and hearing on subsidies.

Subchapter G—Processed Fishery Products, Processed Products Thereof, and Certain Other Processed Food Products

260 Inspection and certification.
261 U.S. standards for grades of frozen fish sticks.
262 U.S. standards for grades of frozen raw breaded shrimp.
263 U.S. standards for grades of frozen fish blocks.
264 U.S. standards for grades of frozen haddock fillets.
265 U.S. standards for grades of frozen halibut steaks.
266 U.S. standards for grades of frozen raw breaded fish portions.
267 U.S. standards for grades of frozen cod fillets.
268 U.S. standards for grades of frozen salmon steaks.
269 U.S. standards for grades of frozen ocean-perch fillets and frozen Pacific ocean-perch fillets.
270 U.S. standards for grades of frozen fried scallops.
271 U.S. standards for grades of frozen headless dressed whiting.
272 U.S. standards for grades of frozen raw headless shrimp.
274 U.S. standards for grades of frozen flounder and sole fillets.
276 U.S. standards for grades of frozen fish portions.
277 U.S. standards for grades of frozen raw breaded fish sticks.

Subchapter H—Eastern Pacific Tuna Fisheries

280 Yellowfin tuna.
281 Restrictions on tuna imports.

Subchapter I—Fishery Marketing Cooperatives

290 Issuance of cease and desist orders by the Government.

SUBCHAPTER A—GENERAL PROVISIONS

PART 201—FIELD ORGANIZATION

Sec.
201.1 Regional and Area Offices.
201.2 Locations of Regional and Area Offices.

AUTHORITY: The provisions of this Part 201 issued under R.S. 161, as amended; 5 U.S.C. 22.

§ 201.1 Regional and Area Offices.

Program operations of the Bureau of Commercial Fisheries are performed at various field installations. Such installations provide activities relating to the following:

(a) *Marine fisheries.* The Bureau conducts biological research on commercially important species of fish, shellfish and mammals off all coasts of the United States, in the high seas and in waters adjacent to territories and possessions.

(b) *Inland fisheries.* The Bureau conducts programs for the maintenance of inland fisheries which are designed to discover ways and means, and make recommendations, on measures for developing the fisheries of the Great Lakes and inland waters in conjunction with the conservation and management of commercial fishery resources.

(c) *Services for commercial fisheries.* The Bureau provides the following services to aid commercial fisheries.

(1) Conducts a market news service for collection and publication of current market information of fishery commodities.

(2) Provides an educational service to encourage the flow of domestic fishery products in commerce.

(3) Provides economic research on cost, employment, labor and prices in the fishing industry.

(4) Collects data on the activities of fishery cooperatives to insure their conformity with the provisions of the Fishery Cooperative Marketing Act.

(5) Conducts surveys to collect, analyze, and disseminate statistics on production, processing, storage, and marketing of fishery products.

(6) Studies the composition, properties and nutritive value of fishery products, byproducts, and development of fish cookery and home-canning methods.

(7) Explores fishing operations to determine the character, extent and availability of resources and to test, devise and demonstrate most effective gear and vessel types.

(8) Conducts investigations to improve and develop methods for handling, processing, preserving, and transporting fishery products and byproducts and otherwise assisting the fishing industry in problems of production and distribution.

(9) Develops voluntary U.S. standards for fishery products and the performance of inspection services to determine adherence to the standards.

(10) Administers a fishery loan fund for the financing and refinancing of operations, maintenance, replacement, repair and equipment of fishing gear and vessels.

(11) Administers a fishing vessel mortgage insurance program which provides for the insurance of loans and mortgages made in connection with the construction, reconstruction, or reconditioning of fishing vessels.

(12) Provides assistance in cooperation with the Department of Health, Education, and Welfare in the development of vocational training for the benefit of the fisheries industry.

(13) Provides Federal financial assistance to the States in carrying our projects in research and development of the commercial fisheries resources of the Nation.

(14) Provides funds for States and other non-Federal interests to finance anadromous fishery resources for up to 50 percent of the cost of projects such as stream improvemnet and construction of fishways, spawning channels, hatcheries, and research.

(d) *International agreements and fur-sealing.* The Bureau is responsible for conducting activities relating to international agreements concerning fishery resources. The Bureau is also responsible for activities relating to whales and certain other sea mammals, including the fur-sealing operation, and activities relating to the administration of the Pribilof Islands and their native population.

(e) *Enforcement.* The Bureau has responsibilities in connection with the administration and enforcement of the laws and regulations relating to international agreements.

(f) *Field Supervision.* Field installations are supervised by either a Regional or Area Director who has jurisdiction over Bureau activities in the States encompassed by his Region or Area, unless otherwise stated for a particular matter in the regulations. All persons may secure from the Regional or Area Offices information or make submittals or requests as well as obtain forms and instructions as to the scope and content of papers or reports required of the public.

§ 201.2 Locations of Regional and Area Offices.

The addresses and geographic jurisdictions of the Regional and Area Offices of the Bureau of Commercial Fisheries are as follows:

(a) Pacific Northwest Region—Region 1 (comprising States of Washington, Orgeon, Idaho, Montana, and Wyoming).

Address: Regional Director, 6116 Arcade Building, Seattle 1, Wash. 98101.

(b) Gulf and South Atlantic Region—Region 2 (comprising the States of Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, and North Carolina).

Address: Regional Director, Don Ce-Sar Federal Center, Box 6245, St. Petersburg Beach, Fla. 33736.

(c) North Atlantic Region—Region 3 (comprising the States of Virginia, West Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, and Maine).

Address: Regional Director, Post Office Building, Gloucester, Mass. 01930.

(d) Great Lakes and Central Region—Region 4 (comprising the States of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Arkansas, Wisconsin, Illinois, Tennessee, Kentucky, Indiana, Ohio, and Michigan).

Address: Regional Director, 5 Research Drive, Ann Arbor, Mich. 48103.

(e) Alaska Region—Region 5 (comprised of the State of Alaska).

Address: Regional Director, Federal Building, P.O. Box 1668, Juneau, Alaska 99801.

(f) Pacific Southwest Region—Region 6 (comprising the States of California, Nevada, Utah, Colorado, Arizona, and New Mexico).

Address: Regional Director, California Area, 101 Seaside Avenue, Terminal Island, Calif. 90731.

(g) Hawaii Area (comprised of the State of Hawaii and waters of the Pacific Ocean).

Address: Area Director, Hawaii Area, Box 3830, 2570 Dole Street, Honolulu, Hawaii 96812.

SUBCHAPTER B—NORTH PACIFIC COMMERCIAL FISHERIES

PART 210—NORTH PACIFIC AREA

Sec.
210.1 Definition.
210.10 Salmon fishing prohibited; exception.

AUTHORITY: The provisions of this Part 210 issued under sec. 1, 68 Stat. 698, as amended, 16 U.S.C. 1021 et seq.

§ 210.1 Definition.

For the purpose of the regulations of this part the North Pacific area is defined to include all waters of the North Pacific Ocean and Bering Sea north of 48 degrees 30 minutes north latitude, exclusive of waters adjacent to Alaska north and west of the International Boundary at Dixon Entrance which extend 3 miles seaward (a) from the coast, (b) from lines extending from headland to headland across all bays, inlets, straits, passes, sounds and entrances, and (c) from any island or groups of islands, including the islands of the Alexander Archipelago, and the waters between such groups of islands and the mainland.

§ 210.10 Salmon fishing prohibited, exception.

No person or fishing vessel subject to the jurisdiction of the United States shall fish for or take salmon with any net in the North Pacific area, as defined in this part: *Provided*, That this shall not apply to fishing for sockeye salmon or pink salmon south of latitude 49 degrees north.

SUBCHAPTER C—AQUATIC MAMMALS OTHER THAN WHALES

PART 215—ADMINISTRATION OF THE PRIBILOF ISLANDS

Subpart A—Protection of Fur Seals

Sec.
215.1 Visits to seal rookeries.
215.2 Observation restricted.
215.3 Special restrictions; St. Paul Island.
215.4 Penalties.
215.5 Dogs prohibited.

AUTHORITY: The provisions of this Part 215 issued under secs. 6, 17, 58 Stat. 102, 104; 16 U.S.C. 631f, 631q, unless otherwise noted.

Subpart A—Protection of Fur Seals

§ 215.1 Visits to seal rookeries.

Persons lawfully landing on any of the Pribilof Islands, whether to remain temporarily or otherwise, must confine themselves to their lawful activities, and any visiting of rookeries or hauling grounds of seals or sea lions must first be authorized by the Department's agents-in-charge.

§ 215.2 Observation restricted.

In order that persons authorized or permitted to land may have an opportunity to observe the seal life, the Department's agents-in-charge will provide escorts, at convenient times, to accompany interested persons to proper observation points. No side digressions from the designated observation points will be permitted, and there will be no visiting of rookeries except under such escorts. On St. Paul Island the usual observation point for persons temporarily present shall be what are commonly known as "Observation Rocks" at Gorbatch rookery.

§ 215.3 Special restrictions; St. Paul Island.

Persons authorized to land at St. Paul Island, whether to remain temporarily or otherwise, are required except under circumstances specifically authorized by the Department's agent-in-charge, to remain on that portion of the island in and about the village of St. Paul which is bounded by the shore line, including that of the salt lagoon and its outlet, and two straight lines running approximately as follows: The first from the shore at Black Bluffs to the southerly portion of the salt lagoon, passing to the eastward of the natives' cemetery, the natives' wells, and the by-products plant; the second to cut across the isthmus at Zolotoi Sands. The land lines as described will be indicated by notices posted at suitable intervals.

§ 215.4 Penalties.

Any person willfully violating the regulations in this subpart will be regarded as a trespasser and will be required to leave the islands at the first opportunity, and will be subject to such other action as may be deemed appropriate pursuant to law.

§ 215.5 Dogs prohibited.

In order to prevent molestation of the fur-seal and fox herds, the landing of any dogs at the Pribilof Islands is prohibited.

SUBCHAPTER D—WHALING

PART 230—WHALING PROVISIONS

DEFINITIONS

Sec.
230.1 Factory ship.
230.2 Land station.
230.3 Secondary processing land station.
230.4 Whale catcher.

LICENSES

230.10 Licenses required to engage in whaling.
230.11 Applications for licenses.

CLOSED SEASONS

230.20 Whale catchers attached to land stations taking baleen whales.
230.21 Whale catchers attached to land stations taking sperm whales.
230.22 Whale catchers attached to factory ships taking sperm whales.

RECORDS AND REPORTS

230.30 Records to be maintained on whale catchers.
230.31 Records to be maintained on factory ships and at land stations.
230.32 Records to be maintained at secondary processing land stations.
230.33 Report on employment, craft, and products of whaling operations.
230.34 Records retention period.

SALVAGE OF UNCLAIMED WHALES

230.40 No processing license required.
230.41 Reporting of salvage of dead whales required.

MOLESTING OR UNAUTHORIZED INTERFERENCE WITH WHALES

230.50 Molesting whales prohibited.

INSPECTION AND ENFORCEMENT

230.60 Fish and Wildlife Service employees designated as enforcement officers.
230.61 State officers designated as enforcement officers.

AUTHORITY: The provisions of this Part 230 issued under sec. 12, 64 Stat. 425; 16 U.S.C. 916j.

DEFINITIONS

§ 230.1 Factory ship.

The words "factory ship" mean a vessel in which or on which whales are treated or processed, whether wholly or in part.

§ 230.2 Land station.

The words "land station" mean a factory on the land at which whales are treated or processed, whether wholly or in part.

§ 230.3 Secondary processing land station.

The words "secondary processing land station" mean a factory on the land which receives from a land station for further processing any or all of those parts of whales which are required, by paragraph 12 of the Schedule of the Whaling Convention of 1946, as amended (§ 351.12 of this title), to be processed by boiling or otherwise.

§ 230.4 Whale catcher.

The words "whale catcher" mean a vessel used for the purpose of hunting, taking, towing, holding on to, or scouting for whales.

LICENSES

§ 230.10 Licenses required to engage in whaling.

No person shall engage in the taking or processing of blue whales, fin whales, humpback whales, sei whales, minke whales, or sperm whales without first having obtained an appropriate license.

§ 230.11 Applications for licenses.

Applications for licenses to engage in the taking and processing of whales in the species listed in § 230.10 shall be submitted to the Director, Bureau of Com-

mercial Fisheries, Department of the Interior, Washington, D.C. 20240. Such application shall be accompanied by the affidavit or affidavits prescribed in section 6 (d) and (e) of the Whaling Convention Act of 1949 and by a check or U.S. Postal Money Order payable to the Bureau of Commercial Fisheries, U.S. Fish and Wildlife Service in the appropriate amount as prescribed by the scale of license fees in section 6(b) of the Whaling Convention Act of 1949.

CLOSED SEASONS

§ 230.20 Whale catchers attached to land stations taking baleen whales.

It is forbidden to use a whale catcher attached to a land station for the purpose of taking or killing blue whales, fin whales, humpback whales, sei whales or minke whales, except during the period April 16 to October 15 following, both days inclusive.

§ 230.21 Whale catchers attached to land stations taking sperm whales.

It is forbidden to use a whale catcher attached to a land station for the purpose of taking or killing sperm whales except during the period April 1 to November 30 following, both days inclusive.

§ 230.22 Whale catchers attached to factory ships taking sperm whales.

It is forbidden to use a whale catcher attached to a factory ship for the purpose of taking or killing sperm whales except during the period April 1 to November 30 following, both days inclusive.

RECORDS AND REPORTS[1]

§ 230.30 Records to be maintained on whale catchers.

There shall be maintained on each whale catcher a suitable log book or other record in which shall be recorded the following information, and such record shall be available for inspection by any person authorized by law or by this part to act as an inspector or enforcement officer, who shall be permitted to abstract therefrom such information as may be needed by the U.S. Government.

(a) The date and hour of the killing or capture of each whale;

(b) The point in latitude and longitude where each whale is killed or captured;

(c) The species of each whale killed or captured;

(d) The time of delivery of each whale to the land station or factory ship;

(e) Data specified under paragraphs (a), (b), and (c) of this section for each whale killed and later lost, or for some other reason not delivered to a factory ship or land station for processing, with an account of the circumstances surrounding such loss or nondelivery; and

(f) Any observations on migration of whales and on location of calving grounds.

[1] The recordkeeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

§ 230.31 Records to be maintained on factory ships and at land stations.

(a) There shall be maintained in duplicate on board each factory ship and at each land station a detailed record of all whales received and processed as follows:

(1) Serial number of the whale (begin with number 1 on January 1 of each year).

(2) Species of the whale.

(3) Date and time killed and date and time received by the factory ship or land station.

(4) Sex of the whale.

(5) Length of the whale (length to be measured as specified in paragraph 9(d) of the Schedule of the Whaling Convention of 1946, § 351.9(d) of this title).

(6) Sex of embryo if present.

(7) Length of embryo in feet and inches.

(8) A description of the stomach contents of the whale.

(9) Name of whale catcher which took the whale.

(10) Name of gunner who killed the whale.

(11) The exact location in which the whale was taken, stated in degrees and minutes of latitude and longitude.

(12) Under "Remarks" enter, if the whale is a female, whether lactating or milk-filled as well as abnormalities or peculiarities concerning the whale and the character and quantity of any portion of the whale transferred to a secondary processing plant.

(b) Each sheet of such reports shall be verified or approved by a person authorized by law or by this part to act as inspector or enforcement officer, and the said duplicate reports for each calendar year shall be submitted to the Director, Bureau of Commercial Fisheries, Department of the Interior, Washington, D.C. 20240, within 30 days after the end of each calendar year.

§ 230.32 Records to be maintained at secondary processing land stations.

(a) There shall be maintained by all licensed secondary processing land stations receiving from land stations parts of whales for further processing a suitable ledger or book in which the following information shall be recorded, and such records shall be available for inspection by any authorized person:

(1) The kind and quantity of parts of whales received.

(2) The date of receipt thereof.

(3) The kind and quantity of products derived therefrom.

(b) Said ledger or book or certified true copies thereof shall be submitted in duplicate to the Director, Bureau of Commercial Fisheries, Department of the Interior, Washington, D.C. 20240, within 30 days after the end of each calendar year.

§ 230.33 Report on employment, craft, and products of whaling operations.

The person or persons responsible for the operation of every factory ship, land station and secondary processing land station shall annually submit in duplicate to the Director, Bureau of Commercial Fisheries, Department of the Interior, Washintgon, D.C. 20240, within 30 days after the end of each calendar year, a report on employment, craft and products, which shall show the number of persons employed, the nature of the task which each performs, and the manner in which each is remunerated; the number and type of vessels operated, including the net tonnage and horsepower of whale catchers and the gross tonnage and horsepower of other vessels; and the quantity and type of products manufactured, including semiprocessed products delivered to secondary processing land stations. Such reports shall be subscribed and sworn to by the person or persons responsible for the operation of said factory ships, land station and secondary processing land station before a notary public or a person authorized by law or by this part to act as inspector or enforcement officer.

§ 230.34 Records retention period.

The records required to be maintained under the regulations in this part shall be retained by the person or persons responsible for their preparation and maintenance for a period of 6 months following the end of the calendar year to which such records apply.

SALVAGE OF UNCLAIMED WHALES

§ 230.40 No processing license required.

No license shall be required for the salvage and processing of any dead whale found upon a beach or stranded in shallow water, or of any unclaimed dead whale found floating at sea.

§ 230.41 Reporting of salvage of dead whales required.

(a) Any person or persons salvaging and/or processing any dead whale of any of the species enumerated in § 230.10 shall submit a report in writing to the Director, Bureau of Commercial Fisheries, Department of the Interior, Washington, D.C. 20240.

(b) Such report shall show the date and exact locality in which such dead whale was found, its species and length, the disposition made of the whale, the firm utilizing or processing it, the products derived therefrom, and any other relevant facts.

MOLESTING OR UNAUTHORIZED INTERFERENCE WITH WHALES

§ 230.50 Molesting whales prohibited.

The chasing, molesting, exciting, or interfering, with firearms or by any other manner or means, with any whale of the species listed in § 230.10 or of the species protected by the provisions of the International Convention for the Regulation of Whaling of 1946 is prohibited. Persons violating this section shall, upon arrest and conviction, be subject to the penalties imposed by the Whaling Convention Act of 1949.

INSPECTION AND ENFORCEMENT

§ 230.60 Fish and Wildlife Service employees designated as enforcement officers.

Any employee of the Fish and Wildlife Service duly appointed and authorized to

enforce Federal laws and regulations administered by the Department of the Interior and the Fish and Wildlife Service is authorized and empowered to act as a law enforcement officer for the purposes set forth in the Whaling Convention Act of 1949.

§ 230.61 State officers designated as enforcement officers.

Any employee of a State government who has been duly designated by the Director of the Fish and Wildlife Service, with the consent of the State government concerned, is authorized and empowered to act as a Federal law enforcement officer for the purposes set forth in the Whaling Convention Act of 1949.

SUBCHAPTER E—NORTHWEST ATLANTIC COMMERCIAL FISHERIES

PART 240—HADDOCK AND COD FISHERIES

Sec.
240.1 Meaning of terms.
240.2 Registration certificates.
240.3 Restrictions on fishing gear.
240.4 Temporary suspension of registration certificates.
240.5 Certain persons and vessels exempted.

AUTHORITY: The provisions of this Part 240 issued under sec. 7, 64 Stat. 1069; 16 U.S.C. 986.

§ 240.1 Meaning of terms.

When used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this section.

(a) *Convention area.* The term "Convention area" means and includes all waters, except territorial waters, bounded by a line beginning at a point on the coast of Rhode Island in 71°40′ west longitude; thence due south to 39°00′ north latitude; thence due east to 42°00′ west longitude; thence due north to 59°00′ north latitude; thence due west to 44°00′ west longitude; thence due north to the coast of Greenland; thence along the west coast of Greenland to 78°10′ north latitude; thence southward to a point in 75°00′ north latitude and 73°30′ west longitude; thence along a rhumb line to a point in 69°00′ north latitude and 59°00′ west longitude; thence due south to 61°00′ north latitude; thence due west to 64°30′ west longitude; thence due south to the coast of Labrador; thence in a southerly direction along the coast of Labrador to the southern terminus of its boundary with Quebec; thence in a westerly direction along the coast of Quebec, and in an easterly and southerly direction along the coasts of New Brunswick, Nova Scotia, and Cape Breton Island to Cabot Strait; thence along the coasts of Cape Breton Island, Nova Scotia, New Brunswick, Maine, New Hampshire, Massachusetts, and Rhode Island to the point of beginning.

(b) *Regulatory area.* The term "regulatory area" means and includes the whole of those portions of the Convention area which are separately described as follows:

(1) *Subarea 3.* The term "Subarea 3" means that portion of the Convention area, including all waters except territorial waters, lying south of the parallel of 52°15′ north latitude; and to the east of a line extending due north from Cape Bauld on the north coast of Newfoundland to 52°15′ north latitude; to the north of the parallel of 39°00′ north latitude; and to the east and north of a rhumb line extending in a northwesterly direction which passes through a point in 43°30′ north latitude, 55°00′ west longitude, in the direction of a point in 47°50′ north latitude, 60°00′ west longitude, until it intersects a straight line connecting Cape Ray, on the coast of Newfoundland, with Cape North on Cape Breton Island; thence in a northeasterly direction along said line to Cape Ray.

(2) *Subarea 4.* The term "Subarea 4" means that portion of the Convention area, including all waters except territorial waters, lying to the west of Subarea 3 as described in subparagraph (1) of this paragraph, and to the east of a line described as follows: Beginning at the terminus of the international boundary between the United States of America and Canada in Grand Manan Channel, at a point in 44°46′35.34″ north latitude, 66°54′11.23″ west longitude; thence due south to the parallel of 43°50′ north latitude; thence due west to the meridian of 67°40′ west longitude; thence due south to the parallel of 42°20′ north latitude; thence due east to a point in 66°00′ west longitude; thence along a rhumb line in a southeasterly direction to a point in 42°00′ north latitude, 65°40′ west longitude; thence due south to the parallel of 39°00′ north latitude.

(3) *Subarea 5.* The term "Subarea 5" means that portion of the Convention area, including all waters except territorial waters, bounded by a line beginning at the terminus of the international boundary between the United States of America and Canada in Grand Manan Channel at a point in 44°46′35.34″ north latitude, 66°54′11.23″ west longitude; thence due south to the parallel of 43°50′ north latitude; thence due west to the meridian of 67°40′ west longitude; thence due south to the parallel of 42°20′ north latitude; thence due east to a point in 66°00′ west longitude; thence along a rhumb line in a southeasterly direction to a point in 42°00′ north latitude, 65°40′ west longitude; thence due south to the parallel of 39°00′ north latitude; thence due west to the meridian of 71°40′ west longitude; thence due north to a point 3 miles off the coast of the State of Rhode Island; thence along the coasts of Rhode Island, Massachusetts, New Hampshire, and Maine at a distance of 3 miles to the point of beginning.

(c) *Haddock.* The word "haddock" denotes any fish of the species *Melanogrammus aeglefinus.*

(d) *Haddock fishing.* The words "haddock fishing" means and include (1) the catching, taking or fishing for or the attempted catching, taking or fishing for fish of the species *Melanogrammus aeglefinus;* and (2) the outfitting and departure of a vessel for or the return of a vessel from haddock fishing.

(e) *Cod.* The word "cod" denotes any fish of the species *Gadus callarias.*

(f) *Cod fishing.* The words "cod fishing" mean and include (1) the catching, taking or fishing for or the attempted catching, taking or fishing for fish of the species *Gadus callarias;* and (2) the outfitting and departure of a vessel for or the return of a vessel from cod fishing.

(g) *Fishing vessel.* The words "fishing vessel" denote every kind, type or description of watercraft subject to the jurisdiction of the United States used in or outfitted for catching or processing fish or transporting fish from fishing grounds.

(h) *Trawl net.* The words "trawl net" mean any large bag net dragged in the sea by a vessel or vessels for the purpose of taking fish.

(i) *Cod end.* The words "cod end" mean the bag-like extension attached to the after end of the belly of the trawl net and used to retain the catch.

§ 240.2 Registration certificates.

(a) Unless permitted to do so by § 240.5, after the first day of March 1959, no person shall engage in haddock fishing or cod fishing within the regulatory area, nor shall any person possess, transport or deliver by means of any fishing vessel haddock or cod taken within such area except under a registration certificate issued and in force in conformity with the provisions of this part.

(b) The owner or operator of a fishing vessel may obtain without charge a registration certificate by furnishing, on a form to be supplied by the Bureau of Commercial Fisheries, information specifying the names and addresses of the owner and operator of the vessel, the name, official number and home port of the vessel, and the period for which the registration certificate is desired. The form shall be submitted, in duplicate, to the Regional Director, Bureau of Commercial Fisheries, Gloucester, Mass. 01930, who shall grant the registration certificate for the duration specified by the applicant in the form but in no event to extend beyond the end of the calendar year during which the registration certificate is issued. New registration certificates shall similarly be issued to replace expired, lost, or mutilated certificates. An application for replacement of an expiring registration certificate shall be made in like manner as the original application not later than 10 days prior to the expiration date of the expiring certificate.

(c) The registration certificate issued by the Bureau of Commercial Fisheries shall be carried at all times on board the vessel for which it is issued and such certificate, the vessel, its gear and equipment shall at all times be subject to inspection for the purposes of this part by officers authorized to enforce the provisions of this part.

§ 240.3 Restrictions on fishing gear.

(a) No person shall possess at any time on board a vessel for which a registration certificate is in force, or use or

attempt to use from such vessel, a trawl net or nets, parts of nets, or netting of manila twine having a mesh size, as defined in this section, of less than four and one-half inches, or a trawl net or nets, parts of nets, or netting of material other than manila twine unless it shall have a selectivity equivalent to that of a four and one-half inch manila trawl net: *Provided*, That any person who shall have first obtained a special permit, issuable by the Regional Director, Bureau of Commercial Fisheries, Gloucester, Mass. 01930, authorizing such possession and use for haddock fishing or cod fishing in Subarea 3 of the regulatory area may possess on board a vessel for which a registration certificate is in force and may use from such vessel while engaged in haddock fishing or cod fishing only within Subarea 3, a trawl net or nets, parts of nets, or netting of manila twine having a mesh size, as defined in this section, of not less than 4 inches, or a trawl net or nets, parts of nets, or netting of material other than manila twine having a selectivity equivalent to that of a 4-inch manila trawl net.

(b) As used in this section, the term "mesh size" shall mean: (1) With respect to any part of the net except the cod end, the average of the measurements of any 20 consecutive meshes in any row located at least 10 meshes from the side lacings measured when wet after use; and (2) with respect to the cod end, the average of the measurements of any 50 consecutive meshes running parallel to the long axis of the cod end, beginning at the after end of the cod end, and being at least 10 meshes from the side lacings or, if the cod end is less than 50 meshes in length, the average of the measurements of the meshes in any series of consecutive meshes running the full length of the cod end, parallel to the long axis of the cod end and located at least 10 meshes from the side lacings, such measurements of the cod end to be made when wet after use, or, at the option of the user, a cod end which has been approved, in accordance with paragraph (d) of this section, by an authorized employee of the Bureau of Commercial Fisheries, as having a mesh size when dry before use equivalent to not less than four and one-half inches when wet after use.

(c) All measurements of meshes shall be made by the insertion into the meshes under pressure of not less than 10 nor more than 15 pounds of a flat wedge-shaped gauge having a taper of 2 inches in 8 inches and a thickness of 3 thirty-seconds of an inch.

(d) For the purpose of approving a dry cod end before use, as contemplated by paragraph (b) of this section, the average mesh size of such cod end shall be determined by measuring the length of any single row of meshes running the length of the cod end, parallel to the long axis of the cod end and located at least 10 meshes from the side lacings, when stretched under a tension of 200 pounds, and dividing the length by the number of meshes in such row: *Provided*, That not more than 10 percent of the meshes in such row shall be more than one-half inch smaller when measured between knot centers than the average of the row. A cod end so measured which is constructed of one of the twines and is of not less than the average mesh size specified in the table below for such twine may be approved for haddock fishing or cod fishing by any authorized employee of the Bureau of Commercial Fisheries by the attachment to such cod end of an appropriate seal. The omission from the table of one or more specifications of twines shall not preclude the continued use of cod ends constructed from such twines where the cod ends received approval pursuant to the provisions of this part as the same were in effect between the dates of January 1, 1954, and October 24, 1956.

Type of twine	Manufacturer's specifications				Average mesh size
Manila, double strand:					
4-ply 45-yard					5.625 inches (5⅝″).
4-ply 50-yard					5.625 inches (5⅝″).
4-ply 75-yard					5.625 inches (5⅝″).
4-ply 80-yard					5.500 inches (5½″).
Cotton, 120-thread					4.250 inches (4¼″).
	1st	Prep	Cable	Yds/lb.	
Synthetic:	*S*	*Z*	*S*		
400/3 twisted twine, double strand, 840 denier 3 x 4 x 3.	2.7 T.P.I.	5.0 T.P.I.	2.0 T.P.I.	129	4.375 inches (4⅜″).
200/3 twisted twine, single strand, 840 denier 6 x 4 x 3.	2.1 T.P.I.	4.4 T.P.I.	1.8 T.P.I.	62	4.500 inches (4½″).
Synthetic—Continued					
No. 400 Single Braid	Linear density, 78.38 yards/lb. Average circumference, 0.493. Outside braid construction, 32 ends. 225 denier/68 filaments/3 ply continuous filament nylon. Ply twist, 5.0 T.P.I. of "Z" twist. Single twist, .85 T.P.I. of "S" twist. Picks/inch, 26.3. Core yarn, 7 ends. 225 denier/68 filaments/3 ply/5 ply continuous filament nylon. 3 ply twist 6.4 T.P.I. of "Z." 5 ply twist 1.1 T.P.I. of "S."				
Double strand					4.375 inches (4⅜″).
Single strand					4.125 inches (4⅛″).
No. 550 Single Braid	Linear density, 71.00 yards/lb. Average circumference of outside braid, 0.5." Outside braid construction, 32 ends. 225 denier/68 filaments/3 ply/5 ply continuous filament nylon. Ply twist 5.1 T.P.I. of "Z" twist. Single twist, 0.85 T.P.I. of "S" twist. Picks/inch, 25.8. Core yarn, 8 ends. 3 ply twist 6.4 T.P.I. of "Z" twist. 5 ply twist 1.1 T.P.I. of "S" twist.				
Double strand					4.375 inches (4⅜″).
Single strand					4.125 inches (4⅛″).
Flat Tubular Braid, single strand.	Linear density, 36.33 yards/lb. 16 ends consisting of 13 ends nylon, 3 ends dacron—percentage composition of braid: 77.12% bright nylon filament. 22.88% bright dacron filament. 12 ends 840 denier/140 filaments/2 ply/3 ply nylon. 3 ply 7.0 T.P.I. "Z" twist. 2 ply 0.5 T.P.I. "Z" twist. 1 end 210 denier/34 filaments/8 ply/3 ply nylon bright. 8 ply 0.5 "Z" twist. 3 ply 6.5 "S" twist. 3 ends 250 denier/34 filaments/10 ply/3 ply dacron bright. 10 ply 1.0 T.P.I. "Z" twist. 3 ply 6.0 T.P.I. "S" twist. Picks/inch, 10.7.				4.500 inches (4½″).
Westerbeke No. 2 Nylon Braid, 100% Nylon Braid.	Linear density, 38.89 yards/lb. Picks/inch, 9.0. Carriers, 16. Ends/carrier, 3. Total ends, 48. 840 denier/140 filaments/2 ply. 12.1 T.P.I. of "Z" twist in singles. 9.9 T.P.I. of "S" twist in 2 ply.				4.6875 inches (4 11/16″).

(e) The alteration, defacement or reuse of any seal affixed to a cod end in accordance with this section is prohibited.

(f) The repair, alteration or other modification of a cod end to which a seal has been affixed in accordance with this section shall invalidate such seal and such cod end shall not thereafter be deemed to be approved for haddock fishing or cod fishing. Nothing contained in this paragraph shall preclude the continued use at the option of the user of a cod end having an invalidated seal affixed thereto if such cod end after repair, alteration or other modification does not have a mesh size of less than four and one-half inches as defined in paragraph (b) of this section.

(g) For the purposes of this section, a cod end constructed of twine other than manila and not subject to approval and certification when measured dry before use as provided in paragraph (d) of this section shall be deemed to have a selectivity equivalent to that of a four and one-half inch manila trawl net if such cod end has a mesh size of not less

than four and one-quarter inches when measured wet after use in the manner prescribed in paragraph (b) of this section.

(h) The use in haddock fishing or cod fishing within the regulatory area of any device or method which will obstruct the meshes of the trawl net or which otherwise will have the effect of diminishing the size of said meshes is prohibited: *Provided,* That (1) a protective covering of canvas, netting, or other material may be attached to the underside of the cod end only of the net to reduce and prevent damage and (2) a rectangular piece of netting may be attached to the upper side of the code end only of the net to reduce and prevent damage so long as the netting attached to the upper side of the cod end conforms to the following conditions:

(i) Such netting shall not have a mesh size less than that specified in this section. For the purposes of this paragraph the required four and one-half inch mesh size when measured wet after use shall be deemed to be the average of the measurements of 20 consecutive meshes in a series across the netting, such measurements to be made with a like guage inserted into the meshes as specified in paragraph (c) of this section.

(ii) Such netting shall not exceed 16 meshes in length counted parallel to the long axis of the cod end and the width of the netting shall be at least one and one-half times the width of the area of the cod end which is covered; such widths to be measured at right angles to the long axis of the cod end.

(iii) Such netting may be fastened to the cod end of the trawl net only along the forward and lateral edges of the netting and at no other place in the netting and when used in Subareas 4 and 5 of the regulatory area the netting shall be fastened in such a manner that it extends forward of the splitting strap no more than four meshes and ends not less than four meshes in front of the cod line mesh.

§ 240.4 Temporary suspension of registration certificates.

(a) The owner or operator of any fishing vessel which is proposed to be used in haddock fishing or cod fishing beyond the limits of the regulatory area or is proposed to be used in fishing within such area for species of fish other than haddock or cod, may obtain a temporary suspension of the registration certificate issued for such vessel for the specified period during which such nonregulated fishing is to be conducted.

(b) Temporary suspension of registration certificates shall be granted upon oral or written request, specifying the period of suspension desired, by an authorized officer of the State of Maine or of the State of Massachusetts or by an authorized officer of any one of the following agencies: Bureau of Commercial Fisheries, Coast Guard, Bureau of Customs, Post Office Department. Such officer shall make appropriate endorsement on the certificate evidencing the duration of its suspension.

§ 240.5 Certain persons and vessels exempted.

Except as otherwise provided in this section, nothing contained in §§ 240.2 to 240.4 shall apply to:

(a) Any person or vessel authorized by the Secretary of the Interior to engage in haddock fishing or cod fishing for scientific purposes.

(b) Any vessel documented as a common carrier by the Government of the United States and engaged exclusively in the carriage of freight and passengers.

(c) Any person who in the course of taking fish other than haddock or cod, takes and possesses a quantity of haddock or cod not exceeding 5,000 pounds for each, or ten percent by weight for each, of all fish on board the vessel from which the fishing is conducted whichever is the greater.

(d) Any person who, while engaged in fishing within Subarea 5 of the regulatory area, does not take in any period of 12 months haddock or cod in quantities in excess of 10 percent by weight for each of said species, of all the trawl-caught fish taken by such person within such period of 12 months. Any person desiring to avail himself of the exemption provided in this paragraph shall first obtain a certificate of exemption and shall comply with the following conditions:

(1) The owner or operator of a fishing vessel proposed to be operated under the exemption authorized in this paragraph may obtain without charge a certificate of exemption by furnishing, on a form to be supplied by the Bureau of Commercial Fisheries, information specifying the name and address of the owner and operator of the vessel and the name, official number, and the home port of the vessel. Each such application must be accompanied by a written statement, certified by the applicant to be correct, listing by weight, species, and catch by month, the total quantities of all fish taken within Subarea 5 of the regulatory area by means of the vessel to be exempted during a period of 12 months immediately preceding the date of application. The application form and the certified statement shall be submitted, in duplicate, to the Regional Director, Bureau of Commercial Fisheries, Gloucester, Mass. 01930, who shall grant a certificate of exemption valid for a period of 12 months from the date of issue and authorizing during such period the use of the vessel for which issued in the taking of haddock or cod within Subarea 5 of the regulatory area without regard to the registration requirements and restrictions on fishing gear imposed, respectively, by §§ 240.2 and 240.3, so long as the vessel and its fishing gear are not used to take haddock or cod within Subarea 5 in quantities in excess of 10 percent by weight for each species of all the trawl-caught fish taken by means of such vessel during the 12-month period covered by the certificate. Duplicate certificates of exemption shall be issued to replace lost or mutilated certificates. An application for renewal of an expiring certificate of exemption shall be made in like manner as the original application not later than 15 days prior to the expiration date of the expiring certificate, but no renewal shall be granted if it is determined by said Regional Director that the vessel for which a renewal is sought was used to take quantities of haddock or cod in excess of the allowable percentages during the 12-month period covered by the expiring certificate of exemption.

(2) The certificate of exemption issued by the Bureau of Commercial Fisheries shall be carried at all times on board the vessel for which it is issued, and such certificate, the vessel, its gear and equipment and records pertaining to the catches of fish made by means of such vessel shall at all times be subject to inspection for the purposes of this part by any officer authorized to enforce the provisions of this part.

(3) The owner or operator of a fishing vessel for which a certificate of exemption is in force shall furnish on a form supplied by the Bureau of Commercial Fisheries, immediately following the delivery or sale of a catch of fish made by means of such vessel, a report[1] certified to be correct by the owner or operator, listing separately by species and weight the total quantities of all fish so sold or delivered: *Provided,* That, at the option of the owner or operator of such vessel, a copy of the fish ticket, weigh-out slip, settlement sheet, or similar record customarily issued by the fish dealer or his agent at the time of delivery or sale of a catch of fish may be used for reporting purposes, in lieu of the form supplied by the Bureau of Commercial Fisheries, if such alternate record is similarly certified and contains all items of information required by this subparagraph. Such reports shall be delivered or mailed, in duplicate, to the said Regional Director.

(4) The owner or operator of a fishing vessel for which a certificate of exemption is in force, who proposes to use such vessel in fishing primarily for haddock or cod during any period of time within the 12-month period covered by the certificate, may obtain a temporary suspension of such certificate in like manner as provided in § 240.4 and may make application to engage in fishing for haddock or cod under a registration certificate as provided in § 240.2. Any haddock or cod taken by means of a vessel for which a registration certificate is in force and by means of haddock fishing or cod fishing conducted in conformity with the restrictions on fishing gear prescribed by § 240.3 shall be excluded from the total of all trawl-caught fish taken during the applicable 12-month period

[1] 18 U.S.C. 1001 provides that whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

when computing the ratio of haddock or cod to the trawl-caught fish taken during such period. For the purposes of computing the quantities of haddock or cod so to be excluded, the owner or operator of a fishing vessel covered by a suspended certificate of exemption and taking haddock or cod while operating under a registration certificate shall submit catch reports in like manner as provided in subparagraph (3) of this paragraph.

SUBCHAPTER F—AID TO FISHERIES

PART 250—FISHERIES LOAN FUND PROCEDURES

Sec.

250.1 Definition of terms.
250.2 Purposes of loan fund.
250.3 Interpretation of loan authorization.
250.4 Qualified loan applicants.
250.5 Basic limitations.
250.6 Purchase or construction loans.
250.7 Applications.
250.8 Processing of loan applications.
250.9 Approval of loans.
250.10 Interest.
250.11 Maturity.
250.12 Security.
250.13 Books, records, and reports.
250.14 Insurance required.
250.15 Penalties on default.

AUTHORITY: The provisions of this Part 250 issued under sec. 4, 70 Stat. 1121, as amended; 16 U.S.C. 742c (1965).

§ 250.1 Definition of terms.

For the purposes of this part, the following terms shall be construed, respectively, to mean and to include:

(a) *Secretary.* The Secretary of the Interior or his authorized representative.

(b) *Person.* Individual, association, partnership or corporation, any one or all as the context requires.

(c) *State.* Any State, the territories and possessions of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

(d) *Fishery.* A segment of the commercial fishing industry engaged in the catching of a single species or a group of species of fish and shellfish. Any other species taken must be caught incidentally while fishing for and using gear designed for the capture of the species comprising the fishery.

(e) *No economic hardship to efficient vessel operators.* The determination that operation of a proposed vessel will not cause economic hardship to efficient vessel operators already operating in that fishery shall be made by the Secretary, taking into consideration the condition of the resource, the efficiency of the vessels and gear being operated in that fishery compared with the proposed vessel, the prospects of the market for the species caught, and the degree and duration of any anticipated economic hardship.

(f) *Act.* The Fish and Wildlife Act of 1956, as amended.

§ 250.2 Purposes of loan fund.

The broad objective of the fisheries loan fund created by the Fish and Wildlife Act of 1956, as amended, is to provide financial assistance which will aid the commercial fishing industry to bring about a general upgrading of the condition of both fishing vessels and fishing gear thereby contributing to more efficient and profitable fishing operations.

(a) Under section 4 of the act, the Secretary is authorized, among other things:

(1) To make loans for financing and refinancing of the cost of purchasing, constructing, equipping, maintaining, repairing or operating new or used commercial fishing vessels or gear.

(2) Subject to the specific limitations in the section, to consent to the modification, with respect to the rate of interest, time of payment of any installment of principal, or security, of any loan contract to which he is a party.

(b) All financial assistance granted by the Secretary must be for one or more of the purposes set forth in paragraph (a) of this section.

§ 250.3 Interpretation of loan authorization.

The terms used in the act to describe the purposes for which loans may be granted are construed to be limited to the meanings ascribed in this section.

(a) *Commercial fishing vessels or gear.* The words "commercial fishing vessels or gear" mean vessels or gear of any size or type used for the catching of fish or shellfish for commercial purposes such as marketing or processing the catch.

(b) *Purchasing new or used commercial fishing vessels or gear.* The words "purchasing new or used commercial fishing vessels or gear" mean the purchase of vessels or gear.

(c) *Constructing new or used commercial fishing vessels or gear.* The words "constructing new or used commercial fishing vessels or gear" mean the construction of new or reconstruction of used vessels or gear.

(d) *Equipping new or used commercial fishing vessels or gear.* The words "equipping new or used commercial fishing vessels or gear" mean the purchase or installation of parts, machinery, or other items incident to outfitting of vessels or gear.

(e) *Maintaining new or used commercial fishing vessels or gear.* The words "maintaining new or used commercial fishing vessels or gear" mean the normal and routine upkeep of vessels or gear.

(f) *Repairing new or used commercial fishing vessels or gear.* The words "repairing new or used commercial fishing vessels or gear" mean the restoration or replacement of any worn or damaged part of vessels or gear.

(g) *Operating new or used fishing vessels or gear.* The words "operating new or used fishing vessels or gear" mean all phases of activity directly related to the operation of vessels engaged in catching of fish and shellfish by vessels or gear.

§ 250.4 Qualified loan applicants.

(a) Any citizen residing or conducting business in any State shall be deemed to be a qualified applicant for such financial assistance if such citizen:

(1) Owns or operates a commercial fishing vessel of U.S. registry (if registration is required) used, or to be used, directly in the conduct of fishing operations, irrespective of the type, size, power, or other characteristics of such vessel;

(2) Owns or operates any type of commercial fishing gear used directly in the catching of fish or shellfish;

(3) Can demonstrate to the satisfaction of the Secretary that he has the ability, experience, resources and other qualifications necessary for successful operation of the vessel or gear which he proposes to operate;

(4) Is a fishery marketing cooperative engaged in marketing all catches of fish or shellfish by its members pursuant to contractual or other enforceable arrangements which empower the cooperative to exercise full control over the conditions of sale of all such catches and disburse the proceeds from all such sales.

(b) Applications for financial assistance cannot be considered if the loan is to be used for:

(1) Any phase of a shore operation.

(2) Refinancing existing loans that are not secured by the fishing vessel or gear, or debts which are not maritime liens within the meaning of subsection P of the Ship Mortgage Act of 1920, as amended (46 U.S.C. 971).

(3) Refinancing existing mortgages or secured loans on fishing vessels or gear, or debts secured by maritime liens, except in those instances where the Secretary deems such refinancing to be desirable in carrying out the purpose of the Act.

(4) Repair or purchase of fishing gear or vessels where such fishing gear or vessels are not offered as collateral for the loan by the applicant.

(5) Financing a new business venture in which the controlling interest is owned by a person or persons who are not currently engaged in commercial fishing.

§ 250.5 Basic limitations.

Applications for financial assistance may be considered only where there is evidence that the credit applied for is not otherwise available on reasonable terms (a) from applicant's bank of account, (b) from the disposal at a fair price of assets not required by the applicant in the conduct of his business or not reasonably necessary to its potential growth, (c) through use of the personal credit and/or resources of the owner, partners, management, affiliates, or principal stockholders of the applicant, or (d) from other known sources of credit. The financial assistance applied for shall be deemed to be otherwise available on reasonable terms unless it is satisfactorily demonstrated that proof of refusal of the desired credit has been obtained from the applicant's bank of account: *Provided*, That if the amount of the loan applied for is in excess of the legal lending limit of the applicant's bank or in excess of the amount that the bank normally lends to any one borrower, then proof of refusal should be obtained from a correspondent bank or from any other

lending institution whose lending capacity is adequate to cover the loan applied for. Proof of refusal of the credit applied for must contain the date, amount, and terms requested. Bank refusals to advance credit will not be considered the full test of unavailability of credit and, where there is knowledge or reason to believe that credit is otherwise available on reasonable terms from sources other than such banks, the credit applied for cannot be granted nothwithstanding the receipt of written refusals from such banks.

§ 250.6 Purchase or construction loans.

When the Secretary determines that an application is eligible on its face for the purchase or construction of a new or used vessel that will not replace an existing commercial fishing vessel, a notice shall be published in the FEDERAL REGISTER that such application is being considered and giving all interested parties a period of 30 days to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery. If such evidence is received, the Secretary will evaluate it along with such other evidence as may be available to him before making a determination that the contemplated operations of the vessel will or will not cause such economic injury or hardship. The foregoing procedure shall not apply in cases where the applicant seeks to replace a vessel lost or destroyed within 2 years of the date of the application.

§ 250.7 Applications.

Any person desiring financial assistance from the fisheries loan fund shall make application to the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, on a loan application form furnished by that Bureau except that, in the discretion of the Secretary, an application made other than by use of the prescribed form may be considered if the application contains information deemed to be sufficient. Such application shall indicate the purposes for which the loan is to be used, the period of the loan, and the security to be offered.

§ 250.8 Processing of loan applications.

If it is determined, on the basis of a preliminary review, that the application is complete and appears to be in conformity with established rules and procedures, a field examination shall be made. Following completion of the field investigation the application will be forwarded with an appropriate report to the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

§ 250.9 Approval of loans.

The Secretary will evidence his approval of the loan by issuing a loan authorization covering the terms and conditions for making the loan. Documents executed in connection with a loan shall be in a form approved by the Secretary. Any modification of the terms of a loan following its execution must be agreed to in writing by the borrower and the Secretary.

§ 250.10 Interest.

The rate of interest on all loans which may be granted is fixed at 6 percent per annum.

§ 250.11 Maturity.

The period of maturity of any loan which may be granted shall be determined and fixed according to the circumstances but in no event shall the date of maturity so fixed exceed a period of 10 years.

§ 250.12 Security.

Loans shall be approved only upon the furnishing of such security or other reasonable assurance of repayment as the Secretary may require. The proposed collateral for a loan must be of such a nature that, when considered with the integrity and ability of the management, and the applicant's past and prospective earnings, repayment of the loan will be reasonably assured.

§ 250.13 Books, records, and reports.

The Secretary shall have the right to inspect such books and records of the applicant as the Secretary may deem necessary and to request periodic reports.

§ 250.14 Insurance required.

(a) If insurance of any type is required on property under the terms of a loan authorization or mortgage it must be in a form approved by the Secretary and obtained from an underwriter satisfactory to the Secretary and meeting at least one of the following requirements:

(1) An underwriter licensed by an insurance regulatory agency of a State to write the particular form of insurance being written.

(2) A foreign insurance company or club operating in the United States that has deposited funds in an amount and manner satisfactory to the Secretary in a bank chartered under the laws of a State or the United States of America, or in a trust fund satisfactory to the Secretary, which funds are solely for the payment of insurance claims of U.S. vessels.

(3) A reciprocal or interinsurance exchange licensed by an insurance regulatory agency of a State to write the particular form of insurance being written.

(4) An insurance pool composed entirely of owners and operators of fishing vessels.

(b) Any underwriter (including a company, club, or pool) writing such insurance shall furnish such reasonable financial or operating data as the Secretary may require to determine the standing and responsibility of said underwriter.

§ 250.15 Penalties on default.

Unless otherwise provided in the loan documents, failure on the part of a borrower to conform to the terms of the loan documents will be deemed grounds upon which the Secretary may cause any one or all of the following steps to be taken:

(a) Discontinue any further disbursements of funds contemplated by the loan documents.

(b) Take possession of any or all collateral given as security and the property purchased with borrowed funds.

(c) Prosecute legal action against the borrower.

(d) Declare the entire amount of the loan immediately due and payable.

PART 253—COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT

Sec.

253.1 Definitions.
253.2 Interpretation of the authorization.
253.3 Use of research and development funds.
253.4 Use of resource disaster funds.
253.5 Use of new commercial fishery funds.
253.6 Financial responsibility.
253.7 Reporting.
253.8 Record retention.
253.9 Audit and inspection.
253.10 Officials not to benefit.
253.11 Patents and inventions.
253.12 Convict labor.

AUTHORITY: The provisions of this Part 253 issued under sec. 8, 78 Stat. 197; 16 U.S.C. 779f.

§ 253.1 Definitions.

As used in this part, terms shall have the meaning ascribed in this section.

(a) *Secretary.* The Secretary of the Interior or his authorized representative.

(b) *Act.* Public Law 88–309, Commercial Fisheries Research and Development Act of 1964.

(c) *Research and development funds.* Funds, the appropriation of which, were authorized by subsection 4(a) of the Act.

(d) *Resource disaster funds.* Funds, the appropriation of which, were authorized by subsection 4(b) of the Act.

(e) *New commercial fishery funds.* Funds, the appropriation of which, were authorized by subsection 4(c) of the Act.

(f) *Person.* Individual, association, partnership or corporation, any one or all as the context requires.

(g) *Primary producer or commercial fisherman.* A person owning, having a beneficial interest in, managing, or operating a vessel or gear engaged in harvesting raw fish for commercial purposes.

(h) *Net profits.* The net profit, before taxes, as computed in accordance with generally accepted accounting standards with due regard to the practices in the locality in which the fishing operation is conducted.

(i) *Reasonable amount as determined by the Secretary for the salary of the fisherman.* A computed amount equal to the average income of the applicant from fishing operations during the 3 preceding calendar years, with a maximum of $3,000, computed from applicant's income tax returns for those years.

(j) *Contractor.* A person, agency or institution performing services, under contract with the State agency, in carrying out the provisions of a project agreement.

(k) *Commercial fisheries resources.* Stocks of raw fish available or potentially available for harvesting with the

primary intent of moving the product into channels of commercial trade.

§ 253.2 Interpretation of the authorization.

The terms used in the Act to describe the authorization to the Secretary are construed to be limited to the meanings ascribed in this section.

(a) Supplement, and, to the extent practicable, increase the amounts of State funds. The words "supplement, and, to the extent practicable, increase the amounts of State funds" mean that State funds, to be used for at least 25 percent of the cost of a project financed with research and development funds, will be additional funds provided for that project and will not represent funds diverted from some other commercial fishery project; except, that during fiscal years 1965 and 1966, the fact that a State legislature did not meet for a significant and practicable period of time after appropriation of funds for section 4(a) of the Act will be considered evidence that it is not feasible for the State agency to furnish funds that have not been previously used for other commercial fishery projects.

(b) Resource disaster arising from natural or undetermined causes. The words "resource disaster arising from natural or undetermined causes" mean a serious disruption of a fishery caused by alteration of habitat affecting present and future productivity, inability to catch the raw fish, or inability to sell the catch, because of a natural or undetermined cause. It does not include inability to sell the catch because of competition from imported or other competitive products.

(c) Developing a new commercial fishery. The words "developing a new commercial fishery" mean the development of a fishery for species of fish not common to the commercial fishery in the State in which the development is anticipated, or on stocks of fish not then being utilized commercially.

(d) Manufactured or processed fishery merchandise. The words "manufactured or processed fishery merchandise" mean fishery products which are included in the tables entitled Manufactured Fishery Products appearing in the annual Bureau of Commercial Fisheries Statistical Digests, Fishery Statistics of the United States. Data on new products, or the collection of statistics on products not formerly covered in these tabulations, will only be included in the subsequent year's determination of the apportionments.

§ 253.3 Use of research and development funds.

(a) *Apportionment and obligation.* On July 1 of each year, or as soon thereafter as practicable, the Secretary shall certify to the respective State agencies and the Secretary of the Treasury the amount of the respective apportionments of funds appropriated pursuant to section 4(a) of the Act. The Governor of each State shall notify the Secretary which agency of the State government is the agency authorized under its laws to regulate commercial fisheries and a duly authorized official of the State shall certify as to the duly appointed official authorized in accordance with State law to commit the State to participation under the provision of the Act, to sign project documents, and to receive payments. Each interstate agency shall provide similar certification prior to participation in the program. The Secretary shall be advised promptly of any change made in such authorizations. No funds may be obligated until aforesaid certification has been received. Proposed projects may be submitted at any time after the apportionment is made, but must be submitted at least 120 days prior to the end of the fiscal year following the year in which the apportionment to be charged was made. Notice of obligation of the funds will be furnished the applicable State agency as soon as possible after approval of the project by the Secretary.

(b) *Preliminary project statement.* A preliminary project statement shall be submitted for each proposed project which shall contain such fundamental information as the Secretary may require, in order to determine if the project should be approved. The preliminary project statement shall include plans, specifications, duration, experimental design, personnel, and cost estimates, as well as the source of funding.

(c) *Project agreement.* After the Secretary shall have approved a preliminary project statement, mutual obligations to be undertaken by the cooperating agencies shall be evidenced by a project agreement to be executed between the State agency and the Secretary for each such project.

(d) *Prosecution of work.* (1) The State agency shall carry all approved projects through to a stage of completion acceptable to the Secretary with reasonable promptness. Failure to render satisfactory progress reports or failure to complete the project to the satisfaction of the Secretary shall be cause for the Secretary to withhold further payments until the project provisions are satisfactorily met. Projects may be terminated upon determination by the Secretary that satisfactory progress has not been maintained. The Secretary shall have the right to inspect and review work being done at any time.

(2) Research and/or development work shall be continuously coordinated by the State agency with studies conducted by other State and non-State agencies in order to avoid unnecessary duplication.

(3) All work shall be performed in accordance with applicable State laws, except when contradictory to Federal laws or regulations, in which case Federal law or regulations will prevail.

(e) *Economy and efficiency.* No project shall be approved until the State has shown to the satisfaction of the Secretary that appropriate and adequate means shall be employed to achieve economy and efficiency in the completion of the project.

(f) *Contracts.* Supply, service, equipment, and construction contracts, other than research and development contracts and contracts for professional services, involving an expenditure of $2,500 or more entered into by a State agency for the execution of approved project activities shall be based upon free and open competitive bids. If a contract is awarded to other than the lowest responsible bidder, the payment of the Federal portion of the cost of the project shall be based on the lowest responsible bid, unless it is satisfactorily shown that it was advantageous to the project to accept a higher bid. Upon request, the State agency shall certify and promptly furnish to the Secretary a copy of each contract executed and copies of all bids received concerning the contract. Contracts for research and development, and professional services may be negotiated, provided that the Secretary is satisfied that adequate steps are taken to insure economical and efficient services and the impartial selection of contractors.

(g) *Form of vouchers.* Vouchers on forms provided by the Secretary and certified as therein prescribed, showing amounts expended on each project and the Federal portion claimed to be due on account thereof shall be submitted to the Secretary by the State agency either after completion of each project or as the work progresses.

(h) *Safety and accident prevention.* In the performance of each project, the State shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation.

The State shall be responsible that all safeguards, safety devices, and protective equipment are provided and will take other needed actions reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of work on the project.

(i) *Personnel.* The State agency or the contractor shall maintain an adequate and competent force of employees to initiate and carry approved projects through to satisfactory completion. Personnel employed on approved projects by the State agency shall be selected on the basis of their competence to perform the services required and shall conduct their duties in a manner acceptable to the Secretary.

(j) *Nondiscrimination.* Each project agreement shall contain the applicable sections of Executive Order No. 10925, dated March 6, 1961, as amended, pertaining to nondiscrimination and shall also be subject to Public Law 88–352 and any regulations promulgated thereunder.

§ 253.4 Use of resource disaster funds.

(a) *Determination.* The Secretary shall cause to be published in the FEDERAL REGISTER a notice of finding that a commercial fishery failure due to a resource disaster arising from natural or undetermined causes exists at the time such a finding is made. After such publication, resource disaster funds may be

used for the following purposes with the cooperation of the respective State agencies:

(1) Payments causing the removal from the usual markets of stocks of fish or shellfish of the species listed in the said finding which are preventing normal trade operations. No payments will be made under this paragraph unless the Secretary deems such action necessary to aid in restoring normal trade operations; the person receiving such payment, if not the primary producer, provides evidence that he has reimbursed the primary producer, or such other person from whom the raw fish was purchased; the person receiving such payments has furnished the Secretary with such information regarding purchases, costs, sales, etc., as the Secretary may require; and satisfactory evidence of removal of the products from channels of distribution, including storage, shall be provided to the Secretary. No payments may be made for any product which was removed from storage or other channels of distribution prior to the approval of this Act.

(2) Payments to primary producers of the species of fish listed in the said finding to assist them in obtaining gear or equipment necessary to operate in the same or a different fishery than that affected by the said resource disaster. No payments will be made under this paragraph unless the Secretary deems such action necessary to aid in restoring primary producers adversely affected by the said commercial fishery failure to a condition where they can operate profitably; the person receiving such payments furnishes the Secretary with such information regarding catches, sales, and costs as the Secretary may require; and the person receiving such payments agrees to operate the gear purchased with the assistance of such payment in a manner satisfactory to the Secretary.

(3) Short-term loans for operating expenses of primary producers. When loans are made under this paragraph, the interest rate shall be 3 percent and repayment will be required only from net profits of the fishing operation, which net profit shall be reduced by such reasonable amount as determined by the Secretary for the salary of the fisherman. No such loans will be made unless the Secretary deems such action necessary to aid in restoring primary producers adversely affected by the said commercial fishery failure to a condition that will permit them to resume operations; the funds are not otherwise available on reasonable terms; and the past earning and credit record of the applicant is such that it provides reasonable assurance of repayment.

(4) Payments to State Agencies for projects directly related to the restoration of the fishery affected by the said resource disaster or to prevent a similar failure of the fishery in the future. Such preliminary project proposals and their processing will be subject to all regulations relating thereto in this part, except that these projects will be given preference over other proposed projects with reference to the use of funds obtained under subsection 4(b) of the Act, and Federal funds may be used for 100 percent of the cost of the project if all of the funds are obtained from appropriations authorized under subsection 4(b) of the Act.

(b) *Nondetermination.* At any time when there is no finding of a commercial fishery failure as described in paragraph (a) of this section, the Secretary may, if he deems such action to be in furtherance of the purposes of the Act, approve preliminary project proposals for funding under subsection 4(b) of the Act from funds carried over from previous fiscal years: *Provided however,* That no preliminary project proposal from any State will be funded under this subsection until that State has had all of its available apportioned funds, if any, obtained from appropriations authorized under subsection 4(a) of the Act, obligated.

§ 253.5 Use of new commercial fishery funds.

Preliminary project proposals leading to the establishment of a new commercial fishery may be approved for funding under this section when the Secretary finds that the proposal, if approved and carried out, will reasonably assure the establishment of a new commercial fishery within the State submitting the proposal. All proposals under this section will be subject to all applicable regulations of this part, except that 100 percent of the project costs may be paid from Federal funds and, if the Secretary deems that the proposal will further the purposes of the Act, these proposals may be approved without the requirement that the State submitting the proposal first have obligated all of its apportioned funds, if any.

§ 253.6 Financial responsibility.

(a) State agencies are required to account for each approved project. Cost accounting records, consistent with generally accepted accounting standards, shall be maintained for each project separately.

(b) State agencies are responsible for the financial management of the project. Appropriate internal controls will, therefore, be adopted and installed to insure that the project is accomplished in the most efficient and economical manner.

§ 253.7 Reporting.

(a) Quarterly progress reports on approved projects will be furnished by State agencies. These reports will be compiled on forms approved by the Secretary. Progress payments or other disbursements will not be made unless reporting requirements are met.

(b) Completion reports, on forms approved by the Secretary, are required when the project is completed pursuant to the project agreement. Final progress payments to State agencies on individual projects will not be made until a completion report has been rendered and accepted by the Secretary. Completion reports with respect to research and development projects will contain a certification that the State agency has contributed at least 25 percent of the total project cost.

(c) A mutual release wil be executed by the State agency and the Secretary, or his authorized representative, when both parties have fulfilled their respective obligations under the agreement or contract.

(d) Copies of audit reports on audits of projects made by State auditors or inspectors shall be furnished the Secretary and will not be returned to State agencies.

§ 253.8 Record retention.

(a) All records of accounts, reporting and supporting documentation thereto will be retained by the State or State agency for a period of 3 years after the project is completed.

(b) Loan applicants, to whom a loan has been granted pursuant to section 9 of Public Law 88–309 or § 253.4(a)(3), shall retain all records incident to the fishing operation for a period of 3 years after the Note has been satisfied.

§ 253.9 Audit and inspection.

(a) Authorized representatives of the Department of the Interior and the U.S. General Accounting Office shall have the right to audit, examine, or inspect accounts, books, documents and other pertinent records involving operations and transactions under the regulations in this part.

(b) State agencies are expected to provide for a system of periodic internal review or audit by State employees.

(c) Periodic audits will be performed on projects with State agencies and other operations provided for in Public Law 88–309 by authorized representatives of the U.S. Government. Audits may be performed on active projects and within 3 years after the project is completed.

(d) Audit exceptions involving adjustments in payment to any State agency on any project, whether active or completed, may be applied to other approved projects or to applicable apportionments of funds to State agencies.

§ 253.10 Officials not to benefit.

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

§ 253.11 Patents and inventions.

Determination of the patent rights in any inventions or discoveries made in the course of or under any research and development contract entered into pursuant to the Act shall be goverened by the Statement of Government Patent Policy promulgated by the President in his memorandum of October 10, 1963 (3 CFR, 1959–1963 Comp., 28 F.R. 10943).

§ 253.12 Convict labor.

In connection with the performance of work, the State agency agrees not to

employ any person undergoing sentence of imprisonment at hard labor.

PART 255—FISHING VESSEL MORTGAGE INSURANCE PROCEDURES

Sec.
255.1 Basis and purpose.
255.2 Definitions.
255.3 Eligibility requirements.
255.4 Applications.
255.5 Commitment.
255.6 Closing procedures.
255.7 Defaults.

AUTHORITY: The provisions of this Part 255 issued under Title XI, 52 Stat. 969, as amended; 46 U.S.C. 1271–1279, sec. 6, 70 Stat. 1122; 16 U.S.C. 742e, sec. 3, Bureau of the Budget determination March 22, 1958, 23 F.R. 2304.

§ 255.1 Basis and purpose.

(a) Title XI of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1271–1279), authorizes the Secretary of Commerce to insure certain eligible loans and mortgages on vessels owned by citizens of the United States. As found and determined by the Director of the Bureau of the Budget on March 22, 1958 (23 F.R. 2304), all functions of the Maritime Administration, Department of Commerce, which pertain to Federal Ship mortgage insurance of fishing vessels under authority of Title XI of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1271–1279), were transferred to the Department of the Interior by section 6(a) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742e). The Act of July 5, 1960, Public Law 86–577 (46 U.S.C. 1275—Note), among other things, clarified authority of the Secretary of the Interior under amendments to the Merchant Marine Act of 1936 enacted subsequent to March 22, 1958, citing in particular the amendment enacted July 15, 1958 (72 Stat. 358).

(b) The purpose of this part is to prescribe rules and regulations governing Federal ship mortgage and loan insurance with respect to fishing vessels owned by citizens of the United States under Title XI, Merchant Marine Act, 1936, as amended.

§ 255.2 Definitions.

(a) *Fishing vessel.* The term "fishing vessel" includes any vessel documented or to be documented as a fishing vessel of the United States which is designed to be used in catching fish, processing or transporting fish loaded on the high seas, or any vessel outfitted for such activity.

(b) *Mortgage.* The term "mortgage" includes a preferred mortgage as defined in the Ship Mortgage Act, 1920, as amended, and a mortgage which will become a preferred mortgage when recorded and endorsed as required by the Ship Mortgage Act, 1920, as amended.

(c) *Loan.* The term "loan" includes any loan or advance of credit other than a mortgage loan.

(d) *Mortgagee.* The term "mortgagee" includes the original maker of a loan secured by a mortgage and his successors and assigns.

(e) *Lender.* The term "lender" includes the original maker of a loan or advance of credit other than a loan secured by a mortgage and his successors and assigns.

(f) *Mortgagor.* The term "mortgagor" includes the original borrower under a mortgage approved by the Secretary, and his successors and assigns.

(g) *Actual Cost.* The term "actual cost" of a vessel as of any specified date means the aggregate as determined by the Secretary of (1) all amounts paid by or for the account of the mortgagor or borrower on or before that date, and (2) all amounts which the mortgagee is then obligated to pay from time to time thereafter under a contract or contracts for the construction, reconstruction, or reconditioning (including designing, inspecting, outfitting, and equipping) of the vessels, provided such contract or contracts shall include, in addition to profit, only those items customarily included in such contract or contracts as contractor's items of cost, except where the Secretary finds that those charges are unfair or unreasonable: *Provided, however,* That if any portion of the cost of the vessel is paid by any Government Agency as a subsidy, or otherwise, the amount of such payment will not be included in the "actual cost" as determined by the Secretary.

(h) *Reconstruction; reconditioning.* The terms "reconstruction" and "reconditioning" contemplates a rebuilding of the hull or hull and engine of such magnitude that the actual cost is more than 30 percent of the replacement value of the vessel.

(i) *Secretary.* The term "Secretary" means the Secretary of the Interior or his authorized representatives.

(j) *Act.* The term "Act" means the Merchant Marine Act, 1936, as amended.

§ 255.3 Eligibility requirements.

(a) *Mortgage.* To be eligible for insurance under this part, a mortgage:

(1) Shall have a mortgagee approved by the Secretary of the Interior as responsible and able to service the mortgage properly; and a mortgagor approved by the Secretary as possessing the ability, experience, financial resources, and other qualifications necessary to the adequate operation and maintenance of the mortgaged property;

(2) Shall involve an obligation in a principal amount which does not exceed 75 percent of the actual cost of the vessel, such actual cost to be determined by the Secretary prior to the execution of the mortgage and such determination to be conclusive for the purpose of determining the principal amount of the mortgage;

(3) Shall secure bonds, notes, or other obligations having maturity dates satisfactory to the Secretary not to exceed 15 years from the date of execution. In no event will a mortgage be insured for a time longer than the economic life of the mortgaged property, as determined by the Secretary. Ordinarily, the economic life of a vessel will be determined as running not more than 10 years from the date of completion of any reconstruction or reconditioning thereof.

(4) Shall contain amortization provisions satisfactory to the Secretary requiring periodic payments by the mortgagor;

(5) Shall secure bonds, notes or other obligations bearing interest (exclusive of premium charges for insurance) at a rate not to exceed 5 per centum per annum on the amount of the unpaid principal at any time; or not to exceed 6 per centum per annum if the Secretary finds that in certain areas or under special circumstances, the mortgage or lending market demands it;

(6) Shall provide, in a manner satisfactory to the Secretary, for the application of the mortgagor's periodic payments to amortization of the principal of the mortgage, exclusive of the amount allocated to interest;

(7) Shall contain such terms and provisions with respect to the operation of the vessel or vessels, in a fishery or fisheries approved by the Secretary, repairs, alterations, payment of taxes, insurance, delinquency charges, revisions, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters pertinent to the security as the Secretary may require;

(8) Shall secure a loan made to aid in financing, including payment of loans previously made to finance, and reimbursement of the mortgagor for expenditures previously made for construction, reconstruction, and reconditioning (including design, inspection, outfitting and equipping) of fishing vessels being done or having been done by the firm submitting the lowest bid after the receipt of competitive bids, unless acceptance of a higher bid has been approved by the Secretary;

(9) Shall provide that the mortgagor shall pay to the mortgagee the amount required for the payment of each mortgage insurance premium charge at least 60 days before the payment of such premium charge to the Secretary is due and shall further provide that the failure of the mortgagor to make such payment shall be a default of the mortgage;

(10) Shall provide for the acceleration of the maturity date and immediate payment of the indebtedness in the event of any default in the performance conditions of the mortgage or in the event of the loss or destruction of the mortgaged property;

(11) Shall have the contract of insurance or commitment to insure approved before the launching of a vessel, if the application covers vessel construction, or before the work of reconstruction or reconditioning is completed if the mortgage is to pay for reconstruction or reconditioning; and

(12) Shall contain such other provisions as may be agreed upon between the mortgagor and mortgagee which are not inconsistent with the provisions of the preceding paragraphs of this subsection and which are not disapproved by the Secretary.

(b) *Loans.* To be eligible for insurance under this part a loan:

(1) Shall be made by a lender approved by the Secretary to a borrower

approved by the Secretary as possessing the ability, experience, financial resources, and other qualifications necessary to the adequate operation and maintenance of the property;

(2) Shall be made to aid in financing, include payment of loans previously made to finance, and reimbursement of the borrower for expenditures previously made for construction, reconstruction, or reconditioning (including design, inspection, outfitting, and equipment) of fishing vessels being done or having been done by the firm submitting the lowest bid after the receipt of competitive bids, unless the acceptance of a higher bid has been approved by the Secretary;

(3) Shall be payable prior to or simultaneously with execution of the mortgage;

(4) Shall provide that no advance shall be made thereunder unless the sum of such advance and the principal amount of all other advances under insured loans then outstanding at the time of said advance shall be less than 75 percent of the actual cost of such vessel, such actual cost to be determined by the Secretary and such determination to be conclusive for the purpose of determining the principal amount of the loan;

(5) Shall provide for the payment first, from sources other than the insured loan, by and for the account of the owner, of not less than 25 per centum of actual cost, and thereafter for payments by the lender direct to the shipyard or other contractors, except where the payment is for reimbursement of the borrower for amounts expended by or for the account of the borrower on account of actual cost but excluding reimbursement for payments required to meet the first 25 per centum of the actual cost: *Provided*, That no payment shall be made by the lender until work representing 25 per centum of actual cost shall have been performed and that payments by the lender shall at no time exceed 75 per centum of actual cost of work performed to the time of payment;

(6) Shall provide that the borrower shall pay to the lender the amount required for the payment of each loan insurance premium charge at least 60 days before the payment of such premium charge to the Secretary is due, and which shall further provide that the failure of the borrower to make such payment shall give the lender the right to mature the loan;

(7) Shall bear interest at an average interest rate not to exceed the maximum rate permitted by subparagraph (5) of paragraph (a) of this section;

(8) Shall provide for vesting of title to the vessel in the borrower according to payments made subject only to the lien or other rights of the contractor for additional amounts due and unpaid;

(9) The furnishing of satisfactory insurance and a satisfactory performance bond by the contractor;

(10) The performance of the work substantially in accordance with contract plans and specifications approved by the Secretary; with the provision that all changes under the contract require approval of the Secretary prior to the commencement of work involving the changed specifications; and the furnishing of all technical material necessary for the Secretary's approval of the changes;

(11) The furnishing of two copies of all working plans, schedules and sketches promptly after approval by the owner; two copies of correspondence regarding work being done or to be done; and one copy of the vessel's certificates, documents and test reports if required by the Secretary;

(12) Shall provide for a chattel mortgage on the vessel being constructed and such other security or collateral as the Secretary may require;

(13) Shall provide for the acceleration of the maturity date and immediate payment of the indebtedness in the event of any default in the performance conditions of the loan (mortgage) or in the event of the loss or destruction of the property (mortgaged property); and

(14) Shall contain such other provisions as may be agreed upon between the borrower and the lender which are not inconsistent with the provisions of the subparagraphs (1) to (13) of this paragraph and which shall not be disapproved by the Secretary, and such other provisions as may be required by the Secretary.

(c) *Premium charges.* (1) In the case of any mortgage insured under this part, the annual premium charge for such insurance shall be 1 per centum of the average principal amount of the mortgage outstanding if the face amount of the mortgage represents more than 50 per centum of the actual cost of the construction, reconstruction or reconditioning, and three-fourths of 1 per centum if the face amount of the mortgage represents 50 per centum or less of the actual cost of the construction, reconstruction or reconditioning.

(2) In the case of loans insured under this part the annual premium charge for such insurance shall be one-half of 1 per centum per annum of the average principal amount of the loan outstanding.

(3) Premium payments shall be made when moneys are first advanced under the mortgage or loan agreement and on each anniversary date thereafter. In the event that the Secretary at any time determines that the amount of any premium charge is not correct, he shall promptly give notice thereof to the lender and the borrower, specifying the amount of the deficiency or excess. The lender shall, within 30 days after receipt of said notice, pay or cause to be paid to the Secretary the amount of any deficiency. The Secretary shall promptly refund to the lender the amount of any excess.

(4) Unless otherwise specified by the Secretary, all premium charges may be paid by check, payable to the Secretary of the Interior delivered to the Bureau of Commercial Fisheries, Department of the Interior, Washington, D.C. 20240, accompanied by a letter stating that the payment is on account of a premium charge under the contract of insurance and specifying the period covered by the payment.

(5) Each premium charge shall be deemed to be fully earned when paid and no refund will be made by the Secretary of any premium charge paid in the event the insurance is terminated.

§ 255.4 Applications.

Applications may be for mortgage insurance, loan insurance, or both, or for commitments to insure.

(a) *Where filed.* Applications shall be filed with the Director, Bureau of Commercial Fisheries, Department of the Interior, Washington, D.C. 20240, on an application form furnished by the Bureau except that, in the discretion of the Secretary, an application made other than by use of the prescribed form may be considered if the application contains information deemed to be sufficient.

(b) *Processing of applications.* If it is determined on the basis of a preliminary review, that the application is complete and appears to be in conformity with the Act and this part, a field examination will be made. Following completion of the field examination, the application will be forwarded with an appropriate report to the Bureau of Commercial Fisheries, Washington, D.C. The application and all supporting documents must be filed in sufficient time to permit the Secretary to make a full and complete investigation and to take all other action required in respect thereto, and in any event not later than 90 days prior to the anticipated date of the closing of the transaction.

(c) *Books, records, and reports.* The Secretary shall have the right to inspect such books and records of the applicant as the Secretary may deem necessary. A commitment to insure or a contract of insurance made under this part shall be made only upon the agreement of the borrower and lender to furnish the Secretary, promptly upon his request, such reasonable material and pertinent reports, evidence, proof, and information as he may require in connection with insurance granted or applied for, and to permit the Secretary, upon his request, to make such reasonable examination and audit of his records and books of account as the Secretary may deem necessary in connection with insurance granted or applied for.

(d) *Inspection of property.* The Secretary shall have access at all times to all vessels with respect to a loan or mortgage which is insured or for which an application for insurance has been filed.

(e) *Investigation fee.* Each application must be accompanied by payment pursuant to section 1104(e) of the Act in the amount of $50 or one-half of 1 percent of the original principal amount of the mortgage or loan to be insured, whichever is less, which payment will be retained by the Secretary irrespective of the final disposition of the application. After preliminary consideration of the application, the applicant shall pay to the Secretary upon request such addi-

tional amount or amounts as the Secretary may deem reasonable for the investigation of the application for insurance, necessary appraisals, issuance of commitments, and inspection of property during construction, reconstruction or reconditioning: *Provided*, That total charges shall not aggregate more than one-half of 1 percent of the original principal amount of the mortgage or loan to be insured. Any additional amount or amounts so paid shall be retained by the Secretary if the application is approved, and one-half of any additional amount or amounts so paid shall be retained by the Secretary if the application is not approved. Unless otherwise agreed by the mortgagor or borrower and the mortgagee or lender, all such amounts shall be paid by the mortgagor or borrower.

§ 255.5 Commitment.

A commitment to insure the loan or mortgage will be issued by the Secretary, when such a commitment is required prior to the actual completion of the note and/or mortgage. This commitment will provide that the Secretary will insure a loan or mortgage, and will further state the terms and conditions under which this insurance will be issued. It will also contain the covenants to be accepted by the borrower and lender.

§ 255.6 Closing procedure.

The contract of insurance shall take effect upon payment of the first year's insurance premium in accordance with § 255.3(c) and the signing of the contract of insurance by the Secretary, the borrower and the lender.

§ 255.7 Defaults.

(a) *Rights of mortgagee, lender, or Secretary.* In the event of any act or failure to act which gives the mortgagee the right to foreclose the mortgage or the lender the right to mature the loan, any of these events being herein called defaults, the rights of the mortgagee, the lender, and the Secretary are as prescribed in section 1105(a) of the Act.

(b) *Assignment to Secretary.* In the event an assignment of the mortgage or note and of the obligations securing the mortgage or note shall be tendered to the Secretary in accordance with section 1105(a) of the Act, the assignment shall be as approved by the Secretary and annexed to the contract of insurance and such other documents as may be required by the Secretary, and shall be duly executed by or on behalf of the lender. Such assignment shall include the assignment to the Secretary of all collateral or security for the mortgage or loan and all policies of insurance held by the lender pursuant to the mortgage or loan agreement.

(c) *After assignment.* In the event the Secretary shall accept an assignment of a mortgage or loan agreement and the obligation or obligations secured by the same, upon default of the borrower, the Secretary may take any action authorized by sections 1105(c) and 1105(d) of the Act and any action authorized, permitted by, or provided for in the mortgage or loan agreement.

PART 256—FISHING VESSEL CONSTRUCTION DIFFERENTIAL SUBSIDY PROCEDURES

Sec.
256.1 Basis and purpose.
256.2 Definitions.
256.3 Eligibility requirements.
256.4 Applications.
256.5 Notice and hearing.
256.6 Subsidy contract.
256.7 Vessel operations.
256.8 Penalties.
256.9 Inspection of vessels.
256.10 Payment of subsidy.

AUTHORITY: The provisions of this Part 256 issued under sec. 10, 74 Stat. 214, as amended; 46 U.S.C. 1410 (1964).

§ 256.1 Basis and purpose.

(a) The Act of June 12, 1960 (Public Law 86–516), as amended and hereinafter referred to as the Act, authorizes the Secretary of the Interior to pay a subsidy for the construction of fishing vessels in shipyards of the United States.

(b) The purpose of this part is to prescribe rules and regulations governing the payment of these subsidies.

§ 256.2 Definitions.

(a) Secretary. The Secretary of the Interior or his authorized representative.

(b) Administrator. The Maritime Administrator in the Department of Commerce or his authorized representative.

(c) Director. The Director, Bureau of Commercial Fisheries, Department of the Interior, or his authorized representative.

(d) Person. Individual, association, partnership or corporation, or any one or all as the context requires.

(e) Fishery. A segment of the commercial fishing industry engaged in the catching of a single species or a group of species of fish and shellfish. Any other species taken must be caught incidentally while fishing for and using gear designed for the capture of the species comprising the fishery.

(f) Expanded areas. Fishing grounds not usually fished by the majority of the vessels operating in the fishery for which the proposed vessel is designed.

(g) Newly developed gear. The most modern gear available that is suitable for use in the fishery for which the proposed vessel is designed.

§ 256.3 Eligibility requirements.

(a) Vessel will be of advance design: In order to be considered to be of advance design, the vessel must be designed to have significant advantages in utility and efficiency over a significant number of vessels engaged in the fishery in which the proposed vessel is designed to operate.

(b) No economic hardship to efficient vessel operators: The determination that operation of a proposed vessel will not cause economic hardship to efficient vessel operators already operating in that fishery shall be made by the Secretary after notice and hearing, taking into consideration the condition of the resource, the efficiency of the vessels and gear being operated in that fishery compared with the proposed vessel, the prospects of the market for the species caught, and the degree and duration of any anticipated economic hardship.

(c) Aid in the development of the U.S. fisheries: For the vessel to aid in the development of the U.S. fisheries under conditions that the Secretary considers to be in the public interest, the vessel must be a modern vessel which will upgrade the fleet. Special consideration will be given to vessels which will provide a significant contribution in helping the domestic fishery meet foreign competition.

(d) The applicant possesses the ability, experience, resources and other qualifications necessary to enable him to operate and maintain the proposed new fishing vessel. In making this determination, the Secretary will inquire into the economic feasibility of the fishing venture and will require reasonable assurance that the applicant can operate the vessel profitably.

§ 256.4 Applications.

Applications for a subsidy shall be made on forms prescribed by the Secretary and shall be filed with the Director, Bureau of Commercial Fisheries, Washington, D.C. The applications must be accompanied by three copies of the cross section, deck arrangement, outboard profile, and specifications of the proposed vessel. The Secretary may require such additional complete detailed construction plans as may be necessary after a review of the application and accompanying plans and specifications.

§ 256.5 Notice and hearing.

After receipt of an application eligible on its face for a construction differential subsidy the Director will publish a Notice of Hearing on a Subsidy Application in the FEDERAL REGISTER and hold hearings in accordance therewith. The purpose of the hearing will be to provide any person who feels he will be economically injured by the construction of the proposed vessel to cross-examine witnesses and/or present evidence that the operation of such vessel will cause economic hardship to efficient vessel operators already operating in the fishery for which the vessel is designed. Hearing procedures will be held in accordance with Part 257 of this subchapter.

§ 256.6 Subsidy contract.

(a) A contract for the payment of the subsidy will take effect when all contracts for the construction of such vessel, have been approved by the Administrator and the subsidy contract has been signed by the Secretary and the applicant; and

(b) The contract shall contain a finding of the useful life of the vessel as determined by the Secretary to be used in computing the amount of the total depreciated construction subsidy to be repaid to the Secretary in accordance with section 9 of the Act.

§ 256.7 Vessel operations.

(a) If the owner of a fishing vessel constructed with the aid of a subsidy desires to operate it in a different fishery than the one for which it was designed because of an actual decline in that particular fishery, he shall submit an application to the Secretary for permission to transfer the operations of the vessel to a different fishery. The application shall contain data showing the decline in the fishery for which the vessel was designed, how this decline is making the operation of the vessel uneconomical or less economical, and why the transfer will not cause economic hardship or injury to efficient vessel operators already operating in the fishery to which he wishes to transfer operations.

(b) Upon receipt of such an application the Secretary will publish a Notice of Hearing on an Application to Change Fishery in the FEDERAL REGISTER and hold hearings in accordance therewith. The purpose of the hearings will be to provide any person who feels he will be economically injured by said transfer of fishing operations an opportunity to cross-examine witnesses and/or present evidence that such a transfer of operations will cause economic hardship or injury to efficient vessel operators already operating in the fishery to which the vessel's operations would be transferred. Hearing procedures will be held in accordance with Part 257 of this subchapter.

§ 256.8 Penalties.

In case the Secretary shall find that a vessel has operated contrary to the provisions of the Act or of regulations issued thereunder, he shall immediately notify the owner in writing of the specific acts involved and the amount of the penalty. The vessel owner may appeal such a finding to the Secretary in writing within 30 days of the date of mailing such finding to the last known address of the vessel owner. The amount of penalty assessed in any 1 year shall be equal to the total subsidy paid multiplied by the ratio that 1 year bears to the total number of years determined, by the Secretary, as the useful life of the vessel: *Provided, however*, That if the amount is not paid within 60 days after receipt of notice then the amount due shall be the total amount of the subsidy paid depreciated to the beginning of the year in which the vessel operated unlawfully. Any amount due hereunder shall constitute a maritime lien against the vessel effective at the time the Secretary determines that the vessel has operated in violation of the Act or regulations.

§ 256.9 Inspection of vessels.

The Secretary or the Administrator shall have access at all times to all vessels which are being constructed under a contract providing for a construction subsidy provided for by the Act.

§ 256.10 Payment of subsidy.

(a) Subsidy payments will be paid in accordance with the terms of the subsidy contract. No subsidy payments shall be made until the entire amount of the applicant's share of the subsidized construction cost has been paid. If the amount of subsidy exceeds 30 percent of the subsidized construction cost, an amount equal to at least 30 percent of the subsidized construction cost shall be withheld until (1) the Maritime Administrator has certified that the vessel has been completed in accordance with the approved plans and specifications, and (2) all amounts due by the applicant on account of the construction of the vessel, including designing, equipping, and outfitting costs, have been paid.

(b) Any interim subsidy payments due pursuant to the subsidy contract shall be paid only after the Secretary has determined that such amount is properly due. If the amount of subsidy does not exceed 30 percent of the subsidized construction cost, none of the subsidy shall be paid until (1) the Maritime Administrator has certified that the vessel has been completed in accordance with the approved plans and specifications, and (2) all amounts due by the applicant on account of the construction of the vessel, including designing, equipment, and outfitting costs, have been paid.

(c) Subsidy payments may be made to the applicant or jointly to the applicant and construction contractor or others, as may be appropriate, pursuant to the terms of the construction contract or otherwise.

(d) If the Maritime Administrator agrees, by his clearance of a payment schedule set forth in a pro forma construction contract to accompany a request for bids, that it is in the public interest to allow the percentage of the subsidized construction cost withheld to be less than 30 percent of the subsidized construction cost, then the subsidy contract executed in connection with such construction contract shall reflect payment in accordance with such payment schedule.

PART 257—NOTICE AND HEARING ON SUBSIDIES

Sec.

257.1 Basis and purpose.
257.2 Definitions.
257.3 Scope of rules.
257.4 Mailing address.
257.5 Authentication.
257.6 Inspection of records.
257.7 Appearance and practice.
257.8 Parties.
257.9 Form, execution and service of documents.
257.10 Notice, pleadings, and replies.
257.11 Duties of Presiding Officer.
257.12 Hearing procedure.
257.13 Evidence.
257.14 The record.
257.15 Decisions.

AUTHORITY: The provisions of this Part 257 issued under sec. 10, 74 Stat. 214, as amended; 46 U.S.C. 1410 (1964).

§ 257.1 Basis and purpose.

(a) The Act of June 12, 1960 (Public Law 86–516), as amended by the U.S. Fishing Fleet Improvement Act (Public Law 88–498) authorizes the Secretary of the Interior to pay a subsidy for the construction of fishing vessels in shipyards of the United States and requires that this be done only after Notice and Hearing.

(b) The purpose of this part is to establish rules of practice and procedure for the notice and hearing.

§ 257.2 Definitions.

Definitions shall be the same as in Part 256 of this subchapter.

§ 257.3 Scope of rules.

The regulations in this part govern the procedure in hearings subject to Part 256 of this subchapter. These hearings are subject to the Administrative Procedure Act (5 U.S.C. 1003, et seq.) and Practice Before The Department of the Interior (43 CFR Part 1). The regulations shall be construed to secure the just, speedy, and inexpensive determination of every proceeding with full protection for the rights of all parties therein.

§ 257.4 Mailing address.

Documents required to be filed in, and correspondence relating to, proceedings governed by the regulations in this part shall be addressed to the Director, Bureau of Commercial Fisheries, Department of the Interior, Washington, D.C. 20240.

§ 257.5 Authentication.

All rules, orders, determinations, and decisions of the Secretary shall be signed by the Secretary.

§ 257.6 Inspection of records.

The files and records of these hearings, except those held by the Secretary for good cause to be confidential, shall be open to inspection and copying as follows:

(a) All pleadings, motions, depositions, correspondence, exhibits, transcripts of testimony, exceptions, briefs, and decisions in any formal proceeding under this part may be inspected and copied in the office of the Chief, Branch of Loans and Grants, Bureau of Commercial Fisheries, Department of the Interior, Washington, D.C. 20240.

(b) Orders, rules, rulings, opinions, determinations, and decisions may be inspected in the office of the Chief, Branch of Loans and Grants, except those held by the Secretary for good cause to be confidential and not cited as precedents.

§ 257.7 Appearance and practice.

(a) A party may appear in person or by an officer, partner or regular employee of the party; by or with counsel or as otherwise permitted by 43 CFR Part 1 in any proceeding under the regulations in this part. A party may offer testimony, produce and examine witnesses, and be heard upon brief and at oral argument if oral argument is granted by the Presiding Officer. Attorneys at law who are admitted to practice before the Federal Courts or before the courts of any State or possession of the United States, may represent a party as counsel.

(b) Persons who appear at any hearing shall deliver a written notice of appearance to the official reporter, stating

for whom the appearance is being made. The Presiding Officer may require a person making an appearance in a representative capacity to show his authority to act in such capacity. The written appearance shall be made a part of the record.

§ 257.8 Parties.

(a) The term "party" shall include any natural person, corporation, association, firm, partnership, trustee, receiver, cooperative, or governmental agency determined by the Presiding Officer as having an interest in the proceedings. A party making an application shall be designated as "applicant." A party whose petition for leave to intervene is granted shall be designated an "intervenor." Only a party as designated in this section may introduce evidence or examine witnesses at hearings.

(b) For an intervenor to prove an interest in the hearings he must show that there is a reason for belief that the operation of the vessel described in the application will cause economic injury or hardship to efficient vessel operators already operating in the fishery in which it is proposed that the vessel be operated.

§ 257.9 Forms, execution and service of documents.

(a) All papers to be filed under the regulations in this part shall be clear and legible; and shall be dated, signed in ink, contain the docket description and title of the proceeding and the title, if any, and the address of the signatory. Five copies of all papers are required to be filed. Documents filed shall be executed by (1) the person or persons filing same, (2) by an authorized officer thereof if it be a corporation or, (3) by an attorney or other person having authority with respect thereto.

(b) All documents, when filed, shall show that service has been made upon all parties to the proceeding. Such service shall be made by delivering one copy to each party in person or by mailing by first class mail, properly addressed with postage prepaid. When a party has appeared by attorney or other representative, service on such attorney or other representative will be deemed service upon the party. The date of service of document shall be the day when the matter served is deposited in the U.S. mail, shown by the postmark thereon, or is delivered in person, as the case may be.

(c) The original of every document filed under this part and required to be served upon all parties to a proceeding shall be accompanied by a certificate of service signed by the party making service, stating that such service has been made upon each party to the proceeding. Certificates of service may be in substantially the following form:

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by: (1) Mailing postage prepaid, (2) delivering in person, a copy to each party.

Dated at ---------- this ------ day of ---------- 19__.

Signature ----------

§ 257.10 Notice, pleadings, and replies.

(a) After acceptance of an application eligible on its face for construction subsidy or for the transfer of a vessel to a different fishery, the Director, Bureau of Commercial Fisheries, shall publish a notice of hearing in the FEDERAL REGISTER advising that a hearing will be held not less than 30 days after date of such publication and setting the time and place and providing details with respect to such hearing. Any person desiring to intervene and present evidence that the approval of the application will cause economic injury or hardship to efficient vessel operators must file, at least 10 days prior to the date set for the hearing (unless otherwise consented to by the Presiding Officer), a Petition of Intervention setting forth his interest. The hearing will be held in Washington, D.C., unless such a petition is received. If such a petition is received, the Presiding Officer may designate a different hearing site by telegraphic notice to the parties in the proceedings. If no petition to intervene is received, it will not be necessary for the applicant to appear at the hearing if he files all information in writing as required by the Presiding Officer.

(b) All petitions shall be in writing and shall state the petitioner's grounds of interest in the subject matter; the facts relied upon, the relief sought; and shall cite the authority upon which the petition rests. The petition shall be served upon all parties named therein or affected thereby. Answers to petitions must be filed within 5 days of the hearing date, unless otherwise consented to by the Presiding Officer.

(c) Amendments or supplements to pleadings may be allowed or refused in the discretion of the Presiding Officer. The Presiding Officer may direct a party to state its case more fully and in more detail by way of amendment. If a response to an amended pleading is necessary, it may be filed and served within the time set by the Presiding Officer. Amendments or supplements allowed prior to hearing will be served in the same manner as the original pleading.

(d) All motions and requests for rulings shall state the relief sought, the authority relied upon and the facts alleged. If made before or after the hearing, such motions shall be in writing. If made at the hearing, motions may be stated orally: *Provided, however,* That the Presiding Officer may require such motion to be reduced to writing and filed and served in the same manner as a formal motion. Oral argument upon a written motion, in which an answer has been filed, may be granted within the discretion of the Presiding Officer. Answers to a formal motion or pleading shall be filed and served in the same manner as the motion or pleading.

§ 257.11 Duties of Presiding Officer.

The Presiding Officer shall have the authority and duty to:

(a) Take or cause depositions to be taken.

(b) Rule upon proposed amendments or supplements to motions and pleadings.

(c) Regulate the course of the hearings.

(d) Prescribe the order in which evidence shall be presented.

(e) Dispose of procedural requests or similar matters.

(f) Hear and initially rule upon all motions and petitions before him.

(g) Administer oaths and affirmations.

(h) Examine witnesses.

(i) Rule upon offers of proof and receive competent, relevant, material, reliable, and probative evidence.

(j) Exclude irrelevant, immaterial, incompetent, unreliable, repetitious or cumulative evidence.

(k) Exclude cross-examination which is primarly intended to elicit self-serving declarations in favor of the witness.

(l) Limit cross-examination to interrogatories which are required for a full and true disclosure of the facts in issue.

(m) Act upon petitions to intervene.

(n) Act upon submissions of facts or arguments.

(o) Hear arguments at the close of testimony.

(p) Fix the time for filing briefs, motions and other documents to be filed in connection with hearings.

(q) Issue the initial decisions and dispose of any other pertinent matter that normally and properly arises in the course of proceedings.

§ 257.12 Hearing procedure.

(a) Unless authorized by the Presiding Officer, witnesses will not be permitted to read prepared testimony into the record. The evidentiary record shall be limited to factual and expert opinion testimony. Arguments will not be received in evidence but should be presented in opening and/or closing statements or in briefs to the Presiding Officer. All exhibits and responses to requests for evidence shall be numbered consecutively by the party submitting same and shall be filed with the Presiding Officer if filed during the hearing. If filed at some other time they should be filed in accordance with § 257.4 with one copy also being sent to each party to the hearing.

(b) Normally, the order of presentation at the hearing will be alphabetical in each of the following categories:

(1) Applicant.

(2) Intervenors.

Rebuttal should be presented without any adjournment in the proceedings.

(c) Cross-examination shall be limited, subject to § 257.13(b), to the scope of the direct examination and to witnesses whose testimony is adverse to the party desiring to cross-examine. Only cross-examination which is necessary to test the truth and completeness of the direct testimony and exhibits will be permitted.

(d) A request for oral argument at the close of testimony will be granted or denied by the Presiding Officer in his discretion.

(e) Rulings of the Presiding Officer may not be appealed prior to, or during,

the course of the hearings, except in extraordinary circumstances where prompt decision by the Secretary is necessary to prevent unusual delay or expense, in which instance the matter shall be referred forthwith to the Secretary by the Presiding Officer. Any appeal shall be filed within 10 days from the date of the close of the hearing.

§ 257.13 Evidence.

(a) In any proceedings under this part, all evidence which is relevant, material, reliable, and probative, and not unduly repetitious or cumulative, shall be admissible. Irrelevant and immaterial or unduly repetitious evidence shall be excluded.

(b) Each party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence; and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(c) At any time during the hearing the Presiding Officer may call for the production of further relevant and material evidence, reports, studies and analyses upon any issue, and require such evidence to be presented by the party or parties concerned, either at the hearing or adjournment thereof. Such material shall be received subject to appropriate motions, cross-examination and/or rebuttal. If a witness refuses to testify or produce the evidence as requested, the Presiding Officer shall forthwith report such refusal to the Secretary.

§ 257.14 The record.

(a) The Director, Bureau of Commercial Fisheries, will designate an official reporter for all hearings. The official transcript of testimony taken, together with any exhibits and briefs filed therewith, shall be filed with the Director, Bureau of Commercial Fisheries. Transcripts of testimony will be available in any proceeding under the regulations of this part, and will be supplied by the official reporter to the parties and to the public, except when required for good cause to be held confidential, at rates fixed by the contract between the United States of America and the reporter. If the reporter is an employee of the Department of the Interior, the rate will be fixed by the Director, Bureau of Commercial Fisheries.

(b) The transcript of testimony and exhibits, together with all papers and requests, including rulings and the initial decision filed in the proceeding, shall constitute the exclusive record for decision. The initial decision will be predicated on this same record, as will the final decision.

§ 257.15 Decisions.

(a) The Presiding Officer is delegated the authority to render initial decisions in all proceedings before him. The same officer who presides at the reception of evidence shall render the initial decision except when such officer becomes unavailable to the Department of the Interior. In such case, another Presiding Officer will be designated by the Secretary to render the initial decision. Briefs, or other documents, to be submitted after the hearing must be received not later than ten (10) days after the hearing unless otherwise extended by the Presiding Officer upon motion by a party. The initial decision shall be made within twenty (20) days after the hearing or the receipt of all briefs, whichever is later. If no appeals from the initial decision are received within ten (10) days of the date of the initial decision, it will become the final decision on the 20th day following the date of the initial decision. If an appeal is received, the appeal will be transmitted to the Secretary who will render the final decision after considering the record and the appeal.

(b) All initial and final decisions shall include a statement of findings and conclusions, as well as the reasons or basis therefor, upon the material issues presented. A copy of each decision shall be served on the parties to the proceeding, and furnished to interested persons upon request.

(c) Official notice may be taken of such matters as might be judicially noticed by the courts; or of technical or scientific facts within the general or specialized knowledge of the Department of the Interior as an expert body; or of a document required to be filed with or published by a duly constituted Government body: *Provided*, That where a decision or part thereof rests on the official notice of a material fact not appearing in the evidence of the record, the fact of official notice shall be so stated in the decision and any party, on timely request, shall be afforded an opportunity to show the contrary.

SUBCHAPTER G—PROCESSED FISHERY PRODUCTS, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

PART 260—INSPECTION AND CERTIFICATION

Sec.

260.1 Administration of regulations.

DEFINITIONS

260.6 Terms defined.
260.7 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

INSPECTION SERVICE

260.12 Where inspection service is offered.
260.13 Who may obtain inspection service.
260.14 How to make application.
260.15 Information required in connection with application.
260.16 Filing of application.
260.17 Record of filing time.
260.18 When application may be rejected.
260.19 When application may be withdrawn.
260.20 Disposition of inspected sample.
260.21 Basis of inspection and grade or compliance determination.
260.22 Order of inspection service.
260.23 Postponing inspection service.
260.24 Financial interest of inspector.
260.25 Forms of certificates.
260.26 Issuance of certificates.
260.27 Issuance of corrected certificates.
260.28 Issuance of an inspection report in lieu of an inspection certificate.
260.29 Disposition of inspection certificates.
260.30 Report of inspection results prior to issuance of formal report.

APPEAL INSPECTION

260.36 When appeal inspection may be requested.
260.37 Where to file for an appeal inspection and information required.
260.38 When an application for an appeal inspection may be withdrawn.
260.39 When appeal inspection may be refused.
260.40 Who shall perform appeal inspection.
260.41 Appeal inspection certificate.

LICENSING OF SAMPLERS AND INSPECTORS

260.47 Who may become licensed sampler.
260.48 Application to become a licensed sampler.
260.49 Inspectors.
260.50 Suspension or revocation of license of licensed sampler or licensed inspector.
260.51 Surrender of license.

SAMPLING

260.57 How samples are drawn by inspectors or licensed samplers.
260.58 Accessibility for sampling.
260.59 How officially drawn samples are to be identified.
260.60 How samples are to be shipped.
260.61 Sampling plans and procedures for determining lot compliance.
260.62 Issuance of certificate of sampling.
260.63 Identification of lots sampled.

FEES AND CHARGES

260.69 Payment of fees and charges.
260.70 Schedule of fees.
260.71 Inspection services performed on a resident basis.
260.72 Fees for inspection service performed under cooperative agreement.
260.73 Disposition of fees for inspections made under cooperative agreement.
260.74 Fee for appeal inspection.
260.76. Charges based on hourly rate not otherwise provided for in this part.
260.77 Fees for score sheets.
260.78 Fees for additional copies of inspection certificates.
260.79 Travel and other expenses.
260.80 Charges for inspection service on a contract basis.
260.81 Readjustment and increase in hourly rates of fees.

MISCELLANEOUS

260.86 Approved identification.
260.88 Political activity.
260.90 Compliance with other laws.
260.91 Identification.
260.93 Debarment and suspension.

REQUIREMENTS FOR PLANTS OPERATING UNDER CONTINUOUS INSPECTION ON A CONTRACT BASIS

260.97 Plant survey.
260.98 Premises.
260.99 Buildings and structures.
260.100 Facilities.
260.101 Equipment.
260.102 Operations and operating procedures.
260.103 Personnel; health.

AUTHORITY: The provisions of this Part 260 issued under sec. 6, 70 Stat. 1122, 16 U.S.C. 742e; secs. 203, 205, 60 Stat. 1087, 1090, as amended; 7 U.S.C. 1622, 1624.

§ 260.1 Administration of regulations.

The Secretary of the Interior is charged with the administration of the regulations in this part except that he may delegate any or all of such functions to any officer or employee of the Bureau of Commercial Fisheries of the Department in his discretion.[1]

DEFINITIONS

§ 260.6 Terms defined.

Words in the regulations in this part in the singular form shall be deemed to import the plural and vice versa, as the case may demand. For the purposes of the regulations in this part, unless the context otherwise requires, the following terms shall have the following meanings:

Acceptance number. "Acceptance number" means the number in a sampling plan that indicates the maximum number of deviants permitted in a sample of a lot that meets a specific requirement.

Act. "Act" means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U.S.C. 1621 et seq.).

Applicant. "Applicant" means any interested party who requests inspection service under the regulations in this part.

Case. "Case" means the number of containers (cased or uncased) which, by the particular industry are ordinarily packed in a shipping container.

Certificate of loading. "Certificate of loading" means a statement, either written or printed, issued pursuant to the regulations in this part, relative to checkloading of a processed product subsequent to inspection thereof.

Certificate of sampling. "Certificate of sampling" means a statement, either written or printed issued pursuant to the regulations in this part, identifying officially drawn samples and may include a description of condition of containers and the condition under which the processed product is stored.

Class. "Class" means a grade or rank of quality.

Condition. "Condition" means the degree of soundness of the product which may affect its merchantability and includes, but is not limited to those factors which are subject to change as a result of age, improper preparation and processing, improper packaging, improper storage, or improper handling.

Department. "Department" means the U.S. Department of the Interior.

Deviant. "Deviant" means a sample unit affected by one or more deviations or a sample unit that varies in a specifically defined manner from the requirements of a standard, specification, or other inspection document.

Deviation. "Deviation" means any specifically defined variation from a particular requirement.

Director. "Director" means the Director of the Bureau of Commercial Fisheries.

Inspection certificate. "Inspection certificate" means a statement, either written or printed, issued pursuant to the regulations in this part, setting forth in addition to appropriate descriptive information relative to a processed product, and the container thereof, the quality and condition, or any part thereof, of the product and may include a description of the conditions under which the product is stored.

Inspection service. "Inspection service" means:

(a) The sampling pursuant to the regulations in this part;

(b) The determination pursuant to the regulations in this part of:

(1) Essential characteristics such as style, type, size, or identity of any processed product which differentiates between major groups of the same kind;

(2) The class, quality, and condition of any processed product, including the condition of the container thereof by the examination of appropriate samples;

(c) The issuance of any certificate of sampling, inspection certificates, or certificates of loading of a processed product, or any report relative to any of the foregoing; or

(d) Performance by an inspector of any related services such as assigning an inspector in a processing plant to observe the preparation of the product from its raw state through each step in the entire process, or observe conditions under which the product is being prepared, processed, and packed, or observe plant sanitation as a prerequisite to the inspection of the processed product, either on a continuous or periodic basis, or checkload the inspected processed product in connection with the marketing of the processed product.

Inspector. "Inspector" means any employee of the Department authorized by the Secretary or any other person licensed by the Secretary to investigate, sample, inspect, and certify in accordance with the regulations in this part to any interested party the class, quality and condition of processed products covered in this part and to perform related duties in connection with the inspection service.

Interested party. "Interested party" means any person who has a financial interest in the commodity involved.

Licensed sampler. "Licensed sampler" means any person who is authorized by the Secretary to draw samples of processed products for inspection service, to inspect for identification and condition of containers in a lot, and may, when authorized by the Secretary, perform related services under the act and the regulations in this part.

Lot. "Lot" has the following meanings:

(a) For the purpose of charging fees and issuing certificates, "Lot" means any number of containers of the same size and type which contain a processed product of the same type and style located in the same or adjacent warehouses and which are available for inspection at any one time: *Provided,* That:

(1) Processed products in separate piles which differ from each other as to grade or other factors may be deemed to be separate lots;

(2) Containers in a pile bearing an identification mark different from other containers of such processed product in that pile, if determined to be of lower grade or deficient in other factors, may be deemed to be a separate lot; and

(3) If the applicant requests more than one inspection certificate covering different portions of such processed product, the quantity of the product covered by each certificate shall be deemed to be a separate lot.

(b) For the purpose of sampling and determining the grade or compliance with a specification, "Lot" means each pile of containers of the same size and type containing a processed product of the same type and style which is separated from other piles in the same warehouse, but containers in the same pile bearing an identification mark different from other containers in that pile may be deemed to be a separate lot.

Officially drawn sample. "Officially drawn sample" means any sample that has been selected from a particular lot by an inspector, licensed sampler, or by any other person authorized by the Secretary pursuant to the regulations in this part.

Person. "Person" means any individual, partnership, association, business trust, corporation, any organized group of persons (whether incorporated or not), the United States (including, but not limited to, any corporate agencies thereof), any State, county, or municipal government, any common carrier, and any authorized agent of any of the foregoing.

Plant. "Plant" means the premises, buildings, structures, and equipment (including, but not being limited to, machines, utensils, and fixtures) employed or used with respect to the manufacture or production of processed products.

Processed product. "Processed product" means any fishery product or other food product covered under the regulations in this part which has been preserved by any recognized commercial process, including, but not limited to, canning, freezing, dehydrating, drying, the addition of chemical substances, or by fermentation.

Quality. "Quality" means the inherent properties of any processed product which determine the relative degree of excellence of such product, and includes the effects of preparation and processing, and may or may not include the effects of packing media, or added ingredients.

Rejection number. "Rejection number" means the number in a sampling plan that indicates the minimum num-

[1] All functions of the Department of Agriculture which pertain to fish, shellfish, and any products thereof, now performed under the authority of Title II of the act of August 14, 1946, popularly known as the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627) including but not limited to the development and promulgation of grade standards, the inspection and certification, and improvement of transportation facilities and rates for fish and shellfish and any products thereof, were transferred to the Department of the Interior by the Director of the Budget (23 F.R. 2304) pursuant to section 6(a) of the act of Aug. 8, 1956, popularly known as the Fish and Wildlife Act of 1956 (16 U.S.C. sec. 742e).

ber of deviants in a sample that will cause a lot to fail a specific requirement.

Sample. "Sample" means any number of sample units to be used for inspection.

Sample unit. "Sample unit" means a container and/or its entire contents, a portion of the contents of a container or other unit of commodity, or a composite mixture of a product to be used for inspection.

Sampling. "Sampling" means the act of selecting samples of processed products for the purpose of inspection under the regulations in this part.

Secretary. "Secretary" means the Secretary of the Department or any other officer or employee of the Department authorized to exercise the powers and to perform the duties of the Secretary in respect to the matters covered by the regulations in this part.

Shipping container. "Shipping container" means an individual container designed for shipping a number of packages or cans ordinarily packed in a container for shipping or designed for packing unpackaged processed products for shipping.

Unofficially drawn sample. "Unofficially drawn sample" means any sample that has been selected by any person other than an inspector or licensed sampler, or by any other person not authorized by the Director pursuant to the regulations in this part.

§ 260.7 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946 provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

Official certificate. "Official certificate" means any form of certification, either written or printed, including those defined in § 260.6, used under this part to certify with respect to the inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

Official device. "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Director for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

Official identification. "Official identification" means any United States (U.S.) standard designation of class, grade, quality, size, quantity, or condition specified in this part or any symbol, stamp, label, or seal indicating that the product has been graded or inspected and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Director and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

Official mark. "Official mark" means the grade mark, inspection mark, combined form of inspection and grade mark, and any other mark, or any variations in such marks, including those prescribed in § 260.86 approved by the Secretary and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded or inspected or both, or indicating the appropriate U.S. Grade or condition of the product, or for the purpose of maintaining the identity of products graded or inspected or both under this part.

Official memorandum. "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this part, and any report made by an authorized person of services performed pursuant to this part.

INSPECTION SERVICE

§ 260.12 Where inspection service is offered.

Inspection service may be furnished wherever any inspector or licensed sampler is available and the facilities and conditions are satisfactory for the conduct of such service.

§ 260.13 Who may obtain inspection service.

An application for inspection service may be made by any interested party, including, but not limited to, the United States and any instrumentality or agency thereof, any State, county, municipality, or common carrier, and any authorized agent in behalf of the foregoing.

§ 260.14 How to make application.

An application for inspection service may be made to the office of inspection or to any inspector, at or nearest the place where the service is desired. An up-to-date list of the Inspection Field Offices of the Department may be obtained upon request to the Director. Satisfactory proof that the applicant is an interested party shall be furnished.

§ 260.15 Information required in connection with application.

Application for inspection service shall be made in the English language and may be made orally (in person or by telephone), in writing, or by telegraph. If an application for inspection service is made orally, such application shall be confirmed promptly in writing. In connection with each application for inspection service, there shall be furnished such information as may be necessary to perform an inspection on the processed product for which application for inspection is made, including but not limited to, the name of the product, name and address of the packer or plant where such product was packed, the location of the product, its lot or car number, codes or other identification marks, the number of containers, the type and size of the containers, the interest of the applicant in the product, whether the lot has been inspected previously to the application by any Federal agency and the purpose for which inspection is desired.

§ 260.16 Filing of application.

An application for inspection service shall be regarded as filed only when made in accordance with the regulations in this part.

§ 260.17 Record of filing time.

A record showing the date and hour when each application for inspection or for an appeal inspection is received shall be maintained.

§ 260.18 When application may be rejected.

An application for inspection service may be rejected by the Secretary (a) for noncompliance by the applicant with the regulations in this part, (b) for nonpayment for previous inspection services rendered, (c) when the product is not properly identifiable by code or other marks, or (d) when it appears that to perform the inspection service would not be to the best interests of the Government. Such applicant shall be promptly notified of the reason for such rejection.

§ 260.19 When application may be withdrawn.

An application for inspection service may be withdrawn by the applicant at any time before the inspection is performed: *Provided,* That, the applicant shall pay at the hourly rate prescribed in § 260.76 for the time incurred by the inspector in connection with such application, any travel expenses, telephone, telegraph or other expenses which have been incurred by the inspection service in connection with such application.

§ 260.20 Disposition of inspected sample.

Any sample of a processed product that has been used for inspection may be returned to the applicant, at his request and expense; otherwise it shall be destroyed, or disposed of to a charitable institution.

§ 260.21 Basis of inspection and grade or compliance determination.

(a) Inspection service shall be performed on the basis of the appropriate U.S. standards for grades of processed products, Federal, Military, Veterans Administration or other government agency specifications, written contract specification, or any written specification or instruction which is approved by the Secretary.

(b) Unless otherwise approved by the Director compliance with such grade standards, specifications, or instructions shall be determined by evaluating the product, or sample, in accordance with

the requirements of such standards, specifications, or instructions: *Provided,* That when inspection for quality is based on any U.S. grade standard which contains a scoring system the grade to be assigned to a lot is the grade indicated by the average of the total scores of the sample units: *Provided further,* That:

(1) Such sample complies with the applicable standards of quality promulgated under the Federal Food, Drug, and Cosmetic Act;

(2) Such sample complies with the product description;

(3) Such sample meets the indicated grade with respect to factors of quality which are not rated by score points; and

(4) With respect to those factors of quality which are rated by score points, each of the following requirements is met:

(i) None of the sample units falls more than one grade below the indicated grade because of any quality factor to which a limiting rule applies;

(ii) None of the sample units falls more than 4 score points below the minimum total score for the indicated grade; and

(iii) The number of sample units classed as deviants does not exceed the applicable acceptance number indicated in the sampling plans contained in § 260.61. A "deviant," as used in this paragraph, means a sample unit that falls into the next grade below the indicated grade but does not score more than 4 points below the minimum total score for the indicated grade.

(5) If any of the provisions contained in subparagraphs (3) and (4) of this paragraph are not met the grade is determined by considering such provisions in connection with succeedingly lower grades until the grade of the lot, if assignable, is established.

§ 260.22 Order of inspection service.

Inspection service shall be performed, insofar as practicable, in the order in which applications therefor are made except that precedence may be given to any such applications which are made by the United States (including, but not being limited to, any instrumentality or agency thereof) and to any application for an appeal inspection.

§ 260.23 Postponing inspection service.

If the inspector determines that it is not possible to accurately ascertain the quality or condition of a processed product immediately after processing because the product has not reached equilibrium in color, or drained weight, or for any other substantial reason, he may postpone inspection service for such period as may be necessary.

§ 260.24 Financial interest of inspector.

No inspector shall inspect any processed product in which he is directly or indirectly financially interested.

§ 260.25 Forms of certificates.

Inspection certificates, certificates of sampling or loading, and other memoranda concerning inspection service shall be issued on forms approved by the Secretary.

§ 260.26 Issuance of certificates.

(a) An inspection certificate may be issued only by an inspector: *Provided,* That, another employee of the inspection service may sign any such certificate covering any processed product inspected by an inspector when given power of attorney by such inspector and authorized by the Secretary, to affix the inspector's signature to an inspection certificate which has been prepared in accordance with the facts set forth in the notes, made by the inspector, in connection with the inspection.

(b) A certificate of loading shall be issued and signed by the inspector or licensed sampler authorized to check the loading of a specific lot of processed products: *Provided,* That, another employee of the inspection service may sign such certificate of loading covering any processed product checkloaded by an inspector or licensed sampler when given power of attorney by such inspector or licensed sampler and authorized by the Secretary to affix the inspector's or licensed sampler's signature to a certificate of loading which has been prepared in accordance with the facts set forth in the notes made by the inspector or licensed sampler in connection with the checkloading of a specific lot of processed products.

§ 260.27 Issuance of corrected certificates.

A corrected inspection certificate may be issued by the inspector who issued the original certificate after distribution of a certificate if errors, such as incorrect dates, code marks, grade statements, lot or car numbers, container sizes, net or drained weights, quantities, or errors in any other pertinent information require the issuance of a corrected certificate. Whenever a corrected certificate is issued, such certificate shall supersede the inspection certificate which was issued in error and the superseded certificate shall become null and void after the issuance of the corrected certificate.

§ 260.28 Issuance of an inspection report in lieu of an inspection certificate.

A letter report in lieu of an inspection certificate may be issued by an inspector when such action appears to be more suitable than an inspection certificate: *Provided,* That, the issuance of such report is approved by the Secretary.

§ 260.29 Disposition of inspection certificates.

The original of any inspection certificate, issued under the regulations in this part, and not to exceed four copies thereof, if requested prior to issuance, shall be delivered or mailed promptly to the applicant, or person designated by the applicant. All other copies shall be filed in such manner as the Secretary may designate. Additional copies of any such certificates may be supplied to any interested party as provided in § 260.78.

§ 260.30 Report of inspection results prior to issuance of formal report.

Upon request of any interested party, the results of an inspection may be telegraphed or telephoned to him, or to any other person designated by him, at his expense.

APPEAL INSPECTION

§ 260.36 When appeal inspection may be requested.

An application for an appeal inspection may be made by any interested party who is dissatisfied with the results of an inspection as stated in an inspection certificate, if the lot of processed products can be positively identified by the inspection service as the lot from which officially drawn samples were previously inspected. Such application shall be made within thirty (30) days following the day on which the previous inspection was performed, except upon approval by the Secretary the time within which an application for appeal inspection may be made, may be extended.

§ 260.37 Where to file for an appeal inspection and information required.

(a) Application for an appeal inspection may be filed with:

(1) The inspector who issued the inspection certificate on which the appeal covering the processed product is requested; or

(2) The inspector in charge of the office of inspection at or nearest the place where the processed product is located.

(b) The application for appeal inspection shall state the location of the lot of processed products and the reasons for the appeal; and date and serial number of the certificate covering inspection of the processed product on which the appeal is requested, and such application may be accompanied by a copy of the previous inspection certificate and any other information that may facilitate inspection. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation shall be made promptly.

§ 260.38 When an application for an appeal inspection may be withdrawn.

An application for appeal inspection may be withdrawn by the applicant at any time before the appeal inspection is performed: *Provided,* That, the applicant shall pay at the hourly rate prescribed in § 260.76, for the time incurred by the inspector in connection with such application, any travel expenses, telephone, telegraph, or other expenses which have been incurred by the inspection service in connection with such application.

§ 260.39 When appeal inspection may be refused.

An application for an appeal inspection may be refused if:

(a) The reasons for the appeal inspection are frivolous or not substantial;

(b) The quality or condition of the processed product has undergone a material change since the inspection cov-

ering the processed product on which the appeal inspection is requested;

(c) The lot in question is not, or cannot be made accessible for the selection of officially drawn samples;

(d) The lot relative to which appeal inspection is requested cannot be positively identified by the inspector as the lot from which officially drawn samples were previously inspected; or

(e) There is noncompliance with the regulations in this part. Such applicant shall be notified promptly of the reason for such refusal.

§ 260.40 Who shall perform appeal inspection.

An appeal inspection shall be performed by an inspector or inspectors (other than the one from whose inspection the appeal is requested) authorized for this purpose by the Secretary and, whenever practical, such appeal inspection shall be conducted jointly by two such inspectors: *Provided,* That the inspector who made the inspection on which the appeal is requested may be authorized to draw the samples when another inspector or licensed sampler is not available in the area where the product is located.

§ 260.41 Appeal inspection certificate.

After an appeal inspection has been completed, an appeal inspection certificate shall be issued showing the results of such appeal inspection; and such certificate shall supersede the inspection certificate previously issued for the processed product involved. Each appeal inspection certificate shall clearly identify the number and date of the inspection certificate which it supersedes. The superseded certificate shall become null and void upon the issuance of the appeal inspection certificate and shall no longer represent the quality or condition of the processed product described therein. The inspector or inspectors issuing an appeal inspection certificate shall forward notice of such issuance to such persons as he considers necessary to prevent misuse of the superseded certificate if the original and all copies of such superseded certificate have not previously been delivered to the inspector or inspectors issuing the appeal inspection certificate. The provisions in the regulations in this part concerning forms of certificates, issuance of certificates, and disposition of certificates shall apply to appeal inspection certificates, except that copies of such appeal inspection certificates shall be furnished all interested parties who received copies of the superseded certificate.

LICENSING OF SAMPLERS AND INSPECTORS

§ 260.47 Who may become licensed sampler.

Any person deemed to have the necessary qualifications may be licensed as a licensed sampler to draw samples for the purpose of inspection under the regulations in this part. Such a license shall bear the printed signature of the Secretary, and shall be countersigned by an authorized employee of the Department. Licensed samplers shall have no authority to inspect processed products under the regulations in this part except as to identification and condition of the containers in a lot. A licensed sampler shall perform his duties pursuant to the regulations in this part as directed by the Director.

§ 260.48 Application to become a licensed sampler.

Application to become a licensed sampler shall be made to the Secretary on forms furnished for that purpose. Each such application shall be signed by the applicant in his own handwriting, and the information contained therein shall be certified by him to be true, complete, and correct to the best of his knowledge and belief, and the application shall contain or be accompanied by:

(a) A statement showing his present and previous occupations, together with names of all employers for whom he has worked, with periods of service, during the 10 years previous to the date of his application;

(b) A statement that, in his capacity as a licensed sampler, he will not draw samples from any lot of processed products with respect to which he or his employer is an interested party;

(c) A statement that he agrees to comply with all terms and conditions of the regulations in this part relating to duties of licensed samplers; and

(d) Such other information as may be requested.

§ 260.49 Inspectors.

Inspections will ordinarily be performed by employees under the Secretary who are employed as Federal Government employees for that purpose. However, any person employed under any joint Federal-State inspection service arrangement may be licensed, if otherwise qualified, by the Secretary to make inspections in accordance with this part on such processed products as may be specified in his license. Such license shall be issued only in a case where the Secretary is satisfied that the particular person is qualified to perform adequately the inspection service for which such person is to be licensed. Each such license shall bear the printed signature of the Secretary and shall be countersigned by an authorized employee of the Department. An inspector shall perform his duties pursuant to the regulations in this part as directed by the Director.

§ 260.50 Suspension or revocation of license of licensed sampler or licensed inspector.

Pending final action by the Secretary, the Director may, whenever he deems such action necessary, suspend the license of any licensed sampler, or licensed inspector, issued pursuant to the regulations in this part, by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within 7 days after the receipt of the aforesaid notice and statement of reasons by such licensee, he may file an appeal, in writing, with the Secretary supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. After the expiration of the aforesaid 7 days period and consideration of such argument and evidence, the Secretary shall take such action as he deems appropriate with respect to such suspension or revocation.

§ 260.51 Surrender of license.

Upon termination of his services as a licensed sampler or licensed inspector, or suspension or revocation of his license, such licensee shall surrender his license immediately to the office of inspection serving the area in which he is located. These same provisions shall apply in a case of an expired license.

SAMPLING

§ 260.57 How samples are drawn by inspectors or licensed samplers.

An inspector or a licensed sampler shall select samples, upon request, from designated lots of processed products which are so placed as to permit thorough and proper sampling in accordance with the regulations in this part. Such person shall, unless otherwise directed by the Secretary, select sample units of such products at random, and from various locations in each lot in such manner and number, not inconsistent with the regulations in this part, as to secure a representative sample of the lot. Samples drawn for inspection shall be furnished by the applicant at no cost to the Department.

§ 260.58 Accessibility for sampling.

Each applicant shall cause the processed products for which inspection is requested to be made accessible for proper sampling. Failure to make any lot accessible for proper sampling shall be sufficient cause for postponing inspection service until such time as such lot is made accessible for proper sampling.

§ 260.59 How officially drawn samples are to be identified.

Officially drawn samples shall be marked by the inspector or licensed sampler so such samples can be properly identified for inspection.

§ 260.60 How samples are to be shipped.

Unless otherwise directed by the Secretary, samples which are to be shipped to any office of inspection shall be forwarded to the office of inspection serving the area in which the processed products from which the samples were drawn is located. Such samples shall be shipped in a manner to avoid, if possible, any material change in the quality or condition of the sample of the processed product. All transportation charges in connection with such shipments of samples shall be at the expense of the applicant and wherever practicable, such charges shall be prepaid by him.

§ 260.61 Sampling plans and procedures for determining lot compliance.

(a) Except as otherwise provided for in this section in connection with in-plant inspection and unless otherwise approved by the Secretary, samples shall be selected from each lot in the exact

number of sample units indicated for the lot size in the applicable single sampling plan or, at the discretion of the inspection service, any comparable multiple sampling plan: *Provided*, That at the discretion of the inspection service the number of sample units selected may be increased to the exact number of sample units indicated for any one of the larger sample sizes provided for in the appropriate plans.

(b) Under the single sampling plans with respect to any specified requirement:

(1) If the number of deviants (as defined in connection with the specific requirement) in the sample does not exceed the acceptance number prescribed for the sample size the lot meets the requirement;

(2) If the number of deviants (as defined in connection with the specific requirement) in the sample exceeds the acceptance number prescribed for the sample size the lot fails the requirement.

(c) Under the multiple sampling plans inspection commences with the smallest sample size indicated under the appropriate plan and with respect to any specified requirement:

(1) If the number of deviants (as defined in connection with the specific requirement) in the sample being considered does not exceed the acceptance number prescribed for that sample size the lot meets the requirement;

(2) If the number of deviants (as defined in connection with the specific requirement) in the sample being considered equals or exceeds the rejection number prescribed for that sample size the lot fails the requirement; or

(3) If the number of deviants (as defined in connection with the specific requirement) in the sample being considered falls between the acceptance and rejection numbers of the plan, additional sample units are added to the sample so that the sample thus cumulated equals the next larger cumulative sample size in the plan. It may then be determined that the lot meets or fails the specific requirement by considering the cumulative sample and applying the procedures outlined in subparagraphs (1) and (2) of this paragraph or by considering successively larger samples cumulated in the same manner until the lot meets or fails the specific requirement.

(d) If in the conduct of any type of in-plant inspection the sample is examined before the lot size is known and the number of sample units exceeds the prescribed sample size for such lot but does not equal any of the prescribed larger sample sizes the lot may be deemed to meet or fail a specific requirement in accordance with the following procedure:

(1) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample does not exceed the acceptance number of the next smaller sample size the lot meets the requirements;

(2) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample equals the acceptance number prescribed for the next larger sample size additional sample units shall be selected to increase the sample to the next larger prescribed sample size;

(3) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample exceeds the acceptance number prescribed for the next larger sample size the lot fails the requirement.

(e) In the event that the lot compliance determination provisions of a standard or specification are based on the number of specified deviations instead of deviants the procedures set forth in this section may be applied by substituting the word "deviation" for the word "deviant" wherever it apears.

(f) Sampling plans referred to in this section are those contained in Tables I, II, III, IV, V, and VI which follow or any other plans which are applicable. For processed products not included in these tables, the minimum sample size shall be the exact number of sample units prescribed in the table, container group, and lot size that, as determined by the inspector, most closely resembles the product, type, container size and amount of product to be sampled.

SINGLE SAMPLING PLANS AND ACCEPTANCE LEVELS

TABLE I—CANNED OR SIMILARLY PROCESSED FISHERY PRODUCTS, AND PRODUCTS THEREOF CONTAINING UNITS OF SUCH SIZE AND CHARACTER AS TO BE READILY SEPARABLE

Container size group	Lot size (number of containers)								
GROUP 1									
Any type of container of less volume than that of a No. 300 size can (300 x 407).	3,600 or less	3,601-14,400	14,401-48,000	48,001-96,000	96,001-156,000	156,001-228,000	228,001-300,000	300,001-420,000	Over 420,000.
GROUP 2									
Any type of container of a volume equal to or exceeding that of a No. 300 size can, but not exceeding that of a No. 3 cylinder size can (404 x 700).	2,400 or less	2,401-12,000	12,001-24,000	24,001-48,000	48,001-72,000	72,001-108,000	108,001-168,000	168,001-240,000	Over 240,000.
GROUP 3									
Any type of container of a volume exceeding that of a No. 3 cylinder size can, but not exceeding that of a No. 12 size can (603 x 812).	1,200 or less	1,201-7,200	7,201-15,000	15,001-24,000	24,001-36,000	36,001-60,000	60,001-84,000	84,001-120,000	Over 120,000.
GROUP 4									
Any type of container of a volume exceeding that of a No. 12 size can, but not exceeding that of a 5-gallon container.	200 or less	201-800	801-1,600	1,601-2,400	2,401-3,600	3,601-8,000	8,001-16,000	16,001-28,000	Over 28,000.
GROUP 5									
Any type of container of a volume exceeding that of a 5-gallon container.	25 or less	26-80	81-200	201-400	401-800	801-1,200	1,201-2,000	2,001-3,200	Over 3,200.
	Single sampling plans [1]								
Sample size (number of sample units).[2]	3	6	13	21	29	38	48	60	72
Acceptance number	0	1	2	3	4	5	6	7	8

[1] For extension of the single sample sizes beyond 72 sample units, refer to table V of this section; for multiple sampling plans comparable to the various single sampling plans refer to table VI of this section.

[2] The sample units for the various container size groups are as follows: Groups 1, 2, and 3—1 container and its entire contents. Groups 4 and 5—approximately 2 pounds of product. When determined by the inspector that a 2-pound sample unit is inadequate, a larger sample unit may be substituted.

TABLE II—FROZEN OR SIMILARLY PROCESSED FISHERY PRODUCTS, AND PRODUCTS THEREOF CONTAINING UNITS OF SUCH SIZE AND CHARACTER AS TO BE READILY SEPARABLE

Container size group	Lot size (number of containers)								
GROUP 1									
Any type of container of 1 pound or less net weight.	2,400 or less	2,401-12,000	12,001-24,000	24,001-48,000	48,001-72,000	72,001-108,000	108,001-168,000	168,001-240,000	Over 240,000.
GROUP 2									
Any type of container over 1 pound but not over 4 pounds net weight.	1,800 or less	1,801-8,400	8,401-18,000	18,001-36,000	36,001-60,000	60,001-96,000	96,001-132,000	132,001-168,000	Over 168,000.
GROUP 3									
Any type of container over 4 pounds but not over 10 pounds net weight.	900 or less	901-3,600	3,601-10,800	10,801-18,000	18,001-36,000	36,001-60,000	60,001-84,000	84,001-120,000	Over 120,000.
GROUP 4									
Any type of container over 10 pounds but not over 100 pounds net weight.	200 or less	201-800	801-1,600	1,601-2,400	2,401-3,600	3,601-8,000	8,001-16,000	16,001-28,000	Over 28,000.
GROUP 5									
Any type of container over 100 pounds net weight.	25 or less	26-80	81-200	201-400	401-800	801-1,200	1,201-2,000	2,001-3,200	Over 3,200.
Single sampling plans [1]									
Sample size (number of sample units).[2]	3	6	13	21	29	38	48	60	72
Acceptance number	0	1	2	3	4	5	6	7	8

[1] For extension of the single sample sizes beyond 72 sample units, refer to table V of this section; for multiple sampling plans comparable to the various single sampling plans refer to table VI of this section.

[2] The sample units for the various container size groups are as follows: Groups 1, 2, and 3—1 container and its entire contents. Groups 4 and 5—approximately 3 pounds of product. When determined by the inspector that a 3-pound sample unit is inadequate, a larger sample unit or 1 or more containers and their entire contents may be substituted for 1 or more sample units of 3 pounds.

TABLE III—CANNED, FROZEN, OR OTHERWISE PROCESSED FISHERY AND RELATED PRODUCTS, AND PRODUCTS THEREOF OF A COMMINUTED, FLUID, OR HOMOGENEOUS STATE

Container size group [1]	Lot size (number of containers)								
GROUP 1									
Any type of container of 12 ounces or less.	5,400 or less	5,401-21,600	21,601-62,400	62,401-112,000	112,001-174,000	174,001-240,000	240,001-360,000	360,001-480,000	Over 480,000.
GROUP 2									
Any type of container over 12 ounces but not over 60 ounces.	3,600 or less	3,601-14,400	14,401-48,000	48,001-96,000	96,001-156,000	156,001-228,000	228,001-300,000	300,001-420,000	Over 420,000.
GROUP 3									
Any type of container over 60 ounces but not over 160 ounces.	1,800 or less	1,801-8,400	8,401-18,000	18,001-36,000	36,001-60,000	60,001-96,000	96,001-132,000	132,001-168,000	Over 168,000.
GROUP 4									
Any type of container over 160 ounces but not over 10 gallons or 100 pounds whichever is applicable.	200 or less	201-800	801-1,600	1,601-3,200	3,201-8,000	8,001-16,000	16,001-24,000	24,001-32,000	Over 32,000.
GROUP 5									
ny type of container over 10 gallons or 100 pounds whichever is applicable.	25 or less	26-80	81-200	201-400	401-800	801-1,200	1,201-2,000	2,001-3,200	Over 3,200.
Single sampling plans [2]									
Sample size (number of sample units).	3	6	13	21	29	38	48	60	72
Acceptance number	0	1	2	3	4	5	6	7	8

[1] Ounces pertain to either fluid ounces of volume or avoirdupois ounces of net weight whichever is applicable for the product involved.

[2] For extension of the single sample sizes beyond 72 sample units, refer to table V of this section; for multiple sampling plans comparable to the various single sampling plans refer to table VI of this section.

[3] The sample units for the various container size groups are as follows: Groups 1, 2 and 3—1 container and its entire contents. A smaller sample unit may be substituted in group 3 at the inspector's discretion. Groups 4, 5, and 6—approximately 16 ounces of product. When determined by the inspector that a 16-ounce sample unit is inadequate, a larger sample unit may be substituted.

TABLE IV—DEHYDRATED FISHERY AND RELATED PRODUCTS

Container size group	Lot size (number of containers)								
GROUP 1									
Any type of container of 1 pound or less net weight.	1,800 or less	1,801–8,400	8,401–18,000	18,001–36,000	36,001–60,000	60,001–96,000	96,001–132,000	132,001–168,000	Over 168,000.
GROUP 2									
Any type of container over 1 pound but not over 6 pounds net weight.	900 or less	901–3,600	3,601–10,800	10,801–18,000	18,001–36,000	36,001–60,000	60,001–84,000	84,001–120,000	Over 120,000.
GROUP 3									
Any type of container over 6 pounds but not over 20 pounds net weight.	200 or less	201–800	801–1,600	1,601–3,200	3,201–8,000	8,001–16,000	16,001–24,000	24,001–32,000	Over 32,000.
GROUP 4									
Any type of container over 20 pounds but not over 100 pounds net weight.	48 or less	49–400	401–1,200	1,201–2,000	2,001–2,800	2,801–6,000	6,001–9,600	9,601–15,000	Over 15,000.
GROUP 5									
Any type of container over 100 pounds net weight.	16 or less	17–80	81–200	201–400	401–800	801–1,200	1,201–2,000	2,001–3,200	Over 3,200.
Single sampling plans [1]									
Sample size (number of sample units).[2]	3	6	13	21	29	38	48	60	72
Acceptance number	0	1	2	3	4	5	6	7	8

[1] For extension of the single sample sizes beyond 72 sample units, refer to table V of this section; for multiple sampling plans comparable to the various single sampling plans refer to table VI of this section.

[2] The sample units for the various container size groups are as follows: Group 1—1 container and its entire contents. Groups 2, 3, 4, and 5—1 container and its entire contents or a smaller sample unit when determined by the inspector to be adequate.

TABLE V—SINGLE SAMPLING PLANS FOR USE IN INCREASING SAMPLE SIZE BEYOND 72 SAMPLE UNITS

Sample size, n	84	96	108	120	132	144	156	168	180	192	204	216	230	244	258	272	286	300	314	328	342	356	370	384	400
Acceptance numbers, c	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33

MULTIPLE SAMPLING PLANS [1]

TABLE VI—MULTIPLE SAMPLING PLANS COMPARABLE TO THE INDICATED SINGLE SAMPLING PLANS

Indicated single sampling plan: Single sample size, n	6	13	21	29	38	48	60	72
Acceptance numbers, c	1	2	3	4	5	6	7	8
Cumulative sample sizes, n_s, and acceptance numbers, c, and rejection numbers, r, for multiple sampling.	n_s c r 4 0 2 6 0 2 8 1 2	n_s c r 8 0 3 10 0 3 12 1 3 14 2 3	n_s c r 10 0 3 14 1 4 18 1 4 22 2 5 26 4 5	n_s c r 12 0 4 16 0 4 20 1 5 24 2 5 28 3 6 32 3 6 36 5 6	n_s c r 14 0 4 20 0 5 26 1 6 32 2 6 38 3 7 44 6 7	n_s c r 16 0 4 24 1 5 32 2 6 40 3 8 48 4 8 56 7 8	n_s c r 18 0 5 28 1 6 38 2 7 48 3 8 58 4 8 68 8 9	n_s c r 22 0 5 32 1 7 42 2 8 52 3 9 62 5 10 72 6 10 82 9 10

[1] These multiple sampling plans may be used in lieu of the single sampling plans listed at the heading of each column.

§ 260.62 Issuance of certificate of sampling.

Each inspector and each licensed sampler shall prepare and sign a certificate of sampling to cover the samples drawn by the respective person, except that an inspector who inspects the samples which he has drawn need not prepare a certificate of sampling. One copy of each certificate of sampling prepared shall be retained by the inspector or licensed sampler (as the case may be) and the original and all other copies thereof shall be disposed of in accordance with the instructions of the Secretary.

§ 260.63 Identification of lots sampled.

Each lot from which officially drawn samples are selected shall be marked in such manner as may be prescribed by the Secretary, if such lots do not otherwise possess suitable identification.

FEES AND CHARGES

§ 260.69 Payment of fees and charges.

Fees and charges for any inspection service shall be paid by the interested party making the application for such service, in accordance with the applicable provisions of the regulations in this part, and, if so required by the person in charge of the office of inspection serving the area where the services are to be performed, an advance of funds prior to rendering inspection service in an amount suitable to the Secretary, or a surety bond suitable to the Secretary, may be required as a guarantee of payment for the services rendered. All fees and charges for any inspection service, performed pursuant to the regulations in this part, shall be paid by check, draft, or money order made payable to the Bureau of Commercial Fisheries. Such check, draft, or money order shall be remitted to the appropriate Regional or Area office serving the geographical area in which the services are performed, within ten (10) days from the date of billing, unless otherwise specified in a contract between the applicant and the Secretary, in which latter event the contract provisions shall apply.

§ 260.70 Schedule of fees.

(a) Unless otherwise provided in a written agreement between the applicant and the Secretary, the fees to be charged and collected for any inspection service performed under the regulations in this part at the request of the United States, or any agency or instrumentality thereof, shall be in accordance with the applicable provisions of §§ 260.70 to 260.81.

(b) Unless otherwise provided in the regulations in this part, the fees to be

charged and collected for any inspection service performed under the regulations in this part shall be based on the applicable rates specified in this section for the type of service performed.

(1) Continuous inspection:

	Per hour
Regular time	$5.55
Overtime	6.00

Applicants shall be charged at an hourly rate of $5.55 per hour for regular time and $6 per hour for overtime in excess of 40 hours per week for services performed by inspectors assigned to plants operating under continuous inspection. Applicants shall be billed monthly at a minimum charge of 8 hours per working day plus overtime, when appropriate, for each inspector. A minimum yearly charge of 260 days will be made for each inspector permanently assigned to each plant.

(2) Lot inspection; officially and unofficially drawn samples.

For lot inspection services performed between the hours of 7 a.m. and 5 p.m. of any regular workday—$7.80 per hour.

For lot inspection services performed between the hours of 5 p.m. and 7 a.m. of any regular workday—$10 per hour.

For lot inspection services performed on Saturday, Sunday, and National legal holidays—$10 per hour.

The minimum fee to be charged and collected for inspection of any lot of product shall be $4.

(c) Fees to be charged and collected for lot inspection services furnished on an hourly basis shall be based on the actual time required to render such service including, but not limited to, the travel, sampling, and waiting time required of the inspector, or inspectors, in connection therewith, at the rate of $7.80 per hour for each inspector, except as provided in paragraph (b)(2) of this section.

§ 260.71 Inspection services performed on a resident basis.

Fees to be charged and collected for any inspection service, other than appeal inspection on a resident basis shall be those provided in § 260.70 and shall include such items as listed in this section as are applicable. The fees to be charged for appeal inspections shall be as provided in § 260.74.

(a) A charge for per diem and travel costs incurred by any inspector whose services are required for relief purposes when the regular inspector is on annual, sick, or military leave: *Provided,* That, with regard to military leave, charges for per diem and travel costs incurred by a relief inspector shall not exceed 15 days per calendar year.

(b) A charge to cover the actual cost to the Bureau of Commercial Fisheries of the travel (including the cost of movement of household goods and dependents), and per diem with respect to each inspector who is transferred (other than for the convenience of the Bureau of Commercial Fisheries), from an official station to the designated plant.

(c) A charge of $7.80 per hour plus actual costs to the Bureau of Commercial Fisheries for per diem and travel costs incurred in rendering service not specifically covered in this section; such as, but not limited to, initial plant surveys.

§ 260.72 Fees for inspection service performed under cooperative agreement.

The fees to be charged and collected for any inspection or similar service performed under cooperative agreement shall be those provided for by such agreement.

§ 260.73 Disposition of fees for inspections made under cooperative agreement.

Fees for inspection under a cooperative agreement with any State or person shall be disposed of in accordance with the terms of such agreement. Such portion of the fees collected under a cooperative agreement as may be due the United States shall be remitted in accordance with § 260.69.

§ 260.74 Fee for appeal inspection.

The fee to be charged for an appeal inspection shall be at the rates prescribed in this part for other inspection services: *Provided,* That, if the result of any appeal inspection made for any applicant, other than the United States or any agency or instrumentality thereof, discloses that a material error was made in the inspection on which the appeal is made, no inspection fee shall be assessed.

§ 260.76 Charges based on hourly rate not otherwise provided for in this part.

When the appropriate Regional or Area Director determines that any inspection or related service rendered is such that charges based upon the foregoing sections are clearly inapplicable, charges may be based on the time consumed by the inspector in performance of such inspection service at the rate of $7.80 per hour.

§ 260.77 Fees for score sheets.

If the applicant for inspection service requests score sheets showing in detail the inspection of each container or sample inspected and listed thereon, such score sheets may be furnished by the inspector in charge of the office of inspection serving the area where the inspection was performed; and such applicant shall be charged at the rate of $2.75 for each 12 sample units, or fraction thereof, inspected and listed on such score sheets.

§ 260.78 Fees for additional copies of inspection certificates.

Additional copies of any inspection certificate other than those provided for in § 260.29, may be supplied to any interested party upon payment of a fee of $2.75 for each set of five (5) or fewer copies.

§ 260.79 Travel and other expenses.

Charges may be made to cover the cost of travel and other expenses incurred in connection with the performance of any inspection service, including appeal inspections: *Provided,* That, if charges for sampling or inspection are based on an hourly rate, an additional hourly charge may be made for travel time including time spent waiting for transportation as well as time spent traveling, but not to exceed 8 hours of travel time for any one person for any one day: *And provided further,* That, if travel is by common carrier, no hourly charge may be made for travel time outside the employee's official work hours.

§ 260.80 Charges for inspection service on a contract basis.

(a) Irrespective of fees and charges prescribed in foregoing sections, the Secretary may enter into contracts with applicants to perform continuous inspection services or other inspection services pursuant to the regulations in this part and other requirements as prescribed by the Secretary in such contract, and the charges for such inspection service provided in such contracts shall be on such basis as will reimburse the Bureau of Commercial Fisheries of the Department for the full cost of rendering such inspection service including an appropriate overhead charge to cover as nearly as practicable administrative overhead expenses as may be determined by the Secretary.

(b) Irrespective of fees and charges prescribed in the foregoing sections, the Secretary may enter into a written memorandum of understanding or contract, whichever may be appropriate, with any administrative agency charged with the administration of a marketing agreement or a marketing order effective pursuant to the Agricultural Marketing Agreement Act of 1937, as revised (16 U.S.C. 661 et seq.) for the making of inspections pursuant to said agreement or order on such basis as will reimburse the Bureau of Commercial Fisheries of the Department for the full cost of rendering such inspection service including an appropriate overhead charge to cover as nearly as practicable administrative overhead expenses as may be determined by the Secretary. Likewise, the Secretary may enter into a written memorandum of understanding or contract, whichever may be appropriate, with an administrative agency charged with the administration of a similar program operated pursuant to the laws of any State.

(c) No Member of, or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of any contract provided for in this section or to any benefit that may arise therefrom, but this provision shall not be construed to extend to such contract if made with a corporation for its general benefit, and shall not extend to any benefits that may accrue from the contract to a Member of, or Delegate to Congress, or a Resident Commissioner in his capacity as a fisherman.

§ 260.81 Readjustment and increase in hourly rates of fees.

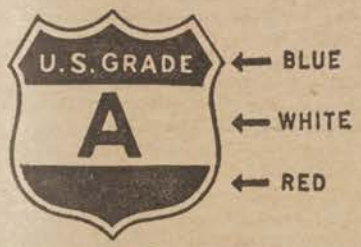
The hourly rates of fees to be charged for inspection services will be subject to review and reevaluation for possible readjustment not less than every 3 years: *Provided,* That, the hourly rates of fees

to be charged for inspection services will be immediately reevaluated as to need for readjustment with each Federal pay act increase.

MISCELLANEOUS

§ 260.86 Approved identification.

(a) *Grade marks.* The approved grade mark or identification may be used on containers, labels, or otherwise indicated for any processed product that (1) has been packed under continuous inspection as provided in this part to assure compliance with the requirements for wholesomeness established for the raw product and of sanitation established for the preparation and processing operations, and (2) has been certified by an inspector as meeting the requirements of such grade, quality or classification. The grade marks approved for use shall be similar in form and design to the examples in Figures 1 to 4 of this section.



Shield using red, white, and blue background or other colors appropriate for label.

FIGURE 1.



Shield with plain background.

FIGURE 2.

U. S. GRADE A

FIGURE 3.



FIGURE 4.

(b) *Inspection marks.* The approved inspection marks may be used on containers, labels, or otherwise indicated for any processed product that (1) has been packed under continuous inspection as provided in this part to assure compliance with the requirements for wholesomeness established for the raw product and of sanitation established for the preparation and processing operations, and (2) has been certified by an inspector as meeting the requirements of such quality or grade classification as may be approved by the Secretary. The inspection marks approved for use shall be similar in form and design to the examples in Figures 5, 6, and 7 of this section.



Statement enclosed within a shield.

FIGURE 5.

PACKED UNDER
CONTINUOUS
INSPECTION
OF THE
U. S. DEPT. OF
THE INTERIOR

PACKED BY

UNDER CONTINUOUS
INSPECTION OF THE
U. S. DEPT. OF THE INTERIOR

Statements without the use of the shield.

FIGURE 6. FIGURE 7.

(c) *Combined grade and inspection marks.* The grade marks set forth in paragraph (a) of this section and the inspection marks set forth in paragraph (b) of this section may be combined into a consolidated grade and inspection mark for use on processed products that have been packed under continuous inspection as provided in this part.

(d) *Products not eligible for approved identification.* Processed products which have not been packed under continuous inspection as provided in this part shall not be identified by approved grade or inspection marks, but such products may be inspected on a lot inspection basis as provided in this part and identified by an authorized representative of the Department by stamping the shipping cases and inspection certificate(s) covering such lot(s) with an officially drawn sample mark similar in form and design to the example in Figure 8 of this section.



FIGURE 8.

(e) *Removal of labels bearing inspection marks.* At the time a lot of fishery products is found to be mislabeled and the labels on the packages are not removed within ten (10) consecutive calendar days, the following procedure shall be applicable:

(1) The processor, under the supervision of the inspector, shall clearly and conspicuously mark all master cases in the lot by means of a "Rejected by USDI Inspector" stamp provided by the Department.

(2) The processor shall be held accountable to the Department for all mislabeled products until the products are properly labeled.

(3) Clearance for the release of the relabeled products shall be obtained by the processor from the inspector.

§ 260.88 Political activity.

All inspectors and licensed samplers are forbidden, during the period of their respective appointments or licenses, to take an active part in political management or in political campaigns. Political activities in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, are prohibited. This applies to all appointees or licensees, including, but not limited to, temporary and cooperative employees and employees on leave of absence with or without pay. Wilful violation of this section will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

§ 260.90 Compliance with other laws.

None of the requirements in the regulations in this part shall excuse failure to comply with any Federal, State, county, or municipal laws applicable to the operation of food processing establishments and to processed food products.

§ 260.91 Identification.

Each inspector and licensed sampler shall have in his possession at all times and present upon request, while on duty, the means of identification furnished by the Department to such person.

§ 260.93 Debarment and suspension.

(a) *Debarment.* Any person may be debarred from using or benefiting from the inspection service provided under the regulations of this subchapter or under the terms of any inspection contract, and such debarment may apply to one or more plants under his control, if such person engages in one or more of the following acts or activities:

(1) Misrepresenting, misstating, or withholding any material or relevant facts or information in conjunction with any application or request for an inspection contract, inspection service, inspection appeal, lot inspection, or other service, provided for under the regulations of this subchapter.

(2) Using on a processed product any label which displays any official identification, official device, or official mark, when the label is not currently approved for use by the Director or his delegate.

(3) Using on a processed product any label which displays the words "Packed Under the Continuous Inspection of the U.S. Department of the Interior," or which displays any official mark, official device, or official identification, or which displays a facsimile of the foregoing, when such product has not been inspected under the regulations of this subchapter.

(4) Making any statement or reference to the U.S. Grade of any processed product or any inspection service provided under the regulations of this subchapter on the label or in the advertising of any processed product, when such product has not been inspected under the regulations of this subchapter.

(5) Making, using, issuing or attempting to issue or use in conjunction with the sale, shipment, transfer or advertisement of a processed product any certificate of loading, certificate of sampling, inspection certificate, official device, official identification, official mark, official document, or score sheet which has not been issued, approved, or authorized for use with such product by an inspector.

(6) Using any of the terms "United States," "U.S.," "Officially graded," "Officially inspected," "Government inspected," "Continuously inspected," "Officially sampled," or words of similar import or meaning, or using any official device, official identification, or official mark on the label, on the shipping container, or in the advertising of any processed product, when such product has not been inspected under the regulations of this subchapter.

(7) Using, attempting to use, altering or reproducing any certificate, certificate form, design, insignia, mark, shield, device, or figure which simulates in whole or in part any official mark, official device, official identification, certificate of loading, certificate of sampling, inspection certificate or other official certificate issued pursuant to the regulations of this subchapter.

(8) Assaulting, harassing, interfering, obstructing or attempting to interfere or obstruct any inspector or sampler in the performance of his duties under the regulations of this subchapter.

(9) Violating any one or more of the terms of any inspection contract or the provisions of the regulations of this subchapter.

(10) Engaging in acts or activities which destroy or interfere with the purposes of the inspection program or which have the effect of undermining the integrity of the inspection program.

(b) *Temporary suspension.* (1) Whenever the Director has reasonable cause to believe that any person has engaged in any act or activity described in paragraph (a) of this section, and in such act or activity, in the judgment of the Director, would cause serious and irreparable injury to the inspection program and services provided under the regulations of this subchapter, the Director may, without a hearing, temporarily suspend, either before or after the institution of a debarment hearing, the inspection service provided under the regulations of this subchapter or under any inspection contract for one or more plants under the control of such person. Notice of suspension shall be served by registered or certified mail, return receipt requested, and the notice shall specifically state those acts or activities of such person which are the bases for the suspension. The suspension shall become effective five (5) days after receipt of the notice.

(2) Once a person has received a notice of a temporary suspension, a debarment hearing will be set for 30 days after the effective date of the suspension. Within 60 days after the completion of the debarment hearing, the Hearing Examiner shall determine, based upon evidence of record, whether the temporary suspension shall be continued or terminated. A temporary suspension shall be terminated by the Hearing Examiner if he determines that the acts or activities, which were the bases for the suspension, did not occur or will not cause serious and irreparable injury to the inspection program and services provided under the regulations of this subchapter. This determination of the Hearing Examiner on the continuation or termination of the temporary suspension shall be final and there shall be no appeal of this determination. The initial decision by the Hearing Examiner on the debarment shall be made in accordance with paragraph (l), *Decisions,* of this section.

(3) After a debarment hearing has been instituted against any person by a suspension, such suspension will remain in effect until a final decision is rendered on the debarment in accordance with the regulations of this section or the temporary suspension is terminated by the Hearing Examiner.

(4) When a debarment hearing has been instituted against any person not under suspension, the Director may, in accordance with the regulations of this paragraph (b) temporarily suspend such person, and the suspension will remain in effect until a final decision on the debarment is rendered in accordance with the regulations of this section or the temporary suspension is terminated by the Hearing Examiner.

(c) *Hearing Examiner.* All hearings shall be held before a Hearing Examiner, appointed by the Secretary or the Director.

(d) *Hearing.* If one or more of the acts or activities described in paragraph (a) of this section have occurred, the Director may institute a hearing to determine the length of time during which the person shall be debarred and those plants to which the debarment shall apply. No person may be debarred unless there is a hearing, as prescribed in this section, and it has been determined by the Hearing Examiner, based on evidence of record, that the one or more of the activities described in paragraph (a) of this section have occurred. Any debarment or suspension must be instituted within two (2) years of the time when such acts or activities described in paragraph (a) of this section have occurred.

(e) *Notice of hearing.* The Director shall notify such person of the debarment hearing by registered or certified mail, return receipt requested. The notice shall set forth the time and place of the hearing, the specific acts or activities which are the basis for the debarment hearing, the time period of debarment being sought, and those plants to which the debarment shall apply. Except for the debarment hearing provided for in paragraph (b) of this section the hearing will be set for a time not longer than 120 days after receipt of the notice of hearing.

(f) *Time and place of hearing.* The hearing shall be held at a time and place fixed by the Director: *Provided, however,* The Hearing Examiner may, upon a proper showing of inconvenience, change the time and place of the hearing. Motions for change of time or place of the hearing must be mailed to or served upon the Hearing Examiner no later than 10 days before the hearing.

(g) *Right to counsel.* In all proceedings under this section, all persons and the Department of the Interior shall have the right to be represented by counsel, in accordance with the rules and regulations set forth in Title 43, Code of Federal Regulations, Part 1.

(h) *Form, execution, and service of documents.* (1) All papers to be filed under the regulations in this section shall be clear and legible; and shall be dated, signed in ink, contain the docket description and title of the proceeding, if any, and the address of the signatory. Five copies of all papers are required to be filed. Documents filed shall be executed by (i) the person or persons filing same, (ii) by an authorized officer thereof if it be a corporation or, (iii) by an attorney or other person having authority with respect thereto.

(2) All documents, when filed, shall show that service has been made upon all parties to the proceeding. Such service shall be made by delivering one copy to each party in person or by mailing by first-class mail, properly addressed with postage prepaid. When a party has appeared by attorney or other representative, service on such attorney or other representative will be deemed service upon the party. The date of

service of document shall be the day when the matter served is deposited in the U.S. mail, shown by the postmark thereon, or is delivered in person, as the case may be.

(3) A person is deemed to have appeared in a hearing by the filing with the Director a written notice of his appearance or his authority in writing to appear on behalf of one of the persons to the hearing.

(4) The original of every document filed under this section and required to be served upon all parties to a proceeding shall be accompanied by a certificate of service signed by the party making service, stating that such service has been made upon each party to the proceeding. Certificates of service may be in substantially the following form:

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by: (1) Mailing postage prepaid, (2) delivering in person, a copy to each party.

Dated at _____ this _____ day of _____ 19 __.

Signature _____

(i) *Procedures and evidence.* (1) All parties to a hearing shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the Hearing Examiner at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this section, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary.

(j) *Duties of Hearing Examiner.* The Hearing Examiner shall have the authority and duty to:

(1) Take or cause depositions to be taken.

(2) Regulate the course of the hearings.

(3) Prescribe the order in which evidence shall be presented.

(4) Dispose of procedural requests or similar matters.

(5) Hear and initially rule upon all motions and petitions before him.

(6) Administer oaths and affirmations.

(7) Rule upon offers of proof and receive competent, relevant, material, reliable, and probative evidence.

(8) Control the admission of irrelevant, immaterial, incompetent, unreliable, repetitious, or cumulative evidence.

(9) Hear oral arguments if the Hearing Examiner determined such requirement is necessary.

(10) Fix the time for filing briefs, motions, and other documents to be filed in connection with hearings.

(11) Issue the initial decision and dispose of any other pertinent matters that normally and properly arise in the course of proceedings.

(12) Do all other things necessary for an orderly and impartial hearing.

(k) *The record.* (1) The Director will designate an official reporter for all hearings. The official transcript of testimony taken, together with any exhibits and briefs filed therewith, shall be filed with the Director. Transcripts of testimony will be available in any proceeding under the regulations of this section, at rates fixed by the contract between the United States of America and the reporter. If the reporter is an employee of the Department of the Interior, the rate will be fixed by the Director.

(2) The transcript of testimony and exhibits, together with all briefs, papers, and all rulings by the Hearing Examiner shall constitute the record. The initial decision will be predicated on the same record, as will be final decision.

(l) *Decisions.* (1) The Hearing Examiner shall render the initial decision in all debarment proceedings before him. The same Hearing Examiner who presides at the hearing shall render the initial decision except when such Examiner becomes unavailable to the Department of the Interior. In such case, another Hearing Examiner will be designated by the Secretary or Director to render the initial decision. Briefs, or other documents, to be submitted after the hearing must be received not later than twenty (20) days after the hearing, unless otherwise extended by the Hearing Examiner upon motion by a party. The initial decision shall be made within sixty (60) days after the receipt of all briefs. If no appeals from the initial decision is served upon the Director within ten (10) days of the date of the initial decision, it will become the final decision on the 20th day following the date of the initial decision. If an appeal is received, the appeal will be transmitted to the Secretary who will render the final decision after considering the record and the appeal.

(2) All initial and final decisions shall include a statement of findings and conclusions, as well as the reasons or bases therefore, upon the material issues presented. A copy of each decision shall be served on the parties to the proceeding, and furnished to interested persons upon request.

(3) It shall be the duty of the Hearing Examiner, and the Secretary where there is an appeal, to determine whether the person has engaged in one or more of the acts or activities described in paragraph (a) of this section, and, if there is a finding that the person has engaged in such acts or activities, the length of time the person shall be debarred, and the plants to which the debarment shall apply.

REQUIREMENTS FOR PLANTS OPERATING UNDER CONTINUOUS INSPECTION ON A CONTRACT BASIS [5]

§ 260.97 Plant survey.

(a) Prior to the inauguration of continuous inspection service on a contract basis, the Secretary will make, or cause to be made, a survey and inspection of the plant where such service is to be performed to determine whether the plant and methods of operation are suitable and adequate for the performance of such services in accordance with:

(1) The regulations in this part, including, but not limited to, the requirements contained in §§ 260.97 to 260.103; and

(2) The terms and provisions of the contract pursuant to which the service is to be performed.

§ 260.98 Premises.

The premises of the plant shall be free from conditions objectionable to food processing operations; and such conditions include, but are not limited to, the following:

(a) Strong offensive odors;

(b) Litter, waste, and refuse (e.g. garbage, offal, and damaged containers) within the immediate vicinity of the plant, buildings, or structures;

(c) Excessively dusty roads, yards, or parking lots; and

(d) Poorly drained areas.

§ 260.99 Buildings and structures.

The plant buildings and structures shall be properly constructed and maintained in a sanitary condition, including, but not being limited to, the following requirements:

(a) There shall be sufficient light (1) consistent with the use to which the particular portion of the building is devoted and (2) to permit efficient cleaning. Belts and tables on which picking, sorting, or trimming operations are carried on shall be provided with sufficient nonglaring light to insure adequacy of the respective operation.

(b) If practicable, there shall be sufficient ventilation in each room and compartment thereof to prevent excessive condensation of moisture and to insure sanitary and suitable processing and operating conditions. If such ventilation does not prevent excessive condensation, the Secretary may require that suitable facilities be provided to prevent the condensate from coming in contact with equipment used in processing operations and with any ingredient used in the manufacture or production of a processed product.

(c) There shall be an efficient waste disposal and plumbing system. All drains and gutters shall be properly installed with approved traps and vents, and shall be maintained in good repair and in proper working order.

(d) There shall be ample supply of both hot and cold water; and the water shall be of safe and sanitary quality with adequate facilities for its (1) distribution throughout the plant, and (2) protection against contamination and pollution.

(e) Roofs shall be weather-tight. The walls, ceilings, partitions, posts, doors, and other parts of all buildings and structures shall be of such materials, construction, and finish as to permit their efficient and thorough cleaning. The floors shall be constructed of tile,

[5] Compliance with the above requirements does not excuse failure to comply with all applicable sanitary rules and regulations of city, county, State, Federal, or other agencies having jurisdiction over such plants and operations.

cement, or other equally impervious material, shall have good surface drainage, and shall be free from openings or rough surfaces which would interfere with maintaining the floors in a clean condition.

(f) Each room and each compartment in which any processed products are handled, processed, or stored (1) shall be so designed and constructed as to insure processing and operating conditions of a clean and orderly character; (2) shall be free from objectionable odors and vapors; and (3) shall be maintained in a clean and sanitary condition.

(g) Every practical precaution shall be taken to exclude dogs, cats, and vermin (including, but not being limited to, rodents and insects) from the rooms from which processed products are being prepared or handled and from any rooms from which ingredients (including, but not being limited to salt, sugar, spices, flour, and fishery products) are handled or stored. Screens, or other devices, adequate to prevent the passage of insects shall, where practical, be provided for all outside doors and openings. The use of poisonous cleaning agents, insecticides, bactericides, or rodent poisons shall not be permitted except under such precautions and restrictions as will prevent any possibility of their contamination of the processed product.

§ 260.100 Facilities.

Each plant shall be equipped with adequate sanitary facilities and accommodations, including, but not being limited to, the following:

(a) There shall be a sufficient number of adequately lighted toilet rooms, ample in size, and conveniently located. Such rooms shall not open directly into rooms or compartments in which processed products are being manufactured or produced, or handled. Toilet rooms shall be adequately screened and equipped with self-closing doors and shall have independent outside ventilation.

(b) Lavatory accommodations (including, but not being limited to, running water, single service towels, and soap) shall be placed at such locations in or near toilet rooms and in the manufacturing or processing rooms or compartments as may be necessary to assure the cleanliness of each person handling ingredients used in the manufacture or production of processed products.

(c) Containers intended for use as containers for processed products shall not be used for any other purpose.

(d) No product or material which creates an objectionable condition shall be processed, handled, or stored in any room, compartment, or place where any processed product is manufactured, processed, or handled.

(e) Suitable facilities for cleaning (e.g., brooms, brushes, mops, clean cloths, hose, nozzles, soaps, detergent, sprayers, and steam pressure hose and guns) shall be provided at convenient locations throughout the plant.

All equipment used for receiving, washing, segregating, picking, processing, packaging, or storing any processed products or any ingredients used in the manufacture or production thereof, shall be of such design, material, and construction as will:

(a) Enable the examination, segregation, preparation, packaging, and other processing operations applicable to processed products, in an efficient, clean, and sanitary manner, and

(b) Permit easy access to all parts to insure thorough cleaning and effective bactericidal treatment. Insofar as is practicable, all such equipment shall be made of corrosion-resistant material that will not adversely affect the processed product by chemical action or physical contact. Such equipment shall be kept in good repair and sanitary condition.

§ 260.101 Equipment.

All equipment used for receiving, washing, segregating, picking, processing, packaging, or storing any processed products or any ingredients used in the manufacture or production thereof, shall be of such design, material, and construction as will:

(a) Enable the examination, segregation, preparation, packaging and other processing operations applicable to processed products, in an efficient, clean, and sanitary manner, and

(b) Permit easy access to all parts to insure thorough cleaning and effective bactericidal treatment. Insofar as is practicable, all such equipment shall be made of corrosion-resistant material that will not adversely affect the processed product by chemical action or physical contact. Such equipment shall be kept in good repair and sanitary condition.

§ 260.102 Operations and operating procedures.

(a) All operations in the receiving, transporting, holding, segregating, preparing, processing, packaging, and storing of processed products and ingredients, used as aforesaid, shall be strictly in accord with clean and sanitary methods and shall be conducted as rapidly as practicable and at temperatures that will not tend to cause (1) any material increase in bacterial or other microorganic content, or (2) any deterioration or contamination of such processed products or ingredients thereof. Mechanical adjustments or practices which may cause contamination of foods by oil, dust, paint, scale, fumes, grinding materials, decomposed food, filth, chemicals, or other foreign materials shall not be conducted during any manufacturing or processing operation.

(b) All processed products and ingredients thereof shall be subjected to continuous inspection throughout each manufacturing or processing operation. All processed products which are not manufactured or prepared in accordance with the requirements contained in §§ 260.97 to 260.103 or are not fit for human food shall be removed and segregated prior to any further processing operation.

(c) All ingredients used in the manufacture or processing of any processed product shall be clean and fit for human food.

(d) The methods and procedures employed in the receiving, segregating, handling, transporting, and processing of ingredients in the plant shall be adequate to result in a satisfactory processed product. Such methods and procedures include, but are not limited to, the following requirements:

(1) Containers, utensils, pans, and buckets used for the storage or transporting of partially processed food ingredients shall not be nested unless rewashed before each use;

(2) Containers which are used for holding partially processed food ingredients shall not be stacked in such manner as to permit contamination of the partially processed food ingredients;

(3) Packages or containers for processed products shall be clean when being filled with such products; and all reasonable precautions shall be taken to avoid soiling or contaminating the surface of any package or container liner which is, or will be, in direct contact with such products. If, to assure a satisfactory finished product, changes in methods and procedures are required by the Secretary, such changes shall be effectuated as soon as practicable.

§ 260.103 Personnel; health.

In addition to such other requirements as may be prescribed by the Secretary with respect to persons in any room or compartment where exposed ingredients are prepared, processed, or otherwise handled, the following shall be complied with:

(a) No person affected with any communicable disease (including, but not being limited to, tuberculosis) in a transmissible stage shall be permitted;

(b) Infections or cuts shall be covered with rubber gloves or other suitable covering;

(c) Clean, suitable clothing shall be worn;

(d) Hands shall be washed immediately prior to starting work and each resumption of work after each absence from the work station;

(e) Spitting, and the use of tobacco are prohibited; and

(f) All necessary precautions shall be taken to prevent the contamination of processed products and ingredients thereof with any foreign substance (including, but not being limited to, perspiration, hair, cosmetics, and medicaments).

PART 261—UNITED STATES STANDARDS FOR GRADES OF FROZEN FRIED FISH STICKS

Sec.

261.1 Description of the product.
261.3 Grades of frozen fried fish sticks.
261.11 Determination of the grade.
261.21 Definitions.
261.25 Tolerances for certification of officially drawn samples.

AUTHORITY: The provisions of this Part 261 issued under sec. 6, 70 Stat. 1122; 16 U.S.C. 742e.

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act.

§ 261.1 Description of the product.

Frozen fried fish sticks are clean, wholesome, rectangular-shaped unglazed masses of cohering pieces (not ground) of fish flesh coated with breading and partially cooked. The sticks are cut from frozen fish blocks; are coated with a suitable, wholesome batter and breading; are fried, packaged, and frozen in accordance with good commercial practice. They are maintained at temperatures necessary for preservation of the product. Frozen fried fish sticks weigh up to and including 1½ ounces; are at least ⅜ inch thick; and their largest dimension is at least 3 times the next largest dimension. Frozen fried fish sticks contain not less than 60 percent, by weight, of fish flesh. All sticks in an individual package are prepared from the flesh of one species of fish.

§ 261.3 Grades of frozen fried fish sticks.

(a) "U.S. Grade A" is the quality of frozen fried fish sticks that (1) possess good flavor and odor and (2) rate a total score of not less than 85 points for those factors of quality that are rated in accordance with the scoring system outlined elsewhere in this part.

(b) "U.S. Grade B" is the quality of frozen fried fish sticks that (1) possess at least reasonably good flavor and odor and (2) rate a total score of not less than 70 points for those factors of quality that are rated in accordance with the scoring system outlined in this part.

(c) "Substandard" is the quality of frozen fried fish sticks that meet the requirements of § 261.1 *Description of product*, but otherwise fail to meet the requirements of "U.S. Grade B."

§ 261.11 Determination of the grade.

The grade is determined by examining the product in the frozen and cooked states and is evaluated by considering the following factors:

(a) *Factors rated by score points.* Points are deducted for variations in the quality of each factor in accordance with the schedule in Table 1. The total of points deducted is subtracted from 100 to obtain the score. The maximum score is 100; the minimum score is 0.

(b) *Factors not rated by score points.* The factor of "flavor and odor" is evaluated organoleptically by smelling, and tasting, after the product has been cooked in accordance with § 261.21.

(1) Good flavor and odor (essential requirements for a Grade A Product) means that the cooked product has the typical flavor and odor of the indicated species of fish and of the breading and is free from rancidity, bitterness, staleness, and off-flavors and off-odors of any kind.

(2) Reasonably good flavor and odor (minimum requirements of a Grade B Product) means that the cooked product is lacking in good flavor and odor but is free from objectionable off-flavors and off-odors of any kind.

TABLE 1—SCHEDULE OF POINT DEDUCTIONS PER SAMPLE UNIT OF 10 STICKS

	Factors scored	Method of determining score	Deduct
		FROZEN STATE	
1	Condition of package	Small degree: Loose free oil, and/or moderate loose breading and/or moderate frost.	2
		Large degree: Oil soaking through package and/or excessive loose breading and/or excessive amount frost.	5
2	Ease of separation	Minor: Hand separated with difficulty.—Each affected	½
		Major: Separated only by knife or other instrument.—Each affected	1
3	Broken stick	Break or cut greater than ½ length or width.—Each affected	10
		Mashed, mechanically and/or physically injured, misshaped or mutilated [1]	
	Damaged stick	Minor: 1 to 3 instances.—Each affected	2
		Major: Over 3 instances.—Each affected	4
	Uniformity:		
5	Size	Deviation in length or width between the 2 largest and 2 smallest sticks is:	
		Up to ¼ inch	0
		Over ¼ inch and up to ½ inch	3
		Over ½ inch	10
6	Weight	Weight ratio of the 2 heaviest divided by the 2 lightest sticks:	
		Over 1.0; not over 1.15	0
		Over 1.15; not over 1.3	2
		Over 1.3; not over 1.4	5
		Over 1.4	10
		COOKED STATE	
7	Distortion	Minor: Bending, shrinking, twisting (¼ to ½ inch).—Each affected	1
		Major: Excessive bending, shrinking, twisting (over ½ inch).—Each affected.	2
8	Color	Minor: Sticks differing slightly from average color of sticks in sample unit.—Each affected.	2
		Major: Sticks excessively dark or light from average color of sticks in sample unit.—Each affected.	4
		Bare spots, blistering, ridges, breaks, curds [1]	
9	Coating defects	Minor: 1 to 3 instances.—Each affected	1
		Major: Over 3 instances.—Each affected	3
		Skin, blood spots, bruises, discolorations [1]	
10	Blemishes	Minor: 1 to 6 instances.—Each affected	1
		Major: Over 6 instances.—Each affected	3
11	Bones	Sticks containing bones (potentially harmful).—Each affected	10
	Texture:		
12	Coating	Small degree: Moderately dry, soggy, doughy, oily, and tough	5
		Large degree: Farinaceous (mealy), pasty, very tough and/or oily	15
13	Fish flesh	Small degree: Moderately dry, soft, mushy	5
		Large degree: Dry to the point of fibrousness, very mushy, tough, and rubbery.	15

[1] An instance=each 1/16 square inch (¼-inch square).

§ 261.21 Definitions.

(a) Selection of the sample unit: The sample unit shall consist of 10 frozen fried fish sticks taken at random from one or more packages as required. The fish sticks are spread out on a flat pan or sheet and are examined according to table 1. Definitions of factors for point deductions are as follows:

(b) Examination of sample, frozen state:

(1) "Condition of package" refers to the presence in the package of free excess oil and/or loose breading and/or loose frost.

(2) "Ease of separation" refers to the difficulty of separating sticks from each other or from packaging material that are frozen together after the frying operation and during the freezing.

(3) "Broken stick" means a stick with a break or cut equal to or greater than one-half the width of the stick.

(4) "Damaged stick" means a stick that has been mashed, physically or mechanically injured, misshaped or mutilated to the extent that its appearance is materially affected. The amount of damage is measured by using a grid composed of squares ¼ inch (that is, squares with an area of 1/16 square inch each) to measure the area of the stick affected. Deductions are not made for damage less than 1/16 square inch.

(5) "Uniformity of size" refers to the degree of uniformity in length and width of the frozen sticks. Deviations are measured from the combined lengths of the two longest minus the combined lengths of the two shortest and/or the combined widths of the two widest minus the combined widths of the two narrowest. Deductions are not made for overall deviations in length of width up to ¼ inch.

(6) "Uniformity of weight" refers to the degree of uniformity of the weights of the sticks. Uniformity is measured by the combined weight of the two heaviest sticks divided by the combined weight of the two lightest sticks. No deductions are made for weight ratios less than 1.15.

(c) Cooked state means the state of the product after cooking in accordance with the instructions accompanying the product. However, if specific instructions are lacking, the product for inspection is cooked as follows: Transfer the product, while still in frozen state, onto a flat pan or sheet of sufficient size to accommodate 10 sticks spaced at least ¼ inch apart. Place the pan and frozen contents in a properly ventilated oven preheated to 400° F. until thoroughly

cooked (about 15 to 18 minutes or to an internal temperature of 160° F.).

(d) Examination of sample, cooked state:

(1) "Distortion" refers to the degree of bending of the long axis of the stick. Distortion is measured as the greatest deviation from the long axis. Deductions are not made for deviations of less than ¼ inch.

(2) "Color" refers to the reasonably uniform color typical of the sample material.

(3) "Coating defects" refers to breaks, lumps, ridges, depressions, blisters or swells and curds in the coating of the cooked product. Breaks in the coating are objectionable bare spots through which the fish flesh is plainly visible. Lumps are objectionable outcroppings of breading on the stick surface. Ridges are projections of excess breading at the edges of the fish flesh. Depressions are objectionable visible voids or shallow areas which are lightly covered by breading. Blisters are measured by the swelling or exposed area in the coating resulting from the bursting or breaking of the coating. Curd refers to crater-like holes in the breading filled with coagulated albumin. Instances of these defects are measured by a plastic grid marked off in ¼-inch squares (1/16 square inch). Each square is counted as one whether it is full or fractional.

(4) "Blemishes" refers to skin, blood spots, or bruises, objectionable dark fatty flesh, carbon specks or extraneous material. Instances of blemishes refers to each occurrence measured by placing a plastic grid marked off in ¼-inch squares (1/16 square inch) over the defect area. Each square is counted as one whether it is full or fractional.

(5) "Bones" means the presence of potentially harmful bones in a stick. A potentially harmful bone is one that after being cooked is capable of piercing or hurting the palate.

(6) "Texture defects of the coating" refers to the absence of the normal textural properties of the coating which are crispness and tenderness. Coating texture defects are dryness, sogginess, mushiness, doughyness, toughness, pastyness, as sensed by starchiness or other sticky properties felt by mouth tissues; oiliness to the degree of impairment of texture; and/or mealiness.

(7) "Texture defects of the fish flesh" refers to the absence of normal textural properties of the cooked fish flesh, which are tenderness, firmness, and moistness without excess water. Texture defects of the flesh are dryness, softness, toughness, and rubberyness.

(e) General definitions:

(1) "Small" (overall assessment) refers to a condition that is noticeable but is not seriously objectionable.

(2) "Large" (overall assessment) refers to a condition that not only is noticeable but is seriously objectionable.

(3) "Minor" (individual assessment) refers to a defect that slightly affects the appearance and/or utility of the product.

(4) "Major" (individual assessment) refers to a defect that seriously affects the appearance and/or utility of the product.

(f) Minimum fish flesh content refers to the minimum percent, by weight, of the average fish flesh content of three or more additional sticks per sample unit as determined by the following method:

(1) *Equipment needed.* (i) Water bath (for example, a 3- to 4-liter beaker).

(ii) Balance accurate to 0.1 gram.

(iii) Clip tongs of wire, plastic, or glass.

(iv) Stop-watch or regular watch readable to a second.

(v) Paper towels.

(vi) Spatula, 4-inch blade with rounded tip.

(vii) Nut picker.

(viii) Thermometer (immersion type) accurate to ±2° F.

(ix) Copper sulfate crystals ($CuSO_4 \cdot 5H_2O$—1 pound.

(2) *Procedure.* (i) Weigh all sticks in the sample while they are still hard frozen.

(ii) Place each stick individually in the water bath maintained at 63° F. to 86° F. and allow to remain until the breading becomes soft and can easily be removed from the still frozen fish flesh (between 30 to 110 seconds for sticks held in storage at 0° F.). If the sticks were prepared using batters that are difficult to remove after one dipping, redip them for up to 5 second after the initial debreading and remove residual batter material.

NOTE: Several preliminary trials may be necessary to determine the exact dip time required for "debreading" the sticks in a sample unit. For these trials only, a saturated solution of copper sulfate (1 pound of copper sulphate in 2 liters of tap water) is necessary. The correct dip time is the minimum time of immersion in the copper sulfate solution required before the breading can easily be scraped off provided that (1) the "debreaded" sticks are still solidly frozen and (2) only a slight trace of blue color is visible on the surface of the "debreaded" fish sticks.

(iii) Remove the stick from the bath; blot lightly with double thickness paper toweling; and scrape off or pick out coating from the fish flesh with the spatula or nut picker.

(iv) Weigh all the "debreaded" fish sticks.

(v) Calculate the percent of fish flesh in the sample by the following formula:

$$\text{Percent fish flesh} = \frac{\text{Weight of fish flesh (iv)}}{\text{Weight of fried fish sticks (i)}} \times (100)$$

§ 261.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified in accordance with Part 260, of this chapter (Regulations Governing Processed Fishery Products, 25 F.R. 8427, Sept. 1, 1960) except that a sample unit shall consist of 10 sticks taken at random from one or more packages as required.

PART 262—U.S. STANDARDS FOR GRADES OF FROZEN RAW BREADED SHRIMP

PRODUCT DESCRIPTION, STYLES, TYPES, AND GRADES

Sec.
262.1 Product description.
262.2 Styles of frozen raw breaded shrimp.
262.3 Types of frozen raw breaded shrimp.
262.4 Grades of frozen raw breaded shrimp.

FACTORS OF QUALITY

262.11 Ascertaining the grade.
262.12 Factors evaluated on the product in the frozen breaded state.
262.13 Factors evaluated on thawed debreaded product.

DEFINITIONS AND METHODS OF ANALYSIS

262.21 Definitions and methods of analysis.

LOT CERTIFICATION TOLERANCES

262.25 Tolerances for certification of officially drawn samples.

AUTHORITY: The provisions of this Part 262 issued under section 6, 70 Stat. 1122, 16 U.S.C. section 742e; and sections 203 and 205, 60 Stat. 1087, 1090, as amended, 7 U.S.C. 1622, 1624.

PRODUCT DESCRIPTION, STYLES, TYPES, AND GRADES

§ 262.1 Product description.

Frozen raw breaded shrimp are whole, clean, wholesome, headless, peeled, and deveined shrimp, of the regular commercial species, coated with a wholesome, suitable batter and/or breading. Whole shrimp consist of five or more segments of unmutilated shrimp flesh. They are prepared and frozen in accordance with good commercial practice and are maintained at temperatures necessary for the preservation of the product. Frozen raw breaded shrimp contain not less than 50 percent by weight of shrimp material. Individual shrimp and/or pieces consolidated into larger units and covered with breading are not considered for grading under this standard.

§ 262.2 Styles of frozen raw breaded shrimp.

(a) *Style I.* "Regular Breaded Shrimp" are frozen raw breaded shrimp containing a minimum of 50 percent of shrimp material.

(b) *Style II.* "Lightly Breaded Shrimp" are frozen raw breaded shrimp containing a minimum of 65 percent of shrimp material.

§ 262.3 Types of frozen raw breaded shrimp.

(a) *Type I—Breaded fantail shrimp*—(1) *Subtype A.* Split (butterfly) shrimp with the tail fin and the shell segment immediately adjacent to the tail fin.

(2) *Subtype B.* Split (butterfly) shrimp with the tail fin but free of all shell segments.

(3) *Subtype C.* Split (butterfly) shrimp without attached tail fin or shell segments.

(b) *Type II—Breaded round shrimp*—(1) *Subtype A.* Round shrimp with the tail fin and the shell segment immediately adjacent to the tail fin.

(2) *Subtype B.* Round shrimp with the tail fin but free of all shell segments.

(3) *Subtype C.* Round shrimp without attached tail fin or shell segments.

§ 262.4 Grades of frozen raw breaded shrimp.

(a) "U.S. Grade A" is the quality of frozen raw breaded shrimp that when cooked possesses a good flavor and odor, and that for those factors which are rated in accordance with the scoring system outlined in the following sections the total score is not less than 85 points.

(b) "U.S. Grade B" is the quality of frozen raw breaded shrimp that when cooked possesses a reasonably good flavor and odor, and that for those factors which are rated in accordance with the scoring system outlined in the following sections the total score is not less than 70 points.

(c) "Substandard" is the quality of frozen raw breaded shrimp that fail to meet the requirements of "U.S. Grade B."

FACTORS OF QUALITY

§ 262.11 Ascertaining the grade.

General. In addition to considering other requirements outlined in the standard, the following quality factors are evaluated in ascertaining the grade of the product.

(a) Factors not rated by score points: Flavor and odor. Flavor and odor are determined by organoleptic means after the product has been cooked in a suitable manner (§ 262.21(v)).

(b) Factors rated by score points: The quality of the product with respect to factors scored is expressed numerically on the scale of 100. Deductions from the maximum possible score of 100 are assessed for essential variations of quality within each factor. The score of frozen raw breaded shrimp is determined by observing the product in the frozen and thawed states.

§ 262.12 Factors evaluated on the product in the frozen breaded state.

Factors affecting qualities that are measured on the product in the frozen state are: Loose breading and frost, ease of separation, uniformity of size, condition of coating, extraneous material, and damaged breaded shrimp. For the purpose of rating the factors that are scored in the frozen state, the schedule of point deductions in Table 1 applies. This schedule of point deductions is based on the examination of one complete individual package (sample unit) regardless of the net weight of the contents of the package.

§ 262.13 Factors evaluated on thawed debreaded product.

Factors affecting qualities that are measured on the product in the thawed debreaded state are: Degree of deterioration, dehydration, sand veins, black spot, extra shell, extraneous material, and swimmerets. For the purpose of rating the factors that are scored in the thawed debreaded state, the schedule of point deductions in Table 2 applies. This schedule of point deductions is based on the examination of 20 whole shrimp selected at random from one or more packages. Examinations of this sample of 20 whole shrimp is continued under § 262.21(u).

DEFINITIONS AND METHODS OF ANALYSIS

§ 262.21 Definitions and methods of analysis.

(a) "Fantail shrimp": This type is prepared by splitting and peeling the shrimp except that for subtype A, the tail fin remains attached and the shell segment immediately adjacent to the tail fin remains attached. Subtype B, the tail fin remains, but the shrimp are free of all shell segments. Subtype C, the shrimp are free of tail fins and all shell segments.

(b) "Round shrimp": This type is the round shrimp, not split. The shrimp are peeled except that for subtype A, the tail fin remains attached and the shell segment immediately adjacent to the tail fin remains attached. Subtype B, the tail fin remains, but the shrimp are free of all shell segments. Subtype C, the shrimp are free of all shell segments and tail fins.

(c) Good flavor and odor: "Good flavor and odor", essential requirements for a Grade A product, means that the cooked product has flavor and odor characteristics of freshly caught or well-refrigerated shrimp and the breading is free from staleness and off-flavors and off-odors of any kind. Iodoform is not to be considered in evaluating the product for flavor and odor.

(d) Reasonably good flavor and odor: "Reasonably good flavor and odor" minimum requirement of Grade B products, means that the cooked product may be somewhat lacking in the good flavor and odor characteristics of freshly caught or well-refrigerated shrimp but is free from objectionable off-flavors and objectionable off-odors of any kind.

(e) "Dehydration" refers to the occurrence of whitish areas on the exposed ends of the shrimp (due to the drying of the affected area) and to a generally desiccated appearance of the meat after the breading is removed.

(f) "Deterioration" refers to any detectable change from the normal good quality of freshly caught shrimp. It is evaluated by noting in the thawed product deviations from the normal odor and appearance of freshly caught shrimp.

(g) "Extraneous material" consists of nonedible material such as sticks, seaweed, shrimp thorax, or other objects that may be accidently present in the package.

(h) Slight: "Slight" refers to a condition that is scarcely noticeable but does affect the appearance, desirability, and/or eating quality of breaded shrimp.

(i) Moderate: "Moderate" refers to a condition that is conspicuously noticeable but that does not seriously affect the appearance, desirability, and/or eating quality of the breaded shrimp.

(j) Marked: "Marked" refers to a condition that is conspicuously noticeable and that does seriously affect the appearance, desirability, and/or eating quality of the breaded shrimp.

(k) Excessive: "Excessive" refers to a condition that is very noticeable and is seriously objectionable and the product cannot be graded above Grade B; this is a limiting rule.

(l) Halo: "Halo" means an easily recognized fringe of excess batter and breading extending beyond the shrimp flesh and adhering around the perimeter or flat edges of a split (butterfly) breaded shrimp.

(m) Balling up: "Balling up" means the adherence of lumps of the breading material to the surface of the breaded coating, causing the coating to appear rough, uneven, and lumpy.

(n) Holidays: "Holidays" means voids in the breaded coating as evidenced by bare or naked spots.

(o) Damaged frozen raw breaded shrimp: "Damaged frozen raw breaded shrimp" means frozen raw breaded shrimp that have been separated into two or more parts or that have been crushed or otherwise mutilated to the extent that their appearance is materially affected.

(p) Black spot: "Black spot" means any blackened area that is markedly apparent on the flesh of the shrimp.

(q) Sand vein: "Sand vein" means any black or dark sand vein that has not been removed, except for that portion under the shell segment adjacent to the tail fin when present.

(r) Extra shell: "Extra shell" means any shell segment(s) or portion thereof, contained in the breaded shrimp except the first segment adjacent to the tail fin for Type I, subtype A, and Type II, subtype A.

(s) Loose breading and frost: "Loose breading and frost" is considered to be part of the net weight and is determined by use of a balance and by following the steps given below:

1. Remove the overwrap.
2. Weigh carton and all contents.
3. Transfer breaded shrimp to balance and weigh.
4. Weigh carton less shrimp but including waxed separators and inserts (if used), crumbs, and frost.
5. Remove crumbs and frost from carton and separators.
6. Weigh cleaned carton and separators.
7. Calculate loose breading and frost:

$$\text{Percent loose breading and frost} = \frac{(4)-(6)}{(2)-(6)} \times 100$$

A proportionate amount of the loose breading and frost must be added to the weight of the sample in paragraph (u)(2)(ii) of this section.

(t) Uniformity: "Uniformity" is determined for packs of various sizes by the ratio of the weights of the largest to the smallest breaded shrimp as outlined by the following schedule:

Up to 10 oz.	3 largest/3 smallest
10.1 oz. to 1.5 lb.	6 largest/6 smallest
1.51 lb. to 2.5 lb.	8 largest/8 smallest
Over 2½ lb.	10 largest/10 smallest

(u) Percent shrimp material: "Percent shrimp material" means the percent by weight of shrimp material in a sample as determined by the method described

below. This calculation is based on 20 whole shrimp as stipulated in § 262.13.

(1) Equipment needed:

(i) Two-gallon container approximately 9 inches in diameter.

(ii) Two-vaned wooden paddle, each vane measuring approximately 1¾ inches by 3¾ inches.

(iii) Stirring device capable of rotating the wooden paddle at 120 rpm.

(iv) Balance accurate to 0.01 ounce (0.1 gram).

(v) U.S. standard sieve—½-inch sieve opening; 12-inch diameter.

(vi) U.S. standard sieve—ASTM—No. 20, 12-inch diameter.

(vii) Forceps, with blunt points.

(viii) Shallow baking pan.

(ix) Rubber policeman to remove bits of breading from shrimp.

(2) Procedure:

(i) Weigh sample (20 shrimp) to be debreaded. Fill container three-fourths full of water at 70°–80° F. Suspend the paddle in the container leaving a clearance of at least 5 inches below the paddle vanes, and adjust speed to 120 rpm. Add shrimp and stir for 10 minutes. Stack the sieves, the ½-inch mesh over the No. 20 and pour contents of container onto them. Set the sieves under a faucet, preferably with spray attached, and rinse the shrimp without rubbing the flesh, being careful to keep all rinsings over the sieves and not having the stream of water hit the shrimp on the sieve directly. Use a rubber policeman to remove adhering breading. Lay the shrimp out singly on the sieve as rinsed, split side down and tails up. Remove top sieve and drain on a 45-degree angle for 2 minutes, then transfer shrimp to balance. Rinse contents of the No. 20 sieve onto a shallow baking pan and collect any particles of shrimp material (flesh, tail fin), and add to shrimp on balance and weigh.

(ii) Calculate percent shrimp material:

$$\text{Percent shrimp material} = \frac{\text{Weight of debreaded sample}}{(\text{Weight of sample}) + (\text{weight of sample} \times \text{percentage loose breading and frost})} \times 100 + 2$$

(v) Cooked in a suitable manner: "Cooked in a suitable manner" means cooked in accordance with the instructions accompanying the product. If, however, specific instructions are lacking, the product for inspection is cooked as follows:

(1) Transfer the breaded shrimp, while still frozen, in a wire mesh deep fry basket sufficiently large to hold the shrimp in a single layer without touching one another.

(2) Lower the basket into a suitable liquid oil or hydrogenated vegetable oil at 350°–375° F. Cook for 3 minutes, or until the shrimp attain a pleasing golden brown color.

(3) Remove basket from the oil and allow the shrimp to drain for 15 seconds. Place the cooked shrimp on a paper towel or napkin to absorb the excess oil.

Lot Certification Tolerances

§ 262.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified in accordance with Part 260 of this chapter (Regulations Governing Processed Fishery Products, 25 F.R. 8427, Sept. 1, 1960).

Table 1—Schedule of Point Deductions for Rating in Frozen Breaded State

Factor	Quality description	Deductions allowed
		Points
1. Loose breading or frost	2 percent but less than 3 percent	5
	3 percent but less than 5 percent	10
	5 percent or more	31
2. Ease of separation	Separate easily after being removed from carton and exposed to room temperature for not more than 4 minutes.	3
	Separate easily after being removed from carton and exposed to room temperature for not more than 6 minutes.	6
	Does not separate easily after being removed from carton and exposed to room temperature for 6 minutes.	10
3. Uniformity	Ratio of weight of largest to smallest breaded shrimp in sample unit as defined under section 262.21 (T):	
	Up to 1.50	0
	1.51–1.60	1
	1.61–1.70	2
	1.71–1.80	3
	1.81–1.90	4
	1.91–2.00	5
	2.01–2.10	6
	2.11–2.20	7
	2.21–2.30	8
	2.31–2.40	9
	Over 2.40	10
4. Condition of coating	Degree of halo or balling up or holidays (identify type of defect by circling the proper word):	
	Slight—each 20 percent by count or fraction thereof	1
	Moderate—each 20 percent by count or fraction thereof	2
	Marked—each 20 percent by count or fraction thereof	4
	Excessive—each 20 percent by count or fraction thereof	16
5. Damaged breaded shrimp	For each 5 percent by count or fraction thereof	3
	Tail fin broken or missing, each 5 percent or fraction thereof (except in Type I, subtype C, and Type II, subtype C).	1
6. Extraneous material	If extraneous material, except filthy or deleterious substances, is found in more than one package per lot, the entire lot shall be declared substandard.[1]	

[1] Filthy or deleterious substances in food products constitute a violation of the Food, Drug, and Cosmetic Act. Products containing such substances are ineligible for the purpose of applying this document.

TABLE 2—SCHEDULE FOR POINT DEDUCTIONS FOR EXAMINATION IN THAWED, DEBREADED STATE DEDUCTIONS BASED ON 20 SHRIMP

[Subtotals brought forward]

Factor	Quality description	Deductions allowed
		Points
1. Degree of dehydration	Slight—each shrimp	1
	Moderate—each shrimp	2
	Marked—each shrimp	3
	Excessive—each shrimp	16
2. Deterioration	Slight—each shrimp	2
	Moderate—each shrimp	5
	Marked—each shrimp	10
	Excessive—each shrimp (provided that, if excessive deterioration occurs in more than one sample unit per sample, the entire lot shall be declared substandard).	20
3. Sand veins	For each dark vein present deduct according to the following schedule:	
	Equivalent in length to two segments	1
	Equivalent in length to three segments	2
	Equivalent in length to four or more segments	3
4. Black spot	Slight but obvious, on average	3
	Moderate, on average	6
	Marked—each shrimp	3
5. Extra shell (see subtypes definition).	(Beyond first segment adjacent to tail fin only for Type I, subtype A, and Type II, subtype A):	
	Less than one whole extra shell segment	1
	One extra segment or more	3
6. Swimmerets	For last pair only adjacent to tail fins	1
	For more than last pair	3
7. Extraneous material	If extraneous material, except filthy or deleterious substances, are found in more than one package per lot, the entire lot shall be declared substandard.[1]	

[1] Filthy or deleterious substances in food products constitute a violation of the Food, Drug, and Cosmetic Act. Products containing such substances are ineligible for the purpose of applying this document.

PART 263—UNITED STATES STANDARDS FOR GRADES OF FROZEN FISH BLOCKS

Sec.

263.1 Description of the product.
263.2 Grades of frozen fish blocks.
263.11 Determination of the grade.
263.21 Definitions.
263.25 Tolerances for certification of officially drawn samples.

AUTHORITY: The provisions of this Part 263 issued under secs. 203, 205, 60 Stat. 1087, 1090, as amended, sec. 6, 70 Stat. 1122; 7 U.S.C. 1622, 1624, 16 U.S.C. 742e.

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

§ 263.1 Description of the product.

Frozen fish blocks are rectangular-shaped masses of cohering frozen fish flesh of a single species. They consist of adequately drained whole, wholesome fillets or pieces of whole, wholesome fillets cut into small portions but not ground or comminuted; and they are frozen and maintained at temperatures necessary for the preservation of the product. Frozen fish blocks are made in two styles.

(a) *Style I—skinless fish blocks.* Fish blocks that have been made from skinless fillets.

(b) *Style II—skin-on fish blocks.* Fish blocks that have been made from demonstrably acceptable skin-on fillets.

§ 263.2 Grades of frozen fish blocks.

(a) "U.S. Grade A" is the quality of frozen fish blocks that (1) possess a good flavor and odor and that (2) have a total score of 85 to 100 points for those factors that are rated in accordance with the scoring system outlined in this part.

(b) "U.S. Grade B" is the quality of frozen fish blocks that (1) possess at least a reasonably good flavor and odor and that (2) have a total score of 70 to 84 points for those factors that are rated in accordance with the scoring system in this part.

(c) "Substandard" is the quality of frozen fish blocks that meet product description but fail to meet the requirements of U.S. Grade B.

§ 263.11 Determination of the grade.

The grade is determined by examining the product in the frozen, thawed, and cooked states and is evaluated by considering the following factors:

(a) *Factors rated by score points.* Points are deducted for variation in the quality of each factor in accordance with the schedule in table 1. The total of points deducted is subtracted from 100 to obtain the score. The maximum score is 100; the minimum score is 0.

(b) *Factors not rated by score points.* The factor of "flavor and odor" is evaluated organoleptically by smelling and tasting the product after it has been cooked in accordance with § 263.21(c).

(1) Good flavor and odor (essential requirements for a Grade A product) means that the cooked product has the typical flavor and odor of the indicated species of fish and is free from rancidity, bitterness, staleness, and off-flavors and off-odors of any kind.

(2) Reasonably good flavor and odor (minimum requirements of a Grade B product) means that the cooked product is lacking in good flavor and odor but is free from objectionable off-flavors and off-odors of any kind.

TABLE 1—SCHEDULE OF POINT DEDUCTIONS PER SAMPLE UNIT

State	No.	Factors scored	Aspects determining score	Deduct
Frozen	1	Color	Small degree: Moderate yellowing	4
			Large degree: Excessive yellowing and/or rusting	16
	2	Dehydration	Minor: Moderate dehydration for each 10 percent of surface area affected.	3
			Major: Excessive dehydration for each 10 percent of surface area affected.	6
	3	Uniformity of size	Minor: Each deviation from declared size in legnth, width, or thickness ±⅛ to ¼ inch.	3
			Major: Each deviation from declared size in length, width, or thickness over ±¼ inch.	6
	4	Uniformity of weight	Minor: Any minus deviation from declared weight of more than 1 ounce but not more than 4 ounces.	3
			Major: Any minus deviation from declared weight more than 4 ounces.	8
	5	Angles	Edge angle—2 out of 3 readings deviating ⅜ inch	2
			Corner angle—each angle deviating ⅜ inch.	
	6	Improper fill	For each 1 ounce unit cut from the block that would be adversely affected due to air spaces, ice spaces, depressions, ragged edges, damage, or imbedded packaging material.	1
Thawed	7	Blemishes	Each blemish in 5 pounds of fish block	2
	8	Bones	Each instance of bones in 5 pounds of fish block	5
Cooked	9	Texture	Small degree: Moderately tough, dry, rubbery, or mushy	5
			Large degree: Excessively tough, dry, rubbery, or mushy	15

§ 263.21 Definitions.

(a) *Examination of sample, frozen state.* (1) Color refers to reasonably uniform color characteristic of the species used. Deviations from normal color include noticeable yellowing and/or rusting of the fish surface.

(2) Dehydration refers to loss of moisture from the fish surfaces during frozen storage. Moderate dehydration is color-masking and can easily be scraped off with a fingernail. Excessive dehydration is deep color-masking and requires a

knife or other hard instrument to scrape it off.

(3) Uniformity of size refers to the degree of conformity to the declared size. A deviation is considered to be any deviation from stated length, width, or thickness, or from the average dimensions if no dimensions are stated. Only one deviation from each dimension may be assessed. Two readings for length, three readings for width, and four readings for thickness will be measured.

(4) Uniformity of weight refers to the degree of conformity to the weight. Only underweight deviations are assessed.

(5) An acceptable edge angle is an angle formed by two adjoining surfaces whose apex is within ⅜ inch of a carpenter's square placed along the surfaces. For each edge angle, three readings will be made and at least two readings must be acceptable for the whole edge angle to be acceptable. An acceptable corner angle is an angle formed by 3 adjoining surfaces whose apex is within ⅜ inch of the apex of a carpenter's square placed on the edge surfaces. Unacceptable angles fail to meet these criteria.

(6) Improper fill refers to surface and internal air or ice voids, ragged edges, or damage. It is measured as the number of 1-ounce units that would be adversely affected when the block is cut. For this purpose, the 1-ounce unit is considered to be 4 x 1 x ⅝ inch.

(b) *Examination of the product, thawed state.* (1) Blemishes refer to a piece of skin, scale, a blood spot, a fin, a bruise, a black belly lining, a piece of nape membrane or a harmless piece of extraneous material. One "piece of skin" consists of one piece ½ square inch in area; except that for skin patches larger than 1 square inch, an additional instance shall be assessed for each additional ½ square inch in area. "Blood spot" is one of such size and degree as to be considered objectionable. A "piece of black belly lining" is any piece longer than ½ inch. "Fin" is one fin or one identifiable part of a fin. A piece of nape membrane consists of one piece ½ square inch in area or larger. "Scales" are aggregates of one or more scales of such degree as to be considered objectionable. Skin is not to be considered a blemish on Style II block. Blemishes are measured on a 5-pound portion cut from the edge of the fish block and thawed.

(2) "Bones" refers to any potentially harmful bones in the fish block. A potentially harmful bone is one that after being cooked is capable of piercing or hurting the palate. One instance of bones means one bone or group of bones occupying or contacting a circular area of 1 square inch. Bones are measured on the same 5-pound thawed portion cut from the fish block.

(c) *Examination of the cooked product.* (1) Heating in a suitable manner means heating the product in one of two ways, as follows:

(i) Cut three or more portions about 4 by 3 by ½ inches from a frozen block. Wrap them individually or in a single layer in aluminum foil. Place the package portions on a wire rack suspended over boiling water in a covered container. Steam the packaged portions until the product is thoroughly heated, or

(ii) Cut and package the portions as previously described. Place the packaged portions on a flat cookie sheet or shallow flat-bottom pan of sufficient size so that the packages can be evenly spread on the sheet or pan. Place the pan and frozen contents in a properly ventilated oven heated to 400° F. and remove when the product is thoroughly heated.

(2) Texture refers to the condition of the cooked fish flesh. The texture should be firm, slightly resilient, but not tough or rubbery; and should be moist, but not mushy. Deductions for texture will follow the deductions assessed in table 1.

(3) Flavor and odor is evaluated organoleptically as described in § 263.11(b).

(d) *General definitions.* (1) "Demonstrably acceptable" shall mean that the product has been produced commercially and met customer acceptance.

(2) "Adversely affected" shall mean that the unit cut would deviate more than 15 percent plus or minus from 1 ounce.

(3) "Small" (overall assessment) refers to a condition that is noticeable, but is not seriously objectionable.

(4) "Large" (overall assessment) refers to a condition that is not only noticeable, but is seriously objectionable.

(5) "Minor" (measured quantity or area) refers to a defect that affects the appearance or utility of the product or both.

(6) "Major" (measured quantity or area) refers to a defect that seriously affects the appearance or utility of the product or both.

§ 263.25 Tolerances for certification of officially drawn samples.

The sample rates and grades of specific lots shall be certified on the basis of the regulations governing inspection and certification of processed fishery products, processed products thereof, and certain other processed food products.

PART 264—UNITED STATES STANDARDS FOR GRADES OF FROZEN HADDOCK FILLETS

PRODUCT DESCRIPTION AND GRADES

Sec.
264.1 Product description.
264.2 Grades of frozen haddock fillets.

WEIGHTS AND DIMENSIONS

264.6 Recommended weights and dimensions.

FACTORS OF QUALITY

264.11 Ascertaining the grade.
264.12 Evaluation of the unscored factor of flavor and odor.
264.13 Ascertaining the rating for the factors which are scored; appearance, size, defects, and character.
264.14 Appearance.
264.15 Size.
264.16 Defects.
264.17 Character.

DEFINITIONS AND METHODS OF ANALYSIS

264.21 Definitions and methods of analysis.

LOT CERTIFICATION TOLERANCES

264.25 Tolerances for certification of officially drawn samples.

SCORE SHEET

264.31 Score sheet for frozen haddock fillets.

AUTHORITY: The provisions of this part 264 issued under sec. 205, 60 Stat. 1090, as amended, sec. 6, 70 Stat. 1122; 7 U.S.C. 1624, 16 U.S.C. 742e. Bureau Budget Order Mar. 22, 1958, 23 F.R. 2304.

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

PRODUCT DESCRIPTION AND GRADES

§ 264.1 Product description.

The product described in this part consists of clean, whole, wholesome fillets or primarily large pieces of clean, whole, wholesome fillets, cut away from either side of haddock, Melanogrammus aeglefinus; the fillets may be either skinless or with skin on. They are packaged and frozen in accordance with good commercial practice and are maintained at temperatures necessary for the preservation of the product. (This part does not provide for the grading of pieces of fish flesh cut away from previously frozen fish blocks, slabs, or similar products.)

§ 264.2 Grades of frozen haddock fillets.

(a) "U.S. Grade A" is the quality of frozen haddock fillets that possess a good flavor and odor; and for those factors which are rated in accordance with the scoring system outlined in this part have a total score of 85 to 100 points.

(b) "U.S. Grade B" is the quality of frozen haddock fillets that possess at least a reasonably good flavor and odor; and for those factors which are rated in accordance with the scoring system outlined in this part have a total score of not less than 70 points: *Provided*, That no factor receives maximum point score deduction.

(c) "Substandard" is the quality of frozen haddock fillets that fail to meet the requirements of U.S. Grade B.

WEIGHTS AND DIMENSIONS

§ 264.6 Recommended weights and dimensions.

(a) The recommendations as to net weights and dimensions of packaged frozen haddock fillets are not incorporated in the grades of the finished product since net weights and dimensions, as such, are not factors of quality for the purpose of these grades.

(b) It is recommended that the net weights of the packaged frozen haddock fillets be not less than 12 ounces and not over 10 pounds.

FACTORS OF QUALITY

§ 264.11 Ascertaining the grade.

The grade of frozen haddock fillets is ascertained by observing the product in

the frozen and thawed states and after representative sample units have been cooked in a suitable manner. The following factors are evaluated in ascertaining the grade of the product: Flavor, odor, appearance, size, defects, and character.

(a) These factors are rated in the following manner:

(1) *Flavor and odor.* These factors are rated by organolepic examination. Score points are not assessed (see § 264.12).

(2) *Appearance, size, defects, and character.* These factors are rated by score points expressed numerically on the scale of 100.

(b) The four factors and the maximum number of points that may be given each are as follows:

Factors:	*Points*
Appearance	25
Size	20
Defects	40
Character	51
Total score	100

§ 264.12 Evaluation of the unscored factor of flavor and odor.

(a) *Good flavor and odor.* "Good flavor and odor" (essential requirement for a Grade A product) means that the fish flesh has good flavor and odor characteristic of haddock (Melanogrammus aeglefinus); and is free from staleness, and off-flavors and off-odors of any kind.

(b) *Reasonably good flavor and odor.* "Reasonably good flavor and odor" (minimum requirement of a Grade B product) means that the fish flesh may be somewhat lacking in good flavor and odor; and is free from objectionable off-flavors and off-odors of any kind.

§ 264.13 Ascertaining the rating for the factors which are scored; appearance, size, defects, and character.

The essential variations within each factor which is scored are so described that the value may be ascertained for each factor and expressed numerically. Point deductions are allotted for each degree or amount of variation within each factor. The value for each factor is the maximum points allotted for the factor less the sum of the deduction-points within the factor.

§ 264.14 Appearance.

(a) General: The factor of appearance refers to the color of the fish flesh, and to the degree of surface dehydration of the product.

(b) For the purpose of rating the factor of appearance the schedule of deduction-points in Tables I and II apply. Haddock fillets which receive 25 deduction-points for this factor shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

TABLE I—SCORE DEDUCTIONS FOR COLOR SUBFACTOR

Color	Deduction points	
	"Light" colored portion comprising main portion of fillet	"Dark" colored portion occurring under skin mainly along lateral line
No discoloration	0	0
Slight yellowing	2	1
Moderate yellowing	4	2
Excessive yellowing and/or any rusting	13	12

TABLE II—SCORE DEDUCTIONS FOR DEHYDRATION SUBFACTOR

Degree of dehydration	Surface area affected (percent)		Deduction points
	Over—	Not over—	
Slight—Shallow and not color masking	0	1	0
	1	50	2
	50	100	5
Moderate—Deep but just deep enough to easily scrape off with fingernail	1	25	5
	25	50	8
	50	100	16
Excessive—Deep dehydration not easily scraped off	1	25	12
	25	100	25

§ 264.15 Size.

(a) General: The factor of size refers to the degree of freedom from undesirably small fillet pieces. Any piece weighing less than 2 ounces is classed undesirably small.

(b) For the purpose of rating the factor of size the schedule of deduction-points in Table III apply. Haddock fillets which receive 20 deduction points for this factor shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

TABLE III—SCORE DEDUCTIONS FOR SIZE OF FILLET PIECES

Number of fillet pieces less than 2 ounces per pound		Deduction points
Over—	Not over—	
	0	0
0	1	1
1	2	10
2	3	15
3	4	20

§ 264.16 Defects.

(a) General: The factor of defects refers to the degree of freedom from improper packing, cutting and trimming imperfections, blemishes, and bones.

(1) *Improper packing.* "Improper packing" means poor arrangement of fillets, presence of voids, depressions, frost, and the imbedding of packaging material into fish flesh.

(2) *Cutting and trimming imperfections.* "Cutting and trimming imperfections" means that the fillets have ragged edges, tears, holes, or are otherwise improperly cut or trimmed.

(3) *Blemish.* "Blemish" means a piece of skin (except for skin-on fillets), scales, blood spot, a bruise, a black belly lining, a fin, or extraneous material. One "piece of skin" consists of one piece at least ½ square inch in area; except that any skin patches larger than 1½ square inches are each considered as two pieces of skin. "Blood spot" is one of such size and prominence as to be considered objectionable. "Black belly lining" is any piece longer than ½ inch. Each aggregate area up to 1 square inch of identifiable fin or parts of any fin is considered as one "instance of fin". Each aggregate area up to 1 square inch per fillet of one scale or group of scales is considered one "instance of scales". "A bruise" consists of an affected area of ½ square inch or more in area; except that any bruise larger than 1½ square inches is considered as two bruises.

(4) *Bones.* "Bones" means any bones that can be identified, and are objectionable. One instance of bone means one bone or one group of bones occupying or contacting a circular area of 1 square inch.

(b) For the purpose of rating the factor of freedom from defects, the schedule of deduction-points in Table IV apply.

TABLE IV—SCORE DEDUCTIONS FOR DEFECTS

Defects subfactors	Method of determining subfactor score	Deduction points
Improper packing.	Moderate defects, noticeably affecting the products appearance.	2
	Excessive defects, seriously affecting products appearance.	4
Blemishes	Number of blemishes per 1 lb. of fish flesh:	
	Over 0 not over 1	1
	Over 1 not over 2	3
	Over 2 not over 3	5
	Over 3 not over 4	8
	Over 4 not over 5	16
	Over 5 not over 6	3
	Over 6	40
Bones	Number of instances per 1 lb. of fish flesh:	
	Over 0 not over 1	0
	Over 1 not over 2	5
	Over 2 not over 3	10
	Over 3 not over 4	15
	Over 4 not over 5	30
	Over 5	40
Cutting and trimming.	Slight defects, scarcely noticeable.	0
	Moderate defects, noticeable but not affecting the useability of any fillets.	4
	Excessive defects impairing:	
	(a) the useability of up to ¼ of the total number of fillets.	8
	(b) the useability of over ¼ but not more than ½ of the total number of fillets.	16
	(c) the useability of over ½ of the total number of fillets.	40

§ 264.17 Character.

(a) General: The factor of character refers to the amount of drip in the thawed fillets, and to the tenderness and moistness of the properly cooked fish flesh.

(b) For the purpose of rating the factor of character, the schedule of deduction-points in Table V apply. Haddock

fillets which receive 15 deduction points for this factor shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

TABLE V—SCORE DEDUCTIONS FOR CHARACTER

Character subfactors	Method of determining subfactor score	Deduction points
Texture	Texture of the cooked fish:	
	(a) Firm, slightly resilient but not tough or rubbery; moist but not mushy.	0
	(b) Moderately firm; only slightly tough or rubbery; does not form a fibrous mass in the mouth; moist but not mushy.	4
	(c) Moderately tough or rubbery; has noticeable tendency to form a fibrous mass in the mouth; or is dry; or is mushy.	8
	(d) Excessively tough or rubbery; has marked tendency to form a fibrous mass in the mouth; or is very dry; or is very mushy.	15
Amount of drip.	Percent of drip:	
	Over 0 not over 5	0
	Over 5 not over 6	1
	Over 6 not over 8	2
	Over 8 not over 10	4
	Over 10 not over 12	6
	Over 12 not over 14	9
	Over 14 not over 16	12
	Over 16	15

DEFINITIONS AND METHODS OF ANALYSIS

§ 264.21 Definitions and methods of analysis.

(a) *Percent of drip.* "Percent of drip" means the percent by weight of "free drip" (the fluid which is not reabsorbed by the fish tissue when the frozen fish thaws, and which separates freely without the aid of any external forces except gravity) in an individual package as determined by the following method:

(1) *Apparatus and materials.* (i) Water bath.

(ii) Balance, accurate to 0.1 gm; or 0.01 ounce.

(iii) Pliable and impermeable bag (cryovac, pliofilm, etc.).

(iv) Vacuum source (Vacuum pump or water aspirator).

(v) U.S. Standard No. 8 mesh circular sieve (both 8 and 12 inch diameters).

(vi) Stirring motor.

(vii) Identification tags.

(2) *Procedure.* (i) Weigh pliable and impermeable bag (cryovac, pliofilm, etc.).

(ii) Remove frozen material from container (container consists of the carton and the inner and outer wrappings).

(iii) Place frozen product, plus scraps of any material remaining on the container, into the pliable bag.

(iv) Weigh bag and contents and subtract tare to determine the net weight of the product.

(v) Evacuate air from bag by use of suction so that bag closely fits contour of product, with no air pockets.

(vi) Crimp the open end of bag and tie off (a secure and leakproof closure may be created by tying close to product and then folding excess bag and tying again).

(vii) Completely immerse bag and contents in a circulated water bath maintained at 68° F. plus or minus 2° F.

(viii) Allow to remain immersed until the product is defrosted (a "test run", in advance, is necessary to determine time required for each product and quantity of product).[2]

(ix) Remove bag and contents from bath and gently dry outside of bag.

(x) Weigh dry U.S. Standard No. 8 mesh circular sieve.

(xi) Open bag and empty contents onto U.S. Standard No. 8 circular sieve so as to distribute the product evenly, inclining the sieve slightly to facilitate drainage, and allowing to drain for two minutes.

(xii) Weigh sieve and its contents and calculate drained weight. The drained weight is the weight of sieve and fillets less the weight of the dry sieve.

(xiii) Calculate percent drip:

$$\frac{\text{Net weight (iv)} - \text{drained weight (xii)} \times (100)}{\text{Net weight}} = \text{Percent of drip}$$

(b) *Cooking in a suitable manner.* "Cooking in a suitable manner" shall mean that the product is cooked as follows: Place the thawed unseasoned product into a boilable film-type pouch. The pouch and its contents are then immersed in boiling water and cooked until the internal temperature of the fillets reaches 160° F. (about 20 minutes).

LOT CERTIFICATION TOLERANCES

§ 264.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified in accordance with Part 260 of this chapter.

SCORE SHEET

§ 264.31 Score sheet for frozen haddock fillets.

Label: _____
Size and kind of container: _____
Container mark or identification: _____
Size of lot: _____
Number of packages per master carton: _____
Size of sample: _____
Type of overwrap: _____
Actual net weight: _____ (lb.) _____ (kg.)

Factor	Score points	Sample score
Appearance	25	
Uniformity	20	
Defects	40	
Character	15	
Total	100	

Flavor and odor _____
Final grade _____

[2] The purpose of the "test run" is to determine the time necessary to thaw the product. The complete thawing of the product is determined by frequent but gentle squeezing of the bag until no hard core or ice crystals are felt. This package which has been squeezed can not be used for drained weight calculations.

PART 265—UNITED STATES STANDARDS FOR GRADES OF FROZEN HALIBUT STEAKS

PRODUCT DESCRIPTION, STYLES AND GRADES

Sec.
265.1 Product description.
265.2 Styles of frozen halibut steaks.
265.3 Grades of frozen halibut steaks.

DIMENSIONS

265.6 Recommended dimensions.

FACTORS OF QUALITY AND GRADE

265.11 Ascertaining the grade.

DEFINITIONS AND METHODS OF ANALYSIS

265.21 Definitions and methods of analysis.

LOT CERTIFICATION TOLERANCES

265.25 Tolerances for certification of officially drawn samples.

SCORE SHEET

265.31 Score sheet for frozen halibut steaks.

AUTHORITY: The provisions of this Part 265 issued under sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624.

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act.

PRODUCT DESCRIPTION, STYLES AND GRADES

§ 265.1 Product description.

Frozen halibut steaks are clean, wholesome units of frozen raw fish flesh with normally associated skin and bone and are 2 ounces or more in weight. Each steak has two parallel surfaces and is derived from whole or subdivided halibut slices of uniform thickness which result from sawing or cutting perpendicularly to the axial length, or backbone, of a whole halibut. The steaks are prepared from either frozen or unfrozen halibut (Hippoglossus spp.) and are processed and frozen in accordance with good commercial practice and are maintained at temperatures necessary for the preservation of the product.

§ 265.2 Styles of frozen halibut steaks.

(a) *Style I, random weight pack.* The individual steaks are of random weight and neither the weight nor the range of weights are specified.

(b) *Style II, uniform weight or portion pack.* All steaks in the package or in the lot are of a specified weight or range of weights.

§ 265.3 Grades of frozen halibut steaks.

(a) "U.S. Grade A" is the quality of frozen halibut steaks which possess good flavor and odor, and that for those factors which are rated in accordance with the scoring system outlined in the following sections the total score is not less than 85 points.

(b) "U.S. Grade B" is the quality of frozen halibut steaks which possess at least reasonably good flavor and odor, and that for those factors which are rated in accordance with the scoring system outlined in the following sections the total score is not less than 70 points.

(c) "Substandard" is the quality of frozen halibut steaks which fail to meet the requirements of the "U.S. Grade B."

DIMENSIONS

§ 265.6 Recommended dimensions.

(a) The recommended dimensions of frozen halibut steaks are not incorporated in the grades of the finished product since dimensions, as such, are not factors of quality for the purpose of these grades. However, the degree of uniformity of thickness among units of the finished product is rated since it is a factor affecting the quality and utility of the product.

(b) It is recommended that the thickness (smallest dimension) of individually frozen halibut steaks be not less than ½ inch and not greater than 1¼ inches.

FACTORS OF QUALITY AND GRADE

§ 265.11 Ascertaining the grade.

The grade is ascertained by observing the product in the frozen, thawed, and cooked states and is evaluated by consideration of the following:

(1) *Factors rated by score points.* The quality of the product with respect to scored factors is expressed numerically. Cumulative point deductions are assessed for variations of quality for each factor in accordance with the schedule in Table I, in the frozen, thawed, and cooked states. The total deduction is subtracted from the maximum possible score of 100 to obtain the product score.

(2) *Factors not rated by score points.* The factors of flavor and odor are evaluated organoleptically in the cooked state for both the light and dark meat (surface fat) and are defined as follows:

(i) *Good flavor and odor.* "Good flavor and odor" (essential requirement for Grade A) means that the fish flesh has the good flavor and odor characteristics of halibut, and is free from rancidity and from off-flavors and off-odors.

(ii) *Reasonably good flavor and odor.* "Reasonably good flavor and odor" (minimum requirement for Grade B) means that the fish flesh may be somewhat lacking in the good flavor and odor characteristic of halibut, is reasonably free of rancidity, and is free from objectionable off-flavors and off-odors.

(iii) *Substandard flavor and odor.* "Substandard flavor and odor" (Substandard grade) means that the flavor and odor fail to meet the requirements of "reasonably good flavor and odor."

(3) *Determination of final product grade.* The final product grade is derived on the basis of both the product score as determined by the "factors rated by score points" and the grade requirements of flavor and odor as defined under "factors not rated by score points." The lower of the two determines the final grade.

TABLE I—SCHEDULE OF POINT DEDUCTIONS FOR FACTORS RATED BY SCORE POINTS [1]

	Factor	Description of quality variation	Deduct
Frozen	1. Dehydration [2]	Per steak Surface area affected: Less than 1 square inch but obvious	1
		1 to 2 square inches	2
		Above 2 square inches	3
	2. Percentage glaze	Over 0.0, not over 6.0 percent by weight of sample unit	0
		Over 6.0, not over 7.0	1
		Over 7.0, not over 8.0	2
		Over 8.0, not over 9.0	3
		Over 9.0	4
	3. Uniformity of thickness	For each 1/16 inch above ⅛ inch variation in steak thickness (maximum total deduction permitted 6 points per sample unit).	2
	4. Uniformity of weight and minimum weight.	Style I—Random weight.—Use either (a) or (b), whichever gives a greater deduction.	
		(a) For each steak less than 3.0 ounces in weight per sample package.	4
		(b) For each 0.1 ounce below 4.0 ounces in average steak weight per sample.	½
		Style II—Uniform weight or portions.—For each full 1 percent of the steaks deviating by more than 0.6 ounce from the specified portion weight or the average of the specified portion range (per sample package).	2
Thawed	5. Workmanship—Defects of: Cutting, collar bone, loose skin, fins, blood spots, bruises, foreign material, backbone, cartilage, sawdust.	Slight or moderate	1
		Excessive (For each defect, per occurrence, per sample package or per 2 pounds for packages over 2 pounds net weight.)	2
	6. Color defects:	(Per sample unit)	
	(a) Discoloration of drip liquor	Slight	1
		Moderate	2
		Excessive	3
	(b) Discoloration of light meat [3]	(Per steak) Slight	1
		Moderate	2
		Excessive	3
	(c) Discoloration of dark meat [3]	(Per steak) Slight	1
		Moderate	2
		Excessive	3
	(d) Non-uniformity of color	(Per sample unit) Slight	1
		Moderate	2
		Excessive	3
	7. Honeycombing [3]	(Per steak) Surface area affected: 26 to 50 percent	½
		51 to 75 percent	1
		76 to 100 percent	2
Cooked	8. Texture defect [3] (tough, dry, fibrous, or watery).	(Per steak) Slight	1
		Moderate	2
		Excessive	3

[1] This schedule of point deductions is based on the examination of sample units composed of: (a) An entire sample package and its contents (for retail sized packages) or (b) a representative subsample consisting of three or more halibut steaks taken from each sample package (for institutional sized packages), except that the entire sample package shall be examined for factor 4.

[2] Point deductions for these factors are based on a 3-steak sample unit. For samples containing other than 3 steaks per sample unit or per package, multiply the results by the correction factor $\frac{3}{n}$ where n equals the number of steaks.

DEFINITIONS AND METHODS OF ANALYSIS

§ 265.21 Definitions and methods of analysis.

(a) "Percentage glaze" on halibut steak means the percent by weight of frozen coating adhering to the steak surfaces and includes the frost within the package. It is determined by the method described below or by methods giving equivalent results.

(1) *Equipment needed.* (i) Source of cold tap water with aerated faucet.

(ii) Balance accurate to 0.1 gm.; or 0.01 ounce.

(iii) Paper towels.

(iv) Small knife.

(2) *Procedure.* (i) Weigh package in overwrap and all its contents (A).

(ii) Remove steaks and loose frost; weigh dry packaging (B).

(iii) The difference in weight, A–B represents weight of steaks plus glaze (C).

(iv) Remove glaze from halibut steaks.

(*a*) Adjust tap water to a flow rate of about 3 quarts/min. through an aerated faucet.

(*b*) Direct 50° to 60° F. tap water onto skin side of steak while gently feeling and

rubbing cut surfaces with finger tips (if necessary, temperatures up to 80° F. may be used but require closer control).

(c) When all glaze is removed from cut flesh surface, as evidenced by absence of slick feel to fingers, remove steak from water.

(d) Rapidly remove excess water with single paper towel before it has time to refreeze on the steak, and flick off residual skin glaze by knife or hand.

(e) Repeat steps (b), (c), and (d) on each steak in package or sample unit.

(f) Weigh deglazed halibut steaks (D, actual net weight of sample).

(Steps (a) through (f) of this subdivision are completed within 3 minutes.)

(v) Calculate percentage glaze: Percentage glaze $= \frac{C-D}{D} \times 100$.

(b) "Cooked state" means that the thawed product has been cooked in a suitable manner which is defined as being heated submerged in boiling water, unseasoned, and in a boilable film type pouch for 10 minutes. (Steaks over 1 inch in thickness may require 5 additional minutes of heating.)

(c) Uniformity of thickness means that the thickness is substantially the same for one or more steaks within a package or sample unit.

(d) Color defects:

(1) "Discoloration of drip liquor" means that the free liquid which drains from the thawed steaks is discolored with blood residue usually from the dorsal aorta of the halibut.

(2) "Discoloration of light meat" means that the normal flesh color of the main part of the halibut steak has darkened due to deteriorative influences.

(3) "Discoloration of the dark meat" means that the normal color of the surface fat shows increasing degrees of yellowing due to oxidation.

(4) "Nonuniformity of color" refers to noticeable differences in color on a single steak or between adjacent steaks in the same package.

(e) "Dehydration" refers to the appearance of a whitish area on the surface of a steak due to the removal of water or drying of the affected area.

(f) "Honeycombing" refers to the visible appearance of numerous discrete holes or openings of varying size on the steak surface.

(g) "Workmanship defects" refers to appearance defects that were not eliminated during processing and are considered either objectionable or poor commercial practice.

(h) "Texture defect" refers to an undesirable increase in toughness and/or dryness, fibrousness, and watery nature of halibut examined in the cooked state.

LOT CERTIFICATION TOLERANCES

§ 265.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified on the basis of Part 260 of this chapter.

SCORE SHEET

§ 265.31 Score sheet for frozen halibut steaks.

GENERAL

Label _____
Size and kind of container _____
Container mark or identification _____
Size of lot _____
Number of samples _____
Actual net weight (ounces) _____
Number of steaks per container _____
Product style _____

Scored factors (table 1)	Deductions
Frozen:	
1. Dehydration	
2. Percentage glaze	
3. Uniformity of thickness	
4. Uniformity of weight	
Thawed:	
5. Workmanship	
6. Color defects	
7. Honeycombing	
Cooked:	
8. Texture	
Total deductions	
Rating for scored factors (100—Total deductions)	

Unscored factors	Rating
Cooked:	
a. Odor	
b. Flavor (light meat)	
(dark meat)	
Flavor and odor rating	

Final grade _____

PART 266—UNITED STATES STANDARDS FOR GRADES OF FROZEN RAW BREADED FISH PORTIONS

Sec.
266.1 Description of the product.
266.2 Styles of frozen raw breaded fish portions.
266.3 Grades of frozen raw breaded fish portions.
266.5 Labeling requirements for styles of frozen raw breaded fish portions.
266.11 Determination of the grade.
266.21 Definitions.
266.25 Tolerances for certification of officially drawn samples.

AUTHORITY: The provisions of this Part 266 issued under sec. 6, 70 Stat. 1122; 16 U.S.C. 742e.

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act.

§ 266.1 Description of the product.

Frozen raw breaded portions are clean, wholesome, uniformly shaped, unglazed masses of cohering pieces (not ground) of fish flesh coated with breading. The portions are cut from frozen fish blocks; are coated with a suitable, wholesome batter and breading; and are packaged and frozen in accordance with good commercial practice. They are maintained at temperatures necessary for the preservation of the product. Frozen raw breaded fish portions weigh more than 1½ ounces, and are at least ⅜-inch thick. Frozen raw breaded fish portions contain not less than 75 percent, by weight, of fish flesh. All portions in an individual package are prepared from the flesh of one species of fish.

§ 266.2 Styles of frozen raw breaded fish portions.

(a) *Style I—Skinless portions.* Portions prepared from fish blocks which have been made with skinless fillets.

(b) *Style II—Skin-on-portions.* Portions prepared from fish blocks which have been made with demonstrably acceptable skin-on fillets.

§ 266.3 Grades of frozen raw breaded fish portions.

(a) "U.S. Grade A" is the quality of frozen raw breaded fish portions that (1) possess good flavor and odor and (2) rate a total score of not less than 85 points for those factors of quality that are rated in accordance with the scoring system outlined in this part.

(b) "U.S. Grade B" is the quality of frozen raw breaded fish portions that (1) possess at least reasonably good flavor and odor and (2) rate a total score of not less than 70 points for those factors of quality that are rated in accordance with the scoring system outlined in this part.

(c) "Substandard" is the quality of frozen raw breaded portions that meet the requirements of § 266.1, Description of Product, but otherwise fail to meet the requirements of "U.S. Grade B".

§ 266.5 Labeling requirements for styles of frozen raw breaded fish portions.

Section 260.86 (a), (b), and (c) of Part 260 states the requirements for the use of approved grade marks, inspection marks and combined grade and inspection marks on processed fishery products. When an approved inspection mark is used on Style II (§ 266.2) of frozen raw breaded fish portions, that style shall be conspicuously revealed on the label as having been made from "skin-on-fillets".

§ 266.11 Determination of the grade.

The grade is determined by examining the product in the frozen and cooked states and is evaluated in accordance with the following factors:

(a) *Factors rated by score points.* Points are deducted for variations in the quality of each factor in accordance with the schedule in Table 1. The total points deducted is subtracted from 100 to obtain the score. The maximum score is 100; the minimum score is 0.

(b) *Factors not rated by score points.* The factor of "flavor and odor" is evaluated organoleptically by smelling and tasting, after the product has been cooked in accordance with § 266.21.

(1) Good flavor and odor (essential requirements for a Grade A product) means that the cooked product has the typical flavor and odor of the indicated species of fish and of the breading and is free from rancidity, bitterness, staleness, and off-flavors and off-odors of any kind.

(2) Reasonably good flavor and odor (minimum requirements of a Grade B product) means that the cooked product is lacking in good flavor and odor but is free from objectionable off-flavors and off-odors of any kind.

TABLE 1—SCHEDULE OF POINT DEDUCTIONS PER SAMPLE UNIT OF 10 PORTIONS

		Factors scored		Method of determining score	Deduct
Frozen state	1	Condition of package		Small degree: Moderate loose breading and/or moderate frost Large degree: Excessive loose breading and/or excessive amount frost.	3 6
	2	Ease of separation		Minor: Hand separated with difficulty. Each affected Major: Separated only by knife or other instrument. Each affected.	1 2
	3	Broken portion		Break or cut greater than ½ width or length. Each affected	10
	4	Damaged portion		Mashed, mechanically and/or physically injured, misshaped or mutilated.[1] Minor: 1 to 5 instances. Each affected Major: Over 5 instances. Each affected	 2 4
	5	Uniformity	Size	Deviation in length or width between the 2 largest and 2 smallest portions is: Up to ¼ inch Over ¼ inch and up to ½ inch Over ½ inch	 0 3 10
	6	Uniformity	Weight	Weight ratio of the 2 heaviest divided by the 2 lightest portions: Over 1.0 but not over 1.2 Over 1.2 but not over 1.3 Over 1.3 but not over 1.4 Over 1.4	 0 2 5 10
Cooked state	7	Distortion		Minor: Bending, shrinking, twisting—¼ to ½ inch. Each affected. Major: Excessive bending, shrinking, twisting—over ½ inch. Each affected.	1 2
	8	Coating defects		Bare spots, blistering, ridges, breaks, curds: [1] Minor: 1 to 6 instances. Each affected Major: Over 6 instances. Each affected	 1 2
	9	Blemishes		Skin (except for style II), blood spots, bruises, and discolorations: [1] Minor: 1 to 6 instances. Each affected Major: Over 6 instances. Each affected	 2 4
	10	Bones		Portions containing bones (potentially harmful). Each affected	10
	11	Texture	Coating	Small degree: Moderately dry, soggy, doughy, or tough Large degree: Farinsceous (mealy), pasty, very tough	5 15
	12	Texture	Fish flesh	Small degree: Moderately dry, soft, mushy Large degree: Dry to the point of fibrousness, very mushy, tough, or rubbery (skin for style II).	5 15

[1] An instance=each 1/16 square inch (¼-inch square).

§ 266.21 Definitions.

(a) Selection of the sample unit: The sample unit shall consist of 10 frozen raw breaded fish portions taken at random from one or more packages as required. The fish portions are spread out on a flat pan or sheet and are examined according to Table 1. Definitions of factors for point deductions are as follows:

(b) Examination of sample, frozen state: (1) "Condition of package" refers to the presence in the package of loose breading and/or loose frost.

(2) "Ease of separation" refers to the difficulty of separating the portions from each other or from the packaging material.

(3) "Broken portion" means a portion with a break or cut equal to or greater than one-half the width or length of the portion.

(4) "Damaged portion" means a portion that has been mashed, physically or mechanically injured, misshaped, or multilated to the extent that its appearance is materially affected. The amount of damage is measured by using a grid composed of squares ¼-inch x ¼-inch (that is, squares with an area of 1/16 square inch each) to measure the area of the portion affected. No deductions are made for damage of less than 1/16 square inch.

(5) "Uniformity of size" refers to the degree of uniformity in length and width of the frozen portions. Deviations are measured from the combined lengths of the two longest minus the combined lengths of the two shortest and/or the combined widths of the two widest minus the combined widths of the two narrowest portions in the sample. Deductions are not made for overall deviations in length or width up to ¼ inch.

(6) "Uniformity of weight" refers to the degree of uniformity of the weights of the portions. Uniformity is measured by the combined weight of the two heaviest portions divided by the combined weight of the two lightest portions in the sample. No deductions are made for weight ratios less than 1.2.

(c) (1) Cooked state means the state of the product after being cooked in accordance with the instructions accompanying the product. If, however, specific instructions are lacking, the product being inspected is cooked as follows:

(2) Transfer the product, while still frozen, into a wire mesh fry basket large enough to hold the fish portions in a single layer and cook by immersing them 3–5 minutes in liquid or hydrogenated cooking oil heated to 350° to 375° F. After cooking, allow the fish portions to drain 15 seconds and place them on a paper napkin or towel to absorb excess oil.

(d) Examination of sample, cooked state.

(1) "Distortion" refers to the degree of bending of the long axis of the portion. Distortion is measured as the greatest deviation from the long axis. Deductions are not made for deviations of less than ¼ inch.

(2) "Coating defects" refers to breaks, lumps, ridges, depressions, blisters or swells and curds in the coating of the cooked product. Breaks in the coating are objectionable bare spots through which the fish flesh is plainly visible. Lumps are objectionable outcroppings of breading on the portion surface. Ridges are projections of excess breading at the edges of the portions. Depressions are objectionable visible voids or shallow areas that are lightly covered by breading. Blisters are measured by the swelling or exposed area in the coating resulting from the bursting or breaking of the coating. Curd refers to crater-like holes in the breading filled with coagulated white or creamy albumin. Instances of these defects are measured by a plastic grid marked off in ¼-inch squares (1/16 square inch). Each square is counted as 1 whether it is full or fractional.

(3) "Blemishes" refers to skin (except for Style II), blood spots or bruises, objectionable dark fatty flesh, or extraneous material. Instances of blemishes refers to each occurrence measured by placing a plastic grid marked off in ¼-inch squares (1/16 square inch) over the defect area. Each square is counted as 1 whether it is full or fractional.

(4) "Bones" means the presence of potentially harmful bones in a portion. A potentially harmful bone is one that after being cooked is capable of piercing or hurting the palate.

(5) "Texture defects of the coating" refers to the absence of the normal textural properties of the coating which are crispness and tenderness. Defects in coating texture are dryness, sogginess, mushiness, doughyness, toughness, pastyness, as sensed by starchiness or other sticky properties felt by mouth tissues and/or mealiness.

(6) "Texture defects of the fish flesh and texture of skin in Style II" refers to the absence of the normal textural properties of the cooked fish flesh and to the absence of tenderness of the cooked skin in Style II. Normal textural properties of cooked fish flesh are tenderness, firmness, and moistness without excess water. Texture defects of the cooked flesh are dryness, mushiness, toughness, and rubberyness. Texture defects of the cooked skin in Style II are mushiness, rubberyness, toughness, and stringiness.

(e) General definitions. (1) "Small" (overall assessment) refers to a condition that is noticeable but is not seriously objectionable.

(2) "Large" (overall assessment) refers to a condition that not only is noticeable but is seriously objectionable.

(3) "Minor" (individual assessment) refers to a defect that slightly affects the appearance and/or utility of the product.

(4) "Major" (individual assessment) refers to a defect that seriously affects the appearance and/or utility of the product.

(f) *Minimum fish flesh content* refers to the minimum percent, by weight, of the average fish flesh content of 3 or

more portions per sample unit as determined by the following method:

(1) *Equipment needed.* (i) Water bath (for example, a 3 to 4 liter beaker).

(ii) Balance accurate to 0.1 gram.

(iii) Clip tongs of wire, plastic, or glass.

(iv) Stop-watch or regular watch readable to a second.

(v) Paper towels.

(vi) Spatula, 4-inch blade with rounded tip.

(vii) Nut picker.

(viii) Thermometer (immersion type) accurate to ±2° F.

(ix) Copper sulfate crystals ($CuSO_4 \cdot 5H_2O$)—1 pound.

(2) *Procedure.* (i) Weigh all portions in the sample while they are still hard frozen.

(ii) Place each portion individually in a water bath that is maintained at 63° F. to 86° F. and allow to remain until the breading becomes soft and can easily be removed from the still frozen fish flesh (between 10 to 80 seconds for portions held in storage at 0° F.). If the portions were prepared using batters that are difficult to remove after one dipping, redip them for up to 5 seconds after the initial debreading and remove residual batter materials.

NOTE: Several preliminary trials may be necessary to determine the exact dip time required for "debreading" the portions in a sample unit. For these trials only, a saturated solution of copper sulfate (1 pound of copper sulfate in 2 liters of tap water) is necessary. The correct dip time is the minimum time of immersion in the copper sulfate solution required before the breading can easily be scraped off: *Provided,* (1) That the "debreaded" portions are still solidly frozen and (2) only a slight trace of blue color is visible on the surface of the "debreaded" fish portions.

(iii) Remove the portion from the bath; blot lightly with double thickness paper toweling; and scrape off or pick out coating from the fish flesh with the spatula or nut picker.

(iv) Weigh all the "debreaded" fish portions.

(v) Calculate the percent of fish flesh in the sample using the following formula:

$$\text{Percent fish flesh} = \frac{\text{Weight of fish flesh (d)}}{\text{Weight of raw breaded portions (a)}} \times (100)$$

§ 266.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified in accordance with Part 260, of this chapter (Regulations Governing Processed Fishery Products, v. 25 F.R. 8427 Sept. 1, 1960) except that a sample unit shall consist of 10 portions taken at random from one or more packages as required.

PART 267—UNITED STATES STANDARDS FOR GRADES OF FROZEN COD FILLETS

PRODUCT DESCRIPTION AND GRADES

Sec.
267.1 Product description.
267.2 Grades of frozen cod fillets.

WEIGHTS AND DIMENSIONS

267.6 Recommended weights and dimensions.

FACTORS OF QUALITY

267.11 Ascertaining the grade.
267.12 Evaluation of the unscored factor of flavor and odor.
267.13 Evaluation and rating of the scored factors; appearance, size, absence of defects, and character.
267.14 Appearance.
267.15 Size.
267.16 Absence of defects.
267.17 Character.

DEFINITIONS AND METHODS OF ANALYSIS

267.21 Definitions and methods of analysis.

LOT CERTIFICATION TOLERANCES

267.25 Tolerances for certification of officially drawn samples.

SCORE SHEET

267.31 Score sheet for frozen cod fillets.

AUTHORITY: The provisions of this Part 267 issued under sec. 6(a), 70 Stat. 1122; 16 U.S.C. 742e.

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

PRODUCT DESCRIPTION AND GRADES

§ 267.1 Product description.

The product described in this part consists of clean, whole, wholesome fillets or primarily large pieces of clean, whole, wholesome fillets, cut away from either side of cod, Gadus morhua or Gadus macrocephalus; the fillets may be either skinless or with skin on. They are packaged and frozen in accordance with good commercial practice and are maintained at temperatures necessary for the preservation of the product. (This part does not provide for the grading of pieces of fish flesh cut away from previously frozen fish blocks, slabs, or similar products.)

§ 267.2 Grades of frozen cod fillets.

(a) "U.S. Grade A" is the quality of frozen cod fillets that possess good flavor and odor; and for those factors of quality which are rated in accordance with the scoring system outlined in this part the total score is not less than 85 points.

(b) "U.S. Grade B" is the quality of frozen cod fillets that possess at least reasonably good flavor and odor; and for those factors of quality which are rated in accordance with the scoring system outlined in this part the total score is not less than 70 points.

(c) "Substandard" is the quality of frozen cod fillets that fail to meet the requirements of U.S. Grade B.

WEIGHTS AND DIMENSIONS

§ 267.6 Recommended weights and dimensions.

(a) The recommendations as to net weights and dimensions of packaged frozen cod fillets are not incorporated in the grades of the finished product since net weights and dimensions, as such, are not factors of quality for the purpose of these grades.

(b) It is recommended that the net weights of the packaged frozen cod fillets be not less than 12 ounces and not over 10 pounds.

FACTORS OF QUALITY

§ 267.11 Ascertaining the grade.

The grade of frozen cod fillets is ascertained by examining the product in the frozen, thawed, and cooked states. The following factors of quality are evaluated in ascertaining the grade of the product: Flavor and odor, appearance, size, absence of defects, and character. These factors are rated in the following manner:

(1) *Flavor and odor.* This factor is rated directly by organoleptic evaluation. Score points are not assessed (see § 267.12).

(2) *Appearance, size, absence of defects, and character.* The relative importance of these factors is expressed numerically on the scale of 100. The maximum number of points that may be given each of these factors are:

Factors	*Points*
Appearance	25
Size	20
Absence of defects	40
Character	15
Total possible score	100

§ 267.12 Evaluation of the unscored factor of flavor and odor.

(a) *Good flavor and odor.* "Good flavor and odor" (essential requirement for a Grade A product) means that the fish flesh has good flavor and odor characteristic of cod (Gadus morhua or Gadus macrocephalus) and is free from staleness, and off-flavors and off-odors of any kind.

(b) *Reasonably good flavor and odor.* "Reasonably good flavor and odor" (minimum requirement of a Grade B product) means that the fish flesh may be somewhat lacking in good flavor and odor; and is free from objectionable off-flavors and off-odors of any kind.

§ 267.13 Evaluation and rating of the scored factors; appearance, size, absence of defects, and character.

The essential variations in quality within each factor which is scored are so described that the value may be ascertained for each factor and expressed numerically. Point deductions are allotted for each degree or amount of variation within each factor. The net score for

each factor is the maximum points for that factor less the sum of the deduction-points within the factor. The total score for the product is the sum of the net scores for the four scored factors.

§ 267.14 Appearance.

(a) The factor of appearance refers to the normal color of the species of frozen fish flesh, and to the degree and amount of surface dehydration of the frozen product.

(b) For the purpose of rating the factor of appearance the schedule of deduction-points in Tables I and II apply. Frozen cod fillets which receive 25 deduction points for the factor of appearance shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

TABLE I—SCORE DEDUCTIONS FOR DISCOLORATION

Color of frozen product	Deduction points	
	"Light" colored portion comprising main portion of fillet	"Dark" colored portion occurring under skin mainly along lateral line
No discoloration	0	0
Slight yellowing	2	1
Moderate yellowing	4	2
Excessive yellowing and/or any rusting	13	12

TABLE II—SCORE DEDUCTIONS FOR DEHYDRATION

Degree of dehydration of frozen product	Surface area affected (percent)		Deduction points
	Over—	Not over—	
Slight—Shallow and not color masking	0	1	0
	1	50	2
	50	100	5
Moderate—Deep but just deep enough to easily scrape off with fingernail	1	25	5
	25	50	8
	50	100	16
Excessive—Deep dehydration not easily scraped off	1	25	12
	25	100	25

§ 267.15 Size.

(a) The factor of size refers to the degree of freedom from undesirably small fillet pieces. Any fillet piece weighing less than 2 ounces is classed as being undesirably small.

(b) For the purpose of rating the factor of size the schedule of deduction-points in Table III apply. Cod fillets which receive 20 deduction points for this factor shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

TABLE III—SCORE DEDUCTIONS FOR SIZE OF FILLET PIECES

Number of fillet pieces less than 2 ounces per pound		Deduction points
Over—	Not over—	
	0	0
0	1	1
1	2	10
2	3	15
3	4	20

§ 267.16 Absence of defects.

(a) The factor of "absence of defects" refers to the degree of freedom from improper packing, cutting and trimming imperfections, blemishes, and bones. Evaluation for the defect of improper packing is made on the frozen product. Evaluation of the defects of cutting and trimming, blemishes, and bones are made on the thawed product.

(1) *Improper packing.* "Improper packing" means poor arrangement of fillets, presence of voids, depressions, frost, and the imbedding of packaging material into the frozen fish flesh.

(2) *Cutting and trimming imperfections.* "Cutting and trimming imperfections" means that the thawed fillets have ragged edges, tears, holes, or are otherwise improperly cut or trimmed.

(3) *Blemish.* "Blemish" means an instance of skin (except for skin-on fillets), scales, blood-spot, bruise, black-belly lining, fin, or extraneous material. One "instance of skin" consists of one piece of skin not less than ½ square inch and not more than 1½ square inches in area; each additional ½ square inch area of individual skin pieces greater and 1½ square inches is considered as an additional instance. One "instance of blood spot" is one of such size and prominence as to be considered objectionable. One "instance of black-belly lining" is any piece of black-belly lining not less than ½ inch and not more than 1 inch in length; each additional ½ inch length of individual pieces of black-belly lining longer than 1 inch is considered as an instance. Each aggregate area of identifiable fin or parts of any fin up to 1 square inch is considered as one "instance of fin". Each aggregate area up to 1 square inch per fillet of one scale or group of scales is considered as one "instance of scales". An "instance of bruise" consists of a bruise not loss than ½ square inch and not more than 1½ square inches in area; each bruise larger than 1½ square inches is considered as two instances of bruise.

(4) *Bones.* One "instance of bone" means one bone or one group of bones occupying or contacting a circular area up to 1 square inch.

(b) For the purpose of rating the factor of "absence of defects" the schedule of deduction-points in Table IV apply.

TABLE IV—SCORE DEDUCTIONS FOR ABSENCE OF DEFECTS

Defects subfactors	Method of determining subfactor score	Deduction points
Improper packing.	Moderate defects, noticeably affecting the product's appearance.	2
	Excessive defects, seriously affecting product's appearance.	4
Blemishes	Number of blemishes per 1 lb. of fish flesh:	
	Over 0 not over 1	1
	Over 1 not over 2	3
	Over 2 not over 3	5
	Over 3 not over 4	8
	Over 4 not over 5	12
	Over 5 not over 6	16
	Over 6 not over 7	30
	Over 7	40
Bones	Number of instances per 1 lb. of fish flesh:	
	Over 0 not over 1	0
	Over 1 not over 2	2
	Over 2 not over 3	4
	Over 3 not over 4	6
	Over 4 not over 5	8
	Over 5 not over 6	14
	Over 6 not over 7	30
	Over 7	40
Cutting and trimming.	Slight defects, scarcely noticeable.	0
	Moderate defects, noticeable but not affecting the usability of any fillets.	4
	Excessive defects impairing:	
	(a) the usability of up to ¼ of the total number of fillets.	8
	(b) the usability of over ¼ but not more than ½ of the total number of fillets.	16
	(c) the usability of over ½ of the total number of fillets.	40

§ 267.17 Character.

(a) The factor of character refers to the amount of free drip in the thawed fillets, and to the tenderness and moistness of the cooked fish flesh.

(b) For the purpose of rating the factor of character, the schedule of deduction-points in Table V apply. Cod fillets which receive 15 deduction-points for the factor of character shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

TABLE V—SCORE DEDUCTIONS FOR CHARACTER

Character subfactors	Method of determining subfactor score	Deduction points
Texture	Texture of the cooked fish:	
	(a) Firm, slightly resilient but not tough or rubbery; moist but not mushy.	0
	(b) Moderately firm; only slightly tough or rubbery; does not form a fibrous mass in the mouth; moist but not mushy.	4
	(c) Moderately tough or rubbery; has noticeable tendency to form a fibrous mass in the mouth; or is dry; or is mushy	8
	(d) Excessively tough or rubbery; has marked tendency to form a fibrous mass in the mouth; or is very dry; or is very mushy.	15
Drip	Percent of drip:	
	Over 0 not over 5	0
	Over 5 not over 6	1
	Over 6 not over 8	2
	Over 8 not over 10	4
	Over 10 not over 12	6
	Over 12 not over 14	9
	Over 14 not over 16	12
	Over 16	15

DEFINITIONS AND METHODS OF ANALYSIS

§ 267.21 Definitions and methods of analysis.

(a) *Percent of drip.* "Percent of drip" means the percent by weight of "free drip" (the fluid which is not reabsorbed by the fish tissue when the frozen fish thaws, and which separates freely without the aid of any external forces except gravity) in an individual package as determined by the following method:

(1) *Apparatus and materials.* (i) Water bath.

(ii) Balance, accurate to 0.1 gm; or 0.01 ounce.

(iii) Pliable and impermeable bag (cryovac, pliofilm, etc.).

(iv) Corrosion resistant metal rod weight (preferably stainless steel or monel metal), measuring 3½ inches in length and approximately ¼–½ inch in diameter.

(v) U.S. Standard No. 8 mesh circular sieve (both 8 and 12 inch diameters).

(vi) Stirring motor.

(vii) Identification tags.

(2) *Procedure.* (i) Place metal rod weight into an empty pliable bag.

(ii) Weigh the bag and the metal weight.

(iii) Remove the frozen fish material from the container (container consists of the carton and the inner and outer wrapping).

(iv) Place the frozen product, plus scraps of any material remaining in the container, into the pliable bag.

(v) Weigh the bag and its contents and subtract tare (empty bag and metal weight) to determine the net weight of the product.

(vi) Suspend the bag and contents in an agitated water bath maintained at 68° F. plus or minus 2° F. The bag should be suspended in the water so that the fish flesh is below the water line.

(vii) Allow the bag and its contents to remain immersed until the product is defrosted (a "test run", in advance, is necessary to determine time required for each product and quantity of product).[1]

(viii) Remove bag and contents from bath and gently dry outside of bag.

(ix) Weigh dry U.S. Standard No. 8 mesh circular sieve.

(x) Open bag and empty contents onto U.S. Standard No. 8 circular sieve so as to distribute the product evenly, inclining the sieve slightly to facilitate drainage, and allowing to drain for 2 minutes.

(xi) Weigh sieve and its contents and calculate drained weight. The drained weight is the weight of sieve and fillets less the weight of the dry sieve.

(xii) Calculate percent drip:

$$\frac{\text{Net weight (v)} - \text{drained weight (xi)} \times (100)}{\text{Net weight (v)}} = \text{Percent of drip}$$

[1] The purpose of the "test run" is to determine the time necessary to thaw the product. The complete thawing of the product is determined by frequent but gentle squeezing of the bag until no hard core or ice crystals are felt. This package which has been squeezed cannot be used for drained weight calculations.

(b) *Cooking in a suitable manner.* "Cooking in a suitable manner" shall mean that the product is cooked as follows: Place the thawed unseasoned product into a boilable film-type pouch; fold the open end of the pouch over the suspension bar and clamp in place to provide a loose seal. Immerse the pouch and its contents in boiling water and cook until the internal temperature of the fillets reaches 160° F. (about 20 minutes).

LOT CERTIFICATION TOLERANCES

§ 267.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified in accordance with Part 260 of this chapter.

SCORE SHEET

§ 267.31 Score sheet for frozen cod fillets.

Label: _____
Size and kind of container: _____
Container mark or identification: _____
Size of lot: _____
Number of packages per master carton: _____
Size of sample: _____
Type of overwrap: _____
Actual net weight: _____ (lb.) _____ (kg.)

Factor	Score points	Sample score
Appearance	25	
Size	20	
Absence of defects	40	
Character	15	
Total	100	

Flavor and odor _____
Final grade _____

PART 268—UNITED STATES STANDARDS FOR GRADES OF FROZEN SALMON STEAKS

PRODUCT DESCRIPTION, STYLE, AND GRADES

Sec.
268.1 Product of description.
268.2 Style of frozen salmon steaks.
268.3 Grades of frozen salmon steaks.

DIMENSIONS

268.6 Recommended dimensions.

FACTORS OF QUALITY AND GRADE

268.11 Ascertaining the grade.

DEFINITIONS

268.21 Definitions.

LOT CERTIFICATION TOLERANCES

268.25 Tolerances for certification of officially drawn samples.

SCORE SHEET

268.31 Score sheet for frozen salmon steaks.

AUTHORITY: The provisions of this Part 268 issued under sec. 6(a), 70 Stat. 1122; 16 U.S.C. 742e.

PRODUCT DESCRIPTION, STYLES, AND GRADES

§ 268.1 Product description.

Frozen salmon steaks are clean, wholesome units of frozen raw fish flesh with normally associated skin and bone and are 2.5 ounces or more in weight. Each steak has two parallel surfaces and is derived from whole or subdivided salmon slices of uniform thickness which result from sawing or cutting dressed salmon perpendicularly to the axial length, or backbone. The steaks are prepared from either frozen or unfrozen salmon (Oncorhynchus spp.) and are processed and frozen in accordance with good commercial practice and are maintained at temperatures necessary for the preservation of the product. The steaks in an individual package are prepared from only one species of salmon.

(a) *Species.* Frozen salmon steaks covered by this standard are prepared from salmon of any of the following species:

Silver or coho (O. kisutch).
Chum or keta (O. keta).
King, chinook, or spring (O. tshawytscha).
Red, sockeye (O. nerka).
Pink (O. gorbuscha).

§ 268.2 Styles of frozen salmon steaks.

(a) *Style I—Random weight pack.* The individual steaks are of random weight and neither the individual steak weight nor the range of weights is specified. The steaks in the lot represent the random distribution cut from the head to tail of a whole dressed salmon.

(b) *Style II—Random weight combination pack.* The individual steaks are of random weight and neither the individual steak weight nor range of weights is specified. The steaks in the lot represent a combination of cuts from selected parts of the whole dressed salmon.

(c) *Style III—Uniform weight or portion pack.* All steaks in the package or in the lot are of a specified weight or range of weights.

§ 268.3 Grades of frozen salmon steaks.

(a) "U.S. Grade A" is the quality of frozen salmon steaks that possess good flavor and odor, and that for those factors which are rated in accordance with the scoring system outlined in the following sections the total score is not less than 85 points.

(b) "U.S. Grade B" is the quality of frozen salmon steaks that possess at least reasonably good flavor and odor, and that for those factors which are rated in accordance with the scoring system outlined in the following sections the total score is not less than 70 points.

(c) "Substandard" is the quality of frozen salmon steaks that fail to meet the requirements of the "U.S. Grade B."

DIMENSIONS

§ 268.6 Recommended dimensions.

(a) The recommended dimensions of frozen salmon steaks are not incorporated in the grades of the finished product since dimensions, as such, are not factors of quality for the purpose of these grades. However, the degree of uniformity of thickness among units of the finished product is rated since it is a factor affecting the quality and utility of the product.

(b) It is recommended that the thickness (smallest dimension) of individually frozen salmon steaks be not less than ½ inch and not greater than 1½ inches.

FACTORS OF QUALITY AND GRADE

§ 268.11 Ascertaining the grade.

The grade is ascertained by observing the product in the frozen, thawed, and cooked states and is determined by consideration of the following:

(a) *Factors rated by score points.* The quality of the product with respect to all factors is scored numerically. Cumulative point deductions are assessed for variations of quality for the factors in accordance with the schedule in Table I, in the frozen, thawed, and cooked states. The total deduction is subtracted from the maximum possible score of 100 to obtain the "product score."

(b) *Factors governed by "limiting rule".* The factors of flavor and odor, in addition to being rated by score points, are further considered for compliance with the "limiting rule" grade requirements of flavor and odor in Table I, as defined under Definitions § 268.21(g) (9) and (10).

(c) *Determination of the final product grade.* The final product grade is derived on the basis of both the "product score" and the "limiting rule" grade requirements of flavor and odor, per Table I.

TABLE I—SCHEDULE OF POINT DEDUCTIONS FOR FACTORS RATED BY SCORE POINTS [1]

Scored factors	Description of quality variation	Deduct
FROZEN		
1. General appearance defects	Per occurrence:	
	Slight	1–2
	Moderate	3–4
	Excessive	5–10
2. Dehydration	(Per occurrence) for each 1 sq. inch of surface area	1
3. Uniformity of thickness	For each 1/16 inch above 1/8" variation tolerance in steak thickness (max. deduction: 6 points).	2
4. Uniformity of weight and minimum weight	Style I & II—Random weight. For each steak between 2.5 and 3.0 ounces in weight per package, or per pound of product for packages over 1 pound net wt.	4
	Style III—Uniform weight or portion. For each 0.1 ounce beyond the 0.1 ounce tolerance of the specified portion weight range per 5 lbs. of product.	1
THAWED		
5. Workmanship defects: Blood spots, bruises, cleaning, cutting, fins, foreign material, collar-bone, girdle, loose skin, pugh marks, sawdust, scales.	Per occurrence:	
	Slight	1
	Moderate	2–4
	Excessive	5–8
6. Color defects:		
(a) Discoloration of fatty portion	Slight	1–2
	Moderate	3–5
	Excessive	6–10
(b) Discoloration of lean portion	Slight	1–2
	Moderate	3–5
	Excessive	6–10
(c) Non-uniformity of color	Slight	1–2
	Moderate	3–4
	Excessive	5–6
7. Honeycombing	Percent sample area affected:	
	26 to 50	1
	51 to 75	2
	75 to 100	3
COOKED		
8. Texture defect (tough, dry, fibrous, or watery)	Slight	1–2
	Moderate	3–5
	Excessive	6–10
9. Odor [2]	Good (A)	0–2
	Reasonably good (B)	3–5
10. Flavor:	Substandard (S)	6–15
(a) Lean portion	Good (A)	0–2
	Reasonably good (B)	3–5
	Substandard (S)	6–15
(b) Fatty portion	Good (A)	0–2
	Reasonably good (B)	3–5
	Substandard (S)	6–15

[1] This schedule of point deductions is based on the examination of sample units composed of: (a) An entire sample package and its contents (for retail sized packages) or (b) a representative subsample consisting of about one pound of salmon steaks taken from each sample package (for institutional sized packages), except that the entire sample package or its equivalent shall be examined for factor 4.

[2] "Limiting rule" grade requirements of flavor and odor: Salmon steaks which received over 5 deduction points for odor, or flavor of the lean, or flavor of the fatty portion, shall not be graded above substandard, and those which receive between 3 to 5 points shall not be graded above "U.S. Grade B," regardless of the total product score. (This is a "limiting rule" based on flavor and odor as defined under definitions § 268.21(g) (9) and (10)).

DEFINITIONS

§ 268.21 Definitions.

(a) "Slight" refers to a defect that is scarcely noticeable and may not affect the appearance, the desirability, and/or eating quality of the steaks.

(b) "Moderate" refers to a defect that is conspicuously noticeable (not seriously objectionable) and does not seriously affect the appearance, desirability and/or eating quality of the steaks.

(c) "Excessive" refers to a defect that is conspicuously noticeable (seriously objectionable) and seriously affects the appearance, desirability, and/or eating quality of the steaks.

(d) "Occurrence" is defined as each incidence of the same or different types of defects.

(e) "Cooked state" means that the thawed, unseasoned product has been heated within a boilable film-type pouch by immersing the pouch with product in boiling water for 10 minutes. Steaks cooked from the frozen state may require about two additional minutes of cooking.

(f) "Actual net weight" means the weight of the salmon steaks within the package after removal of all packaging material, ice glaze or other protective coatings.

(g) "Scored factors" (Table I):

(1) "General appearance defects" refer to poor arrangement of steaks, distortion of steaks, wide variation in shape between steaks greater than normal number of head and/or tail pieces, imbedding of packaging material into fish flesh, inside condition of package, frost deposit, excessive or non-uniform skin glaze, and undesirable level of natural color.

(2) "Dehydration" refers to the appearance of a whitish area on the surface of a steak due to the evaporation of water or drying of the affected area.

(3) "Uniformity of thickness" means that steak thickness is within the allowed 1/8-inch manufacturing tolerance between the thickest and thinnest parts of the steaks within a package or sample unit.

(4) "Uniformity of weight and minimum weight" is defined in Table I. (Portions are designated by "weight range" or "specified weight." The "weight range" of portions bearing "specified weight" designation on containers shall be taken as the "specified weight" plus or minus 0.5 ounce unless otherwise specified.)

(5) "Workmanship defects" refers to appearance defects that were not eliminated during processing and are considered objectionable or poor commercial practice. They include the following: Blood spots, bruises, cleaning (refers to inadequate cleaning of the visceral cavity from blood, viscera and loose or attached appendages), cutting (refers to irregular, inadequate, unnecessary, or improper cuts and/or trimmings), fins, foreign material (refers to any loose parts, of fish or other than fish origin), collar bone, girdle (refers to bony structure adjacent to fin), loose skin, pugh marks, sawdust and scales.

(6) "Color defects":

(i) "Discoloration of fat portion" means that the normal color of the fat shows increasing degrees of yellowing due to oxidation.

(ii) "Discoloration of lean portion" means that the normal surface flesh color has faded or changed due to deteriorative influences.

(iii) "Nonuniformity of color" refers to noticeable differences in surface flesh color on a single steak or between adjacent steaks in the same package or sample unit. It would also include color variation of the visceral cavity and skin watermarking.

(7) "Honeycombing" refers to the visible appearance on the steak surface of numerous discrete holes or openings of varying size.

(8) "Texture defect" refers to an undesirable increase in toughness and/or dryness, fibrousness, and watery nature of salmon examined in the cooked state.

(9) "Odor" and "flavor:"

(i) "Good flavor and odor" (essential requirement for Grade A) means that the fish flesh has the good flavor and odor characteristic of the indicated species of salmon, and is free from rancidity and from off-flavors and off-odors.

(ii) "Reasonably good flavor and odor" (minimum requirement for Grade B) means that the fish flesh may be somewhat lacking in the good flavor and odor characteristics of the indicated species of salmon, is reasonably free of rancidity, and is free from objectionable off-flavors and off-odors.

(iii) "Substandard flavor and odor" (substandard grade) means that the flavor and odor fail to meet the requirements of "reasonably good flavor and odor."

LOT CERTIFICATION TOLERANCES

§ 268.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified on the basis of Part 260 of this chapter (Regulations Governing Processed Fishery Products, 23 F.R. 5064, July 3, 1958).

SCORE SHEET

§ 268.31 Score sheet for frozen salmon steaks.

Label: _____
Size and kind of container: _____
Container mark or identification: _____
Size of lot: _____
Number of packages per master carton: _____
Size of sample: _____
Number of steaks per container: _____
Product style: _____
Actual net weight: _____(ounces)_____(lb.)

Scored factors	Deductions
FROZEN	
1. General appearance defects	
2. Dehydration	
3. Uniformity of thickness	
4. Uniformity of weight	
THAWED	
5. Workmanship defects	
6. Color defects	
7. Honeycombing	
COOKED	
8. Texture	
9. Odor (Limiting rule—Table I)	
10. Flavor (Limiting rule—Table I)	
Total deductions	

Product score (100—Total deductions) _____
Flavor and odor rating _____
Final grade _____

PART 269—UNITED STATES STANDARDS FOR GRADES OF FROZEN OCEAN-PERCH FILLETS AND FROZEN PACIFIC OCEAN-PERCH FILLETS

PRODUCT DESCRIPTION AND GRADES

Sec.
269.1 Product description.
269.2 Grades of frozen ocean-perch fillets.

WEIGHTS AND DIMENSIONS

269.6 Recommended weights and dimensions.

FACTORS OF QUALITY

269.11 Ascertaining the grade.
269.12 Evaluation of the unscored factor of flavor and odor.
269.13 Evaluation and rating of the scored factors; appearance, size, absence of defects, and character.
269.14 Appearance.
269.15 Size.
269.16 Absence of defects.
269.17 Character.

DEFINITIONS AND METHODS OF ANALYSIS

269.21 Cooking in a suitable manner.

LOT CERTIFICATION TOLERANCES

269.25 Tolerances for certification of officially drawn samples.

SCORE SHEET

269.31 Score sheet for frozen ocean-perch fillets.

AUTHORITY: The provisions of this Part 269 issued under sec. 6(a), 70 Stat. 1122; 16 U.S.C. 742e; and sec. 205(b), 60 Stat. 1090; 7 U.S.C. 1624(b).

NOTE: Compliance with the provision of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

PRODUCT DESCRIPTION AND GRADES

§ 269.1 Product description.

The product described in this part consists of: (a) Clean, whole, wholesome fillets, cut away from either side of the ocean perch, Sebastes marinus, which are packaged and frozen in accordance with good commercial practice and are maintained at temperatures necessary for the preservation of the product; or (b) clean, whole, wholesome fillets, cut away from either side of the Pacific ocean perch, Sebastodes alutus, which are packaged and frozen in accordance with good commercial practice and are maintained at temperatures necessary for the preservation of the product.

§ 269.2 Grades of frozen ocean-perch fillets.

(a) "U.S. Grade A" is the quality of frozen ocean-perch fillets that possess good flavor and odor; and for those factors of quality which are rated in accordance with the scoring system outlined in this part the total score is not less than 85 points.

(b) "U.S. Grade B" is the quality of frozen ocean-perch fillets that possess at least reasonably good flavor and odor; and for those factors of quality which are rated in accordance with the scoring system outlined in this part the total score is not less than 70 points.

(c) "Substandard" is the quality of frozen ocean-perch fillets that fail to meet the requirements of U.S. Grade B.

WEIGHTS AND DIMENSIONS

§ 269.6 Recommended weights and dimensions.

(a) The net weights and dimensions of packaged frozen ocean-perch fillets and Pacific ocean-perch fillets are not incorporated in the grades of the finished product since net weights and dimensions, as such, are not factors of quality for the purpose of these grades.

(b) It is recommended that the net weight of the packaged frozen ocean-perch fillets and Pacific ocean-perch fillets be not less than 12 ounces and not over 10 pounds and that the product be classified as large, medium, or small as classified by common commercial size classification practices.

FACTORS OF QUALITY

§ 269.11 Ascertaining the grade.

The grade of frozen ocean-perch fillets is ascertained by examining the product in the frozen, thawed, and cooked states. The following factors of quality are evaluated in ascertaining the grade of the product: Flavor and odor, appearance, size, absence of defects, and character.

These factors are rated in the following manner:

(1) *Flavor and odor.* This factor is rated directly by organoleptic evaluation. Score points are not asscessed (see § 269.12).

(2) *Appearance, size, absence of defects, and character.* The relative importance of these factors is expressed numerically on the scale of 100. The maximum number of points that may be given each of these factors are:

Factors:	Points
Appearance	15
Size	20
Absence of defects	50
Character	15
Total possible score	100

§ 269.12 Evaluation of the unscored factor of flavor and odor.

(a) *Good flavor and odor.* "Good flavor and odor" (essential requirement for a Grade A product) means that the fish flesh has good flavor and odor characteristic of the species (either Sebastes marinus or Sebastodes alutus) and is free from staleness, and off-flavors and off-odors of any kind.

(b) *Reasonably good flavor and odor.* "Reasonably good flavor and odor" (minimum requirement for a Grade B product) means that the fish flesh may be somewhat lacking in good flavor and

odor; and is free from objectionable off-flavors and off-odors of any kind.

§ 269.13 Evaluation and rating of the scored factors; appearance, size, absence of defects, and character.

The essential variations in quality within each factor which is scored are so described that the value may be ascertained for each factor and expressed numerically. Point deductions are allotted for each degree or amount of variation within each factor. The net score for each factor is the maximum points for that factor less the sum of the deduction-points within the factor. The total score for the product is the sum of the net scores for the four scored factors.

§ 269.14 Appearance.

(a) The factor of appearance refers to the color of the frozen fish flesh, and to the degree and amount of surface dehydration of the frozen product.

(b) For the purpose of rating the factor of appearance the schedule of deduction-points in Table I apply. Frozen ocean-perch fillets which receive 15 deduction points for the factor of appearance shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

TABLE I—SCORED DEDUCTIONS FOR APPEARANCE

Color of frozen product			Deduction points
No discoloration			0
Slight yellowing			4
Moderate yellowing			9
Excessive yellowing and/or rusting			15
Degree of dehydration of frozen product	**Surface area affected (percent)**		
	Over—	Not over—	
Slight—Shallow and not color masking	0	1	0
	1	50	2
	50	100	5
Moderate—Deep, but just deep enough to easily scrape with fingernail	0	25	5
	25	50	10
	50	100	15
Excessive—Deep dehydration not easily scraped off	0	5	10
	5	100	15

§ 269.15 Size.

(a) The factor of size refers to the degree of freedom from undesirably small fillets.

(b) For the purpose of rating the factor of size, the schedule of deduction-points in Table II apply. Ocean-perch fillets which receive 20 deduction-points for this factor shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

TABLE II—SCORE DEDUCTIONS FOR SIZE OF FILLETS

Number of fillets per pound	Number of small fillets or pieces of fillets											
	0	1	2	3	4	5	6	7	8	9	10	11
	Deduction points	Deduction points	Deduction points	Deduction points	Deduction points	Deduction points	Deduction points	Deduction points	Deduction points	Deduction points	Deduction points	Deduction points
	Under two ounces in weight											
2	0	5										
3	0	5	10									
4	0	4	7	10								
5	0	4	7	10	15							
6	0	3	6	9	15	20						
	Under one ounce in weight											
7	0	5	10	15	20	20	20					
8	0	5	10	15	20	20	20	20				
9	0	0	5	10	15	20	20	20	20			
10	0	0	5	10	15	20	20	20	20	20		
11	0	0	5	10	15	20	20	20	20	20	20	
12	0	0	4	7	10	15	15	20	20	20	20	20
13	0	0	0	4	7	10	15	15	15	20	20	20
14	0	0	0	1	4	7	10	15	15	15	20	20
15 or more	0	0	0	0	1	4	7	10	15	15	15	20

§ 269.16 Absence of defects.

(a) The factor of "absence of defects" refers to the degree of freedom from improper packing, cutting and trimming imperfections, blemishes, and bones. Evaluation for the defect of improper packing is made on the frozen product. Evaluation of the defects of cutting and trimming, blemishes, and bones are made on the thawed product.

(1) *Improper packing.* "Improper packing" means poor arrangement of fillets, presence of voids, depressions, frost, and the imbedding of packaging material into the frozen fish flesh.

(2) *Cutting and trimming imperfections.* "Cutting and trimming imperfections" means that the thawed fillets have ragged edges, tears, holes, or are otherwise improperly cut or trimmed.

(3) *Blemish.* "Blemish" means an instance of blood-spot, bruise, black-belly lining or membrane, fin, scales, or extraneous material. Blemish also means an instance of skin on skinned fillets. One "instance of blood spot" is one of such size and prominence as to be considered objectionable. An "instance of bruise" consists of a bruise not less than ½ square inch and not more than 1½ square inches in area; each bruise larger than 1½ square inches is considered as two instances of bruise. An "instance of black-belly lining or membrane" is any piece of black-belly lining or membrane not less than ½ inch and not more than 1 inch in length; each additional ½ inch length of individual pieces of black-belly lining or membrane longer than 1 inch is considered as an instance. Each aggregate area of identifiable fin or parts of any fin up to 1 square inch is considered as one "instance of fin". One "instance of scales" is an aggregate area of scales greater than ½ square inch per fillet. One "instance of skin" consists of one piece of skin at least ½ square inch in area; except that any skin patches larger than 1½ square inches are considered as two instances of skin.

(4) *Bones.* One "instance of bones" means an objectionable bone or group of bones occupying or contacting a circular area up to 1 square inch. An objectionable bone is any bone of such size and rigidity as to remain objectionable after cooking. Bones which will soften or disintegrate after cooking are not considered objectionable.

(b) For the purpose of rating the factor of absence of defects the schedule of deduction-points in Table III applies.

TABLE III—SCORE DEDUCTIONS FOR ABSENCE OF DEFECTS

Subfactors	Method of determing subfactor score	Deduction points
Improper packing.	Slight defects, not noticeably affecting the product's appearance.	0
	Moderate defects, noticeably affecting the product's appearance.	2
	Excessive defects, seriously affecting product's appearance.	4
Blemishes..	Number of blemishes per 1 lb. of product when there are 6 or less fillets per lb.:	
	Over 0 not over 2	0
	Over 2 not over 4	2
	Over 4 not over 5	4
	Over 5 not over 6	7
	Over 6 not over 7	10
	Over 7 not over 8	15
	Over 8 not over 9	20
	Over 9 not over 10	30
	Over 10 not over 11	40
	Over 11	50
	Number of blemishes per 1 lb. of product when there are 7 to 12 (inclusive) fillets per lb.:	
	Over 0 not over 3	0
	Over 3 not over 5	2
	Over 5 not over 6	4
	Over 6 not over 7	7
	Over 7 not over 8	10
	Over 8 not over 9	15
	Over 9 not over 10	20
	Over 10 not over 11	30
	Over 11 not over 12	40
	Over 12	50
	Number of blemishes per 1 lb. of product when there are 13 or more fillets per lb.:	
	Over 0 not over 6	0
	Over 6 not over 8	2
	Over 8 not over 9	4
	Over 9 not over 10	7
	Over 10 not over 11	10
	Over 11 not over 12	15
	Over 12 not over 13	20
	Over 13 not over 14	30
	Over 14 not over 15	40
	Over 15	50
Bones.....	Number of instances per lb. of product when there are 6 or less fillets per lb.:	
	Over 0 not over 4	0
	Over 4 not over 5	1
	Over 5 not over 6	2
	Over 6 not over 7	5
	Over 7 not over 8	12
	Over 8 not over 9	20
	Over 9 not over 10	35
	Over 10	50
	Number of instances per lb. of product when there are 7 or more fillets per lb.:	
	Over 0 not over 3	0
	Over 3 not over 4	1
	Over 4 not over 5	2
	Over 5 not over 6	5
	Over 6 not over 7	12
	Over 7 not over 8	20
	Over 8 not over 9	35
	Over 9	50
Cutting and trimming.	Slight defects, scarcely noticeable.	0
	Moderate defects, noticeable but not affecting the usability of any fillets.	4
	Excessive defects impairing:	
	(a) The usability of up to ¼ of the total number of fillets.	8
	(b) The usability of over ¼ but not more than ½ of the total number of fillets.	16
	(c) The usability of over ½ of the total number of fillets.	40

§ 269.17 Character.

(a) General: The factor of character refers to the tenderness and moistness of the cooked fish flesh.

(b) For the purpose of rating the factor of character, the schedule of deduction-points in Table IV apply. Ocean-perch fillets which receive 15 deduction-points for the factor of character shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

TABLE IV—SCORE DEDUCTIONS FOR CHARACTER

Texture of the cooked fish	Point deductions
1. Texture:	
(a) Firm, but tender and moist	0
(b) Slightly tough, dry, and/or fibrous, or mushy	4
(c) Moderately tough, rubbery, and/or fibrous	8
(d) Excessively tough, rubbery, and/or fibrous	15

DEFINITIONS AND METHODS OF ANALYSIS

§ 269.21 Cooking in a suitable manner.

"Cooking in a suitable manner" shall mean that the product is cooked as follows: Place the thawed unseasoned product into a boilable film-type pouch. Fold the pouch over a suspension bar and clamp it in place so that a loose seal is maintained. Immerse the pouch and its contents in boiling water and cook until the internal temperature of the fillets reaches 160° F. (about 20 minutes).

LOT CERTIFICATION TOLERANCES

§ 269.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified in accordance with Part 260 of this chapter (Regulations Governing Processed Fishery Products, 23 F.R. 5064, July 3, 1958).

SCORE SHEET

§ 269.31 Score sheet for frozen ocean-perch fillets.

Label.....
Size and kind of container.....
Container mark or identification.....
Size of lot.....
Number of packages per master carton.....
Size of sample.....
Type of overwrap.....
Actual net weight.....(lb.).....(kg.)

Factor	Score points	Sample score
Appearance	15	
Size	20	
Absence of defects	50	
Character	15	
Total	100	

Flavor and odor.....
Final grade.....

PART 270—UNITED STATES STANDARDS FOR GRADES OF FROZEN FRIED SCALLOPS

PRODUCT DESCRIPTION AND GRADE

Sec.
270.1 Product description.
270.2 Styles of frozen fried scallops.
270.3 Grades of frozen fried scallops.

FACTORS OF QUALITY

270.11 Ascertaining the grade.
270.12 Evaluating the unscored factor of flavor and odor.
270.13 Evaluating and rating the scored factors of appearance, uniformity, absence of defects, and character.
270.14 Appearance.
270.15 Uniformity.
270.16 Absence of defects.
270.17 Character.

DEFINITIONS AND METHODS OF ANALYSIS

Sec.
270.21 Definitions and methods of analysis.

LOT CERTIFICATION TOLERANCES

270.25 Tolerances for certification of officially drawn samples.

AUTHORITY: The provisions of this Part 270 issued under sec. 6, 70 Stat. 1122; 16 U.S.C. 742e.

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

PRODUCT DESCRIPTION AND GRADES

§ 270.1 Product description.

Frozen fried scallops are prepared from wholesome, clean, adequately drained, whole or cut adductor muscles of the sea scallop (Placopecten magellanicus), or scallop units cut from a block of frozen sea scallops, that are coated with wholesome batter and breading and precooked in oil or fat. They are packaged and frozen according to good commercial practice and are maintained at temperatures necessary for preservation. Frozen fried scallops contain a minimum of 60 percent by weight of scallop meat.

§ 270.2 Styles of frozen fried scallops.

The styles of frozen fried scallops include:

(a) *Style I Random pack.* Scallops in a package are reasonably uniform in weight and/or shape. The weight or shape of individual scallops are not specified.

(b) *Style II Uniform pack.* Scallops in a package consist of uniform shaped pieces which are of specified weight or range of weights.

§ 270.3 Grades of frozen fried scallops.

(a) "U.S. Grade A" is the quality of frozen fried scallops that possess good flavor and odor; and for those factors of quality which are rated according to the scoring system outlined in this part, the total score is not less than 85 points.

(b) "U.S. Grade B" is the quality of frozen fried scallops that possess at least reasonably good flavor and odor; and for those factors of quality which are rated according to the scoring system outlined in this part, the total score is not less than 70 points.

(c) "Substandard" is the quality of frozen fried scallops that fail to meet the requirements of U.S. Grade B.

FACTORS OF QUALITY

§ 270.11 Ascertaining the grade.

The grade of frozen fried scallops is determined by examining the product in the frozen and cooked states. Factors of quality evaluated in ascertaining the grade of the product are flavor and odor, appearance, uniformity, absence of defects, and character.

(a) Flavor and odor are rated directly by organoleptic evaluation. Score points are not assessed (see § 270.12).

(b) Appearance, uniformity, absence of defects, and character are rated

numerically on a scale of 100. The maximum number of points that may be given each of these factors are:

Factors:	Points
Appearance	[1] 25
Uniformity	[1] 20
Absence of defects	40
Character	[1] 15
Total possible score	100

[1] Frozen fried scallops which receive the maximum number of deduction points for any of these factors shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

§ 270.12 Evaluating the unscored factor of flavor and odor.

(a) "Good flavor and odor" (essential requirements for a Grade A product) means that the cooked product has flavor and odor characteristics of good scallop meat and of the breading and is free from staleness and off-flavors and off-odors of any kind.

(b) "Reasonably good flavor and odor" (minimum requirements of a Grade B product) means that the cooked product is lacking in good flavor and odor, but is free from objectionable off-flavors and off-odors of any kind.

(c) "Substandard flavor and odor" (Substandard grade) means that the flavor and odor fails to meet the minimum requirements of "reasonably good flavor and odor."

§ 270.13 Evaluating and rating the scored factors of appearance, uniformity, absence of defects, and character.

Point deductions are allotted for each degree or amount of quality variation within each of the factors that are scored. The net score for each quality factor is obtained by subtracting the deduction-points assessed for that factor from the maximum points allotted to that factor. The total score for the product is the sum of the net scores for the four individually scored factors.

§ 270.14 Appearance.

(a) Appearance refers to the condition of the package and ease of separation in the frozen state and continuity and color in the cooked state.

(1) "Condition of the package" refers to freedom from packaging defects and the presence in the package of oil, and/or loose breading, and/or frost. Deduction points are based on the degree of the improper condition as small or large.

(2) "Ease of separation" refers to the difficulty of separating scallops that are frozen together after the frying operation and during freezing.

(3) "Continuity" refers to the completeness of the coating of the product in the cooked state. Lack of continuity is exemplified by breaks, ridges and/or lumps of breading. Each 1/16 square inch area of any break, ridge, or lump of breading is considered an instance of lack of continuity. Individual breaks, ridges, or lumps of breading measuring less than 1/16 square inch are not considered objectionable. Deduction points are based on the percentage of the scallops within the package that contain small and/or large instances of lack of continuity.

(4) "Color" refers to reasonably uniform color which is characteristic of the product in the cooked state.

Deviations in color are visually measured as "small" and "large". A "small" instance of deviation in color means that the scallop varies noticeably from the predominating color of the package. A "large" instance of deviation in color means that the scallop varies markedly from the predominating color of the package. The deduction points assessed are based on the degree of deviation as small or large and the percentage by count of the scallops affected in the package.

(b) For the purpose of rating the factor of appearance, the schedule of deduction points in Table I applies. Frozen fried scallops which receive 25 deduction points for the factor of appearance shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

TABLE I—SCHEDULE OF POINT-DEDUCTIONS FOR VARIATIONS IN APPEARANCE

Appearance subfactors	Method of determining subfactor score	Percent of scallops affected		Deduction points
		Over—	Not over—	
Condition of the package in the frozen state.	*Degree of condition of the package*			
	(a) Small (moderate amount of free oil and/or loose breading, and/or frost, and/or packaging defects).			2
	(b) Large (excessive amount of free oil, and/or loose breading, and/or frost, and/or packaging defects).			5
Ease of separation of the scallops in frozen state.	*Degree of ease of separation*			
	Moderate (scallops separated by hand with difficulty).	0	30	1
		30	70	2
		70		4
	Severe (scallops separated only by use of knife or other instrument).	0	30	3
		30	70	10
		70		15
Continuity of the scallops in the cooked state.	Lack of continuity (breaks, ridges, and lumps)[1]	0	20	2
		20	50	4
		50	70	6
	Small (1 to 3 instances per scallop)	70		10
	Large (over 3 instances per scallop)	0	20	4
		20	50	8
		50	70	12
		70		25
Color of the scallops in the cooked state.	*Deviation from predominating color of fried scallops in cooked state*			
	Small instance of deviation in color means that the scallop varies noticeably from the predominating color of the package after cooking.	0	10	0
		10	30	2
		30		4
	Large instance of deviation in color means that the scallop varies markedly from the predominating color of the package after cooking.	0	10	4
		10	30	10
		30		25

[1] Each 1/16 square inch is considered an instance.

§ 270.15 Uniformity.

(a) Uniformity refers to the degree of freedom from undesirably small pieces and to the degree of uniformity of the weights of the frozen fried scallops within the package.

(1) For Style I, deduction points are assessed for (i) undesirable small pieces as determined by the percent by count of pieces passing through a sieve with 3/4 inch openings, and (ii) uniformity of size of the scallops remaining in the sieve as determined by the ratio of the weight of the 15 percent largest scallops (minimum three) divided by the 15 percent smallest scallops (minimum three). The number constituting this percentage shall be the closest approximation of 15 percent, determined by count.

(2) For Style II, deduction points are based on the percentage by count of small or large scallops deviating from the average weight within the package.

(b) For the purpose of rating the factor of uniformity, the schedules of deduction points in Table II apply. Frozen fried scallops which receive 20 deduction points for this factor shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

TABLE II—SCHEDULE OF POINT-DEDUCTIONS FOR UNIFORMITY

Factor	Method of determining subfactor score	Percent of scallops affected: Over—	Percent of scallops affected: Not over—	Deduction points
	A. Style I (Random pack)			
	(a) Undesirable small pieces which pass through a sieve with ¾ inch openings.	0	10	3
		10	20	6
		20	----------	10
		Ratio: Over—	Ratio: Not over—	
Uniformity of size and weight of scallops in frozen state.	(b) Weight ratio of scallops remaining in the sieve. The 15 percent largest scallops (minimum 3) divided by the 15 percent smallest scallops (minimum 3). The 15 percent to be determined by count.	----------	2.0	0
		2.0	2.5	1
		2.5	2.9	3
		2.9	3.3	6
		3.3	----------	10
	B. Style II (Uniform pack)	Percent of scallops affected: Over—	Percent of scallops affected: Not over—	
	Deviation from average weight			
	(a) Small (scallops deviating ±10 to 20 percent from average weight).	0	30	3
		30	70	5
		70	----------	10
	(b) Large (scallops deviating over ±20 percent from average weight).	0	30	6
		30	70	10
		70	----------	20

TABLE III—SCHEDULE OF POINT-DEDUCTIONS FOR ABSENCE OF DEFECTS SUBFACTORS MISSHAPED OR DOUBLED SCALLOPS AND SHELL FRAGMENTS

Defect subfactors	Method of determining subfactor score	Percent of scallops affected: Over—	Percent of scallops affected: Not over—	Deduction points
Misshaped or doubled scallops in the frozen state.	Misshaped scallops (elongated, flattened, mashed or damaged scallop meats). Doubled scallops (two or more scallops joined together during breading and/or frying operation).	0	10	3
		10	20	7
		20	----------	15
Shell fragments in the cooked state.	Each piece of shell fragment is considered an instance.	0	5	15
		5	10	30
		10	----------	40

TABLE IV—SCHEDULE OF POINT-DEDUCTIONS FOR ABSENCE OF DEFECTS SUBFACTOR OF EXTRANEOUS MATERIAL

Number of scallops per 7 ounces	Number of instances of extraneous material: 0	1	2	3	4	5	6	7	8 or more
	Deduction points								
10 or less	0	7	15	25	40	----	----	----	------
11	0	6	15	25	40	----	----	----	------
12	0	5	13	25	40	----	----	----	------
13	0	5	11	25	40	----	----	----	------
14	0	4	10	15	28	40	----	----	------
15	0	4	9	15	25	40	----	----	------
16	0	3	8	13	25	40	----	----	------
17	0	3	8	12	20	30	40	----	------
18	0	2	7	10	18	28	40	----	------
19	0	2	6	9	15	25	40	----	------
20 or more	0	2	5	8	12	20	30	40	------

§ 270.16 Absence of defects.

(a) Absence of defects refers to the degree of freedom from doubled and misshaped scallops, pieces of shell fragments and extraneous material. The defects of doubled and misshaped scallops are determined by examining the frozen product, whereas the defects of shell fragments and extraneous materials are determined by examining the product in the cooked state. Deduction points are based on the percentage by count of the scallops affected within the package, or the relationship between the number of defect instances and the number of scallops within the package.

(1) *Doubled scallops.* Two or more scallops that are joined together during the breading and/or frying operations.

(2) *Misshaped scallops.* Elongated, flattened, mashed or damaged scallop meats.

(3) *Extraneous material.* An instance of extraneous material refers to an occurrence or group of occurrences of extraneous material in a scallop. Extraneous material consists of sand, grit, intestines, seaweed, and substances foreign to the scallop meat, except for shell fragments.

(4) *Piece of shell fragment.* The presence in the scallops of any fragment of the scallop shell regardless of size.

(b) For the purpose of rating the factor of absence of defects the schedules of deduction points in Tables III and IV apply.

§ 270.17 Character.

(a) Character refers to the texture of the scallop meat and of the coating and the presence of gristle in the cooked state. Deduction points are based on the degree of variation in the texture attributes of the coating and scallop meat or the relationship between the number of instances and the number of scallops within the package.

(1) *Gristle.* An instance of gristle refers to an occurrence of the tough elastic tissue usually attached to the scallop meat.

(2) *Texture* refers to the firmness, tenderness, and moistness of the cooked scallop meat and to the crispness and tenderness of the coating of the cooked product. The texture of the scallop meat may be classified as a degree of mushiness, toughness, and fibrousness. The texture of the coating may be classified as a degree of pastiness, toughness, dryness, mushiness, or oiliness.

(b) For the purpose of rating the factor of character, the schedules of deduction points in Table V and VI apply. Frozen fried scallops which receive 15 deduction points for the factor of character shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

TABLE V—SCHEDULE OF POINT-DEDUCTIONS FOR CHARACTER SUBFACTOR OF TEXTURE

Character subfactors	Method of determining subfactor score	Deduction points
	Texture of the coating	
Texture in the cooked state.	Firm or crisp but not tough, pasty, mushy, or oily	0
	Moderately tough, pasty, mushy, or oily	5
	Excessively tough, pasty, mushy, or oily	15
	Texture of the scallop meat	
	Firm, but tender and moist	0
	Moderately tough, dry, and/or fibrous or mushy	5
	Excessively tough, dry, and/or fibrous or mushy	15

TABLE VI—SCHEDULE OF POINT-DEDUCTIONS FOR CHARACTER SUBFACTOR OF GRISTLE

Number of scallops per 7 ounces	Number of instances of gristle								
	0	1	2	3	4	5	6	7	8 or more
	Point deductions								
10 or less	0	2	4	6	8	10	----	----	------
11	0	2	4	6	8	10	----	----	------
12	0	2	4	6	8	10	----	----	------
13	0	1	3	5	8	10	----	----	------
14	0	1	3	5	7	9	10	----	------
15	0	1	2	4	6	8	10	----	------
16	0	1	2	4	6	8	10	----	------
17	0	1	2	4	6	8	10	----	------
18	0	1	2	3	4	6	8	10	------
19	0	1	2	3	4	6	8	10	------
20 or more	0	1	2	3	4	6	8	10	------

DEFINITIONS AND METHODS OF ANALYSIS

§ 270.21 Definitions and methods of analysis.

(a) *Percent of scallop meat* refers to percent, by weight, of scallop meat in a sample as determined by the following method:

(1) *Equipment needed.* (i) Water bath (3 to 4 liter beaker).

(ii) Balance accurate to 0.1 gram.

(iii) Clip tongs of wire, plastic, or glass.

(iv) Stop-watch or regular watch with second hand.

(v) Paper towels.

(vi) Spatula, 4-inch blade with rounded tip.

(2) *Procedure.* (i) Weigh all scallops in the sample while still in a hard frozen condition.

(ii) Place each scallop individually in the water bath which is maintained at 63° to 86° F. and allow the scallop to remain until such time as the breading becomes soft and can easily be removed from the still frozen meat (between 10 to 30 seconds for scallops held in storage at 0° F.).

NOTE: Several dry runs are necessary to determine the exact dip time required for "debreading" the scallops in a lot sample. For dry runs only, a saturated solution of copper sulfate (500 grams of copper sulfate in 2 liters of tap water) is necessary. The correct dip time is the minimum time required to dip the scallops in the (copper sulfate) solution so that the breading can easily be scraped off; provided that (1) the "debreaded" scallop is still solidly frozen, and (2) only a slight trace of blue color is visible on the surface of the "debreaded" scallop meat.

(iii) Remove the scallop from the bath; blot lightly with double thickness paper toweling; and scrape off or pick out coating from the scallop meat with the spatula or nutpicker.

(iv) Weigh all "debreaded" scallop meats.

(v) Calculate the percent of scallop meat in the sample by following formula:

$$\text{Percent scallop meat} = \frac{\text{Weight of scallop meats (iv)}}{\text{Weight of frozen fried scallops (i)}} \times 100$$

(b) *Cooked state.* Cooked state shall mean that the product shall be cooked in acordance with the instructions accompanying the product. If specific instructions are lacking, the product for inspection shall be cooked as follows: Spread the frozen scallops on a foil covered baking sheet or a shallow pan. Place sheet or pan and frozen contents at the mid point of a properly ventilated oven preheated to 400 degrees Fahrenheit until thoroughly cooked, 15 to 20 minutes.

(c) *Definitions.* (1) "Moderate" refers to a scored condition that is readily noticeable but is not seriously objectionable.

(2) "Excessive" refers to a condition that is very noticeable and is seriously objectionable.

(3) "Instance" refers to an occurrence of an individual scored subfactor on a scallop.

LOT CERTIFICATION TOLERANCES

§ 270.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified in accordance with Part 260 of this chapter (Regulations Governing Processed Fishery Products, v. 25 F.R. 8431, Sept. 1, 1960).

PART 271—U.S. STANDARDS FOR GRADES OF FROZEN HEADLESS DRESSED WHITING

Sec.
271.1 Description of the product.
271.2 Grades of frozen headless dressed whiting.
271.11 Determination of the grade.
271.21 Definitions and methods of analysis.
271.25 Tolerances for certification of officially drawn samples.

AUTHORITY: The provisions of this Part 271 are issued under sec. 6, 70 Stat. 1122; 16 U.S.C. § 742e; and secs. 203 and 205, 60 Stat. 1087, 1090, as amended; 7 U.S.C. 1622, 1624.

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

§ 271.1 Description of the product.

The product described in this part consists of clean, wholesome whiting (silver hake) *merluccius bilinearis, merluccius albidus;* completely and cleanly headed and adequately eviscerated. The fish are packaged and frozen in accordance with good commercial practice and are maintained at temperatures necessary for the preservation of the product.

§ 271.2 Grades of frozen headless dressed whiting.

(a) "U.S. Grade A" is the quality of frozen headless dressed whiting that (1) possess a good flavor and odor and that (2) for those factors that are rated in accordance with the scoring system outlined in this part, have a total score of 85 to 100 points.

(b) "U.S. Grade B" is the quality of frozen headless dressed whiting that (1) possess at least reasonably good flavor and odor and that (2) rate a total score of not less than 70 points for those factors of quality that are rated in accordance with the scoring system outlined in this part.

(c) "Substandard" or "Utility" is the quality of frozen headless dressed whiting that meet the requirements of § 271.1 but that otherwise fail to meet the requirements of "U.S. Grade B."

§ 271.11 Determination of the grade.

In a plan under Continuous USDI Inspection the grade is determined by examining the product for factors 1–10 in the thawed state and factor 11 in the cooked state. For lot inspection, examination of the product for factors 1, 2, and 3 is carried out in the frozen state and 4–10 in the thawed state. Factor 11 is examined in the cooked state.

(a) *Factors rated by score points.* Points are deducted for variations in the quality of each factor in accordance with the schedule in Table 1. The total of is 100; the minimum score is 0.

(b) *Factors not rated by score points.* points deducted is subtracted from 100 to obtain the score. The maximum score The factor of "flavor and odor" is evaluated organoleptically by smelling and tasting after the product has been cooked in accordance with § 278.21.

(1) Good flavor and odor (essential requirements for a U.S. Grade A product) means that the cooked product has the typical flavor and odor of the species and is free from rancidity, bitterness, staleness, and off-flavors and off-odors of any kind.

(2) Reasonably good flavor and odor (minimum requirements of a U.S. Grade B product) means that the cooked product is lacking in good flavor and odor, but is free from objectionable off-flavors and off-odors of any kind.

TABLE 1.—SCHEDULE OF POINT DEDUCTIONS PER SAMPLE

	Factors scored	Method of determining score	Deduct
		FROZEN STATE (LOT INSPECTION ONLY)	
1	Arrangement of product [1]	Small degree: 10 percent of fish twisted or bellies and backs not facing the same direction.	2
		Large degree: More than 10 percent of fish twisted, void present or some fish cross packed.	5
2	Condition of packaging (overall assessment).	Poor: Packaging material has been soaked, softened or deteriorated.	2
3	Dehydration	Small degree: Slight dehydration of the exposed surfaces.	2
		Large degree: Deep dehydration of the exposed surfaces	5
		THAWED STATE	
4	Minimum size: Fish 2 oz. or over are of acceptable size.	Number of fish less than 2 oz. per lb.	
		Over 0—not over 0.5	5
		Over 0.5—not over 1.0	10
		Over 1.0—not over 2.0	20
		Over 2.0	30
5	Uniformity: Weight ratio of fish remaining. The 10 percent largest fish divided by the 10 percent smallest fish.[1]	Weight ratio 10 percent smallest and 10 percent largest:	
		Over 2.0—not over 2.4	2
		Over 2.4—not over 2.8	5
		Over 2.8—not over 3.2	10
		Over 3.2—not over 3.6	20
		Over 3.6	30
6	Heading [1]	Small degree: 10 percent of fish carelessly cut	5
		Moderate degree: Over 10 percent of fish carelessly cut	15
7	Evisceration (overall assessment).	Small degree: Slight evidence of viscera	2
		Moderate degree: Moderate amounts of spawn, viscera, etc.	10
		Large degree: Large amounts of viscera, spawn, etc	30
8	Scaling [1]	Small degree: 10 percent of fish not well scaled	2
		Large degree: Over 10 percent of fish not well scaled	5
9	Color of the exposed surfaces (overall assessment).	Small degree: Minor darkening, dulling	2
		Large degree: Objectionably dark, brown, dull	5
10	Bruises and split or broken skin.	Presence of bruises and/or broken or split skin per pound:	
		Over 0—not over 0.5	1
		Over 0.5—not over 1.0	2
		Over 1.0—not over 1.5	4
		Over 1.5—not over 2.0	7
		Over 2.0	10
11	Texture: (overall assessment)	Small degree: Moderately dry, tough, mushy, rubbery, watery, stringy.	5
		Large degree: Excessively dry, tough, mushy, rubbery, watery, stringy.	15

[1] 10 percent of fish refers to 10 percent by count rounded to nearest whole fish.

§ 271.21 Definitions and methods of analysis.

(a) *Selection of the sample unit.* The sample unit consists of the primary container and its entire contents. The whiting are examined according to Table 1. Definitions of factors for point deductions are as follows:

(b) *Examination of sample, frozen state.* When this product is examined under Continuous USDI Inspection, the samples are examined for factors 1, 2, and 3 in Table 1 in the thawed state. When the product is lot inspected, the samples are examined for factors 1, 2, and 3 in Table 1 in the frozen state.

(1) *"Arrangement of product"* refers to the packing of the product in a symmetrical manner, bellies or backs all facing in the same direction, fish neatly dovetailed.

(2) *"Condition of the packaging material"* refers to the condition of the cardboard or other packaging material of the primary container. If the fish is allowed to stand after packing and prior to freezing, moisture from the fish will soak into the packaging material and cause deterioration of that material.

(3) *"Dehydration"* refers to the presence of dehydrated (water-removed) tissue on the exposed surfaces of the whiting. Slight dehydration is surface dehydration which is not color-masking. Deep dehydration is color-masking and cannot be removed by scraping with a fingernail.

(c) *Examination of sample, thawed state.* Thawed state means the state of the product after being thawed. Thawing the sample is best accomplished by enclosing the sample in a film type bag and immersing in an agitated water bath held at 68° F., ±2° F. Allow the product to remain immersed until thawed. Alternatively when the facilities are lacking for water thawing, the sample may be thawed by slacking it out at a temperature between 30° to 40° F. on an aluminum tray from 2 hours for a 1½-pound sample to 8 hours for a 10-pound sample.

(1) *"Minimum size"* refers to the size of the individual fish in the sample. Fish 2 ounces or over are considered acceptable. Smaller fish cannot be cooked uniformly with acceptable size fish. Separate the fish of unacceptable size, divide their number by the weight of the sample in pounds, and apply to Table 1. Example—four fish of unacceptable size in a 5-pound package is $\frac{4}{5}$ =0.8, a 10 point deduction.

(2) *"Uniformity."* From the fish remaining, select by count 10 percent (minimum of one fish) of the largest and 10 percent (minimum of one fish) of the smallest and divide the largest weight by the smallest weight to get a weight ratio.

(3) *"Heading"* refers to the condition of the fish after they have been headed. The fish should be cleanly headed behind the gills and pectoral fins. No gills, gill bones, or pectoral fins should remain after the fish have been headed.

(4) *"Evisceration"* refers to the cleaning of the belly cavities of the fish. All spawn, viscera, and belly strings should be removed.

(5) *"Scaling"* refers to the satisfactory removal of scales from the fish.

(6) *"Color of the cut surfaces"* refers to the color of the cut surfaces of the fish after heading and other processing.

(7) *"Bruises and broken or split skin"* refers to bruises over one-half square inch in area and splits or breaks in the skin more than one-half inch in length which are not part of the processing.

(d) *Examination of sample, cooked state.* Cooked state means the state of the sample after being cooked. Cooking the sample is best accomplished by inserting the sample into a film type bag and submerging it into boiling water for from 18–20 minutes. A minimum of three fish per sample unit shall be cooked.

(1) *"Texture defects"* refers to the absence of normal textural properties of the cooked fish flesh, which are tenderness, firmness, and moistness without excess water. Texture defects are dryness, softness, toughness, and rubberyness.

(e) *General definitions.*

(1) *Small* (overall assessment) refers to a condition that is noticeable but is only slightly objectionable.

(2) *Moderate* (overall assessment) refers to a condition that is distinctly noticeable but is not seriously objectionable.

(3) *Large* (overall assessment) refers to a condition which is both distinctly noticeable and seriously objectionable.

§ 271.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified in accordance with Part 260 of this chapter (Regulations Governing Processed Fishery Products).

PART 272—UNITED STATES STANDARDS FOR GRADES OF FROZEN RAW HEADLESS SHRIMP

PRODUCT DESCRIPTION, GRADES AND SIZES

Sec.

272.1 Product description.
272.2 Grades of frozen raw headless shrimp.
272.3 Sizes of frozen raw headless shrimp.

FACTORS OF QUALITY AND GRADE

272.11 Ascertaining the grade.

DEFINITIONS AND METHODS OF ANALYSIS

272.21 Definitions and methods of analysis.

LOT CERTIFICATION TOLERANCES

272.25 Tolerances for certification of officially drawn samples.

SCORE SHEET

272.31 Score sheet for frozen raw headless shrimp.

AUTHORITY: The provisions of this Part 272 issued under sec. 6(a), 70 Stat. 1122; 16 U.S.C. 742e; sec. 205(b), 60 Stat. 1090, as amended; 7 U.S.C. 1624(b).

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

PRODUCT DESCRIPTION, GRADES AND SIZES

§ 272.1 Product description.

Frozen raw headless shrimp are clean, wholesome, headless, shell-on shrimp of the regular commercial species. They are sorted for size, packed, and frozen in accordance with good commercial practice and are maintained at temperatures necessary for the preservation of the product.

§ 272.2 Grades of frozen raw headless shrimp.

(a) "U.S. Grade A" or "U.S. Fancy" is the quality of frozen raw headless shrimp of a single commercial count that possess a good flavor and odor, that are of a reasonably uniform color, and that for those factors which are rated in accordance with the scoring system outlined in the following sections, the total score is not less than 90 points.

(b) "U.S. Grade B" or "U.S. Good" is the quality of frozen raw headless shrimp of a single commercial count that possess at least reasonably good flavor and odor, and that for those factors which are rated in accordance with the scoring system outlined in the following sections, the total score is not less than 80 points.

(c) "U.S. Grade C" or "U.S. Commercial" is the quality of frozen raw headless shrimp of a single commercial count that possess at least reasonably good flavor and odor, and that for those factors which are rated in accordance with the scoring system outlined in the following sections, the total score is not less than 70 points.

(d) "Substandard" is the quality of frozen raw headless shrimp that fail to meet the requirements of "U.S. Grade C" or "U.S. Commercial."

§ 272.3 Sizes of frozen raw headless shrimp.

The average weight and number of shrimp per pound (count) of frozen raw headless shrimp are not factors of quality in determining the grade of the product. However the degree of conformity of the weights of the individual shrimp to the average weight of shrimp in the sample is rated since it is a factor affecting the utility of the product. Descriptive size names are not recommended. The commercial count (number per pound) and descriptive size names, if used, shall conform to one of the following categories:

Commercial count—Number of shrimp per pound	Number of shrimp per pound (average)		Descriptive size name
	Over—	Not over—	
Under 10	----------	9.9	Extra colossal.
10–15	9.9	15.0	Colossal.
16–20	15.0	20.0	Extra jumbo.
21–25	20.0	25.0	Jumbo.
26–30	25.0	30.0	Extra large.
31–35	30.0	35.0	Large.
36–42	35.0	42.0	Medium large.
43–50	42.0	50.0	Medium.
51–60	50.0	60.0	Small.
61–70	60.0	70.0	Extra small.
Over 70	70.0	----------	Tiny.

FACTORS OF QUALITY AND GRADE

§ 272.11 Ascertaining the grade.

(a) *General.* In addition to considering other requirements outlined in the standards, the grade is ascertained by observing the product in the frozen, thawed, and cooked states and is evaluated by considering the following:

(1) *Factors rated by score points.* The quality of the product with respect to factors scored is expressed numerically. Factors rated by score points are: dehydration; deterioration; black spot on shell or loose membrane only; black spot on meat; broken, damaged, and pieces of shrimp; legs, loose shell, and flippers; heads and unacceptable shrimp; extraneous materials; uniformity of size; and the texture of the cooked product. Cumulative point deductions from the maximum possible score of 100 are assessed for variations of quality for each factor in accordance with the schedule in Table I. The minimum score is 0.

(2) *Factor not rated by score points.* The factor of "flavor and odor" is evaluated organoleptically after the product has been cooked in a suitable manner, and is defined as follows:

(i) *Good flavor and odor.* "Good flavor and odor" (essential requirement for a Grade A product) means that the product has the good flavor and odor characteristic of freshly caught, chilled shrimp and is free from off-flavors and off-odors of any kind. The presence of iodoform-like flavor and odor is not to be construed as off-flavor and off-odor.

(ii) *Reasonably good flavor and odor.* "Reasonably good flavor and odor" (minimum requirement of Grade B and Grade C products) means that the product may be somewhat lacking in the good flavor and odor characteristic of freshly caught, chilled shrimp but is free from objectionable off-flavors and objectionable off-odors of any kind.

DEFINITIONS AND METHODS OF ANALYSIS

§ 272.21 Definitions and methods of analysis.

(a) "Count," or number of shrimp per pound, is determined by dividing the number of shrimp in the package by the actual net weight in pounds of the shrimp.

(b) "Net weight" of the shrimp is determined as follows:

(1) *Equipment needed.* (i) Container, 4-gallon or more capacity;

(ii) Source of running water that can be maintained at 75°–85° F.; with hose of sufficient length to reach the bottom of the container;

(iii) Balance accurate to 0.01 ounce, or 0.1 gram;

(iv) U.S. standard wire sieve, ASTM No. 20, 12-inch diameter.

(2) *Procedure.* Place the frozen shrimp in the 4-gallon container into which fresh water of a temperature from 75° to 85° F. is introduced from the bottom at a flow of approximately 6 gallons per minute. After any glaze has been removed and the shrimp separate easily, empty the contents of the container through the tared sieve, spreading the shrimp out evenly. Tilt the sieve at approximately a 45-degree angle to facilitate drainage; drain the shrimp for 2 minutes; and then weigh the sieve and contents. The net weight is the weight of the sieve and contents minus the weight of the sieve.

(c) "Cooked in a suitable manner" means that a thawed sample of the product has been cooked by the following method:

Place 2 to 4 ounces of peeled deveined and rinsed shrimp in a boilable plastic bag with ½ cup of salt solution (1 teaspoon salt dissolved in 1 pint or 2 cups of water). Add a 2-ounce stainless steel weight or snap a large clip on bottom of bag. Suspend the bag in a kettle of boiling water and return the water to a boil as rapidly as possible. (More than one sample may be cooked at a time, as long as the water will return to a boil within 2 minutes). After the water is boiling, cook according to the following timetable:

Count of shrimp—Number per pound	Cooking time (minutes)
Up to 15	12
16 to 35	9
Over 35	6

Remove from bag, drain, and cool to approximately room temperature (do not refrigerate) for evaluation of flavor and odor.

(d) "Dehydration" refers to the occurrence of a whitish area on the exposed ends of the shrimp, due to the drying of the affected area, and to a generally desiccated appearance of the meat after the shell is removed.

(e) "Deterioration" refers to any detectable change from the normal good quality of freshly caught shrimp. It is evaluated by noting deviations of the odor of the thawed product from the normal odor of freshly caught shrimp.

(1) "Slight deterioration" means that the shrimp lack the pleasant odor characteristic of freshly caught shrimp.

(2) "Moderate deterioration" means that the shrimp have slight off-odors.

(3) "Marked deterioration" means that the shrimp have definite off-odors, but are not spoiled.

(4) "Excessive deterioration" means that the shrimp have a definite odor of spoilage. Deductions in this category are made for individual shrimp which are affected.

(f) "Black spot on the shell or loose membrane only" refers to blackened areas at least moderately affecting the appearance of the shrimp.

(1) "Moderately affecting" means that the black spot which occurs at the shell joints extends at least one-third of the circumference of the shrimp at the particular location at which it occurs, and black spot which occurs as a circular area exceeds one-eighth inch in diameter for 31/35 count shrimp or is proportionately larger or smaller for respectively larger or smaller shrimp.

(g) "Black spot on the meat" refers to any darkened area that is present on the shrimp flesh.

(h) "Broken" refers to a shrimp having a break in the flesh greater than one-third of the thickness of the shrimp at the particular location at which it occurs.

(i) "Damaged" refers to a shrimp that is crushed or mutilated so as to materially affect its appearance.

(j) "Piece" refers to any portion of shrimp that contains less than five segments.

(k) "Legs" refers to walking legs only, not swimmerets, or to portions of the head (cephalothorax) with legs and which may be either loose or attached to a shrimp.

(l) "Loose shell" refers to any piece of shell which is completely detached from the shrimp except paper-thin shell from soft-shelled shrimp.

(m) "Flipper" refers to a tail fin, sometimes including the last shell segment but containing no meat.

(n) "Head" means any portion of head (cephalothorax) large enough to contain an eye and which may be either loose or attached to a shrimp.

(o) "Unacceptable shrimp" refers to abnormal or diseased shrimp.

(p) "Extraneous material" means any material in the package which is not shrimp material.

(q) "Uniformity of size" is evaluated by computing the actual count per pound of the shrimp in the sample, and then determining, by weighing individual shrimp, the number of shrimp that are slightly large, slightly small, exceedingly large, or exceedingly small for that particular count per pound.

(1) "Slightly large" means that a shrimp is more than 25 percent, but not more than 35 percent larger, by weight, than a shrimp of the actual count per pound.

(2) "Exceedingly large" means that a shrimp is more than 35 percent larger, by weight, than a shrimp of the actual count per pound.

(3) "Slightly small" means that a shrimp is more than 25 percent, but not more than 35 percent smaller, by weight, than a shrimp of the actual count per pound.

(4) "Exceedingly small" means that a shrimp is more than 35 percent smaller, by weight, than a shrimp of the actual count per pound. For use in computing the uniformity of size factor, weights of individual shrimp are given in Table II.

(r) "Texture" defect refers to an undesirable toughness and/or dryness and/or mushiness of the shrimp examined in the cooked state.

Lot Certification Tolerances

§ 272.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified in accordance with Part 260 of this chapter (regulations governing processed fishery products, 23 F.R. 5064, July 3, 1958).

With respect to conformance with the declared commercial count, the lot shall be considered to be of the declared count if the number of deviant units in the sample does not exceed the acceptance number prescribed for the sample size in Part 260 of this chapter. If a lot fails to meet the requirements of any specific commercial count, it shall be marked a mixed lot and shall not be graded.

Score Sheet

§ 272.31 Score sheet for frozen raw headless shrimp.

General

Label
Size and kind of container
Container mark or identification
Size of lot
Number of samples
Declared count per pound
Actual net weight (ounces)
Actual count per pound
Descriptive size name

Scored factors (table 1)	Deductions
Frozen and thawed:	
1. Dehydration	
Thawed:	
2. Deterioration	
3. Black spot on shell or loose membrane only	
4. Black spot on meat	
5. Broken, damaged, and pieces	
6. Legs, loose shell, and flippers	
7. Heads and unacceptable shrimp	
8. Extraneous material	
9. Uniformity of size	
Cooked:	
10. Texture	
Total deductions	
Rating for scored factors (100 minus total deductions)	
Flavor and odor	
Final grade	

Table I—Schedule of Deductions for Factors Rated by Score Points [1]

State	Factor	Description of quality variation			Deduct
Frozen and thawed	Dehydration	Dehydrated—exposed ends		Desiccation of meat	
		Frozen state	Thawed state	Thawed state	
		Up to 5 percent	None	None	0
		5.1–15.0 percent	Up to 2.0 percent	Slight	3
			2.1–5.0 percent	Moderate	6
		Over 15.0 percent	Over 5.0 percent	Marked	11
		(Percent by count of total sample.) Apply the one highest deduction only.			
Thawed	Deterioration	Off-odor, overall sample:			
		Slight			2
		Moderate			6
		Marked			21
		Any excessive, each 1 percent or fraction (percent by count)			5
	Black spot on shell or loose membrane only.	Shell affected, but not meat:			
		Not over 5 percent			0
		Each additional 5 percent, or fraction (percent by count)			1
	Black spot on meat	None			0
		Not over 3 percent			1
		3.1–5.0 percent			2
		Each additional 5 percent, or fraction (percent by count)			2
	Broken, damaged, and pieces.	Not over 1 percent			0
		1.1–3.0 percent			2
		Each additional 3 percent, or fraction (percent by weight)			2
	Legs, loose shell, and flippers.	Not over 3 percent			0
		Each additional 3 percent, or fraction (percent by count)			2
	Heads and unacceptable shrimp.	Not over 1 percent			2
		Each additional 1 percent, or fraction (percent by count)			3
	Extraneous material	1 piece			1
		2 pieces			2
		Over 2 pieces			4
	Uniformity of size	Slightly large and slightly small: Each 3 percent, or fraction			1
		Exceedingly large and exceedingly small: Each 3 percent, or fraction (percent by count—based on actual count per pound of sample).			2
Cooked	Texture	Tough, dry, or mushy:			
		Slight			2
		Moderate			4
		Excessive			11

[1] This schedule of point deductions is based on the examination of sample unit composed of: (a) The contents of an entire package or (b) sufficient packages to provide a sample unit of 2 pounds or more, declared net weight.

TABLE II—WEIGHTS OF NONUNIFORM SHRIMP
[Ounces]

Count per pound	Exceedingly large	Slightly large	Slightly small	Exceedingly small
	Over—	*Over—*	*Under—*	*Under—*
8	2.70	2.50	1.50	1.30
9	2.40	2.22	1.33	1.16
10	2.16	2.00	1.20	1.04
11	1.96	1.82	1.09	.94
12	1.80	1.67	1.00	.87
13	1.66	1.54	.92	.80
14	1.54	1.43	.86	.74
15	1.44	1.33	.80	.69
16	1.35	1.25	.75	.65
17	1.27	1.18	.71	.61
18	1.19	1.11	.67	.58
19	1.14	1.05	.63	.55
20	1.08	1.00	.60	.52
21	1.03	.95	.57	.50
22	.98	.91	.54	.47
23	.94	.87	.52	.45
24	.90	.83	.50	.43
25	.86	.80	.48	.42
26	.83	.77	.46	.40
27	.80	.74	.44	.38
28	.77	.71	.43	.37
29	.74	.69	.41	.36
30	.72	.67	.40	.35
31	.70	.64	.39	.34
32	.67	.62	.38	.32
33	.65	.61	.36	.32
34	.64	.59	.35	.30
35	.62	.57	.34	.30
36	.60	.56	.33	.29
37	.58	.54	.32	.28
38	.57	.53	.32	.27
39	.55	.51	.31	.27
40	.54	.50	.30	.26
41	.53	.49	.29	.25
42	.51	.48	.29	.25
43	.50	.47	.28	.24
44	.49	.46	.27	.24
45	.48	.44	.27	.23
46	.47	.44	.26	.23
47	.46	.42	.26	.23
48	.45	.42	.25	.22
49	.44	.41	.24	.21
50	.43	.40	.24	.21
51	.42	.39	.24	.20
52	.42	.38	.23	.20
53	.41	.38	.23	.20
54	.40	.37	.22	.19
55	.39	.36	.22	.19
56	.39	.36	.21	.18
57	.38	.35	.21	.18
58	.37	.34	.21	.18
59	.37	.34	.20	.18
60	.36	.33	.20	.17
61	.35	.33	.20	.17
62	.35	.32	.19	.17
63	.34	.32	.19	.16
64	.34	.31	.19	.16
65	.33	.31	.18	.16
66	.33	.30	.18	.16
67	.32	.30	.18	.16
68	.32	.29	.18	.15
69	.31	.29	.17	.15
70	.31	.28	.17	.15
71	.30	.28	.17	.15

ALTERNATE TABLE II—WEIGHTS OF NONUNIFORM SHRIMP
[Grams]

Count per pound	Exceedingly large	Slightly large	Slightly small	Exceedingly small
	Over—	*Over—*	*Under—*	*Under—*
8	76.5	70.9	42.5	38.2
9	68.0	62.9	37.7	32.9
10	61.2	56.7	34.0	29.5
11	55.6	51.6	30.9	26.6
12	51.0	47.3	28.4	24.7
13	47.1	43.7	26.1	22.7
14	43.7	40.5	24.4	21.0
15	40.8	37.7	22.7	19.6
16	38.3	35.4	21.3	18.4
17	36.0	33.4	20.1	17.3
18	33.7	31.5	19.0	16.4
19	32.3	29.8	17.9	15.6
20	30.6	28.4	17.0	14.7
21	29.2	26.9	16.2	14.2
22	27.8	25.8	15.3	13.3
23	26.6	24.7	14.7	12.8

ALTERNATE TABLE II—WEIGHTS OF NONUNIFORM SHRIMP—Continued
[Grams]

Count per pound	Exceedingly large	Slightly large	Slightly small	Exceedingly small
	Over—	*Over—*	*Under—*	*Under—*
24	25.5	23.5	14.2	12.2
25	24.4	22.7	13.6	11.9
26	23.5	21.8	13.0	11.3
27	22.7	21.0	12.5	10.8
28	21.8	20.1	12.2	10.5
29	21.0	19.6	11.6	10.2
30	20.4	19.0	11.3	9.9
31	19.8	18.1	11.0	9.6
32	19.6	17.6	10.8	9.2
33	18.4	17.3	10.2	8.9
34	18.1	16.7	9.9	8.6
35	17.6	16.2	9.6	8.4
36	17.0	15.9	9.4	8.2
37	16.4	15.3	9.1	7.9
38	16.2	15.0	9.0	7.7
39	15.6	14.5	8.8	7.6
40	15.3	14.2	8.5	7.4
41	15.0	13.9	8.3	7.2
42	14.4	13.6	8.1	7.0
43	14.2	13.3	7.9	6.9
44	13.9	13.0	7.7	6.7
45	13.6	12.5	7.6	6.6
46	13.3	12.3	7.4	6.4
47	13.0	12.0	7.2	6.3
48	12.8	11.8	7.1	6.2
49	12.4	11.6	6.9	6.0
50	12.2	11.3	6.8	5.9
51	11.9	11.0	6.8	5.7
52	11.9	10.8	6.5	5.7
53	11.6	10.8	6.5	5.7
54	11.3	10.5	6.2	5.4
55	11.1	10.2	6.2	5.4
56	11.1	10.2	6.0	5.1
57	10.8	9.9	6.0	5.1
58	10.5	9.6	6.0	5.1
59	10.5	9.6	5.7	5.1
60	10.2	9.4	5.7	4.8
61	9.9	9.4	5.7	4.8
62	9.9	9.1	5.4	4.8
63	9.6	9.1	5.4	4.5
64	9.6	8.8	5.4	4.5
65	9.4	8.8	5.1	4.5
66	9.4	8.5	5.1	4.5
67	9.1	8.5	5.1	4.5
68	9.1	8.2	5.1	4.3
69	8.8	8.2	4.8	4.3
70	8.8	7.9	4.8	4.3
71	8.5	7.9	4.8	4.3

PART 274—UNITED STATES STANDARDS FOR GRADES OF FROZEN FLOUNDER AND SOLE FILLETS

Sec.

274.1 Description of the product.
274.2 Styles of frozen flounder and sole fillets.
274.3 Grades of frozen flounder and sole fillets.
274.11 Determination of the grade.
274.21 Definitions.
274.25 Tolerances for certification of officially drawn samples.

AUTHORITY: The provisions of this Part 274 issued under sec. 6(a), 70 Stat. 1122; 16 U.S.C. 742e.

NOTE: Compliance with the provisions of this standard shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

§ 274.1 Description of the product.

Frozen flounder and sole fillets consist of clean, wholesome fillets processed and frozen in accordance with good commercial practice and maintained at temperatures necessary for their preservation. The fillets may be cut transversely or longitudinally into subunits.

NOTE: This standard does not provide for the grading of units of fish flesh cut from previously frozen fish blocks, slabs, or similar material.

The product covered by this standard is prepared from the following species only:

SOLE

Dover sole (Microstomus pacificus).
English sole (Parophrys vetulus).
Gray sole (Glyptocephalus cynoglossus).
Petrale sole (Eopsetta jordani).
Lemon sole (Pseudopleuronectes americanus, over 3½ pounds).
Rock sole (Lepidopsetta bilineata).
Sand sole (Psettichthys melanostictus).

FLOUNDER

Blackback (Pseudopleuronectes americanus, less than 3½ pounds).
Yellowtail flounder (Limanda ferruginea).
Dab, plaice (Hippoglossoides platessoides).
Fluke (Paralichthys dentatus).
Starry flounder (Platichthys stellatus).

§ 274.2 Styles of frozen flounder and sole fillets.

(a) *Style I—Solid pack.* Fillets are frozen together. Individual fillets can be separated only by thawing the entire package or part of the package, depending on absence or presence of separators.

(1) *Substyle A.* Fillets are packed into a single solid block.

(2) *Substyle B.* Fillets are subpacked with separators into smaller weight units.

(b) *Style II—Individually-quick-frozen pack (IQF).* Fillets are individually quick frozen. Individual fillets can be separated without thawing.

§ 274.3 Grades of frozen flounder and sole fillets.

(a) "U.S. Grade A" is the quality of frozen flounder or sole fillets for which the total score is not less than 85 points, when the fillets are rated in accordance with the scoring system outlined in the following sections.

(b) "U.S. Grade B" is the quality of frozen flounder or sole fillets for which the total score is less than 85 points but is not less than 70 points, when the fillets are rated in accordance with the scoring system outlined in the following sections.

(c) "Substandard" is the quality of frozen flounder or sole fillets that fail to meet the requirements of the U.S. Grade B.

§ 274.11 Determination of the grade.

The grade is determined by observing the product in the frozen, thawed, and cooked states and is evaluated by numerical scoring. Points are deducted for variations of quality for each factor in accordance with the schedule in Table 1. The total of the points deducted is subtracted from 100 to obtain the score. The maximum score is 100; the minimum score is 0.

TABLE 1—SCHEDULE OF POINT DEDUCTIONS PER POUND OF FLOUNDER OR SOLE FILLETS AND GRADING SCORE SHEET

	Scored factors	Description of quality variation		Deduct	Deductions
Frozen	1. Appearance	Adversely affected by imbedded packaging material, voids, depressions, surface irregularity, and poor arrangements of fillets:	Slight	2	
			Moderate	4	
			Excessive	10	
	2. Dehydration	For each inch square (determined by grid) of affected area.	Color masking, easily scraped off	½	
			Deep, not easily scraped off	1	
Thawed	3. Weights	(a) For each fillet or piece less than 1 oz., except first fillet or piece		5	
		(b) For sole only: For each fillet from 1–2 oz., except first fillet		2	
		For flounder only: For each fillet from 1–2 oz., except first three fillets.		2	
	4. Workmanship defects.	For each inch square (determined by grid) of affected area.	(a) Cutting and trimming (ragged edges, holes, tears, improper or unnecessary cuts and lace).	½	
			(b) Blemishes (belly lining, blood spots, bruises, extraneous material, fins, discolored pugh marks, scales and skin).	2	
			(c) Bones (bones normally removed)	3	
	5. Color	(a) Deteriorative discoloration (yellowing of fatty portion and/or darkening of light portion).	Slight	2	
			Moderate	5	
			Excessive	15	
		(b) Nonuniformity of color (natural color differences within package due to packing fish of contrasting color).	Moderate	3	
			Excessive	5	
	6. Abnormal condition.	Usability and/or desirability of fillets impaired by abnormal conditions (jellied, milky, chalky).	Moderate	16	
			Excessive	31	
Cooked	7. Texture	Tough, dry, fibrous, or watery for species involved	Slight	4	
			Moderate	8	
			Excessive	15	
	8. Odor and flavor	Very good: Full typical odor and flavor of fresh fish			
		Good: Noticeable decrease in typical odor and flavor of fresh fish		6	
		Reasonably good: Lacking typical odor and flavor of fresh fish, but not objectionable.		16	
		Substandard: Objectionable odor and/or flavor		31	
	Total deductions				
	Score (100 minus total deductions)				
	Grade (100 to 85=Grade A; 84 to 70=Grade B; 69 and below=Substandard)				

Label
Size of lot
Size of sample
Number of packages per master carton
Remarks

Actual net weight ..... lb ..... oz
Size and kind of container
Container mark or identification
Type of overwrap

§ 274.21 Definitions.

(a) "Slight" refers to a condition that is scarcely noticeable but that does affect the appearance, desirability, and/or eating quality of the fillets.

(b) "Moderate" refers to a condition that is conspicuously noticeable but that does not seriously affect the appearance, desirability, and/or eating quality of the fillets.

(c) "Excessive" refers to a condition that is conspicuously noticeable and that does seriously affect the appearance, desirability, and/or eating quality of the fillets.

(d) "Bones normally removed" refers to (1) nape membrane bones (adjacent to visceral cavity) and to (2) radial bones (adjacent to fins and lace area).

(e) "Determined by grid" means that a transparent grid of 1-inch squares is placed over the defect area, and points are deducted (as specified in Table 1) for each square of affected area under the grid, each square being counted as one whether it is full or fractional.

(f) "Thawed state" means that the frozen product has been placed within a film-type pouch and warmed to an internal temperature of about 32° F by immersing the pouch in running tap water of about 50° to 70° F. Thawing time usually takes 25 to 45 minutes for a 1-pound package.

(g) "Cooked state" means that the thawed, unseasoned product has been placed within a boilable film-type pouch and heated to an internal temperature of about 160° F by immersing the pouch in boiling water. Cooking time usually ranges from 3 to 5 minutes for single fillets and from 7 to 10 minutes for 1-pound packages of fillets.

(h) "Actual net weight" means the weight of the fish flesh within the package after all packaging material, ice glaze, or other protective coating have been removed. ("Actual net weight" of frozen glazed fillets is determined as follows: (1) Rapidly remove excessive ice layers or pockets with running tap water or nozzle-type water spray. (2) Rapidly thaw remaining surfaces of frozen fish sufficiently with tap water or spray to prevent refreezing free surface water. (3) Gently wipe off all free water with a moisture-saturated paper towel. (4) Weigh the fish to obtain "actual net weight").

(i) "Abnormal condition" means that the normal physical and/or chemical structure of the fish flesh has been sufficiently altered so that the usability and/or desirability of the fillet is adversely affected. It includes, but is not limited to, the following examples:

(1) "Jellied" refers to the abnormal condition wherein a fillet is partly or wholly characterized by a gelatinous, glossy, translucent appearance, feels slimy to the touch, and retains its gelatinous, slimy properties in the cooked state.

(2) "Milky" refers to the abnormal condition wherein a fillet is partly or wholly characterized by a milky-white, excessively mushy, pasty, or fluidized appearance.

(3) "Chalky" refers to the abnormal condition wherein a fillet is partly or wholly characterized by a dry, chalky, granular appearance and fiberless structure.

(j) "Odor and flavor" is classified as follows:

(1) "Very good": Fish in this category have essentially the full, good, typical odor, and flavor of the indicated species.

(2) "Good": Fish in this category show a noticeable decrease of the good, typical odor and flavor of the indicated species, and/or may have certain less acceptable natural environmental odors and flavors of slight intensity (iodoform-type, phenolic-type, feed-type, etc.), but may have no off odors and flavors.

(3) "Reasonably good": Fish in this category may be flat, or completely lacking in the good, typical odor and flavor of the indicated species, and/or may have certain less acceptable natural environmental odors and flavors of moderate intensity (iodoform-type, phenolic-type, feed-type, etc.), but may have no objectionable odors and flavors.

(4) "Substandard": Fish in this category have odors and flavors that are objectionable.

§ 274.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified in accordance with Part 260 of this chapter.

PART 276—UNITED STATES STANDARDS FOR GRADES OF FROZEN FRIED FISH PORTIONS

Sec.

276.1 Description of the product.
276.3 Grades of frozen fried fish portions.
276.11 Determination of the grade.
276.21 Definitions.
276.25 Tolerances for certification of officially drawn samples.

AUTHORITY: The provisions of this Part 276 issued under sec. 6, 70 Stat. 1122, 16 U.S.C. 742e.

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

§ 276.1 Description of the product.

Frozen fried fish portions are clean, wholesome, uniformly shaped, unglazed masses of cohering pieces (not ground)

of fish flesh coated with breading and partially cooked. The portions are cut from frozen fish blocks; are coated with a suitable, wholesome batter and breading; are fried, packaged, and frozen in accordance with good commercial practice. They are maintained at temperatures necessary for preservation of the product. Frozen fried fish portions weigh more than 1½ ounces and are at least ⅜ inch thick. Frozen fried fish portions contain not less than 65 percent, by weight, of fish flesh. All portions in an individual package are prepared from the flesh of one species of fish.

§ 276.3 Grades of frozen fried fish portions.

(a) "U.S. Grade A" is the quality of frozen fried fish portions that (1) possess good flavor and odor and (2) rate a total score of not less than 85 points for those factors of quality that are rated in accordance with the scoring system outlined elsewhere in this part.

(b) "U.S. Grade B" is the quality of frozen fried fish portions that (1) possess at least reasonably good flavor and odor and (2) rate a total score of not less than 70 points for those factors of quality that are rated in accordance with the scoring system outlined in this part.

(c) "Substandard" is the quality of frozen fried fish portions that meet the requirements of § 276.1 *Description of product,* but otherwise fail to meet the requirements of "U.S. Grade B."

§ 276.11 Determination of the grade.

The grade is determined by examining the product in the frozen and cooked states and is evaluated by considering the following factors:

(a) *Factors rated by score points.* Points are deducted for variations in the quality of each factor in accordance with the schedule in Table 1. The total of points deducted is subtracted from 100 to obtain the score. The maximum score is 100; the minimum score is 0.

(b) *Factors not rated by score points.* The factor of "flavor and odor" is evaluated organoleptically by smelling and tasting, after the product has been cooked in accordance with § 276.21.

(1) Good flavor and odor (essential requirements for a Grade A product) means that the cooked product has the typical flavor and odor of the indicated species of fish and of the breading and is free from rancidity, bitterness, staleness, and off-flavors and off-odors of any kind.

(2) Reasonably good flavor and odor (minimum requirements of a Grade B product) means that the cooked product is lacking in good flavor and odor but is free from objectionable off-flavors and off-odors of any kind.

TABLE 1—SCHEDULE OF POINT DEDUCTIONS PER SAMPLE UNIT OF 10 PORTIONS

	Factors scored	Method of determining score	Deduct
		FROZEN STATE	
1	Condition of package	Small degree: Loose free oil, and/or moderate loose breading and/or moderate frost.	3
		Large degree: Oil soaking through package and/or excessive loose breading and/or excessive amount frost.	6
2	Ease of separation	Minor: Hand separated with difficulty.—Each affected	1
		Major: Separated only by knife or other instrument.—Each affected	2
3	Broken portion	Break or cut greater than ½ length or width.—Each affected	10
		Mashed, mechanically and/or physically injured, misshaped or mutilated [1]	
4	Damaged portion	Minor: 1 to 3 instances.—Each affected	2
		Major: Over 3 instances.—Each affected	4
	Uniformity:		
5	Size	Deviation in length or width between the 2 largest and 2 smallest portions is:	
		Up to ¼ inch	0
		Over ¼ inch and up to ½ inch	3
		Over ½ inch	10
6	Weight	Weight ratio of the 2 heaviest divided by the 2 lightest portions:	
		Over 1.0; not over 1.20	0
		Over 1.20; not over 1.3	3
		Over 1.3; not over 1.4	6
		Over 1.4	10
		COOKED STATE	
7	Distortion	Minor: Bending, shrinking, twisting (¼ to ½ inch).—Each affected	1
		Major: Excessive bending, shrinking, twisting (over ½ inch).—Each affected.	2
	Color	Minor: Portions differing slightly from average color of portions in sample unit.—Each affected.	2
		Major: Portions excessively darker or lighter from average color of portions in sample unit.—Each affected.	4
		Bare spots, blistering, ridges, breaks, curds [1]	
9	Coating defects	Minor: 1 to 3 instances.—Each affected	1
		Major: Over 3 instances.—Each affected	3
		Skin, blood spots, bruises, discolorations [1]	
10	Blemishes	Minor: 1 to 6 instances.—Each affected	1
		Major: Over 6 instances.—Each affected	3
11	Bones	Portions containing bones (potentially harmful).—Each affected	10
	Texture:		
12	Coating	Small degree: Moderately dry, soggy, doughy, oily and/or tough	5
		Large degree: Farinaceous (mealy), pasty, very tough and/or oily	10
13	Fish flesh	Small degree: Moderately dry, soft, mushy	5
		Large degree: Dry to the point of fibrousness, very mushy, tough, and/or rubbery.	15

[1] An instance=each 1/16 square inch (¼-inch square).

§ 276.21 Definitions.

(a) Selection of the sample unit:

The sample unit shall consist of 10 frozen fried fish portions taken at random from one or more packages as required. The portions are spread out on a flat pan or sheet and are examined according to Table 1. Definitions of factors for point deductions are as follows:

(b) Examination of sample, frozen state:

(1) "Condition of package" refers to the presence in the package of free excess oil and/or loose breading and/or loose frost.

(2) "Ease of separation" refers to the difficulty of separating portions from each other or from packaging material that are frozen together after the frying operation and during the freezing.

(3) "Broken portion" means a portion with a break or cut equal to or greater than one-half the width or length of the portion.

(4) "Damaged portion" means a portion that has been mashed, physically or mechanically injured, misshaped or mutilated to the extent that its appearance is materially affected. The amount of damage is measured by using a grid composed of squares ¼ inch (that is, squares with an area of 1/16 square inch each) to measure the area of the portion affected. Deductions are not made for damage less than 1/16 square inch.

(5) "Uniformity of size" refers to the degree of uniformity in length and width of the frozen portions. Deviations are measured from the combined lengths of the two longest minus the combined lengths of the two shortest and/or the combined widths of the two widest minus the combined widths of the two narrowest. Deductions are not made for overall deviations in length or width up to ¼ inch.

(6) "Uniformity of weight" refers to the degree of uniformity of the weights of the portions. Uniformity is measured by the combined weight of the two heaviest portions divided by the combined weight of the two lightest portions. No deductions are made for weight ratios less than 1.20.

(c) Cooked state means the state of the product after cooking in accordance with the instructions accompanying the

product. However, if specific instructions are lacking, the product for inspection is cooked as follows: Transfer the product, while still in frozen state, onto a flat pan or sheet of sufficient size to accommodate 10 portions spaced at least ¼ inch apart. Place the pan and frozen contents in a properly ventilated oven preheated to 420° F. until thoroughly cooked (about 15 to 18 minutes or to an internal temperature of 160° F.).

(d) Examination of sample, cooked state:

(1) "Distortion" refers to the degree of bending of the long axis of the portions. Distortion is measured as the greatest deviation from the long axis. Deductions are not made for deviations of less than ¼ inch.

(2) "Color" refers to the reasonably uniform color within the sample unit.

(3) "Coating defects" refers to breaks, lumps, ridges, depressions, blisters or swells and curds in the coating of the cooked product. Breaks in the coating are objectionable bare spots through which the fish flesh is plainly visible. Lumps are objectionable outcroppings of breading on the portion surface. Ridges are projects of excess breading at the edges of the fish flesh. Depressions are objectionable visible voids or shallow areas which are lightly covered by breading. Blisters are measured by the swelling or exposed area in the coating resulting from the bursting or breaking of the coating. Curd refers to crater-like holes in the breading filled with coagulated albumin. Instances of those defects are measured by a plastic grid marked off in ¼-inch squares (1/16 square inch). Each square is counted as 1 whether it is full or fractional.

(4) "Blemishes" refers to skin, blood spots or bruises, objectionable dark fatty flesh, carbon specks or extraneous material. Instances of blemishes refers to each occurrence measured by placing a plastic grid marked off ¼-inch squares (1/16 square inch) over the defect area. Each square is counted as 1 whether it is full or fractional.

(5) "Bones" means the presence of potentially harmful bones in a portion. A potentially harmful bone is one that after being cooked is capable of piercing or hurting the palate.

(6) "Texture defects of the coating" refers to the absence of the normal textural properties of the cooked coating which are crispness and tenderness. Coating texture defects are dryness, soggyness, mushiness, doughyness, toughness, pastyness, as sensed by starchiness or other sticky properties felt by mouth tissues; oiliness to the degree of impairment of texture; and/or mealiness.

(7) "Texture defects of the fish flesh" refers to the absence of the normal textural properties of the cooked fish flesh, which are tenderness, firmness, and moistness without excess water. Texture defects of the flesh are dryness, mushiness, toughness, and rubberyness.

(e) General definitions:

(1) "Small" (overall assessment) refers to a condition that is noticeable but is not seriously objectionable.

(2) "Large" (overall assessment) refers to a condition that not only is noticeable but also is seriously objectionable.

(3) "Minor" (individual assessment) refers to a defect that slightly affects the appearance and/or utility of the product.

(4) "Major" (individual assessment) refers to a defect that seriously affects the appearance and/or utility of the product.

(f) Minimum fish flesh content refers to the minimum percent, by weight, of the average fish flesh content of 3 or more additional portions per sample unit as determined by the following method:

(1) *Equipment needed.* (i) Water bath (for example, a 3- to 4-liter beaker).

(ii) Balance accurate to 0.1 gram.

(iii) Clip tongs of wire, plastic, or glass.

(iv) Stop watch or regular watch readable to a second.

(v) Paper towels.

(vi) Spatula, 4-inch blade with rounded tip.

(vii) Nut picker.

(viii) Thermometer (immersion type) accurate to ±2° F.

(ix) Copper sulfate crystals ($CuSO_4 \cdot 5H_2O$)—1 pound.

(2) *Procedure.* (i) Weigh all portions in the sample while they are still hard frozen.

(ii) Place each portion individually in the water bath maintained at 63° F. to 86° F. and allow to remain until the breading becomes soft and can easily be removed from the still frozen fish flesh (between 30 to 110 seconds for portions held in storage at 0° F.). If the portions were prepared using batters that are difficult to remove after one dipping, redip them for up to 5 seconds after the initial debreading and remove residual batter material.

NOTE: Several preliminary trials may be necessary to determine the exact dip time required for "debreading" the portions in a sample unit. For these trials only, a saturated solution of copper sulfate (1 pound of copper sulfate in 2 liters of tap water) is necessary. The correct dip time is the minimum time of immersion in the copper sulfate solution required before the breading can easily be scraped off provided that (1) the "debreaded" portions are still solidly frozen and (2) only a slight trace of blue color is visible on the surface of the "debreaded" fish portions.

(iii) Remove the portion from the bath; blot lightly with double thickness paper toweling; and scrape off or pick out coating from the fish flesh with the spatula or nut picker.

(iv) Weigh all the "debreaded" fish portions.

(v) Calculate the percent of fish flesh in the sample by the following formula:

$$\text{Percent fish flesh} = \frac{\text{Weight of fish flesh (iv)}}{\text{Weight of fried fish portions (i)}} \times (100)$$

§ 276.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified in accordance with Part 260, of this chapter (Regulations Governing Processed Fishery Products, 25 F.R. 8427, Sept. 1, 1960) except that a sample unit shall consist of 10 portions taken at random from one or more packages as required.

PART 277—UNITED STATES STANDARDS FOR GRADES OF FROZEN RAW BREADED FISH STICKS

Sec.

277.1 Description of the product.
277.3 Grades of frozen raw breaded fish sticks.
277.11 Determination of the grade.
277.21 Definitions.
277.25 Tolerances for certification of officially drawn samples.

AUTHORITY: The provisions of this Part 277 issued under sec. 6, 70 Stat. 1122, 16 U.S.C. 742e.

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

§ 277.1 Description of the product.

Frozen raw breaded sticks are clean, wholesome, rectangular-shaped unglazed masses of cohering pieces (not ground) of fish flesh coated with breading. The sticks are cut from frozen fish blocks; are coated with a suitable, wholesome batter and breading; are packaged, and frozen in accordance with good commercial practice. They are maintained at temperatures necessary for preservation of the product. Frozen raw breaded fish sticks weigh up to and including 1½ ounces; are at least ⅜ inch thick; and their largest dimension is at least 3 times the next largest dimension. Frozen raw breaded fish sticks contain not less than 72 percent, by weight, of fish flesh. All sticks in an individual package are prepared from the flesh of one species of fish.

§ 277.3 Grades of frozen raw breaded fish sticks.

(a) "U.S. Grade A" is the quality of frozen raw breaded fish sticks that (1) possess good flavor and odor and (2) rate a total score of not less than 85 points for those factors of quality that are rated in accordance with the scoring system outlined elsewhere in this part.

(b) "U.S. Grade B" is the quality of frozen raw breaded fish sticks that (1) possess at least reasonably good flavor and odor and (2) rate a total score of not less than 70 points for those factors of quality that are rated in accordance with the scoring system outlined in this part.

(c) "Substandard" is the quality of frozen raw breaded sticks that meet the requirements of § 277.1 *Description of product,* but otherwise fail to meet the requirements of "U.S. Grade B."

§ 277.11 Determination of the grade.

The grade is determined by examining the product in the frozen and cooked states and is evaluated by considering the following factors:

(a) *Factors rated by score points.* Points are deducted for variations in the quality of each factor in accordance with

the schedule in Table 1. The total of points deducted is subtracted from 100 to obtain the score. The maximum score is 100; the minimum score is 0.

(b) *Factors not rated by score points.* The factor of "flavor and odor" is evaluated organoleptically by smelling, and tasting, after the product has been cooked in accordance with § 277.21.

(1) Good flavor and odor (essential requirements for a Grade A product) means that the cooked product has the typical flavor and odor of the indicated species of fish and of the breading and is free from rancidity, bitterness, staleness, and off-flavors and off-odors of any kind.

(2) Reasonably good flavor and odor (minimum requirements of a Grade B product) means that the cooked product is lacking in good flavor and odor but is free from objectionable off-flavors and off-odors of any kind.

§ 277.21 **Definitions.**

(a) Selection of the sample unit: The sample unit shall consist of 10 frozen raw breaded fish sticks taken at random from one or more packages as required. The fish sticks are spread out on a flat pan or sheet and are examined according to Table 1. Definitions of factors for point deductions are as follows:

(b) Examination of sample, frozen state:

(1) "Condition of package" refers to the presence in the package of loose breading and/or loose frost.

(2) "Ease of separation" refers to the difficulty of separating sticks from each other or from packaging material that are frozen together during the freezing.

(3) "Broken stick" means a stick with a break or cut equal to or greater than one-half the width of the stick.

TABLE 1—SCHEDULE OF POINT DEDUCTIONS PER SAMPLE UNIT OF 10 STICKS

	Factors scored	Method of determining score	Deduct
		FROZEN STATE	
1	Condition of package	Small degree: Moderate loose breading and/or moderate frost	2
		Large degree: Excessive loose breading and/or excessive amount frost	5
2	Ease of separation	Minor: Hand separated with difficulty.—Each affected	1
		Major: Separated only by knife or other instrument.—Each affected	2
3	Broken stick	Break or cut greater than ½ length width.—Each affected	10
		Mashed, mechanically and/or physically injured, misshaped or mutilated [1]	
4	Damaged stick	Minor: 1 to 3 instances.—Each affected	2
		Major: Over 3 instances.—Each affected	4
5	Uniformity: Size	Deviation in length or width between the 2 largest and 2 smallest sticks is:	
		Up to ¼ inch	0
		Over ¼ inch and up to ½ inch	3
		Over ½ inch	10
6	Weight	Weight ratio of the 2 heaviest divided by the 2 lightest sticks:	
		Over 1.0; not over 1.15	0
		Over 1.15; not over 1.3	2
		Over 1.3; not over 1.4	5
		Over 1.4	10
		COOKED STATE	
7	Distortion	Minor: Bending, shrinking, twisting (¼ to ½ inch).—Each affected	1
		Major: Excessive bending, shrinking, twisting (over ½ inch).—Each affected.	2
		Bare spots, blistering, ridges, breaks, curds [1]	
8	Coating defects	Minor: 1 to 3 instances.—Each affected	1
		Major: Over 3 instances.—Each affected	2
		Skin, blood spots, bruises, discolorations [1]	
9	Blemishes	Minor: 1 to 6 instances.—Each affected	2
		Major: Over 6 instances.—Each affected	4
10	Bones	Sticks containing bones (potentially harmful).—Each affected	10
11	Texture: Coating	Small degree: Moderately dry, soggy, doughy or tough	5
		Large degree: Farinaceous (mealy), pasty, very tough	15
12	Fish flesh	Small degree: Moderately dry, soft, mushy	5
		Large degree: Dry to the point of fibrousness, very mushy, tough or rubbery.	15

[1] An instance = each 1/16 square inch (¼-inch square).

(4) "Damaged stick" means a stick that has been mashed, physically or mechanically injured, misshaped, or mutilated to the extent that its appearance is materially affected. The amount of damage is measured by using a grid composed of squares ¼ inch (that is, squares with an area of 1/16 square inch each) to measure the area of the stick affected. Deductions are not made for damage less than 1/16 square inch.

(5) "Uniformity of size" refers to the degree of uniformity in length and width of the frozen sticks. Deviations are measured from the combined lengths of the two longest minus the combined lengths of the two shortest and/or the combined widths of the two widest minus the combined widths of the two narrowest. Deductions are not made for overall deviations in length or width up to ¼ inch.

(6) "Uniformity of weight" refers to the degree of uniformity of the weights of the sticks. Uniformity is measured by the combined weight of the two heaviest sticks divided by the combined weight of the two lightest sticks. No deductions are made for weight ratios less than 1.15.

(c) Cooked state means the state of the product after cooking in accordance with the instructions accompanying the product. However, if specific instructions are lacking, the product for inspection is cooked as follows: Transfer the product, while still in frozen state, into a wire mesh fry basket large enough to hold the fish sticks in a single layer and cook by immersing 2–3 minutes in 375° F. liquid or hydrogenated cooking oil. After cooking, allow the fish sticks to drain 15 seconds and place the fish sticks on a paper napkin or towel to absorb excess oil.

(d) Examination of sample, cooked state:

(1) "Distortion" refers to the degree of bending of the long axis of the stick. Distortion is measured as the greatest deviation from the long axis. Deductions are not made for deviations of less than ¼ inch.

(2) "Coating defects" refers to breaks, lumps, ridges, depressions, blisters, or swells and curds in the coating of the cooked product. Breaks in the coating are objectionable bare spots through which the fish flesh is plainly visible. Lumps are objectionable outcroppings of breading on the stick surface. Ridges are projections of excess breading at the edges of the fish flesh. Depressions are objectionable visible voids or shallow areas which are lightly covered by breading. Blisters are measured by the swelling or exposed area in the coating resulting from the bursting or breaking of the coating. Curd refers to crater-like holes in the breading filled with coagulated albumin. Instances of these defects are measured by a plastic grid marked off in ¼-inch squares (1/16 square inch). Each square is counted as 1 whether it is full or fractional.

(3) "Blemishes" refers to skin, blood spots or bruises, objectionable dark fatty flesh, or extraneous material. Instances of blemishes refers to each occurrence measured by placing a plastic grid marked off in ¼-inch squares (1/16 square inch) over the defect area. Each square is counted as 1 whether it is full or fractional.

(4) "Bones" means the presence of potentially harmful bones in a stick. A potentially harmful bone is one that after being cooked is capable of piercing or hurting the palate.

(5) "Texture defects of the coating" refers to the absence of the normal textural properties of the coating which are crispness and tenderness. Coating texture defects are dryness, sogginess, mushiness, doughyness, toughness, pastyness, as sensed by starchiness or other sticky properties felt by mouth tissues and/or mealiness.

(6) "Texture defects of the fish flesh" refers to the absence of the normal textural properties of the cooked fish flesh, which are tenderness, firmness, and moistness without excess water. Texture defects of the flesh are dryness, mushiness, toughness, and rubberyness.

(e) General definitions:

(1) "Small" (overall assessment) refers to a condition that is noticeable but is not seriously objectionable.

(2) "Large" (overall assessment) refers to a condition that not only is noticeable but is seriously objectionable.

(3) "Minor" (individual assessment) refers to a defect that slightly affects the appearance and/or utility of the product.

(4) "Major" (individual assessment) refers to a defect that seriously affects the appearance and/or utility of the product.

(f) Minimum fish flesh content refers to the minimum percent, by weight, of the average fish flesh content of 3 or more additional sticks per sample unit as determined by the following method:

(1) *Equipment needed.* (i) Water bath (for example, a 3- to 4-liter beaker).

(ii) Balance accurate to 0.1 gram.

(iii) Clip tongs of wire, plastic, or glass.

(iv) Stop-watch or regular watch readable to a second.

(v) Paper towels.

(vi) Spatula, 4-inch blade with rounded tip.

(vii) Nut picker.

(viii) Thermometer (immersion type) accurate to ±2° F.

(ix) Copper sulfate crystals ($CuSO_4 \cdot 5H_2O$)—1 pound.

(2) *Procedure.* (i) Weigh all sticks in the sample while they are still hard frozen.

(ii) Place each stick individually in the water bath maintained at 63° F. to 86° F. and allow to remain until the breading becomes soft and can easily be removed from the still frozen fish flesh (between 10 to 80 seconds for sticks held in storage at 0° F.). If the sticks were prepared using batters that are difficult to remove after one dipping, redip them for up to 5 seconds after the initial debreading and remove residual batter materials.

NOTE: Several preliminary trials may be necessary to determine the exact dip time required for "debreading" the sticks in a sample unit. For these trials only, a saturated solution of copper sulfate (1 pound of copper sulphate in 2 liters of tap water) is necessary. The correct dip time is the minimum time of immersion in the copper sulfate solution required before the breading can easily be scraped off, provided that (1) the "debreaded" sticks are still solidly frozen and (2) only a slight trace of blue color is visible on the surface of the "debreaded" fish sticks.

(iii) Remove the stick from the bath; blot lightly with double thickness paper toweling; and scrape off or pick out coating from the fish flesh with the spatula or nut picker.

(iv) Weigh all the "debreaded" fish sticks.

(v) Calculate the percent of fish flesh in the sample by the following formula:

$$\text{Percent fish flesh} = \frac{\text{Weight of fish flesh (iv)}}{\text{Weight of raw breaded fish sticks (i)}} \times (100)$$

§ 277.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified in accordance with Part 260, of this chapter (Regulations Governing Processed Fishery Products, 25 F.R. 8427, Sept. 1, 1960) except that a sample unit shall consist of 10 sticks taken at random from one or more packages as required.

Subchapter H—Eastern Pacific Tuna Fisheries

PART 280—YELLOWFIN TUNA

Sec.

280.1 Definitions.
280.2 Basis and purpose.
280.3 Catch limit.
280.4 Open season.
280.5 Closed season.
280.6 Restrictions applicable to fishing vessels.
280.7 Restrictions applicable to cargo vessels.
280.8 Restrictions applicable to purchasers.
280.9 Reports and recordkeeping.
280.10 Persons and vessels exempted.
280.11 Fish and Wildlife Service employees designated as enforcement agents.
280.12 State officers designated as enforcement agents.

AUTHORITY: The provisions of this Part 280 issued under 64 Stat. 777, as amended, 16 U.S.C. 951.

§ 280.1 Definitions.

For the purposes of this part, the following terms shall be construed, respectively, to mean and to include:

(a) *United States.* All areas under the sovereignty of the United States, the Trust Territory of the Pacific Islands, and the Canal Zone.

(b) *Convention.* The Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, May 31, 1949, by the United States of America and the Republic of Costa Rica (1 U.S.T. 230).

can Tropical Tuna Commission estab-

(c) *Commission.* The Inter-Amerilished pursuant to the Convention.

(d) *Director of Investigations.* The Director of Investigations, Inter-American Tropical Tuna Commission, La Jolla, Calif.

(e) *Bureau Director.* The Director of the Bureau of Commercial Fisheries, Fish and Wildlife Service, U.S. Department of the Interior.

(f) *Regional Director.* The Regional Director, Pacific Southwest Region, Bureau of Commercial Fisheries, 101 Seaside Avenue, Terminal Island, Calif.

(g) *Regulatory area.* All waters of the eastern Pacific Ocean bounded by the mainland of the Americas and the following lines: Beginning at a point on the mainland where the parallel of 40 degrees north latitude intersects the coast; thence due west to the meridian of 125 degrees west longitude; thence due south to the parallel of 20 degrees north latitude; thence due east to the meridian of 120 degrees west longitude; thence due south to the parallel of 5 degrees north latitude; thence due east to the meridian of 110 degrees west longitude; thence due south to the parallel of 10 degrees south latitude; thence due east to the meridian of 90 degrees west longitude; thence due south to the parallel of 30 degrees south latitude; thence due east to a point on the mainland where the parallel of 30 degrees south latitude intersects the coast.

(h) *Yellowfin tuna.* Any fish of the species *Thunnus albacares* (synonomy: *Neothunnus macropterus*).

(i) *Other tuna fishes.* Those species (and none other) of the family Scombridae which are known as:

(1) Albacore—*Thunnus alalunga* (synonomy: *Thunnus germo*).

(2) Bigeye—*Thunnus obesus* (synonomy: *Parathunnus sibi*).

(3) Bluefin—*Thunnus thynnus* (synonomy: *Thunnus saliens*).

(4) Skipjack—*Euthynnus pelamis* (synonomy: *Katsuwonus pelamis*).

(j) *Fishing vessel.* Every kind, type, or description of watercraft subject to the jurisdiction of the United States (other than purse seine skiffs) used in or outfitted for catching or processing fish or transporting its catch of fish from fishing grounds.

(k) *Cargo vessel.* Every kind, type, or description of watercraft which is not employed in fishing but which is engaged in whole or in part in the transportation of fish or fish products.

(l) *Person.* Individual, association, corporation, or partnership subject to the jurisdiction of the United States.

(m) *Open season.* The time during which yellowfin tuna may lawfully be captured and taken on board a fishing vessel in the regulatory area without limitation on the quantity permitted to be retained during each fishing voyage. Unless otherwise specified, whenever time is stated in hours it shall be construed to refer to standard time in the area affected.

(n) *Closed season.* The time during which yellowfin tuna may not be taken or retained on board a fishing vessel in quantities exceeding the amounts permitted to be taken and retained as an incident to fishing for other tuna fishes.

§ 280.2 Basis and purpose.

(a) At a special meeting held at Long Beach, Calif., on September 14, 1961, the Commission recommended to the Governments of Costa Rica, Ecuador, Panama, and the United States of America, parties to the Convention, that they take joint action to limit the annual catch of yellowfin tuna from the eastern Pacific Ocean by fishermen of all nations during the calendar year 1962. This recommendation was made pursuant to paragraph 5 of Article II of the Convention on the basis of scientific investigations conducted by the Commission over a period of time dating from 1951. The most recent years of this period were marked by a substantial increase in fishing effort directed toward the yellowfin tuna stocks, resulting in a rate of exploitation of these stocks greater than that at which the maximum sustainable yield may be obtained. The Commission's recommendation for joint action by the parties to regulate the yellowfin tuna fishery has as its objective the restoration of these stocks to a level of

abundance which will permit maximum sustainable catch and the maintenance of the stocks in that condition in the future.

(b) At annual meetings held at Quito, Ecuador, May 16–18, 1962; at Panama City, Panama, April 16–17, 1963; at San Diego, Calif., March 18–19, 1964; at Mexico City, Mexico, March 23–24, 1965; and at Guayaquil, Ecuador, April 19–20, 1966, the Commission affirmed its conclusions regarding the need for regulating the yellowfin tuna fishery in the eastern Pacific Ocean and at each meeting recommended to the parties to the Convention that they take joint action to:

(1) Establish a prescribed tonnage limit on the total catch of yellowfin tuna by the fishermen of all nations during each calendar year from an area of the eastern Pacific Ocean defined by the Commission;

(2) Establish open and closed seasons for yellowfin tuna under prescribed conditions;

(3) Permit the landing of not more than fifteen percent (15%) by weight of yellowfin tuna among the tuna taken on a fishing trip made after the close of the yellowfin tuna fishing season; and

(4) Obtain from governments not parties to the Convention, but having vessels which operate in the fishery, cooperation in effecting the recommended conservation measures.

(c) The regulations in this part are designed to implement the Commission's recommendations for the conservation of yellowfin tuna so far as they affect all vessels and persons subject to the jurisdiction of the United States.

§ 280.3 Catch limit.

The annual limitation on the quantity of yellowfin tuna permitted to be taken from the regulatory area during the open season by the fishing vessels of all nations participating in the fishery will be fixed and determined on the basis of recommendations made by the Commission pursuant to paragraph 5 of Article II of the Convention. Upon approval by the Secretary of State and the Secretary of the Interior of the recommended catch limit, announcement of the catch limit thus established shall be made by the Bureau Director through publication of a suitable notice in the FEDERAL REGISTER. The Bureau Director, in like manner, shall announce any revision or modification of an approved annual catch limit which may subsequently enter into force.

§ 280.4 Open season.

The open season for yellowfin tuna fishing shall begin annually at 12:01 a.m., of the first day of January and terminate at midnight on a date to be determined and announced as provided in § 280.5.

§ 280.5 Closed season.

Pursuant to authority granted by the Commission, the Director of Investigations maintains records of the catches of yellowfin tuna made in the regulatory area from time to time during the open season by the fishing vessels of all nations participating in the fishery. By taking into account the cumulative round weight of such yellowfin tuna catches and the estimated additional quantities of yellowfin tuna expected to be caught by the fishing vessels of all nations operating in the regulatory area, the Director of Investigations will determine the date on which he deems that the yellowfin fishing season should close and will promptly notify the Bureau Director of such date. The Bureau Director shall announce the season closure date thus established by publication in the FEDERAL REGISTER. The closure date so announced shall be final except that if it shall at any time become evident to the Director of Investigations that the closure date initially determined has been affected by changed circumstances, he may subtsitute another date which shall be announced by the Bureau Director in like manner as provided for the date originally determined.

§ 280.6 Restrictions applicable to fishing vessels.

(a) Except as provided in paragraphs (b) and (c) of this section, after the date determined and announced in the manner provided in § 280.5 for the closing of the yellowfin tuna fishing season, it shall be unlawful for any master or other person in charge of a fishing vessel to possess yellowfin tuna on board such vessel or to land yellowfin tuna in any port or place until the yellowfin tuna fishing season reopens on January 1 next following the close of the season.

(b) Any master or other person in charge of a fishing vessel which has departed port to engage in tuna fishing prior to the date of the closure of the yellowfin fishing season may continue to take and retain yellowfin tuna without restriction as to quantity until the fishing voyage has been completed by unloading from such fishing vessel the whole or any part of the cargo of tuna taken during such voyage.

(c) Any master or other person in charge of a fishing vessel which has departed port after the date of the closure of the yellowfin season may possess on board such vessel and land in any port or place yellowfin tuna taken as an incident to fishing for other tuna fishes but in no event shall the yellowfin tuna so permitted to be possessed or landed exceed fifteen percent (15%), by round weight, of all tuna fishes on board the fishing vessel. Any quantity of yellowfin tuna possessed or landed in excess of the fifteen percent (15%) limitation prescribed by this subsection shall be subject to seizure pursuant to section 10(e) of the Tuna Conventions Act of 1950, as amended (16 U.S.C. 959(e)).

(d) The limitation on the quantity of incidentally caught yellowfin tuna specified in paragraph (c) of this section shall be applicable to any fishing vessel irrespective of its arrival in port prior or subsequent to December 31 in every case where the catch of tuna has been made during a fishing voyage begun in the closed season.

§ 280.7 Restrictions applicable to cargo vessels.

(a) A fishing vessel shall be deemed to have completed a fishing voyage whenever the whole or any part of its catch of tuna from the regulatory area shall be transferred to a cargo vessel in conformity with the requirements of this section.

(b) In keeping with the provisions of section 251, Title 46, United States Code, no foreign-flag vessel, whether documented as a cargo vessel or otherwise, is permitted to land in a port of the United States any tuna fish or tuna fish products taken on board such vessel on the high seas.

(c) The transfer of tuna from a fishing vessel to a cargo vessel while in a foreign country or its territorial waters will be governed by the laws and regulations of such foreign country.

(d) During the closed season for yellowfin tuna, no fishing vessel shall transfer on the high seas any part of its catch of tuna fish to a cargo vessel documented under the laws of the United States and no such cargo vessel shall receive, possess or bring to any place in the United States tuna fish taken on board on the high seas from a fishing vessel unless the cargo vessel shall hold a permit issued in conformity with paragraph (e) of this section.

(e) Upon written application made to him, the Regional Director may issue a permit authorizing a cargo vessel documented under the laws of the United States to receive, possess, and transport to the United States tuna fish transferred from fishing vessels on the high seas during the closed season on yellowfin tuna. Such permit may authorize the possession and transportation of yellowfin tuna by a cargo vessel without regard to the quantities of yellowfin or other tuna fishes received or possessed on board such vessel during the closed season on yellowfin tuna and shall contain such additional conditions and restrictions as the Regional Director shall determine to be necessary in light of the circumstances in each case to achieve compliance with the regulations in this part and the objectives of the program for the conservation of the yellowfin tuna resources of the regulatory area.

§ 280.8 Restrictions applicable to purchasers.

(a) Except as provided in paragraphs (b) and (d) of this section it shall be unlawful for any person knowingly to receive, purchase, offer to purchase, sell, offer for sale, import, export, or have in custody, possession, or control any yellowfin tuna taken or retained by a fishing vessel in violation of the regulations in this part.

(b) In view of the perishable nature of yellowfin tuna when not processed otherwise than by chilling or freezing, any person authorized to enforce the regulations in this part may cause to be sold, and any person may purchase, for not less than its reasonable market value such quantities of perishable yellowfin tuna as may be seized pursuant to section

10(e) of the Tuna Conventions Act of 1950, as amended (16 U.S.C. 959(e)).

(c) The proceeds of any sale made pursuant to paragraph (b) of this section, after deducting the reasonable costs of the sale, if any, shall be remitted by the purchaser to the Regional Director for deposit and retention in the Suspense Account of the Bureau of Commercial Fisheries (Account No. 14X6875(17)) pending judgment of the court or other disposition of the case.

(d) If a duly constituted official acting under authority and in behalf of a State of the United States, of the Commonwealth of Puerto Rico, or of American Samoa seizes any yellowfin tuna under the applicable laws or regulations of such government, such yellowfin tuna may be forfeited and sold or otherwise disposed of pursuant to such laws or regulations. Any yellowfin tuna so seized by an official of a State, the Commonwealth of Puerto Rico, or American Samoa shall not be seized by an officer or employee of the Federal Government unless it is voluntarily turned over to him to be proceeded against under applicable Federal laws or regulations.

§ 280.9 Reports and recordkeeping.

The master or other person in charge of a fishing vessel or such person as may be authorized in writing to serve as the agent of either of such persons shall—

(a) Annually, prior to the initial departure of such vessel to engage in yellowfin tuna fishing, furnish to the Regional Director (either by letter or on a form obtainable from the Regional Director) a report specifying the name, official number, home port, and cargo capacity (in tons of frozen tuna) of the vessel, and the names and addresses of the managing owner and master, respectively, of the vessel intended to be used in fishing for yellowfin tuna in the regulatory area.

(b) Not earlier than 48 hours prior to each departure from port to engage in fishing for yellowfin tuna during the open season for such tuna, furnish to the Regional Director, either by letter, telegram, radiogram, or on a form obtainable from the Regional Director, a report certifying that all tuna fishes taken during the immediately preceding fishing voyage, if any, have been unloaded and that the vessel is departing port to engage in or resume yellowfin tuna fishing. A report as required by this subsection shall be dispatched from the vessel's port of departure for a fishing voyage and if in letter form the report shall be dispatched by airmail in every case except from ports of departure on the Pacific coast of the United States where surface mail may be used for such purpose. A copy of the report showing the date of dispatch of the original shall be authenticated by affixing the stamp, seal, or signature of the postal official or employee of the telegraph or radiogram company transmitting the report, as the case may be, and such authenticated copy shall be retained on board the reporting vessel for a period of 6 months following the date of the report: *Provided*, That, in lieu of obtaining authentication by a postal official, the report of intention to depart to engage in yellowfin tuna fishing may be dispatched by registered or certified mail subject to the condition that the receipt evidencing such mailing shall be attached to the copy of the report to be retained on board the reporting vessel. The failure of any vessel, irrespective of cause, to depart upon a fishing voyage within the 48-hour period specified in this subsection shall require the furnishing in like manner of a new report not earlier than 48 hours prior to the delayed departure time.

(c) Keep an accurate log of all operations conducted from the vessel, entering therein for each day the date, noon position (stated in latitude and longitude or in relation to known physical features) and the estimated quantities (in short tons, round weight), of tuna fish by species which are taken on board the vessel: *Provided*, That the record and bridge log maintained at the request of the Commission shall be deemed a sufficient compliance with this paragraph whenever the items of information specified herein are fully and accurately entered in such log.

(d) Report by radio at least once each calendar week during a fishing voyage conducted in the open season; such reporting to begin on a date to be announced by the Bureau Director through publication of a suitable notice in the FEDERAL REGISTER and to continue throughout the open season. Reports by radio shall be made directly or through a cooperating vessel to Radio Station WWD, La Jolla, Calif., 4415.8 kc, 8805.6 kc, 12403.5 kc, or 16533.5 kc or by prepaid commercial radio message directed to the Director of Investigations. Radio reports shall be made between 0900 and 2400 Pacific standard time and shall state the name of the fishing vessel and the cumulative estimated quantities, by species, of all tuna fish taken on board from week to week throughout the duration of the fishing voyage. Weekly reports containing all items of information required by this subsection may be submitted to the Director of Investigations by the shore representative of the master or other person in charge of the vessel in lieu of radio reports from the vessel.

(e) Furnish on a form obtainable from the Regional Director, following the delivery or sale of a catch of tuna made by means of such vessel, a report, certified to be correct as to facts within the knowledge of the reporting individual, giving the name and official number of the fishing vessel, the dates of commencement and conclusion of the fishing voyage and listing separately by species and round weight in pounds or short tons, the gross quantities of each species of tuna fish so sold or delivered: *Provided*, That, at the option of the vessel master or other person in charge, a copy of the fish ticket, weigh-out slip, settlement sheet, or similar record customarily issued by the fish dealer or his agent may be used for reporting purposes, in lieu of the form obtainable from the Regional Director, if such alternate record is similarly certified and contains all items of information required by this paragraph: *Provided further*, That for any vessel landing its catch in California and reporting by means of a copy of the California fish ticket, the California Fish and Game boat number may be indicated in lieu of the vessel's official number. Such report shall be delivered or dispatched by mail to the Regional Director within 72 hours after the weighout as been completed.

§ 280.10 Persons and vessels exempted.

Nothing contained in §§ 280.2 to 280.9 shall apply to:

(a) Any person or vessel authorized by the Commission, the Bureau Director, or any State of the United States to engage in fishing for research purposes.

(b) Any person or vessel engaged in sport fishing for personal use.

§ 280.11 Fish and Wildlife Service employees designated as enforcement agents.

Any employee of the Fish and Wildlife Service duly appointed and authorized to enforce Federal laws and regulations administered by the Fish and Wildlife Service is authorized and empowered to carry out enforcement activities under the Tuna Conventions Act of 1950, as amended (16 U.S.C. 951–961).

§ 280.12 State officers designated as enforcement agents.

Any officer or employee of a State of the United States, of the Commonwealth of Puerto Rico, or of American Samoa who has been duly designated by the Bureau Director or his delegate, with the consent of the government concerned, is authorized to function as a Federal law enforcement agent and to carry out enforcement activities under the Tuna Conventions Act of 1950, as amended (16 U.S.C. 951–961)

PART 281—RESTRICTIONS ON TUNA IMPORTS

Sec.

281.1 Definitions.
281.2 Basis and purpose.
281.3 Species subject to regulation.
281.4 Species under investigation by the Commission.
281.5 Investigations authorized.
281.6 Publication of findings.
281.7 Proof of admissibility.
281.8 Removal of import restrictions.

AUTHORITY: The provisions of this Part 281, §§ 281.1 to 281.8 issued under sec. 6, 64 Stat. 778, as amended, 16 U.S.C. 955.

§ 281.1 Definitions.

For the purposes of this part, the following terms shall be construed, respectively, to mean and to include:

(a) *United States.* All areas under the sovereignty of the United States, the Trust Territory of the Pacific Islands, and the Canal Zone.

(b) *Convention.* The Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, May 31, 1949, by the United States of America and the Republic of Costa Rica (1 U.S.T. 230).

(c) *Commission.* The Inter-American Tropical Tuna Commission established pursuant to the Convention.

(d) *Bureau Director.* The Director of the Bureau of Commercial Fisheries, Fish and Wildlife Service, U.S. Department of the Interior.

(e) *Regulatory area.* All waters of the eastern Pacific Ocean bounded by the mainland of the Americas and the following lines: Beginning at a point on the mainland where the parallel of 40 degrees north latitude intersects the coast; thence due west to the meridian of 125 degrees west longitude; thence due south to the parallel of 20 degrees north latitude; thence due east to the meridian of 120 degrees west longitude; thence due south to the parallel of 5 degrees north latitude, thence due east to the meridian of 110 degrees west longitude; thence due south to the parallel of 10 degrees south latitude; thence due east to the meridian of 90 degrees west longitude; thence due south to the parallel of 30 degrees south latitude; thence due east to a point on the mainland where the parallel of 30 degrees south latitude intersects the coast.

(f) *Yellowfin tuna.* Any fish of the species *Thunnus albacares (synonomy: Neothunnus macropterus).*

(g) *Other tuna fishes.* Those species (and none other) of the family Scombridae which are known as:

(1) Albacore—*Thunnus alalunga* (synonomy: *Thunnus germo*).

(2) Bigeye—*Thunnus obesus* (synonomy: *Parathunnus sibi*).

(3) Bluefin—*Thunnus Thynnus* (synonomy: *Thunnus saliens*).

(4) Skipjack—*Euthynnus pelamis* (synonomy: *Katsuwonus pelamis*).

(h) *Fishing vessel.* Every kind, type or description of watercraft (other than purse seine skiffs) used in or outfitted for catching or processing fish or transporting fish from fishing grounds.

(i) *Person.* Individual, association, corporation or partnership.

§ 281.2 Basis and purpose.

(a) At a special meeting held at Long Beach, Calif., on September 14, 1961, the Commission recommended to the Governments of Costa Rica, Ecuador, Panama, and the United States of America, parties to the Convention, that they take joint action to limit the annual catch of yellowfin tuna from the eastern Pacific Ocean by fishermen of all nations during the calendar year 1962. This recommendation was made pursuant to paragraph 5 of Article II of the Convention on the basis of scientific investigations conducted by the Commission over a period of time dating from 1951. The most recent years of this period were marked by a substantial increase in fishing effort directed toward the yellowfin tuna stocks, resulting in a rate of exploitation of these stocks greater than that at which the maximum sustainable yield may be obtained. The Commission's recommendation for joint action by the parties to regulate the yellowfin tuna fishery has as its objective the restoration of these stocks to a level of abundance which will permit maximum sustainable catch and the maintenance of the stocks in that condition in the future.

(b) At annual meetings held at Quito, Ecuador, May 16–18, 1962; at Panama City, Panama, April 16–17, 1963; at San Diego, Calif., March 18–19, 1964; at Mexico City, Mexico, March 23–24, 1965; and at Guayaquil, Ecuador, April 19–20, 1966, the Commission affirmed its earlier conclusions regarding the need for regulating the yellowfin tuna fishery in the eastern Pacific Ocean and at each meeting recommended to the parties to the Convention that they take joint action to:

(1) Establish a prescribed tonnage limit on the total catch of yellowfin tuna by the fishermen of all nations during each calendar year from an area of the eastern Pacific Ocean defined by the Commission;

(2) Establish open and closed seasons for yellowfin tuna under prescribed conditions;

(3) Permit the landing of not more than 15 percent (15%) by weight of yellowfin tuna among the tuna taken on a fishing trip made after the close of the yellowfin tuna fishing season; and

(4) Obtain from governments not parties to the Convention, but having vessels which operate in the fishery, cooperation in affecting the recommended conservation measures.

(c) In conformity with the provisions of section 6(c) of the Act and simultaneously with the adoption of the regulations in this part, the Secretary of the Interior has made effective Part 280 of this chapter for the purpose of carrying out the recommendations of the Commission for the conservation of yellowfin tuna in the regulatory area so far as such recommendations affect all vessels and persons subject to the jurisdiction of the United States.

(d) The yellowfin tuna stocks recommended for regulation by the Commission constitute a significant part of an international high seas fishery in which the vessels of a number of countries are engaged in varying degrees. Since some of the countries are not parties to the Convention and, therefore, have no applicable treaty obligations to fulfill, the achievement of the conservation objectives with respect to the tuna resources of the eastern Pacific Ocean is dependent upon international cooperative efforts to implement the Commission's recommendations. With a view toward encouraging effective cooperation on the part of such countries, the Tuna Conventions Act of 1950, as amended, directs that restrictions be established on the importation of certain tuna fish from any country which shall fail to take action to prevent the occurrence of certain proscribe activities. Thus, section 6(c) of the Act provides that the Secretary of the Interior, with the concurrence of the Secretary of State, shall promulgate regulations—

(1) To prohibit the entry into the United States, from any country when the vessels of such country are being used in the conduct of fishing operations in the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the regulatory area; and

(2) To prohibit entry into the United States, from any country, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the regulatory area by vessels other than those of such country in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission.

(e) Section 6(c) of the Act further provides that "in the case of repeated and flagrant fishing operations in the regulatory area by the vessels of any country which seriously threaten the achievement of the objectives of the Commission's recommendations, the Secretary of the Interior, with the concurrence of the Secretary of State, may, in his discretion, also prohibit the entry from such country of such other species of tuna, in any form, as may be under investigation by the Commission and which were taken in the regulatory area."

(f) By letter of May 8, 1964, the Secretary of State concurred in the promulgation of the regulations in this part. Such regulations are designed to implement the provisions of section 6(c) of the Act with respect to import controls and to prescribe procedures for the establishment of restrictions on imports of tuna whenever such action shall be deemed warranted.

§ 281.3 Species subject to regulation.

The species of fish currently subject to regulation pursuant to a recommendation of the Commission within the meaning of section 6(c) of the Act is yellowfin tuna.

§ 281.4 Species under investigation by the Commission.

The species of fish currently under investigation by the Commission within the meaning of section 6(c) of the Act are yellowfin tuna, skipjack tuna, and bigeye tuna.

§ 281.5 Investigations authorized.

(a) The Bureau Director shall cause to be made from time to time such inquiries and investigations as may be necessary to keep himself and other persons concerned currently informed regarding the nature and effectiveness of the measures for the implementation of the Commission's recommendations which are being carried out by countries whose vessels engage in fishing within the regulatory area. In making a finding as to whether or not a country is condoning the use of vessels in the conduct of fishing operations in the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission, the Bureau Director shall take into account, among such other considerations as may appear to be pertinent in a particular case, the following factors:

(1) Whether or not the country provides or causes to be provided to the Commission pertinent statistics on a timely basis.

(2) Whether or not the country has in force conservation measures applicable to its own fishermen adequate for the implementation of the Commission's recommendations.

(3) Whether or not the country has in force measures for the control of landings in its ports of species subject to regulation which are taken in the regulatory area by fishermen of other countries contrary to the Commission's conservation recommendations.

(4) Whether or not the country, having put conservation measures into effect, takes reasonable action to enforce such measures.

(5) The number of vessels of the country which conduct fishing operations in the regulatory area.

(6) The quantity of species subject to regulation taken from the regulatory area by the country's vessels contrary to the Commission's conservation recommendations and its relationship to (i) the total quantity permitted to be taken by the vessels of all countries participating in the fishery and (ii) the quantity of such species sought to be restored to the stocks of fish pursuant to the Commission's conservation recommendations.

(7) Whether or not repeated and flagrant fishing operations in the regulatory area by the vessels of the country seriously threaten the achievement of the objectives of the Commission's recommendations.

(b) Any person who shall have reason to believe that the vessels of any country are being used in the conduct of fishing operations in the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission or that other acts within the purview of the import control provisions of section 6(c) of the Tuna Conventions Act of 1950, as amended, are occurring or are likely to occur, may communicate his belief to the Bureau Director. Every such communication shall contain or be accompanied by a full statement of the reasons for the belief, including a detailed description of such specific acts or events as may support the belief, and such other pertinent facts as may indicate a need for instituting an investigation as authorized in this part.

(c) Upon receipt by the Bureau Director of any communication submitted pursuant to paragraph (b) of this section and found to comply with the requirements of that paragraph, the Bureau Director promptly shall cause such investigation to be made as appears to be warranted by the circumstances of the case. In conducting such investigation the Bureau Director or his designated representative shall consider any representations offered by foreign interests, importers, brokers, domestic producers, or other interested persons. Unless good cause to the contrary shall exist, every such investigation shall be completed within 60 days following receipt of the communication.

§ 281.6 Publication of findings.

If it shall be determined on the basis of § 281.5 that species of fish subject to regulation or under investigation by the Commission, as the case may be, are ineligible for entry into the United States from a particular country pursuant to the provisions of section 6(c) of the Act, the Bureau Director, with the approval of the Secretary of the Interior and, when required by law, with the concurrence of the Secretary of State, shall publish a finding to that effect in the FEDERAL REGISTER. Effective upon the date of publication of such finding in the FEDERAL REGISTER every shipment of fish in any form of the species under regulation or under investigation by the Commission offered for entry either directly or indirectly from the country named in the finding shall be denied entry unless it shall be established by satisfactory proof pursuant to § 281.7 that a particular shipment of such fish is not ineligible for entry: *Provided*, That entry shall not be denied and no such proof shall be required for any such shipment which, on the date of such publication, was in transit to the United States on board a vessel operating as a common carrier.

§ 281.7 Proof of admissibility.

(a) For the purposes of § 281.6 of this part and section 8(c) of the Tuna Conventions Act of 1950, as amended, a shipment of fish in any form of the species under regulation or under investigation by the Commission offered for entry, directly or indirectly, from a country named in a finding published under such section 281.6 shall be deemed to be eligible for entry if the shipment is accompanied by a certificate of eligibility certifying, as may be appropriate, that the tuna in the shipment (1) are not of the species specified in the published finding; (2) are of the species named in the published finding but were not taken in the regulatory area; or (3) are of the species named in the published finding but are products of an American fishery lawfully taken in conformity with applicable conservation laws and regulations and landed in the country named in the published finding solely for transshipment. The certificate shall be attached to the invoice and be in the following form:

CERTIFICATE OF ELIGIBILITY

I, _____, an authorized officer of the Government of _____, certify that the shipment of tuna fish accompanied by this certificate, consisting of _____ (Quantity) of _____ (Species) in _____ (Number and kind of packages or containers) bearing the following marks and numbers _____:

☐ (a) Contains no tuna fish of the species prohibited entry into the United States by virtue of a finding of ineligibility published under regulations issued pursuant to section 6(c) of the Tuna Conventions Act of 1950, as amended. [A certificate of authentication executed by a consular officer or a consular agent of the United States must be attached.]

☐ (b) Contains tuna fish of the species prohibited entry into the United States by virtue of a finding of ineligibility published under regulations issued pursuant to section 6(c) of the Tuna Conventions Act of 1950, as amended, but that such fish were caught in the waters of _____ (Identify area or areas in which fish were taken) by vessels subject to the jurisdiction of _____ (Country), and that none of the said fish were taken in any part of the eastern Pacific Ocean subject to conservation regulations pursuant to recommendations of the Inter-American Tropical Tuna Commission. [A certificate of authentication executed by a consular officer or consular agent of the United States must be attached.]

☐ (c) Contains tuna fish of the species prohibited entry into the United States by virtue of a finding of ineligibility published under regulations issued pursuant to section 6(c) of the Tuna Conventions Act of 1950, as amended, but that such fish, as shown in the attached declaration, were taken in strict conformity with applicable conservation laws and regulations in a fishing enterprise conducted under the American flag by vessels of the United States, are products of an American fishery within the meaning of Schedule 1, Part 15A, Tariff Schedules of the United States, were landed in a foreign country solely for transshipment without change in condition and are eligible for free entry under such Schedule and 19 C.F.R. 10.78–10.79. [Where an entry is to be made pursuant to this paragraph, this certificate must be executed by a consular officer or consular agent of the United States and the declaration(s) required by 19 C.F.R. 10.79 must be attached.]

_____
(Signature)

_____
(Title)

_____
(Address)

(b) If the tuna fish are offered for entry under paragraph (a) or (b) of the Certificate of Eligibility, the certificate must be executed by a duly authorized official of the country named in the published finding and the certificate must be authenticated with respect to the signature and official position of the person executing the same by a consular officer or consular agent of the United States. Such certificate of authentication shall be attached to the Certificate of Eligibility and be substantially in the following form:

_____
_____ } ss:
_____
_____

I, _____ (Name of consular officer or consular agent), _____ (Title) of the United States of America at _____ (Place), duly commissioned and qualified, do hereby certify that _____ (Name of foreign official) whose true signature and official seal are, respectively, subscribed and affixed to the annexed certificate, was, on the _____ day of _____, 19____, the date thereof, _____ (Title of foreign official), duly commissioned and qualified, to whose official acts faith and credit are due.

In witness whereof I have hereunto set my hand and affixed the seal of the _____ at _____ this _____ day of _____, 19____.

_____
(Signature)

_____
(Name and full title of officer)

(c) If the tuna fish are offered for entry under paragraph (c) of the Certificate of Eligibility, the certificate must be executed by a consular officer or consular agent of the United States and be accompanied by the declaration(s) required by 19 CFR 10.79. The "Declaration of Master and Two Members of Crew on Entry of Products of American Fisheries," required by 19 CFR 10.79, must contain a further statement as follows: "We further declare that the said tuna fish were caught by us in full compliance with Part 280, Title 50, Code of Federal Regulations, and such other conservation laws and regulations as were applicable at the time the fishing operation was in progress."

§ 281.8 Removal of import restrictions.

Upon a determination by the Bureau Director that the conditions no longer exist which warranted the imposition of import restrictions against the country named in the finding published pursuant to section 281.6, the Bureau Director, with the approval of the Secretary of the Interior, shall publish a finding to such effect in the FEDERAL REGISTER. Effective upon the date of publication of such finding, the prior existing import restrictions against the country designated therein shall terminate: *Provided*, That for a period of 1 year from such date of publication every shipment of fish in any form of the species subject to regulation or under investigation by the Commission shall continue to be denied entry unless the shipment is accompanied by a certification executed by an authorized official of the country of export and authenticated by a consular officer or consular agent of the United States, certifying that no portion of the shipment is comprised of fish which are of species under regulation and which were prohibited from entry under the prior existing import restrictions.

SUBCHAPTER I—FISHERY MARKETING COOPERATIVES

PART 290—ISSUANCE OF CEASE AND DESIST ORDERS BY THE GOVERNMENT

Sec.

290.1 Scope of rules.
290.2 Institution of proceeding.
290.3 Complaint.
290.4 Notice of hearing.
290.5 Service of documents.
290.6 Hearing official.
290.7 Intervention.
290.8 Hearing.
290.9 Preliminary decision by hearing official.
290.10 Argument before the Secretary.
290.11 Preparation and issuance of final decision and order.

AUTHORITY: The provisions of this Part 290 issued under sec. 2, 48 Stat. 1213; 15 U.S.C. 522, 1939 Reorganization Plan No. II, 53 Stat. 1433.

§ 290.1 Scope of rules.

The Act of June 25, 1934 (48 Stat. 1213; 15 U.S.C. 521–522), the functions under which were transferred to the Secretary of the Interior by 1939 Reorganization Plan No. II, hereinafter in these rules referred to as the Act, in section 2 thereof provides a remedy whereby the associations of producers of aquatic products authorized by section 1 of the Act may be ordered by the Secretary of the Interior to cease and desist from monopolizing or restraining trade in interstate or foreign commerce to such an extent that the price of any aquatic product is unduly enhanced by reason thereof. These rules implement section 2 of the Act by establishing the procedure to be followed by the Secretary of the Interior or his authorized representative, hereinafter refered to in these rules as the Secretary, in the enforcement of the section. For rules governing practice generally before the Department of the Interior see Part 1 of Title 43, Code of Federal Regulations.

§ 290.2 Institution of proceeding.

(a) *Application to institute proceeding.* Any person having any information that an association of producers of aquatic products is monopolizing or restraining trade may file with the Secretary an application requesting the institution of such proceeding as is authorized under the Act. The application shall be in writing, signed by or on behalf of the applicant, and shall include a concise statement of the facts constituting the alleged activities and the name and address of the applicant together with the name and address of the association against which the applicant complains.

(b) *Status of the applicant.* The person filing an application as described in paragraph (a) of this section shall have no legal status in the proceeding which may be instituted as a result of the application, except where the applicant may be permitted to intervene therein, in the manner hereinafter provided, or may be called as a witness, and the applicant's identity shall not be divulged except with the applicant's prior consent or upon court order.

(c) *Who may institute.* If, after investigation of the matter complained of in the application described in paragraph (a) of this section, or upon application of another Federal agency, or after investigation made on his own motion, the Secretary has reason to believe that any association organized under the provisions of the Act is engaging in monopolization or restraint of trade in interstate or foreign commerce to such an extent that the price of any aquatic product is unduly enhanced by reason thereof, he will institute a proceeding. Proceedings will be instituted only upon complaint issued by the Secretary.

§ 290.3 Complaint.

(a) *Service.* The complaint shall be served upon the association by being sent by certified mail with return receipt requested to its principal place of business or by being left with a responsible person at the association's principal place of business.

(b) *Contents.* The complaint shall state in concise terms the allegations of fact which constitute a basis for the proceeding and shall require the association to show cause why an order should not be issued requiring it to cease and desist from the activities alleged therein to be in restraint of trade.

§ 290.4 Notice of hearing.

There shall also be served upon the association a notice of hearing, which shall be attached to the complaint or contained therein, and which shall specify a day and place not less than thirty days after service thereof to appear, introduce evidence, and make arguments to show cause why an order should not be made directing it to cease and desist from monopolization or restraint of trade.

§ 290.5 Service of documents.

Copies of all pleadings, briefs, memoranda, letters, and other documents filed by or on behalf of any party or which are otherwise submitted to an official conducting any part of the proceeding for consideration in connection therewith, shall be served upon all parties or their representatives in person or by certified mail.

§ 290.6 Hearing official.

The hearing for the purpose of taking evidence and hearing arguments to determine whether an order should be issued requiring the association to cease and desist from monopolization or restraint of trade shall be conducted by a hearing official designated by the Secretary. No person shall be assigned as hearing official who (a) has any pecuniary interest in the matter or business involved in the proceeding, or (b) has participated in the investigation preceding the institution of the proceeding, in the preparation of the complaint, or in the development of the evidence to be introduced in the proceeding.

§ 290.7 Intervention.

Upon written application, interested parties shall be permitted to intervene in the proceedings when the hearing official or the Secretary shall determine that the interests of justice will be served thereby.

§ 290.8 Hearing.

(a) *Departmental counsel.* The case against the association shall be presented by a Departmental counsel appointed for that purpose. The Bureau of Commercial Fisheries shall be responsible for the case against the association and the Bureau shall be considered a party within the purview of these rules.

(b) *Conduct of hearing.* Insofar as feasible, hearings shall be informal. Parties may offer oral and written evidence, subject to the exclusion by the hearing official, in his discretion, of irrelevant, immaterial, repetitious, or hearsay evidence.

(c) *Briefs.* Briefs may be submitted on behalf of interested parties at any time prior to 30 days after the termination of the hearing.

(d) *Examination of witnesses.* Attention of witnesses shall be invited to 18 U.S.C. 1001. Testimony may be received under oath or affirmation. All witnesses may be examined or cross-examined by the hearing official and by representatives of any party.

(e) *Transcript.* The hearing official shall make provision for a complete transcript of the hearing. A copy of the transcript shall be available to interested parties upon payment of a fee prescribed by the Chief Clerk of the Department of the Interior pursuant to Part 2 of Title 43, Code of Federal Regulations, or pursuant to any applicable Departmental contract covering reporting services.

§ 290.9 Preliminary decision by hearing official.

(a) *Issuance of preliminary decision.* Following the hearing and upon completion of the time allowed for filing briefs, the hearing official shall issue a decision embodying his findings of fact and conclusions of law on all issues as to whether the association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any aquatic product is unduly enhanced thereby. The decision of the hearing official shall be made a part of the record and a copy thereof shall be served upon all parties to the proceeding.

(b) *Filing of exceptions.* Within 30 days after service of the decision of the hearing official any party to the proceeding may file with the hearing official exceptions to his decision. This document of exceptions shall set forth separately and specifically each error asserted.

(c) *Transmittal of record.* The hearing official, immediately following the period allowed for the filing of exceptions, shall transmit to the Secretary the entire record of the proceeding.

§ 290.10 Argument before the Secretary.

(a) *Oral argument.* Unless a party has included in the exceptions a request for oral argument before the Secretary or has filed a separate request for oral argument prior to the expiration of the last date for filing such exceptions, the right to such oral argument shall be deemed to have been waived.

(b) *Briefs.* The parties may file written briefs either in addition to oral argument or in lieu thereof.

(c) *Scope of argument.* Except where the Secretary determines that argument on additional issues would be helpful, argument, whether oral or on brief, shall be limited to the issues raised by the exceptions. If the Secretary determines that additional issues should be argued, the parties or their representatives shall be given reasonable notice of such determination, so as to permit preparation of adequate argument on all the issues argued.

§ 290.11 Preparation and issuance of final decision and order.

As soon as practicable after the receipt of the record from the hearing official, or in case further proceedings were had before the Secretary, as soon as practicable thereafter, the Secretary, upon the basis of and after due consideration of the record as a whole, including that of any proceedings before him, shall prepare a final decision and an order based upon the decision. If the Secretary has found that the association is engaged in monopolization or restraint of trade in interstate or foreign commerce to such an extent that the price of any aquatic product is unduly enhanced thereby, the order shall recite the facts found by him and direct such association to cease and desist from monopolization or restraint of trade. The Secretary shall cause this order to be served upon the association. On the request of the association, or if it fails and neglects for 30 days to obey such order, the Secretary shall, in accordance with the Act, file in the district court in the judicial district in which the association has its principal place of business a certified copy of the order and of all the records in the proceeding together with a petition asking that the order be enforced and shall give notice to the Attorney General and to the association of such filing.

Chapter III—International Regulatory Agencies (Fishing and Whaling)

SUBCHAPTER A—INTERNATIONAL PACIFIC HALIBUT COMMISSION

Part
301 Pacific halibut fisheries.

SUBCHAPTER B—INTERNATIONAL WHALING COMMISSION

351 Whaling.

SUBCHAPTER A—INTERNATIONAL PACIFIC HALIBUT COMMISSION

PART 301—PACIFIC HALIBUT FISHERIES

Sec.
301.1 Regulatory areas.
301.2 Length of halibut fishing seasons.
301.3 Closed seasons.
301.4 Catch limits in Areas 2, 3A and 3B.
301.5 Size limits.
301.6 Licensing of vessels.
301.7 Statistical return by vessels.
301.8 Statistical return by dealers.
301.9 Dory gear prohibited.
301.10 Retention of halibut taken by nets.
301.11 Retention of tagged halibut.
301.12 Responsibility of master.
301.13 Supervision of unloading and weighing.
301.14 Sealing of fishing equipment.
301.15 Previous regulations superseded.

AUTHORITY: The provisions of this Part 301 issued under Art. III, 5 U.S.T. 5; TIAS 2900.

SOURCE: The provisions of this Part 301 appear at 31 F.R. 14256, Nov. 4, 1966.

§ 301.1 Regulatory areas.

(a) The "convention waters" which include the territorial waters and the high seas off the western coasts of Canada and the United States of America including the southern and the western coasts of Alaska shall be divided into the following areas, all directions given being magnetic unless otherwise stated.

(b) Area 1 (south of Willapa Bay) shall include all convention waters southeast of a line running northeast and southwest through Willapa Bay Light on Cape Shoalwater, as shown on Chart 6185, published in November 1964 (42d Edition) by the U.S. Coast and Geodetic Survey, which light is approximately latitude 46°44'03" N., longitude 124°04'38" W.

(c) Area 2 (Willapa Bay to Cape Spencer) shall include all convention waters off the coasts of the United States of America and of Alaska and of Canada between Area 1 and a line running through the most westerly point of Glacier Bay, Alaska, to Cape Spencer Light as shown on Chart 8304, published in September 1964 (9th Edition) by the U.S. Coast and Geodetic Survey, which light is approximately latitude 58°11'57" N., longitude 136°38'18" W.; thence south one-quarter east.

(d) Area 3A (Cape Spencer to Shumagin Islands) shall include all the convention waters off the coast of Alaska that are between Area 2 and a straight line running southeast one-half east from the highest point on Kupreanof Point, which highest point is approximately latitude 55°34'08" N., longitude 159°36'00" W.; the highest point on Kupreanof Point shall be determined from Chart 8859 as published March 1964 (4th Edition) by the U.S. Coast and Geodetic Survey.

(e) Area 3B (Shumagin Islands to Atka Island, not including Bering Sea) shall include all convention waters off the coast of Alaska that are between Area 3A and the meridian of 175° W. and that are south of straight lines running from Cape Kabuch Light at the head of Ikatan Bay, which light is approximately latitude 54°49'00" N., longitude 163°21'36" W.; thence to Cape Sarichef Light at the western end of Unimak Island, which light is approximately latitude 54°36'00" N., longitude 164°55'42" W.; thence to the head of Pumicestone Bay on Unalaska Island at a point approximately latitude 53°31'45" N., longitude 166°58'15" W.; thence to Ananiuliak Island Light on the southwest side of Umnak Island, which light is approximately latitude 52°59'48" N., longitude 168°55'06" W.; thence to Seguam Island Light, which light is approximately latitude 52°23'16" N., longitude 172°26'15" W.; thence to the point at intersection with the meridian of 175° W. on Atka Island at a point approximately latitude 52°04'08" N. The positions of Cape Kabuch Light and Cape Sarichef Light were determined from Chart 8860 published in October 1964 (14th Edition); the positions of the head of Pumicestone Bay and Ananiuliak Island Light were determined from Chart 8861, published in March 1965 (2d Edition); the positions of Seguam Island Light and the point on Atka Island were determined from Chart 8862, published in September 1963 (4th

Edition), all charts as published by the U.S. Coast and Geodetic Survey.

(f) Area 3C (west of Atka Island, not including Bering Sea) shall include all convention waters off the coast of Alaska that are between Area 3B and a straight line running west northwest from Cape Wrangell, the westernmost extremity of Attu Island at a point approximately latitude 52°55'20'' N., longitude 172°26'-50'' E., and that are south of straight lines running from a point on Atka Island at approximately latitude 52°04'08'' N., longitude 175°00'00'' W.; thence to Cape Amagalik on Tanaga Island, which cape is approximately latitude 51°40'40'' N., longitude 178°07'00'' W., thence to Aleut Point at the northwest end of Amchitka Island, which point is approximately latitude 51°38'20'' N., longitude 178°37'20'' E.; thence to Cape Wrangell. The position of Cape Amagalik was determined from Chart 8863, published in May 1959 (6th Edition), revised September 1963; the position of Aleut Point was determined from Chart 8864, published in June 1962 (6th Edition), revised March 1965; and the position of Cape Wrangell was determined from Chart 8865, published July 1963 (4th Edition), all charts as published by the U.S. Coast and Geodetic Survey.

(g) Area 4A (the edge between Unimak Pass and the Pribilof Islands in Bering Sea) shall include all the convention waters within the following boundary: From Cape Sarichef Light at the western end of Unimak Island, which light is approximately latitude 54°36'-00'' N., longitude 164°55'42'' W.; thence in a straight line to a point at latitude 54°00'00'' N., longitude 170°00'00'' W.; thence true north to a point northeast of St. Paul Island, approximately latitude 57°15'00'' N., longitude 170°00'00'' W.; thence to the point of origin at Cape Sarichef Light.

(h) Area 4B (Fox Islands in Bering Sea) shall include all the convention waters within the following boundary: From Cape Sarichef Light at the western end of Unimak Island, which light is approximately latitude 54°36'00'' N., longitude 164°55'42'' W., westerly along the boundary line of Area 3B, as described in paragraph (e) of this section, to the point of intersection with the meridian of 170° W. at a point approximately latitude 52°48'00'' N.; thence true north to a point at latitude 54°00'00'' N., longitude 170°00'00'' W.; thence to the point of origin at Cape Sarichef Light.

(i) Area 4C (south of a line between Cape Sarichef and Cape Navarin between 170° W. and 175° W. in Bering Sea) shall include all the convention waters between the meridians of 170° W. and 175° W. that are north of the boundary of Area 3B as defined in paragraph (e) of this section, and that are south of a straight line between a point at latitude 57°15'00'' N., longitude 170°00'00'' W. and a point at latitude 59°42'00'' N., longitude 175°00''00' W.

(j) Area 4D (west of 175° W. and the northeastern flats in Bering Sea) shall include all the convention waters which are not included in Areas 1, 2, 3A, 3B, 3C, 4A, 4B, 4C, and 4E.

(k) Area 4E (southeastern flats in Bering Sea) shall include all the convention waters within the following boundary: From Cape Sarichef Light at the western end of Unimak Island, which light is approximately latitude 54°36'00'' N., longitude 164°55'42'' W.; thence to a point northeast of St. Paul Island, approximately latitude 57°15'00'' N., longitude 170°00'00'' W.; thence to Cape Newenham, which cape is approximately latitude 58°39'00'' N., longitude 162°10'-25'' W.; thence easterly and southerly along the Alaska coastline to Cape Kabuch Light at the head of Ikatan Bay, which light is approximately latitude 54°49'00'' N., longitude 163°21'36'' W.; thence to the point of origin at Cape Sarichef Light. The position of Cape Newenham was determined from Chart 9103 as published in September 1958 (3d Edition), revised April 1962 by the U.S. Coast and Geodetic Survey.

§ 301.2 Length of halibut fishing seasons.

(a) In Area 1, the halibut fishing season shall commence and terminate at the same time as the halibut fishing season in Area 2 shall commence and terminate.

(b) In Area 2, the halibut fishing season shall commence at 1800 hours of the 9th day of May and terminate at 1800 hours on a date to be determined and announced under paragraph (b) of § 301.4, or at 1800 hours of the 15th day of October, whichever is earlier.

(c) In Area 3A, the halibut fishing season shall commence at 1800 hours of the 9th day of May and terminate at 1800 hours on a date to be determined and announced under paragraph (b) of § 301.4, or at 1800 hours of the 15th day of October, whichever is earlier.

(d) In Area 3B, there shall be two halibut fishing seasons: the first season shall commence at 1800 hours of the 18th day of April and terminate at 1800 hours of the 28th day of April; the second season shall commence on the 9th day of May and terminate at 1800 hours on a date to be determined and announced under paragraph (b) of § 301.4, or at 1800 hours of the 15th day of November, whichever is earlier.

(e) In Area 3C, the halibut fishing season shall commence at 1500 hours of the 25th day of March and terminate at 1800 hours of the 15th day of November.

(f) In Area 4A, the halibut fishing season shall commence at 1500 hours of the 6th day of April and terminate at 1800 hours of the 15th day of April.

(g) In Area 4B, the halibut fishing season shall commence at 1500 hours of the 1st day of September and terminate at 1800 hours of the 10th day of September.

(h) In Area 4C, the halibut fishing season shall commence at 1500 hours of the 25th day of March and terminate at 1800 hours of the 20th day of June.

(i) In Area 4D, the halibut fishing season shall commence at 1500 hours of the 25th day of March and terminate at 1800 hours of the 15th day of November.

(j) In Area 4E, the halibut fishing season shall commence at 1500 hours of the 25th day of March and terminate at 1800 hours of the 20th day of June.

(k) All hours of opening and closing of areas in this section and other sections of the regulations in this part shall be Pacific standard time, except in Areas 3C, 4A, 4B, 4C, 4D and 4E, where they shall be local standard time.

§ 301.3 Closed seasons.

(a) Under paragraph 1 of Article I of the Convention, all convention waters shall be closed to halibut fishing except as provided in § 301.2.

(b) All convention waters, if not already closed under other provisions of the regulations in this part, shall be closed to halibut fishing at 1800 hours of the 15th day of November and shall remain closed until reopened as provided in § 301.2, and the retention and landing of any halibut caught during this closed period shall be prohibited.

(c) Nothing contained in the regulations in this part shall prohibit the fishing for species of fish other than halibut during the closed halibut seasons, provided that it shall be unlawful for a vessel to have halibut aboard, or for any person to have halibut in his possession while so engaged. Nor shall anything in the regulations in this part prohibit the International Pacific Halibut Commission, hereafter in the regulations in this part referred to as "the Commission," from conducting or authorizing fishing operations for investigation purposes as provided for in paragraph 3 of Article I of the Convention.

§ 301.4 Catch limits in Areas 2, 3A, and 3B.

(a) The quantities of halibut to be taken during the halibut fishing seasons in areas with catch limits shall be limited to 23 million pounds in Area 2, to 33 million pounds in Area 3A, and to 3,500,000 pounds in Area 3B, each of the above quantities to consist of salable halibut and the weights in each limit to be computed as with heads off and entrails removed.

(b) The Commission shall as early in the said year as is practicable determine and announce the date on which it deems each limit of catch defined in paragraph (a) of this section will be attained, and the limit of each such catch shall then be that which shall be taken prior to said date, and fishing for halibut in the area to which each limit applies shall at that date be prohibited until each area is reopened to halibut fishing as provided in § 301.2, and provided that if it shall at any time become evident to the Commission that the limit will not be reached by such date, it may substitute another date.

(c) Catch limits shall apply only to the halibut fishing seasons in Area 2, Area 3A, and Area 3B.

§ 301.5 Size limits.

The catch of halibut to be taken from all areas shall be limited to halibut which with head on are 26 inches or more in length as measured from the tip of the

lower jaw to the extreme end of the middle of the tail or to halibut which with the head off and entrails removed are 5 pounds or more in weight, and the possession of any halibut of less than the above length, or the above weight, according to whether the head is on or off, by any vessel or by any master or operator of any vessel or by any person, firm or corporation, is prohibited.

§ 301.6 Licensing of vessels.

(a) All vessels of any tonnage which shall fish for halibut in any manner or hold halibut in possession in any area, or which shall transport halibut otherwise than as a common carrier documented by the Government of the United States or of Canada for the carriage of freight, must be licensed by the Commission, provided that vessels of less than five net tons or vessels which do not use set lines need not be licensed.

(b) Each vessel licensed by the Commission shall carry on board at all times while at sea the halibut license thus secured when it is validated for halibut fishing, and this license shall at all times be subject to inspection by authorized officers of the Governments of Canada or the United States or by representatives of the Commission.

(c) The halibut license shall be issued without fee by the customs officers of the Governments of Canada or the United States or by representatives of the Commission or by fishery officers of the Governments of Canada or the United States at places where there are neither customs officers nor representatives of the Commission.

(d) The halibut license of any vessel shall be validated before departure from port for each halibut fishing operation for which statistical return is required and at such times as required by other provisions of the regulations in this part. This validation of a license shall be by customs officers or by fishery officers of the Governments of Canada or the United States when available at places where there are no customs officers and shall not be made unless the area in which the vessel will fish is entered on the license form and unless the provisions of § 301.7 have been complied with for all landings and all fishing operations since issue of the license, provided that if the master or operator of any vessel shall fail to comply with the provisions of § 301.7, the halibut license of such vessel may be validated by customs officers or by fishery officers upon evidence either that there has been a judicial determination of the offense or that the laws prescribing penalties therefor have been complied with, or that the said master or operator is no longer responsible for, nor sharing in, the operations of said vessel.

(e) The halibut license of any vessel fishing for halibut in Area 3B when Area 3A is closed to halibut fishing must be validated at Sand Point, Alaska, prior to such fishing, except as provided in paragraph (f) of this section.

(f) Any vessel already fishing in Area 3B prior to the date of closure of Area 3A may continue to fish in said area until first entry at a port or place with a validating officer or until any halibut is unloaded. The vessel must comply with paragraph (g) of this section when it departs from Area 3B.

(g) The halibut license of any vessel departing from Area 3B into Area 3A with any halibut on board when Area 3A is closed to halibut fishing, must be validated at Sand Point, Alaska, subsequent to fishing and prior to such departure.

(h) The halibut license of any vessel fishing for halibut in Areas 3C, 4A, 4B, 4C, 4D, or 4E must be validated at Sand Point, Alaska, both prior to such fishing and prior to unloading any halibut at any port or place other than Sand Point, Alaska.

(i) A halibut license shall not be validated for departure for halibut fishing in Areas 1 or 2 more than 48 hours prior to the commencement of any halibut fishing seasons in said areas.

(j) A halibut license shall not be validated for departure for halibut fishing in Area 3A from any port or place outside Area 3A more than 96 hours prior to commencement of the halibut fishing season in Area 3A, except that a halibut license shall not be validated for departure for halibut fishing in Area 3A from any port or place within Area 3B more than 60 hours prior to commencement of the halibut fishing season in Area 3A.

(k) A halibut license shall not be validated for departure for halibut fishing in Areas 3A or 3B from any port or place inside said areas more than 48 hours prior to the commencement of the halibut fishing season in each of said areas.

(l) A halibut license shall not be validated for departure for halibut fishing in Areas 3C, 4A, 4C, 4D, or 4E more than 96 hours prior to commencement of the halibut fishing season in each of said areas.

(m) Notwithstanding the provisions of paragraph (i) of § 301.2, a halibut license shall not be valid for halibut fishing in that portion of Area 4D that is east of the meridian of 175° west after 1800 hours of the 20th day of June, unless the master or operator of the vessel shall report by radio telegraph to the International Pacific Halibut Commission, Seattle, at least 24 hours prior to entry into said area the intention of the vessel to shift its fishing activities into the area.

(n) A halibut license shall not be valid for halibut fishing in more than one of Areas 1 or 2, as defined in § 301.1, during any one trip, nor shall it be revalidated for halibut fishing in another of said areas while the vessel has any halibut on board.

(o) A halibut license may be validated for halibut fishing in more than one of Areas 2 or 3A after 1800 hours of the 9th day of May provided that the master or operator of the vessel shall declare in which one of said two areas the vessel intends to fish for halibut and provided the master or operator shall report by radio telegraph to the International Pacific Halibut Commission, Seattle, the intention of the vessel to shift its fishing activities to another of said areas, the date and approximate time of the shift and the amount of halibut that is on board at the time of shifting, and such radio report shall be recorded at the time in the log book of the vessel.

(p) A halibut license validated for halibut fishing in Areas 3C, 4C, 4D, or 4E prior to the opening of Area 4A or Area 3B may at the same time be validated for halibut fishing in Area 4A and Area 3B when the latter areas are opened.

(q) A halibut license may be validated for halibut fishing in more than one of Areas 3B, 3C, 4B, 4C, 4D, or 4E after 1800 hours of the 16th day of April provided that when Area 3B is open to halibut fishing the master or operator of the vessel shall declare in which one of said areas the vessel intends to fish and provided the master or operator shall report by radio telegraph to the International Pacific Halibut Commission, Seattle, the intention of the vessel to shift its fishing activities into or out of Area 3B to or from another of said areas, the date and approximate time of the shift and the amount of halibut that is on board at the time of shifting, and such radio report shall be recorded at the time in the log book of the vessel.

(r) A halibut license may be valiated for halibut fishing in more than one of Areas 3A and 3B after 1800 hours of the 9th day of May provided that after July 15 the master or operator of the vessel shall report by radio telegraph to the International Pacific Halibut Commission, Seattle, the intention of the vessel to shift its fishing activities to another of said areas, the date and approximate time of the shift and the amount of halibut that is on board at the time of shifting, and such radio report shall be recorded at the time in the log book of the vessel, and except that when Area 3A is closed such validation shall be subject to the conditions contained in paragraphs (e), (f), and (g) of this section and to any other applicable provisions of the regulations in this part.

(s) A halibut license shall not be valid for halibut fishing in any area closed to halibut fishing nor for the possession of halibut in any area closed to halibut fishing except while in actual transit to an area open to halibut fishing, or to or within a port of sale. The said license shall become invalid for the possession of halibut if the licensed vessel is fishing or attempting to fish for any species of fish in any area closed to halibut fishing, or if the vessel has not complied with the provisions of § 301.14, if applicable.

(t) Any vessel which is not required to be licensed for halibut fishing under paragraph (a) of this section shall not possess any halibut of any origin in any area closed to halibut fishing except while in actual transit to or within a port of sale.

(u) A halibut license shall not be valid for halibut fishing in any area in 1966 if the vessel has fished in Areas 4A, 4B, 4C, 4E, and that portion of Area 4D east of 175° W. longitude in 1966 with set lines of the type commonly used in the Pacific Coast halibut fishery during the 48 hours prior to commencement of the halibut fishing season in the aforesaid areas in Bering Sea; and the fishing with set lines shall in said areas and within this 48-

hour period be construed to include the setting out of mark buoys.

(v) No person on any vessel which is required to have a halibut license under paragraph (a) of this section shall fish for halibut or have halibut in his possession, unless said vessel has a valid license issued and in force in conformity with the provisions of this section.

§ 301.7 Statistical return by vessels.

(a) Statistical return as to the amount of halibut taken during fishing operations must be made by the master or operator of any vessel licensed under the regulations in this part within 96 hours of landing, sale or transfer of halibut or of first entry thereafter into a port where there is an officer authorized to receive such return.

(b) The statistical return must state the port of landing and the amount of halibut taken within the area or areas defined in the regulations in this part, for which the vessel's license is validated for halibut fishing.

(c) The statistical return must include all halibut landed or transferred to other vessels and all halibut held in possession on board and must be full, true and correct in all respects herein required.

(d) The master or operator or any person engaged on shares in the operation of any vessel licensed under the regulations in this part may be required by the Commission or by any officer of the Governments of Canada or the United States authorized to receive such return to certify to its correctness to the best of his information and belief and to support the certificate by a sworn statement. Validation of a halibut license after such sworn return is made shall be provisional and shall not render the license valid in case the return shall later be shown to be false or fraudulently made.

(e) The master or operator of any vessel holding a license under the regulations in this part shall keep an accurate log of all fishing operations including therein date, locality, amount of gear used, and amount of halibut taken daily in each such locality. This log record shall be retained for a period of 2 years and shall be open to inspection by representatives of the Commission authorized for this purpose.

(f) The master, operator or any other person engaged on shares in the operation of any vessel licensed under the regulations in this part may be required by the Commission or by any officer of the States to certify to the correctness of Governments of Canada or the United such log record to the best of his information and belief and to support the certificate by a sworn statement.

(g) The master or operator of any vessel holding a license validated for fishing in Areas 3C, 4A, 4B, 4C, 4D, or 4E on entering Sand Point, Alaska, enroute to another port to unload, must report to an authorized representative of the United States or of the Commission the estimated amount of halibut on board that was caught in each regulatory area.

§ 301.8 Statistical return by dealers.

(a) All persons, firms or corporations that shall buy halibut or receive halibut for any purpose from fishing or transporting vessels or other carrier shall keep and on request furnish to customs officers or to any enforcing officer of the Governments of Canada or the United States or to representatives of the Commission, records of each purchase or receipt of halibut, showing date, locality, name of vessel, person, firm or corporation purchased or received from and the amount in pounds according to trade categories of the halibut.

(b) All records of all persons, firms or corporations concerning the landing, purchase, receipt and sale of halibut shall be retained for a period of 2 years and shall be open at all times to inspection by any enforcement officer of the Governments of Canada or the United States or by any authorized representative of the Commission. Such persons, firms or corporations may be required to certify to the correctness of such records and to support the certificate by a sworn statement.

(c) The possession by any person, firm or corporation of halibut which such person, firm or corporation knows to have been taken by a vessel without a valid halibut license is prohibited.

(d) No person, firm or corporation shall unload any halibut from any vessel that has fished for halibut in Areas 3B, 3C, 4A, 4B, 4C, 4D, or 4E after the closure of Area 3A unless the license of said vessel has been validated at Sand Point, Alaska as required in paragraphs (e) and (g) of § 301.6, and unless the vessel has complied with the provisions of § 301.14, or unless permission to unload such halibut has been secured from an enforcement officer of the Governments of Canada or the United States.

§ 301.9 Dory gear prohibited.

The use of any hand gurdy or other appliance in hauling halibut gear by hand power in any dory or small boat operated from a vessel licensed under the provisions of the regulations in this part is prohibited in all convention waters.

§ 301.10 Retention of halibut taken by nets.

(a) It is prohibited to retain halibut taken with a net of any kind or to have in possession any halibut while fishing with any net or nets other than bait nets in any convention waters.

(b) All vessels with any halibut on board are prohibited to use or possess any net or nets other than bait nets.

(c) The character and the use of bait nets referred to in paragraphs (a) and (b) of this section shall conform to the laws and regulations of the country where they may be utilized and shall be of a type commonly used for such purposes and said bait nets shall be utilized for no other purpose than the capture of bait for use of the vessel carrying them.

§ 301.11 Retention of tagged halibut.

Nothing contained in the regulations in this part shall prohibit any vessel at any time from retaining and landing any halibut which bears a Commission tag at the time of capture, provided that such halibut with the tag still attached is reported at the time of landing to representatives of the Commission or to enforcement officers of the Governments of Canada or the United States and is made available to them for examination.

§ 301.12 Responsibility of master.

Wherever in the regulations in this part any duty is laid upon any vessel, it shall be the personal responsibility of the master or operator of said vessel to see that said duty is performed and he shall personally be responsible for the performance of said duty. This provision shall not be construed to relieve any member of the crew of any responsibility with which he would otherwise be chargeable.

§ 301.13 Supervision of unloading and weighing.

The unloading and weighing of the halibut of any vessel licensed under the regulations in this part shall be under such supervision as the customs or other authorized officer may deem advisable in order to assure the fulfillment of the provisions of the regulations in this part.

§ 301.14 Sealing of fishing equipment.

Any fishing vessel, prior to departing from Area 3B into Area 3A with any halibut on board when Area 3A as defined in § 301.1 is closed to halibut fishing, shall be equipped with approved attachments on the chute to permit the securing of a seal or seals, and prior to such departure shall request that said chute or the gurdy used for hauling gear or both chute and gurdy be sealed with such seal or seals as shall be required by any customs or fishery officer or any other duly authorized officer of the Government of the United States. The vessel shall keep such seal or seals intact until removed by a customs or fishery officer of the United States or of Canada and shall not unload any halibut until such time as said officer removes the seal or seals and grants permission to unload.

§ 301.15 Previous regulations superseded.

The regulations in this part shall supersede all previous regulations adopted pursuant to the Convention between Canada and the United States of America for the preservation of the halibut fishery of the Northern Pacific Ocean and Bering Sea, signed March 2, 1953, except as to offenses occurring prior to the approval of the regulations in this part. The regulations in this part shall be effective as to each succeeding year, with the dates herein specified changed accordingly, until superseded by subsequently approved regulations. Any determination made by the Commission

pursuant to the regulations in this part shall become effective immediately.

SUBCHAPTER B—INTERNATIONAL WHALING COMMISSION

PART 351—WHALING

Sec.

351.1 Inspection.
351.2 Killing of gray or right whales prohibited.
351.3 Killing of calves or suckling whales prohibited.
351.4 Operation of factory ships limited.
351.5 Closed area for factory ships in Antarctic.
351.6 Limitations on the taking of humpback whales.
351.7 Closed seasons for pelagic whaling for baleen and sperm whales.
351.8 Catch quota for baleen whales.
351.9 Minimum size limits.
351.10 Closed seasons for land stations.
351.11 Use of factory ships in waters other than south of 40° south latitude.
351.12 Limitations on processing of whales.
351.13 Prompt processing required.
351.14 Remuneration of employees.
351.15 Submission of laws and regulations.
315.16 Submission of statistical data.
351.17 Factory ship operations within territorial waters.
351.18 Definitions.

AUTHORITY: The provisions of this Part 351 issued under Article V, 62 Stat. 1718, secs. 2–14, 64 Stat. 421–425; 16 U.S.C. 916 et seq.

SOURCE: The provisions of this Part 351 appears at 29 F.R. 7672, June 16, 1964.

CROSS REFERENCE: For regulations of the Department of the Interior, implementing the Whaling Convention Act of 1949, see Part 230 of this title.

§ 351.1 Inspection.

(a) There shall be maintained on each factory ship at least two inspectors of whaling for the purpose of maintaining 24-hour inspection and also such observers as the member countries engaged in the Antarctic pelagic whaling may arrange to place on each other's factory ships. These inspectors shall be appointed and paid by the Government having jurisdiction over the factory ship: *Provided,* That inspectors need not be appointed to ships which, apart from the storage of products, are used during the season solely for freezing or salting the meat and entrails of whales intended for human food or for the feeding of animals.

(b) Adequate inspection shall be maintained at each land station. The inspectors serving at each land station shall be appointed and paid by the Government having jurisdiction over the land station.

§ 351.2 Killing of gray or right whales prohibited.

It is forbidden to take or kill gray whales or right whales, except when the meat and products of such whales are to be used exclusively for local consumption by the aborigines.

§ 351.3 Killing of calves or suckling whales prohibited.

It is forbidden to take or kill calves or suckling whales or female whales which are accompanied by calves or suckling whales.

§ 351.4 Operation of factory ships limited.

(a) It is forbidden to kill blue whales in the North Atlantic Ocean for 5 years ending on February 24, 1965.

(b) It is forbidden to use a whale catcher attached to a factory ship for the purpose of killing or attempting to kill baleen whales in any of the following areas:

(1) In the waters north of 66° north latitude except that from 150° east longitude eastwards as far as 140° west longitude the taking of killing of baleen whales by a factory ship or whale catcher shall be permitted between 66° north latitude and 72° north latitude;

(2) In the Atlantic Ocean and its dependent waters north of 40° south latitude;

(3) In the Pacific Ocean and its dependent waters east of 150° west longitude between 40° south latitude and 35° north latitude;

(4) In the Pacific Ocean and its dependent waters west of 150° west longitude between 40° south latitude and 20° north latitude;

(5) In the Indian Ocean and its dependent waters north of 40° south latitude.

§ 351.5 Closed area for factory ships in Antarctic.

It is forbidden to use a whale catcher attached to a factory ship for the purpose of killing or attempting to kill baleen whales in the waters south of 40° south latitude from 70° west longitude westward as far as 160° west longitude. (This paragraph as a result of a decision of the 14th meeting was rendered inoperative until the Commission otherwise decides.)

§ 351.6 Limitations on the taking of humpback whales.

(a) It is forbidden to kill or attempt to kill humpback whales in the North Atlantic Ocean for a period ending on November 8, 1964. Notwithstanding this closed season, the taking of 10 humpback whales per year is permitted in Greenland waters provided that whale catchers or less than 50 gross register tonnage are used for this purpose.

(b) It is forbidden to kill or attempt to kill humpback whales in the waters south of the equator.

(c) It is forbidden to kill or attempt to kill blue whales in the waters south of 40° south latitude, except in the waters north of 55° south latitude from 0° eastwards to 80° east longitude.

§ 351.7 Closed seasons for pelagic whaling for baleen and sperm whales.

(a) It is forbidden to use a whale catcher attached to a factory ship for the purpose of killing or attempting to kill baleen whales (excluding minke whales) in any waters south of 40° south latitude, except during the period from December 12 to April 7, following, both days inclusive; and no such whale catcher shall be used for the purpose of killing or attempting to kill blue whales before February 14 in any year.[1]

(b) It is forbidden to use a whale catcher attached to a factory ship for the purpose of killing or attempting to kill sperm or minke whales, except as permitted by the Contracting Governments in accordance with paragraphs (c), (d), and (e) of this section.

(c) Each Contracting Government shall declare for all factory ships and whale catchers attached thereto under its jurisdiction, one continuous open season not to exceed 8 months out of any period of 12 months during which the taking or killing of sperm whales by whale catchers may be permitted: *Provided,* That a separate open season may be declared for each factory ship and the whale catchers attached thereto.

(d) Each Contracting Government shall declare for all factory ships and whale catchers attached thereto under its jurisdiction one continuous open season not to exceed 6 months out of any period of 12 months during which the taking or killing of minke whales by the whale catchers may be permitted: *Provided,* That:

(1) A separate open season may be declared for each factory ship and the whale catchers attached thereto;

(2) The open season need not necessarily include the whole or any part of the period declared for other baleen whales pursuant to paragraph (a) of this section.

(e) Each Contracting Government shall declare for all whale catchers under its jurisdiction not operating in conjunction with a factory ship or land station one continuous open season not to exceed 6 months out of any period of 12 months during which the taking or killing of minke whales by such whale catchers may be permitted. Nothwithstanding this paragraph, one continuous open season not to exceed 8 months may be implemented so far as Greenland is concerned.

§ 351.8 Catch quota for baleen whales.

(a) The number of baleen whales taken during the open season caught in waters south of 40° south latitude by whale catchers attached to factory ships under the jurisdiction of the Contracting Governments shall not exceed 10,000 blue whale units in 1963/64.

---

[1] The amendment of § 351.7(a) of the starting date of the blue whale season from February 1 to February 14 was objected to within the prescribed period by the Governments of Japan, the Netherlands, Norway, the United Kingdom and the Union of Soviet Socialist Republics. The objections were not withdrawn and the amendment came into force on January 26, 1961, but is not binding upon Japan, the Netherlands, Norway, the United Kingdom, and the Union of Soviet Socialist Republics.

(b) For the purposes of paragraph (a) of this section, blue whale units shall be calculated on the basis that one blue whale equals:

(1) Two fin whales or

(2) Two and a half humpback whales or

(3) Six sei whales.

(c) Notification shall be given in accordance with the provisions of Article VII of the Convention, within 2 days after the end of each calendar week, of data on the number of blue whale units taken in any waters south of 40° south latitude by all whale catchers attached to factory ships under the jurisdiction of each Contracting Government: *Provided*, That when the number of blue whale units is deemed by the Bureau of International Whaling Statistics to have reached 9,000, notification shall be given as aforesaid at the end of each day of data on the number of blue whale units taken.

(d) If it appears that the maximum catch of whales permitted by paragraph (a) of this section may be reached before April 7 of any year, the Bureau of International Whaling Statistics shall determine, on the basis of the data provided, the date on which the maximum catch of whales shall be deemed to have been reached and shall notify the master of each factory ship and each Contracting Government of that date not less than 4 days in advance thereof. The killing or attempting to kill baleen whales by whale catchers attached to factory ships shall be illegal in any waters south of 40° south latitude after midnight of the date so determined.

(e) Notification shall be given in accordance with the provisions of Article VII of the Convention of each factory ship intending to engage in whaling operations in any waters south of 40° south latitude.[2]

§ 351.9 Minimum size limits.

(a) It is forbidden to take or kill any blue, sei, or humpback whales below the following lengths:

Blue whales 70 feet (21.3 metres).
Sei whales 40 feet (12.2 metres).
Humpback whales 35 feet (10.7 metres).

except that blue whales of not less than 65 feet (19.8 metres) and sei whales of not less than 35 feet (10.7 metres) in length may be taken for delivery to land stations: *Provided*, That, except in the Northeast Pacific area for a period of 3 years starting April 1, 1962, the meat of such whales is to be used for local consumption as human or animal food.

(b) It is forbidden to take or kill any fin whales below 57 feet (17.4 metres) in length for delivery to factory ships or land stations in the Southern Hemisphere, and it is forbidden to take or kill fin whales below 55 feet (16.8 metres) for delivery to factory ships or land stations in the Northern Hemisphere; except that fin whales of not less than 55 feet (16.8 metres) may be taken for delivery to land stations in the Southern Hemisphere and fin whales of not less than 50 feet (15.2 metres) may be taken for delivery to land stations in the Northern Hemisphere provided that, except in the Northeast Pacific area for a period of 3 years starting 1 April 1962, in each case, the meat of such whales is to be used for local consumption as human or animal food.

(c) It is forbidden to take or kill any sperm whales below 38 feet (11.6 metres) in length, except that sperm whales of not less than 35 feet (10.7 metres) in length may be taken for delivery to land stations.

(d) Whales must be measured when at rest on deck or platform, as accurately as possible by means of a steel tape measure fitted at the zero end with a spiked handle which can be stuck into the deck planking abreast of one end of the whale. The tape measure shall be stretched in a straight line parallel with the whale's body and read abreast the other end of the whale. The ends of the whale, for measurement purposes, shall be the point of the upper jaw and the notch between the tail flukes. Measurements, after being accurately read on the tape measure, shall be logged to the nearest foot, that is to say, any whale between 75 feet 6 inches and 76 feet 6 inches shall be logged as 76 feet, and any whale between 76 feet 6 inches and 77 feet 6 inches shall be logged as 77 feet. The measurement of any whale which falls on an exact half foot shall be logged at the next half foot, e.g., 76 feet 6 inches precisely shall be logged as 77 feet.

§ 351.10 Closed seasons for land stations.

(a) It is forbidden to use a whale catcher attached to a land station for the purpose of killing or attempting to kill baleen and sperm whales except as permitted by the Contracting Government in accordance with paragraphs (b), (c), and (d) of this section.

(b) Each Contracting Government shall declare for all land stations under its jurisdiction, and whale catchers attached to such land stations, one open season during which the taking or killing of baleen (excluding minke) whales by the whale catchers shall be permitted. Such open season shall be for a period of not more than 6 consecutive months in any period of 12 months and shall apply to all land stations under the jurisdiction of the Contracting Government: *Provided*, That a separate open season may be declared for any land station used for the taking or treating of baleen (excluding minke) whales which is more than 1,000 miles from the nearest land station used for the taking or treating of baleen (excluding minke) whales under the jurisdiction of the same Contracting Government.

(c) Each Contracting Government shall declare for all land stations under its jurisdiction and for whale catchers attached to such land stations, one open season not to exceed 8 continuous months in any one period of 12 months, during which the taking or killing of sperm whales by the whale catchers shall be permitted, such period of 8 months to include the whole of the period of 6 months declared for baleen whales (excluding minke whales) as provided for in paragraph (b) of this section: *Provided*, That a separate open season may be declared for any land station used for the taking or treating of sperm whales which is more than 1,000 miles from the nearest land station used for the taking or treating of sperm whales under the jurisdiction of the same Contracting Government.[3]

(d) (1) Each Contracting Government shall declare for all land stations under its jurisdiction and for whale catchers attached to such land stations one open season not to exceed 6 continuous months in any period of 12 months during which the taking or killing of minke whales by the whale catchers shall be permitted (such period not being necessarily concurrent with the period declared for other baleen whales, as provided for in paragraph (b) of this section): *Provided*, That a separate open season may be declared for any land station used for the taking or treating of minke whales which is more than 1,000 miles from the nearest land station used for the taking or treating of minke whales under the jurisdiction of the same Contracting Government.

(2) Except that a separate open season may be declared for any land station used for the taking or treating of minke whales which is located in an area having oceanographic conditions clearly distinguishable from those of the area in which are located the other land stations used for the taking or treating of minke whales under the jurisdiction of the same Contracting Government; but the declaration of a separate open season by virtue of the provisions of this paragraph shall not cause thereby the period of time covering the open seasons declared by the same Contracting Government to exceed 9 continuous months of any 12 months.

(e) The prohibitions contained in this section shall apply to all land stations as defined in Article II of the Whaling Convention of 1946 and to all factory ships which are subject to the regulations governing the operation of land stations under the provisions of § 351.17.

[2] Sec. 351.1(e) in earlier copies was deleted by the Commission at its fourth meeting in 1952 and the deletion became effective on Sept. 12, 1952. Original paragraph (f) consequently becomes paragraph (e).

[3] Sec. 351.10(c) came into force as from Feb. 21, 1952, in respect to all Contracting Governments, except the Commonwealth of Australia, which lodged an objection to it within the prescribed period, and this objection was not withdrawn. The provisions of this paragraph are not, therefore, binding on the Commonwealth of Australia.

§ 351.11 Use of factory ships in waters other than south of 40° south latitude.

It is forbidden to use a factory ship which has been used during a season in any waters south of 40° south latitude for the purpose of treating baleen whales, in any other area for the same purpose within a period of 1 year from the termination of that season: *Provided*, That this paragraph shall not apply to a ship which has been used during the season solely for freezing or salting the meat and entrails of whales intended for human food or feeding animals.

§ 351.12 Limitations on processing of whales.

(a) It is forbidden to use a factory ship or a land station for the purpose of treating any whales (whether or not killed by whale catchers under the jurisdiction of a Contracting Government) the killing of which by whale catchers under the jurisdiction of a Contracting Government is prohibited by the provisions of §§ 351.2, 351.4, 351.5, 351.6, 351.7, 351.8, or 351.10.

(b) All other whales (except minke whales) taken shall be delivered to the factory ship or land station and all parts of such whales shall be processed by boiling or otherwise, except the internal organs, whale bone and flippers of all whales, the meat of sperm whales and of parts of whales intended for human food or feeding animals. A Contracting Government may in less developed regions exceptionally permit treating of whales without use of land stations provided that such whales are fully utilized in accordance with this paragraph.

(c) Complete treatment of the carcasses of "Dauhval" and of whales used as fenders will not be required in cases where the meat or bone of such whales is in bad condition.

§ 351.13 Prompt processing required.

(a) The taking of whales for delivery to a factory ship shall be so regulated or restricted by the master or person in charge of the factory ship that no whale carcass (except of a whale used as a fender, which shall be processed as soon as is reasonably practicable) shall remain in the sea for a longer period than 33 hours from the time of killing to the time when it is hauled up for treatment.

(b) Whales taken by all whale catchers, whether for factory ships or land stations, shall be clearly marked so as to identify the catcher and to indicate the order of catching.

(c) All whale catchers operating in conjunction with a factory ship shall report by radio to the factory ship:

(1) The time when each whale is taken,

(2) Its species, and

(3) Its marking effected pursuant to paragraph (b) of this section.

(d) The information reported by radio pursuant to paragraph (c) of this section shall be entered immediately in a permanent record which shall be available at all times for examination by the whaling inspectors; and in addition there shall be entered such permanent record the following information as soon as it becomes available:

(1) Time of hauling up for treatment,

(2) Length, measured pursuant to paragraph (d) of § 351.9,

(3) Sex,

(4) If female, whether milk-filled or lactating,

(5) Length and sex of foetus, if present, and

(6) A full explanation of each infraction.

(e) A record similar to that described in paragraph (d) of this section shall be maintained by land stations, and all of the information mentioned in the said paragraph shall be entered therein as soon as available.

§ 351.14 Remuneration of employees.

Gunners and crews of factory ships, land stations, and whale catchers shall be engaged on such terms that their remuneration shall depend to a considerable extent upon such factors as the species, size, and yield of whales taken and not merely upon the number of the whales taken. No bonus or other remuneration shall be paid to the gunners or crews of whale catchers in respect to the taking of milk-filled or lactating whales.

§ 351.15 Submission of laws and regulations.

Copies of all official laws and regulations relating to whales and whaling and changes in such laws and regulations shall be transmitted to the Commission.

§ 351.16 Submission of statistical data.

Notification shall be given in accordance with the provisions of Article VII of the Convention with regard to all factory ships and land stations of statistical information (a) concerning the number of whales of each species taken, the number thereof lost, and the number treated at each factory ship or land station, and (b) as to the aggregate amounts of oil of each grade and quantities of meal, fertilizer (guano), and other products derived from them, together with (c) particulars with respect to each whale treated in the factory ship or land station as to the date and approximate latitude and longitude of taking, the species and sex of the whale, its length and, if it contains a foetus, the length and sex, if ascertainable, of the foetus, and (d) the data referred to in paragraphs (a) and (c) of this section shall be verified at the time of the tally and there shall also be notification to the Commission of any information which may be collected or obtained concerning the calving grounds and migration routes of whales. In communicating this information, there shall be specified:

(1) The name and gross tonnage of each factory ship;

(2) The number of whale catchers, including separate totals for surface vessels and aircraft and specifying, in the case of surface vessels, the average length and horsepower of whale catchers;

(3) A list of the land stations which were in operation during the period concerned.

§ 351.17 Factory-ship operations within territorial waters.[4]

(a) A factory ship which operates solely within territorial waters in one of the areas specified in paragraph (c) of this section, by permission of the Government having jurisdiction over those waters, and which flies the flag of that Government shall, while so operating, be subject to the regulations governing the operation of land stations and not to the regulations governing the operation of factory ships.

(b) Such factory ship shall not, within a period of 1 year from the termination of the season in which she so operated, be used for the purpose of treating baleen whales in any of the other areas specified in paragraph (c) of this section or south of 40° south latitude.

(c) The areas referred to in paragraphs (a) and (b) of this section are:

(1) On the coast of Madagascar and its dependencies;

(2) On the west coasts of French Africa;

(3) On the coasts of Australia, namely on the whole east coast and on the west coast in the area known as Shark Bay and northward to Northwest Cape and including Exmouth Gulf and King George's Scund, including the port of Albany;

(4) On the Pacific coast of the United States of America between 35° north latitude and 49° north latitude.

§ 351.18 Definitions.

(a) The following expressions have the meanings respectively assigned to them, that is to say:

"Baleen whale" means any whale which has baleen or whale bone in the mouth, i.e., any whale other than a toothed whale.

"Blue whale" (Balaenoptera or Sibbaldus musculus) means any whale

---

[4] Sec. 351.17 (a), (b), and (c) (1) to (3), was inserted by the Commission at its first meeting in 1949, and came into force on Jan. 11, 1950, as regards all Contracting Governments except France, which therefore remain bound by the provisions of the original § 351.17, which reads as follows:

"§ 351.17 Notwithstanding the definition of land station contained in Article II of the Convention, a factory ship operating under the jurisdiction of a Contracting Government, and the movements of which are confined solely to the territorial waters of that Government, shall be subject to the regulations governing the operation of land stations within the following areas: (a) On the coast of Madagascar and its dependencies, and on the west coasts of French Africa; (b) on the west coast of Australia in the area known as Shark Bay and northward to Northwest Cape and including Exmouth Gulf and King George's Sound, including the Port of Albany; and on the east coast of Australia, in Twofold Bay and Jervis Bay."

Sec. 351.17(c)(4) was inserted by the Commission at its 11th meeting in 1959 and came into force on Oct. 5, 1959, as regards all Contracting Governments.

known by the name of blue whale, Sibbald's rorqual, or sulphur bottom.

"Dauhval" means any unclaimed dead whale found floating.

"Fin whale" (Balaenoptera physalus) means any whale known by the name of common finback, common rorqual, finback, finner, fin whale, herring whale, razorback, or true fin whale.

"Gray whale" (Rhachianectes glaucus) means any whale known by the name of gray whale, California gray, devil fish, hard head, mussel digger, gray back, or rip sack.

"Humpback whale" (Megaptera nodosa or novaeangliae) means any whale known by the name of bunch, humpback, humpback whale, humpbacked whale, hump whale, or hunchbacked whale.

"Minke whale" (Balaenoptera acutorostrata, B. Davidsoni, B. huttoni) means any whale known by the name of lesser rorqual, little piked whale, minke whale, pike-headed whale, or sharp-headed finner.

"Right whale" (Balaena mysticetus; Eubalaena glacialis, E. australis, etc.; Neobalaena marginata) means any whale known by the name of Atlantic right whale, Arctic right whale, Biscayan right whale, bowhead, great polar whale, Greenland right whale, Greenland whale, Nordkaper, North Atlantic right whale, North Cape whale, Pacific right whale, pigmy right whale, Southern pigmy right whale, or Southern right whale.

"Sei whale" (Balaenoptera borealis) means any whale known by the name of sei whale, Rudlophi's rorqual, pollack whale, or coalfish whale and shall be taken to include Bryde's whale (B. brydei).

"Sperm whale" (Physeter catodon) means any whale known by the name of sperm whale, spermacet whale, cachalot, or pot whale.

"Toothed whale" means any whale which has teeth in the jaws.

(b) "Whales taken" means whales that have been killed and either flagged or made fast to catchers.

Chapter IV—Fish and Wildlife Service, Department of the Interior

PART 401—ANADROMOUS FISHERIES CONSERVATION, DEVELOPMENT AND ENHANCEMENT

Sec.

401.1 Administration.
401.2 Definitions.
401.3 Submission of applications.
401.4 Coordination with States.
401.5 Prosecution of work.
401.6 General information for the Secretary.
401.7 Availability of funds.
401.8 Payments to cooperators.
401.9 Forms of vouchers.
401.10 Property as matching funds.
401.11 Economy and efficiency of operations.
401.12 Ownership of property.
401.13 Personnel.
401.14 Inspection.
401.15 Records retention.
401.16 Reporting.
401.17 Safety and accident prevention.
401.18 Contracts.
401.19 Statements and payrolls.
401.20 Officials not to benefit.
401.21 Patents and inventions.
401.22 Convict labor.
401.23 Civil rights.

AUTHORITY: The provisions of this Part 401 issued under 5 U.S.C. 301.

§ 401.1 Administration.

The Bureau of Commercial Fisheries and the Bureau of Sport Fisheries and Wildlife shall jointly administer the Anadromous Fish Act for the Secretary.

§ 401.2 Definitions.

As used in this part, terms shall have the meanings ascribed in this section.

(a) *Secretary.* The Secretary of the Interior or his authorized representatives.

(b) *Act.* Public Law 89-304 (79 Stat. 1125; 16 USC 757a-757f), the Anadromous Fish Act of 1965.

(c) *State.* Any State of the United States which has had or now contains anadromous fish and the States bordering the Great Lakes.

(d) *State fishery agency.* Any department(s), division(s), commission(s), or official(s) of a State empowered under its laws to administer the commercial or sport fishery.

(e) *Non-Federal interest.* Any organization, association, institution, business, school, individual, or group of individuals, municipality and others outside the Federal Government in addition to State fishery agencies who desire to cooperate within the terms of the Act.

(f) *Cooperator.* A State fishery agency or other non-Federal interest participating in a cooperative agreement with the Secretary.

(g) *Anadromous fish.* Aquatic, gill breathing, vertebrate animals bearing paired fins which migrate to and spawn in fresh water, but which spend part of their life in salt water; also, fish which spend part of their life in the Great Lakes and spawn in streams tributary to the Great Lakes.

(h) *Project proposal.* A description of work to be accomplished, including objectives, procedures, cost, location, and time required for completion.

(i) *Cooperative agreement.* (1) The documentation describing conservation, development, and enhancement activities to be carried on as provided by the Act. Such agreements shall set forth the responsibilities of the cooperators and the Secretary, the anticipated benefits of the undertaking, the estimated cost to each cooperator, the term of the agreement, disposition of real or personal properties, and such other information as is appropriate.

(2) Cooperative agreements constitute the basis for projects and shall conform to the documentation requirements prescribed by the Secretary.

(j) *Project.* Any undertaking involving the conservation, enhancement and development of anadromous fish. A project is established upon execution of a cooperative agreement.

§ 401.3 Submission of applications.

Project proposals and proposed cooperative agreements shall be submitted to the concerned Regional or Area Office of the Bureau of Commercial Fisheries or the Bureau of Sport Fisheries and Wildlife.

§ 401.4 Coordination with States.

The Secretary shall not enter into a cooperative agreement with a non-Federal interest other than a State unless the project agreed upon has approval of the State agency responsible for the fishery resource which will be affected.

§ 401.5 Prosecution of work.

(a) The cooperator shall carry projects through to a stage of completion acceptable to the Secretary with reasonable promptness. Failure to render satisfactory progress reports or failure to complete the project to the satisfaction of the Secretary shall be cause for the Secretary to withhold further payments until the project provisions are satisfactorily met. Projects may be terminated upon determination by the Secretary that satisfactory progress has not been maintained. The Secretary shall have the right to inspect and review work being done at any time.

(b) Research and/or development work shall be continuously coordinated by the cooperator with studies conducted by others to avoid unnecessary duplication.

(c) All work shall be performed in accordance with applicable State laws, except when in conflict with Federal laws or regulations, in which case Federal laws or regulations shall prevail.

§ 401.6 General information for the Secretary.

Before any Federal funds may be obligated for any project the cooperator shall furnish to the Secretary upon his request, information regarding the laws affecting anadromous fish and the authority of a cooperator to participate in the benefits of the Act.

(a) *Document signature.* Individuals authorized to sign project documents under the Commercial Fisheries Research and Development Act or the Federal Aid in Fish Restoration Act may likewise sign cooperative agreements under this Act.

(b) *Program information.* The Secretary may, from time to time, request, and the cooperators shall furnish, information relating to the administration and maintenance of any project established under the Act.

§ 401.7 Availability of funds.

Language appearing in Appropriation Acts providing funds for this program will govern the period during which the funds may be obligated.

§ 401.8 Payments to cooperators.

Payments shall be made to cooperators as work described in cooperative agreements progresses and is completed.

§ 401.9 Forms of vouchers.

Vouchers on forms provided by the Secretary and certified as therein prescribed showing amounts expended on each project, and the Federal portion claimed to be due on account thereof, shall be submitted to the Secretary by the cooperator.

§ 401.10 Property as matching funds.

The non-Federal share of the cost of projects may be in the form of real or personal property. To establish the value of such property the cooperator shall furnish such market value appraisal information as the Secretary may require prior to execution of a cooperative agreement.

§ 401.11 Economy and efficiency of operations.

No cooperative agreement shall be executed until the cooperator has shown to the satisfaction of the Secretary that appropriate and adequate means shall be employed to achieve economy and efficiency in the completion of the project.

§ 401.12 Ownership of property.

When real property is acquired pursuant to the provisions of the Act, title to such property or interest therein shall be vested in the United States, and the conveying instrument shall recite the United States of America as the grantee. However, if the Secretary determines that under the terms of the cooperative agreement, the intent and purpose of the Act may be better served by State ownership of such property, an appropriate transfer may be made. When real or personal property is utilized by the State as matching funds, title to such property shall remain in the State. When real or personal property is utilized as matching funds by a cooperator other than the State, title shall be in the State unless otherwise specified in the cooperative agreement.

§ 401.13 Personnel.

The cooperator shall maintain an adequate and competent force of employees to initiate and carry cooperative agreements to satisfactory completion. Personnel employed on projects shall be selected on the basis of their competence to perform the services required and shall conduct their duties in a manner acceptable to the Secretary.

§ 401.14 Inspection.

Supervision of each project shall be as specified in the cooperative agreement and shall include adequate and continuous inspection. The project will be subject at all times to Federal inspection.

§ 401.15 Records retention.

All records of accounts and reports, with supporting documentation thereto, will be retained by the cooperator for a period of 3 years after final audit is made by the Federal Government.

§ 401.16 Reporting.

Progress and final reports shall be submitted to the Secretary by the cooperator in accordance with reporting requirements prescribed by the Secretary. Reports should be in the form of publications whenever appropriate. Progress and final reports will be placed in permanent depository for future reference.

§ 401.17 Safety and accident prevention.

In the performance of each project, the cooperator shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation. The cooperator shall be responsible for ascertaining that all safeguards, safety devices, and protective equipment are provided. The cooperator will take any other needed actions reasonably necessary to protect the life and health of employees on the job, the safety of the public, and the protection of property used in connection with the performance of the work covered by the project.

§ 401.18 Contracts.

Supply, service, equipment, and construction contracts, other than research and development contracts and contracts for professional services, involving an expenditure of $2,500 or more entered into by a cooperator for the execution of approved project activities, shall be based upon free and open competitive bids. If a contract is awarded to other than the lowest responsible bidder, the payment of the Federal portion of the cost of the project shall be based on the lowest responsible bid, unless it is satisfactorily shown that it was advantageous to the project to accept a higher bid. Upon request, the cooperator shall certify and promptly furnish to the Secretary a copy of each contract executed and copies of all bids received concerning the contract. Contracts for research, development, and professional services may be negotiated, provided that the Secretary is satisfied that adequate steps are taken to insure economical and efficient services and the impartial selection of contractors.

§ 401.19 Statements and payrolls.

The regulations of the Secretary of Labor applicable to contractors and subcontractors (29 CFR Part 3), made pursuant to the Copeland Act, as amended (40 U.S.C. 276c), and to aid in the enforcement of the Anti-Kickback Act (18 U.S.C. 874) are made a part of the regulations in this part by reference. The cooperator will comply with the regulations in this part and any amendments or modifications thereof and the cooperator's prime contractor will be responsible for the submission of statements required of subcontractors thereunder. The foregoing shall apply except as the Secretary of Labor may specifically provide for reasonable limitation, variations, tolerances, and exemptions.

§ 401.20 Officials not to benefit.

No Member of, or Delegate to, Congress, or Resident Commissioner, shall be admitted to any share or any part of an agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

§ 401.21 Patents and inventions.

Determination of the patent rights in any inventions or discoveries resulting from work under cooperative agreements entered into pursuant to the Act shall be governed by the Statement of Government Patent Policy promulgated by the President in his memorandum of October 10, 1963 (3 CFR, 1963, Supp., p. 238, 28 F.R. 10943).

§ 401.22 Convict labor.

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

§ 401.23 Civil rights.

Each cooperative agreement shall be supported by a statement of assurance executed by the cooperator providing that the project will be carried out in accordance with Title VI, Nondiscrimination in Federally Assisted Programs, of the Civil Rights Act of 1964 and with the Secretary's regulations promulgated thereunder.

STEWART L. UDALL,
Secretary.

DECEMBER 8, 1966.

[F.R. Doc. 66-13336; Filed, Dec. 14, 1966; 8:45 a.m.]

FEDERAL REGISTER

VOLUME 31 • NUMBER 242

Thursday, December 15, 1966 • Washington, D.C.

PART III

Department of Agriculture

•

Agricultural Research Service

•

Laboratory Animal Welfare

Notice of Proposed Rule Making





DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[9 CFR Ch. I]

LABORATORY ANIMAL WELFARE

Notice of Proposed Rule Making

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. section 553, that pursuant to the provisions of the Act of August 24, 1966 (P.L. 89–544), commonly known as the Laboratory Animal Welfare Act, the Department of Agriculture is proposing to issue regulations and standards to appear as a new Subchapter A in Chapter I, Title 9, Code of Federal Regulations, to be designated "Laboratory Animal Welfare," which would read as follows:

SUBCHAPTER A—LABORATORY ANIMAL WELFARE

PART 1—DEFINITIONS OF TERMS

§ 1.1 Definitions.

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

(a) "Act" means the Act of August 24, 1966 (P.L. 89–544), commonly known as the Laboratory Animal Welfare Act.

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

(c) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

(d) "Division" means the Animal Health Division, Agricultural Research Service, U.S. Department of Agriculture

(e) "Director" means the Director of the Division or any other official of the Division to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

(f) "Veterinarian in Charge" means the veterinary inspector who is assigned by the Director to supervise and perform the official work of the Division in a given State and who reports directly to the Director. As used in Part 2 of this subchapter, the Veterinarian in Charge shall be deemed to be the one in charge of the official work of the Division in the State in which the dealer or research facility has his principal place of business.[1]

(g) "Division representative" means any inspector or other person employed by the Division who is authorized by the Director of the Division to do any work or perform any duty in connection with the administration of the Act.

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

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

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

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

(l) "Animal" means any live dog, cat, nonhuman primate mammal, guinea pig, hamster, or rabbit.

(m) "Nonhuman primate" means a member of the highest order of nonhuman mammals, which includes prosimians, monkeys, and apes, ranging from the marmoset, weighing only a few ounces, to the adult gorilla weighing hundreds of pounds.

(n) "Research Facility" means any school, institution, organization, or person that uses or intends to use dogs or cats in research, tests, or experiments, and that (1) purchases or transports dogs or cats in commerce, or (2) receives funds under a grant, award, loan, or contract from a department, agency, or instrumentality of the United States for the purpose of carrying out research, tests, or experiments with animals.

(o) "Dealer" means any person who for compensation or profit delivers for transportation, or transports, except as a common carrier, buys, or sells dogs or cats in commerce for research purposes.

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

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

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

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

(t) "Cage" means a box-like enclosure (containing four sides, a roof and floor) having some open work (as of wire or bars), which is used to confine an animal or animals to a limited amount of space in proportion to their size and which permits close observation of such animals.

(u) "Pen or run" means an animal enclosure that confines an animal or animals on four sides by fences or walls, the floor of which is at the approximate level of the adjacent floor or ground.

(v) "Enclosure" means any structure used to contain an animal or animals to a limited amount of space, which includes a room, pen or run, cage or hutch.

[1] The name and address of the Veterinarian in Charge in the State concerned can be obtained by writing to the Director, ANH, ARS, USDA, Hyattsville, Md. 20782.

PART 2—REGULATIONS

LICENSING

§ 2.1 Application.

(a) Any person operating or desiring to operate as a dealer shall apply for a license on forms which can be obtained from the Veterinarian in Charge in the State in which such person operates or intends to operate. If such person operates in more than one State, he shall apply in the State in which he has his principal place of business. The completed application form shall be filed with such Veterinarian in Charge, together with a certified check, cashier's check, or money order in the amount of the fee prescribed in § 2.6.

(b) Any person who is not a dealer but who desires to obtain a license, may do so by following the requirements for dealers set forth in paragraph (a) of this section and in §§ 2.2, 2.3, and 2.6 and by agreeing in writing on a form furnished by the Division to comply with all the requirements of the Act and the provisions of this subchapter.

§ 2.2 Acknowledgment of Standards.

A copy of the applicable Standards will be supplied with each application for a license, and the applicant shall acknowledge receipt of such Standards and agree to comply with them by signing a form provided for such purpose by the Division. Such form shall be filed with the application for a license.

§ 2.3 Demonstration of compliance with Standards.

Each applicant must demonstrate that his facilities comply with the Standards set forth in Part 3 of this subchapter. In connection therewith, the applicant must make his facilities available at all reasonable times for inspection by a Division representative for the purpose of ascertaining compliance with said Standards. If the applicant's facilities do not meet the requirements for licensing, the applicant will be advised of existing deficiencies and the corrective measures that must be taken before such facilities will be in compliance with the Standards.

§ 2.4 Issuance of licenses.

A license will be issued to any applicant when the requirements of §§ 2.1, 2.2, 2.3, and 2.6 have been met, and when the Secretary has determined that the applicant's facilities comply with the Standards.

§ 2.5 Duration of license.

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

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

(b) Said license is automatically terminated pursuant to § 2.8; or

(c) Said license is voluntarily terminated upon the request of the licensee.

§ 2.6 Annual fees.

The amount of the annual license fee will be based on the total gross dollar volume of dogs and cats handled by the

licensee or applicant during his preceding business year (calendar or fiscal) in the case of a person who operated during such year, or on the basis of the anticipated total gross dollar volume of dogs and cats in the case of a person who has not previously so operated. In the case of an applicant for a license who operated during a substantial portion of his preceding business year but not the entire year, the annual license fee shall be computed by estimating the yearly volume of business on the basis of the business done during the period of operation. The minimum license fee shall be $15 and shall be applicable to any person whose total gross dollar volume of dogs and cats is $2,000 or less. The fee shall increase $5 for each additional $1,000, or portion thereof, of gross dollar volume of dogs and cats in excess of $2,000.

§ 2.7 Notification of change of name, address, control or ownership, volume of business.

A licensee shall promptly notify the Veterinarian in Charge of any change in the name, address, management or substantial control or ownership of his business or operation. Each year, within 30 days prior to the anniversary date of his license, a licensee shall file with the Veterinarian in Charge, a form which may be obtained from him, setting forth the annual per head volume and gross dollar volume of dogs and cats handled in his business during his preceding business year.

§ 2.8 Termination.

Each license shall automatically terminate on its anniversary date unless on or before such date the form provided for in § 2.7 and the fee, by certified check, cashier's check, or money order, as set forth in § 2.6, have been filed with the Veterinarian in Charge. If such form and fee are not filed by the anniversary date the licensee may obtain reinstatement of his license at any time within 30 days after such anniversary date by paying an additional fee of $10. Such a license will be reinstated as of the anniversary date.

§ 2.9 Refund of fee.

If an application for a license is withdrawn before the issuance of the license, without the filing of a new application, or if a license is not issued because the applicant does not qualify, the license fee submitted with the application shall be refunded: *Provided,* That the applicant reimburse the Department for expenses incurred in connection with the processing of the application.

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

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

§ 2.11 Licensees whose licenses have been suspended or revoked.

Any person whose license has been suspended or revoked may not again be licensed in his own name or in any other manner within the period during which the order of suspension or revocation is in effect, and no partnership, firm, or corporation in which any such person has a substantial financial interest will be licensed during said period.

REGISTRATION

§ 2.25 Requirements and procedures.

Every research facility shall register with the Secretary by filing, on forms which may be obtained upon request from the Veterinarian in Charge, a properly executed registration form containing all the information required therein. Such registration form shall be filed with the Veterinarian in Charge. Where a school or department of a university or college uses or intends to use dogs or cats for research, tests or experiments, the university or college rather than the school or department is the research facility and shall register with the Secretary.

§ 2.26 Acknowledgment of Standards.

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

§ 2.27 Notification of change of name, address, control, or ownership.

A registrant shall promptly notify the Veterinarian in Charge of any change in the name, address, management or substantial control or ownership of its business or operation. A registrant shall also notify the Veterinarian in Charge of any change in his operation which would effect his status as a research facility as defined in the Act and the regulations.

IDENTIFICATION OF DOGS AND CATS

§ 2.50 Time and method of identification.

(a) When a dealer purchases or otherwise acquires a dog or cat he shall immediately affix to the animal's neck an official tag of the type described in § 2.51 by means of a collar or other device, unless such dog or cat is already identified with an official tag which has been applied by a previous dealer. The dealer shall not remove such previously attached tag, but shall treat it as if he had applied it himself.

(b) The dealer shall exercise extreme care when attaching official tags to the necks of dogs and cats to assure that the collar or other device and the material of which they are made will not cause harm, injury or discomfort to the animal. The use of wire and elastic is prohibited. The use of materials or chains of a type that might become imbedded in the skin of the animal's neck is also prohibited. The use of any other device or material for affixing tags which may create a hazard to the comfort and well being of the dogs or cats is prohibited.

§ 2.51 Form.

The official tag shall consist of an aluminum circular tag not less than 1¼ inches in diameter. Each tag shall be embossed or stamped with the letters "USDA", and numbers and letters identifying the State, dealer, and animal, as set forth in Figure 1. Such tags shall be serially numbered.



Figure 1

§ 2.52 How to obtain tags.

Dealers may obtain, at their own expense, official tags from commercial tag manufacturers.[2] At the time a dealer is issued a license the Department will assign him dealer identification letters.

§ 2.53 Use of tags.

Official tags obtained by a dealer shall be applied to each dog or cat in the manner set forth in § 2.50 and in consecutive numerical order. No tag shall be used to identify more than one animal.

§ 2.54 Lost tags.

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

§ 2.55 Removal of tag.

(a) Upon arrival at a research facility of a dog or cat wearing an official tag, such tag may be left on the animal at the discretion of officials of the research facility. If, however, the official tag is removed from the dog or cat at the research facility, such tag shall be retained until called for by a Division representative.

(b) If a dealer finds it necessary to humanely dispose of a dog or cat to which is affixed an official tag, he shall remove such tag from the animal and retain it until called for by a Division representative.

RECORDS

§ 2.75 Records, dealers.

In connection with all dogs and cats purchased or otherwise acquired, held, transported, or sold or otherwise disposed of, a dealer shall keep and maintain the following information on the forms supplied and in the manner prescribed by the Division:

[2] A list of the commercial manufacturers who produce such tags, known to the Department, may be obtained from the Veterinarian in Charge. Any manufacturer who desires to be included in such list should notify the Director.

(a) The name and address of the person from whom acquired, and the person to whom sold or otherwise disposed of, and the license designation of any such person if licensed as a dealer;

(b) The dates of acquisition and disposition;

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

(d) The method of transportation, the license number or other identification of the means of conveyance, and the name and address of the driver of the means of conveyance; and

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

§ 2.76 Records, research facilities.

(a) In connection with all dogs and cats purchased or otherwise acquired a research facility shall keep and maintain the following information on the forms supplied and in the manner prescribed by the division:

(1) The name and address of the person from whom such animal was purchased or acquired, and his license designation if licensed as a dealer;

(2) The date acquired; and

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

(b) In connection with the transportation of dogs and cats by a research facility, it shall keep and maintain, on the forms supplied and in the manner prescribed by the Division, the method of transportation and the license number or other identification of the means of conveyance.

(c) In connection with all dogs and cats sold or otherwise disposed of by a research facility to another person, such research facility shall keep and maintain, on forms supplied and in the manner prescribed by the Division, the name and address of the person to whom the animal is sold or otherwise disposed of, and the date of such sale or disposition.

§ 2.77 Records, disposition.

(a) Except as otherwise provided in paragraph (b) of this section, no dealer or research facility shall, without the consent in writing of the Director, destroy or dispose of for a period of 2 years from the making thereof, any books, records, documents or other papers required to be kept and maintained under this part.

(b) The records required to be kept and maintained under this part shall be held for more than the 2-year period specified in paragraph (a) of this section if necessary to comply with any Federal, State or local law, or if the dealer or research facility is notified in writing by the Director that specified records should be retained pending the completion of any investigation or proceeding under the Act.

COMPLIANCE WITH STANDARDS AND HOLDING PERIOD

§ 2.100 Compliance with Standards.

Each dealer and research facility shall comply in all respects with the Standards set forth in Part 3 of this subchapter setting forth the standards for the humane handling, care, treatment and transportation of animals.

§ 2.101 Holding period.

(a) All dogs and cats acquired by a dealer shall be held by him, under his supervision and control, for a period of 5 business days after the acquisition of such animals: *Provided, however,* That dogs or cats suffering from disease, emaciation or injury may be humanely destroyed prior to the expiration of the 5-day holding period. Business day shall mean any day of the week during which the dealer normally operates his business.

(b) If the dealer obtains the prior approval of the Veterinarian in Charge, he may arrange to have another person hold such animals for him for the 5-day period provided for in paragraph (a) of this section: *Provided,* That such other person agrees in writing to comply with the Standards in Part 3 of this subchapter, and to allow inspection by a Division representative of his premises: *And provided further,* That the dogs and cats still remain under the control of the dealer.

MISCELLANEOUS

§ 2.125 Information as to business; furnishing of by dealers and research facilities.

Each dealer and research facility shall furnish to authorized representatives of the Secretary any information concerning the business of the dealer or research facility which may be requested by them in connection with the enforcement of the provisions of the Act, the regulations and the Standards in this subchapter, within such reasonable time as may be specified in the request for such information.

§ 2.126 Inspection of records and property of dealers and research facilities.

Each dealer and research facility shall, upon request, during ordinary business hours, permit authorized representatives of the Secretary to enter his place of business, to examine records requested pertaining to the business of the dealer or research facility and to make copies thereof, and to inspect such property and animals as such representatives consider necessary to enforce the provisions of the Act, the regulations and the Standards in this subchapter. The use of any room, table, or other facilities necessary for the proper examination of such records and inspection of such property or animals shall be extended to such authorized representatives of the Secretary by the dealer or research facility, his agents and employees.

§ 2.127 Publication of names of dealers and research facilities.

Lists of persons licensed as dealers and lists of research facilities which are registered, pursuant to the provisions of this part, shall be published periodically by the Division in the FEDERAL REGISTER. Such lists may also be obtained upon request from the Veterinarian in Charge.

§ 2.128 Inspection for lost animals.

Each dealer and research facility shall, upon request during ordinary business hours, permit authorized representatives of legally constituted law enforcement agencies to enter the place of business of such dealer or research facility to inspect animals and records for the purpose of seeking lost or stolen animals. Such inspection shall not extend to animals that are undergoing actual research or experimentation, and the enforcement representatives shall abide by all security measures required by the dealer or research facility to prevent the spread of disease, including the use of sterile clothing, footwear, and masks where required.

§ 2.129 Confiscation and destruction of animals.

When an animal being held by a dealer or research facility is found by a Division representative to be suffering as a result of the failure of the dealer or research facility to comply with any provision of the Act or any provision of the regulations or Standards set forth in this subchapter, the Division representative shall notify the dealer or research facility of the condition of such animal and request that the condition be immediately corrected or that adequate veterinary or other treatment be given when necessary to alleviate the animal's suffering, or that the animal be humanely destroyed. If the dealer or research facility refuses to comply with such request, and if in the opinion of the Director the circumstances warrant such action, the Division representative may confiscate and humanely destroy such animal.

PART 3—STANDARDS

Subpart A—Specifications for the Humane Handling, Care, Treatment and Transportation of Dogs and Cats

FACILITIES AND OPERATING STANDARDS

§ 3.1 Facilities, general.

(a) *Structural strength.* The facilities for housing dogs or cats shall be structurally sound and shall be maintained in good repair, to prevent injury to the animals, to contain the animals, and to restrict the entrance of other animals.

(b) *Water and electric power.* Reliable and adequate electric power and adequate potable water shall be available.

(c) *Isolation.* Facilities for isolating dogs or cats under quarantine or treatment for communicable diseases shall be in a room or area that is separated from other dog or cat holding areas.

(d) *Storage.* Facilities shall be provided for the storage of food and bedding, protected against infestation or

contamination by vermin or any mammalian or avian species. Refrigeration shall be provided for perishable items of the diet normally requiring refrigeration.

(e) *Waste disposal.* Provision shall be made for the removal and disposal of excreta, bedding, dead animals, and debris. Disposal facilities shall be so constructed and operated as to minimize vermin infestation, offensive odors, and disease hazards.

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

§ 3.2 Facilities, indoor.

(a) *Heating.* Facilities housing dogs or cats shall be sufficiently heated when necessary to protect the dogs or cats from cold, and to provide for their health and comfort. The temperature in such facilities shall not be allowed to fall below 50° F.

(b) *Ventilation.* Facilities housing dogs or cats shall be adequately ventilated to provide for the health and comfort of the animals at all times. All rooms or compartments shall be provided with fresh air either by means of windows, doors, vents, or airconditioning. They shall be ventilated so as to miminize drafts, offensive odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or airconditioning, shall be provided when the temperature in such facilities rises to 85° F.

(c) *Lighting.* Facilities housing dogs or cats shall have ample light, by natural or artificial means, or both, of good quality and well distributed, during a minimum of 8 hours in each 24-hour period. Such lighting shall provide uniformly distributed illumination of a minimum of 30 foot-candles of light intensity, when measured from a distance of 36 inches from the floor. Such lighting shall be provided in animal areas beyond the 8-hour period when necessary to permit routine inspection and cleaning. Animal enclosures shall be so placed as to prevent discomfort to the dogs or cats from illumination.

(d) *Interior surfaces.* The interior building surfaces of the facilities shall be constructed and maintained so that they are substantially impervious to moisture and may be readily sanitized.

(e) *Drainage.* A suitable method shall be provided to rapidly eliminate excess water. In rooms provided with drains, the floors shall be sloped so that there will be no pools of standing water after flushing. All drains shall be properly constructed and kept in good repair to avoid foul odors therefrom. If closed drainage systems are used, they shall be equipped with traps and so installed as to prevent any backup of sewage into the drain line and to the floor of the room.

§ 3.3 Facilities, outdoor.

(a) *Shelter from sunlight.* Sufficient shade shall be provided to allow all dogs and cats to protect themselves from the direct rays of the sun.

(b) *Shelter from rain or snow.* Dogs and cats shall be provided with access to shelter to allow them to remain dry during rain or snow.

(c) *Shelter from cold weather.* Shelter shall be provided for dogs or cats when the atmospheric temperature falls below 50° F. Such shelter shall contain sufficient clean bedding material to facilitate the maintenance of an ambient temperature of at least 50° F. for all dogs and cats not conditioned to lower temperatures.

(d) *Drainage.* A suitable method shall be provided to rapidly eliminate excess water.

§ 3.4 Animal housing enclosures—rooms, runs, pens, cages.

All primary enclosures in which dogs or cats are confined shall conform to the following requirements:

(a) *General—(1) Requirements for enclosures housing dogs or cats.* (i) Enclosures shall be structually sound and maintained in good repair to prevent injury to the animals, to contain the animals, and to keep other animals out.

(ii) Enclosures shall be constructed and maintained so as to enable the animals to remain dry and clean.

(iii) Provision shall be made for convenient access to clean food and water.

(iv) The floors of the enclosures shall be constructed to prevent injury to the animals. Wire or mesh floors which permit the feet of the animals to pass through spaces in the wire or mesh shall not be used.

(2) *Additional requirements for enclosures housing cats.* (i) In all enclosures having a solid floor, sufficient clean litter shall be provided to contain excreta.

(ii) Each enclosure shall be provided with a solid resting surface or surfaces which, in the aggregate, shall be of adequate size to comfortably hold all occupants of the enclosure at the same time. Such resting surface or surfaces shall be elevated in pens or runs housing more than two cats.

(b) *Space requirements.* Enclosures shall be constructed and maintained so as to provide sufficient space for the animals to make normal postural adjustments with adequate freedom of movement.

(1) *Dogs.* The following space requirements are applicable to facilities for housing dogs:

(i) *Rooms, pens, and runs.* If dogs are housed in rooms, pens, or runs, a minimum of 8 square feet of floor space shall be provided for each dog measuring 2 feet or less in length, and a minimum of 12 square feet of floor space shall be provided for each dog measuring more than 2 feet in length: *Provided, however,* That the maximum population of dogs which may be housed in a room, pen, or run, shall not exceed 10 dogs.

(ii) *Cages.* A dog shall not be housed in a cage unless the interior height of such cage is 6 inches or more in excess of the height of the dog, as measured from the floor to the apex of its shoulders while in a standing position, and the width and depth are 6 inches or more in excess of the length of the dog, as measured from the end of its nose to the base of its tail: *Provided, however,* That after a dealer or research facility has held a dog in a cage of such size for 30 days such dog shall be placed in a room, pen, run, or larger cage until assigned or reassigned for research purposes or otherwise disposed of in the case of a research facility or until sold or otherwise disposed in the case of a dealer: *And provided, further,* That with regard to such larger cage, the interior height shall be at least 1½ times the height of the dog, as measured from the floor to the apex of its shoulders while in a standing position, and the width and depth shall be at last twice the length of the dog, as measured from the end of its nose to the base of its tail. No more than one adult dog shall be housed in any cage unless justified by compelling scientific reasons.

(2) *Cats.* The following space requirements are applicable to facilities for housing cats:

(i) *Pens and runs.* If cats are housed in pens or runs, a minimum of 3 square feet of floor space shall be provided for each adult cat. The maximum population of adult cats which may be housed in a pen or run shall not exceed 10.

(ii) *Cages.* If cats are housed in cages, the interior height shall be at least 2 feet, and a minimum of 3 square feet of floor space shall be provided for each adult cat. No more than two adult cats shall be housed in any cage unless justified by compelling scientific reasons.

ANIMAL HEALTH AND HUSBANDRY STANDARDS

§ 3.5 Feeding.

(a) Dogs and cats shall be fed each day except as otherwise required by compelling health or scientific considerations. The food shall be wholesome, palatable, and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the dog or cat:

(b) Food receptacles shall be accessible to all dogs or cats and shall be located so as to minimize contamination by excreta. Feeding pans shall be durable; they shall be cleaned daily, replenished with fresh food, and they shall be sanitized at least once a week. Disposable food receptacles may be used but must be discarded after each feeding. Self feeders may be used for the feeding of dry food, and they shall be sanitized regularly to prevent molding, deterioration, or caking of feed.

§ 3.6 Watering.

If potable water is not accessible to the dogs and cats at all times, potable liquids shall be offered to such animals at least twice daily for periods of not less than 1 hour, except as otherwise required by compelling health or scientific considerations. Water receptacles shall be sanitized when dirty: *Provided, however,* That such receptacles shall be sanitized at least once a week.

§ 3.7 Sanitation.

(a) *Daily cleaning of animal housing enclosures.* Excreta shall be removed from animal enclosures at least once

daily. When hosing or flushing methods are used for this purpose, measures shall be taken to prevent the wetting of animals confined in such enclosure.

(b) *Sanitization of animal housing enclosures.* (1) Prior to the introduction of dogs or cats into empty enclosures previously occupied, the rooms, pens, runs, and cages shall be sanitized in the manner provided in subparagraph (3) of this paragraph.

(2) Cages housing dogs or cats shall be sanitized at least weekly, rooms and hard-surfaced pens and runs shall be sanitized at least once every 2 weeks, and pens and runs using gravel or sand shall be sanitized when the gravel or sand becomes soiled, in the manner provided in subparagraph (3) of this paragraph.

(3) Rooms, cages, and hard-surfaced pens and runs shall be sanitized by washing them with soap or detergent and using a safe and effective disinfectant. Pens and runs having gravel or sand shall be sanitized by removing the soiled gravel or sand and replacing it with clean gravel or sand.

(c) *Housekeeping.* Premises (buildings and grounds) shall be kept clean and in good repair in order to prevent injury to the animals and to facilitate prescribed husbandry practices. Premises shall remain free of accumulations of trash.

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

§ 3.8 Employees.

A sufficient number of employees shall be utilized to maintain the prescribed level of husbandry practices set forth in this subpart. Such practices shall be under the supervision of an animal caretaker who has a background in animal husbandry or care.

§ 3.9 Classification and separation.

Animals housed together shall be maintained in compatible groups, with the following additional restrictions:

(a) Adult males shall be housed separately from adult females unless otherwise required for scientific or breeding reasons.

(b) Any dog or cat exhibiting a vicious or aggressive disposition shall be caged individually.

(c) Puppies or kittens shall not be housed with adult dogs or cats other than their dams, except when permanently maintained in breeding colonies.

(d) Dogs and cats shall not be housed in the same enclosure with each other, or with any other species of animals unless required for scientific reasons.

(e) Dogs or cats under quarantine or treatment for communicable diseases shall be isolated from other dog or cat holding areas.

§ 3.10 Veterinary care.

(a) Programs of disease control and prevention, euthanasia, and adequate veterinary care shall be established and maintained under the supervision and assistance of a doctor of veterinary medicine.

(b) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or humanely disposed of: *Provided, however,* That this provision shall not affect compliance with any State or local law requiring the holding, for a specified period, of animals suspected of being diseased.

TRANSPORTATION STANDARDS

§ 3.11 Vehicles.

(a) Vehicles used in transporting dogs or cats shall be mechanically sound and equipped to provide fresh air to all animals being transported, without injurious drafts.

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

(c) The interior of the animal cargo space shall be constructed and maintained so that it may be easily cleaned and sanitized.

§ 3.12 Animal enclosures—cages and compartments.

(a) Dogs or cats shall be shipped in well-constructed, well-ventilated compartments, or in well-constructed transport cages, designed to protect the health and insure the safety of the animals. Such compartments or cages shall be constructed or located in such a manner that their openings are unobstructed and easily accessible for removal of the animals at all times and so as to afford adequate protection to the animals from the elements. The temperature within such compartments or cages shall not be allowed to exceed 85° F. nor fall below 45° F.

(b) Animals transported in the same enclosure shall be in compatible groups. Animals in the same enclosure shall be of the same species. Adult animals in the same enclosure shall be of the same sex. Puppies or kittens shall be separated from adult dogs or cats other than their dams Any dog or cat exhibiting a vicious or aggressive disposition shall be separated from other animals in the vehicle.

(c) The size of the compartment or cage shall be large enough to insure that each animal contained therein has sufficient space to turn about freely, to stand erect, and to lie in a natural position: *Provided,* That the number of dogs transported in one enclosure shall not exceed 6 and the number of cats transported in one enclosure shall not exceed 10.

(d) Animals shall not be placed in compartments or cages over other animals in transit unless each compartment or cage is fitted with a floor of a material which is impervious to moisture and which prevents animal excreta from entering lower compartments or cages.

(e) The transport cages and compartments shall be cleaned and sanitized between shipments by washing them with soap or detergent and using a safe and effective disinfectant. All litter in the vehicle shall be clean at the beginning of each trip.

§ 3.13 Feed and water requirements.

(a) If dogs or cats are transported for a period of more than 12 hours:

(1) The vehicle shall stop at least once every 12 hours, and remain stopped for a period of at least 1 hour, during which time potable water shall be continuously provided for the dogs and cats.

(2) Each dog and cat shall be fed at least once in each 24-hour period.

(b) Dogs shall be removed from the vehicle and given fresh water and an opportunity for exercise if they have been confined in the transporting compartment or cages for a period of 36 hours.

§ 3.14 Care in transit.

It shall be the responsibility of the attendant or driver to inspect the animals frequently to determine whether they need emergency veterinary care and if so, to obtain such care at the earliest opportunity.

Subpart B—Specifications for the Humane Handling, Care, Treatment, and Transportation of Guinea Pigs and Hamsters

FACILITIES AND OPERATING STANDARDS

§ 3.25 Facilities, general.

(a) *Structural strength.* The facilities for housing guinea pigs or hamsters shall be structurally sound and shall be maintained in good repair, to prevent injury to the animals, to contain the animals, and to restrict the entrance of other animals.

(b) *Water and electric power.* Reliable and adequate electric power and adequate potable water shall be available.

(c) *Isolation.* Facilities for isolating guinea pigs or hamsters under quarantine or treatment for communicable diseases shall be in a room or area that is separated from other guinea pig or hamster holding areas.

(d) *Storage.* Facilities shall be provided for the storage of food and bedding, protected against infestation or contamination by vermin or any mammalian or avian species. Refrigeration shall be provided for perishable items of the diet normally requiring refrigeration.

(e) *Waste disposal.* Provision shall be made for the removal and disposal of excreta, bedding, dead animals, and debris. Disposal facilities shall be so constructed and operated as to minimize vermin infestation, offensive odors, and disease hazards.

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

§ 3.26 Facilities, indoor.

(a) *Heating.* Facilities housing guinea pigs or hamsters shall be sufficiently heated when necessary to protect the animals from the cold, and to provide for their health and comfort. The temperature in such facilities shall not be allowed to fall below 60° F.

(b) *Ventilation.* Facilities housing guinea pigs or hamsters shall be adequately ventilated to provide for the health and comfort of the animals at all times. All rooms or compartments shall be provided with fresh air either by means of windows, doors, vents, or air conditioning. They shall be ventilated so as to minimize drafts, offensive odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or air conditioning, shall be provided when the temperature in such facilities rises to 85° F.

(c) *Lighting.* (1) Facilities housing guinea pigs or hamsters shall have ample light, by natural or artificial means, or both, of good quality and well distributed, during a minimum of 8 hours in each 24-hour period. Such lighting shall provide uniformly distributed illumination of a minimum of 30-foot candles of light intensity, when measured from a distance of 36 inches from the floor. Such lighting shall be provided in animal areas beyond the minimum 8-hour period when necessary to permit routine inspection and cleaning.

(2) Animal enclosures shall be so placed as to prevent discomfort to the guinea pigs or hamsters from illumination.

(d) *Interior surfaces.* The interior building surfaces of the facilities shall be constructed and maintained so that they are substantially impervious to moisture and may be readily sanitized.

§ 3.27 Facilities, outdoor.

Guinea pigs and hamsters shall not be housed in outdoor facilities.

§ 3.28 Animal housing enclosures.

All primary enclosures in which guinea pigs or hamsters are confined shall conform to the following requirements:

(a) *General.* (1) Enclosures shall be structurally sound and maintained in good repair to prevent injury to the animals. Such enclosures including their racks, shelving and other accessories shall be constructed of smooth corrosion-resistant material impervious to liquids and moisture.

(2) Provisions shall be made for convenient access to clean food and water.

(3) Enclosures having a solid floor shall be provided with clean bedding material.

(4) Enclosures equipped with mesh or wire floors shall be so constructed as to allow feces to pass through the spaces of the mesh or wire: *Provided, however,* That such spaces shall not permit the feet of the animals to pass through.

(b) *Space requirements.* Enclosures shall be constructed and maintained so as to provide sufficient space for the animals to make normal postural adjustments with adequate freedom of movement.

(1) *Guinea pigs.* The following space requirements are applicable to facilities for housing guinea pigs:

(i) The interior height of any enclosure used to confine guinea pigs shall be at least 10 inches.

(ii) A nursing female guinea pig together with her litter shall be housed in an enclosure which provides at least 225 square inches of floor space for each such female: *Provided, however,* That no more than five such females may be housed in one enclosure.

(iii) The amount of floor space per individual guinea pig and the maximum number of guinea pigs allowed in a single enclosure, except as provided for nursing females in subdivision (ii) of this subparagraph, shall be computed in accordance with the following table:

Weight or stage of maturity	Minimum space per guinea pig (square inches)	Maximum population per enclosure
Weaning to 350 Grams	60	15
350 Grams or more	90	10
Breeders	180	5

(2) *Hamsters.* The following space requirements are applicable to facilities for housing hamsters:

(i) The interior height of any enclosure used to confine hamsters shall be at least 6 inches.

(ii) A nursing female hamster, together with her litter, shall be housed in an enclosure which contains no other hamsters and which provides at least 150 square inches of floor space.

(iii) The amount of floor space per individual hamster and the maximum number of hamsters allowed in a single enclosure, except as provided for nursing females in subdivision (ii) of this subparagraph, shall be computed in accordance with the following table:

Age	Minimum space per hamster (square inches)	Maximum population per enclosure
Weaning to 5 weeks	10.0	20
5 to 10 weeks	12.5	16
10 weeks or more	15.0	13

ANIMAL HEALTH AND HUSBANDRY STANDARDS

§ 3.29 Feeding.

(a) Guinea pigs and hamsters shall be fed each day except as otherwise required by compelling health or scientific considerations. The food shall be wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the guinea pig or hamster.

(1) Feeds comprising the basic diet shall be at least equivalent in quality and content to pelleted rations produced commercially and commonly available from feed suppliers.

(2) The basic diet of guinea pigs and hamsters, may be supplemented with feeds such as kale, carrots or apples: *Provided, however,* That in the case of hamsters such supplemental feeding shall not constitute more than 25 percent of their total daily food intake: *And, provided further,* That such perishable feed supplements shall be of a quality commonly consumed by humans.

(3) Feed shall be stored in a clean, dry, cool, rodent and vermin-free area in covered containers with tightly fitting lids or covers, or in the original unopened containers as received from the commercial sources of supply.

(b) Feed receptacles shall be accessible to all guinea pigs or hamsters in a given enclosure and be located so as to minimize contamination by excreta. Such receptacles other than self feeders shall be cleaned daily, replenished with fresh feed, and sanitized at least once a week. Self feeders may be used for the feeding of pelleted feed and shall be sanitized regularly to prevent molding, deterioration or caking of feed: *Provided,* That such sanitization shall be accomplished at least once a week.

(c) Special requirements:

(1) *Guinea pigs.* Feed supplements, such as kale, carrots or apples may be placed upon the bedding within the enclosure: *Provided, however,* That any uneaten portion of such supplement shall be removed from the enclosure not later than the morning following the day it was offered.

(2) *Hamsters.* Feed and feed supplements may be placed upon the bedding within the enclosure: *Provided, however,* That any uneaten portion of such feed and feed supplement shall be removed from the enclosure not later than the morning following the day it was offered: *And provided, further,* That bedding soiled as a result of such feeding practice shall be removed and replaced with clean bedding at least twice a week.

§ 3.30 Watering.

Potable water shall be accessible at all times, except as otherwise required by compelling health or scientific considerations. Open containers shall not be used for dispensing water to guinea pigs or hamsters. Bottles, bottle stoppers and drinking tubes shall be sanitized when dirty: *Provided, however,* That such devices shall be sanitized at least once a week.

§ 3.31 Sanitation.

(a) *Cleaning and sanitation of animal housing enclosures.* (1) Enclosures shall be cleaned and sanitized often enough to prevent an accumulation of excreta and debris: *Provided, however,* That such enclosures shall be sanitized at least once a week in the manner provided in subparagraph (4) of this paragraph.

(2) In the event an enclosure becomes soiled or wet due to leakage of the watering system, discharges from dead or dying animals, spoiled perishable foods, or moisture condensation, the guinea pigs or hamsters shall be immediately transferred to clean enclosures.

(3) Prior to the introduction of guinea pigs or hamsters into empty enclosures previously occupied, such enclosures shall be sanitized in the manner provided in subparagraph (4) of this paragraph.

(4) Enclosures used to house guinea pigs or hamsters shall be sanitized by washing them with soap or detergent and using a safe and effective disinfectant.

(b) *Housekeeping.* Premises (buildings and grounds) shall be kept clean and in good repair in order to prevent injury to the animals and to facilitate prescribed husbandry practices. Premises shall remain free of accumulations of trash.

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

§ 3.32 Employees.

A sufficient number of employees shall be utilized to maintain the prescribed level of husbandry practices set forth in this subpart. Such practices shall be under the supervision of an animal caretaker who has a background in animal husbandry or care.

§ 3.33 Classification and separation.

Animals housed together shall be maintained in compatible groups, with the following additional restrictions:

(a) Guinea pigs or hamsters of one sex shall not be housed in the same enclosure with animals of the opposite sex: *Provided, however,* That animals of the opposite sex may be housed together in the case of preweanings: *And provided further,* That adults of the opposite sex may be housed together if required for scientific or breeding reasons.

(b) Immature guinea pigs or hamsters shall not be housed with adults other than their dams unless required for scientific reasons.

(c) Pregnant hamsters shall be housed individually.

(d) Guinea pigs and hamsters shall not be housed in the same enclosure with each other, or with any other species of animals, unless required for scientific reasons.

(e) Guinea pigs or hamsters undergoing quarantine or treatment for communicable diseases shall be isolated from other guinea pig or hamster holding areas.

§ 3.34 Veterinary care.

(a) Programs of disease control and prevention, euthanasia, and adequate veterinary care shall be established and maintained under the supervision and assistance of a doctor of veterinary medicine.

(b) Each guinea pig or hamster shall be observed daily by the animal caretaker in charge or by someone under his direct supervision. Sick or diseased, injured, lame or blind guinea pigs or hamsters shall be provided with veterinary care or disposed of humanely.

TRANSPORTATION STANDARDS

§ 3.35 Vehicles.

(a) Vehicles used in transporting guinea pigs or hamsters shall be mechanically sound and equipped to provide fresh air to all animals being transported, without injurious drafts.

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

(c) The interior of the animal cargo space shall be constructed and maintained so that it may be easily sanitized.

§ 3.36 Animal enclosures—shipping containers, transport cages.

(a) Guinea pigs or hamsters shall be shipped in well-constructed well-ventilated, nonreusable cartons or boxes or reusable transport cages. In the case of nonreusable cartons or boxes such enclosures shall be constructed of new material. In the case of reusable transport cages such cages shall have been sanitized prior to the introduction of guinea pigs or hamsters for shipment. The cartons, boxes, or transport cages shall be positioned in the vehicle in such a manner that each animal in the vehicle has access to sufficient air for normal breathing. The temperature within such enclosures shall not be allowed to exceed 85° F. nor fall below 60° F.

(b) Animals transported in the same enclosure shall be of the same species and in compatible groups. Adult animals in the same enclosure shall be of the same sex. Young guinea pigs or hamsters shall be separated from adults other than their dams.

(c) The size of the enclosure shall be large enough to insure that each animal contained therein has sufficient space to turn about freely, to stand erect, and to lie in a natural position: *Provided, however,* That the number of guinea pigs transported in one enclosure shall not exceed 15 and the number of hamsters transported in one enclosure shall not exceed 25: *And provided, further,* That the following additional specific requirements shall apply:

(1) *Guinea pigs.* The interior height of any enclosure used for transportation shall be at least 10 inches and the amount of floor space required for each guinea pig based on its weight shall be computed in accordance with the following table:

Weight (grams)	*Minimum space per guinea pig (square inches)*
Up to 350	30
350 to 600	45
Over 600	55

(2) *Hamsters.* The interior height of any enclosure used for transportation shall be at least 6 inches and the amount of floor space required for each hamster based on its age shall be computed in accordance with the following table:

Age	*Minimum space per hamster (square inches)*
Weaning to 5 weeks	7.2
5 to 10 weeks	11.0
Over 10 weeks	15.0

§ 3.37 Feed and water requirements.

If guinea pigs or hamsters are transported for a period of more than 6 hours, the animals shall be fed the quantity and quality of vegetables sufficient to satisfy their food and water requirements.

§ 3.38 Care in transit.

It shall be the responsibility of the attendant or driver to inspect the animals frequently to determine whether they need emergency veterinary care and if so, to obtain such care at the earliest opportunity.

Subpart C—Specifications for the Humane Handling, Care, Treatment and Transportation of Rabbits

FACILITIES AND OPERATING STANDARDS

§ 3.50 Facilities, general.

(a) *Structural strength.* The facilities for housing rabbits shall be structurally sound and shall be maintained in good repair, to prevent injury to the animals, to contain the animals, and to restrict the entrance of other animals.

(b) *Water and electric power.* Reliable and adequate electric power and adequate potable water shall be available.

(c) *Isolation.* Facilities for isolating rabbits under quarantine or treatment for communicable diseases shall be in a room or area that is separated from other rabbit holding areas.

(d) *Storage.* Facilities shall be provided for the storage of food and bedding, protected against infestation or contamination by vermin or any mammalian or avian species. Refrigeration shall be provided for perishable items of the diet normally requiring refrigeration.

(e) *Waste disposal.* Provision shall be made for the removal and disposal of excreta, bedding, dead animals, and debris. Disposal facilities shall be so constructed and operated as to minimize vermin infestation, offensive odors, and disease hazards.

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

§ 3.51 Facilities, indoor.

(a) *Heating.* Facilities housing rabbits shall be sufficiently heated when necessary to protect the animals from the cold, and to provide for their health and comfort. The temperature in such facilities shall not be allowed to fall below 50° F.

(b) *Ventilation.* Facilities housing rabbits shall be adequately ventilated to provide for the health and comfort of the animals at all times. All rooms or compartments shall be provided with fresh air either by means of windows, doors, vents or airconditioning. They shall be ventilated so as to minimize drafts, offensive odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or airconditioning, shall be provided when the temperature in such facilities rises to 85° F.

(c) *Lighting.* Facilities housing rabbits shall have ample light, by natural or artificial means, or both, of good quality and well distributed, during a minimum of 8 hours in each 24-hour period. Such lighting shall provide uniformly distributed illumination of a minimum of 30 foot-candles of light intensity, when measured from a distance of 36 inches from the floor. Such lighting shall be provided in animal areas beyond the 8-hour period when necessary to permit routine inspection and cleaning. Animal enclosures shall be so placed as to pre-

vent discomfort to the rabbits from illumination.

(d) *Interior surfaces.* The interior building surfaces of the facilities shall be constructed and maintained so that they are substantially impervious to moisture and may be readily sanitized.

§ 3.52 Facilities, outdoor.

(a) *Shelter from sunlight.* Sufficient shade shall be provided to allow all rabbits to protect themselves from the direct rays of the sun. When the atmospheric temperature exceeds 90° F. artificial cooling shall be provided, by a sprinkler system or other means.

(b) *Shelter from rain or snow.* Rabbits shall be provided with access to shelter to allow them to remain dry during rain or snow.

(c) *Shelter from cold weather.* Shelter shall be provided for rabbits when the atmospheric temperature falls below 50° F. Such shelter shall contain sufficient clean bedding material to facilitate the maintenance of an ambient temperature of at least 50° F. When the atmospheric temperature falls below freezing, measures shall be taken to prevent the freezing of drinking water.

(d) *Protection from predators.* Outdoor rabbit holding facilities shall be fenced or otherwise enclosed to prevent the entrance of predators.

(e) *Drainage.* A suitable method shall be provided to rapidly eliminate excess water.

§ 3.53 Animal housing enclosures.

All primary enclosures in which rabbits are confined shall conform to the following requirements:

(a) *General.* (1) Enclosures shall be structurally sound and maintained in good repair to prevent injury to the animals, to contain the animals, and to keep other animals out.

(2) Enclosures shall be constructed and maintained so as to enable the animals to remain dry and clean.

(3) Provision shall be made for convenient access to clean food and water.

(4) The floors of the enclosures shall be constructed to prevent injury to the animals. Wire or mesh floors which permit the feet of the animals to pass through spaces in the wire or mesh shall not be used. Litter shall be provided in all enclosures having solid floors.

(5) A suitable nest box containing clean nesting material shall be provided in each enclosure housing a female with a litter.

(b) *Space requirements.* Enclosures shall be constructed and maintained so as to provide sufficient space for the animals to make normal postural adjustments with adequate freedom of movement.

(1) The floor space of an enclosure used to house a nursing female together with her litter shall be at least 6 square feet exclusive of the space taken up by feed and water receptacles.

(2) Except as provided in subparagraph (1) of this paragraph, in enclosures housing more than one rabbit the minimum amount of floor space, per individual rabbit, exclusive of the space taken up by feed and water receptacles, shall be computed in accordance with the following table:

Weight	*Minimum space per rabbit (square feet)*
3 to 5 pounds	1
5 pounds or more	2

(3) Enclosures used to house individual adults of the medium and large rabbit breeds (over 10 pounds) shall contain at least 5 square feet of floor space exclusive of the space taken up by feed and water receptacles.

ANIMAL HEALTH AND HUSBANDRY STANDARDS

§ 3.54 Feeding.

(a) Rabbits shall be fed each day except as otherwise required by compelling health or scientific considerations. The food shall be wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the rabbit.

(b) Food receptacles shall be accessible to all rabbits and shall be located so as to minimize contamination by excreta. Feeding pans or crocks shall be durable; they shall be cleaned daily and replenished with fresh food. Self feeders may be used for the feeding of dry food. All food receptacles shall be sanitized at least once a week to prevent molding, deterioration or caking of feed.

§ 3.55 Watering.

Potable water shall be accessible at all times, unless otherwise required by compelling health or scientific considerations. Water crocks, bottles, bottle-stoppers and drinking tubes shall be sanitized when dirty: *Provided, however,* That such receptacles shall be sanitized at least once a week.

§ 3.56 Sanitation.

(a) *Cleaning of animal housing enclosures.* (1) Cages, hutches, pens or other enclosures shall be kept free of hair, cobwebs and other debris by periodic washing or other effective means. Measures shall be taken to prevent the wetting of rabbits in such enclosures during the washing process.

(2) In enclosures equipped with solid floors, the litter, soiled bedding, and wasted feed shall be removed and replaced with clean litter at least once each week.

(3) If enclosures are equipped with wire or mesh floors, such floors shall be kept clean and the troughs or pans over which the enclosure is suspended shall be cleaned at least once each week. If worm bins are used under such enclosures they shall also be maintained in a sanitary condition.

(b) *Sanitization of animal housing enclosures.* (1) Enclosures housing rabbits shall be sanitized at least once every 90 days as provided in subparagraph (3) of this paragraph.

(2) Prior to the introduction of rabbits into empty enclosures previously occupied, such enclosures shall be sanitized in the manner provided in subparagraph (3) of this paragraph.

(3) Enclosures shall be sanitized by washing them with soap or detergent and using a safe and effective disinfectant.

(c) *Housekeeping.* Premises (buildings and grounds) shall be kept clean and in good repair in order to prevent injury to the animals and to facilitate prescribed husbandry practices. Premises shall remain free of accumulations of trash.

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

§ 3.57 Employees.

A sufficient number of employees shall be utilized to maintain the prescribed level of husbandry practices set forth in this subpart. Such practices shall be under the supervision of an animal caretaker who has a background in animal husbandry or care.

§ 3.58 Classification and separation.

Animals housed together shall be maintained in compatible groups, with the following additional restrictions:

(a) Adult rabbits of one sex shall not be housed in the same enclosure with rabbits of the opposite sex unless otherwise required for scientific or breeding reasons.

(b) Rabbits shall not be housed in the same enclosure with other species unless required for scientific reasons.

(c) Rabbits under quarantine or treatment for communicable diseases shall be isolated from other rabbit holding areas

§ 3.59 Veterinary care.

(a) Programs of disease control and prevention, euthanasia, and adequate veterinary care shall be established and maintained under the supervision and assistance of a doctor of veterinary medicine.

(b) Each rabbit shall be observed daily by the animal caretaker in charge or by someone working under his direct supervision. Sick or diseased, injured, lame, or blind rabbits shall be provided with veterinary care or disposed of humanely.

TRANSPORTATION STANDARDS

§ 3.60 Vehicles.

(a) Vehicles used in transporting rabbits shall be mechanically sound and equipped to provide fresh air to all animals being transported, without injurious drafts.

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

(c) The interior of the animal cargo space shall be constructed and maintained so that it may be easily sanitized.

§ 3.61 Animal enclosures—cages and vehicle compartments.

(a) Rabbits shall be shipped in well-constructed, well-ventilated compart-

ments, or in well-constructed transport cages, designed to protect the health and insure the safety of the animals. Such compartments or cages shall be constructed or located in such a manner that their openings are unobstructed and easily accessible for removal of the animal at all times and so as to afford adequate protection to the animals from the elements. The temperature within such compartments or cages shall not be allowed to exceed 85° F. nor fall below 45° F.

(b) Rabbits transported in the same enclosure shall be in compatible groups and shall not be transported in the same enclosure with other species.. Adult animals in the same enclosure shall be of the same sex. Young rabbits shall be separated from adults other than their dam.

(c) The size of the enclosure shall be large enough to insure that each animal contained therein has sufficient space to turn about freely, to stand comfortably on four feet, and to lie in a natural position: *Provided, however,* That the number of rabbits transported in one enclosure shall not exceed 15.

(d) Rabbits shall not be placed in compartments or cages over other rabbits in transit unless each compartment is fitted with a floor of a material which is impervious to moisture and which prevents animal excreta from entering lower compartments.

(e) The transport compartments and cages shall be cleaned and sanitized between shipments by washing them with soap or detergent and using a safe and effective disinfectant. All litter in the vehicle shall be clean at the beginning of each trip.

§ 3.62 Feed and water requirements.

If rabbits are transported for a period of more than 6 hours, they shall be provided with the quantity and quality of vegetables sufficient for their food and water requirements.

§ 3.63 Care in transit.

It shall be the responsibility of the attendant or driver to inspect the animals frequently to determine whether they need emergency veterinary care and if so, to obtain such care at the earliest opportunity.

Subpart D—Specifications for the Humane Handling, Care, Treatment, and Transportation of Nonhuman Primates [1]

FACILITIES AND OPERATING STANDARDS

§ 3.75 Facilities, general.

(a) *Structural strength.* The facilities for housing nonhuman primates shall be structurally sound and shall be maintained in good repair, to prevent injury to the animals, to contain the animals, and to restrict the entrance of other animals.

(b) *Water and electric power.* Reliable and adequate electric power and adequate potable water shall be available.

(c) *Isolation.* Facilities for isolating nonhuman primates under quarantine or treatment for communicable diseases shall be in a room or area that is separated from other nonhuman primate holding areas.

(d) *Storage.* Facilities shall be provided for the storage of food and bedding, protected against infestation or contamination by vermin or any mammalian or avian species. Refrigeration shall be provided for perishable items of the diet normally requiring refrigeration.

(e) *Waste disposal.* Provision shall be made for the removal and disposal of excreta, bedding, dead animals, and debris. Disposal facilities shall be so constructed and operated as to minimize vermin infestation, offensive odors, and disease hazards.

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

§ 3.76 Facilities, indoor.

(a) *Heating.* Facilities housing nonhuman primates shall be sufficiently heated when necessary to protect the animals from the cold, and to provide for their health and comfort. The temperature in such facilities shall not be allowed to fall below 50° F.

(b) *Ventilation.* Facilities housing nonhuman primates shall be adequately ventilated to provide for the health and comfort of the animals at all times. All rooms or compartments shall be provided with fresh air either by means of windows, doors, vents, or air conditioning. They shall be ventilated so as to minimize drafts, offensive odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or air conditioning, shall be provided when the temperature in such facilities rises to 85° F.

(c) *Lighting.* Facilities housing nonhuman primates shall have ample light, by natural or artificial means, or both, of good quality and well distributed, during a minimum of 8 hours in each 24-hour period. Such lighting shall provide uniformly distributed illumination of a minimum of 30 foot-candles of light intensity, when measured from a distance of 36 inches from the floor. Such lighting shall be provided in animal areas beyond the minimum 8-hour period when necessary to permit routine inspection and cleaning. Animal enclosures shall be so placed as to prevent discomfort to the nonhuman primates from illumination.

(d) *Interior surfaces.* The interior building surfaces of the facilities shall be constructed and maintained so that they are substantially impervious to moisture and may be readily sanitized.

(e) *Drainage.* A suitable method shall be provided to rapidly eliminate excess water. In rooms provided with drains, the floors shall be sloped so that there will be no pools of standing water after flushing. All drains shall be properly constructed and kept in good repair to avoid foul odors therefrom. If closed drainage systems are used, they shall be equipped with traps and so installed as to prevent any backup of sewage into the drain line and to the floor of the room.

§ 3.77 Facilities, outdoor.

(a) *Shelter from sunlight.* Sufficient shade shall be provided to allow all nonhuman primates to protect themselves from the direct rays of the sun.

(b) *Shelter from rain or snow.* Nonhuman primates shall be provided with access to shelter to allow them to remain dry during rain or snow.

(c) *Shelter from cold weather.* Shelter shall be provided for nonhuman primates to afford comfort and protection to such animals appropriate for the local climatic conditions and the nonhuman primate species concerned.

(d) *Drainage.* A suitable method shall be provided to rapidly eliminate excess water.

§ 3.78 Animal housing enclosures.

All primary enclosures in which nonhuman primates are confined shall conform to the following requirements:

(a) *General.* (1) Enclosures shall be structurally sound and maintained in good repair to prevent injury to the animals, to contain the animals, and to keep other animals out.

(2) Enclosures shall be constructed and maintained so as to enable the animals to remain dry and clean.

(3) Provision shall be made for convenient access to clean food and water.

(4) The floors of the enclosures shall be constructed to prevent injury to the animals. Wire or mesh floors which permit the feet of the animals to pass through spaces in the wire or mesh shall not be used.

(b) *Space requirements.* Enclosures shall be constructed and maintained so as to provide sufficient space for animals to make normal postural adjustments with adequate freedom of movement.

(1) Each nonhuman primate in an enclosure shall be provided with a minimum floor space equal to an area of at least three times the area occupied by such primate when standing on four feet.

(2) The interior height of enclosures used to house nonhuman primates of the species commonly used for research in the United States shall be determined in accordance with the following table: *Provided, however,* That all enclosures for both listed and nonlisted species shall be of sufficient height to enable the individual primates involved to stand comfortably on their hind legs.

Nonhuman primate species	*Minimum cage height (inches)*
Prosimians	24
Marmosets	12
Squirrel monkeys	18
Cebus monkeys	20
Spider monkeys	30
Old World monkeys:	
Juvenile rhesus (3 to 8 pounds)	20
Other	24

[1] Nonhuman primates represent a great diversity of forms, ranging from the marmoset weighing only a few ounces, to the adult gorilla weighing hundreds of pounds. They come from Asia, Africa, and Central and South America, and they live in different habitats. Their nutritional and activity requirements differ as do their social and environmental requirements. As a result, the conditions appropriate for one species do not necessarily apply to another; therefore, discretion must be used in interpreting these standards.

Nonhuman primate species	*Minimum cage height (inches)*
Baboons	40
Chimpanzee	60

ANIMAL HEALTH AND HUSBANDRY STANDARDS

§ 3.79 Feeding.

(a) Nonhuman primates shall be fed each day except as otherwise required by compelling health or scientific reasons. The food shall be wholesome, palatable, and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the nonhuman primate.

(b) Food receptacles shall be accessible to all nonhuman primates and shall be located so as to minimize contamination by excreta. Feeding receptacles shall be durable; they shall be cleaned daily and replenished with fresh food. They shall be sanitized at least once each week to prevent molding, deterioration or caking of feed.

§ 3.80 Watering.

If potable water is not accessible to the nonhuman primates at all times, such water shall be offered to them at least twice daily for periods of not less than 1 hour except as otherwise required by compelling health or scientific considerations. Water receptacles shall be sanitized when dirty: *Provided, however,* That such receptacles shall be sanitized at least once a week.

§ 3.81 Sanitation.

(a) *Daily cleaning of animal housing enclosures.* Excreta shall be removed from animal enclosures at least once daily. When hosing or flushing methods are used for this purpose, measures shall be taken to prevent the wetting of animals confined in such enclosures.

(b) *Sanitization of animal housing enclosures.* (1) Prior to the introduction of nonhuman primates into cages previously occupied by other nonhuman primates, such cages shall be sanitized as provided in subparagraph (3) of this paragraph.

(2) Cages used to house nonhuman primates shall be sanitized at least once a week. All other enclosures shall be sanitized at least once every 2 weeks.

(3) Cages and other enclosures shall be sanitized by washing them with soap or detergent and using a safe and effective disinfectant.

(c) *Housekeeping.* Premises (buildings and grounds) shall be kept clean and in good repair in order to prevent injury to the animals and to facilitate prescribed husbandry practices. Premises shall remain free of accumulations of trash.

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

§ 3.82 Employees.

A sufficient number of employees shall be utilized to maintain the prescribed level of husbandry practices set forth in this subpart. Such practices shall be under the supervision of an animal caretaker who has a background in animal husbandry or care.

§ 3.83 Classification and separation.

Nonhuman primates housed together shall be maintained in compatible groups and shall not be housed in the same enclosure with animal species other than nonhuman primates unless required for scientific reasons.

§ 3.84 Veterinary care.

(a) Programs of disease control and prevention, euthanasia, and adequate veterinary care shall be established and maintained under the supervision and assistance of a doctor of veterinary medicine.

(b) Each nonhuman primate shall be observed daily by the animal caretaker in charge or by someone working under his direct supervision. Sick or diseased, injured, lame, or blind nonhuman primates shall be provided with veterinary care or disposed of humanely.

TRANSPORTATION STANDARDS

§ 3.85 Vehicles.

(a) Vehicles used in transporting nonhuman primates shall be mechanically sound and equipped to provide fresh air to all animals being transported, without injurious drafts.

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

(c) The interior of the animal cargo space shall be constructed and maintained so that it may be easily sanitized.

§ 3.86 Animal enclosures—transport cages.

(a) Nonhuman primates shall be shipped in well-constructed, well-ventilated transport cages, designed to protect the health and insure the safety of the animals. Such transport cages shall be positioned in the vehicle in such a manner that each animal in the vehicle has access to sufficient air for normal breathing and in such a manner that the opening of each transport cage is unobstructed and easily accessible for removal of the animal at all times. The temperature within such transport cages shall not be allowed at any time to exceed 95° F. and shall not be allowed to exceed 85° F. for more than 4 hours continuously. Such temperature shall not be allowed to fall below 45° F.

(b) Nonhuman primates transported in the same transport cage shall be in compatible groups and of the same species.

(c) The size of the transport cage shall be large enough to insure that each animal contained therein has sufficient space to turn about freely, to stand erect, and to lie in a natural position: *Provided, however,* That the number of nonhuman primates transported in one cage shall not exceed 10.

(d) Nonhuman primates shall not be placed in cages or compartments over other animals in transit unless either the cage or compartment is fitted with a floor of a material which is impervious to moisture and which prevents animal excreta from entering lower compartments.

(e) Transport cages shall be cleaned and sanitized between shipments by washing them with soap or detergent and using a safe and effective disinfectant. All litter in the vehicle shall be clean at the beginning of each trip.

§ 3.87 Feed and water requirements.

If nonhuman primates are transported for a period of more than 12 hours:

(a) The vehicle shall stop at least once every 12 hours, and remain stopped for a period of at least 1 hour, during which time potable water shall be continuously provided the nonhuman primates.

(b) Each nonhuman primate shall be fed at least once in each 24-hour period.

§ 3.89 Care in transit.

It shall be the responsibility of the attendant or driver to inspect the animals frequently to determine whether they need emergency veterinary care and if so, to obtain such care at the earliest opportunity.

Any person who wishes to submit written data, views, or arguments concerning the proposed regulations may do so by filing them with the Director, Animal Health Division, Agricultural Research Service, U.S. Department of Agriculture, Hyattsville, Md. 20782 within 30 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 12th day of December 1966.

GEORGE W. IRVING, Jr.,
Administrator,
Agricultural Research Service.

[F.R. Doc. 66-13476; Filed, Dec. 14, 1966; 8:50 a.m.]