

Agreement involves: Organization and procedures between and among common carriers by motor vehicle, members of the Air Freight Motor Carriers Conference relative to the joint consideration, initiation, establishment, and change of rates, rules, regulations, classifications, and practices applicable to the motor transportation in interstate and foreign commerce of shipments having a prior or a subsequent movement by air.

The complete application may be inspected at the Office of the Commission in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.
[FR Doc.72-3702 Filed 3-9-72;8:50 am]

[Section 5a Application 64, Amdt. 6]

STEEL CARRIERS' TARIFF ASSOCIATION, INC.

Application for Approval of Amendments to Agreement

FEBRUARY 11, 1972.

The Commission is in receipt of an application in the above-entitled proceeding for approval of amendments to the agreement therein approved.

Filed November 24, 1971, by: Warren A. Rawson, Managing Director, Steel Carriers' Tariff Association, Inc., 6410 Kenilworth Avenue, East Riverdale, MD 20840; Bryce Rea, Jr., 917 Munsey Building, 1329 E Street NW., Washington, DC 20004 (of counsel).

The amendments involve: (1) Revision of article 1, section II, to clarify carrier admission to membership; (2) increase the membership on the board of trustees from 9 to 13 members by special election, correspondingly change the quorum requirements thereto from 5 to 7 members, and extend the term for trustees from 3 to 4 years (article III); and (3) expand the territorial scope of the agreement to embrace some 13 additional States (article VI, section I).

The complete amended application may be inspected at the office of the Commission in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to

take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.
[FR Doc.72-3703 Filed 3-9-72;8:50 am]

[35400]

INCREASED CHARGES FOR PERISH- ABLE PROTECTIVE SERVICES, 1971

FEBRUARY 18, 1972.

In accordance with the Commission's prior notice published in the May 28, 1971, issue of the FEDERAL REGISTER (36 F.R. 9807), all interested parties were requested to file replies within 20 days to the petitions filed April 1, 1971, by numerous rail carriers seeking modification of outstanding orders of the Commission so as to permit filing of increased charges for the use of perishable protective services. The outstanding orders sought to be modified were issued in the following proceedings:

Docket No. 17936, Refrigeration Charges on Fruits, etc., from the South, 151 I.C.C. 649, 172 I.C.C. 3.

Docket No. 28994, Half Stage Refrigeration Service, 256 I.C.C. 213.

Docket No. 20769, Charges for Protective Service to Perishable Freight, 215 I.C.C. 684, 241 I.C.C. 503, 253 I.C.C. 351, 262 I.C.C. 243, 274 I.C.C. 751, 277 I.C.C. 347, and 332 I.C.C. 136.

Ex Parte No. 162, Increased Railway Rates, Fares and Charges, 1946, 266 I.C.C. 537, 615.

Ex Parte No. 166, Increased Freight Rates, 1947, 270 I.C.C. 403, 461.

Docket No. 31342, Proposed Increased Refrigeration Charges, 297 I.C.C. 505.

Investigation and Suspension Docket No. 7778, Refrigeration and Packinghouse Products—Midwest, 319 I.C.C. 113, 120.

The Commission has received a petition filed by the rail carriers on January 5, 1972, to amend their petition filed April 1, 1971. The petitioners state that the requested amendment to their petition for increased charges for perishable protective service is necessary in order to further increase those charges in an attempt to bring them more nearly into line with the present costs of providing such service. According to petitioners, there has been no increase in these charges in over 15 years. Petitioners assert that there is no attempt to increase the charges over the level of the cost to the railroads and that in most instances the proposed increased charges do not equal the cost of providing the service. The amended petition was served on the Price Commission pursuant to the regulations in effect at that time.

A copy of this notice will be served upon the petitioner, and notice of the filing of the petition will be given to the general public by depositing a copy of this notice in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication therein. Copies of any future

notices, orders, etc., herein will be served only on petitioners and those responding to this and the prior notice.

Any persons, other than those who have already notified the Commission, interested in the matter which is the subject of the petition, and desiring to participate in any subsequent proceedings may, on or before 30 days from the publication of this notice in the FEDERAL REGISTER, file a statement indicating merely whether they support or oppose the determination sought. An original and two copies of such replies must be filed with the Office of Proceedings of this Commission (Room 5334), and must show service of two copies thereof upon H. R. Brandl, Chairman, National Perishable Freight Committee, Room 1176, 222 South Riverside Plaza, Chicago, IL 60606. Thereafter, the nature of further proceedings herein, if any, will be designated.

Written material or suggestions submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, DC, during regular business hours.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-3701 Filed 3-9-72;8:50 am]

[Ex Parte 281]

INCREASED FREIGHT RATES AND CHARGES, 1972

Present: George M. Stafford, Chairman, to whom the above matter, which is the subject of this order, has been assigned for action thereon.

Upon consideration of the record in the above-entitled proceeding; and good cause appearing therefor:

It is ordered, That the attached draft environmental impact statement be served on all parties to this proceeding;

It is further ordered, That this order and the attached draft environmental impact statement be served on Honorable Russell E. Train, Chairman, Council on Environmental Quality, 722 Jackson Place NW., Washington, DC 20006 (10 copies); Mr. Charles Fabrikant, Director of Impact Statement Office, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460; Honorable Herbert F. DeSimone, Assistant Secretary for Environmental and Urban Systems, Department of Transportation, Washington, D.C. 20590; Mr. Jack O. Horton, Deputy Assistant Secretary for Programs, Department of the Interior, Washington, D.C. 20240; Dr. Sydney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230; and Honorable Roger O. Egeberg, Assistant Secretary for Health and Science Affairs, Department of Health, Education, and Welfare, Washington, D.C. 20202;

It is further ordered, That the foregoing persons and all other interested persons shall be afforded the opportunity to offer comments on the attached draft environmental impact statement.

Dated at Washington, D.C., this 1st day of March 1972.

By the Commission, Chairman
Stafford.

[SEAL]

ROBERT L. OSWALD,
Secretary.

DRAFT ENVIRONMENTAL IMPACT STATEMENT

1. The above-entitled proceeding involves an administrative action.

2. For purposes of this draft environmental impact statement, the proposed action is the possible approval or disapproval by the Interstate Commerce Commission of selected increase proposals for commodity groupings to replace the 2½ percent surcharge recently allowed to become effective on a temporary basis, to be applied by the railroads in rendering service throughout the United States.

3. As an emergency interim measure to meet a critical need for additional revenue that the railroads have demonstrated, the imposition of the surcharge published to become effective on February 5, 1972, and to expire not later than June 5, 1972, as required by the order of the Interstate Commerce Commission, approved February 1, 1972, will have no significant adverse effect on the quality of the human environment within the meaning of the Environmental Policy Act of 1969.

However, by its order the Commission directed the railroads to update their tariffs to reflect rate increases previously approved not later than June 5, 1972. The railroads, on February 28, 1972, filed a proposal to increase their freight charges on a selective basis. While the Commission has made it quite clear that the surcharge now in effect will expire by operation of law no later than June 5, 1972, and thus cannot actually become a permanent part of the railroads' rate structure, nevertheless, for the purpose of analyzing its impact upon environment, and for that purpose only, we shall treat it arguendo as though it were not an interim, but a permanent increase. Under the assumed condition, if the Commission were to approve the railroads' actions by report and order entered at the conclusion of an investigation herein, such action would have only limited, if any, impact upon the environment, as more fully set forth in the accompanying draft environmental impact statement.

4. The alternatives to the incorporation of the surcharge as a permanent part of the railroads' rate structure include the selective application of authorized increases, to individual rates, the imposition of so-called holddowns or the disallowance altogether of any rate increase not previously approved by the Commission.

5. This draft environmental impact statement will be served upon all parties of record herein and upon those additional persons identified in the order of Chairman Stafford approving its service, all of whom are requested to offer comments.

6. This draft environmental impact statement will be served on March 6, 1972.

The Interstate Commerce Commission has permitted the Nation's railroads, effective February 5, 1972, to impose a 2½ percent surcharge on existing rates (with specified exceptions and conditions) for an interim period no longer than four months, ending June 5, 1972. On February 28, 1972, the railroads submitted a proposal to increase their rates selectively, and sought permission to file updated tariffs seeking a "general increase in freight charges on a selective basis". The active investigation was held in abeyance until receipt of a request by the carrier respondents for permission to file the revised

tariffs indicated above. Upon consideration of the evidence and statements presented to date in Ex Parte No. 281, Increased Freight Rates and Charges, 1972, the following proposed draft environmental impact statement is made, in compliance with section 102(2) (C) of the National Environmental Policy Act (NEPA), concerning the possible impact on the environment of the Commission's approval by report and order at the conclusion of its investigation of the incorporation of the surcharge (or the rail substitute therefor) into the schedules of freight rates and charges expected to be filed by the railroads on or before June 5, 1972. This statement is made primarily to point out the issues, and to assist the parties, as well as governmental agencies concerned to present evidence and arguments in the on-going investigation proceeding and otherwise to elicit their comments.

The service of this statement in no way concedes the applicability of NEPA requirements at the suspension stage, that is, when the Commission decides whether to suspend and/or investigate a rate filing (which is all so far done in Ex Parte No. 281), or when rate changes occur by operation of law without suspension or investigation. Port of New York Authority v. United States, _____ F. 2d _____, Dockets 71-1769 and 71-1770 (2d Cir. Nov. 9, 1971).

1. The environmental impact of the proposed action. The imposition of, or failure to impose, a surcharge of 2.5 percent as a permanent part of the railroad rates applicable on freight services might have some impact on the environment; however, based on the varying predictions of the parties in their statements filed to date, it is unclear what the effect would be. Thus, Chairman Russell E. Train of the Council on Environmental Quality (CEQ) has stated to the Chairman of this Commission that across-the-board percentage increases widen alleged price biases against secondary materials and that they raise the costs of doing business which allegedly can hinder the salvage and reclamation industry. In their joint protest to the proposed surcharge the Students Challenging Regulatory Agency Procedures (SCRAP), The Environmental Defense Fund, the National Parks and Conservation Association, and The Izaak Walton League of America contended that any across-the-board increase in freight rates of recyclable materials would have adverse effects on the movement of such environmentally desirable traffic.

On the other hand, an environmental statement (V.S. No. 37) submitted by the railroad respondents as a result of the Commission's requirement (340 I.C.C. at 362) maintains that the surcharge can have no adverse effect upon the environment, and that any environmental impact will come only as the result of deterioration in railroad service due to lack of funds if the surcharge had not been permitted to go into effect.

It is impossible at this point in the investigation to assess with any certainty the environmental impact of assessment of, or failure to assess, a surcharge on various recyclable materials. The parties are called upon to submit additional factual data with regard to this issue.

2. Any adverse environmental effects which cannot be avoided should the proposal be implemented. Since the surcharge, if a part of the permanent rate structure, might have some adverse effect on the movement of the recyclable materials, the effect of implementing the surcharge could possibly be to discourage the movement of such traffic. For example, the statement of the National Association of Secondary Material Industries, Inc. (V.S. No. 98) states that the price of mixed paper stock was \$11

per ton in 1966 but declined to \$7.50 per ton in 1971, and that, except in the Southern territory, rail rates for movements of 150 miles or more were 37-plus cents per hundred pounds of waste paper (\$7.40 per short ton).

To look at another commodity as an example, based on the available information, the value of the scrap iron and steel increased by about 60 percent between 1967-70, and the price fluctuation for that commodity in a single month was more than \$4 per ton. It would seem that the profits of scrap iron dealers are much more influenced by prospective price changes than the incremental freight rate of 2.5 percent which averages out at an increase of about 12 cents per ton.

We note that none of the parties undertook the task, in statements filed thus far, of estimating comparatively the specific effect of the surcharge on the demands for recyclable materials and the commodities with which they compete. The parties should address themselves to the question of whether the demand for scrap iron or waste paper and textiles would be substantially affected by an increase in price of about 12 cents per ton, taking into consideration the percentage increases that would be applied to competitive commodities.

3. Alternatives to the proposed action. The railroad industry's need for additional revenues is well known. The alternatives to the proposed action thus appear to lie in a subsidy for the salvage and reclamation industry or a holddown on rate increases for recyclable materials. The other alternative, denial of any increases, could lead to a disruption in rail service, especially in connection with those carriers which are in financial difficulties. A subsidy, to be paid by interested communities or perhaps collected from the primary materials producers in the form of a tax, is beyond the jurisdiction of this Commission. Accordingly, only a partial or full holddown in the rate increase for recyclable materials can be considered in this or any similar proceeding, unless firm commitment for such subsidy is made part of the record. It should also be pointed out that we do not know whether the railroads intend to permanently increase the charges on secondary materials.

A "holddown" is the granting of something less than the proposed rate increase. This Commission in the past has used the device of a holddown to achieve a desirable result. See, e.g., Ex Parte Nos. 265 and 267, Increased Freight Rates, 1970 and 1971, 339 I.C.C. 125, 209 (1971). The use of such a device, however, is not free from objections.

First, the primary mandate of this Commission is the maintaining of an efficient and economical transportation system for the commerce of the Nation. The railroads have argued that the NEPA does not require the carriers to subsidize the recycling of secondary materials, and that markedly depressed rates on some commodities thrust a subsidy burden on other traffic. Yet it seems that NEPA constitutes sufficient authority for particular inquiry into the transportation of waste materials for recycling or reuse. See, Ex Parte No. MC-85, Transportation of "Waste" Products for Reuse and Recycling (General Motor Carrier Licensing), 114 M.C.C. 92, 93 (1971), wherein the Commission declared its intention to take positive and concrete action to support and encourage antipollution programs. Nevertheless, the low rate of return and working capital level of the railroads are well known and, in order to warrant special treatment for a recyclable material, the Commission must be given facts showing substantially the entire economic picture of the salvage and reclamation industry concerned. Unduly depressed rates might well be counterproductive by burdening existing traffic, including certain volume

traffic, in recyclable materials now moving with relative ease under established commercial relations.

Secondly, the dichotomy between rates based on cost of service and those based on other considerations has been well recognized. A "holddown" is not ordinarily justifiable under cost-of-service theory of ratemaking and so must be classed under a different approach. The Commission has been severely criticized in the past by many for using rate bases other than cost of service, as being discriminatory. Although it will continue to grant holddowns where justified by the facts, and where costs of the movement are met, it is up to the parties to submit concrete data to show that such treatment is warranted. The showing may include, for example, the costs of various grades of recyclable materials to dealers; their transportation costs to points of consumption; the market value of such materials at points of consumption; the rate of return for the reclaiming and salvage industries seeking holddowns; and information concerning the relationship of volume movement of such recyclable materials to the total volume of all freight moved by rail and comparison of rail revenues (both before and after imposition of the surcharge) from recyclable materials to total rail revenues, etc.

The Commission will take the initiative in giving consideration to environmental values in the proceeding but it must base its decision on facts. The evidence of record at the present time is wholly insufficient to support a holddown for scrap iron and steel. As mentioned above, it taxes credulity to believe that the movement of an item may be greatly impeded by an increase in freight rate of 12 cents per ton when the speculative price rise of that item may be as much as \$4.25 per ton in a single month, and over a 3-year period the value of that item has risen about \$16 per ton. Perhaps the parties can suggest a proper perspective for viewing the need for a holddown concerning the scrap iron and steel industry. It does not appear to be too much to ask in a proceeding of this magnitude that such be done.

4. *The relationship between local short-term use of man's environment and enhancement of long-term productivity.* The short-term use of man's environment involved in this proceeding appears twofold. First, to the extent waste materials are recycled, they take the place of primary raw materials in satisfying consumer demand. For example, 1 ton of reprocessed waste paper conserves 17 trees. Ex Parte Nos. 265 and 267, supra, 339 I.C.C. at 204. Secondly, the consumption of the waste materials is a means of disposal and prevents littering and pollution. The long-term productivity of our land and other natural resources would be clearly enhanced by recycling and reusing such waste materials.

5. *Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.* At this point, no irreversible and irretrievable commitments of resource here appear to be involved.

SUMMARY

The surcharge, if it were designed to be incorporated into the permanent rate structure of the railroad respondents, might then have an impact on the environment because it could be a deterrent to the transportation of certain waste materials for recycling and reuse. However, present evidence of record is completely inadequate for the Commission

to make a determination as to what commodities, if any, warrant special treatment. The Commission requests the parties and other interested persons to assist it in properly discharging its duties under the NEPA by furnishing useful economic data on which the environmental decision in this proceeding must be based and otherwise to comment on this statement.

The opinions and conclusions set forth in this impact statement are tentative and based only on that evidence already available. It is recognized that more evidence is needed before the environmental impact can be definitively measured.

This impact statement will accompany the case through the administrative process, including the processing of the selective increase proposal filed February 28, 1972, and is subject to total or partial revision depending on the conclusions ultimately reached by the Commission.

[FR Doc.72-3704 Filed 3-9-72;8:50 am]

[Notice 25]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 7, 1972.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72861. By order of February 29, 1972, the Motor Carrier Board approved the transfer to Morton Transfer, Inc., Richmond, Va., of the operating rights in certificates Nos. MC-35541 and MC-35541 (Sub-No. 12) issued July 27, 1959, and January 16, 1962, respectively, to Morton Schneider, doing business as Morton Transfer, Richmond, Va., authorizing the transportation of general commodities, with exceptions, between Richmond, Va., and the United States Airport, approximately 4 miles southwest of Richmond, Va.; between Richmond, Va., and Amphill, Va.; between points in Richmond, Va. (pickup and delivery service); serving Amphill and Richmond Deep Water Terminal, Va.; and between Richmond, Va., and the Richmond General Depot, near Amphill, Va.; meats, meat products, meat byproducts, and dairy products in vehicles equipped for mechanical refrigeration, from Richmond, Va., to points in Virginia within 65 miles thereof; and candy and confectionery, in vehicles equipped with mechanical refrigeration, from Richmond, Va., to points in Vir-

ginia, within 65 miles of Richmond, Va. Dual operations were authorized. Henry E. Ketner, 6301 River Road, Richmond, VA 23229, attorney for applicants.

No. MC-FC-73395. By order of February 28, 1972, the Motor Carrier Board approved the transfer to Hearin Transportation, Inc., Portland, Ore., of the operating rights in permit No. MC-133478 (Sub-No. 3) issued December 2, 1971, to Hearin Forest Industries, Inc., Portland, Ore., authorizing the transportation of various commodities from Beaverton, Ore., to points in the United States, except Alaska and Hawaii and from specified points in California, Washington, and Oregon to Beaverton, Ore. G. A. Goodrich, 4854 Southwest Scholls Ferry Road, Portland, OR 97225, representative for applicants.

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc.72-3699 Filed 3-9-72;8:50 am]

[Notice 25-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 7, 1972.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73034. By order of March 1, 1972, Division 3, acting as an Appellate Division, approved the transfer to Condell Trucking Co., Inc., Paterson, N.J., of the operating rights in permit No. MC-133031 issued October 26, 1970 to Harold C. Horah, Inc., Elkton, Md., authorizing the transportation of various commodities from points in the New York, N.Y., commercial zone and specified points in New Jersey and New York to points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Wisconsin and a portion of Minnesota, and the District of Columbia. George A. Olsen, 69 Tonnet Avenue, Jersey City, NJ 07306, representative for applicants.

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc.72-3700 Filed 3-9-72;8:50 am]

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FRIDAY, MARCH 10, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 48

PART II



THE PRESIDENT EXECUTIVE ORDER 11652

■

Classification and Declassification of
National Security Information
and Material

THE PRESIDENT
EXECUTIVE ORDER

ON SEPTEMBER 11, 2001
BY PRESIDENT GEORGE W. BUSH
IN THE CITY OF WASHINGTON

TO ALL WHOM THESE PRESENTS SHALL COME, I, GEORGE W. BUSH, President of the United States of America, do hereby order that the Department of Justice shall take such steps as may be necessary to ensure that the Federal Bureau of Investigation (FBI) shall conduct a thorough and impartial investigation of the September 11, 2001 terrorist attacks, and shall report the results of such investigation to the President and the Congress of the United States.

Title 3—The President

EXECUTIVE ORDER 11652

Classification and Declassification of National Security Information and Material

The interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public. This concept of an informed citizenry is reflected in the Freedom of Information Act and in the current public information policies of the executive branch.

Within the Federal Government there is some official information and material which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation and the safety of our people and our allies. To protect against actions hostile to the United States, of both an overt and covert nature, it is essential that such official information and material be given only limited dissemination.

This official information or material, referred to as classified information or material in this order, is expressly exempted from public disclosure by Section 552(b)(1) of Title 5, United States Code. Wrongful disclosure of such information or material is recognized in the Federal Criminal Code as providing a basis for prosecution.

To ensure that such information and material is protected, but only to the extent and for such period as is necessary, this order identifies the information to be protected, prescribes classification, downgrading, declassification and safeguarding procedures to be followed, and establishes a monitoring system to ensure its effectiveness.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, it is hereby ordered:

SECTION 1. *Security Classification Categories.* Official information or material which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States (hereinafter collectively termed "national security") shall be classified in one of three categories, namely "Top Secret," "Secret," or "Confidential," depending upon the degree of its significance to national security. No other categories shall be used to identify official information or material as requiring protection in the interest of national security, except as otherwise expressly provided by statute. These classification categories are defined as follows:

(A) "*Top Secret.*" "Top Secret" refers to that national security information or material which requires the highest degree of protection. The test for assigning "Top Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the

national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security. This classification shall be used with the utmost restraint.

(B) "*Secret*." "Secret" refers to that national security information or material which requires a substantial degree of protection. The test for assigning "Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security. The classification "Secret" shall be sparingly used.

(C) "*Confidential*." "Confidential" refers to that national security information or material which requires protection. The test for assigning "Confidential" classification shall be whether its unauthorized disclosure could reasonably be expected to cause damage to the national security.

SEC. 2. *Authority to Classify*. The authority to originally classify information or material under this order shall be restricted solely to those offices within the executive branch which are concerned with matters of national security, and shall be limited to the minimum number absolutely required for efficient administration. Except as the context may otherwise indicate, the term "Department" as used in this order shall include agency or other governmental unit.

(A) The authority to originally classify information or material under this order as "Top Secret" shall be exercised only by such officials as the President may designate in writing and by:

- (1) The heads of the Departments listed below;
- (2) Such of their senior principal deputies and assistants as the heads of such Departments may designate in writing; and
- (3) Such heads and senior principal deputies and assistants of major elements of such Departments, as the heads of such Departments may designate in writing.

Such offices in the Executive Office of the President as the President may designate in writing

Central Intelligence Agency
Atomic Energy Commission
Department of State
Department of the Treasury
Department of Defense
Department of the Army
Department of the Navy
Department of the Air Force
United States Arms Control and Disarmament Agency

Department of Justice
National Aeronautics and Space Administration
Agency for International Development

(B) The authority to originally classify information or material under this order as "Secret" shall be exercised only by:

- (1) Officials who have "Top Secret" classification authority;
- (2) Such subordinates as officials with "Top Secret" classification authority under (A) (1) and (2) above may designate in writing; and
- (3) The heads of the following named Departments and such senior principal deputies or assistants as they may designate in writing.

Department of Transportation
Federal Communications Commission
Export-Import Bank of the United States
Department of Commerce
United States Civil Service Commission
United States Information Agency
General Services Administration
Department of Health, Education, and Welfare
Civil Aeronautics Board
Federal Maritime Commission
Federal Power Commission
National Science Foundation
Overseas Private Investment Corporation

(C) The authority to originally classify information or material under this order as "Confidential" may be exercised by officials who have "Top Secret" or "Secret" classification authority and such officials as they may designate in writing.

(D) Any Department not referred to herein and any Department or unit established hereafter shall not have authority to originally classify information or material under this order, unless specifically authorized hereafter by an Executive order.

Sec. 3. Authority to Downgrade and Declassify. The authority to downgrade and declassify national security information or material shall be exercised as follows:

(A) Information or material may be downgraded or declassified by the official authorizing the original classification, by a successor in capacity or by a supervisory official of either.

(B) Downgrading and declassification authority may also be exercised by an official specifically authorized under regulations issued by the head of the Department listed in Sections 2(A) or (B) hereof.

(C) In the case of classified information or material officially transferred by or pursuant to statute or Executive order in conjunction with a transfer of function and not merely for storage purposes, the receiving Department shall be deemed to be the originating Department for all purposes under this order including downgrading and declassification.

(D) In the case of classified information or material not officially transferred within (C) above, but originated in a Department which has since ceased to exist, each Department in possession shall be deemed to be the originating Department for all purposes under this order. Such information or material may be downgraded and declassified by the Department in possession after consulting with any other Departments having an interest in the subject matter.

(E) Classified information or material transferred to the General Services Administration for accession into the Archives of the United States shall be downgraded and declassified by the Archivist of the United States in accordance with this order, directives of the President issued through the National Security Council and pertinent regulations of the Departments.

(F) Classified information or material with special markings, as described in Section 8, shall be downgraded and declassified as required by law and governing regulations.

SEC. 4. *Classification.* Each person possessing classifying authority shall be held accountable for the propriety of the classifications attributed to him. Both unnecessary classification and over-classification shall be avoided. Classification shall be solely on the basis of national security considerations. In no case shall information be classified in order to conceal inefficiency or administrative error, to prevent embarrassment to a person or Department, to restrain competition or independent initiative, or to prevent for any other reason the release of information which does not require protection in the interest of national security. The following rules shall apply to classification of information under this order:

(A) *Documents in General.* Each classified document shall show on its face its classification and whether it is subject to or exempt from the General Declassification Schedule. It shall also show the office of origin, the date of preparation and classification and, to the extent practicable, be so marked as to indicate which portions are classified, at what level, and which portions are not classified in order to facilitate excerpting and other use. Material containing references to classified materials, which references do not reveal classified information, shall not be classified.

(B) *Identification of Classifying Authority.* Unless the Department involved shall have provided some other method of identifying the individual at the highest level that authorized classification in each case, material classified under this order shall indicate on its face the identity of the highest authority authorizing the classification. Where the individual who signs or otherwise authenticates a document or item has also authorized the classification, no further annotation as to his identity is required.

(C) *Information or Material Furnished by a Foreign Government or International Organization.* Classified information or material furnished to the United States by a foreign government or international organization shall either retain its original classification or be assigned a United States classification. In either case, the classification shall assure a degree of protection equivalent to that required by the government or international organization which furnished the information or material.

(D) *Classification Responsibilities.* A holder of classified information or material shall observe and respect the classification assigned by the originator. If a holder believes that there is unnecessary classification, that the assigned classification is improper, or that the document is subject to declassification under this order, he shall so inform the originator who shall thereupon re-examine the classification.

SEC. 5. *Declassification and Downgrading.* Classified information and material, unless declassified earlier by the original classifying authority, shall be declassified and downgraded in accordance with the following rules:

(A) *General Declassification Schedule.* (1) "Top Secret." Information or material originally classified "Top Secret" shall become automatically downgraded to "Secret" at the end of the second full calendar year following the year in which it was originated, downgraded to "Confidential" at the end of the fourth full calendar year following the year in which it was originated, and declassified at the end of the tenth full calendar year following the year in which it was originated.

(2) "Secret." Information and material originally classified "Secret" shall become automatically downgraded to "Confidential" at the end of the second full calendar year following the year in which it was originated, and declassified at the end of the eighth full calendar year following the year in which it was originated.

(3) "Confidential." Information and material originally classified "Confidential" shall become automatically declassified at the end of the sixth full calendar year following the year in which it was originated.

(B) *Exemptions from General Declassification Schedule.* Certain classified information or material may warrant some degree of protection for a period exceeding that provided in the General Declassification Schedule. An official authorized to originally classify information or material "Top Secret" may exempt from the General Declassification Schedule any level of classified information or material originated by him or under his supervision if it falls within one of the categories described below. In each case such official shall specify in writing on the material the exemption category being claimed and, unless impossible, a date or event for automatic declassification. The use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements and shall be restricted to the following categories:

(1) Classified information or material furnished by foreign governments or international organizations and held by the United States on the understanding that it be kept in confidence.

(2) Classified information or material specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods.

(3) Classified information or material disclosing a system, plan, installation, project or specific foreign relations matter the continuing protection of which is essential to the national security.

(4) Classified information or material the disclosure of which would place a person in immediate jeopardy.

(C) *Mandatory Review of Exempted Material.* All classified information and material originated after the effective date of this order which is exempted under (B) above from the General Declassification Schedule shall be subject to a classification review by the originating Department at any time after the expiration of ten years from the date of origin provided:

- (1) A Department or member of the public requests a review;
- (2) The request describes the record with sufficient particularity to enable the Department to identify it; and
- (3) The record can be obtained with only a reasonable amount of effort.

Information or material which no longer qualifies for exemption under (B) above shall be declassified. Information or material continuing to qualify under (B) shall be so marked and, unless impossible, a date for automatic declassification shall be set.

(D) *Applicability of the General Declassification Schedule to Previously Classified Material.* Information or material classified before the effective date of this order and which is assigned to Group 4 under Executive Order No. 10501, as amended by Executive Order No. 10964, shall be subject to the General Declassification Schedule. All other information or material classified before the effective date of this order, whether or not assigned to Groups 1, 2, or 3 of Executive Order No. 10501, as amended, shall be excluded from the General Declassification Schedule. However, at any time after the expiration of ten years from the date of origin it shall be subject to a mandatory classification review and disposition under the same conditions and criteria that apply to classified information and material created after the effective date of this order as set forth in (B) and (C) above.

(E) *Declassification of Classified Information or Material After Thirty Years.* All classified information or material which is thirty years old or more, whether originating before or after the effective date of this order, shall be declassified under the following conditions:

(1) All information and material classified after the effective date of this order shall, whether or not declassification has been requested, become automatically declassified at the end of thirty full calendar years after the date of its original classification except for such specifically identified information or material which the head of the originating Department personally determines in writing at that time to require continued protection because such continued protection is essential to the national security or disclosure would place a person in immediate jeopardy. In such case, the head of the Department shall also specify the period of continued classification.

(2) All information and material classified before the effective date of this order and more than thirty years old shall be systematically reviewed for declassification by the Archivist of the United States by the end of the thirtieth full calendar year following the year in which it was

originated. In his review, the Archivist will separate and keep protected only such information or material as is specifically identified by the head of the Department in accordance with (E)(1) above. In such case, the head of the Department shall also specify the period of continued classification.

(F) *Departments Which Do Not Have Authority For Original Classification.* The provisions of this section relating to the declassification of national security information or material shall apply to Departments which, under the terms of this order, do not have current authority to originally classify information or material, but which formerly had such authority under previous Executive orders.

SEC. 6. *Policy Directives on Access, Marking, Safekeeping, Accountability, Transmission, Disposition and Destruction of Classified Information and Material.* The President acting through the National Security Council shall issue directives which shall be binding on all Departments to protect classified information from loss or compromise. Such directives shall conform to the following policies:

(A) No person shall be given access to classified information or material unless such person has been determined to be trustworthy and unless access to such information is necessary for the performance of his duties.

(B) All classified information and material shall be appropriately and conspicuously marked to put all persons on clear notice of its classified contents.

(C) Classified information and material shall be used, possessed, and stored only under conditions which will prevent access by unauthorized persons or dissemination to unauthorized persons.

(D) All classified information and material disseminated outside the executive branch under Executive Order No. 10865 or otherwise shall be properly protected.

(E) Appropriate accountability records for classified information shall be established and maintained and such information and material shall be protected adequately during all transmissions.

(F) Classified information and material no longer needed in current working files or for reference or record purposes shall be destroyed or disposed of in accordance with the records disposal provisions contained in Chapter 33 of Title 44 of the United States Code and other applicable statutes.

(G) Classified information or material shall be reviewed on a systematic basis for the purpose of accomplishing downgrading, declassification, transfer, retirement and destruction at the earliest practicable date.

SEC. 7. *Implementation and Review Responsibilities.* (A) The National Security Council shall monitor the implementation of this order. To assist the National Security Council, an Interagency Classification Review Committee shall be established, composed of representatives of the Departments of State, Defense and Justice, the Atomic Energy Commission, the Central Intelligence Agency and the National

Security Council Staff and a Chairman designated by the President. Representatives of other Departments in the executive branch may be invited to meet with the Committee on matters of particular interest to those Departments. This Committee shall meet regularly and on a continuing basis shall review and take action to ensure compliance with this order, and in particular:

(1) The Committee shall oversee Department actions to ensure compliance with the provisions of this order and implementing directives issued by the President through the National Security Council.

(2) The Committee shall, subject to procedures to be established by it, receive, consider and take action on suggestions and complaints from persons within or without the government with respect to the administration of this order, and in consultation with the affected Department or Departments assure that appropriate action is taken on such suggestions and complaints.

(3) Upon request of the Committee Chairman, any Department shall furnish to the Committee any particular information or material needed by the Committee in carrying out its functions.

(B) To promote the basic purposes of this order, the head of each Department originating or handling classified information or material shall:

(1) Prior to the effective date of this order submit to the Interagency Classification Review Committee for approval a copy of the regulations it proposes to adopt pursuant to this order.

(2) Designate a senior member of his staff who shall ensure effective compliance with and implementation of this order and shall also chair a Departmental committee which shall have authority to act on all suggestions and complaints with respect to the Department's administration of this order.

(3) Undertake an initial program to familiarize the employees of his Department with the provisions of this order. He shall also establish and maintain active training and orientation programs for employees concerned with classified information or material. Such programs shall include, as a minimum, the briefing of new employees and periodic reorientation during employment to impress upon each individual his responsibility for exercising vigilance and care in complying with the provisions of this order. Additionally, upon termination of employment or contemplated temporary separation for a sixty-day period or more, employees shall be debriefed and each reminded of the provisions of the Criminal Code and other applicable provisions of law relating to penalties for unauthorized disclosure.

(C) The Attorney General, upon request of the head of a Department, his duly designated representative, or the Chairman of the above described Committee, shall personally or through authorized representatives of the Department of Justice render an interpretation of this order with respect to any question arising in the course of its administration.

SEC. 8. *Material Covered by the Atomic Energy Act.* Nothing in this order shall supersede any requirements made by or under the Atomic Energy Act of August 30, 1954, as amended. "Restricted Data," and material designated as "Formerly Restricted Data," shall be handled, protected, classified, downgraded and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission.

SEC. 9. *Special Departmental Arrangements.* The originating Department or other appropriate authority may impose, in conformity with the provisions of this order, special requirements with respect to access, distribution and protection of classified information and material, including those which presently relate to communications intelligence, intelligence sources and methods and cryptography.

SEC. 10. *Exceptional Cases.* In an exceptional case when a person or Department not authorized to classify information originates information which is believed to require classification, such person or Department shall protect that information in the manner prescribed by this order. Such persons or Department shall transmit the information forthwith, under appropriate safeguards, to the Department having primary interest in the subject matter with a request that a determination be made as to classification.

SEC. 11. *Declassification of Presidential Papers.* The Archivist of the United States shall have authority to review and declassify information and material which has been classified by a President, his White House Staff or special committee or commission appointed by him and which the Archivist has in his custody at any archival depository, including a Presidential Library. Such declassification shall only be undertaken in accord with: (i) the terms of the donor's deed of gift, (ii) consultations with the Departments having a primary subject-matter interest, and (iii) the provisions of Section 5.

SEC. 12. *Historical Research and Access by Former Government Officials.* The requirement in Section 6(A) that access to classified information or material be granted only as is necessary for the performance of one's duties shall not apply to persons outside the executive branch who are engaged in historical research projects or who have previously occupied policy-making positions to which they were appointed by the President; *Provided*, however, that in each case the head of the originating Department shall:

(i) determine that access is clearly consistent with the interests of national security; and

(ii) take appropriate steps to assure that classified information or material is not published or otherwise compromised.

Access granted a person by reason of his having previously occupied a policy-making position shall be limited to those papers which the former official originated, reviewed, signed or received while in public office.

SEC. 13. *Administrative and Judicial Action.* (A) Any officer or employee of the United States who unnecessarily classifies or over-

classifies information or material shall be notified that his actions are in violation of the terms of this order or of a directive of the President issued through the National Security Council. Repeated abuse of the classification process shall be grounds for an administrative reprimand. In any case where the Departmental committee or the Interagency Classification Review Committee finds that unnecessary classification or overclassification has occurred, it shall make a report to the head of the Department concerned in order that corrective steps may be taken.

(B) The head of each Department is directed to take prompt and stringent administrative action against any officer or employee of the United States, at any level of employment, determined to have been responsible for any release or disclosure of national security information or material in a manner not authorized by or under this order or a directive of the President issued through the National Security Council. Where a violation of criminal statutes may be involved, Departments will refer any such case promptly to the Department of Justice.

SEC. 14. *Revocation of Executive Order No. 10501.* Executive Order No. 10501 of November 5, 1953, as amended by Executive Orders No. 10816 of May 8, 1959, No. 10901 of January 11, 1961, No. 10964 of September 20, 1961, No. 10985 of January 15, 1962, No. 11097 of March 6, 1963 and by Section 1(a) of No. 11382 of November 28, 1967, is superseded as of the effective date of this order.

SEC. 15. *Effective date.* This order shall become effective on June 1, 1972.



THE WHITE HOUSE,
March 8, 1972.

[FR Doc. 72-3782 Filed 3-9-72; 11:01 am]