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FEDERAL REGISTER

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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.

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List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears 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, 1968, and specifies how they are affected.

Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3865

NATIONAL SCHOOL LUNCH WEEK, 1968

By the President of the United States of America

A Proclamation

A well-nourished, healthy, intelligent child is the most precious asset America can possess.

It is vitally important, therefore, that every American child be offered an adequate diet and taught good food habits, no matter where he lives, or how much or little his parents earn.

The National School Lunch Program is a major factor in achieving this goal. For 22 years this Program—a Federal-State-local activity—has helped millions of youngsters obtain low-cost lunches at school. In the 1968–69 school year, nearly 20 million children are expected to benefit.

But many children still are seriously malnourished—because their families lack knowledge of a good diet or money to buy one. The consequences of malnourishment are often poor health and diminished intellectual powers.

To help prevent these human tragedies, the Nation will put still more money and manpower into teaching good nutrition and providing new and expanded food services for children. These services will include more free or reduced-price lunches in needy areas, breakfasts at school for more children, and food services for children not yet in school or in day care centers.

In recognition of the value and achievements of the National School Lunch Program, the Congress, by a joint resolution of October 9, 1962 (76 Stat. 779), has designated the seven-day period beginning on the second Sunday of October in each year as National School Lunch Week, and has requested the President to issue annually a proclamation calling for the observance of that week.

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, call upon the people of the United States to observe the week beginning October 13, 1968, as National School Lunch Week, with ceremonies and activities designed to increase public understanding and awareness of the significance of the National School Lunch Program and other food service programs to the child, to the home, to the farm, to industry, and to the Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of September, in the year of our Lord nineteen hundred and sixty-eight, and of the Independence of the United States of America the one hundred and ninety-third.

Lyndon B. Johnson

[F.R. Doc. 68-10921; Filed, Sept. 5, 1968; 4:46 p.m.]

Executive Order 11428

TERMINATING THE PRESIDENT'S ADVISORY COMMITTEE ON SUPERSONIC TRANSPORT

By virtue of the authority vested in me as President of the United States, the President's Advisory Committee on Supersonic Transport, established by Executive Order No. 11149 of April 1, 1964, as amended by section 10 of Executive Order No. 11382 of November 28, 1967, is hereby terminated. Executive Order No. 11149 and section 10 of Executive Order No. 11382 are hereby revoked.

Lyndon B. Johnson

THE WHITE HOUSE,
September 5, 1968.

[F.R. Doc. 68-10913; Filed, Sept. 5, 1968; 3:56 p.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 733—POLITICAL ACTIVITIES OF FEDERAL EMPLOYEES AND OF ENROLLEES OF THE JOB CORPS

Subpart C—Privileged Localities

POLITICAL ACTIVITIES IN SHREWSBURY TOWNSHIP, N.J.

Section 733.301 is amended to include political activity privileges to employee residents of Shrewsbury Township, N.J. Section 733.301(b) is amended by the addition of "Shrewsbury Township, New Jersey (July 2, 1968)" under the heading "Other Municipalities".

(5 U.S.C. 7327, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 68-10841; Filed, Sept. 6, 1968; 8:46 a.m.]

PART 1001—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Outside Employment and Activity

Section 1001.735–203(b) of the Civil Service Commission's regulations governing employees of the Commission is amended to include a specific reference to teaching, lecturing, and writing in regard to Civil Service and Foreign Service examinations; § 1001.735–203(f) is deleted as "Part 734", referred to in that section has been revoked; and paragraphs (g) and (h) are redesignated as paragraphs (f) and (g).

§ 1001.735–203 Outside employment and activity.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Incompatible activities include, but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances wherein acceptance may result in, or create the appearance of, a conflict of interest;

(2) Outside employment or activity which tends to impair his mental or physical capacity to perform the duties and responsibilities of his position in an acceptable manner;

(3) Outside employment or activity which may bring criticism of, or cause embarrassment to the Commission; or

(4) Outside employment or activity which is in violation of a statute, Executive order, or regulation, including applicable State and local statutes, and ordinances.

(b) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, the Executive order, this part, or the agency regulations. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Commission or Board of Examiners for the Foreign Service, that depends on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the agency head gives written authorization for use of nonpublic information on the basis that the use is in the public interest. In addition, an employee who is a Presidental appointee covered by section 401(a) of the order shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of his agency, or which draws substantially on official data or ideas which have not become part of the body of public information.

(c) Employees are encouraged to serve as members of committees or boards which plan or advise on training courses or programs offered by non-Government organizations, especially when the courses or programs are designed for, or are of particular interest to, Federal employees. However, before an employee may accept membership on such a committee or board, he shall request in writing and secure the approval of the Commission official authorized to grant the request. Bureau directors, regional directors, and heads of staff offices are authorized to grant requests made by their employees. The Commissioners and the Executive Director are the approving authorities for employees who report directly to them. The authorizing official shall transmit a copy of each approved request for inclusion in the employee's Official Personnel Folder.

(d) Employees are encouraged to accept appointments as faculty members for after-hours teaching. However, before an employee may accept such an appointment, he shall request and secure approval, and the approved request shall be included in his Official Personnel Folder, as provided in paragraph (c) of this section.

(e) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his services to the Government.

(f) An employee who engages in any kind of outside paid employment on a substantially regular basis shall submit to his immediate supervisor a memorandum describing the employment and stating approximately how many hours per week he is so employed. The immediate supervisor shall forward the memorandum through his bureau director, regional director, or staff office head for inclusion in the employee's Official Personnel Folder.

(g) This section does not preclude an employee from:

(1) Participation in the activities of National or State political parties not proscribed by law;

(2) Participation in the local self-government activities in the community in which he resides to the extent permitted by law. However, an employee may not hold elective office in his local community government without the approval of the Executive Director; or

(3) Participation in the affairs of, or acceptance of an award for meritorious public contribution or achievement given by, a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

(E.O. 11222; 3 CFR, 1964–1965 Comp.; 5 CFR 735.101 et seq.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 68-10842; Filed, Sept. 6, 1968; 8:46 a.m.]

Title 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

[Amdt. 18]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

CORN ENDORSEMENT (GRAIN AND SILAGE)

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the above-identified regulations are amended effective beginning with the 1969 crop year in the following respects:

The following section is added:

§ 401.142 The corn endorsement ((grain and silage) provides insurance on corn planted for harvest as grain or for silage and is applicable only in those counties where a production guarantee in bushels of corn per acre is shown on the county actuarial table).

(a) The provisions of the corn endorsement (grain and silage), which shall be applicable for the 1969 and succeeding crop years in all counties where a production guarantee in bushels of corn per acre is shown on the county actuarial table, are as follows:

1. *Insured crop.* The crop insured shall be corn normally regarded as field corn or silage corn planted for harvest as grain or silage, as determined by the Corporation. Insurance shall not attach on any acreage on which it is determined by the Corporation that the corn was planted for the development or production of hybrid seed.

2. *Production guarantee.* The production guarantee per acre shown on the county actuarial table (hereinafter called "actuarial table") shall be increased by 3 bushels for any harvested acreage on which the amount harvested is 3 or more bushels per acre.

3. *Insurance period.* Insurance on any insured acreage shall attach at the time the corn is planted and shall cease on final adjustment of a loss or upon harvest, whichever occurs first, but in no event shall insurance remain in effect later than the December 10 (October 31 in North Dakota) of the calendar year in which the corn is normally harvested.

4. *Claims for loss.* (a) Any claim for loss on an insurance unit (hereinafter called "unit") shall be submitted to the Corporation, on a form prescribed by the Corporation, not later than 60 days after the time of loss. The Corporation reserves the right to provide additional time if it determines that circumstances beyond the control of either party prevent compliance with this provision.

(b) It shall be a condition precedent to the payment of any loss that the insured establish the production of the insured crop on the unit and that such loss has been directly caused by one or more of the hazards insured against during the insurance period for the crop year for which the loss is claimed, and furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(c) Losses shall be determined separately for each unit. The amount of loss with respect to any unit shall be determined by (1) multiplying the insured acreage of corn on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in (3) by the insured interest: *Provided,* That if for the unit the insured fails to report all of his interest or insurable acreage the amount of loss shall be determined with respect to all of his interest and insurable acreage, but in such cases or otherwise, if the premium computed on the basis of the insurable acreage and interest exceeds the premium on the reported acreage and interest, or the acreage and interest when determined by the Corporation under section 3 of the policy, the amount of loss shall be reduced proportionately.

The total production to be counted for a unit shall be determined by the Corporation and, subject to the provisions hereinafter, shall include all harvested production and any appraisals made by the Corporation for unharvested or potential production, poor farming practices, uninsured causes of loss, or for acreage abandoned or put to another use without the consent of the Corporation: *Provided,* That the total production to be counted on any acreage of corn (1) which, with the consent of the Corporation, is planted in the current crop year, before harvest becomes general, to any other crop (excluding small grains normally maturing for harvest in the following calendar year) insurable in the county for the current crop year under the regulations of the Corporation, shall be 50 percent of the production guarantee for such acreage or the appraised production whichever is greater; (2) which is unharvested or from which the production harvested is less than 3 bushels per acre shall be the appraised production and the harvested production in excess of 3 bushels per acre, except as to the acreage referred to in the following items (3) and (4); (3) which is abandoned or put to another use without prior written consent of the Corporation shall be the production guarantee provided for such acreage; or (4) which is damaged solely by an uninsured cause shall be not less than the production guarantee provided for such acreage. The Corporation reserves the right to determine the amount of production of unharvested corn standing in the field on the basis of a field appraisal immediately after the end of the insurance period.

(d) For the purpose of determining the production of corn to be counted, the Corporation shall (1) determine the tonnage of silage harvested and (2) appraise the production of unharvested silage corn or corn thick planted for silage, as determined by the Corporation, and convert such silage to bushels of corn using the number of bushels per ton shown on the actuarial table: *Provided, however,* That notwithstanding section 8(a) of the policy, if the insured desires to harvest the crop on any insured acreage for silage, and to commingle it in storage with any other silage, he shall give notice in writing to the Corporation at the office for the county before harvest is commenced. The Corporation shall, pursuant to such notice, appraise the production of silage, on the insured acreage but if unable to do so prior to harvest, the insured may harvest the crop on the condition that representative rows, or areas, are left from which appraisals of production properly can be made. The Corporation reserves the right to reject any claim for loss if any of the requirements of this section are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined: *Provided, further,* That such appraisals of production made hereunder shall be made on the basis of the most favorable conditions prevailing and shall not be reduced because of any damage to representative rows, or areas, after the crop was harvested.

(e) The following provisions are applicable to corn crop insurance contracts:

The provisions of this paragraph shall be applicable to corn crop insurance contracts in all counties and states except Dakota, Douglas, Fillmore, Goodhue, Grant, Houston, Olmsted, Pope, Scott, Stearns, Todd, Wabasha, Washington, Winona, and Wright Counties, Minn. Notwithstanding the provisions of subsection (c) of this section, in determining the production of corn, other than the corn harvested for silage or appraised for silage referred to in subsection (d) above, to be counted, the Corporation shall, where appropriate when due to insurable causes occuring within the insurance period, first adjust such production as follows: The production shall be reduced 1.2 percent for each full 1 percent of moisture in excess of 18 percent up to and including 30 percent, and for each full 1 percent of moisture in excess of 30 percent up to and including 40 percent the production shall be reduced 2.0 percent. If the Corporation determines that the moisture content is over 40 percent or if the test weight of shelled corn is below 40 pounds per bushel, the percent of the production to be counted shall be that as agreed upon by the Corporation and the insured, or in the absence of agreement as appraised by the Corporation: *Provided, however,* That the percent of the gross production of corn harvested for grain to be counted shall not be less than 35 percent.

The provisions of this paragraph shall be applicable only to corn crop insurance contracts in Dakota, Douglas, Fillmore, Goodhue, Grant, Houston, Olmsted, Pope, Scott, Stearns, Todd, Wabasha, Washington, Winona, and Wright Counties, Minn. Notwithstanding the provisions of subsection (c) of this section, in determining the production of corn with a moisture content of 26 percent or more, other than the corn harvested for silage or appraised for silage referred to in subsection (d) above, to be counted, the Corporation shall, where appropriate when due to insurable causes occurring within the insurance period, first adjust such production as follows: The production of any such corn with a moisture content of: (1) 26 percent through 30 percent shall be adjusted by multiplying the number of bushels by 95 percent, (2) 30.1 percent through 35 percent shall be adjusted by multiplying the number of bushels by 90 percent, (3) 35.1 percent through 40 percent shall be adjusted by multiplying the number of bushels by 85 percent. If the Corporation determines that the moisture content is over 40 percent or if the test weight of shelled corn is below 40 pounds per bushel, the percent of the production to be counted shall be that as agreed upon by the Corporation and the insured, or in the absence of agreement as appraised by the Corporation: *Provided, however,* That the percent of the gross production of corn harvested for grain to be counted shall not be less than 35 percent.

(f) In determining the production of stored corn, 2.50 cubic feet of ear corn and 1.25 cubic feet of shelled corn shall be treated as 1 bushel, except that in the case of ear corn the quantity so determined may be adjusted by a shelling percentage, and in the case of shelled corn production may be adjusted on the basis of test weight. The production of corn shall not be adjusted for kernel damage. In addition, the production of corn will not be adjusted for the presence of husks unless the Corporation determines that in harvesting ear corn, none of the husks were removed.

5. *Meaning of terms.* For the purpose of the corn insurance program the term:

(a) "Harvest" means picking the corn from the stalk either by hand or machine or cutting the corn for any purpose.

6. *Cancellation and termination for indebtedness dates.* For each year of the contract the cancellation date and the termination date for indebtedness are the following applicable dates immediately preceding the beginning of the crop year for which the cancellation or the termination is to become effective:

State	Cancellation date	Termination date for indebtedness
Delaware, Illinois, Indiana, Iowa, Maryland, Michigan, Minnesota, Nebraska, Ohio, Pennsylvania, and Wisconsin.	Dec. 31	May 10
North Dakota	Dec. 31	Apr. 15
All other States	Dec. 31	Apr. 30

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

Adopted by the Board of Directors on August 29, 1968.

[SEAL] EARLL H. NIKKEL,
Secretary, Federal Crop Insurance Corporation.

Approved on September 4, 1968.

JOHN A. SCHNITTKER,
Acting Secretary.

[F.R. Doc. 68-10871; Filed, Sept. 6, 1968; 8:49 a.m.]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER G—DETERMINATION OF PROPORTIONATE SHARES

[§ 849.2, Rev. 3, Supp. 1, Amdt. 1]

PART 849—DOMESTIC BEET SUGAR PRODUCING AREA PREVENTED ACREAGE CREDIT; 1967 AND SUBSEQUENT CROPS

Approved Local Areas for the 1967 Crop of Sugar Beets

Pursuant to the provisions of section 302(b) of the Sugar Act of 1948, as amended, paragraph (h) of § 849.10 (33 F.R. 11057, 11392) is amended to read as follows:

§ 849.10 Approved local areas for the 1967 crop of sugar beets.

* * * * *

(h) *Ohio.*

COUNTY AND AREAS

Hancock: Area 1; Area 2; Area 4; Area 5; Area 6.
Henry: Richfield; Bartlow.
Lucas: Oregon; Jerusalem.
Sandusky: Area 2; Area 3; Madison; Washington; York.
Van Wert: Area 1.
Wood: Area 1; Area 4; Area 6; Freedom; Perrysburg.

* * * * *

STATEMENT OF BASES AND CONSIDERATIONS

A list of the local producing areas approved for 1967 crop prevented acreage credit was published in the FEDERAL REGISTER of August 3, 1968. Information received subsequent to that date showed additional approved areas in two counties in Ohio.

This amendment gives notice that those specific local producing areas in Sandusky and Wood Counties, Ohio, have qualified under the requirements of § 849.2 with respect to the 1967 crop of sugar beets.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153, sec. 302, 61 Stat. 930; as amended; 7 U.S.C. 1132)

Effective date: Date of publication.

Signed at Washington, D.C., on August 29, 1968.

RAY FITZGERALD,
Deputy Administrator, State and County Operations.

[F.R. Doc. 68-10832; Filed, Sept. 6, 1968; 8:45 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 254, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act.

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

Order, as amended. The provisions in paragraph (b)(1)(ii) of § 908.554 (Valencia Orange Regulation 254, 33 F.R. 12176) are hereby amended to read as follows:

§ 908.554 Valencia Orange Regulation 254.

* * * * *

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

(ii) District 2: 435,000 cartons;

* * * * *

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

Dated: September 4, 1968.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 68-10868; Filed, Sept. 6, 1968; 8:48 a.m.]

[Lemon Reg. 337]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.637 Lemon Regulation 337.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such lemons as will provide, in the interest of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held, the provisions of this

section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on September 3, 1968.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period September 8, 1968, through September 14, 1968, are hereby fixed as follows:

(i) District 1: Unlimited movement;
(ii) District 2: 209,250 cartons;
(iii) District 3: 43,582 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: September 5, 1968.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 68-10919; Filed, Sept. 6, 1968; 8:49 a.m.]

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN A DESIGNATED AREA OF CALIFORNIA

Subpart—Administrative Rules and Regulations

ADDITIONAL OUTLET FOR SUBSTANDARD DATES

Notice was published in the August 17, 1968, issue of the FEDERAL REGISTER (33 F.R. 11715) regarding a proposal, unanimously recommended by the Date Administrative Committee, to amend Subpart—Administrative Rules and Regulations (§§ 987.100-987.174), to permit substandard dates of any variety to be disposed of by handlers for use, or used, in the production of table syrup. This current action permitting such disposition is pursuant to § 987.56 of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987), regulating the handling of domestic dates produced or packed in a designated area of California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. None were submitted within the prescribed time.

After consideration of all relevant matter presented including that in the notice, the information and recommendations submitted by the Committee, and other available information, it is found that the use of substandard dates of any variety in the production of table syrup, as hereinafter set forth, will tend to effectuate the declared policy of the act.

Therefore, Subpart—Administrative Rules and Regulations (7 CFR 987.100-987.174) is hereby amended by adding § 987.156 *Disposition of substandard dates for a specified product,* as follows:

§ 987.156 Disposition of substandard dates for a specified product.

Dates of any variety inspected and certified as substandard dates, as defined in § 987.15, may be disposed of by handlers for use, or used by them, in the production of table syrup.

It is further found that good cause exists for making this action effective as herein specified and for not postponing the effective time until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This action relieves current restrictions on handlers by permitting an additional outlet for substandard dates and should be effective as soon as possible to allow handlers to utilize this additional outlet; and (2) handlers are aware of the Date Administrative Committee's unanimous recommendation and need no additional time to adjust their operations.

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

Dated September 4, 1968, to become effective upon publication in the FEDERAL REGISTER.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 68-10869; Filed, Sept. 6, 1968; 8:48 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[11th Gen. Rev. of Export Regs., Amdt. 8]

MISCELLANEOUS AMENDMENTS TO CHAPTER

Parts 368, 370, 371, 372, 373, 374, 377, 379, 380, 385 of the Code of Federal Regulations are amended as set forth below.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.)

Effective date: August 29, 1968.

RAUER H. MEYER,
Director, Office of Export Control.

PART 368—MUTUAL ASSISTANCE ON U.S. IMPORTS AND EXPORTS (AS APPLIED TO SELECTED U.S. IMPORTS)

§ 368.1 International import certificate and delivery verification certificate on selected imports into the United States.

(a) *What this regulation does*—(1) *General.* The United States and a number of foreign countries[1] have undertaken to facilitate trade among themselves in strategic commodities and those in short supply by instituting certain procedures to increase the effectiveness of their respective controls over international trade in such commodities. These procedures contemplate that, where required by the exporting country with respect to a specific transaction, the importer will affirmatively undertake to import into the economy of his country the commodities involved and will not divert, transship, or reexport the commodities to another destination except in accordance with the export control regulations of the importing country. Representations to this effect are made by the importer to his government which in turn certifies that such representations have been made.

(2) *Representations by importer.* As a part of its responsibilities in the foreign trade field, including its export control responsibilities, the Office of Export Control has engaged to receive these representations from persons in the United States regarding the intended destination of commodities, and to act as certifying agent, by issuing appropriate certificates that such representations have been filed with the Office of Export Control, U.S. Department of Commerce. The making of these representations to the Office of Export Control, and the certifying thereof, will serve to satisfy the requirements of the foreign country in this respect and will, in addition, substantially assist in effectuating U.S. export controls. It should be noted, however, that these representations, which prescribe that the commodities will be entered into the United States, do not preclude the temporary unlading of the goods in a foreign trade zone for subsequent entry into the economy of the United States.

(3) *Exports.* Comparable procedures with respect to exports from the United States are described in § 373.2 of this chapter.

NOTE: 1. *Arms, ammunition and implements of war.*[2] Items enumerated in the U.S. Munitions List (Chapter I, Title 22, CFR, Parts 121-125) covering arms, ammunition, and implements of war are not governed by the provisions of Part 368. (Information on comparable procedures relating to these items may be obtained from the U.S. Department of State, Office of Munitions Control, Washington, D.C. 20520.)

[1] See paragraph 373.2(a)(1)(ii) for a list of countries which will require this undertaking.

[2] See paragraph 370.5(a) for a listing of these commodities.

2. *Commodities subject to the Atomic Energy Act.*[3] Through agreement between the U.S. Department of Commerce and the U.S. Atomic Energy Commission, the procedure set forth in Part 368 will apply to commodities classified as "source material," "by-product material," "special nuclear material," or "facilities for the production or utilization of special nuclear material," as defined in the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission.

(b) *International Import Certificate Issued by U.S.*—(1) *General.* (i) Where a person in the United States is purchasing, or intending to receive or receiving commodities from a foreign country and is required by such country, in connection with the granting of an export license, to furnish an International Import Certificate issued by the United States, such person shall apply for his certification by filling out and executing Form FC-826/DSP-53, International Import Certificate[4] (revised May 1, 1968; see Supplement S-15 for facsimile), in triplicate (in quadruplicate for "source material," "by-product material," "special nuclear material," or "facilities for the production or utilization of special nuclear material," as defined in the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission).

(ii) All items on Forms FC-826 shall be completed in accordance with the instructions on the back of the form.

(iii) International Import Certificates will be issued only when required by the government of a foreign country for the commodities specified above which are subject to the Atomic Energy Act and for the commodities identified by the symbol "A" in the last column of the Commodity Control List (see § 399.1 of this chapter). In case of doubt, the U.S. Department of Commerce field office serving the importer's area will assist him in determining whether an International Import Certificate may be issued for a particular commodity.

(2) *Filing the certificate*—(i) *Where to file.* Except as noted in subdivision (ii) of this subparagraph, all requests for certification and validation of International Import Certificates or request for amendments of International Import Certificates may be filed with the Office of Export Control (Attn.: 852), U.S. Department of Commerce, Washington, D.C. 20230, or with any of the following field offices of the U.S. Department of Commerce:

Boston.	Miami.
Buffalo.	New Orleans.
Chicago.	New York.
Cincinnati.	Philadelphia.
Cleveland.	Phoenix.
Dallas.	Pittsburgh.
Detroit.	Portland, Oreg.
Houston.	San Francisco.
Jacksonville.	Savannah.
Los Angeles.	Seattle.

[3] See paragraph 370.5(d) for a listing of these commodities.

[4] Form FC-826/DSP-53 may be obtained from all U.S. Department of Commerce field offices listed on page 1 and from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

(Blank forms are obtainable at the same offices or any other field office.)

(ii) *Foreign excess property.* (a) Where import into the United States of foreign excess property is involved, a request for certification and validation of an International Import Certificate shall be submitted directly to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. However, if a request for such certification is made at the same time as a Form FEPF-1, Application for Foreign Excess Property Import Determination is filed, the Form FC-826, International Import Certificate, and the Form FEPF-1 may be sent together to the Foreign Excess Property Officer, Business and Defense Services Administration, U.S. Department of Commerce, Washington, D.C. 20230. The Foreign Excess Property Officer will refer the Form FC-826 to the Office of Export Control for action.

(b) A Form FC-826, International Import Certificate, for foreign excess property shall be filled out and executed in triplicate. Special information is required for the following items of the Certificate, and when approved, the number of the Certificate covering foreign excess property will include the code "USMS":

(*1*) *Exporter (Item 2).* The name and address of the individual or firm in the exporting country handling the transaction for the importer, or the importer's name and the name and address of the U.S. military disposal installation from which the commodities were obtained;

(*2*) *Description of goods (Item 3).* (*a*) A complete description of the commodity(ies) being imported, as well as the Contract Number and lot numbers; and

(*b*) The name and address of the U.S. military disposal installation if this has not been entered in Item 2.

(iii) *Presentation and validation.* The International Import Certificate may be presented for validation either in person or by mail. A validated form will be returned to the U.S. importer and shall be dispatched by him to the foreign exporter or otherwise disposed of in accordance with the regulations of the exporting country.

(iv) *Triangular International Import Certificate.* In accordance with international practice, the issuing office upon request will stamp the International Import Certificate with a triangular symbol. This symbol is a notification to the government of the exporting country that the importer is uncertain whether the commodities will be imported into the United States or that he knows that the commodities will not be imported into the United States. However, a triangular International Import Certificate will not be issued covering foreign excess property sold abroad by the U.S. Department of Defense. An International Import Certificate bearing a triangle is a representation that the commodities will not be delivered to any destination except in accordance with the U.S. Export Regulations. The placing of a triangular symbol on a U.S. International Import Certificate is not, in and of itself, an approval by the Office of Export Control to transfer or sell commodities to a foreign consignee. (See paragraph (b)(7) of this section for method of obtaining such approval.)

(3) *Validity period.* (i) The International Import Certificate will be valid for a period of 6 months from the date of certification by the Department of Commerce official. This document will not be acceptable to the authorities of the exporting country unless presented within 6 months from the date of certification. Importers are cautioned that this time limit for the presentation of the International Import Certificate to the exporting country in no way relieves them of their responsibility to adhere to the commitments made therein.

(ii) Where the validity period of an International Import Certificate has expired before its presentation to the foreign government and an extension is desired, the U.S. importer should apply for a new International Import Certificate. (Also see paragraph (b)(6)(ii) of this section.)

(4) *International Import Certificate Cross-Reference Card.* In submitting an International Import Certificate the U.S. importer shall fill out and attach a Form FC-827, International Import Certificate Cross-Reference Card,[5] showing his name and address. The International Import Certificate will be returned without action unless accompanied by this card.

(5) *Statements and representations.* (i) All statements and representations made in an International Import Certificate, and in any amendment thereto, shall be deemed to be continuing, in nature, until such time as the transaction described in the International Import Certificate is completed and the goods are delivered into the economy of the importing country. Any change of fact or intention in regard to the transaction as set forth in the International Import Certificate shall be promptly disclosed to the Office of Export Control by the U.S. importer. Such disclosure shall be by presentation of an amended International Import Certificate which sets forth all changes of facts or intention, and shall be accompanied by the original International Import Certificate bearing the certification of the Office of Export Control. In those cases where the original International Import Certificate has been transmitted by the U.S. importer to his foreign exporter, the U.S. importer shall, wherever possible, obtain the original International Import Certificate prior to applying for an amendment. Where the original International Import Certificate is unobtainable because the foreign exporter has surrendered it to his government, or for any other valid reason, the U.S. importer shall submit a written statement giving his reasons for failure to submit the original International Import Certificate.

[5] Form FC-827 bearing the title "Import Certificate Cross-Reference Card" may continue to be used until existing supplies are exhausted.

(ii) All the terms, conditions, provisions, and instructions, including the certification, contained in or issued in connection with an International Import Certificate are hereby incorporated as a part of this regulation with the same force and effect as if set forth in full herein.

(6) *Lost, destroyed, or unused International Import Certificates*—(i) *Lost or destroyed International Import Certificates.* Where an International Import Certificate is lost or destroyed, a duplicate copy may be obtained by the person in the United States who executed the original International Import Certificate by submitting to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, or to any field office of the U.S. Department of Commerce listed in paragraph (b)(2) of this section, a new Form FC-826 in accordance with the provisions of paragraph (b)(1) of this section and accompanied by a letter certifying:

(*a*) That the original International Import Certificate No. ______ (if known) dated ____________, issued to (name and address of U.S. importer) for import from (foreign exporter's name and address) has been lost or destroyed; and

(*b*) The circumstances under which the original International Import Certificate was lost or destroyed; and

(*c*) That if the original International Import Certificate is found, the applicant agrees to return the original or duplicate International Import Certificate to the Office of Export Control.

(ii) *Unused International Import Certificates.* Where the transaction will not be completed and the International Import Certificate will not be used, the International Import Certificate shall be returned for cancellation to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

(7) *Approval of shipment, transfer, or sale of commodities to a foreign consignee.* (i) The written approval of the Office of Export Control is required before commodities covered by an International Import Certificate, whether or not bearing a triangle, may be shipped to a destination other than the United States or Canada or sold to a foreign purchaser, and before title to or possession of such commodities may be transferred to a foreign transferee.[6] The provisions of this subparagraph (7) do not apply after the commodities have been delivered in accordance with the undertaking set forth in the International Import Certificate.

(ii) In such cases, a letter requesting approval of the release of the shipment shall be submitted to the Office of Export Control. The letter shall show: The International Import Certificate number; the date issued; the location of the issuing office; the names, addresses, and identities of all parties to the complete transaction; and the quantity, dollar value, and description of the commodity. The letter shall be accompanied by an import certificate, an ultimate consignee statement, or other documentation required by the Export Regulations for the country of ultimate destination, as provided for license applications in §§ 373.2, 373.65, 373.67, and 373.70 of this chapter. Where none of these numbered sections of the Export Regulations apply to the transaction, the letter shall include the intended end-use of the commodities.

(iii) Where the Office of Export Control approves a request supported by a foreign import certificate (other than a Swiss Blue Import Certificate), no further approval from the Office of Export Control is required for the purchaser or transferee to resell or again transfer the commodities. However, where the Office of Export Control approves a request which was not supported by a foreign import certificate, the person to whom approval is granted is required to inform the purchaser or transferee in writing that the commodities are to be shipped to the approved destination only and that no other disposition of the commodities is permitted without the approval of the Office of Export Control.

(Authority to further resell or transfer the commodities does not relieve any person from complying with foreign laws. See § 372.12(f) of this chapter.)

(iv) If approval of the transaction is granted by the Office of Export Control, a validated letter of approval will be sent to the U.S. purchaser for retention in his records. Where a Delivery Verification Certificate or other official government confirmation of delivery is required, the validated letter from the Office of Export Control will so indicate.

(v) If the commodities covered by an International Import Certificate have been imported into Canada or into any other ultimate destination other than the United States, and the foreign exporter of the commodities requests a Delivery Verification Certificate, the person who obtained the International Import Certificate shall obtain a Delivery Verification Certificate from the person to whom the goods were delivered in the importing country. (If a Delivery Verification Certificate is unobtainable, other official government confirmation of delivery shall be obtained.) The Delivery Verification Certificate (or other confirmation of delivery) shall be submitted to the Office of Export Control, together with an explanatory letter showing the International Import Certificate number, the date issued, and the location of issuing office. The Office of Export Control will then notify the government authorities of the exporting country that the requirements of the U.S. government have been satisfied with respect to the delivery of the commodities.

(8) *Delivery, sale, or transfer of commodities covered by an International Import Certificate to another U.S. purchaser.* (i) (*a*) Commodities covered by an International Import Certificate may not be sold and title to or possession of such commodities may not be transferred to another U.S. purchaser or transferee, before the commodities are delivered to the United States (or to an approved foreign destination, as provided by paragraph (b)(7) of this section) except in accordance with the provisions described below. The provisions of this subparagraph (8) do not apply after the commodities have been delivered in accordance with the undertaking set forth in the International Import Certificate.

(*b*) Resale or transfer to another U.S. purchaser or transferee requires the prior approval of the Office of Export Control only in cases where the buyer or transferee is listed in Supplement No. 1 to Part 382, Table of "Denial and Probation Orders." However, the person who obtained the International Import Certificate is required under the terms of the Certificate to notify the Office of Export Control of any changes in facts or intentions relating to the transaction, and in all cases he is held responsible for the delivery of the commodities in accordance with the Export Regulations. In order to carry out this responsibility, the seller or transferor in all cases is required to secure, prior to sale or transfer, and to retain in his files for 3 years, written acceptance by the purchaser or transferee of: (*1*) All obligations undertaken by and imposed under the Export Regulations of the United States upon the holder of the International Import Certificate; and (*2*) an undertaking that all subsequent sales or transfers will be made subject to the same conditions.

[6] The attention of U.S. purchasers is directed to the Transaction Control Regulations of the U.S. Treasury Department (Title 31 of the Code of Federal Regulations, sections 505.01 to 505.60). These regulations prohibit persons within the United States from purchasing or selling, or arranging the purchase or sale, without a Treasury Department license, of any merchandise in any foreign country when the transaction involves a shipment from any foreign country to Country Group W, Y, or Z (except Cuba, for which the Cuban Assets Control Regulations mentioned below restrict shipments to Cuba), of merchandise identified by the symbol "A" in the last column of the Commodity Control List (§ 399.1), or of a type prohibited by any of the several regulations referred to in § 370.5. (See paragraph 370.1(g) for Country Group designations.)

The attention of purchasers is also directed to the Foreign Assets Control Regulations of the U.S. Treasury Department (Title 31 of the Code of Federal Regulations, sections 500.101 to 500.808). These regulations prohibit persons subject to the jurisdiction of the United States from engaging in any unlicensed transactions with Communist China, North Korea, or nationals thereof, or in any unlicensed transactions involving property in which Communist China, North Korea, or nationals thereof have, or have had, any interest, direct or indirect, since Dec. 17, 1950. The Foreign Assets Control Regulations also prohibit persons subject to the jurisdiction of the United States from engaging in any unlicensed transaction with respect to merchandise outside the United States if such merchandise is of Communist Chinese or North Korean origin, or is Chinese type merchandise specified in the regulations.

The Cuban Assets Control Regulations, which parallel the Foreign Assets Control Regulations, apply to Cuba and its nationals. (See The Cuban Assets Control Regulations of the U.S. Treasury Department, Title 31 of the Code of Federal Regulations, sections 515.101 to 515.808.)

(The Export Regulations contain further recordkeeping requirements. See § 381.11 of this chapter.)

(ii) The responsibility of the U.S. person or firm executing an International Import Certificate for providing the foreign exporter with confirmation of the delivery of the commodities covered includes instances where the commodities are resold or transferred to another U.S. person or firm prior to actual delivery to the United States or to an approved foreign destination. Where such resale or transfer occurs, the person who executed the International Import Certificate shall secure in writing from the U.S. purchaser or transferee, and retain in his files for 3 years: (*a*) Acceptance of the obligation to provide him with either the Delivery Verification Certificate (or other official government confirmation of delivery if a Delivery Verification Certificate is unobtainable) or assurance that this documentation was submitted to the Office of Export Control; and (*b*) an undertaking that each succeeding U.S. transferee or purchaser will assume the obligations set forth in (*a*) of this subdivision. In each case the seller or transferor shall transmit to the purchaser or transferee the identification number of the International Import Certificate covering the export from the foreign country, and request that they pass it on to any other U.S. purchasers or transferees.

(The Export Regulations contain further recordkeeping requirements. See § 381.11 of this chapter.)

(c) *Reexport or Transshipment of commodities covered by an International Import Certificate.* Commodities imported into the United States under the provisions of a U.S. Import Certificate may not be reexported to any destination under the provisions of General License GIT (see § 371.9 of this chapter). However, all other provisions of the Export Regulations applicable to commodities of domestic origin shall apply to the reexport of commodities of foreign origin shipped to the United States under the provisions of an International Import Certificate.

(d) *Delivery Verification Certificate on imports into the United States*—(1) *General.* (i) U.S. importers may be requested by their foreign exporters to supply them with a certified Form FC-908,[7] Delivery Verification Certificate (revised May 1, 1968; see Supplement S-16 for facsimile), covering materials imported into the United States. These requests are made by foreign governments to assure strategic goods shipped to the United States are not diverted from their intended destination. The issuance of an export license by the foreign country, in these instances, is conditioned upon the subsequent receipt of a certified Delivery Verification Certificate from the U.S. importer.

(ii) Failure by the U.S. importer to comply with his foreign exporter's request for a Delivery Verification Certificate will result in the exporter's inability to fulfill his obligation to his government and may result in his being denied further export licenses. Obviously, this would prevent the U.S. importer from participating in further import transactions with that foreign exporter. It also may result in the U.S. importer being cut off from any trade with the exporting country requesting the Delivery Verification Certificate. In addition, the foreign exporter may be subjected to other penalties for his failure to furnish his government a certified Delivery Verification Certificate.

(iii) Where a U.S. person or firm is required to provide a Delivery Verification Certificate and does not wish to disclose to his seller or transferor the name of his customer, he may obtain the Delivery Verification Certificate and send it to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. The Office of Export Control will then notify the government authories in the country of the seller or transferor of the satisfactory delivery of the commodities. In notifying the foreign government requesting the Delivery Verification Certificate, the Office of Export Control will forward an appropriately modified Form IA-956, Delivery Compliance Notice, signifying the receipt of satisfactory assurances that the commodities were imported into the United States.

(2) *Completion and disposition of Delivery Verification Certificates.* A U.S. importer who is required by the foreign government to obtain a Delivery Verification Certificate shall present Form FC-908, Delivery Verification Certificate (revised May 1, 1968) in duplicate, to a U.S. Customs Office. The Customs Office will certify a Delivery Verification Certificate after the import has been delivered to the importer. A Delivery Verification Certificate will be certified by a U.S. Customs Office only where the import is made under a warehouse or consumption entry. Form FC-908 shall be completed by the U.S. importer in all respects except as to type of customs entry (warehouse or consumption), entry number, date of entry, and certification at the bottom of the form. The commodities shall be described on the form in the same terms as those shown on the related International Import Certificate. The U.S. importer shall dispatch the original of the certified Delivery Verification Certificate to the foreign exporter or otherwise dispose of it in accordance with the instructions of the exporting country. The duplicate copy will be retained by the U.S. Customs Office.

(3) *Lost or destroyed Delivery Verification Certificate.* When a Delivery Verification Certificate is lost or destroyed, the U.S. importer shall submit a letter to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, certifying:

(i) That the original Delivery Verification Certificate has been lost or destroyed;

(ii) The circumstances under which it was lost or destroyed;

(iii) The type of customs entry (warehouse or consumption), entry number, and date of entry; and

(iv) The number (if known) and date of the related International Import Certificate.

The Office of Export Control will, in applicable cases, notify the exporting government that a Delivery Verification Certificate has been issued.

(e) *Penalties and sanctions for violations*—(1) *Administrative.* (i) The enforcement provisions of Part 381 and § 384.2(a), and the denial or suspension of export privileges provisions of Part 382 of this chapter of the Export Regulations shall apply to transactions involving imports into the United States covered by this Part 368. Any provisions of Part 381 and § 384.2(a) of this chapter which by their terms relate to "exports" or "exports from the United States" are also deemed to apply and extend to imports into the United States, applications for International Import Certificates, and Delivery Verification Certificates, dealt with in this Part 368. (A Form FC-826, International Import Certificate, when presented to the U.S. Department of Commerce for certification or validation, is an application for an International Import Certificate.)

(ii) Any person, either in the United States or abroad, who violates the Export Control Act or any regulation, order, or license issued thereunder, including the provisions of this Part 368, is subject to administrative action which may result in disqualification from eligibility to obtain a certified International Import Certificate from the Office of Export Control; in suspension, revocation, and denial of export privileges under the Export Control Act; and in exclusion from practice before the Bureau of International Commerce.

NOTE: Applications for International Import Certificates, and Delivery Verification Certificates, as specified in this Part 368, are included within the definition of export control documents set forth in 370.1(n) of this chapter of the Export Regulations.

(2) *Criminal.* The False Statements Act makes it a criminal offense to make a willfully false statement or conceal a material fact, or knowingly use a document containing a false statement, in any matter within the jurisdiction of a U.S. department or agency. Maximum penalties under this provision are $10,000 fine or imprisonment for 5 years, or both. In addition, a violation of the Export Control Act or any regulation, order, or license issued thereunder is punishable by a fine of not more than $10,000 or by imprisonment for not more than 1 year, or both (also see § 381.1 (a) of this chapter).

[7] Form FC-908 may be obtained from all U.S. Department of Commerce field offices listed on page 1, from the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230, and from U.S. Customs Offices.

PART 370—SCOPE OF EXPORT CONTROL BY DEPARTMENT OF COMMERCE

§ 370.3 Diversion, transshipment, or reexport from Canada.

(a) *Requirement of export license.* No person or firm may export any commodity or technical data from the United States to Canada with the knowledge or intention that the commodity or technical data are to be diverted, transshipped, or reexported from Canada, nor may such commodity or technical data be diverted, transshipped, or reexported from Canada unless:

(1) The commodity or technical data may be exported directly from the United States to the country of ultimate destination under the provisions of a general license; or

(2) The commodity or technical data are authorized for diversion, transshipment, or reexport from Canada under authority of a United States validated export license or other authorization issued by the Office of Export Control.

(Reexport authority does *not* relieve any person from complying with Canadian or other foreign laws. See §§ 371.4(d), 372.12(f), and 385.6(d) of this chapter.)

* * * * *

§ 370.9 Shipments via Hong Kong.

(a) *General.* Notwithstanding restrictions upon shipments to Hong Kong set forth elsewhere in the Export Regulations, shipments may be made via Hong Kong subject to the provisions set forth in paragraphs (b), (c), and (d) of this section.

(Transshipment authority does not relieve any person from complying with foreign laws. See §§ 371.4(d), 372.12(f), and 385.6(d) of this chapter.)

(b) *Shipments not unloaded at Hong Kong.* General and validated license shipments, which are manifested to any ports other than Hong Kong, Macao, and those in destinations in Country Group Y or Z, and which proceed through Hong Kong only for the purpose of exchanging Bills of Lading, but which are not to be discharged, off-loaded, or transshipped at Hong Kong, may proceed without the necessity of bonding such shipments against discharge in Hong Kong, provided the Bill of Lading calls for discharge at the port to which the shipment is manifested. Bills of Lading permitting discharge at only an unrestricted port by the use of a statement such as "Singapore via Hong Kong" may be cleared without bond. However, shipments which are either manifested to, or under Bills of Lading calling for, "Hong Kong" as port of discharge or "Hong Kong in transit to Singapore," or any other similar designation indicating Hong Kong as port of discharge, may not be cleared without a validated export license specifically authorizing transshipment at Hong Kong.

(c) *General License G–DEST shipments under a through Bill of Lading*—(1) *Transshipment at Hong Kong.* Shipments of all commodities under General License G–DEST may be transshipped at Hong Kong without the necessity of obtaining a validated license, provided:

(i) Such transshipments are made under a through Bill of Lading to a destination outside of Hong Kong, Macao, or Country Group Y or Z; and

(ii) The shipment is maintained in the custody of the originating or on-forwarding carrier at all times or the shipment is exportable directly from the United States to Hong Kong under another general license.

(2) *Contract of carriage for transportation to ultimate destination.* For purposes of this regulation a through Bill of Lading includes a contract of carriage with a carrier for transportation from the United States of the commodities to the country of ultimate destination named on the authenticated Shipper's Export Declaration. The actual transportation may be made by more than one carrier and may involve more than one transportation document.

(d) *Validated license shipments under a through Bill of Lading.* Subject to the provisions of paragraph (c) of this section, commodities or technical data shipped under a validated license for an ultimate destination other than Hong Kong may be transshipped at Hong Kong without the necessity of obtaining specific authorization from the Office of Export Control on the validated license.

§ 370.10 Shipments which transit Country Group Y or Z en route to any other destination.[1]

The export from the United States of commodities or technical data which will be unladen from a vessel or aircraft in Country Group Y or Z, or which will move in transit through Country Group Y or Z en route to Canada or a destination in Country Group S, T, V, W, or X, is hereby prohibited unless a validated license specifically authorizing the transshipment or intransit shipment, or both, shall have been granted by the U.S. Department of Commerce, except:

(a) An export made to West Berlin which will transit East Germany (the Soviet Zone of Germany and the Soviet Sector of Berlin); or

(b) An export of technical data or of a commodity identified by the symbol "B" in the last column of the Commodity Control List, to any destination not in Country Group Y or Z, provided that shipment is exportable under a general license directly from the United States to the country of transit or unlading in Country Group Y or Z.

(Transshipment authority does not relieve any person from complying with foreign laws. See §§ 371.4(d), 372.12(f), and 385.6(d) of this chapter.)

[1] See § 372.16 with respect to filing applications for validated licenses to export commodities which will be unladen from a vessel or aircraft in Country Group Y or Z or which will move in transit through Country Group Y or Z en route to a destination in any other country group.

PART 371—GENERAL LICENSES

In § 371.4 *Reexports,* a new paragraph designated (d) is added to read:

§ 371.4 Reexports.

* * * * *

(d) *Effect of foreign laws.* No authority granted by the U.S. Office of Export Control, or under the provisions of the U.S. Export Regulations, to reexport, resell, distribute, transfer, divert, or transship a commodity shall in any way relieve any person from his responsibility to comply fully with the laws, rules, and regulations of the country from which the commodity is to be reexported or of any other country having authority over any phase of the transaction. Conversely, no foreign law, rule, regulation, or authorization in any way relieves any person from his responsibility to obtain such authorization from the U.S. Office of Export Control as may be required by the U.S. Export Regulations.

In § 371.9 *General License GIT; Intransit Shipments,* paragraph (a) *General provisions,* subparagraph (3) is revised to read:

§ 371.9 General License GIT; intransit shipments.

(a) *General provisions.* * * *

(3) Only those exports of foreign origin which, if of U.S. origin, could be made respectively to Country Group S, W, X, Y, or Z (excluding Cuba), under the provisions of a general license, may be exported to Country Group S, W, X, Y, or Z (excluding Cuba) respectively, under General License GIT.

* * * * *

In § 371.10 *General License GLV; shipments of limited value,* paragraph (a) *Scope,* subparagraph (1) is revised to read:

§ 371.10 General License GLV; shipments of limited value.

(a) *Scope.* * * *

(1) To a destination in Country Group T, V, or X, provided that the net value of the commodity included in a single entry does not exceed the GLV dollar-value limit specified for the appropriate Country Group T, V, or X in the column headed "GLV $ Value Limits for Shipments to Country Groups T, V, X"; and

* * * * *

PART 372—PROVISIONS FOR INDIVIDUAL AND OTHER VALIDATED LICENSES

In § 372.12 *Reexports,* a new paragraph designated (f) is added to read:

§ 372.12 Reexports.

* * * * *

(f) *Effect of foreign laws.* No authority granted by the U.S. Office of Export Control, or under the provisions of the U.S. Export Regulations, to reexport, resell, distribute, transfer, divert, or transship a commodity shall in any way relieve any person from his responsibility to comply fully with the laws, rules, and regulations of the country from which the commodity is to be reexported or of any other country having authority over any phase of the transaction. Conversely, no foreign law, rule, regulation, or authorization in any way relieves any person from his responsibility to obtain such authorization from the U.S. Office of Export Control as may be required by the U.S. Export Regulations.

In § 372.16 *License application for commodities which transit Country Group Y or Z en route to any other destination,* paragraph (b) *Designation of Intermediate Consignee* is revised to read:

§ 372.16 License application for commodities which transit Country Group Y or Z en route to any other destination.

* * * * *

(b) *Designation of intermediate consignee.* Except as set forth below, a validated license issued under the provisions of this section will name the intermediate consignee in the Country Group Y or Z country of unlading or transit approved by the Office of Export Control.

(Transshipment authority does *not* relieve any person from complying with foreign laws. See §§ 371.4(d), 372.12(f), and 385.6(d) of this chapter.)

* * * * *

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

In § 373.3 *Statement of foreign importer of aircraft or vessel repair parts,* paragraph (b) *General,* subparagraph (4) is revised to read:

§ 373.3 Statement by foreign importer of aircraft or vessel repair parts.

* * * * *

(b) *General.* * * *

(4) Unless otherwise authorized by the Export Regulations, a foreign importer may not reexport the U.S.-origin commodities in the form received, or otherwise dispose of the commodities in any manner without the prior approval of the Office of Export Control. The permissive reexport provisions of §§ 371.4(b) and 372.12(d)(4) of this chapter of the Export Regulations relating to the reexport of certain commodities within the GLV dollar value limits shown on the Commodity Control List (§ 399.1 of this chapter) do not apply to commodities exported from the United States under the provisions of this section.

(Reexport authority does *not* relieve any person from complying with foreign laws. See §§ 371.4(d), 372.12(f), and 385.6(d) of this chapter.)

* * * * *

In § 373.4 *Distribution of U.S. Commodities by foreign-based subsidiary, affiliate, or branch,* paragraph (c) *Exports, reexports, and distributions under the Form FC-243 procedure,* subparagraph (2) is revised to read:

§ 373.4 Distribution of U.S. commodities by foreign-based subsidiary, affiliate, or branch.

* * * * *

(c) *Exports, reexports, and distributions under the Form FC 243 procedure.* * * *

(2) The Form FC-243 procedure also permits the distributor, until the expiration or revocation of his validated Form FC-143, Request for Authorization to Distribute U.S. Origin Commodities Stocked Abroad to Approved Customers, to distribute or reexport the commodities stocked abroad, without obtaining prior Office of Export Control approval for each separate individual transaction, to any customer who has been approved by the Office of Export Control in accordance with the provisions of paragraph (e) of this section, whether such customer is in the country where the foreign-based stock is located or in any other country.

(Reexport authority does not relieve any person from complying with foreign laws. See §§ 371.4(d), 372.12(f), and 385.6(d) of this chapter.)

* * * * *

In § 373.5 *Licensing policy for agricultural commodities and manufactures thereof covering shipments to Country Groups Y and Z,* paragraph (c) *Exports and reexports of agricultural commodities and manufactures thereof other than wheat or wheat flour,* subparagraph (6) is revised to read:

§ 373.5 Licensing policy for agricultural commodities and manufactures thereof covering shipments to Country Groups Y and Z.

* * * * *

(c) *Exports and reexports of agricultural commodities and manufactures thereof other than wheat or wheat flour.* * * *

(6) *Reexports.* Requests for authorization to reexport agricultural commodities and manufactures thereof, other than wheat and wheat flour, will be considered for approval in accordance with the provisions of this paragraph (c)(6) for shipment to Country Group Y if the export from the United States was not financed under the Public Law 480 program, or the Agency for International Development program, and if the terms of sale of the export from the United States were cash or normal commercial credit. Such requests shall be submitted by letter to the Office of Export Control by the U.S. exporter in accordance with the provisions of § 372.12 of this chapter and shall contain the following certification:

I (We) certify that with respect to the commodities described herein (1) the export from the United States was not financed under the Public Law 480 program, or the Agency for International Development program; and (2) the terms of sale of the export from the United States were cash or normal commercial credit.

(Reexport or distribution authority does not relieve any person from complying with foreign laws. See §§ 371.4(d), 372.12(f), and 385.6(d) of this chapter.)

In § 373.6 *Commodities exported for exhibition, demonstration, or testing purposes,* paragraph (d) is revised to read:

§ 373.6 Commodities exported for exhibition, demonstration, or testing purposes.

(d) *Commodities not returned to the United States.* If it is decided that the commodities are no longer intended to be returned to the United States, the required request made to the Office of Export Control for authorization to dispose of the commodities shall be made by letter, setting forth the proposed disposition, license number, case number, ultimate destination, commodity description, Export Control Commodity Number, quantity, and value, as well as the name, address, and identity of each party to the transaction. In addition, except where the request is for permission to display the commodities at another trade fair or exhibition, or to transfer the commodities to another destination for demonstration or testing, the letter shall be accompanied by all documents required in support of an application for an export license to the proposed destination. If the request is approved, the Office of Export Control will validate and issue Form IA-L-196, Authorization to Dispose of Commodities Exported for Exhibition, Demonstration, or Testing Purposes (see Supplement S-11 for facsimile of form). If the request is not approved, the Office of Export Control will advise the applicant by letter. If it is subsequently desired to make any other use or disposition of the commodities not authorized by the validated Form IA-L-196, an amendment of the form shall be requested by means of a letter to the Office of Export Control containing the same information and documentation as that described above.

(Reexport or distribution authority does not relieve any person from complying with foreign laws. See §§ 371.4(d), 372.12(f), and 385.6(d) of this chapter.)

* * * * *

PART 374—PROJECT LICENSE

Section 374.10 is revised to read:

§ 374.10 Reexports.

Commodities and technical data exported under a Project License may be reexported between ultimate consignees covered by the terms of the Project License without obtaining specific approval from the Office of Export Control.

(Reexport or distribution authority does not relieve any person from complying with foreign laws. See §§ 371.4(d), 372.12(f), and 385.6(d) of this chapter.)

PART 377—TIME LIMIT (TL) LICENSE

Section 377.4 is revised to read:

§ 377.4 Reexports.

(a) Reexport may be made between ultimate consignees named on outstanding TL Licenses, issued to the same licensee, without the necessity of obtaining specific approval from the Office of Export Control. Approval for reexport to other importers in Country Group T may be obtained in accordance with the procedure described below.

(b) Requests for reexport approval may be made either with the license application or subsequent to the issuance of the TL License. In order to obtain such approval, Form IT–917, Request for and Notice of Approval for Reexportation (see Supplement S–20 for facsimile of form), shall be submitted in triplicate, to the Office of Export Control. Items 1 through 9 of the form may be completed by the U.S. exporter who shall then transmit Form IT–917 to his foreign consignee for completion of the space entitled "Signature of official of consignee firm", and for any other information on the form not completed by the U.S. exporter. The Office of Export Control will approve or deny the request by completing the bottom portion of one copy of the form and returning it to the U.S. exporter. Approved reexport requests will be continuing until rescinded by the Office of Export Control.

(Reexport or distribution authority does not relieve any person from complying with foreign laws. See §§ 371.4(d), 372.12(f), and 385.6(d) of this chapter.)

PART 379—EXPORT CLEARANCE AND DESTINATION CONTROL

In § 379.2 *Presentation and use of validated license,* paragraph (e) is revised to read as follows:

§ 379.2 Presentation and use of validated license.

* * * * *

(e) *Simultaneous or subsequent shipment from another port*—(1) *Transmittal of approval.* If part of the licensed export is to be made from another port, the licensee shall request the Customs Office holding the license to transmit to the Customs Office at the other intended port of exit authorization to clear the requested shipment(s) under the export license. This request may cover any part of the quantity licensed, and the export may be made in either a single shipment or in any number of partial shipments. The Customs Office holding the license shall record on the back of the license each additional port of exit from which the shipment(s) are to be made and the commodity and quantity to be shipped from each additional port of exit. If any part of the quantity authorized for shipment from another port is not shipped, the licensee or his agent may request an appropriate modification or deletion of the authorization as recorded on the back of the license. Such request shall be submitted in accordance with the following instructions:

(i) *License in possession of Customs Office.* If the license is still in the possession of the Customs Office, the licensee or his agent shall request the Customs Office to which the approval was sent to notify the Customs Office holding the license to make an amendment of his previous endorsement of the intended shipment. This requirement applies whether or not the license would have been completed by the intended shipment.

(ii) *License returned by Customs Office to the Office of Export Control.* If the license has been returned by the Customs Office to the Office of Export Control, an application for a new license may be submitted to the Office of Export Control covering the quantity not shipped, together with a letter explaining the facts and identifying the Customs Office to which the approval was sent.

(2) *Transmittal of license.* As an alternative to the notification procedure set forth above, the Customs Office holding the license is authorized to transmit the license by mail to the Customs Office at another intended port of exit, upon written request by the licensee stating that the license will no longer be used at the port at which the license is deposited.

(3) *Exceptions.* The procedure set forth in paragraph (e) of this section shall not be applicable to a license which specifies that a shipment is authorized for clearance at a particular port of exit.

* * * * *

In § 379.10 *Destination control,* paragraph (c) is revised to read as follows:

§ 379.10 Destination control.

* * * * *

(c) *Statement regarding ultimate destination on declaration, bill of lading, and commercial invoice*—(1) *Applicability.* The provisions of this paragraph apply to:

(i) A shipment made under a validated license; and

(ii) A shipment made under a general license where a Declaration is required to be presented to the Customs Office, except for a shipment: (*a*) Of any commodity identified by the word "None" in the column of the Commodity Control List titled "Validated License Required for Country Groups Shown Below"; and (*b*) of any commodity or technical data made under the provisions of General Licenses Baggage, Tools of Trade, GIT, GTDP, and GTDS.

NOTE: 1. *U.S. territories and possessions.* While the Bureau of the Census requires Shipper's Export Declarations in order to obtain statistical information regarding shipments to certain territories and possessions of the United States, these shipments are not exports controlled by the Office of Export Control. Therefore, the provisions of this paragraph (c) of this section are inapplicable to shipments to such territories and possessions of the United States as Puerto Rico or the Panama Canal Zone.

2. *Shipments to Canada.* The provisions of paragraph (c) of this section are not applicable to any exports intended for consumption in Canada, except shipments of the technical data described in § 385.2(c) (3) (v) and (vi) of this chapter; since all other exports to Canada require neither a general nor a validated license. However, these provisions are applicable to shipments of any commodities through Canada to other foreign countries.

(2) *Destination control statements.* An appropriate destination control statement,[1] shall be entered on all copies of the Declaration presented for authentication to the Customs Office, in accordance with the provisions set forth below, for all shipments subject to the provisions of this paragraph (c).

(i) The following statement shall be entered on the Declaration covering an export under either a validated or general license, other than the exceptions set forth in paragraph (c) (1) (ii) of this section, with the blank space filled in with the name of the country of ultimate destination set forth in the Declaration[1]; unless, instead of this statement, an appropriate statement as provided in subdivision (ii) or (iii) of this subparagraph has been entered:

These commodities licensed by the United States for ultimate destination (name of country). Diversion contrary to U.S. law prohibited.

NOTE: 1. *Notification of permissive reexports.* In some instances the destination control statement used by an exporter or his agent for a specific shipment may indicate that the shipment cannot be reexported to a destination to which the ultimate consignee or purchaser wishes to sell or distribute the commodities. The reexport provisions of the Export Regulations (§§ 371.4 and 372.12 of this chapter) may nevertheless permit the reexport.

In this situation the exporter, without obtaining written approval of the Office of Export Control, may inform the foreign importer or other party in possession of the commodities, that distribution or resale may be made in accordance with the reexport provisions where applicable. In all other instances, written approval shall be obtained from the Office of Export Control.

2. *Effect of foreign laws.* Reexport authority contained in a destination control statement does not relieve any person from complying with foreign laws. See §§ 371.4(d), 372.12(f), and 385.6(d) of this chapter.

(ii) Instead of the statement set forth in subdivision (i) of this subparagraph, the following statement may be substituted with the blank spaces filled in as instructed below, except where the shipment is made under General License GMS:

These commodities licensed by the United States for ultimate destination (name of country) and for distribution or resale in (name of country or countries). Diversion contrary to U.S. law prohibited.

(*a*) If the export is made under a general license, other than General License GMS and the exceptions set forth in paragraph (c) (1) (ii) of this section, insert the name of the country to which the shipment is being made in the first blank space and the following words in the last blank space, "any desti-

[1] Where the country of ultimate destination is Vietnam, the destination control statement shall be filled in as required by § 373.68, regardless of the country designation shown on the Shipper's Export Declaration, and regardless of whether the shipment is made under a validated or a general license.

nation except Soviet Bloc,[2] Communist China, North Korea, Macao, Hong Kong, Communist controlled areas of Vietnam, Cuba, or Southern Rhodesia, unless otherwise authorized by the United States".

(1) If the commodity being exported requires a validated license for shipment to Poland (including Danzig) and Rumania, these countries shall be included in the list of prohibited destinations set forth in the last blank space of the statement.

(2) If the commodity being exported does not require a validated license for shipment to any destination included in the list of prohibited destinations, the destination may be deleted from the list of prohibited destinations set forth in the last blank space of the statement.

(b) If the export is made under a validated license, insert in the first blank space the name of the country shown on the license as country of ultimate destination. In the last blank space, insert the names of the countries shown on the license as approved destinations for distribution or resale. If no country is shown on the license as approved for distribution or resale, insert the word "none" in the last blank space.

NOTE: The note following the destination control statement set forth in paragraph (c)(2)(i) of this section is also applicable to requests for permission to distribute or resell where the statement set forth in subdivision (ii) of this subparagraph is used.

(iii) Where a shipment is made under a general license, other than General License GMS and the exceptions set forth in paragraph (c)(1)(ii) of this section, the following statement[3] may be entered on the Declaration instead of the statements set forth in paragraphs (i) and (ii) of this section:

U.S. law prohibits disposition of these commodities to the Soviet Bloc, Communist China, North Korea, Macao, Hong Kong, Communist controlled areas of Vietnam, Cuba, or Southern Rhodesia, unless otherwise authorized by the United States.

(a) If the commodity being exported requires a validated license for shipment to Poland (including Danzig) and Rumania, these countries shall be included in the list of prohibited destinations set forth in the above statement.

(b) If the commodity being exported does not require a validated license for shipment to a destination(s) included in the list of prohibited destinations, such destination(s) may be deleted from the list of prohibited destinations set forth in the above statement.

NOTE: The note following the destination control statement set forth in paragraph (c)(2)(i) of this section is also applicable to requests for permission to distribute or resell where the statement set forth in paragraph (iii) above is used.

(3) *Statement on bill of lading.* (i) No carrier by water, land, or air shall issue (and no licensee, shipper, consignor, exporter or consignee, or their agents, or any other person, shall prepare or procure) a Bill of Lading covering an export of a commodity with respect to which a Declaration has been authenticated by a Customs Office containing the applicable statement set forth in paragraph (c)(2) of this section; unless all copies of such Bill of Lading, including all nonnegotiable and office copies, except as provided in subdivision (ii) of this subparagraph, shall contain the same statement in clearly legible form.

The destination control statement provisions apply to all exports by mail for which a Declaration is required. However, since Bills of Lading are not issued for exports by mail, a destination control statement is required only on the Declaration and the commercial invoice.

(ii) In the case of shipments by air (other than airmail or air parcel post) the provisions of subdivision (i) of this subparagraph are applicable to: *(a)* Any Air Waybill issued by a consolidator (indirect carrier) for an export included in a consolidated shipment; or *(b)* any Air Waybill issued by a carrier or other person covering an export not included in a consolidated shipment. The provisions of paragraph (c)(2) of this section do not apply to a "Master" Air Waybill issued by a carrier to cover a consolidated shipment.

(4) *Statement on commercial invoice.* No licensee, shipper, or consignor, exporter, or agent thereof, or any other person, shall prepare or issue any commercial invoice with respect to any shipment of commodities subject to the provisions of this paragraph (c), including shipments by mail, unless such invoice or invoices and all copies thereof shall contain on the face thereof the same destination control statement in clearly legible form. This statement shall be an applicable statement as set forth in paragraph (c)(2) of this section.

*   *   *   *   *

PART 380—AMENDMENTS, EXTENSIONS, TRANSFERS

Section 380.4 is revised to read as follows:

§ 380.4 Extension of validity period of license.

(a) *Time for submission of requests.* (1) A licensee may submit a request for extension of the validity period of a license which will expire before shipment can be made, except that a request to extend the validity period of a license issued under the emergency clearance procedure set forth in paragraph (i) of this section will not be granted. The request for extension of the validity period shall be submitted sufficiently in advance of the expiration date to allow the Office of Export Control to send an advice of amendment by regular mail to the licensee and the Customs Office holding the license before the license expires. However, where unusual circumstances make it impossible for the licensee to submit his request for extension before the expiration date, a request for extension will be considered if received within one month after the expiration date shown on the license.

(2) If a license does not qualify for extension under the terms set forth above, a new application for export license shall be submitted in accordance with the procedure described in paragraph (d) of this section.

PART 385—EXPORTS OF TECHNICAL DATA

Section 385.6 is amended by adding a new paragraph designated (d) to read as follows:

§ 385.6 Reexports of technical data and exports of the product manufactured abroad by use of U.S. technical data.

*   *   *   *   *

(d) *Effect of foreign laws.* No authority granted by the U.S. Office of Export Control, or under the provisions of the U.S. Export Regulations, to reexport technical data or export a product thereof shall in any way relieve any person from his responsibility to comply fully with the laws, rules, and regulations of the country from which the reexport or export is to be made of any other country having authority over any phase of the transaction. Conversely, no foreign law, rule, regulation, or authorization in any way relieves any person from his responsibility to obtain such authorization from the U.S. Office of Export Control as may be required by the U.S. Export Regulations.

[F.R. Doc. 68-10830; Filed, Sept. 6, 1968; 8:45 a.m.]

Title 20—EMPLOYEES' BENEFITS

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

[Regs. No. 5]

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

Subpart L—Conditions of Participation; Home Health Agencies

Correction

In F.R. Doc. 68-10337 appearing at page 12090 of the issue for Tuesday, August 27, 1968, the subpart heading should read as set forth above.

[2] As used in the destination control statement, the term "Soviet Bloc" means all destinations in Country Group Y (see paragraph 370.1(g)). It will be noted that Poland (including Danzig), Rumania, and Yugoslavia are not included in Country Group Y.

[3] As used in the destination control statement, the term "Soviet Bloc" means all destinations in Country Group Y (see paragraph 370.1(g)). It will be noted that Poland (including Danzig), Rumania, and Yugoslavia are not included in Country Group Y.

The words "and Laos" may be inserted at the exporter's discretion in the destination control statement after the entry of "Vietnam."

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

Specific Rotation

Correction

In F.R. Doc. 68-10500 appearing at page 12229 in the issue of Friday, August 30, 1968, the formula in § 141.520(b) should read:

$$[\alpha]_{s}{}^{t}=\frac{100a}{lc}$$

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER E—DEFENSE CONTRACTING

PART 163—DEFENSE CONTRACT FINANCING REGULATIONS

Miscellaneous Amendments

The following amendments to this Part 163 are issued by direction of the Assistant Secretary of Defense (Installations and Logistics) pursuant to authority contained in Department of Defense Directive No. 4105.30, dated March 11, 1959 (24 F.R. 2260), as amended, and 10 U.S.C. 2202.

1. Sections 163.72-2, 163.73-1(a), and 163.73-2 are revised to read as follows:

§ 163.72-2 Uniform standard percentages—contracts made on or after March 1, 1968.

For new contracts, that is, those entered into on or after March 1, 1968, the uniform standard progress payment rate is 80 percent of total costs for firms which are not small business concerns, and 85 percent of total costs for small business concerns. This 85 percent rate applies to all new contracts hereafter awarded to small business concerns, whether or not awarded pursuant to formal advertising. These new uniform standard progress payment rates also apply to letter contracts awarded on or after March 1, 1968, and to definitive fixed price types of contracts which supersede letter contracts on or after March 1, 1968, regardless of the date of award of the superseded letter contract. Higher percentages for new contracts will be regarded as unusual (§ 163.74) and not within the category of customary progress payments.

§ 163.73-1 Progress payment provisions in invitation for bids.

(a) When progress payments are contemplated, the invitation for bids shall include a notice of availability of progress payments as described in § 163.73-4. The percentage of total costs to be mentioned in these invitations for bids is 85 percent for small business concerns and 80 percent for firms which are not small business concerns.

* * * * *

§ 163.73-2 Small business restricted advertising.

The above policy and standards also apply to procurement by "Small Business Restricted Advertising" and for procurement pursuant to § 163.73-3. When progress payments are contemplated in these cases, provision will be made for progress payment percentage at 85 percent of total costs.

§ 163.73-3 [Amended]

2. The reference to "§§ 163.72 and 163.-73-2," at the end of § 163.73-3, is deleted.

3. Sections 163.73-4, 163.80-2, and 163.80-3 are revised, and new § 163.85 is added, as follows:

§ 163.73-4 Notice to bidders.

Those invitations for bids that make provision for progress payments (§ 163.-73-1) should contain substantially the following notice to bidders:

PROGRESS PAYMENTS [1]

The need for progress payments conforming to regulations (Appendix E, Armed Services Procurement Regulation) will not be considered as a handicap or adverse factor in the award of contracts. Bidders desiring progress payments in accordance with the "Progress Payment" clause attached hereto, shall include a written request therefor in their bids. Bids including requests for progress payments will be evaluated on an equal basis with bids not including a request for progress payments. If so requested, the "Progress Payment" clause will be included in the contract awarded. For small business concerns, 85 percent will be specified throughout paragraphs (a) and (b) of the "Progress Payment" clause. If a bid does not contain a request for progress payment provision, the "Progress Payment" clause will not be included in the contract as awarded.

For Contractors which are not small business concerns, 80 percent will be specified throughout paragraphs (a) and (b) of the requested "Progress Payment" clause. Bids of small business concerns that include request for progress payments at 85 percent of total costs will be evaluated on an equal basis with bids of firms which are not small business concerns, that include request for progress payments at 80 percent of total costs.

§ 163.80-2 Uniform standard percentages—firms not small business; paragraphs (a) and (b) of clause.

For new contracts entered into on or after March 1, 1968 (§ 163.72-2) with contractors which are not small business concerns, except as provided in §§ 163.80-4 and 163.80-5, the figure of 80 percent stated in paragraphs (a)(1)(i), (a)(3)(i), (a)(3)(ii), (a)(4), and (b) of the clause in § 163.79-1 is the uniform standard and only percentage for use in those paragraphs for procurement by formal advertising (§ 163.73-1), letter contracts, indefinite quantity contracts, negotiated price competitive contracts, and other contracts awarded without cost analysis (§ 3.807-2(c) of this chapter) and negotiation of a profit rate.

§ 163.80-3 Uniform standard percentages; small business concerns; paragraphs (a) and (b) of clause.

For new contracts entered into with small business concerns on or after March 1, 1968 (§ 163.72-2), except as provided in §§ 163.80-4 and 163.80-5 a figure of 85 percent shall be specified in paragraphs (a)(1)(i), (a)(3)(i), (a)(3)(ii), (a)(4), and (b) of the clause in § 163.79-1. This applies to procurement by formal advertising (§ 163.73-1), "Small Business Restricted Advertising" (§ 163.73-2), procurement pursuant to § 163.73-3, letter contracts with small business concerns, negotiated price competitive contracts with small business concerns, and other contracts awarded to small business concerns without cost analysis (§ 3.807-2(c) of this chapter) and negotiation of a profit rate.

§ 163.85 Delivery payments on letter contracts.

On letter contracts contemplating a definitive fixed price type of contract, provision may be made for provisional billings and payments for items delivered to and accepted by the Government. These provisional delivery billing prices should of course be without prejudice to definitive contract pricing, and should be set conservatively so as to cover no more than the costs fairly attributable to items to be delivered and accepted, taking into account prospective total costs and quantities contemplated for the latter contract and the definitive contract. Provisional billings for deliveries are of course subject to deductions for liquidation of progress payments (§ 163.-79-1(b)).

[Rev. 29, Appendix E, ASPR, May 15, 1968] (Sec. 2202, 70A Stat. 120; 10 U.S.C. 2202. Interpret or apply secs. 301, 702(d) 64 Stat. 800, 816, as amended, secs. 2307, 7364, 70A Stat. 131, 455, as amended, sec. 1, 72 Stat. 972; 50 U.S.C. App. 2091, 2152(d), 10 U.S.C. 2307, 7364, 50 U.S.C. 1431, E.O. 10480, 18 F.R. 4939, 3 CFR, 1953 Supp., E.O. 10789, 23 F.R. 8897, unless otherwise noted)

For the Adjutant General.

HAROLD SHARON,
Chief, Legislative and Precedent Branch, Office of Comptroller, TAGO.

[F.R. Doc. 68-10866; Filed, Sept. 6, 1968; 8:48 a.m.]

[1] Do not use second paragraph of this notice for procurements mentioned in §§ 163.73-2 and 163.73-3.

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 208—FLOOD CONTROL REGULATIONS

Altus Dam and Reservoir, North Fork Red River, Okla.

Pursuant to the provisions of section 7 of the Act of Congress, approved December 22, 1944 (58 Stat. 890; 33 U.S.C. 709), Flood Control Regulations, § 208.26, Altus Dam and Reservoir, North Fork Red River, Okla., governing the use of flood control storage above elevation 1559 in Altus Reservoir and the operation of Altus Dam for flood control purposes is hereby amended. Section 208.26 (14 F.R. 5779, Sept. 22, 1949) shall be deleted in its entirety and the following substituted in place thereof, effective upon publication in the FEDERAL REGISTER:

§ 208.26 Altus Dam and Reservoir, North Fork Red River, Okla.

The Bureau of Reclamation, or its designated agent, shall operate the Altus Dam and Reservoir in the interest of flood control as follows:

(a) Flood control storage in the reservoir between elevation 1559 (top of conservation pool) and elevation 1562 (top of flood control pool) amounts to 21,448 acre-feet (based on 1953 sedimentation survey). Whenever the reservoir level is within this elevation range, the flood control discharge facilities shall be operated under the direction of the District Engineer, Corps of Engineers, Department of the Army, in charge of the locality, so as to reduce as much as practicable the flood damage below the dam, and to limit the reservoir level to elevation 1562 when possible.

(b) When the reservoir level is below elevation 1559 and the predicted volume of runoff from the area above the dam exceeds the volume of water necessary to raise the reservoir level above elevation 1559, the reservoir will be operated to obtain maximum overall benefits which may consist of preflood releases; *Provided*, That all preflood releases will have prior concurrence of the Bureau of Reclamation or its designated agent. The preflood releases shall not result in a reservoir level below elevation 1559 at the end of the flood.

(c) When the reservoir level exceeds elevation 1559, releases will be made equal to inflow or 2,000 c.f.s., whichever is smaller, except that when the reservoir elevation forecast indicates that this operation will result in a reservoir level exceeding elevation 1562, releases will be increased in order to provide maximum overall benefits and prevent the reservoir level from exceeding elevation 1562, insofar as possible. The flood control pool will be emptied by continuing the peak discharge rate until the reservoir level recedes to elevation 1559, at which time releases will be made equal to inflow.

(d) If the reservoir level exceeds elevation 1562 (top of flood control pool) releases shall be made at the maximum rate possible through the spillway gates, conduit, and the uncontrolled spillway and continued until the reservoir level recedes to elevation 1559, at which time releases will be made equal to inflow.

(e) Whenever the reservoir level is above elevation 1559 and communication with the Bureau of Reclamation Regional Office and the Corps of Engineers District Office is unobtainable, releases shall be made equal to inflow until all gates are fully open. The maximum release thus obtained shall be maintained until the pool recedes to elevation 1559 at which time releases shall be made to equal inflow.

(f) The representative of the Bureau of Reclamation, or its designated agent, in immediate charge of the operation of Altus Dam will furnish daily to the District Engineer, Corps of Engineers, Department of the Army, in charge of the locality, a report on forms provided by the District for this purpose, showing the reservoir pool elevation; the number of spillway gates in operation with their respective opening and releases; the uncontrolled spillway release; conduit, canal outlet wasteway, and irrigation releases; storage; reservoir inflow; available evaporation data; and precipitation in inches. A reading at 8 a.m., noon, 4 p.m., and midnight, shall be shown for each day. Whenever the reservoir level rises to elevation 1559 and releases for flood control regulation are necessary or appear imminent, the representative of the Bureau of Reclamation or its designated agent, shall report at once to the District Engineer by telephone or telegraph and, unless otherwise instructed, shall report at 8 a.m., noon, and 3 p.m. thereafter, in that manner, until the reservoir level recedes to elevation 1559. These latter reports shall reach the District Engineer by 9 a.m., 1 p.m., and 4 p.m. each day.

(g) The regulations of this section, insofar as they govern use of the flood control storage capacity above elevation 1559 are subject to temporary modification by the District Engineer in time of flood, if found desirable on the basis of conditions at the time. Such desired modifications shall be coordinated with and approved by the Bureau of Reclamation.

(h) Flood control operation shall not restrict releases necessary for irrigation, municipal, and industrial uses.

(i) Releases made in accordance with the regulations of this section are subject to the conditions that releases shall not be made at rates or in a manner that would be inconsistent with emergency requirements for protecting the dam and reservoir from major damage.

(j) Any time that the Bureau of Reclamation determines that operation in accordance with the regulations of this section will jeopardize the safety of Altus Dam, they will so advise the District Engineer and will assume operational responsibility and take action necessary to assure the safety of the dam.

(k) The discharge characteristics of the controlled and the uncontrolled spillways (capable of discharging approximately 42,800 c.f.s. and 2,000 c.f.s., respectively, with the reservoir level at elevation 1562) shall be maintained in accordance with the construction plans (Bureau of Reclamation Drawing No. 258-D-69).

(l) All elevations stated in this section are at Altus Dam and are referred to the datum in use at that location.

[Reg., Aug. 13, 1968, ENGWC-EY] (Sec. 7, 58 Stat. 890; 33 U.S.C. 709)

For the Adjutant General.

HAROLD SHARON,
Chief, Legislative and Precedent Branch, Office of Comptroller, TAGO.

[F.R. Doc. 68-10864; Filed, Sept. 6, 1968; 8:48 a.m.]

PART 208—FLOOD CONTROL REGULATIONS

Lovewell Dam and Reservoir, White Rock Creek, Jewell County, Kans.

Pursuant to the applicable provisions of sections 7 and 9 of the Act of Congress approved December 22, 1944 (58 Stat. 890, 891; 33 U.S.C. 709), the following regulations are hereby prescribed to govern the use of storage capacity for flood-control purposes in Lovewell Reservoir on White Rock Creek, Jewell County, Kans., and the operation of Lovewell Dam for flood-control purposes.

§ 208.42 Lovewell Dam and Reservoir, White Rock Creek, Jewell County, Kans.

The Bureau of Reclamation, Department of the Interior, represented by its appropriate Project Manager, hereinafter referred to as the Project Manager, shall operate Lovewell Dam and Reservoir in the interest of flood control as follows:

(a) The flood control storage capacity of the reservoir, which initially amounts to 50,460 acre-feet between elevations 1582.6 and 1595.3 shall be regulated as follows:

(1) For local flood control on White Rock Creek and the Republican River below the dam to effect the release of water through the gated spillway (having a capacity of about 3,000 c.f.s. with water surface at elevation 1582.6) to limit flows in White Rock Creek below Lovewell Dam to a maximum of 3,000 c.f.s. and, in addition, insofar as is practical, to limit flows on the Republican River below the mouth of White Rock Creek to a maximum of bankfull capacity, presently estimated to be 11,000 c.f.s., or a stage of 15.5 feet, at Clay Center, Kans.

(2) For coordination of flood control regulation in Lovewell Reservoir with existing and potential flood conditions and the regulation of other flood-control reserviors and projects in the Republican, Kansas, and Missouri River basins, releases from and flood-control operation of the project will be adjusted as required for optimum effectiveness during all flood periods.

(b) The District Engineer, Corps of Engineers, Department of the Army, in charge of the locality, hereinafter referred to as the District Engineer, shall issue instructions to the Project Manager for achievement of the necessary local flood control below the dam and coordination of flood-control regulation of the reservoir with flood conditions and flood-control operation of other reservoirs and flood-control projects in the Republican, Kansas, and Missouri River basins during flood periods and whenever the reservoir may contain impounded water in the flood-control storage zone; and the District Engineer shall also issue special directions, if desirable, on the basis of flood conditions at the time, to the Project Manager for temporary modification of the provisons for local flood-control regulation contained in paragraph (a) (1) of this section. Oral instructions from the District Engineer to the Project Manager shall be confirmed in writing under date of the day issued.

(c) The discharge characteristics of the gated spillway (capable of discharging 14,600 c.f.s. with reservoir level at elevation 1595.3) shall be maintained in accordance with the construction plans (Bureau of Reclamation Specifications No. DC-4253 as modified by the as-built Drawing 271-D-795 dated Jan. 29, 1954, revised Dec. 5, 1967).

(d) Flood-control operations shall not restrict releases necessary for irrigation.

(e) Whenever the reservoir level reaches or exceeds elevation 1582.6 or flood discharges appear imminent, the Project Manager shall report at once to the District Engineer by telephone, telegraph, or radio and as requested thereafter until the reservoir level falls to elevation 1582.6 or below and flood discharges cease.

(f) Proposed schedules of irrigation releases and storage changes, if available, and current operating data shall be provided to the District Engineer by the Project Manager. These data shall be tabulated daily and furnished periodically as required, and shall include such items as reservoir elevation, reservoir storage, inflow, discharges, and pertinent available hydrologic data.

(g) Releases made in accordance with the regulations of this section are subject to the condition that releases shall not be made at rates or in a manner that would be inconsistent with requirements for protecting the dam and reservoir from major damage, or inconsistent with safe routing of the inflow design flood.

(h) All elevations stated in this section are at the Lovewell Dam and Reservoir and are referred to the datum in use at that location.

[Regs., Aug. 8, 1968, ENGCW-EY] (Secs. 7 and 9, 58 Stat. 890, 891; 33 U.S.C. 709)

For the Adjutant General.

HAROLD SHARON,
Chief, Legislative and Precedent Branch, Office of Comptroller, TAGO.

[F.R. Doc. 68-10865; Filed, Sept. 6, 1968; 8:48 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 24—Department of Housing and Urban Development

MISCELLANEOUS AMENDMENTS TO CHAPTER

In Subtitle A—Federal Procurement Regulations System, Chapter 24, the following amendments are made:

PART 24-1—GENERAL

1. Subpart 24-1.3 is added as follows:

Subpart 24-1.3—General Policies

AUTHORITY: The provisions of this subpart issued under sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Secretary's delegations of authority published at 33 F.R. 4593, Mar. 15, 1968, as amended at 33 F.R. 11099, Aug. 3, 1968; and at 31 F.R. 10754, Aug. 12, 1966.

Subpart 24-1.3—General Policies

§ 24-1.301 Methods of procurement.

(a) *Procurement by formal advertising.* Supplies and services shall generally be procured by formal advertising in accordance with FPR 1-2.

(b) *Procurement by negotiation.* Supplies and services may be procured without formal advertising in accordance with FPR 1-3.

§ 24-1.302 Procurement sources.

§ 24-1.302-1 General.

(a) *Government sources.* Procurement of certain supplies and services may be effected by orders on Government sources referred to in FPR 1-1.302-1. It is the policy of the Department that such methods of procurement be utilized to the maximum extent practicable, in accordance with applicable laws and regulations. Such procurement by the Department may be under:

(1) Section 601 of the Economy Act of June 30, 1932, as amended (31 U.S.C. 686), in accordance with regulations of the General Accounting Office;

(2) Section 502(c)(2) of the Housing Act of 1948, as amended (12 U.S.C. 1701c(b)(2)), in accordance with the Comptroller General's decision of April 10, 1951, B-102040.

(b) *Sources outside the Government.* Irrespective of whether the procurement of supplies or services from sources outside the Government is to be effected by formal advertising or by negotiation, competitive proposals ("bids" in the case of procurement by formal advertising, "proposals" in the case of procurement by negotiation) shall be solicited from all such qualified sources as are deemed necessary by the contracting officer to assure such full and free competition as is consistent with the procurement of the types of supplies and services necessary to meet the Department's requirements.

§ 24-1.302-2 [Reserved]

§ 24-1.302-3 Contracts between the Department and Government employees.

(a) *Prime contracts.* Procurement contracts between the Government and its employees or business organizations substantially owned or controlled by Government employees will not knowingly be entered into, except in those cases in which the needs of the Government cannot reasonably be otherwise supplied. The specific approval of the Assistant Secretary for Administration must be obtained for any such contract.

(b) *Subcontracts.* In the review of and consent to subcontracts under prime contracts, the policy restrictions of § 24-1.302-3 of this chapter apply.

§ 24-1.310 Responsible prospective contractor.

§ 24-1.310-1 Scope.

This section implements the policy and procedures set forth in FPR 1-1.310 to determine, before award, whether prospective contractors for furnishing the Department supplies or nonpersonal services (including construction) qualify as responsible.

§ 24-1.310-2 [Reserved]

§ 24-1.310-3 [Reserved]

§ 24-1.310-4 General policy.

A "responsible prospective contractor" is one which is found by the contracting officer to meet all of the applicable standards specified in § 24-1.310-5 of this chapter in addition to those in FPR 1-1.310-5. If the contracting officer has sufficient current information to satisfy himself that the prospective contractor meets the standards, the contracting officer may proceed with the award without further inquiry. All determinations of responsibility shall be based on adequate information conforming to the requirements of this section and FPR 1-1.310-5.

§ 24-1.310-5 Standards.

(a) In order to qualify as responsible, when costs incurred are to be a factor in determining the amount payable under the contract, or if advance or progress payment terms are to be included, a prospective contractor must, in the opinion of the contracting officer, meet the following standard in addition to those set forth in FPR 1-1.310-5:

(1) Have an accounting system and financial controls that are adequate for proper administration of the contract.

2. Subpart 24-1.50 is added as follows:

Subpart 24–1.50—Novation Agreements

AUTHORITY: The provisions of this subpart issued under sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Secretary's delegations of authority published at 33 F.R. 4593, Mar. 15, 1968, as amended at 33 F.R. 11099, Aug. 3, 1968; and at 31 F.R. 10754, Aug. 12, 1966.

Subpart 24–1.50—Novation Agreements

§ 24–1.5000 Scope of subpart.

This subpart prescribes the policy and procedures for (a) recognition of a successor in interest to Government contracts when such interests are acquired incidental to a transfer of all assets of a contractor or part of his assets involved in the performance of the contracts; and (b) a change of name of a contractor.

§ 24–1.5001 Definition.

For the purpose of this subpart, the following definition applies: A novation agreement is a contractual amendment by which the Government recognizes a successor in interest to a Government contract or a change of name of a contractor. The successor in interest assumes all the obligations under the contract and the transferor guarantees the performance of the contract by the transferee. Where only a change of name is made the rights and obligations of the parties remain unaffected.

§ 24–1.5002 Agreement to recognize a successor in interest.

(a) The transfer of a Government contract is prohibited by law (41 U.S.C. 15). However, the Government may recognize a third party as the successor in interest to a Government contract when the third party's interest is incidental to the transfer of all the assets of the contractor, or all of that part of the contractor's assets involved in the performance of the contract. Examples include, but are not limited to:

(1) Sale of such assets;

(2) Transfer of such assets pursuant to merger or consolidation of corporations; and

(3) Incorporation of a proprietorship or partnership.

(b) When it is consistent with the Government's interest to recognize a successor in interest to a Government contract, the contracting officer shall execute an agreement with the transferor and the transferee, which shall ordinarily provide in part that:

(1) The transferee assumes all the transferor's obligations under the contract;

(2) The transferor waives all rights under the contract as against the Government;

(3) The transferor guarantees performance of the contract by the transferee (a satisfactory performance bond from either the transferor or the transferee may be accepted in lieu of such guarantee); and

(4) Nothing in the agreement shall relieve the transferor or the transferee from compliance with any Federal law. The agreement shall have the concurrence of the Office of General Counsel, prior to execution. A format for such an agreement for use when the transferor and transferee are corporations, and all the assets of the transferor are transferred, is set forth in § 24–1.5005–1. This format may be adapted to fit specific cases and may be used as a guide in preparing similar agreements for use in other situations.

(c) Prior to the execution of such agreement, one copy of each of the following, as applicable, shall be submitted by the contractor to the contracting officer:

(1) A properly authenticated copy of the instrument by which the transfer of assets was effected, as, for example, a bill of sale, certificate of merger, indenture of transfer, or decree of court;

(2) A list of all contracts which have not been finally settled between the Department and the transferor, showing for each contract the contract number the total dollar value of the contract as amended, the type of contract, and the balance remaining unpaid;

(3) A certified copy of the resolutions of the Boards of Directors of the corporate parties authorizing the transfer of assets;

(4) A certified copy of the minutes of any stockholders' meetings of the corporate parties necessary to approve the transfer of assets;

(5) A properly authenticated copy of the certificate and articles of incorporation of the transferee if such corporation was formed for the purpose of receiving the assets involved in the performance of the Government contracts;

(6) An opinion of counsel for the transferor and transferee that the transfer was properly effected in accordance with applicable law and the effective date of transfer;

(7) Evidence of the capability of the transferee to perform the contracts;

(8) Balance sheets of the transferor and the transferee as of dates immediately prior to and after the transfer of assets;

(9) Evidence of security clearance requirements (if applicable); and

(10) Consent of sureties on all contracts listed under subparagraph (2) of this paragraph on which bonds were required.

§ 24–1.5003 Agreement to recognize change of name of a contractor.

(a) When only a change of name is involved, so that the rights and obligations of the parties remain unaffected, an agreement between the contracting officer and the contractor shall be executed effecting the amendment of all existing contracts between the parties so as to reflect the contractor's change of name. A format for such an agreement, which shall be adapted for specific cases, is set forth in § 24–1.5005–2 of this chapter.

(b) Prior to the execution of such agreement, one copy of each of the following shall be submitted by the contractor to the contracting officer:

(1) A copy of the instrument by which the change of name was effected, authenticated by a proper official of the State having jurisdiction;

(2) An opinion of counsel for the contractor that the change of name was properly effected in accordance with applicable law; and

(3) A list of all contracts, including the contract numbers, which have not been finally settled between the Department and the contractor.

(c) Each agreement shall have the concurrence of the Office of General Counsel, prior to execution.

§ 24–1.5004 Procedures.

(a) The Department contracting officer, upon being notified of a successor in interest to, or change in name of, a contractor, shall promptly take all necessary and appropriate action with respect to recognizing or not recognizing a successor in interest, or recognizing a change of name, including without limitation:

(1) Preparing a list of all affected contracts; and

(2) Drafting and executing a supplemental agreement to one of the contracts affected.

(b) A supplemental agreement number need not be obtained for contracts other than for the one under which the supplemental agreement is written. Each supplemental agreement will contain a list of the contracts affected. Supplemental agreements shall be prepared using Standard Form 30, Amendment of Solicitation/Modification of Contract.

(c) The agreement and supporting documents shall be reviewed for legal sufficiency by the Office of General Counsel.

(d) After execution of the supplemental agreement, the contracting officer shall prepare a change order acknowledging the change in name or successor in interest. The change order shall receive the same distribution as the affected contract. The change order will indicate the nature of the transaction, the result attained, and will cite the number of the contract with which the original relevant documents and supplemental agreement are filed. Change orders shall be prepared using Standard Form 30, Amendment of Solicitation/Modification of Contract.

§ 24–1.5005 Novation agreement formats and related documents.

§ 24–1.5005–1 Successor in interest agreement format.

The following form shall be used to recognize a corporate successor in interest, in accordance with § 24–1.5002 of this chapter:

AGREEMENT (____________ 19__)

This Agreement, entered into as of ____________, 19__, by and between the ABC Corporation, a corporation duly organized and existing under the laws of the State of ____________ with its principal office in the City of ____________ (hereinafter referred to as the "Transferor"); the XYZ Corporation (formerly known as the LMN Corporation), a corporation duly organized and existing under the laws of the State of ____________ with its principal office in the City of ____________ (hereinafter referred to as the "Transferee"); and the United States of America (hereinafter referred to as the "Government").

WITNESSETH

Whereas, the Government, represented by the Contracting Officer of the Department of Housing and Urban Development, has entered into certain contracts, letter contracts, and purchase orders with the Transferor [namely: ________________________] [as set forth in the attached list marked "Exhibit A" to this Agreement and herein incorporated by reference] and the term "the contracts" as hereinafter used means the above contracts, letter contracts, and purchase orders, and all other contracts, letter contracts, and purchase orders, including amendments and change orders thereto, heretofore made between the Government, represented by the Contracting Officer of the Department of Housing and Urban Development, and the Transferor (whether or not performance and payment have been completed and releases executed, if the Government or the Transferor has any remaining rights, duties, or obligations thereunder), and including amendments and change orders thereto hereafter made between the Government and the Transferee;

Whereas, as of ____________, 19__, the Transferor assigned, conveyed, and transferred to the Transferee all the assets of the Transferor by virtue of a (term descriptive of the legal transaction involved) between the Transferor and the Transferee;

Whereas, the Transferee, by virtue of said assignment, conveyance, and transfer, has acquired all the assets of the Transferor;

Whereas, by virtue of said assignment, conveyance, and transfer, the Transferee has assumed all the duties, obligations, and liabilities of the Transferor under the Contracts;

Whereas, the Transferee is in a position fully to perform the Contracts, and such duties and obligations as may exist under the Contracts;

Whereas, it is consistent with the Government's interest to recognize the Transferee as the successor party to the Contracts;

Whereas, there has been filed with the Government evidence of said assignment, conveyance, or transfer (add if desired, in the form of a certified copy of the list of the documents required by HUDPR 24–1.5002);

[Where a change of name is also involved, such as a prior or concurrent change of name of the transferee, an appropriate recital shall be used; for example:

Whereas, there has been filed with the Government a certificate dated ____________, 19__, signed by the Secretary of State of the State of ____________, to the effect that the corporate name of LMN Corporation was changed to XYZ Corporation on ____________, 19__];

Now, therefore, in consideration of the premises, the parties hereto agree as follows:

1. The Transferor hereby confirms said assignment, conveyance, and transfer to the Transferee, and does hereby release and discharge the Government from, and does hereby waive, any and all claims, demands, and rights against the Government which it now has or may hereafter have in connection with the Contracts.

2. The Transferee hereby assumes, agrees to be bound by, and undertakes to perform each and every one of the terms, covenants, and conditions contained in the Contracts. The Transferee further assumes all obligations and liabilities of, and all claims and demands against, the Transferor under the Contracts, in all respects as if the Transferee were the original party to the Contracts.

3. The Transferee hereby ratifies and confirms all actions heretofore taken by the Transferor with respect to the Contracts with the same force and effect as if the action had been taken by the Transferee.

4. The Government hereby recognizes the Transferee as the Transferor's successor in interest in and to the Contracts. The Transferee hereby becomes entitled to all right, title, and interest of the Transferor in and to the Contracts in all respects as if the Transferee were the original party to the Contracts. The term "Contractor" as used in the Contracts shall be deemed to refer to the Transferee rather than to the Transferor.

5. Except as expressly provided herein, nothing in this Agreement shall be construed as a waiver of any rights of the Government against the Transferor.

6. Notwithstanding the foregoing provisions, all payments and reimbursements heretofore made by the Government to the Transferor and all other action heretofore taken by the Government, pursuant to its obligations under any of the Contracts, shall be deemed to have discharged pro tanto the Government's obligations under the Contracts. All payments and reimbursements made by the Government after the date of this Agreement in the name of or to the Transferor shall have the same force and effect as if made to said Transferee and shall constitute a complete discharge of the Government's obligations under the Contracts, to the extent of the amounts so paid or reimbursed.

7. The Transferor and the Transferee hereby agree that the Government shall not be obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any increases therein, directly or indirectly arising out of or resulting from (i) said assignment, conveyance, and transfer, or (ii) this Agreement, other than those which the Government, in the absence of said assignment, conveyance, and transfer, or this Agreement, would have been obligated to pay or reimburse under the terms of the Contracts.

8. The Transferor hereby guarantees payment of all liabilities and the performance of all obligations which the Transferee (i) assumes under this Agreement, or (ii) may hereafter undertake under the Contracts as they may hereafter be amended or modified; and the Transferor hereby waives notice of and consents to any such amendment or modification.

9. Except as herein modified, the Contracts shall remain in full force and effect.

In witness whereof, each of the parties hereto has executed this Agreement as of the day and year first above written.

UNITED STATES OF AMERICA
By ______________________
Title ______________________

[CORPORATE SEAL] ABC CORPORATION
By ______________________
Title ______________________

[CORPORATE SEAL] XYZ CORPORATION
By ______________________
Title ______________________

CERTIFICATE

I, __________________________, certify that I am the Secretary of ABC Corporation, named above; that ______________________, who signed this Agreement on behalf of said corporation, was then ____________________ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness my hand and seal of said corporation this ______ day of ____________, 19__.

[CORPORATE SEAL] By ______________________

CERTIFICATE

I, __________________________, certify that I am the Secretary of XYZ Corporation, named above; that ______________________, who signed this Agreement on behalf of said corporation, was then ____________________ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness my hand and seal of said corporation this ______ day of ____________, 19__.

[CORPORATE SEAL] By ______________________

§ 24–1.5005–2 Change of name agreement format.

The following form may be used as appropriate to recognize a change in name, in accordance with § 24–1.5003 of this chapter:

AGREEMENT (____________ 19__)

This Agreement, entered into as of ________, 19__, by and between the ABC Corporation (formerly the XYZ Corporation and hereinafter sometimes referred to as the "Contractor"), a corporation duly organized and existing under the laws of the State of ________, and the United States of America, represented by the Department of Housing and Urban Development (hereinafter referred to as the "Government");

WITNESSETH

Whereas, the Government, represented by the Contracting Officer of the Department of Housing and Urban Development, has entered into certain contracts, letter contracts, and purchase orders with the XYZ Corporation [namely: ________________________] or [as set forth in the attached list marked "Exhibit A" to this Agreement and herein incorporated by reference;] and the term "the Contracts" as hereinafter used means the above contracts, letter contracts, and purchase orders, and all other contracts, letter contracts, and purchase orders, including amendments and change orders thereto, entered into between the Government, represented by the Contracting Officer of the Department of Housing and Urban Development, and the Contractor (whether or not performance and payment have been completed and releases executed, if the Government or the Contractor has any remaining rights, duties, or obligations thereunder);

Whereas, the XYZ Corporation, by an amendment to its certificate of incorporation, dated ____________, 19__, has changed its corporate name to the ABC Corporation;

Whereas, a change of corporate name only is accomplished by said amendment, so that rights and obligations of the Government and of the Contractor under the Contracts are unaffected by said change; and

Whereas, there has been filed with the Government documentary evidence of said change in corporate name;

Now, therefore, in consideration of the premises, the parties hereto agree that the Contracts covered by this Agreement are hereby amended by deleting therefrom the name "XYZ Corporation" wherever it appears in the Contracts and substituting therefor the name "ABC Corporation".

In witness whereof each of the parties hereto has executed this Agreement as of the day and year first above written.

UNITED STATES OF AMERICA
By ______________________
Title ____________________

[CORPORATE SEAL]
ABC CORPORATION
By ______________________
Title ____________________

CERTIFICATE

I, ______________________, certify that I am the Secretary of ABC Corporation, named above; that ______________________, who signed this Agreement on behalf of said corporation, was then ______________________ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness my hand and seal of said corporation this ______ day of ____________, __19__.

[CORPORATE SEAL]
By ______________________

§ 24–1.5005–3 Change orders.

Standard Form 30, Amendment of Solicitation/Modification of Contract, shall be used to issue change orders for those contracts other than the contract selected in accordance with § 24–1.5004 (a)(2) of this chapter. The following shall be used in Block 11a of the Standard Form 30:

Pursuant to the provisions of Modification No. ______ of Contract No. ______ (This reference will be to the Modification actually recognizing the transfer.)

The following shall be used in Block 12 of the Standard Form 30:

It is hereby acknowledged that said Contract Modification (insert, as appropriate, "effecting recognition of XYZ Corporation as a successor in interest applies in accordance with all of its terms and conditions to this contract," or "effecting recognition of a change of the contractor's name from ABC Corporation to XYZ Corporation applies in accordance with all of its terms and conditions to this contract").

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3. Part 24–2 is added as follows:

PART 24–2—PROCUREMENT BY FORMAL ADVERTISING

AUTHORITY: The provisions of this Part 24–2 issued under sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Secretary's delegations of authority published at 33 F.R. 4593, Mar. 15, 1968, as amended at 33 F.R. 11099, Aug. 3, 1968; and at 31 F.R. 10754, Aug. 12, 1966.

§ 24–2.000 Scope of part.

This part implements and supplements the requirements for procurement of personal property and nonpersonal services (including construction) by formal advertising as set forth in FPR 1–2.

Subpart 24–2.1—Use of Formal Advertising

§ 24–2.102 Policy.

It is the policy of the Department that procurement of personal property and nonpersonal services shall be made by formal advertising whenever such method is feasible and practicable.

Subpart 24–2.2—Solicitation of Bids

§ 24–2.201 Preparation of invitations for bids.

Forms used in the preparation of invitations for bids are prescribed in FPR 1–16.1 and 1–16.4.

§ 24–2.202 Miscellaneous rules for solicitation of bids.

§ 24–2.202–1 Bidding time.

Any request for a procurement action which does not provide for the minimum bidding time required by FPR 1–2.202–1 (c) shall be justified and approved by the contracting officer prior to preparation of the invitation for bids.

§ 24–2.202–4 Bid samples.

Bid samples submitted by bidders as required by an invitation for bids or as unsolicited samples if not returned in accordance with FPR 1–2.202–4(h) shall be disposed of in accordance with written instructions of the contracting officer.

§ 24–2.202–50 Extension of time for bid opening.

(a) Whenever such action is determined by the contracting officer to be in the best interest of the Government, bid openings may be rescheduled for a later date by issuance and distribution to all prospective bidders of an amendment (see FPR 1–2.207) to the invitation for bids. Notices of change in bid opening date shall be issued by mail or telegraph as soon as possible, but in any event prior to the time specified for the opening of bids.

§ 24–2.203–3 Publicity in newspapers and trade journals.

When it is deemed necessary to use paid advertisements in newspapers, written authority for such publication shall be obtained from the Director, Office of General Services, or other appropriate official delegated the authority to authorize the publication in newspapers of advertisements, notices, or proposals.

Subpart 24–2.3—Submission of Bids

§ 24–2.303–6 Notification to late bidders.

In fixing the date to be inserted in the notice to late bidders contained in FPR 1–2.303–6 consideration should be given to the time required by the bidder to develop and prepare the required evidence in relation to the acceptance period specified by the otherwise apparent low bidder, avoidance of undue delay in the procurement cycle, and other pertinent factors. As a general rule, the bidder should be allowed a minimum of 3 working days in addition to a time allowance for transmitting the notice to, and receipt of the evidence from, the bidder.

Subpart 24–2.4—Opening of Bids and Award of Contract

§ 24–2.401 Receipt and safeguarding of bids.

Envelopes, or other outer covering, containing identified bids shall be stamped to show the time, date, and place of receipt.

§ 24–2.402 Opening of bids.

At the bid opening, the relative merits of any bids shall not be discussed by the person opening the bids, or the contracting officer, with the bidders, their representatives, casual observers, or Department personnel. No statement shall be made by the person opening the bid or the contracting officer at a bid opening bearing on the award, the possibility of a readvertisement, mistakes in bids, the responsiveness or responsibility of any bidder, etc. Oral instructions shall not be given to bidders at any time during the opening. Protests of bidders and inquiries regarding the award of the contract shall be referred to the contracting officer after the completion of the bid opening.

§ 24–2.406 Mistakes in bids.

§ 24–2.406–3 Other mistakes disclosed before award.

Pursuant to FPR 1–2.406–3(b), the Assistant Secretary for Administration is delegated authority to make the determinations under FPR 1–2.406–3. Mistakes in bids prior to award (other than obvious clerical errors) shall be submitted to the Assistant Secretary for Administration, accompanied by the data set forth in FPR 1-2.406-3(d)(3). The Assistant Secretary for Administration will promptly notify the contracting officer of the course of action to be taken.

§ 24-2.406-4 **Disclosure of mistakes after award.**

Pursuant to FPR 1-2.406-4(d), the Assistant Secretary for Administration is delegated authority to make the determinations under FPR 1-2.406-4. Mistakes in bids after award shall be submitted to the Assistant Secretary for Administration, accompanied by the data set forth in FPR 1-2.406-4(f).

§ 24-2.406-50 **Exception.**

For those organizational units or elements having specific delegated authority to make or approve determinations pertaining to mistakes in bids, the requirements of § 24-2.406-3 and § 24-2.406-4 of this chapter do not apply.

§ 24-2.407 **Award.**

§ 24-2.407-1 **General.**

Pursuant to FPR 1-2.407-1, awards shall be made by mailing or otherwise furnishing to the successful bidder a properly executed award document or notice of award. A notice of award may be used when, for administrative reasons, the reproduction and distribution of the contract may be delayed, and the urgency for the contractor's immediate effort is established. The contracting officer may approve the use of a notice of award.

§ 24-2.047-7 **Statement and certificate of award.**

For each contract made by formal advertising, Standard Form 1036, Statement and Certificate of Award, or other appropriate document, shall be prepared and executed by the contracting officer.

§ 24-2.407-8 **Protests against award.**

(a) The Assistant Secretary for Administration or the Director, Office of General Services, shall approve the determination of a subordinate contracting officer to make an award under FPR 1-2.407-8(b)(3). The notice of intent to make an award required by FPR 1-2.407-8(b)(2) shall be furnished to the Comptroller General over the signature of the Assistant Secretary for Administration or the Director, Office of General Services. In the case of protests in connection with FHA-Acquired Properties, the procedures established by the Assistant Secretary for Mortgage Credit and Federal Housing Commissioner may be followed.

(b) Where a protest is received after award of contract and it appears to the contracting officer that the award may be held invalid, he shall obain the views and advice of counsel. If appropriate, based upon advice of counsel, the contracting officer shall request a determination from the Assistant Secretary for Administration or the Director, Office of General Services, whether the contracting officer should seek a mutual agreement with the contractor to stop work on a basis of no-cost to the Government. If the contractor refuses to enter into a mutual agreement to stop work on such a no-cost basis, the Assistant Secretary for Administration or the Director, Office of General Services, or other appropriate authority, may authorize the contracting officer to issue a unilateral stop work order. A unilateral stop work order shall not be issued if it has been determined that receipt of the personal property or nonpersonal services is urgent and that such a unilateral order would be prejudicial to the best interest of the Department.

§ 24-2.408 **Information to bidders.**

On all contracts in excess of $10,000 the unsuccessful bidders shall be given a written notification of award in accordance with FPR 1-2.408(b).

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4. Part 24-51 is added as follows:

PART 24-51—CONTRACT MANAGEMENT PROCEDURES

AUTHORITY: The provisions of this Part 24-51 issued under sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Secretary's delegations of authority published at 33 F.R. 4593, Mar. 15, 1968, as amended at 33 F.R. 11099, Aug. 3, 1968; and at 31 F.R. 10754, Aug. 12, 1966.

§ 24-51.000 **Scope of part.**

This part sets forth policies and procedures concerning management and administration of contracts.

Subpart 24-51.0—[Reserved]

Subpart 24-51.1—[Reserved]

Subpart 24-51.2—[Reserved]

Subpart 24-51.3—[Reserved]

Subpart 24-51.4—Processing Payments Under Cost-Reimbursement Contracts

§ 24-51.400 **Scope of subpart.**

This subpart prescribes procedures pertaining to the processing of vouchers or invoices under cost-reimbursement type contracts.

§ 24-51.401 **Definitions.**

As used in this subpart, the following terms have the meanings stated below:

(a) "Cost-reimbursement type contracts" include cost, cost-plus-a-fixed-fee, cost-plus-an-incentive-fee, cost-sharing, labor-hour, and time and material contracts.

(b) The terms voucher and invoice are used to identify claims by the contractor for reimbursement of costs incurred or for fee earned and are used interchangeably in this subpart.

(c) "Completion voucher or completion invoice" are terms used to identify a voucher or invoice which includes the entire or remaining contract costs and/or fee upon completion of work under a Government contract.

§ 24-51.402 **Initial conference.**

To establish a basis for a cooperative and efficient relationship, a conference should be arranged, when deemed necessary by the contracting officer, between representatives of the contractor and cognizant Government personnel to acquaint the contractor with contractual requirements and contract administration procedures. The Government representatives should explain the procedures to be followed in presenting claims and obtaining reimbursement, the requirements as to documentary evidence, the administrative approvals required, the manner in which administrative approvals are given, and reporting requirements under the terms of the contract. Specific items which should be discussed include:

(a) Audit of the contractor's records and examination of his procedures;

(b) Withholding of contractual reserves;

(c) Allowability of costs under applicable contract cost principles and the segregation of unallowable costs thereunder;

(d) Subcontracting policies; and

(e) Procedures and contractor's rights under the Disputes clause.

§ 24-51.403 **Vouchers—general.**

(a) The frequency of submission of claims for payment is generally specified in the contract. In the absence of a contract provision to the contrary, it may be suggested that the contractor submit reimbursement claims once each month. The contracting officer will request the contractor to consolidate claims under one contract as much as possible to reduce the number of vouchers. Vouchers shall not contain claims pertaining to more than one contract.

(b) The contracting officer shall require the contractor to provide, as a part of each voucher submission, an analysis of the total vouchered charges. Where data are readily available from the contractor's records, a limited analysis may be placed on the face of Public Voucher for Purchases and Services Other Than Personal (Standard Form 1034), provided the reliability of the contractor has otherwise been established. As a minimum, the analysis shall include fee and cumulative and current costs broken down by cost elements. When a more detailed analysis is required, the Continuation Sheet (Standard Form 1035) or an attachment may be used.

(c) Where the amount of fee claimed depends on a computation based on physical progress or rate of delivery of the completed item, the contracting officer shall require the contractor to show the basis for computing the fee installment on the voucher (face or reverse of Standard Form 1035) or on an attachment. Prior to approving the voucher for payment, the contracting officer shall, as appropriate, verify the status of the contract by coordinating with cognizant Government personnel (i.e., technical, audit, and financial personnel).

(d) As an aid to administration, the contracting officer shall require the contractor to submit separate vouchers for each of the categories of charges enumerated below:

(1) Reclaim vouchers covering items of cost initially allowed and reimbursed to the contractor, but subsequently deducted administratively or refunded by the contractor, due to the issuance of a General Accounting Office exception;

(2) Costs reserved in final settlement (these reservations are ordinarily set forth in the final release of the settlement agreement under a terminated contract. The contractor should clearly indicate on the voucher the specific exception in the final release or settlement agreement under which the amount sought to be reimbursed is claimed); and

(3) Abatement of disapproved costs for income taxes paid thereon (see section 1481 of the Revenue Code of 1954). The voucher should be accompanied by an authenticated copy of the applicable tax reduction as calculated by the cognizant Director of Internal Revenue.

§ 24–51.404 Provisional approval of vouchers.

(a) The eligibility for reimbursement of claims submitted by a contractor for costs or payment of fee shall be determined pursuant to the terms of the contract. Authority for payment must be established before any reimbursements under the contract are approved. In no event will a reimbursement claim be processed by the contracting officer for payment which would result in cumulative payment in excess of the maximum amount payable as limited by the contract.

(b) Normally, the contractor shall be instructed to submit reimbursement vouchers under cost-type contracts directly to the contracting officer for approval prior to payment. All vouchers, with the exception of the completion voucher, shall be marked "Approved for provisional payment in the amount of $______ subject to audit prior to final payment," signed by the contracting officer, and forwarded to the financial office designated in the administrative recitals of the contract. Questionable costs determined through periodic audit or otherwise shall be suspended or disapproved prior to approval of the voucher. In those situations where (1) there is reason to question the reliability or accuracy of the contractor's claim, (2) there is an indication of cost overrun, or (3) the submission is the contractor's initial claim, the recommendations of the cognizant auditor should be requested prior to approval.

§ 24–51.405 Completion voucher.

Upon receipt of a completion voucher, the contracting officer shall furnish a copy to the cognizant auditor for final audit prior to payment. The completion voucher shall be supported by contractor's (or assignee's) release and assignment forms, and the final schedule of cumulative cost under the contract. Completion vouchers shall not be approved until the results of the final audit have been received by the contracting officer.

§ 24–51.406 Withholding pursuant to contract terms.

Unless the contractor has deducted from his claims amounts required to be withheld pursuant to the provisions of the contract, the contracting officer shall make the deduction. Such deductions shall be treated as suspensions. Amounts deducted may be resubmitted by the contractor at such time as the contractor has evidenced compliance with the requirements necessary to permit payment and may, in any event, be claimed on the completion voucher.

§ 24–51.407 Alterations of vouchers.

Vouchers which have not been properly prepared by the contractor should be returned for revision. No erasures will be made on a voucher or a continuation sheet. A voucher and/or continuation sheet or its equivalent which requires alteration may be changed only by striking out the incorrect item and writing in the correct item. An alteration made by the contractor must be initialed by the contractor. An alteration made by the contracting officer must be initialed by the contracting officer and may be made only in accordance with 36 Comp. Gen. 769 (1957) which provides that when errors in computations or extensions are detected, where the payee has clearly made claim for the full quantity of materials or services and at the proper unit price, the claim may be altered upward or downward prior to approval provided the adjustment does not exceed $10. Vouchers may be adjusted by contracting officers, provided that costs have not been suspended and/or disapproved and the errors are not too numerous to correct. The incorrect computation or extension may be altered by drawing a line through the incorrect amount and inserting the corrected amount on the original and all copies of the voucher. Each alteration must be initialed. The amount of the error will be deducted from or added to the total of the voucher. If Standard Form 1035 is used the amount of the error will also be deducted from or added to the total by use of the "Difference" block on Standard Form 1034. Contractors will be notified, in writing, of mathematical errors which overstate the total amount claimed in excess of $10. If an underclaim is in excess of $10, the actual amount claimed, if otherwise proper, may be processed for payment. Contractors should be notified of any errors detected or of any adjustments made according to this policy.

§ 24–51.408 Distribution of vouchers.

(a) The following is the minimum distribution to be made of vouchers:

	SF 1034	SF 1034A	SF 1035	SF 1035A
Contracting officer's file copy		1		1
Through contracting officer to financial office:				
Financial office	1	1	1	1
Technical representative (when required)		1		1
Contractor (paid copy)		1		1
Cognizant auditor (paid copy)		1		1

(b) After processing and approval of vouchers by the contracting officer, all copies of the vouchers except the contracting officer's file copy shall be forwarded to the financial office for certification, payment, and distribution.

(c) References made in this section to standard forms are for convenience only and are not intended to preclude the submission of vouchers on the contractor's own forms.

§ 24–51.409 Cost-reimbursement type subcontracts and billings.

(a) The contracting officer shall advise the contractor who placed a cost-reimbursement type subcontract of his responsibility for the proper performance of the subcontractor and the financial settlement with the subcontractor. It is the responsibility of the prime contractor or upper-tier subcontractor to perform an adequate audit of the subcontractor as a part of a proper financial settlement. However, in appropriate circumstances, audit by a Government auditor may be advisable. Adherence to this policy will ensure consistent treatment of subcontractor's cost, reduce duplicate auditing of the same records by two or more groups of auditors, and reduce the costs incurred by the prime contractor.

(b) The contracting officer shall advise the contractor to request subcontractors to prepare their claims on commercial invoices and submit them directly to the prime contractor or upper-tier subcontractor who placed the subcontract with copies to the Government auditor and the contracting officer when appropriate. Charges should be itemized in the same detail and manner required of the prime contractor. Each claim or commercial invoice should identify the prime contract and/or upper-tier subcontract to which it relates.

(c) The Government auditor cognizant of the prime contract or upper-tier subcontract under which the cost-reimbursement type subcontract was issued is primarily responsible for determining the need for audit of such subcontract. The following criteria should be considered when determining whether the prime contractor or the Government should perform the audit of the subcontract:

(1) Whether the subcontractor objects to an accounting review of his records by the prime contractor for valid business reasons;

(2) Whether the Government auditor is currently performing audit work at the subcontractor's plant or can do so more economically or efficiently;

(3) Whether the audit by the Government auditor is necessary for consistent audit treatment and orderly administration; and

(4) Whether the prime contractor has a substantial or controlling financial interest in the subcontractor.

§ 24–51.410 **Suspension and disapproval.**

(a) The determination as to the suspension or disapproval of an item of cost is the responsibility of the contracting officer. Suspended costs are those costs which appear questionable but upon which a final determination cannot be made based upon available information; suspended costs also include amounts which the contractor claims but which are required to be withheld pursuant to the provisions of the contract. Disapproved costs are those costs which have been determined by the contracting officer to be unallowable under the provisions of the contract.

(b) Auditors, during the course of contract audit, may recommend to the contracting officer the suspension or disapproval of items of cost included in a contractor's voucher.

(c) Upon receipt of a recommendation of suspension or disapproval from the auditor, the contracting officer will review pertinent data and consult with appropriate personnel to determine what further action should be taken as to the items of cost in question.

(1) Where the contracting officer is in agreement with the recommendation of the auditor, he will assign a Notice Number to the written notice of suspension and distribute the original and two copies to the contractor, two copies (one copy each attached to SF 1034 and SF 1034A or other voucher) to the financial office, one copy to the auditor, and one copy for his own file. The original and the copies for the contractor and one copy to the financial office will be signed by the contracting officer. Other copies may bear typed or stamped signatures. Amounts deducted from the contractor's claim by the contracting officer will be shown in the "Difference" block on the face of the voucher, using one line for the amount deducted and one line for the new approved amount. In all cases, the contracting officer must be satisfied that the explanation and reasoning given for suspension or disapproval are complete and accurate.

(2) Where the contracting officer does not agree with the recommendation of the auditor, he shall state his reasons therefor and shall furnish to the auditor a copy of his statement. Subsequent thereto, he should consult with the auditor and other Government personnel, as may be necessary, and the contractor, if appropriate, to dispose of any remaining items in question.

(d) Where a notice of suspension or disapproval is issued by the contracting officer, the contractor shall be given sufficient time to present additional information or justification in support of the items of cost suspended or disapproved. Normally, this period should not exceed 30 days. The contracting officer shall inform the contractor that issuance of the notice is not a decision by the contracting officer with respect to the Disputes clause of the contract. However, the contractor shall be advised that failure to reply within the time limit set by the contracting officer, or any approved extension thereof, may result in the contracting officer issuing a final decision on the items of cost suspended or disapproved, pursuant to the Disputes clause of the contract, except for those items of cost suspended in accordance with § 24–51.406 of this chapter.

(e) If, after receipt of the notice, the contractor requests, in writing, an extension of time in which to present additional information or justification in support of the items of cost suspended or disapproved, the contracting officer may, if he decides that the facts justify such action, grant such additional time to the contractor, by separate letter. Where the contractor fails to submit additional data within the time specified, and fails to obtain an extension of time for submitting such data, the contracting officer may receive and act upon any data received from the contractor at any time prior to final payment under the contract, if he decides that the circumstances warrant such action.

(f) Upon receipt of the contractor's reply, the contracting officer will consult with the Government auditor, and such other personnel as may be appropriate, concerning the additional information and justification submitted.

(1) If the contracting officer decides to withdraw the notice of suspension or disapproval, action shall be taken to reinstate the items of cost involved, and the contractor's voucher may be processed for payment.

(2) For those items of cost which the contracting officer determines after reexamination are unallowable and the contractor has continued to claim, the contracting officer shall prepare and process a final decision pursuant to the Disputes clause. Resolution of questions regarding suspended costs also may be effected by an appropriate statement from the contractor evidencing his acceptance of the suspension.

(3) When sufficient information is not available to change the status of items of cost that have been suspended, such items shall be held in a suspended status until an appropriate decision can be made. During the period of the contract, mere passage of time does not change the basic reimbursable or nonreimbursable nature of the item of cost in question. Accordingly, costs suspended will not be converted to costs disapproved when there is no reason for the conversion other than the failure of the contractor to resubmit costs. However, a final decision concerning the status of all suspended items shall be made prior to or at the time the completion voucher under the contract is processed for payment.

§ 24–51.411 **Procedure when current claim is insufficient to cover credit.**

(a) When the current claim is not in an amount sufficient to satisfy a credit due the Government under the contract, the contracting officer shall follow one or a combination of the procedures outlined below to effect collection in the most expeditious and practicable manner:

(1) Deduct the amounts necessary to satisfy the credit from the current and succeeding vouchers (expected to be received within a reasonable length of time). The deductions on any voucher shall not exceed the amount thereof to avoid processing of a voucher in a credit amount. Notwithstanding that a voucher may be in a zero amount, it will be processed to the financial office via the usual channels to provide a record of the voucher action.

(2) Obtain from the contractor his check for the amount of the credit, payable to the Department of Housing and Urban Development.

(3) When the credit cannot be recovered by deductions from the current and succeeding vouchers and the contractor declines to make refund thereof, the contracting officer shall accomplish or cause to be accomplished the collection by a setoff deducted from voucher(s) submitted by the contractor under any of his other contracts with the contracting officer concerned, unless otherwise precluded, such as by the no-setoff provisions of the Assignment of Claims clause. Where the contracting officer has no other contracts under which a setoff may be accomplished, he shall refer the matter to the financial office for collection by setoff or any other method.

(b) When the collection is effected by setoff, there will be shown on the voucher from which the deduction is made a notation identifying the contract and appropriation to which the credit is applicable and identifying the related notice.

§ 24–51.412 **Exception.**

To the extent that any of the procedures contained in this subpart are inconsistent with the procedures for processing payments used by the Federal Housing Administration, the latter procedures may continue to be used.

Subpart 24–51.5—Closing Completed Contracts

§ 24–51.500 **Scope of subpart.**

This subpart establishes policy and procedures governing the closing of completed contracts and is applicable to all contracts, grant contracts, and interagency agreements.

§ 24–51.501 General.

The procedures for closing completed contracts are a primary tool of contract management and contract administration. Contract closing reviews should be extensive and should ensure that the file is completely documented. The comprehensive closing review serves the following purposes:

(a) Facilitates orderly segregation and disposition of records, and ensures efficient use of filing equipment and space;

(b) Identifies all uncompleted actions;

(c) Ensures that all contractual obligations have been fulfilled, that the interests of the Government have been protected; and, that sound business practices have been followed.

§ 24–51.502 Definition — completed contract.

A completed contract is one which is both physically and administratively complete and in which all aspects of performance by the contractor have been either accomplished or formally waived. A contract is physically complete only after all articles and services called for under the contract have been delivered to and formally accepted by the Government, including those articles and services for which no specific compensation may have been stipulated. A contract is administratively complete when all payments have been made and all administrative actions accomplished.

§ 24–51.503 Closing checklist.

(a) The closing review is for the purpose of verifying that all actions necessary to complete the contract have been consummated and fully documented. When the review indicates that the contract may be incomplete in any respect, the circumstances shall be investigated to determine whether some necessary action has been omitted. Where prior actions have been taken but not documented, or are incompletely documented, a closing memorandum, which will summarize all prior actions, will be prepared and will reflect the proper documentation. When a contractual matter remains in an open status, completion action shall be initiated to the extent feasible.

(b) The following list represents the more significant items of contract closing which are to be treated in the closing memorandum. The closing memorandum shall be retained in the contract file. The order in which this list is presented is not significant.

(1) Determine the status of deliveries and billings and prepare a reconciliation of differences in billings and payments.

(2) Verify that all contract changes have been incorporated in the contract by modification.

(3) Ensure that adequate documentation exists to evidence receipt and formal acceptance of all contract items.

(4) Verify the proper disposition of Government furnished property.

(5) Verify that price revision, when called for, has been accomplished and examine the adequacy of supporting data.

(6) Verify that consent to subcontracts has been obtained in all instances required by the contract.

(7) Ensure that advance or progress payments have been liquidated and that action has been initiated to recover any overpayments.

(8) Ensure that in all instances where other Government agencies are involved that closing actions are coordinated.

(9) Ensure that the contractor has been alerted to the contract requirement for the maintenance and retention of books and records.

(10) Confirm that appropriate and fully documented action was taken with respect to violations of standard contract clauses based on acts of Congress or Executive orders concerning labor laws, equal employment opportunity, contingent fees, domestic articles, officials not to benefit, etc., or in lieu thereof that the file contains a memorandum that cognizant administrative personnel know of no such violation.

(11) Ascertain whether any questions arose regarding exemptions from Federal or State tax laws and ensure that such questions have been properly resolved.

(12) Examine the contract and contract files to ascertain the possible existence of pending disputes, contingent liabilities, or circumstances out of which future claims or litigation might arise, potential credits, or refunds or other future recoveries. Ensure that adequate reserves have been set aside to provide for contingent liabilities. Maintain suspense and follow up on any matters which remain unresolved. Coordinate with legal and audit personnel where appropriate.

(13) Determine that all administrative reviews and approvals have been accomplished and documented.

(14) Review all notices of cost suspension or disallowance to determine that the issues have been resolved.

(15) Determine that all reports required by clauses relating to patents, inventions, royalties, copyrights, and publication have been received.

(16) Determine that all required data have been delivered.

(17) Ensure that all investigations and reports to the General Accounting Office have been completed and documented.

(18) Confirm that assignment and subrogation have been accomplished in favor of the Government in connection with all contractor's rights and claims, other than those against the Government, pursuant to contract terms.

(19) Determine that final audit of cost reimbursement contracts has been completed and that a copy of the audit report is included in the file.

(20) Establish that the final voucher for cost reimbursement contracts is supported by the necessary cumulative claim and reconciliation, assignment of refunds, rebates, credits and other amounts, and final release of claims by the contractor.

(21) Ensure that an evaluation of the contractor's performance has been made and that a copy is retained in the contract file.

§ 24–51.504 Special considerations.

(a) In the absence of full performance and compliance with all contract terms, as disclosed by the closing review, the contract file shall be examined to ensure that the documentation contained therein adequately reflects that proper action has been taken with respect to omissions, waivers, deviations, etc.

(b) Under appropriate circumstances, a contract may be treated as complete (when complete in all other respects) notwithstanding the existence of one or more unresolved contingencies. The determination that such contract will be closed will be made by the contracting officer. The contract file shall be fully documented by memoranda detailing the circumstances connected with the open item(s). No closing action shall be taken when:

(1) A matter awaiting disposition may be anticipated to have a significant impact on performance or consideration; or

(2) Complete disposition may call for substantive action on the part of the Government.

Effective date. Date of publication in the FEDERAL REGISTER.

LEWIS E. WILLIAMS,
Deputy Assistant Secretary Administration.

[F.R. Doc. 68-10854; Filed, Sept. 6, 1968; 8:47 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1003, Corrected]

PART 1033—CAR SERVICE

Illinois Central Railroad Co. Authorized To Operate Over Certain Trackage Abandoned by the Tennessee Central Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held at its office in Washington, D.C., on the 28th day of August 1968.

It appearing, that the Tennessee Central Railway Co., in Finance Docket No. 24964, was authorized by the Commission to abandon its entire line of railroad; that it will cease all operations on August 31, 1968; that the Illinois Central Railroad Co. in Finance Docket No. 25183 has filed an application with the Commission for authority to acquire and operate that portion of the trackage abandoned by the Tennessee Central Railway Co. between the connection of such trackage with the Illinois Central Railroad Co. at Hopkinsville, Ky., and Tennessee Central Railway Co. milepost 9.30 at Nashville, Tenn., including all interchange, industrial, and other auxiliary tracks connected thereto; that the Commission is of the opinion that there is need for railroad service to industries located on this trackage; that operation by the Illinois Central Railroad Co. over this trackage is necessary to provide railroad service to these industries in the interest of the public and the commerce of the people pending final disposition by the Commission of the application of the Illinois Central Railroad Co. in Finance Docket No. 25183; that notice and public procedure herein are impractical and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1003 Illinois Central Railroad Co. authorized to operate over certain trackage abandoned by the Tennessee Central Railway Co.

(a) The Illinois Central Railroad Co. be, and it is hereby, authorized to operate over that portion of the trackage abandoned by the Tennessee Central Railway Co. between the connection of such trackage with the Illinois Central Railroad Co. at Hopkinsville, Ky., and Tennessee Central Railway Co. milepost 9.30 at Nashville, Tenn., including all interchange, industrial, and other auxiliary tracks connected thereto.

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

(c) Rules and regulations suspended: The operation of all rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(d) Effective date: This order shall become effective at 12:01 a.m., September 3, 1968.

(e) Expiration date: The provisions of this order shall expire at 11:59 p.m., December 31, 1968, unless otherwise modified, changed, or suspended by order of this Commission.

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

It is further ordered, That copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-10857; Filed, Sept. 6, 1968; 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 32—HUNTING

Iroquois National Wildlife Refuge, N.Y.

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

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

NEW YORK

IROQUOIS NATIONAL WILDLIFE REFUGE

Public hunting of upland game on the Iroquois National Wildlife Refuge, Basom, N.Y., is permitted from the opening dates of the respective State seasons in 1968 through February 28, 1969, except on areas designated by signs as closed. This open area comprising 10,383 acres is delineated on maps available at refuge headquarters, Basom, N.Y., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Hunting shall be in accordance with all applicable State regulations subject to the following special condition.

(1) A seasonal permit is required for the night-time hunting of raccoon. Permits may be obtained by applying in person at the refuge office.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, as are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through February 28, 1969.

THOMAS A. SCHRADER,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

AUGUST 29, 1968.

[F.R. Doc. 68-10847; Filed, Sept. 6, 1968; 8:47 a.m.]

PART 32—HUNTING

Montezuma National Wildlife Refuge, N.Y.

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

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

NEW YORK

MONTEZUMA NATIONAL WILDLIFE REFUGE

The public hunting of gray squirrels, cottontail rabbits, raccoons, foxes, and opossums is permitted from December 21, 1968, to February 28, 1969, inclusive, on the Montezuma National Wildlife Refuge, N.Y., except on areas designated by signs as closed. The open area, comprising 5,285 acres, is delineated on maps available at refuge headquarters, 4 miles east of Seneca Falls, N.Y., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

Hunting shall be in accordance with all other applicable State regulations governing the hunting of the above mammals. Raccoons and opossums with ear tags or radio transmitters attached must be reported to refuge headquarters.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through February 28, 1969.

THOMAS A. SCHRADER,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

AUGUST 29, 1968.

[F.R. Doc. 68-10849; Filed, Sept. 6, 1968; 8:47 a.m.]

PART 32—HUNTING

Iroquois National Wildlife Refuge, N.Y.

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

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

NEW YORK

IROQUOIS NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Iroquois National Wildlife Refuge, N.Y., is permitted during the regular State open seasons in 1968 except on areas designated by signs as closed. This open area comprising 10,383 acres is delineated on maps available at refuge headquarters, Basom, N.Y., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, as are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1968.

THOMAS A. SCHRADER,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

AUGUST 29, 1968.

[F.R. Doc. 68-10846; Filed, Sept. 6, 1968; 8:46 a.m.]

PART 32—HUNTING

Montezuma National Wildlife Refuge, N.Y.

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

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

NEW YORK

MONTEZUMA NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Montezuma National Wildlife Refuge, N.Y., is permitted except on the areas designated by signs as closed. The open area, comprising 3,639 acres, is delineated on maps available at refuge headquarters, 4 miles east of Seneca Falls, N.Y., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Boston, Mass. 02109. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

(1) The open season is Monday through Friday from November 18 to December 3, 1968, inclusive. Actual dates open are November 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, and December 2, 3, 1968.

(2) Only longbows may be used. No gun hunting will be allowed.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 3, 1968.

THOMAS A. SCHRADER,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

AUGUST 29, 1968.

[F.R. Doc. 68-10848; Filed, Sept. 6, 1968; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Distributions in Lieu of Money

On July 10, 1956, regulations proposed to be prescribed under sections 305(b)(2) and 312 of the Internal Revenue Code of 1954 were published with a notice of proposed rule making in the FEDERAL REGISTER (21 F.R. 5104). On July 1, 1960, Treasury Decision 6476 was published in the FEDERAL REGISTER (25 F.R. 6183) adopting §§ 1.305–2(c) and 1.312–11(a) of such proposed regulations and continuing in effect under notice of proposed rule making § 1.305–2 (a) and (b) thereof, relating to the election of shareholders as to the medium of payment of a dividend. Notice is hereby given that § 1.305–2 (a) and (b) of such proposed regulations is withdrawn.

Further, notice is hereby given that the regulations set forth below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] SHELDON S. COHN,
Commissioner of Internal Revenue.

In order to clarify the Income Tax Regulations (26 CFR Part 1) under section 305(b) of the Internal Revenue Code of 1954, such regulations are amended as follows:

PARAGRAPH 1. Section 1.305–2 is amended by revising paragraph (a) and by inserting a new paragraph (b), to read as follows:

§ 1.305–2 Election of shareholders as to medium of payment.

(a) *General.* (1) Section 305(b)(2) describes certain distributions by a corporation to its shareholders of its stock or rights to acquire its stock which are not within the terms of section 305(a). The distributions described in section 305(b)(2) are distributions with respect to which there is or has been an election as to the medium of payment by any shareholder before or after the declaration date. Where such an election exists, the distribution of the corporation's stock or rights to acquire its stock is not a distribution under section 305(a). Under section 305(b)(2), such distribution (whether actual or constructive) is treated the same as a distribution of property to the shareholder followed by a purchase of the stock or rights to acquire stock with such property.

(2) A distribution by a corporation to its shareholders of its stock or rights to acquire its stock is not under section 305(a) if any shareholder may exercise or has exercised an election or option with respect to whether a distribution shall be made either in money or any other property, or in stock or rights to acquire the stock of the corporation, regardless of—

(i) Whether the distribution is actually made in whole or in part in stock or in stock rights;

(ii) Whether the election or option governing the nature of the distribution is exercised or exercisable before or after the declaration of the distribution;

(iii) Whether the declaration of the distribution provides that the distribution will be made in one medium unless the shareholder specifically requests payment in the other;

(iv) Whether the election governing the nature of the distribution is provided in the declaration of the distribution or in the corporate charter or arises from the circumstances of the distribution; or

(v) Whether all or part of the shareholders may exercise or have exercised an election that will determine the nature of the distribution.

(b) *Nature of election.* (1) Section 305(b)(2) refers to every election, whether express or implied, regardless of how or when exercised or exercisable. An election is a choice to receive payment in one medium or another. The point in time at which such choice is made, whether before or after the declaration, is immaterial as long as at some point in time any shareholder, either by action or inaction, has made a choice which permitted the corporation to distribute stock or stock rights with respect to some shares and money or other property with respect to other shares. A choice to receive payment in one medium or another may arise out of the terms of the declaration, the provisions of the corporate charter, the provisions of the stock certificates, or the circumstances of the transaction. A choice may be exercisable directly or indirectly through action by the shareholder or through his failure to act. For example, if some shareholders agree, expressly or impliedly, to accept distributions in stock or stock rights with respect to their common stock notwithstanding the distribution of money or other property with respect to other common stock, any distributions of stock or stock rights with respect to some but not all of the corporation's common stock would be outside the provisions of section 305(a). Similarly, it is immaterial whether the right to demand cash was waived before or after the declaration date, by private agreement, by the terms of the charter, or otherwise. Where a corporation having two types of common stock outstanding, with respect to which dividends may be paid in stock on one type and in money (or other property) on the other type, makes a distribution (or series of related distributions) in money (or other property) as to one type and in stock (or rights to acquire stock) as to the other, the distribution of the stock is not under section 305(a) since, in substance, there is a choice as to the medium of payment of any distribution by virtue of the existence of the two types of common stock, shares of either of which may be exchanged for shares of the other under section 1036 without recognition of gain or loss.

(2) The application of the above rules may be illustrated by the following examples:

Example (1). Pursuant to a recapitalization (to which section 368(a)(1)(E) applies) all of the outstanding shares of common stock of corporation X are surrendered in exchange for Type A common stock and Type B common stock. Some shareholders choose to receive only Type A stock, some shareholders choose to receive only Type B stock, and some shareholders choose to receive some of each. Dividends may be paid in stock or in cash on either type of stock without regard to the medium of payment of dividends on the other type. A dividend is declared upon the Type A stock payable in additional shares of Type A stock and a dividend is declared on the Type B stock payable in cash. Section 305(a) does not apply to the stock distributed to the Type A shareholders.

Example (2). Pursuant to a recapitalization (to which section 368(a)(1)(E) applies) all of the outstanding shares of common stock of corporation Y are surrendered in exchange for Type A common stock and Type B common stock; every shareholder receiving one share of Type A stock and one share of Type B stock in exchange for each share of the common stock surrendered by him. Dividends may be paid in stock or in cash on either type of stock without regard to the medium of payment of dividends on the other type. After the recapitalization, and before any of the Type A or Type B stock has been transferred, a dividend is declared on the Type A stock payable in additional shares of Type A stock and a dividend is declared on the Type B stock payable in cash. Section 305(a) does not apply to any of the stock distributed to the Type A shareholders. The same result would follow if, before the dividend declaration, some of the Type A or Type B stock had been transferred.

Example (3). (i) On January 1, 1967, pursuant to a reorganization to which section 368(a)(1)(B) applies, corporation N, which has only Type A common stock outstanding, acquires all of the outstanding stock of corporation M solely in exchange for its newly issued Type B voting common stock. Each Type B share may be converted, at the option of the holder, into Type A shares. During the first year following the reorganization, the conversion ratio is one share of Type A stock for each share of Type B stock. At the beginning of each subsequent year, the conversion ratio is increased by 0.04 shares of Type A stock for each share of Type B stock. Thus, during the second year the conversion ratio would be 1.04 shares of Type A stock for each share of Type B stock, during the third year the ratio would be 1.08 shares, etc. However, if the cash dividend paid on the Type A stock in any one year is less than $1 per share, then the increase in the conversion ratio that would otherwise occur at the beginning of the following year will be reduced by an amount which is proportionate to the amount by which such dividend falls short of the $1 per share.

(ii) During 1967, a $0.50 cash dividend per share is declared and paid on the Type A stock of corporation N. On January 1, 1968, when the conversion ratio is increased to 1.02 shares of Type A stock for each share of Type B stock, a distribution is considered as made with respect to each share of Type B stock of a right to acquire 0.02 share of Type A stock. Section 305(a) does not apply to the distribution of this right.

Example (4). (i) On January 1, 1967, pursuant to a reorganization to which section 368(a)(1)(B) applies, corporation P, which has only Type A common stock outstanding, acquires all of the outstanding stock of corporation O solely in exchange for its newly issued Type B voting stock. Each Type B share, which is labeled "preferred stock" and has a preference on liquidation, is convertible, at the option of the holder, into one share of Type A stock. However, this ratio is decreased each time a cash dividend is paid on the Type B stock. The amount of Type A stock into which each Type B share may be converted at any time is determined by the following fraction:

$$\frac{\text{Market value of a share of Type A stock on January 1, 1967}}{\text{Market value of a share of Type A stock on January 1, 1967, plus the total cash dividends paid per Type B share since January 1, 1967}}$$

The conversion ratio is also adjusted in the event that cash dividends are paid on the Type A stock.

(ii) On December 31, 1967, a $1 cash dividend per share is declared and paid on the Type B stock of corporation P. On such date, when the conversion ratio is decreased, a distribution of stock is considered as made with respect to each share of Type A stock reflecting each such share's increased equity in P. Section 305(a) does not apply to this distribution.

* * * * *

PAR. 2. Section 1.305-3 is revised to read as follows:

§ 1.305-3 Distributions in discharge of preference dividends.

(a) A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall be treated as a distribution of property to which section 301 applies to the extent that the distribution is made in discharge of preference dividends for the taxable year of the corporation in which the distribution is made or for the preceding taxable year.

(b) If, in the case of a corporation having two or more classes of outstanding stock, the terms of one class require, in all events, annual distributions with respect to it of stock or rights to acquire stock, then the stock of such class is preferred stock. Such a distribution of stock or rights with respect to the preferred stock is a distribution made in discharge of preference dividends. The principles of this paragraph may be illustrated by the following examples:

Example (1). On January 1, 1967, corporation X, a calendar year taxpayer, is organized. On such date, X has outstanding Class A and Class B stock. The terms of the Class B stock require that a distribution of one share of Class A stock be made annually with respect to each 20 shares of Class B stock, regardless of whether any distribution is made on the Class A stock. During 1967, the required dividend in Class A shares is declared and paid on the Class B stock. The Class B stock is preferred stock, and the distribution of Class A shares is a distribution made in discharge of preference dividends for 1967.

Example (2). (i) On January 1, 1967, corporation Y, a calendar year taxpayer, is organized. On such date, Y has outstanding Class A and Class B stock. The Class B stock may be converted, at the option of the holder, into Class A stock. During 1967, the conversion ratio is one share of Class A stock for each share of Class B stock. At the beginning of each subsequent year, the conversion ratio is increased by 0.05 shares of Class A stock for each share of Class B stock, regardless of whether any distributions are made with respect to the Class A stock. Thus, during 1968 the conversion ratio would be 1.05 shares of Class A stock for each share of Class B stock, during 1969 the ratio would be 1.10 shares, etc.

(ii) On January 1, 1968, when the conversion ratio is increased to 1.05 shares of Class A stock for each share of Class B stock, a distribution is considered as made with respect to each share of Class B stock of a right to acquire 0.05 shares of Class A stock. The Class B stock is preferred stock, and the distribution of rights on January 1, 1968, is a distribution made in discharge of preference dividends for 1968.

[F.R. Doc. 68-10845; Filed, Sept. 6, 1968; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 925]

HANDLING OF FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN IDAHO AND IN MALHEUR COUNTY, OREG.

Notice of Proposed Rule Making With Respect to Approval of Expenses and Fixing of Rate of Assessment for 1968–69 Fiscal Period

Consideration is being given to the following proposals submitted by the Idaho-Malheur County, Oreg., Fresh Prune Marketing Committee, established under the marketing agreement and Order No. 925 (7 CFR Part 925), regulating the handling of fresh prunes grown in designated counties in Idaho and in Malheur County, Oreg., effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) Expenses that are reasonable and likely to be incurred by the Idaho-Malheur County, Oreg., Fresh Prune Marketing Committee, during the period July 1, 1968, through June 30, 1969, will amount to $5,095.

(2) That there be fixed, at $0.005 per one-half bushel or equivalent quantity of fresh prunes, the rate of assessment payable by each handler in accordance with § 925.41 of the aforesaid marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112A, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: September 4, 1968.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 68-10870; Filed, Sept. 6, 1968; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 298]

[Docket No. 19352; EDR-144]

CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Reporting Requirement and Designation of Scheduled Air Taxi Operators; Supplemental Notice

SEPTEMBER 3, 1968.

Notice is hereby given that the Civil Aeronautics Board has under consideration a proposed amendment of Part 298 of its economic regulations which would require scheduled air taxi operators to file traffic reports with the Board and which would designate these operators as "scheduled small aircraft operators."

The principal features of the proposed amendment are described in the attached explanatory statement and the proposed amendment is set forth in the attached proposed rule. The amendment is proposed under the authority of sections 204(a), 407 and 416 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 766, and 771; 49 U.S.C. 1324, 1377, and 1386).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before October 22, 1968, 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 712, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

Explanatory statement. In EDR–130, issued December 5, 1967, the Board proposed that air taxi operators be required to carry liability insurance and register with the Board. At the same time, the Board decided not to act on reporting requirements for air taxi operators which had been proposed by some operators. The notice acknowledged the possible value of the requirements, but stated that the Board wished to search for less burdensome means of obtaining useful information on these operations.

The minimal registration requirements for all operators proposed in EDR–130 was, in part, a first step in this direction. Upon further consideration of the documents received in response to EDR–130 and of the Board's needs for information, we have now tentatively determined that scheduled air taxi operators should file traffic data with the Board. These operators probably perform the bulk of air taxi operations, and thus appear to provide the most appropriate source for gathering information about the industry initially.

The report, which would be filed quarterly, is relatively simple but would provide the Board with basic information on traffic and patterns of service. The first part of the report will list the types and capacities of the aircraft operated by each carrier. The second will indicate the number of passengers and pounds of freight and mail carried in each direction between each pair of points in scheduled service. A third part of the report will indicate the routings which the carrier serves and the number of scheduled flights on each routing during the reporting quarter. Attached to the report would be a copy of the carrier's most recent published flight schedules and a statement as to rates and fares.[1]

The Board has tentatively determined that air taxi operators which perform scheduled services and are subject to the above reporting requirements would be designated as "scheduled small aircraft operators." Consideration will be given to any other names which may be suggested by interested persons.

Proposed rule. It is proposed to amend Part 298 of the Economic Regulations (14 CFR Part 298) as follows:

1. By amending § 298.2 to include a designation for scheduled air taxi operators to read as follows:

§ 298.2 Definitions.

As used in this part:

* * * * *

"Point" when used in connection with any territory or possession of the United States, or the States of Alaska and Hawaii, means any airport or place where aircraft may be landed or taken off, including the area within a 25-mile radius of such airport or place; when used in connection with the continental United States, except Alaska, it shall have the same meaning except be limited to the area within a 3-mile radius of such airport or place: *Provided,* That for the purposes of this part, West 30th Street Heliport and Pan Am Building Heliport, both located in New York City, shall be regarded as separate points.

"Scheduled small aircraft operator" means an air taxi operator performing service between two or more points pursuant to (a) published flight schedules which specify the times, days of the week and places between which such flights are performed; or (b) a contract with the Post Office Department for the transportation of mail.

"Tourist sightseeing service" means an air-surface sightseeing tour in Hawaii which originates and terminates at the city of Honolulu and is scheduled to be completed within an 18-hour period and in which (a) there is a minimum of three scheduled aircraft stops at places other than Honolulu, (b) stopovers are not permitted except as required by the tour itineraries, and (c) the price of the tour includes round-trip air transportation via all scheduled stops, all ground transportation services at the stops and all meals during the tour.

2. By adding the following Subpart G to Part 298:

Subpart G—Reporting of Scheduled Operations

§ 298.60 Report of scheduled air taxi operations.

(a) Each "scheduled small aircraft operator" shall file CAB Form ______,[2] entitled "Report of Scheduled small aircraft operations" in accordance with the provisions of this part and in the manner set forth in said form, which is made a part hereof and annexed hereto. Attached to this report shall be a copy of the carrier's most recent published flight schedules,[2] along with a statement of rates and fares charged for transportation on scheduled flights.

(b) CAB Form ______ shall be prepared for the quarter ending March 31, June 30, September 30, and December 31 of each calendar year. It shall be completed in triplicate and filed with the Board (i.e., postmarked) not more than forty (40) days after the end of each calendar quarter, and shall be addressed to the Civil Aeronautics Board, Attention of the Bureau of Accounts and Statistics, Washington, D.C. 20428.

§ 298.61 Extension of filing time.

If circumstances prevent the filing of a report within the prescribed time limit, consideration will be given to the granting of an extension upon receipt of a written request therefor. Such a request must give a sufficient reason for granting the extension, set forth the date when the report can be filed, and be submitted sufficiently in advance of the due date to permit proper time for consideration and communication to the carrier of the action taken. Except in cases of emergency, no request for extension will be entertained which is not received in sufficient time to enable the Board to pass thereon before the prescribed due date. If a request is denied, the carrier remains subject to the filing requirements to the same extent as if no request for extension had been made.

§ 298.62 Certification.

The certificate contained in CAB Form ______[2] shall be executed by the officer in charge of the carrier's accounts.

§ 298.63 Reporting instructions.

(a) Schedules A–1, T–1, and T–2 of CAB Form ______[2] shall be filed quarterly by each reporting carrier. The information included in each shall cover only flights performed pursuant to published schedules or contracts with the Post Office Department for the transportation of mail.

(b) Schedule A–1 shall describe the aircraft used in scheduled service or mail service by the carrier.

(1) Column (1) shall set forth the aircraft license number of each aircraft.

(2) Column (2) shall set forth the type and model of each aircraft listed in Column (1).

(3) Column (3) shall set forth the capacity in passenger seats of each aircraft.

(4) Column (4) shall set forth the total cargo capacity in pounds of each aircraft.

(c) Schedule T–1 shall set forth the traffic carried, in each direction, between the points served by the carrier's operation.

(1) *Definitions.* On-line origin is the point of initial boarding of traffic on the reporting carrier's operation. On-line destination is the point of final deplanement of traffic in the reporting carrier's operation.

(2) Columns (1) and (2) shall reflect the points of on-line origin and on-line destination, respectively, of traffic which was carried during the reporting period.

(3) Columns (3), (4), and (5) shall reflect the total number of revenue pas-

[1] A similar proposed requirement will be deleted from the registration proposal in EDR–130, if this reporting proposal is finalized. Furthermore, a separate registration form will be devised for the scheduled operators.

[2] Form and schedules filed as part of the original document.

sengers, pounds of cargo, and pounds of mail, respectively, carried from the point of on-line origin to the point of on-line destination shown in columns (1) and (2).

(d) Schedule T-2 shall set forth all routings for scheduled and mail flights performed by the reporting carrier, with the number of flights performed and the aircraft type(s) used on each routing.

(1) Column (1) shall set forth the origin point of each routing.

(2) Column (2) shall set forth the intermediate points on each routing whose origin is listed in Column (1). When there are two or more intermediate points on a routing they should be listed from top to bottom in the order in which the stops are performed.

(3) Column (3) shall set forth the destination point of the routing.

(4) Column (4) shall set forth the total number of flights performed in the reporting quarter over the routing indicated in Columns (1)-(3).

(5) Column (5) shall set forth the type of aircraft used on the routing.

[F.R. Doc. 68-10851; Filed, Sept. 6, 1968; 8:47 a.m.]

FEDERAL MARITIME COMMISSION

[46 CFR Part 514]

[Docket No. 67-57]

SIGNIFICANT VESSEL OPERATING COMMON CARRIERS IN THE DOMESTIC OFFSHORE TRADE

Reports of Rate Base and Income Account; Notice of Oral Argument

SEPTEMBER 3, 1968.

Oral argument in this proceeding will be heard on October 7, 1968, beginning at 9:30 a.m., in Room 114, 1321 H Street NW., Washington, D.C.

Interested persons are requested to notify the Secretary on or before September 20, 1968, as to the amount of time desired for argument. Persons requesting time should consider coordinating their arguments in order to avoid duplicative and overlapping statements.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-10873; Filed, Sept. 6, 1968; 8:49 a.m.]

Notices

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

AMERICAN MEDICAL ASSOCIATION ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

A copy of each comment filed with the Director of the Scientific Instrument Evaluation Division must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 69-00115-33-45600. Applicant: American Medical Association, Education and Research Foundation, 535 North Dearborn Street, Chicago, Ill. 60610. Article: Ultramicrotome, LKB 8800 Ultrotome III. Manufacturer: LKB produkter AB, Sweden. Intended use of article: The article will be used to produce ultrathin sections for electron microscopic examination of nervous tissue. In the nervous tissue, the primary study is synaptology. Because the continuity between nervous tissue elements is of primary concern, there is a need for extremely thin sections to determine the specific relationship between these synapsing structures. Application received by Commissioner of Customs: August 15, 1968.

Docket No. 69-00116-00-77040. Applicant: Iowa State University, Ames Iowa 50010. Article: Spectrometer attachment for an existing electron microscope. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used to upgrade an existing electron microscope to a high performance, research level instrument, as required for current research. Application received by Commissioner of Customs: August 18, 1968.

Docket No. 69-00117-00-77040. Applicant: Iowa State University, Ames, Iowa 50010. Article: Decontamination device, No. 171085 for an existing electron microscope. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used to upgrade an existing electron microscope to a high performance, research level instrument, as required for current research. Application received by Commissioner of Customs: August 18, 1968.

Docket No. 69-00120-00-66700. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: Spare parts for prevost projector. Manufacturer: Prevost, Italy. Intended use of article: The article will be used as spare parts for an existing prevost projector. Application received by Commissioner of Customs: August 19, 1968.

Docket No. 69-00122-33-39400. Applicant: Research and Education Foundation, Orange County Medical Center, 101 South Manchester Avenue, Orange, Calif. 92668. Article: Illuminator, Model A.87.110 and Accessories. Manufacturer: Drapier Instruments, France. Intended use of article: The article will be used to study the in vivo microcirculation of the stomach of the rat. A method for that purpose has been developed in our laboratory. As part of the method, a fiberoptic light carrier is introduced in the stomach of the rat and the behavior of the gastric vessels and blood flow studied through the microscope. Application received by Commissioner of Customs: August 19, 1968.

Docket No. 69-00124-33-46500. Applicant: University of Michigan, Rackham Arthritis Research Unit, 4633 Kresge Medical Research Building, Ann Arbor, Mich. 48104. Article: Ultramicrotome, LKB 8800A Ultrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in connection with studies linked to Synovial fibroblasts grown in tissue culture, from both normal and rheumatoid patients. A study is currently underway defining the differences between the two groups of cells at the ultrastructural level. For this purpose, thin sectioning is required, for observation under the electron microscope. Application received by Commissioner of Customs: August 19, 1968.

Docket No. 69-00126-33-46500. Applicant: Medical College of Virginia, 1200 East Broad Street, Richmond, Va. 23219. Article: Ultramicrotome, LKB 8800A Ultrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in connection with studies designed to gain an understanding of the ultrastructure of the pathology of a variety of clinical and experimental induced renal lesions. The specific aims of the program are as follows:

1. To study the ultrastructure of the normal human kidney through the evaluation of tissue obtained from healthy related living volunteer donors during surgical removal of their kidney for transplantation.
2. To study the ultrastructural derangements of acute tubular necroses by analyzing renal biopsies of freshly transplanted kidneys which subsequently develop oliguria.
3. To obtain more information concerning the nature of renal homograft rejection through the analysis of sequential biopsies by exploring the nature of the lesions induced by passive transfer into the squirrel monkey of human sera obtained following transplant nephrectomy for rejection.
4. To correlate structural arteriolar changes with those observed by microradiological techniques in rejecting transplants in the dog.
5. To study the nature of cardiac transplant rejection in the dog.
6. To determine the rapidity of ultrastructural changes in rat kidneys on isolated perfusion.

Application received by Commissioner of Customs: August 19, 1968.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 68-10859; Filed, Sept. 6, 1968; 8:48 a.m.]

MEDICAL COLLEGE OF VIRGINIA ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

A copy of each comment filed with the Director of the Scientific Instrument Evaluation Division must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68-00596-33-46500. Applicant: Medical College of Virginia, Medical Education Building, 11th and Marshall Sereets, Richmond, Va. 23219. Article: Ultramicrotome, LKB 8800A Ultrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in studies concerning the fine structure of the kidney and large arteries in experimental hypertension and the effect of hyperlipemia on blood platelets. These require tissues to be prepared for electron microscopy and large numbers of thin sections to be cut of equal thickness. It is of importance that the operator be able to change the cutting thickness in the range of 50 Angstroms to 2 Microns easily and quickly. Application received by Commissioner of Customs: May 20, 1968.

Docket No. 69-00063-33-46040. Applicant: New York State Department of Medical Hygiene, Institute for Basic Research in Mental Retardation, 1050 Forest Hill Road, Staten Island, N.Y. 10314. Article: Electron microscope, Model EM300. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used to investigate various organelles of the nervous system synapses. Application received by Commissioner of Customs: July 26, 1968.

Docket No. 69-00090-87-07700. Applicant: The Ohio State University, 190 North Oval Drive, Columbus, Ohio 43210. Article: Aerial survey wide angle camera, Model RMK-AR 15/23. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The article will be used in connection with education in the field of Geodetic Science. It is intended to be used in the instruction of senior undergraduate and graduate students in advanced photogrammetry. This would include class work, laboratory work and graduate research connected with M. Sc. theses and Ph. D. dissertations. It is considered that the acquisition of this type of camera is essential to provide the students with a means of investigating integrated systems. Application received by Commissioner of Customs: August 7, 1968.

Docket No. 69-00096-67-46040. Applicant: Vanderbilt University, Materials Science Division, School of Engineering, Nashville, Tenn. 37203. Article: Electron microscope, Model EM300. Manufacturer: N.V. Philips Gloeilampenfabrieken, The Netherlands. Intended use of article: The article will be used for research projects calling for a complete description of the metallurgical state of the alloys being studied. These studies include the microstructural details of the dislocations, stacking faults, grain boundaries and precipitate phases present, the nature of the interface between phases present in the alloys and the relative crystallographic orientations of the various phases. Application received by Commissioner of Customs: August 9, 1968.

Docket No. 69-00103-01-77030. Applicant: University of South Florida, 4202 Fowler Avenue, Tampa, Fla. 33620. Article: Nuclear magnetic resonance spectrometer, Model JNM-4H-100. Manufacturer: Japan Electron Optics Laboratory, Ltd., Japan. Intended use of article: The article will be used for the following studies:

a. Proton study of metal-free porphyrins, diamagnetic metal porphyrins, and their derivatives continuing earlier studies in hemes and hemeproteins, and magnetic resonance in biological systems.

b. Proton study of paramagnetic porphyrins and hemeproteins covering at least 100 p.p.m. to both high and low field tetramethylsilane (TMS) utilizing wide sweeps in the locked mode and eliminating unwanted side bands making possible the more meaningful study of earlier attempts along this line.

c. Fluorine (F^{19}) study of fluoroporphyrin and fluorine containing ligands bound to hemeproteins where the capability for rapid interchange between proton and F^{19} probes is essential.

d. Phosphorus (P^{31}) studies of biologically important phosphorus compounds and their interactions with proteins utilizing external lock 10mm spinning tubes at variable temperature.

e. Wide line studies using 18-mm. sample tubes.

f. Carbon (C^{13}) studies with porphyrin and with protein when possible utilizing the advantages of large diameter tubes.

g. Routine structure determination using Hydrogen (H^1) plus F^{19} and C^{13} on occasion.

Application received by Commissioner of Customs: August 12, 1968.

Docket No. 69-00113-63-46040. Applicant: Michigan State University, East Lansing, Mich. 48823. Article: Electron microscope, Model EM 9A. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The article will be used for teaching and training of students and staff in the Department of Botany and Plant Pathology in the uses of electron microscopy and development of methods of material preparation peculiar to the problems and/or organisms under study. Projected use is expected to include utilization by the Department's extension group as an aid in diagnosis of plant viral disease. Application received by Commissioner of Customs: August 15, 1968.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 68-10860; Filed, Sept. 6, 1968; 8:48 a.m.]

NORTHWESTERN UNIVERSITY AND COLUMBIA UNIVERSITY

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

A copy of each comment filed with the Director of the Scientific Instrument Evaluation Division must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 69-00095-65-46500. Applicant: Northwestern University, 619 Clark Street, Room 120, Evanston, Ill. 60201. Article: Ultramicrotome, LKB 4800A Ultrotome I. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in connection with research that deals with the morphology and internal structure of high polymer in the solid state. In order to study the internal microstructure of polymers under the electron microscope, a microtome capable of cutting ultrathin serial sections of equal thickness is necessary. The thickness of these sections should be easily chosen by the operator between 50 Angstroms and 2 microns. Application received by Commissioner of Customs: August 7, 1968.

Docket No. 69-00101-33-46500. Applicant: Columbia University, Francis Delafield Hospital, 99 Fort Washington Avenue, New York, N.Y. 10032. Article: Ultramicrotome, Model LKB 8800A Ultrotome III and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in connection with studies concerning mitochondrial structure. Various tissues are being studied from diabetic and insulin treated animals. The ultrathin sections needed for the experiments must be prepared in long series and it is very important that they be of equal thickness for observation under the electron microscope. It is imperative that the operator of the ultramicrotome be able to quickly and easily change the cutting thickness anywhere from 50 Angstroms to 2 microns. Application received by Commissioner of Customs: August 9, 1968.

Docket No. 69-00102-33-46500. Applicant: Northwestern University, Cresap Biology Laboratory, Evanston, Ill. 60201. Article: Ultramicrotome knife maker combination, Model LKB 8800 Ultrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in connection with work which involves reconstruction of the three dimensional morphology of submicroscopic structures of tissues. Research projects include the development of female *Drosophila* reproductive system and the division and differentiation of *Drosophila* cystocytes. To perform these experiments, the applicant requires serial ultrathin sections of equal thickness within the range of 50 Angstroms to 2 microns. Application received by Commissioner of Customs: August 9, 1968.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 68-10861; Filed, Sept. 6, 1968; 8:48 a.m.]

VIRGINIA POLYTECHNIC INSTITUTE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 68-00365-01-77030. Applicant: Virginia Polytechnic Institute, Blacksburg, Va. 24061. Article: Nuclear magnetic resonance spectrometer, Model JNM-C-60H. Manufacturer: Japan Electron Optics Laboratory Co., Inc. Intended use of article: The article will be used to study association equilibrium constants for intermolecular complexes as a function of temperature and solvent; the study of intermolecular interactions and their relationship to solvent-dependent chemical shifts and spin-spin coupling; determination of the colored states of photochromic and thermochromic compounds at high and low temperatures; the study of the electronic structure of molecules and the theory of spin-spin coupling, necessitating the determination of relative signs of coupling constants; the high-temperature study of polymer solutions, which are very viscous at low temperature; routine structure determination, which necessitates observing resonance of nuclei other than protons (especially F^{19} and C^{13}); instructional use in connection with analytical chemistry and/or instrumental analysis laboratory courses; and studies of C^{13} chemical shifts to aid theoretical work on the electronic structure of molecules. Comments: Comments have been received from one domestic manufacturer, Varian Associates (Varian), which alleges inter alia that: "The Varian HA-60IL, a high-resolution NMR (nuclear magnetic resonance) system of domestic manufacture and proven design, is scientifically equivalent if not superior on all respects to the JEOL JNM-C-60H." (Page 1, Item No. 3, comments of Varian Associates attached to letter dated Mar. 15, 1968.) Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article employs both an internal and external lock, whereas the Varian Model HA-60 is provided with either an internal lock (Model HA-60IL) or external lock (Model HA-60EL), but not both. (See page 9 of Varian's comments cited above, for reasons why Varian does not furnish a nuclear magnetic resonance spectrometer with both internal and external locks.) We have been advised by the National Bureau of Standards (NBS) in this connection as follows: "An instrument providing only one mode of operation cannot be used to make precise measurements in all of the different experiments listed by the applicant. Some of the experiments require an external lock in order to make accurate measurements, others can be done using the internal lock which actually allows superior measurements when it can be used." (NBS memorandum dated Apr. 10, 1968.) "However, there are circumstances in which the internal lock cannot be used. In these cases, the experiment could not be performed if the external lock capability is not available. Among the experiments that the Applicant intends to perform are two that cannot be performed with internal lock: (1) The internal lock cannot be used for the study of association equilibrium constants for intermolecular complexes as a function of temperature and solvent because of the danger of interaction between the specimen and the standard; and (2) The internal lock cannot be used for the high-temperature study of polymer solutions because of the difficulty of dissolving the standard into the viscous polymer." (NBS memorandum dated May 14, 1968.)

For the foregoing reasons, we find that the Varian Model HA-60-IL is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 68-10862; Filed, Sept. 6, 1968; 8:48 a.m.]

WASHINGTON STATE UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientfic, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

A copy of each comment filed with the Director of the Scientific Instrument Evaluation Division must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 69-00071-89-77040. Applicant: Washington State University, Pullman, Washington 99163. Article: Mass spectrometer, Model GD-150. Manufacturer: Varian-Mat (Division of Varian Associates), West Germany. Intended use of article: The article will be used for the following research projects:

(a-1) Geophysical research with special emphasis on hydrology. Here, the instrument will be used for the determination of isotope ratios (C^{13}/C^{12}, D^2/H, O^{18}/O^{16}) in age-dating of aquifers. The purpose of such studies is to determine the recharge rates of ground water aquifiers.

(a-2) Soils research personnel wish to use the instrument for nitrogen-15 (N^{15}) tracer studies on the transformation of nitrogen in soils. They are also interested in C^{13} and O^{18} analyses.

(b) Radiocarbon age-date determinations. The instrument will be used for C^{13}/C^{12} ratios as such information is necessary to determine the origin (limestone or plant material) of the carbon. This applies to archeological as well as hydrological age-dating.

(c) Air pollution problems in which sulphur dioxide gas is involved: samples of SO_2 will be analyzed in point-source studies on air pollutants.

(d) Other gas analysis studies on as yet undetermined research problems.

(e) The instrument will be used in the training of graduate students or will be employed by them in their research.

Application received by Commissioner of Customs: July 29, 1968.

Docket No. 69-00075-33-46500. Applicant: Massachusetts General Hospital, Fruit Street, Boston, Mass. 02114. Article: Ultramicrotome, Model LKB 8800 Ultrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to prepare serial sections of equal thickness of brains of different gestational ages for phase and electron microscopy in connection with the study of fine structure of normally and abnormally developing brains. Application received by Commissioner of Customs: July 30, 1968.

Docket No. 69-00076-33-46500. Applicant: Vanderbilt University, Nashville, Tenn. 37203. Article: Ultramicrotome, LKB 8800 Ultrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in connection with studies of the ultrastructure and cytochemistry of a number of parasitic helminths. Ultrathin sections are required in long series and must be cut in equal thickness throughout for electron microscopy. Further, it is anticipated that the results of studying the chemistry of certain organelles found in these parasitic worms will allow the applicant to better understand the relationship of these animals to their various hosts (humans, in some instances). Application received by Commissioner of Customs: July 30, 1968.

Docket No. 69-00077-33-46500. Applicant: Cleveland Clinic Foundation, 2020 East 93d Street, Cleveland, Ohio 44106. Article: Ultramicrotome, Model LKB 8800A Ultrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in connection with studies concerning ultrastructural changes in early coronary artery disease. Human coronary arteries are obtained while autologous veins are used to replace the segment of diseased artery after careful clinical and cineangiographic evaluation. Serial sections of each specimen must be obtained routinely to study under the electron microscope cellular and extracellular changes occurring in early stages of coronary artery disease. Application received by Commissioner of Customs: July 30, 1968.

Docket No. 69-00078-00-46040. Applicant: University of Arkansas Medical Center, Department of Anatomy, Little Rock, Ark. 72201. Article: Shutter/Exposure meter, Specimen Airlock with Beam Alignment, Universal Plate and Film Camera for Elmiskop IA Electron microscope. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used as an accessory to an existing electron microscope for measuring exact exposure time. Application received by Commissioner of Customs: July 31, 1968.

Docket No. 69-00081-33-46040. Applicant: Veterans Administration Hospital, University Drive C, Pittsburgh, Pa. 15240. Article: Electron microscope, EM 300. Manufacturer: N.V. Philips, Gloeilampenfabrieken, The Netherlands. Intended use of article: The use of this instrument is for the study of human and animal tissues. These studies are done to see if there are any changes in the fine structure of the material and if there are any deposits and to enable the viewer to identify the material which would require the instrument to give very high magnification and very good resolution of at least 5Å or better in order to add more value to the studies. Some of the studies are the effects of the anti-metabollites on tumor cells; investigation of Juxta Glomerulàr Granules in Renal and other forms of hypertension; localization of enzymes by combining Histo-Chemical and electron microscopic techniques. Application received by Commissioner of Customs: August 1, 1968.

Docket No. 69-00083-33-46040. Applicant: Washington University School of Medicine, 660 South Euclid Avenue, St. Louis, Mo. 63110. Article: Electron microscope, Model EM 300, and Accessories. Manufacturer: Philips Electronic Instruments Inc., The Netherlands. Intended use of article: The article will be used for basic morphological research programs over the next 3 or 4 years. These programs include studies of synaptic structure and organization; fine structural studies of the amphibian optic tectum; and studies of experimentally induced neuronal degeneration. In addition to the above investigations the instrument will be used by other members of the Department of Anatomy who are actively involved in research in reproductive anatomy and cell biology. It will also be used for teaching at the graduate and post-doctoral levels. Application received by Commissioner of Customs: August 5, 1968.

Docket No. 69-00085-01-77030. Applicant: Georgia Institute of Technology, 225 North Avenue NW., Atlanta, Ga. 30332. Article: Nuclear magnetic resonance spectrometer, Model JNM-4H-100. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used for education of graduate students, further training of postdoctoral fellows, and fundamental research in the general areas of analytical, inorganic, organic, and physical chemistry. Application received by Commissioner of Customs: August 5, 1968.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 68-10863; Filed, Sept. 6, 1968; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

IDAHO, NORTH CAROLINA, AND UTAH

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of Idaho, North Carolina, and Utah, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

IDAHO

Gem.

NORTH CAROLINA

Duplin. Wake.

UTAH

Sanpete.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1969, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 4th day of September 1968.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 68-10833; Filed, Sept. 6, 1968; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[Interim Policy Statement No. 11]

DIRECT PAYMENTS TO RECIPIENTS FOR PHYSICIANS' OR DENTISTS' SERVICES

Notice of Interim Policies and Requirements

Notice is hereby given that the regulations set forth below (made pursuant to section 1102 of the Social Security Act, 42 U.S.C. 1302) prescribe certain interim policies and requirements for Social and Rehabilitation Service programs which were approved, in a policy statement with binding effect on States, on June 28, 1968, by the Administrator, Social and Rehabilitation Service. Interested persons who wish to submit comments, suggestions, or objections pertaining thereto may present their views in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence

Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of these interim policies and requirements in the FEDERAL REGISTER. The final regulations will be codified in Title 45 of the Code of FEDERAL Regulations.

Dated: July 26, 1968.

[SEAL] MARY E. SWITZER,
Administrator, Social and Rehabilitation Service.

Approved: August 30, 1968.

WILBUR J. COHEN,
Secretary.

1. *Subject.* Direct payments to recipients for physicians' or dentists' services.

2. *Purpose.* To implement section 1905(a) of the Social Security Act, as amended by section 230 of Public Law 90-248.

3. *Regulation—A. State plan requirements.* If a State elects to make direct payments to individuals who are not receiving assistance under the State's plan approved under titles I, X, XIV, XVI, or part A of title IV, for physicians' or dentists' services, the State plan must so provide and must specify the conditions under which payments will be made.

Such payments to individuals are in all respects viewed as an alternative to payments made by the State agency directly to the physicians or dentists, and are subject to the same conditions. For example, the payments may not exceed the reasonable charge for such services established by the single State agency.

B. *Federal financial participation.* Effective January 2, 1968, Federal financial participation is available for direct payments to individuals who are not receiving assistance under the State's plan approved under titles I, X, XIV, XVI, or part A of title IV, for physicians' or dentists' services in those States which elect to make such direct payments. Direct payments must be supported by medical bills for services provided under the plan.

[F.R. Doc. 68-10836; Filed, Sept. 6, 1968; 8:46 a.m.]

[Interim Policy Statement No. 12]

FINANCIAL ELIGIBILITY—MEDICAL ASSISTANCE PROGRAM—MEDICALLY NEEDY

Notice of Interim Policies and Requirements

Notice is hereby given that the regulations set forth below (made pursuant to section 1102 of the Social Security Act, 42 U.S.C. 1302) prescribe certain interim policies and requirements for Social and Rehabilitation Service programs which were approved, in a policy statement with binding effect on States, on July 15, 1968, by the Administrator, Social and Rehabilitation Service. Interested persons who wish to submit comments, suggestions, or objections pertaining thereto may present their views in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201 within a period of 30 days from the date of publication of these interim policies and requirements in the FEDERAL REGISTER. The final regulations will be codified in Title 45 of the Code of Federal Regulations.

Dated: July 26, 1968.

[SEAL] MARY E. SWITZER,
Administrator, Social and Rehabilitation Service.

Approved: August 30, 1968.

WILBUR J. COHEN,
Secretary.

1. *Subject.* Financial Eligibility—Medical Assistance Program—Medically Needy.

2. *Purpose.* To implement section 1903 of the Social Security Act as amended by section 220 of Public Law 90-248 (Limitation on Federal Financial Participation in Medical Assistance).

3. *Regulations—A. Requirements for State plans.* A State plan for medical assistance, if it includes the medically needy, must:

(1) Provide levels of income and resources for maintenance, in total dollar amounts, as a basis for establishing financial eligibility for medical assistance, in accordance with the following:

(a) Such income levels must be comparable as among individuals and families of varying sizes.

(b) The income levels for maintenance must be, as a minimum, at the level of the most liberal money payment standard used by the State, at any time on or after January 1, 1966, as a measure of financial eligibility in any categorical money payment program in the State, or at the level for which Federal financial participation is available pursuant to B. below, whichever is less.

(c) A lower income level for maintenance must be used for individuals not living in their own homes but receiving care in nursing homes, institutions for tuberculosis, or mental diseases or other medical facilities providing long-term care. This lower income level must be reasonable in amount for clothing and personal needs for such individuals.

When such an individual's home is maintained for a spouse and/or other dependents, the appropriate income level for such dependents, plus his income level for maintenance in a long-term care facility, is applicable.

(d) Resources which may be held must, as a minimum, be at the most liberal level used in any money payment program in the State on or after January 1, 1966, and the amount of liquid assets which may be held must increase with an increase in the number of individuals in the family. There must be separate levels established for resources.

(2) Provide that there will be a flexible measurement of available income which will be applied in the following order of priority:

(a) First, for maintenance, so that any income in an amount at or below the established level will be protected for maintenance.

(b) Next, income in excess of that needed for maintenance will be applied to costs incurred for medical insurance premiums and for necessary medical or remedial care recognized under State law and not encompassed within the State plan for medical assistance. (States may set reasonable limits on such medical services for which excess income may be applied.)

(c) All of the remaining excess income will be applied to costs of medical assistance included in the State plan.

(3) Provide that all income and resources (after all State policies governing the disregard, or setting aside for future needs of income and resources in the State's approved plans under titles I, IV—Part A, X, XIV, and XVI have been applied) will be considered in establishing eligibility, and in the flexible application of income to medical costs not in the State plan, and payment toward the medical assistance costs.

(4) Provide that only such income and resources as are actually available will be considered; that income and resources will be reasonably evaluated; and that only such income and resources will be considered as will be "in hand" within a period, preferably of not more than 3 months, but not in excess of 6 months, ahead, including the month in which medical services were rendered for which payment would be made under the plan.

5. Provide that financial responsibility of any individual for any applicant or recipient of medical assistance will be limited to the responsibility of spouse for spouse and of parents for children under age 21, or blind, or permanently and totally disabled; and specify the extent to which the financial responsibility of any such relatives is taken into account.

B. *Federal financial participation.* Payments in behalf of medically needy individuals are subject to Federal financial participation only to the extent that they are made for a member of a family the annual income of which is within the income levels established in the following:

(1) In the case of any State with an approved plan under which medical assistance was furnished to medically needy individuals prior to July 26, 1967, the applicable income levels with respect to the third and fourth calendar quarters of 1968 are 150 percent of the amounts specified in (2), below. With respect to all calendar quarters during 1969, the income levels are 140 percent of such amounts and, thereafter, 133⅓ percent of such amounts. In the case of any other State, the income levels with respect to any calendar quarter beginning after March 31, 1968, are 133⅓ percent of the amounts specified in (2), below. Any total yearly income levels established by applying the above percentages which are not multiples of $100 shall be rounded to the next higher multiple of $100.

Federal financial participation is available for a person whose annual income exceeds this level to the extent that medical expenses exceed the income excess (see (2)(c), below).

(2) The amounts to be applied in calculating the income levels referred to in (1), above, are the highest amounts which would ordinarily be paid to a family of the same size without any income or resources, in the form of money payments, under the plan of the State approved under part A of title IV of the Act, subject to the following modifications:

(a) In the case of a single individual the amount of the income level shall be reasonably related to the amounts payable under such plan to families consisting of two or more individuals who are without income or resources.

(b) If the amounts established under such plan are subject to a maximum family limit, the income level for families which exceed such limit will be determined by adding an amount for each member of the family to such limit. The amounts to be added shall be reasonably related to those established under the plan for families which are within the maximum family limit.

(c) In computing a family's or individual's income for purposes of (1) and (2), above, there shall be excluded any costs (whether in the form of insurance premiums or otherwise) incurred by such family or individual for medical care or for any other type of remedial care recognized under State law.

(3) If a State furnishes medical assistance on the basis of income levels which are

higher than those specified in this section, the State agency must submit to the Department of Health, Education, and Welfare for its approval income levels which are calculated on the basis provided in this section, and must establish procedures to assure that claims for Federal financial participation are limited accordingly.

[F.R. Doc. 68-10837; Filed, Sept. 6, 1968; 8:46 a.m.]

[Interim Policy Statement No. 13]

PROTECTIVE AND VENDOR PAYMENTS FOR DEPENDENT CHILDREN

Notice of Interim Policies and Requirements

Notice is hereby given that the regulations set forth below made pursuant to section 1102 of the Social Security Act, 42 U.S.C. 1302) prescribe certain interim policies and requirements for Social and Rehabilitation Service programs which were approved, with binding effect on States, on July 22, 1968, by the Administrator, Social and Rehabilitation Service. Interested persons who wish to submit comments, suggestions, or objections pertaining thereto may present their views in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of these interim policies and requirements in the FEDERAL REGISTER. The final regulations will be codified in Title 45 of the Code of Federal Regulations.

Dated: August 7, 1968.

[SEAL] MARY E. SWITZER,
Administrator, Social and Rehabilitation Service.

Approved: August 30, 1968.

WILBUR J. COHEN,
Secretary.

1. *Subject.* Protective and Vendor Payments for Dependent Children.

2. *Purpose.* To implement sections 402(a) (15) (B) (ii), 402(a) (19) (F), 403(a) (last two sentences), and 406(b) (2) of the Social Security Act.

3. *Regulations*—A. *State plan requirements.* The State plan for AFDC, effective July 1, 1968, must provide that:

(1) Methods will be in effect by which children will be identified whose relatives have demonstrated such an inability to manage funds that payments to the relative have not been or are not currently used in the best interest of the child.

(2) Criteria will be established to determine under what circumstances payments will be made directly to—

(a) Another individual who is interested in or concerned with the welfare of such child or relative; or

(b) A person furnishing food, living accommodations or other goods, services, or items to or for the child, relative, or essential person in whole or in part.

(3) Aid in the form of foster care in behalf of eligible children will be included in the plan no later than July 1, 1969.

(4) There will be responsibility to assure referral to social services for appropriate action to protect recipients where problems and needs for services and care of the recipients are manifestly beyond the ability of the protective payee to handle.

(5) Standards will be established for selection:

(a) Of protective payees, who are interested in or concerned with the recipient's welfare, to act for the recipient in receiving and managing assistance, with the selection of a protective payee being made by the recipient, or with his participation and consent, to the extent possible. If it is in the best interest of the recipient for a staff member of a private agency or the public welfare department to serve as a protective payee, such selection will be made preferably from the staff of an agency or that part of the agency providing protective services for families. The selection will not include: The executive head of the agency administering public assistance; the person determining financial eligibility for the family; special investigative or resource staff, or staff handling fiscal processes related to the recipient; or landlords, grocers, or other vendors of goods and services dealing directly with the recipient.

(b) Of persons providing goods and services with the selection of such persons being made by the recipient, or with his participation and consent, to the extent possible.

(6) The agency will undertake and continue special efforts to develop greater ability on the part of the relative to manage funds in such manner as to protect the welfare of the family.

(7) Review of the need for protective payments or payments to a person furnishing goods or services on behalf of children and the way in which a protective payee's responsibilities are carried out will be made as frequently as indicated by the individual's circumstances and at least every 3 months.

(8) Provision will be made for termination of protective payments, or payments to a person furnishing goods or services, as follows:

(a) When relatives are considered able to manage funds in the best interest of the child, there will be a return to money payment status.

(b) When it appears that need for protective payments will continue or is likely to continue beyond 1 year because all efforts have not resulted in sufficiently improved use of assistance in behalf of the child, judicial appointment of a guardian or other legal representative will be sought.

(9) Opportunity for a fair hearing will be given to any individual claiming assistance in relation to the determination;

(a) That a protective payment, or a payment to a person furnishing food, living accommodations, or other goods or services to a child, relative or other individual, should be made or continued,

(b) As to the payee selected, or

(c) That foster care will be provided.

(10) Payments for the AFDC child and other eligible members of the family or household will be made by use of methods described in (2) or (3) above, as required under the work incentive program (section 402(a) (19) (F) of the Act). In such cases, (5) and (7) above, will also be applicable. These provisions will be applicable to a relative with whom the AFDC child resides or to a child over age 16, who has been referred to the Secretary of Labor and has without good cause refused to participate in a work incentive program or to accept a bona fide offer of employment, during a 60-day period if such relative or child accepts counseling aimed at encouraging him to participate in a work incentive program. Provision will be made for termination of protective payments, or payments to a person furnishing goods or services, with return to money payment status when adults and children over age 16 who refused training or employment without good cause either accept training or employment or agree to do so in the event such opportunities are not currently available. In the case of continuing refusal of the relative to participate, payments will be continued for the children in the home in accordance with (2) above.

B. *Federal financial participation.* Federal financial participation is available in payments which otherwise qualify as money payments with respect to an eligible dependent child, but which are made to a protective payee under A(5) (a) above, or to a person furnishing food, living accommodations, or other goods or services to a child, relative or essential person.

(1) The payment must be supported by an authorization of award through amendment of an existing authorization document for such case or by preparation of a separate authorization document.

In either instance, the authorization document must be a formal agency record signed by a responsible agency official, showing the name of each eligible child and relative, the amount of payment authorized and the name of the protective payee.

(2) The number of individuals for whom protective payments or payments to a person furnishing goods or services are made who can be counted as recipients for Federal financial participation in any month is limited to 10 percent of the number of other AFDC recipients in the State for that month.

In computing such 10 percent, individuals with respect to whom protective payments or payments to persons furnishing goods or services are made for any month because of their refusal without good cause to participate in a work incentive program or because of their refusal without good cause to accept a bona fide offer of employment in which they are able to engage are not to be counted.

The State may decide whether the same percentage limitation is applied in each local administrative subdivision or it may establish a method of assuring that the number of recipients for whom matchable payments are made does not exceed the limitation for the State as a whole.

If the number of recipients in cases for whom protective payments or payments to persons furnishing goods or services are made in any month does not exceed 10 percent of all other AFDC recipients in that month, all such payments and recipients may be included in computing Federal financial participation. If the number of recipients in cases for whom protective payments or payments to persons furnishing goods or services are made exceeds 10 percent of all other AFDC recipients, then it will be necessary to identify cases whose total recipient count is within the 10 percent limit. Only the payments and recipient count for such identified cases may be included for Federal financial participation. Other recipients receiving protective payments or payment to a person furnishing goods and services must be excluded from the recipient count, and assistance payments (including vendor medical payments and pooled fund premiums) for such recipients must be excluded from assistance expenditures in determining a State's claim for Federal financial participation.

In computing the 10 percent limit on the number of recipients of protective payments or payments to a person furnishing goods and services, the numerical limit may be rounded upward to the nearest whole number.

Payrolls must identify protective payment cases or payments to a person furnishing goods and services, either by use of a separate payroll for these cases or by using a special identifying code or symbol on the regular payroll.

See Federal financial participation in costs of services related to money management problems.

[F.R. Doc. 68-10839; Filed, Sept. 6, 1968; 8:46 a.m.]

[Interim Policy Statement No. 14]

PROTECTIVE PAYMENTS FOR THE AGED, BLIND, OR DISABLED

Notice of Interim Policies and Requirements

Notice is hereby given that the regulations set forth below (made pursuant to setion 1102 of the Social Security Act, 42 U.S.C. 1302) prescribe certain interim policies and requirements for Social and Rehabilitation Service programs which were approved, with binding effect on States, on July 22, 1968, by the Administrator, Social and Rehabilitation Service. Interested persons who wish to submit comments, suggestions, or objections pertaining thereto may present their views in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of these interim policies and requirements in the FEDERAL REGISTER. The final regulations will be codified in Title 45 of the Code of Federal Regulations.

Dated: August 7, 1968.

[SEAL] MARY E. SWITZER,
Administrator, Social and Rehabilitation Service.

Approved: August 30, 1968.

WILBUR J. COHEN,
Secretary.

1. *Subject.* Protective Payments for the Aged, Blind, or Disabled.

2. *Purpose.* To implement sections 6(a), 1006, 1405, and 1605(a) of the Social Security Act.

3. *Regulations*—A. *State plan requirements.* If a State plan for OAA, AB, APTD, or AABD includes provisions for protective payments, the State plan must provide that:

(1) Methods will be in effect to determine that needy individuals have, by reason of physical or mental condition, such inability to manage funds that making payment to them would be contrary to their welfare; such methods to include medical or psychological evaluations, or other reports of physical or mental conditions including observation of gross conditions such as extensive paralysis, serious mental retardation, continued disorientation, or severe memory loss.

(2) There will be responsibility to assure referral to social services for appropriate action to protect recipients where problems and needs for services and care of the recipients are manifestly beyond the ability of the protective payee to handle.

(3) Standards will be established for selection of protective payees who are interested in or concerned with the individual's welfare, to act for the individual in receiving and managing assistance, with the selection of a protective payee being made by the individual, or with his participation and consent, to the extent possible. If it is in the best interest of the individual for a staff member of a private agency or the public welfare department to serve as a protective payee, such selection will be made preferably from the staff of an agency or that part of the agency providing protective services for families. The selection will not include: The executive head of the agency administering public assistance; the person determining financial eligibility for the family; special investigative or resource staff, or staff handling fiscal processes related to the recipient; or landlords, grocers, or other vendors of goods and services dealing directly with the recipient—such as the proprietor, administrator or fiscal agent of a nursing home or social care or medical institution, except for the superintendent of a public institution for mental diseases or his designate, when no other appropriate protective payee can be found.

(4) Protective payments will be made only in cases in which the assistance payment, with other available income, meets all the need of the individual, using the State's standards for assistance for the pertinent program, not standards for protective payment cases only.

(5) The agency will undertake and continue special efforts to protect the welfare of such individuals and to improve, to the extent possible, their capacity for self-care and to manage funds.

(6) Reconsideration of the need for protective payments and the way in which a protective payee's responsibilities are carried out will be as frequent as indicated by the individual's circumstances and at least every 6 months.

(7) Provision will be made for appropriate termination of protective payments as follows:

(a) When individuals are considered able to manage funds in their best interest, there will be a return to money payment status.

(b) When a judicial appointment of a guardian or other legal representative appears to serve the best interest of the individual, such appointment will be sought.

(8) Opportunity for a fair hearing will be given to any individual claiming assistance in relation to the determination that a protective payment should be made or continued, and in relation to the payee selected.

B. *Federal financial participation.* Federal financial participation is available for payments, which otherwise qualify as money payments with respect to a needy individual, but which are made to a protective payee under A(3) above. The payment must be supported by an authorization of award through amendment of an existing authorization document for such case or by preparation of a separate authorization document.

In either instance, the authorization document must be a formal agency record signed by a responsible agency official showing the name of each eligible individual, the amount of payment authorized and the name of the protective payee.

Payrolls must identify protective payment cases either by use of a separate payroll for these cases or by using a special identifying code or symbol on the regular payroll.

[F.R. Doc. 68-10838; Filed, Sept. 6, 1968; 8:46 a.m.]

[Interim Policy Statement No. 15]

TRAINING AND USE OF SUBPROFESSIONAL AND VOLUNTEERS

Notice of Interim Policies and Requirements

Notice is hereby given that the regulations set forth below (made pursuant to section 1102 of the Social Security Act, 42 U.S.C. 1302) prescribe certain interim policies and requirements for Social and Rehabilitation Service programs which were approved, with binding effect on States, on August 5, 1968, by the Administrator, Social and Rehabilitation Service. Interested persons who wish to submit comments, suggestions, or objections pertaining thereto may present their views in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of these interim policies and requirements in the FEDERAL REGISTER. The final regulations will be codified in Title 45 of the Code of Federal Regulations.

Dated: August 9, 1968.

[SEAL] MARY E. SWITZER,
Administrator, Social and Rehabilitation Service.

Approved: August 30, 1968.

WILBUR J. COHEN,
Secretary.

Subject. Training and Use of Subprofessionals and Volunteers.

2. *Purpose.* To implement Title I, section 2(a)(5)(B); Title IV, sections 402(a)(5)(B) and 422(a); Title V, section 505(a)(3)(B); Title X, section 1002(a)(5)(B); Title XIV, section 1402(a)(5)(B); Title XVI, section 1602(a)(5)(B); and Title XIX, section 1902 (a)(4)(B) of the Social Security Act as amended by Public Law 90-248, in reference to the training and effective use of subprofessional staff as community service aides with particular emphasis on persons of low income and of recipients of assistance, and of volunteers in State and local agencies administering certain of the programs authorized by the Act.

3. *Regulations*—A. *State plan requirements.* Effective July 1, 1969, the State Plan for the administration of the Titles and sections enumerated in the statement of purpose above, must:

(1) Provide for the training and effective use of subprofessional staff as community service aides through part-time or full-time employment of persons of low income and, where applicable, of recipients and for that purpose will provide for:

(a) Such methods of recruitment and selection as will offer opportunity for full-time or part-time employment of persons of low income and low educational achievement, including employment of young and middle aged adults, older persons, and the physically and mentally disabled, and in the case of a State Plan under Title I, IV-Part A, X, XIV, XVI, or XIX of recipients;

(b) An administrative staffing plan to include the range of service personnel of which subprofessional staff are an integral part;

(c) A career service plan permitting persons to enter employment at the subprofessional level and, according to their abilities, through work experience, preservice and inservice training and educational leave with pay, progress to positions of increasing responsibility and reward;

(d) An organized training program, supervision, and supportive services for subprofessional staff; and

(e) Annual progressive expansion of the plan to assure utilization of increasing numbers of subprofessional staff as community service aides, until an appropriate number and proportion of subprofessional staff to professional staff are achieved to make maximum use of subprofessionals in program operation.

The classification of subprofessional staff as community service aides refers to persons in a variety of positions in the planning, administration, and delivery of health, social, and rehabilitation services in which the duties of the position are composed of tasks that are an integral part of the agency's service responsibilities to people and that can be performed by persons with less than a college education, by high school graduates, or by persons with little or no formal education.

"Full-time or part-time employment" means that the person is employed by the agency and his position is incorporated into the regular staffing pattern of the agency. He is paid a regular wage or salary in relation to the value of services rendered and time spent on the job.

(2) Provide for the use of nonpaid or partially paid volunteers in providing service and in assisting any advisory committees established by the State agency and for that purpose provide for:

(a) A position in which rests responsibility for the development, organization, and administration, of the volunteer program, and for coordination of the program with related functions;

(b) Methods of recruitment and selection which will assure participation of volunteers of all income levels in planning capacities and service provision;

(c) A program for organized training and supervision of such volunteers;

(d) Meeting the costs incident to volunteer service and assuring that no individual shall be deprived of the opportunity to serve because of the expenses involved in such service; and

(e) Annual progressive expansion of the numbers of volunteers utilized, until the volunteer program is adequate for the achievement of the agency's service goals.

The term "Volunteer" describes a person who contributes his personal service to the community through the agency's human services program. He is not a replacement or substitute for paid staff but adds new dimensions to agency services, and symbolizes the community's concern for the agency's clientele.

"Partially paid volunteers" means volunteers who are compensated for expenses incurred in the giving of services. Such payment does not reflect the value of the services rendered, or the amount of time given to the agency.

B. *Federal financial participation.* Under the State plan programs under Titles I, IV (Parts A and B), V, X, XIV, XVI, and XIX of the Act, Federal financial participation in expenditures for the recruitment, selection, training, and employment and other use of subprofessional staff and volunteers is available at the rates and under related conditions established for training, services, and other administrative costs under the respective titles.

[F.R. Doc. 68-10840; Filed, Sept. 6, 1968; 8:46 a.m.]

[Interim Policy Statement No. 16]

AFDC FOSTER CARE

Notice of Interim Policies and Requirements

Notice is hereby given that the regulations set forth below (made pursuant to section 1102 of the Social Security Act, 42 U.S.C. 1302) prescribe certain interim policies and requirements for Social and Rehabilitation Service programs which were approved, with binding effect on States, on July 26, 1968, by the Administrator, Social and Rehabilitation Service. Interested persons who wish to submit comments, suggestions, or objections pertaining thereto may present their views in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of these interim policies and requirements in the FEDERAL REGISTER. The final regulations will be codified in Title 45 of the Code of Federal Regulations.

Dated: August 14, 1968.

[SEAL] MARY E. SWITZER,
Administrator, Social and Rehabilitation Service.

Approved: August 30, 1968.

WILBUR J. COHEN,
Secretary.

1. *Subject.* AFDC foster care.

2. *Purpose.* To implement sections 402 (a)(20), 403(a)(1)(B), and 408(a) of title IV-A of the Social Security Act.

a. Adding a plan requirement—effective July 1, 1969, for AFDC foster care, a program that is now optional.

b. Increasing Federal financial participation in expenditures for AFDC foster care, effective January 1, 1968.

c. Making AFDC foster care available for additional children, on an optional basis, effective January 1, 1968.

d. Making permanent two formerly temporary provisions—relating to foster care in title IV-A—inclusion of (1) children in private child caring institutions and (2) children for whose placement and care a public agency other than the State or local agency administering AFDC is responsible, with whom the State agency has an agreement that meets specified requirements.

3. *Regulation—A. State plan requirements.* Effective July 1, 1969, a State plan for AFDC must provide for aid to families with dependent children in the form of foster care for children specified in section 408 of the Act. Provision must be made for both foster family care and institutional care in accordance with the individual child's needs. Public institutions may be used, without Federal financial participation, to discharge the institutional obligation in whole or in part. The State plan must specify the types of institutions which will be used. The use of institutions outside the State will also meet the requirement for the provision of institutional care.

B. *Federal financial participation.* Federal financial participation may be claimed, effective January 1, 1968, in AFDC foster care payments not to exceed an average of $100 per month per recipient, made on behalf of children as specified in section 408 of the Act, who are included in the approved State plan under title IV-A of the Act. In addition to children for whom Federal financial participation was available prior to January 1, 1968, Federal financial participation is available for assistance in the form of foster care for the following additional children if they are included in the State plan:

(1) Children placed since May 1, 1961, in foster care, if they would have received AFDC in or for the month in which court proceedings that resulted in removal from the home were initiated, if application had been made for them, and

(2) Children placed since May 1, 1961, who lived with a relative enumerated in the State's approved plan within 6 months prior to the month in which court proceedings were initiated which resulted in such children being placed in foster care, and who would have received AFDC in or for such month if in such month they had been living with (and were removed from the home of) such a relative and if application had been made for them.

[F.R. Doc. 68-10834; Filed, Sept. 6, 1968; 8:45 a.m.]

[Interim Policy Statement No. 17]

COST SHARING AND SIMILAR CHARGES—MEDICAL ASSISTANCE

Notice of Interim Policies and Requirements

Notice is hereby given that the regulations set forth below (made pursuant to section 1102 of the Social Security Act, 42 U.S.C. 1302) prescribe certain interim policies and requirements for Social and Rehabilitation Service programs which were approved, with binding effect on States, on August 7, 1968, by the Administrator, Social and Rehabilitation Service. Interested persons who wish to submit comments, suggestions, or objections pertaining thereto may present their views in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of these interim policies and requirements in the FEDERAL REGISTER. The final regulations will be codified in Title 45 of the Code of Federal Regulations.

Dated: August 9, 1968.

[SEAL] MARY E. SWITZER,
Administrator, Social and Rehabilitation Service.

Approved: August 30, 1968.

WILBUR J. COHEN,
Secretary.

1. *Subject.* Cost sharing and similar charges—medical assistance.

2. *Purpose.* To implement Sections 1902(a) (14) and (15) of the Social Security Act as amended by section 235 of Public Law 90-248.

3. *Regulation—State plan requirements.* Effective January 1, 1968:

A. *Services furnished under the State Plan*—1. *Categorically needy.* The State plan must provide that no deduction, cost sharing, enrollment fee, premium, or similar charge, with respect to any medical or remedial care and services furnished under the plan, will be imposed on any categorically needy individual.

2. *Medically needy.* If any deduction, cost sharing, enrollment fee, premium, or similar charge is imposed with respect to any medically needy individuals, the State plan must specify the amount and the method of determining it.

a. The cost sharing must be reasonably related to the recipient's income or his income and resources.

b. The cost sharing must be administratively feasible.

B. *Application of medical resources.* The State plan must provide that any medical resource of an individual in the form of insurance or other entitlement will be used to reduce the amount, duration and scope of care provided under the plan. However, assistance may be provided subject to the provision in section 1902(a)(25) regarding third party liability. Also, care covered by excess income or resources of the individual in accordance with section 1902(a)(17) may not reduce the assistance available under the plan.

[F.R. Doc. 68-10835; Filed, Sept. 6, 1968; 8:45 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

REGIONAL COUNSEL, DEPUTY REGIONAL COUNSEL, AND ASSOCIATE REGIONAL COUNSEL FOR GENERAL PROGRAM SERVICES, REGION VI (SAN FRANCISCO)

Redelegation of Authority To Execute Requisition Agreements Securing Preliminary Loan Notes

Section A. *Authority redelegated with respect to Slum Clearance and Urban Renewal Program.* The Regional Counsel, Deputy Regional Counsel, and Associate Regional Counsel for General Program Services, Region VI (San Francisco), each is hereby authorized to execute requisition agreements under section 102(c) of the Housing Act of 1949, as amended (42 U.S.C. 1452(c)), securing the payment of the principal of and interest on preliminary loan notes each of which provides that it shall not be valid until the paying agent has executed an agreement appearing on the note to act as paying agent, and under which requisition agreement the United States, among other things:

1. Pledges the full faith and credit of the United States to the aforesaid payment and agrees under section 102(c) of the Act that the payment agreement set forth under paragraph 2 of this section A shall be construed separate and apart from the pertinent loan contract and shall be incontestable in the hands of a bearer; and

2. Agrees to evidence its promise to pay or cause to be paid each such note by a payment agreement executed on behalf of the United States by the facsimile signature of the Secretary of Housing and Urban Development holding office on the date of sale by the local public agency of the particular notes, in substantially the following form:

PAYMENT AGREEMENT

Pursuant to section 102(c) of the Housing Act of 1949, as amended (42 U.S.C. 1452(c)), the United States hereby unconditionally agrees that on the Maturity Date of the within Preliminary Loan Note it will pay or cause to be paid to the bearer thereof the principal of an interest thereon, upon the presentation and surrender of such Note to the Paying Agent designated therein, and the full faith and credit of the United States is pledged to such payment. Under section 102(c) of the Act, this Agreement shall be construed separate and apart from the loan contract referred to in the within Note and shall be incontestable in the hands of a bearer.

In witness whereof, this Agreement has been executed on behalf of the United States by the duly authorized facsimile signature of the Secretary of Housing and Urban Development, as of the Date of Issue of the within Note.

UNITED STATES OF AMERICA

By (Facsimile Signature),
Secretary of Housing and Urban Development.

(Redelegation of authority by Assistant Secretary for Renewal and Housing Assistance effective May 15, 1968, 33 F.R. 7175-7176, May 15, 1968)

Effective date. This redelegation of authority shall be effective as of May 15, 1968.

ROBERT B. PITTS,
Regional Administrator, Region VI.

[F.R. Doc. 68-10855; Filed, Sept. 6, 1968; 8:47 a.m.]

REGIONAL COUNSEL, DEPUTY REGIONAL COUNSEL, AND ASSOCIATE REGIONAL COUNSEL FOR GENERAL PROGRAM SERVICES, REGION VI (SAN FRANCISCO)

Redelegation of Authority To Execute Requisition Agreements Securing Bonds

Section A. *Authority redelegated with respect to Slum Clearance and Urban Renewal Program.* The Regional Counsel, Deputy Regional Counsel, and Associate Regional Counsel for General Program Services, Region VI (San Francisco), each is hereby authorized to execute requisition agreements under section 102(c) of the Housing Act of 1949, as amended (42 U.S.C. 1452(c)), securing the payment of the principal of and interest on bonds evidencing a definitive loan under section 102(a) of said Act, and, as an incident to the security and marketability of such bonds, securing the payment of premiums and the cost of the redemption of bonds and the fees and charges of paying agents, each of which bonds provides that it shall not be valid until the paying agent has executed an agreement appearing on the bond to act as paying agent, and under which requisition agreement the United States, among other things:

1. Pledges the full faith and credit of the United States to the payment of the principal of and interest on such bonds, and agrees under section 102(c) of the Act that the payment agreement set forth under paragraph 2 of this section A shall be construed separate and apart from the pertinent loan contract, including the specific loan payment contract under such requisition agreement, and shall be incontestable in the hands of a bearer; and

2. Agrees, as an incident to the security and marketability of such bonds, to pay or cause to be paid the premiums and cost of the redemption of the bonds and the fees and charges of paying agents, and also agrees to evidence its promise to pay or cause to be paid each such bond, including the interest thereon, by a payment agreement executed on behalf of the United States by the facsimile signature of the Secretary of Housing and Urban Development holding office on the date of sale by the local public agency of the particular bonds, in substantially the following form:

PAYMENT AGREEMENT

Pursuant to section 102(c) of the Housing Act of 1949, as amended (42 U.S.C. 1452(c)), the United States hereby unconditionally agrees that on the maturity of the within Bond, and on the respective dates established for the payment of the interest thereon, it will pay or cause to be paid to the bearer or registered owner of either or both said Bond or interest thereon, as the case may be, the principal of and interest on such Bond, upon the presentation and surrender of such Bond or the uncanceled interest coupons appertaining thereto, if any, as the case may be, to the Paying Agent or the alternate Paying Agent identified therein; and the full faith and credit of the United States is pledged to such payment. Under section 102(c) of the Act, this Agreement shall be construed separate and apart from the loan contract and the specific loan payment contract evidenced by the Requisition Agreement referred to in the within Bond, and shall be incontestable in the hands of a bearer.

In witness whereof, this Agreement has been executed on behalf of the United States by the duly authorized facsimile signature of the Secretary of Housing and Urban Development, as of the date of the within Bond.

UNITED STATES OF AMERICA
By (Facsimile Signature),
Secretary of Housing and Urban Development.

(Redelegation of authority by Assistant Secretary for Renewal and Housing Assistance effective May 15, 1968, 33 F.R. 7176, May 15, 1968)

Effective date. This redelegation of authority shall be effective as of May 15, 1968.

ROBERT B. PITTS,
Regional Administrator, Region VI.

[F.R. Doc. 68-10856; Filed, Sept. 6, 1968; 8:47 a.m.]

ATOMIC ENERGY COMMISSION

URANIUM

Supply Policies and Related Activities

Background. 1. In 1948 the AEC faced a critical shortage of uranium to meet the growing defense requirements for nuclear weapons. The principal sources of supply at that time, as during the war, were a single mine in the Belgian Congo and another on the Arctic Circle in Canada. Efforts were made to broaden the supply base to the maximum extent feasible. Exploration in Canada, undertaken in response to the defense requirement, subsequently turned up extensive deposits in northern Saskatchewan and southern Ontario, resulting in Canada becoming one of the world's leading uranium producers. Important production was also developed in South Africa which, under long-term contracts, delivered uranium to the United States through calendar year 1966. Lesser quantities of uranium were obtained from Portugal and Australia. One part of the AEC effort initiated in 1948 was to develop a domestic source of supply; toward this end, AES established guaranteed price schedules and other incentives to stimulate private exploration. The stimulus so provided resulted in substantial uranium discoveries which were not only sufficient to make this country independent of foreign sources of supply, but raised the possibility of an overcommitment under the program. Therefore, in November 1958 the AEC limited its new purchase commitments to quantities based on domestic ore reserves developed prior to that date. The effect of this was to provide the domestic uranium industry with a substantial continuing market, but it extended only through 1966.

2. As late as 1962 deliveries under existing contracts were projected to exceed current requirements, yet it seemed probable that a large-scale civilian requirement for uranium would not develop for a number of years after 1966. Therefore, in November 1962, the Commission embarked on a stretch-out program providing for deferral until after 1966 of some of the deliveries under its procurement contracts, together with some additional purchases at a reduced price through 1970. As a result, deliveries in 1967–70 will be at a level of about 8,000 tons per year.

3. Although a reasonable balance between uranium purchases and requirements had been expected to result from the stretch-out program, decisions in 1964 and 1965 to reduce the rate of production of materials for nuclear weapons, together with the adoption of legislation permitting private ownership of special nuclear material and the commencement in 1969 of enrichment services to private owners of uranium, have resulted in a projected surplus of AEC-owned uranium over forecast Government requirements. On the other hand, the rapid growth in the rate of orders for civilian nuclear power facilities has resulted in a rapidly growing commercial market for uranium. Sales already concluded for delivery through 1970, exclusive of AEC purchases, total about 18,000 tons.

4. During the past 24 months, orders for nuclear power plants in the United States have been placed at a more rapid rate than had been predicted. The AEC 1962 Report to the President[1] foresaw a U.S. nuclear generating capacity of 40,000 MWe by 1980. Since that time, successive estimates have reflected increasing confidence in the ability of nuclear powerplants to provide cheaper electric power in many areas of the country. In 1967, AEC projected installed domestic capacity by 1980 in the range of 120,000 to 170,000 MWe. If the midpoint of this range is taken as a basis, there is projected to be a cumulative U.S. U_3O_8 requirement for civilian power through 1980 of approximately 250,000 tons. The attached tabulation shows the 1967 AEC projection of nuclear growth and U_3O_8 requirements by years through 1980, as well as commercial sales of uranium concentrate reported to May 1968.

5. As a result of sales to the AEC under the stretch-out program and orders from commercial buyers, it appears that most of the domestic uranium producers will be operating at or near capacity through 1970. Under the impetus of increasing demand, the domestic market price of U_3O_8 has risen significantly over the past 2 years. Except for some remaining uncertainty as to the size of the commercial market in the first 2 or 3 years following expiration of AEC purchase contracts in 1970, a relatively smooth transition from a Government to a private market now seems reasonably certain.

6. These developments are resulting in a rapid expansion in the level of exploration for additional reserves, which is essential to the evolution of a stable nuclear fuel market. Although some additions to reserves are anticipated in the near future, it may be a few years before the full effect of this effort on U.S. reserves can be assessed. Meanwhile, the substantial demand and rising prices have resulted in increased interest by consumers in the possible purchase of enriched uranium from the AEC.

Previously announced AEC policies on supply of uranium. 7. The Commission has given careful consideration over an extended period to its uranium supply policies. Extensive hearings were held before the Joint Committee on Atomic Energy during consideration of the Private Ownership of Special Nuclear Materials legislation in 1964 and of the Uranium Enrichment Services Criteria in 1966. The policies were again reviewed in the AEC Authorization Hearings in 1967. Restatement and clarification of these policies was believed desirable in the light of the rapidly changing uranium supply and demand situation. Therefore, the Commission invited public comment on a Proposed Statement on Uranium Supply Policies and Related Activities published in the FEDERAL REGISTER on November 9, 1967 (32 F.R. 15598). The comments received were given careful consideration in the preparation of this revised notice.

8. The major objectives of the Commission's supply policies as announced on July 25, 1966, and in the Uranium Enrichment Services Criteria established on December 23, 1966 (31 F.R. 16479), were: (1) To establish toll enrichment as the preferred means for obtaining enriched uranium from the AEC, (2) to help assure a viable domestic uranium mining and milling industry, and (3) to provide incentives to private industry to undertake the early expansion of exploration and development of the large uranium ore reserves and production capability required to supply the expected demand for nuclear fuel for civilian power reactors.

9. The outstanding policies were:

(a) The natural uranium component of the AEC schedule of charges for lease and sale of enriched uranium would continue to be based upon a price of $8 per pound of U_3O_8, at least through June 30, 1973.

(b) Sales of enriched uranium would be limited to single transactions, rather than long-term contracts, except where provisions for long-term sales are included in Agreements for Cooperation with foreign nations. A further exception would be made in the case of distributions to domestic customers of enriched uranium to be used in a research and development program involving production of U^{233} when lease is not available and during the period when a guaranteed purchase price is in effect for U^{233}. In Agreements for Cooperation providing for supply of enriched uranium via toll enriching, the AEC would also agree to furnish, for an appropriate charge, the natural uranium for a toll enrichment transaction where the foreign party has determined that the required natural uranium is not reasonably available to him.

(c) While quantitative criteria could not be specified, the disposal of AEC's available feed stocks would not be undertaken until it could be done in a manner which would not adversely affect the general viability of the domestic uranium industry.

(d) Beginning January 1, 1971, enriched uranium on lease may be converted to private ownership by a mechanism, called "in situ" toll enriching, under which the lessee would furnish to the AEC specified amounts of uranium feed and dollars and would thereby acquire ownership of the leased material.

(e) The transition to private ownership of all material held or being procured by licensees for power reactor use would be accomplished by AEC's terminating distributions of such material by lease on December 31, 1970, and terminating outstanding leases for such material on June 30, 1973. These are the same dates which are already applicable under the Atomic Energy Act of 1954, as amended, to distribution of such material to power reactor operators. However, AEC would, on a case-by-case basis, consider requests by U.S. fabricators for deferred payment of enriching service charges on toll enriched material—at an interest charge on the unpaid balance equal to the then-current use charge rate—during a fabrication period of up to 1 year.

In addition, and as stated in the Uranium Enrichment Services Criteria (pursuant to section 161v of the Atomic Energy Act of 1954, as amended), in order to assure the maintenance of a viable domestic uranium industry, AEC would not agree to enrich foreign uranium intended for use in domestic facilities. AEC would, from time to time, review the status of the domestic mining and milling industry to determine the need to continue this restriction.

Procedures for implementing policies on sale of enriched and natural uranium. 10. The Commission reaffirms its policy that the preferred method for industry to secure enriched uranium is through toll enrichment of uranium procured

[1] "Civilian Nuclear Power * * * a Report to the President—1962," USAEC.

from private sources. However, in the circumstances set forth below the Commission is willing to sell Government-owned uranium on a single transaction basis. The Commission is also willing to sell Government-owned uranium on other than a single transaction basis in cases of distribution to domestic customers of enriched uranium to be used in a research and development program involving production of U^{233} when lease is not available and during the period when a guaranteed purchase price is in effect for U^{233}. Sales contracts normally would not be executed more than 18 months in advance of the date the uranium is required. However, consideration will be given to executing sales contracts providing for a longer interval if the purchaser is in a position to justify the necessity for such longer interval. This policy, and the terms and conditions pertaining thereto, will apply to AEC sales either of enriched uranium to be delivered no later than June 30, 1973, or of natural uranium to be subsequently toll enriched if the enriched uranium is to be delivered no later than June 30, 1973. The AEC contemplates issuing, in sufficient time for public comment, the proposed terms and conditions applying to any sales of Government-owned uranium to meet a requirement for enriched uranium to be delivered after that date.

11. Any sales of Government-owned uranium under this policy will be at a charge based on $8 per pound of U_3O_8 in concentrates. The question of escalation has been raised in some of the comments received on the FEDERAL REGISTER notice of November 9, 1967, but at this time the Commission sees no need to make provisions for escalation. However, the matter will be considered again if conditions warrant.

12. The Commission reaffirms its willingness to sell enriched uranium on a single transaction basis. Such sales of enriched uranium will in general be limited to situations in which rapid delivery is required to meet unforeseen emergencies, where the material to be purchased has been distributed by the Commission on lease, or where the quantity desired is small enough that undue effort would be involved in securing the material through toll enrichment. The charge for enriched uranium sold will be that in effect on the date of delivery. The natural uranium feed component in the schedule of charges for lease or sale of enriched uranium will continue to be based on $8 per pound of U_3O_8, at least through June 30, 1973. As stated in the Uranium Enrichment Services Criteria the separative work component in the schedule of charges for lease or sale will be the same as the charge per unit of separative work concurrently in effect for enriching services.

13. In other situations, however, involving the sale of Government-owned uranium, AEC will in general give preference to the sale of natural uranium for toll enrichment rather than direct sale of enriched uranium. In such cases, any request for purchase of Government-owned uranium must be accompanied by evidence that the applicant has made a reasonable effort to purchase natural uranium from private domestic sources and that it is not available on the required schedule or at a price not exceeding that being used as a basis for the AEC charge. Except in cases of unforeseen emergency, prospective purchasers of Government-owned uranium must present their request sufficiently early to provide time for their needs to be met by purchase of Government-owned uranium concentrates for conversion to UF_6 in private facilities followed by toll enrichment. Sale of such Government-owned uranium will be limited to that amount of material required for up to an initial core or a single replacement region of a core (including allowance for spare elements, losses in processing, fabrication, etc.) for a specific power reactor.

14. Sales of Government-owned uranium, as discussed in the preceding paragraphs, will be subject to the availability of such material. The amount available from AEC will depend on the quantities needed to meet Government requirements and on the extent to which it is considered desirable to maintain a Government reserve. Disposition of enriched and natural uranium by the means stated herein is not expected to be of major significance either in terms of tonnage removed from stocks or of competition with the domestic uranium industry. The quantity of uranium which would be available, therefore, appears ample at this time to meet the expected demand upon AEC stocks under this program.

15. Foreign as well as domestic customers may purchase enriched or natural uranium on the basis outlined above. Foreign sales policies, and the arrangements made pursuant to Agreements for Cooperation are not affected by the policies set out in this notice.

Removal of restrictions on enrichment of foreign uranium for domestic use. 16. No date has been established for removal of the restriction on the enrichment of foreign uranium intended for domestic use, but in the 1966 review it was generally considered that this might be done by the mid-1970's. The Commission will continue to review this restriction in the light of developments and will propose its removal at the earliest date consistent with reasonable assurance of the viability of the domestic uranium industry as a whole. At the present time it appears that this may be possible by July 1, 1973, or earlier. The Commission intends to announce this proposed date as early as possible. The Commission will also give consideration to the possibility of removing the restriction on a graduated schedule.

17. The Commission does not believe it feasible to define quantitatively in advance the criteria which in its judgment would characterize a viable industry. Although the size of the market is an important element, a number of other factors must also be considered, such as the price of uranium at the time restrictions are removed, the size of domestic ore reserves, the rate of development of new reserves, the probable penetration of the domestic market by foreign imports, and the size of the export market. A decision that the restriction can be removed on a specified date or schedule would constitute a proposed amendment to the Uranium Enrichment Services Criteria which, before being established, would be submitted for Congressional review in accordance with section 161v of the Atomic Energy Act. Prior to reaching such a decision the Commission plans to provide opportunity for public comment.

Long-term availability of uranium. 18. In addition to its responsibility to see that its uranium supply policies adequately meet the needs of the various segments of the nuclear energy industry in the near term, the Commission is charged with assisting in the effective long-term development of nuclear energy. The availability of adequate fuel supplies is critical to the continued development of this important energy source. The Commission believes, therefore, that it should help assure adequate fuel resources through a program of resource evaluation and technical support to private exploration and through a vigorous reactor development program aimed at extending the supply of low-cost nuclear fuel resources through more efficient use.

19. A reevaluation of the long-term supply picture makes it apparent that the effort required by the uranium mining industry to meet the projected demand will be even greater than foreseen 2 years ago. The uranium industry faces potential domestic commercial requirements for delivery through 1980 approaching 250,000 tons of U_3O_8 (exclusive of AEC purchases), although this demand would be reduced to the extent of AEC sales of uranium to industry. An 8-year ore reserve in 1980, which is considered to be the minimum to support the continued expansion of production required, would be about 400,000 tons. Thus, during the period through 1980 production plus reserves would be about 650,000 tons of U_3O_8, which will require new discoveries exceeding 500,000 tons (presently known reserves at prices up to $8 per pound are about 150,000 tons).

20. Mining and milling capacities will have to be expanded to a production capability of nearly 40,000 tons per year by 1980 if U.S. requirements are to be met from domestic sources. The total investment in exploration and production facilities required is estimated in excess of $1 billion. This would represent an investment requirement of more than $2 per pound of U_3O_8 sold during the 1967–80 period. If consumers wish to negotiate long-term supply contracts committing reserves 8 to 10 years or more in the future, larger ore reserves would be needed and the exploration investment would be greater.

21. The Commission considers it important that information on uranium availability resulting from uranium exploration by private industry be collected and evaluated on a continuing basis. Such information on uranium re-

serves and resources is required for sound long-range planning of nuclear power development by both Government and industry. The Commission also believes that, in view of the large quantities of uranium that must be found and produced in the years ahead and the great potential savings in the cost of power if low uranium costs can be maintained, it is important that there be an adequate program of research and development to achieve an improved understanding of the occurrence, characteristics, and distribution of uranium ore deposits, the underlying ore-forming processes, and the technology of discovery and exploitation. AEC-sponsored projects of a type not undertaken by industry, and appropriate effort by other agencies, particularly mapping of areas favorable for uranium by the U.S. Geological Survey, are believed essential to this end.

22. Means of extending low-cost nuclear fuel resources are being actively pursued. The primary approach, and the ultimate solution, to the problem of extending fuel resources is the development of breeder reactors which make more fissionable material than they burn. An efficient fast breeder reactor would make it possible to utilize most of the energy latent in uranium and permit the economic use of higher priced fuel. Pending availability of fast breeders, interim measures to conserve available uranium-235 may include advanced converter systems which use fuel more efficiently than the present generation of light water moderated reactors.

Dated at Washington, D.C., this 3d day of September 1968.

For the Atomic Energy Commission.

W. B. McCool,
Secretary to the Commission.

PROJECTED NUCLEAR POWER GROWTH

COMMERCIAL URANIUM REQUIREMENTS AND SALES BY YEARS

	Installed capacity in net electrical megawatts	Domestic requirements (short tons of U_3O_8) [1] Annual	Cumulative
1966	1,800	1,500	1,500
1967	2,800	2,300	3,800
1968	3,900	4,000	7,800
1969	6,600	5,600	13,400
1970	9,800	7,500	20,900
1971	16,500	9,200	30,100
1972	23,000	12,500	42,600
1973	33,000	14,300	57,000
1974	47,000	15,000	72,000
1975	61,000	21,000	93,000
1976	74,000	24,000	117,000
1977	91,000	26,000	143,000
1978	108,000	30,000	173,000
1979	124,000	34,000	207,000
1980	145,000	38,000	245,000

[1] Requirements each year include initial fuel for reactors under construction and makeup fuel for reactors constructed in prior years, the latter varying from about 15 percent of total annual requirements in 1966 to 60 percent in 1980. The computations involve assumptions about fuel-processing times and utilize reactor characteristics supplied by reactor manufacturers. The tails assay in the uranium enrichment plants is taken as 0.2 percent U^{235}. Plutonium recycle in thermal reactors is assumed to start in 1974, resulting in a reduction in annual requirements for U_3O_8 ranging from about 2 percent in 1973 to 12 percent in 1980.

DOMESTIC SALES AND CONTRACT COMMITMENTS (EXCLUDES AEC PURCHASES)

(Tons of U_3O_8—by year of delivery)

	Annual	Cumulative
Pre-1968	900	900
1968	5,300	6,200
1969	4,500	10,700
1970	7,500	18,200
1971	9,800	28,000
1972	10,500	38,500
1973	7,900	46,400
1974	6,000	52,400
1975–77	6,200	58,600

FOREIGN SALES AND CONTRACT COMMITMENTS BY DOMESTIC PRODUCERS

Total ---------------- 3,100

[F.R. Doc. 68-10816; Filed, Sept. 6, 1968; 8:45 a.m.]

[Docket No. 50-111]

NORTH CAROLINA STATE UNIVERSITY AT RALEIGH

Notice of Issuance of Facility License Amendment

The Atomic Energy Commission has issued to North Carolina State University at Raleigh (formerly North Carolina State College) Amendment No. 4 as set forth below and effective as of the date of issuance, to Facility License No. R-63. The license authorizes the University to operate its tank type nuclear training reactor located at Raleigh, N.C. The amendment (1) reflects the change in name of North Carolina State College to North Carolina State University at Raleigh, (2) authorizes the University to change the design basis accident described in the Summary Hazards Report, and (3) extends the expiration date of the license to August 20, 1971.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by the issuance of this amendment may file a petition for leave to intervene. A request for hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice, 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) the licensee's applications for license amendments dated January 10, May 30, and July 31, 1968, and (2) a related safety evaluation, available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (2) may be obtained by request to the Director, Division of Reactor Licensing, Washington, D.C. 20545.

Dated at Bethesda, Md., this 20th day of August 1968.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

NORTH CAROLINA STATE UNIVERSITY AT RALEIGH AMENDMENT TO FACILITY LICENSE

[License R-63, Amdt. 4]

The Atomic Energy Commission has found that:

1. North Carolina State University's applications for license amendments dated January 10, May 30, and July 31, 1968, comply with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter 1, CFR;

2. Operation of the reactor in accordance with the license, as amended, will not be inimical to the common defense and security or to the health and safety of the public; and

3. Prior public notice of proposed issuance of this amendment is not required since the amendment does not involve significant hazards considerations different from those previously evaluated.

Accordingly, Facility License No. R-63, as amended, is revised in its entirety to read as follows:

1. This license applies to the heterogeneous, graphite reflected, water moderated training and research nuclear reactor (hereinafter "the reactor") which is owned by the applicant and located at Raleigh, N.C., and described in the application dated July 10, 1953, and amendments thereto dated September 15, 1958, October 10, 1958, July 28, 1959, January 30, 1961, January 31, 1961, December 20, 1961, April 11, 1962, April 19, 1962, August 13, 1963, January 10, 1968, May 30, 1968, and July 31, 1968 (hereinafter collectively referred to as "the application").

2. Pursuant to the Atomic Energy Act of 1954, as amended (hereinafter "the Act") and having considered the record in this matter, the Atomic Energy Commission (hereinafter "the Commission") finds that:

A. The reactor has been constructed in conformity with Construction Permit No. CPRR-32 issued to North Carolina State University at Raleigh (formerly North Carolina State College) and will operate in conformity with the application and in conformity with the Act and with the rules and regulations of the Commission.

B. There is reasonable assurance that the reactor can be operated at the designated location without endangering the health and safety of the public.

C. North Carolina State University at Raleigh is technically and financially qualified to operate the reactor, to assume financial responsibility for payment of Commission charges for special nuclear material, and to undertake and carry out the proposed use of such material for a reasonable period of time.

D. The possession and operation of the reactor and the receipt, possession and use of the special nuclear material in the manner proposed in the application will not be inimical to the common defense and security or to the health and safety of the public.

E. North Carolina State University at Raleigh is a nonprofit educational institution and will use the reactor for the conduct of educational activities. North Carolina State University at Raleigh is therefore exempt from the financial protection requirement of subsection 170a of the Act.

3. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses North Carolina State University at Raleigh (hereinafter "the licensee"):

A. Pursuant to section 104c of the Act and Title 10 CFR, Chapter 1, Part 50, "Licensing of Production and Utilization Facilities," to possess and operate the reactor as a utilization facility at the designated location in Raleigh, N.C., in accordance with the procedures and limitations described in the application.

B. Pursuant to the Act and Title 10, CFR, Chapter 1, Part 70, "Special Nuclear Material," to possess and use up to (4.002) kilograms of contained uranium-235 in connection with operation of the reactor.

C. Pursuant to the Act and Title 10, CFR, Chapter 1, Part 70, "Special Nuclear Material," to possess and use in connection with operation of the reactor up to 80 grams of plutonium for use as a plutonium-beryllium neutron source.

D. Pursuant to the Act and Title 10, CFR, Chapter 1, Part 30, "Rules of General Applicability to Licensing of Byproduct Material," to possess, but not to separate, such byproduct material as may be produced from operation of the reactor.

4. This license shall be deemed to contain and be subject to the conditions specified in Part 20, § 30.34 of Part 30, §§ 50.54 and 50.59 of Part 50 and § 70.32 of Part 70, Title 10, CFR, and to be subject to all applicable provisions of the Act, and to the rules, and regulations and orders of the Commission now or hereafter in effect and to the additional conditions specified below:

A. (1) The licensee shall not operate the reactor at power levels in excess of 10 kilowatts without previous authorization from the Commission.

(2) The licensee shall maintain attended nuclear control instrumentation in operation during operations which might involve a change in core reactivity when the reactor is shut down.

(3) Prior to performance of the ramp experiments, the reactivity worth of the auxiliary rod shall be determined experimentally to be no greater than 0.4 percent.

(4) A written record of the determination in (3) above shall be placed in the official reactor log.

B. In addition to those otherwise required under this license and applicable regulations, the licensee shall keep the following records:

(1) Reactor operating records, including power levels.

(2) Records of in-pile irradiations.

(3) Records showing radioactivity released or discharged into the air or water beyond the effective control of the licensee as measured at the point of such release or discharge.

(4) Records of emergency reactor scrams, including reasons for emergency shutdowns.

C. The licensee shall immediately report to the Commission in writing any indication or occurrence of a possible unsafe condition relating to the operation of the reactor.

D. The licensee shall promptly submit a written report to the Commission whenever, during operation of the reactor, any of the operating conditions or characteristics of the reactor, which might affect nuclear safety, is observed to vary significantly from its predicted value.

5. This amended license is effective as of the date of issuance and shall expire at midnight, August 20, 1971.

Date of issuance: August 20, 1968.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 68-10829; Filed, Sept. 6, 1968; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 20078; Order 68-9-1]

MOHAWK AIRLINES, INC.

Certificate of Public Convenience and Necessity

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3d day of September 1968.

Order providing for further proceedings in accordance with Subpart M expedited procedures.

On August 5, 1968, Mohawk Airlines, Inc. (Mohawk), filed an application, pursuant to Subpart M of Part 302 of the Board's Procedural Regulations, for amendment of its certificate of public convenience and necessity for Route 94 so as to permit it to provide, without subsidy eligibility, nonstop service between Syracuse, N.Y., and Washington, D.C., points on different segments of Mohawk's certificate.

Eastern Air Lines, Inc., has filed a statement requesting that the Board dismiss Mohawk's application.

Upon consideration of the foregoing, we do not find that Mohawk's application is not in compliance with, or is inappropriate for processing under, the provisions of Subpart M. Accordingly, we order further proceedings pursuant to the provisions of Subpart M, §§ 302.1306–1310, with respect to Mohawk's application.

Accordingly, it is ordered, That:

1. The application of Mohawk Airlines, Inc., in Docket 20078, be and it is hereby set for further proceedings pursuant to Rules 1306–1310 of the Board's Procedural Regulations; and

2. This order shall be served upon all parties served by Mohawk in its application.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-10852; Filed, Sept. 6, 1968; 8:47 a.m.]

[Docket No. 20115; Order 68-9-3]

SEDALIA, MARSHALL, BOONEVILLE STAGE LINE, INC.

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority September 3, 1968.

The Postmaster General filed a notice of intent August 16, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 29 cents per great circle aircraft mile for the transportation of mail by aircraft between San Angelo, Tex., Brownwood, Tex., and Dallas, Tex.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with twin-engine Beech, Model 18 aircraft equipped for all-weather operation.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid to Sedalia, Marshall, Boonville Stage Line, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between San Angelo, Tex., Brownwood, Tex., and Dallas, Tex., shall be 29 cents per great circle aircraft mile.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f),

It is ordered, That:

1. Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General, Trans-Texas Airways, Inc., Gardner Flyers, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Sedalia, Marshall, Boonville Stage Line, Inc.

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the

[1] As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in section 385.14(g).

findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General, Trans-Texas Airways, Inc., and Gardner Flyers, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-10853; Filed, Sept. 6, 1968; 8:47 a.m.]

CIVIL SERVICE COMMISSION

GENERAL SERVICES ADMINISTRATION

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of General Services Administration to fill by noncareer executive assignment the position of Deputy Assistant Administrator, GS-301-16, Office of the Administrator. This position is removed from the excepted service.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 68-10843; Filed, Sept. 6, 1968; 8:46 a.m.]

DEPUTY ASSISTANT COMMISSIONER (EDUCATION), BUREAU OF INDIAN AFFAIRS

Manpower Shortage

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission has found that there is a manpower shortage for the single position of Deputy Assistant Commissioner (Education) GS-1710-15, Bureau of Indian Affairs, Department of Interior, Washington, D.C. This finding terminates when the position is filled.

The appointee to this position may be paid for the expenses of travel and transportation to first post of duty, assuming all other legal requirements are met.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 68-10844; Filed, Sept. 6, 1968; 8:46 a.m.]

FEDERAL MARITIME COMMISSION

AMERICAN EXPORT ISBRANDTSEN LINES, INC., 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 offices 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.

American Export Isbrandtsen Lines, Inc., American President Lines, Ltd., Lykes Bros. Steamship Co., Inc., Prudential Lines, Inc., United States Lines, Inc., and Waterman Steamship Corp.

Notice of agreement filed for approval by:

Mr. Elmer C. Maddy, Kirlin, Campbell and Keating, 120 Broadway, New York, N.Y. 10005.

Agreement No. 9355-3, between the above parties operating in the trade from, to, and between ports in the Atlantic, Great Lakes, Gulf of Mexico, territories and possessions of the United States, on the one hand, and all foreign countries, on the other, amends the basic agreement which covers the discussion of credit and collection problems and procedures between the parties and inland carriers to (1) expand the application thereof from military household goods, personal effects and unaccompanied baggage moving under through Government bills of lading originating with the Department of Defense to cover such movements for all U.S. Government Agencies, (2) delete the reference therein to the rates, terms and conditions of the Atlantic and Gulf Berth Operators tariffs and provide that agreed rules setting forth the practices of the parties shall be filed with the Commission in a single tariff, (3) delete the provision that the members of AGAFBO Agreement No. 8086, as amended, shall become members of Agreement No. 9355, and provide that any American Flag Berth Operator may become a member, (4) provide that the Secretary shall have access to the records of the parties to enable him to determine that they are abiding by the agreement, and (5) amend the arbitration procedure to provide that the arbitrators shall consider only the evidence adduced at a hearing before the member lines, and that if additional information is submitted it shall be made available to the accused line for rebuttal.

Dated: September 4, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-10874; Filed, Sept. 6, 1968; 8:49 a.m.]

SOUTH ATLANTIC AND CARIBBEAN LINES, INC., AND EMPACADORA DEL NORTE, S.A.

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 offices 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. Gerald A. Malia, Ragan and Mason, the Farragut Building, 900 17th Street NW., Washington, D.C. 20006.

Agreement No. 9741, between South Atlantic and Caribbean Lines, Inc., and Empacadora Del Norte, S.A., establishes a through billing arrangement for the movement of frozen meats and frozen seafood between ports in Central America and the port of Miami, Fla., with transshipment at San Juan, P.R., in accordance with the terms and conditions set forth in the agreement.

Dated: September 4, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-10875; Filed, Sept. 6, 1968; 8:49 a.m.]

SOUTH ATLANTIC STEAMSHIP 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 offices 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. E. J. Middleton, Chairman, South Atlantic Steamship Conference, Post Office Box 96, Savannah Bank and Trust Building, Savannah, Ga. 31402.

Agreement No. 8310-6 between the member lines of the South Atlantic Steamship Conference provides for the deletion of the word "Secretary" from Articles 8, 20, 22, and 24 of the basic agreement and substitution of the word "Chairman" in lieu thereof. Provision is also made for the revision of Appendix No. 1 to the subject agreement (a) to eliminate from paragraph (1) thereof the provision for rotation of the chairmanship of the Conference, and to outline in detail the duties of the Conference Chairman; (b) to delete from paragraph (2) any reference to the appointment of a Conference Secretary, and to delegate the duties presently assigned the Conference Secretary to the Conference Chairman; (c) to eliminate paragraph (3) and to renumber present paragraph (4) as paragraph (3), and (d) to add a new paragraph (4) which provides that in the event that the Chairman is absent or temporarily unable to perform his duties, an acting Chairman will be designated by the parties to the subject agreement to perform the duties of the Chairman until such time as he is available.

Dated: September 4, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-10876; Filed, Sept. 6, 1968; 8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

ALCAR INSTRUMENTS, INC.

Order Suspending Trading

SEPTEMBER 3, 1968.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Alcar Instruments, Inc., 225 East 57th Street, New York, N.Y., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period September 4, 1968, through September 13, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 68-10821; Filed, Sept. 6, 1968; 8:45 a.m.]

[812-2343]

AMERICAN-HAWAIIAN STEAMSHIP CO.

Notice of Filing of Application for Exemption

SEPTEMBER 3, 1968.

Notice is hereby given that American-Hawaiian Steamship Co. ("American-Hawaiian"), 360 Lexington Avenue, New York, N.Y. 10017, a closed-end, nondiversified management investment company registered under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 17(b) of the Act for an order exempting from the provisions of section 17(a) of the Act the proposed acquisition by Continental Insurance Co. ("Continental") from American-Hawaiian of all of the latter's holdings of capital stock of Glens Falls Insurance Co. ("Glens Falls") consisting of 91,002 shares thereof at a price of $60 a share. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Glens Falls, a New York corporation, is an insurance company which on December 31, 1967 had outstanding 1,400,000 shares of capital stock. American-Hawaiian's present holdings of 91,002 shares of Glens Falls stock, virtually all of which have been owned by American-Hawaiian for upwards of 20 years, constitute 6.5 percent of the outstanding capital stock of Glens Falls. Continental, a New York corporation which is primarily engaged in the insurance business, acquired approximately 84.4 percent of the outstanding capital stock of Glens Falls pursuant to an offer inviting tenders of all shares of Glens Falls at a price of $60 a share, which offer commenced on June 3, 1968 and terminated on June 24, 1968.

As a result of American-Hawaiian's and Continental's holdings of Glens Falls capital stock described above, Glens Falls is an affiliated person of American-Hawaiian within the meaning of section 2(a)(3) of the Act and Continental is an affiliated person within the meaning of section 2(a)(3) of an affiliated person (Glens Falls) of American-Hawaiian, a registered investment company.

The proposed acquisition by Continental is to be made pursuant to the terms of a written agreement between American-Hawaiian and Continental dated June 21, 1968. Under the terms thereof Continental has agreed, in addition to paying a price of $60 a share for the Glens Falls stock, to reimburse American-Hawaiian for certain expenses connected with this application or to obtain an opinion of counsel satisfactory to American-Hawaiian in an amount not to exceed $1,500. Continental has represented that it will take the Glens Falls stock for investment and not with any intention of effecting a distribution of it.

It appears that during the period starting May 24, 1968 and ending with the execution of the purchase-sale agreement with Continental on June 21, 1968, American-Hawaiian had three other offers for the purchase of its holdings of Glens Falls stock. By letter dated May 24, 1968, Boston Old Colony Insurance Co. ("Old Colony"), a wholly owned subsidiary of Continental offered to exchange 60,668 shares of its holdings of Continental capital stock for the 91,002 shares of Glens Falls capital stock held by American-Hawaiian (which is on a basis of 2 shares of Continental stock for 3 shares of Glen Falls stock). Under such offer, the terms of which had been previously negotiated on May 15, 1968, Old Colony also offered for a limited time to effect and pay for the registration under the 1933 Act of the Continental shares to be received by American-Hawaiian (or the shares of a new holding company which might be received by American-Hawaiian in connection with a program contemplating the creation of a holding company to become the parent of Continental).

The per share closing prices of Continental stock on the New York Stock Exchange on May 15, 1968, and June 21, 1968 were 84 and 96⅞, respectively. On the basis of such closing prices, the Old Colony offer was equivalent to $56 per share of Glens Falls stock on May 15, 1968 and to about $64.60 per share of Glens Falls stock on June 21, 1968.

On May 29, 1968, during the existence of the above offer United States Fidelity and Guaranty Co. made a tender offer, terminating June 17, 1968, to purchase all shares of Glens Falls capital stock outstanding at a price of $52.50 a share net to the tendering stockholder.

Finally, on June 3, 1968, while both of the offers mentioned above were still open Continental itself, as noted above, made an offer to purchase all Glens Falls stock outstanding at $60 a share. Under the terms of this offer, which, as extended, expired on June 24, 1968, Continental was to pay any commissions and stock transfer taxes which might be applicable.

The application states that the Glens Falls capital stock is traded in the over the counter market, and that the range of bid quotations on such stock for each of the years 1965 through 1967, inclusive, and for each of the first 5 months of 1968, as reported by the National Quotation Bureau, Inc., is as follows:

Year	High	Low
1965	57½	40¼
1966	48¾	31½
1967	55	37½
1968:		
January	48¼	42
February	46¼	44⅛
March	47	42½
April	45⅜	39¾
May	54¼	40⅛

The application states that American-Hawaiian preferred the cash tender offer made by Continental on June 3, 1968 to Old Colony's offer of unregistered stock of Continental (or of the contemplated holding company) because of the unpredictability of the price which it might receive upon the registration and sale of Continental or holding company shares. American-Hawaiian indicated to Continental that it was interested in the cash tender offer but could not accept it because it appeared that as the result of tenders of Glens Falls stock by others Continental had become an affiliate of American-Hawaiian (with the consequence that an acquisition of Glens Falls stock by Continental from American-Hawaiian first required the issuance of an appropriate exemption order by this Commission). American-Hawaiian and Continental then entered into the agreement dated June 21, 1968.

The application notes that the proposed price of $60 a share for the Glens Falls stock is the same as the price at which Continental offered to purchase Glens Falls stock under the terms of the tender offer of June 3, 1967 which resulted in Continental's acquisition of about 84.4 percent of the stock of Glens Falls outstanding.

Section 17(a) of the Act, as here pertinent, makes it unlawful for an affiliated person (Continental) of an affiliated person (Glens Falls) of a registered investment company (American-Hawaiian) to purchase from such investment company any security or other property unless the Commission, upon application pursuant to section 17(b), grants an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of such investment company and with the general purposes of the Act.

American represents that the terms of the proposed transaction, including the consideration to be paid are reasonable and fair and do not involve overreaching on the part of any party involved and are consistent with the investment policy of American-Hawaiian and with the general purposes of the Act.

Notice is further given that any interested person may, not later than September 20, 1968, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon American-Hawaiian at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission pursuant to delegated authority.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-10822; Filed, Sept 6, 1968; 8:45 a.m.]

[70-4664]

CONSOLIDATED NATURAL GAS CO. ET AL.

Notice of Proposed Intrasystem Transfer of Assets

SEPTEMBER 3, 1968.

In the matter of Consolidated Natural Gas Co., 30 Rockefeller Plaza, New York, N.Y. 10020; Consolidated Gas Supply Corp., 445 West Main Street, Clarksburg, W. Va. 26301; The East Ohio Gas Co., 1717 East Ninth Street, Cleveland, Ohio 44114.

Notice is hereby given that Consolidated Natural Gas Co. ("Consolidated"), a registered holding company, and two of its wholly owned public-utility subsidiary companies, Consolidated Gas Supply Corp. ("Supply Corporation") and The East Ohio Gas Co. ("East Ohio"), have filed a joint application-declaration, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 9(a), 10, and 12(f) of the Act and Rule 43 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Supply Corporation is engaged in producing, purchasing, storing and transporting natural gas and selling natural gas both at wholesale in interstate commerce to four affiliated companies and to 15 nonaffiliated utility companies in New York and Pennsylvania and at retail to residential, commercial, and industrial customers in West Virginia. East Ohio owns and operates a natural gas distribution system serving residential, commercial, and industrial customers in northeastern Ohio. In order to take an additional long-term supply of natural gas from Texas Gas Transmission Corp., beginning November 1, 1968, Supply Corporation (1) proposes to construct and operate a 243-mile pipeline extending between Lebanon, Ohio, and Beaver, Pa., and (2) acquire certain transmission facilities from East Ohio consisting of approximately 34.9 miles of 24-inch pipeline located in Noble, Guernsey, and Tuscarawas Counties, Ohio, and 0.9 mile of parallel 20-inch, 26-inch pipelines in Mahoning County, Ohio. The transfer date of the East Ohio facilities will be the date Supply Corporation certifies that the 243-mile pipeline is completed. It is represented that on such date, transmission facilities to be transferred to Supply Corporation will no longer be required by East Ohio.

Supply Corporation will pay East Ohio cash for the facilities to be transferred and the price will be the net of their original cost less depreciation on the books of East Ohio as of the date such facilities are transferred. The net amount estimated as of November 1, 1968, the proposed date of transfer, is $1,986,666.

The filing states that The Public Utilities Commission of Ohio has jurisdiction over the abandonment, sale and transfer by East Ohio of the transmission facilities which are to be sold to Supply Corporation and that the Federal Power Commission has authorized the acquisition and operation by Supply Corporation of the transmission facilities which are to be acquired from East Ohio. A copy of the order of that State commission is to be filed by amendment. The application-declaration states that no other State commission and no other Federal commission, other than this Commission, has jurisdiction over the proposed transaction. Expenses incident to the proposed transactions are estimated at $3,000, including $1,000 payable to Consolidated Natural Gas Service Company, Inc. for services on a cost basis, $1,500 for taxes and recording and filing fees, and $500 for miscellaneous out-of-pocket expenses.

Notice is further given that any interested person may, not later than September 30, 1968, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said joint application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the joint application-declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-10823; Filed, Sept. 6, 1968; 8:45 a.m.]

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

SEPTEMBER 3, 1968.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange by summarily suspended, this order to be effective for the period September 4, 1968, through September 13, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-10824; Filed, Sept. 6, 1968; 8:45 a.m.]

[812-2380]

GULF LIFE HOLDING CO.

Notice of Filing of Application for Exemption

SEPTEMBER 3, 1968.

Notice is hereby given that Gulf Life Holding Co. ("applicant"), Gulf Life Tower, Jacksonville, Fla. 32201, a Florida corporation, has filed an application under sections 17(d) and 17(b) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 under the Act. Applicant requests (1) an order granting said application pursuant to Rule 17d-1 with respect to the proposed participation by applicant with ISI Trust Fund ("Trust Fund"), a registered open-end diversified investment company, in the sale to underwriters of shares of common stock of the applicant and (2) an order pursuant to section 17(b) of the Act exempting from section 17(a) the purchase from Trust Fund of shares of common stock of applicant by Goldman, Sachs & Co. and Lehman Brothers, including the respective interests in such transaction of Gustave Levy and William Osborn, Jr., as partners of such firms. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Trust Fund at August 27, 1968, owned 251,829 shares, or 7.4 percent, of the outstanding capital stock of applicant. Levy and Osborn are directors of applicant; Levy is a partner in Goldman, Sachs & Co. and Osborn is a partner in Lehman Brothers. Accordingly, applicant is an affiliated person of Trust Fund and Levy and Osborn are affiliated persons of applicant within the meaning of section 2(a)(3) of the Act.

Pursuant to a registration statement filed with the Commission under the Securities Act of 1933, Trust Fund proposes to sell to underwriters 251,829 shares of applicant's outstanding common stock and applicant proposes to issue and sell to such underwriters 1 million shares of newly issued common stock of applicant. The proposed initial public offering price and net price to be received by Trust Fund as selling stockholder and by applicant as issuer with respect to their respective blocks of stock will be the same and will be established by negotiation between Trust Fund and applicant on the one hand and Goldman, Sachs & Co. and Lehman Brothers, the representatives of the underwriters, on the other. If Trust Fund does not come into agreement with the representatives of the underwriters at the time of the pricing of the proposed issue, its block of stock will not be sold; applicant cannot bind Trust Fund to accept any price.

Assuming an agreement is reached, the initial public offering price for the stock to be sold in the underwriting will be reasonably related to the last available market price at the time the price negotiations take place. Such relationship will be one that is usual and customary in underwritings of common stock. The underwriting discount, expressed as a percentage of the initial public offering price, will not exceed 7 percent. Applicant has been advised by the representatives of the underwriters that such a discount does not exceed the usual and customary underwriting discount in an underwriting of common stock of this nature.

Goldman, Sachs & Co. and Lehman Brothers, as representatives of the underwriters, will, in accordance with customary practice, subscribe to a substantial portion of the total number of shares subscribed by the members of the underwriting syndicate.

The proposed form of underwriting agreement provides in general, with respect to the allocation of the expenses of the underwriting between Trust Fund and applicant, that Trust Fund will pay only the incremental costs caused by the inclusion of the 251,829 shares which it proposes to sell in the underwriting.

The proposed issue and sale by applicant of shares of its common stock is in furtherance of an agreement entered into by it on May 9, 1968, with Greatamerica Corp. for the purchase by applicant from Greatamerica Corp. of a majority stock interest in American-Amicable Life Insurance Co. In that connection, applicant agreed to use its best efforts to make a public offering of its common stock to raise a part of the funds for such purchase. A registration statement contemplating such a public offering was filed on June 12, 1968. Trust Fund's desire to sell its stock of applicant was not communicated to applicant until August 26, 1968.

Rule 17d-1, adopted under section 17(d) of the Act, provides, inter alia, that no affiliated person of any registered investment company shall, acting as principal, participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement in which such registered company is a participant, unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by order, and that in passing upon such application the Commissioner will consider whether the participation of the registered company in the joint enterprise or arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Section 17(a) of the Act, as here pertinent, prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, from selling to or purchasing from such registered company any securities or other property unless the Commission, upon application pursuant to section 17(b), grants an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of such investment company and with the general purposes of the Act.

Notice is further given that any interested person may, not later than September 16, 1968, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-10825; Filed, Sept. 6, 1968; 8:45 a.m.]

MASTER-CRAFT ELECTRONICS CORP.

Order Suspending Trading

SEPTEMBER 3, 1968.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Master-Craft Electronics Corp., 1115 Broadway, New York, N.Y. 10010, and all other securities of Master-Craft Electronics Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period September 4, 1968, through September 13, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-10826; Filed, Sept. 6, 1968; 8:45 a.m.]

[File No. 1-4371]

WESTEC CORP.

Order Suspending Trading

SEPTEMBER 3, 1968.

The common stock, 10 cents par value, of Westec Corp., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Westec Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period September 4, 1968, through September 13, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-10827; Filed, Sept. 6, 1968; 8:45 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 4.1 (Rev. 1) Amdt. 3]

DEPUTY ASSOCIATE ADMINISTRATOR FOR FINANCIAL ASSISTANCE

Delegation of Authority on Lease Guarantee

Delegation of Authority No. 4.1 (Revision 1), (32 F.R. 938), as amended (33 F.R. 8624 and 33 F.R. 9317), is hereby further amended by revising Item I and Item II, and adding new Items I.G., I.H., I.I., and I.J., to read as follows:

I. Pursuant to the authority delegated by the Administrator to the Associate Administrator for Financial Assistance in Delegation of Authority No. 4, Revision 1 (32 F.R. 178) as amended (33 F.R. 7603, 33 F.R. 8793, and 33 F.R. 11569), there is hereby redelegated to the Deputy Associate Administrator for Financial Assistance the following authority:

* * * * *

G. To approve or decline any application to the Small Business Administration for a guarantee of the payment of rent under a lease.

H. To enter into reinsurance agreements with participating insurance companies and to modify and revise the same whenever necessary.

I. To reinsure or decline to reinsure any application for the guarantee of the payment of rent under a lease.

J. To take all necessary actions in connection with the servicing, administration, collection and payment of claims arising under insurance policies upon default of the lessee.

II. The authority delegated herein may be redelegated with the exception of that contained in items I.E., I.G., I.H., I.I., and I.J.

* * * * * *

Effective date: August 14, 1968.

LOGAN B. HENDRICKS, *Associate Administrator for Financial Assistance.*

[F.R. Doc. 68-10867; Filed, Sept. 6, 1968; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 4, 1968.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41425—*Iron or steel articles from Hennepin, Ill.* Filed by Southwestern Freight Bureau, agent (No. B-9101), for interested rail carriers. Rates on iron or steel articles, as described in the application, in carloads, from Hennepin, Ill., to specified points in Louisiana and Texas.

Grounds for relief—Market competition.

Tariff—Supplement 67 to Southwestern Freight Bureau, agent, tariff ICC 4753.

FSA No. 41426—*Iron or steel skelp to Houston, Tex.* Filed by Southwestern Freight Bureau, agent (No. B-9100), for interested rail carriers. Rates on skelp, iron or steel, in carloads, from New Boston and Portsmouth, Ohio, to Houston, Tex.

Grounds for relief—Water competition.

FSA No. 41427—*Canned or preserved foodstuffs from and to points in Colorado and Wyoming.* Filed by Southwestern Freight Bureau, agent (No. B-9103), for interested rail carriers. Rates on canned or preserved foodstuffs and related articles, in carloads, between points in southwestern territory, on the one hand and points in Colorado and Wyoming, on the other.

Grounds for relief—Grouping.

Tariff—Supplement 99 to Southwestern Freight Bureau, agent, tariff ICC 4690.

FSA No. 41428—*Lumber and related articles from points in southwestern territory.* Filed by Southwestern Freight Bureau, agent (No. B-9107), for interested rail carriers. Rates on lumber and related articles, in carloads, from points in southwestern territory, to points in Illinois, Indiana, and Iowa on the TP&W.

Grounds for relief—Carrier competition.

Tariff—Supplement 99 to Southwestern Freight Bureau, agent, tariff ICC 4690.

FSA No. 41429—*Sulphuric acid from Le Moyne, Ala.* Filed by O. W. South, Jr., agent (No. A6046), for interested rail carriers. Rates on sulphuric acid, in tank carloads, from Le Moyne, Ala., to Chickamauga, Tenn.

Grounds for relief—Market competition.

Tariff—Supplement 63 to Southern Freight Association, agent, tariff ICC S-671.

FSA No. 41430—*Urea from and to points in Wyoming.* Filed by Western Trunk Line Committee, agent (No. A-2563), for interested rail carriers. Rates on urea, in bulk in covered hopper cars, in carloads, between points in Wyoming, on the one hand, and points in western trunk-line territory, on the other.

Grounds for relief—Market competition, modified short-line distance formula and grouping.

Tariff—Supplement 20 to Western Trunk Line Committee, agent, tariff ICC A-4674.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

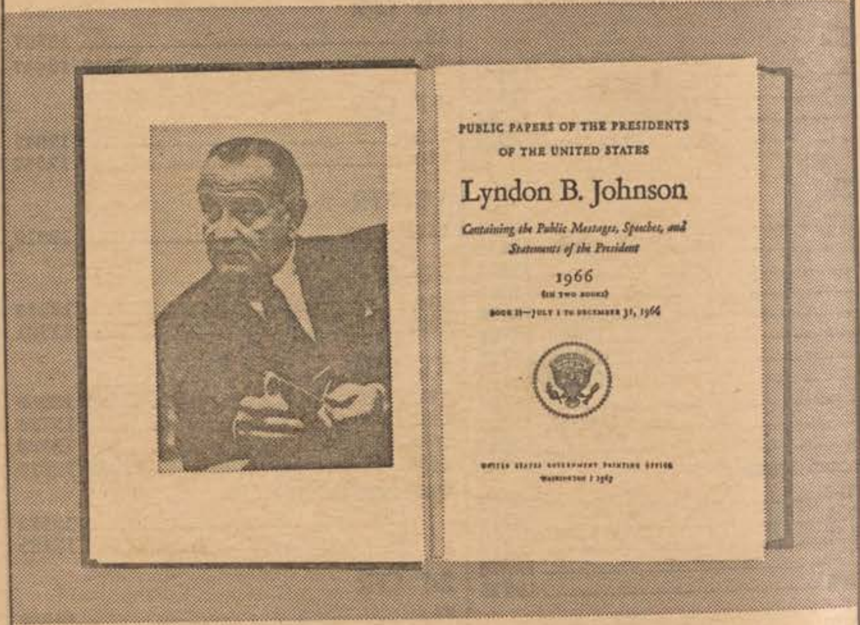
[F.R. Doc. 68-10858; Filed, Sept. 6, 1968; 8:47 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—SEPTEMBER

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 September.

Lyndon B. Johnson - 1966

Public Papers of the Presidents
of the United States



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- Public speeches and letters
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- Remarks to informal groups

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