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List of CFR Parts Affected

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

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, 1972, and specifies how they are affected.

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 733—POLITICAL ACTIVITY OF FEDERAL EMPLOYEES

Jurisdiction; Correction

In the FEDERAL REGISTER of May 13, 1972 (F.R. Doc. 72-7261) on page 9609, the first sentence of § 733.401 showed "§§ 733.101 (c), (d), (e), and (f), and 733.124 apply to an employee of the U.S. Postal Service." It should have appeared "§§ 733.101 (c), (d), (e), and (f) through 733.124 apply to an employee of the U.S. Postal Service."

Section 733.401 should appear as follows:

§ 733.401 Jurisdiction.

Sections 733.101 (c), (d), (e), and (f) through 733.124 apply to an employee of the U.S. Postal Service. By agreement with this agency, the Civil Service Commission investigates and adjudicates an allegation of political activity in violation of these sections by a covered agency employee.

(5 U.S.C. 1308, 3301, 3302, 7301, 7324, 7325, 7327, 42 U.S.C. 2729, E.O. 10577; 3 CFR, 1954–58 Comp.)

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

[FR Doc.72-7782 Filed 5-19-72;8:51 am]

Title 7—AGRICULTURE

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

PART 752—WATER BANK PROGRAM

On October 29, 1971, notice of proposed rule making regarding the issuance of the regulations governing the Water Bank Program was published in the FEDERAL REGISTER (36 F.R. 20763). Interested persons were invited to submit written comments regarding the regulations. The comments received have been duly considered in the formulation of the regulations.

This part, which is issued pursuant to the Water Bank Act, 84 Stat. 1468, 16 U.S.C. 1301, sets forth the terms and conditions under which persons in selected areas having eligible wetlands with a high potential for migratory waterfowl nesting and breeding may enter into 10-year agreements with the Secretary of Agriculture. Under such agreements, annual payments are made for the conservation of water on specified wetlands.

Sec.

AUTHORITY: The provisions of this Part 752 issued under sec. 12, 84 Stat. 1471, 16 U.S.C. 1311.

§ 752.1 Basis and purpose.

(a) The regulations in this part provide terms and conditions for the water bank program for 1972 and subsequent years under which the Secretary is authorized to enter into agreements and make payments to eligible persons in important migratory waterfowl nesting and breeding areas for the conservation of water on specified wetlands identified in a conservation plan developed in cooperation with the Soil and Water Conservation District in which the lands are located.

(b) The program is to be carried out to preserve, restore, and improve the wetlands of the Nation, and thereby to conserve surface waters, to preserve and improve habitat for migratory waterfowl and other wildlife resources, to reduce runoff, soil and wind erosion, and contribute to flood control, to contribute to improved water quality and reduce stream sedimentation, to contribute to improved subsurface moisture, to reduce acres of new land coming into production and to retire lands now in agricultural production, to enhance the natural beauty of the landscape, and to promote comprehensive and total water management planning.

§ 752.2 Definitions.

In the regulations in this part and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings assigned to them herein unless the content or subject matter otherwise requires.

(a) "Adjacent land" means land on a farm, including types 1 and 2 wetlands, which adjoins type 3, 4, or 5 wetlands and is considered essential for the nesting and breeding of migratory waterfowl.

(b) "Administrator" means the Administrator or Acting Administrator of the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(c) "Agreement" means a water bank agreement.

(d) "Type 1 wetlands" means seasonally flooded basins or flats consisting of soil which is covered with water, or is waterlogged, during variable seasonal periods but usually is well drained during much of the growing season. This type is found both in upland depressions and in overflow bottom lands. Along river courses, flooding occurs in late fall, winter, or spring. In the uplands, basins or flats may be filled with water during periods of heavy rains or melting snow.

(1) Vegetation varies greatly according to the season and the duration of flooding. It includes bottom-land hardwoods as well as some herbaceous growths. Where the water has receded early in the growing season, smartweeds, wild millet, fall panicum, tealgrass, chufa, redroot cypress, and weeds (such as marsh elder, ragweed, and cockleburs) are likely to occur. Shallow basins that are submerged only very temporarily usually develop little or no wetland vegetation.

(2) Upland depressions are confined largely to the three Lake States, the two Dakotas, Montana, and the Panhandle of Texas. In the Northern States, the presence of this temporary water stimulates high waterfowl production by providing greater area for the establishment of territories by breeding pairs. When water occurs abundantly in the Panhandle, the temporarily flooded basins (playas) are used extensively by migrating and wintering waterfowl.

(3) The overflow bottom lands in the southern part of the Mississippi Flyway provide a major wintering area for ducks as well as good shooting sites for hunters. Particularly in good mast years, feeding ducks use bottom lands when they are flooded. Although there remain more than 10 million acres of overflow lands in Missouri, Kentucky, Tennessee, Arkansas, Mississippi, and Louisiana, most of the wintering waterfowl in this flyway concentrate in certain key areas.

(e) "Type 2 wetlands" means inland fresh meadows consisting of soil which is usually without standing water during

most of the growing season but is waterlogged within at least a few inches of its surface. Vegetation includes grasses, sedges, rushes, and various broad-leaved plants. In the North, representative plants are carex, rushes, redtop, reedgrasses, mannagrasses, prairie cordgrass, and mints. In Florida, cordgrasses and various species of paspalums and beakrushes are common. Meadows may fill shallow lake basins, sloughs, or farmland sags, or these meadows may border shallow marshes on the landward side. Wild hay oftentimes is cut from such areas. Fresh meadows are used somewhat in the North by nesting waterfowl, but in most of the country their value is mainly as supplemental feeding areas.

(f) "Type 3 wetlands" means inland shallow fresh marshes consisting of soil which is usually waterlogged during the growing season; often it is covered with as much as 6 inches or more of water. Vegetation includes grasses, bulrushes, spikerushes, and various other marsh plants such as cattails, arrowheads, pickerelweed, and smartweeds. Common representatives in the north are reed, whitetop, rice cutgrass, carex, and giant burreed. In the Southeast, maidencane, sawgrass, arrowhead, and pickerelweed are characteristic. These marshes may nearly fill shallow lake basins or sloughs, or they may border deep marshes on the landward side. They are also common as seep areas on irrigated lands.

(1) Marshes of this type are used extensively as nesting and feeding habitat in the pothole country of the North Central States and elsewhere. In combination with deep fresh marshes (type 4), they constitute the principal production areas for waterfowl. Florida and Georgia are the only States where the majority of the shallow fresh marshes are considered to be of lesser importance to waterfowl. Florida alone contains more than 2 million acres of this type.

(g) "Type 4 wetlands" means inland deep fresh marshes consisting of soil which is covered with 6 inches to 3 feet or more of water during growing season. Vegetation includes cattails, reeds, bulrushes, spikerushes, and wildrice. In open areas, pondweeds, naiads, coontail, watermilfoils, waterweeds, duckweeds, waterlilies, or spatterdocks, may occur. Water-hyacinth and water-primroses form surface mats in some localities in the Southeast. These deep marshes may almost completely fill shallow lake basins, potholes, limestone sinks, and sloughs, or they may border open water in such depressions.

(1) Deep fresh marshes constitute the best breeding habitat in the country, and they are also important feeding places. In the Western States they are heavily used by migrating birds, especially diving ducks. Florida and Texas are the only States in which the vast majority of these marshes are not rated as being of primary importance to waterfowl.

(h) "Type 5 wetlands" means inland open fresh water consisting of shallow ponds and reservoirs. Water is usually less than 10 feet deep and is fringed by a border of emergent vegetation. Vegetation (mainly at water depths of less than 6 feet) includes pondweeds, naiads, wildcelery, coontail, watermilfoils, muskgrasses, waterlilies, spatterdocks, and (in the South) water-hyacinth.

(1) In the pothole country of the North Central States, type 5 areas are used extensively as brood areas when, in midsummer and late summer, the less permanent marshes begin to dry out. The borders of such areas are used for nesting throughout the Northern States. Where vegetation is plentiful, they are used in all sections of the country as feeding and resting areas by ducks, geese, and coots, especially during the migration period.

(i) In the regulations in this part and in all instructions, forms, and documents in connection therewith, all other words and phrases shall have the meanings assigned to them in the regulations governing reconstitution of farms, allotments, and bases, Part 719 of this chapter, as amended.

§ 752.3 Administration.

(a) The water bank program will be administered under the general supervision of the Administrator and shall be carried out in the field by Agricultural Stabilization and Conservation State and county committees (herein called "State and county committees").

(b) Members of county committees are authorized to approve water bank agreements on behalf of the Secretary.

(c) State and county committees do not have authority to modify or waive any of the provisions of these regulations, or any amendment, supplement, or revision thereto, and do not have authority to modify or waive any of the provisions of any agreement entered into hereunder except to the extent specifically authorized in this part.

§ 752.4 Geographical applicability.

With respect to agreements entered into in 1972, the program will be applicable in counties designated by the Deputy Administrator in the States of California, Louisiana, Maine, Minnesota, Mississippi, Montana, Nebraska, North Dakota, Oregon, South Dakota, Vermont, Washington, and Wisconsin.

§ 752.5 Eligible farm.

A farm is eligible for participation in the program if it (a) contains type 3, 4, or 5 wetlands which are identified in a conservation plan developed in cooperation with the Soil and Water Conservation District in which the farm is located and (b) meets the other requirements specified in this part.

§ 752.6 Land eligible for designation.

(a) Land placed under an agreement shall be specifically identified and designated for the period of agreement.

(b) Except as otherwise provided in paragraph (c) of this section, land eligible for designation must be:

(1) Privately owned inland fresh wetland areas of types 3, 4, and 5 with respect to which, in the absence of participation in the program, a change in use could reasonably be expected which would destroy its wetland character: *Provided*, That otherwise eligible types 3, 4, and 5 wetlands which are under a drainage easement with the U.S. Department of the Interior or a State government which permits agricultural use may be designated.

(2) Other privately owned land, including types 1 and 2 wetlands, which is adjacent to designated type 3, 4, or 5 wetlands and which is determined by the county committee to be essential for the nesting and breeding of migratory waterfowl.

(c) The following land is not eligible for designation:

(1) Land with respect to which the ownership has changed during the 2-year period preceding the first year of the agreement period unless (i) the new ownership was acquired by will or succession as a result of the death of the previous owner; (ii) the new ownership was acquired prior to July 1, 1971, upon the exercise of an option to purchase entered into prior to January 1, 1970; (iii) the new ownership was acquired prior to July 1, 1971, and the county committee determines that the land was not acquired for the purpose of placing it in the program; or (iv) the land was acquired by the owner or operator to replace eligible land from which he was displaced because of its acquisition by any Federal, State, or other agency having the right of eminent domain: *Provided*, That a new owner shall not be prohibited from entering into an agreement if the person has operated the land to be designated for as long as 2 years preceding the first year of the agreement and has control of such land for the agreement period. (The provisions of this subparagraph shall not prohibit the continuation of an agreement by a new owner after an agreement has once been entered into under this part.)

(2) Land which is set aside or diverted under any other program.

(3) Land owned by the United States or a State or local government or any agency or political subdivision thereof.

(4) Land which is harvested in the first year of the agreement period prior to being designated.

§ 752.7 Use of designated acreage.

(a) The acreage designated under an agreement shall be maintained for the agreement period in such a manner as to preserve the wetland character of such land. Persons entering into an agreement shall devote the adjacent land to such conservation use as may be specified in the agreement.

(b) The designated acreage shall not be drained, burned, filled, or otherwise used in a manner which would destroy the wetland character of the acreage: *Provided*, That the provisions of this paragraph shall not prohibit the carrying out of the management practices called for in the conservation plan for the farm.

(c) The designated acreage shall not be used as a dumping area for draining other wetlands: *Provided*, That the county committee may authorize the use

of the designated area to receive limited drainage waters upon a determination that such use is in keeping with the sound management of wetlands.

(d) The designated acreage shall not be used (1) as a source of irrigation water or as set-aside or diverted acreage under any other program, or (2) to meet the conserving base acreage requirement under any other program.

(e) No crop shall be harvested from the designated acreage and such acreage shall not be grazed: *Provided*, That the designated acreage may be grazed in the first year of the agreement period prior to the date the agreement is approved.

§ 752.8 Water bank program agreement.

(a) An agreement shall be executed for each participating farm. The agreement shall be signed by the owner of the designated acreage and any other person who, as landlord, tenant, or sharecropper, will share in the payment or has an interest in the designated acreage.

(b) There shall be only one agreement for a farm.

(c) Each agreement shall be signed by a member of the county committee on behalf of the Secretary.

§ 752.9 Agreement period.

(a) The agreement period shall be 10 years. The agreement shall become effective on January 1 of the year in which the agreement is approved: *Provided*, That the agreement shall become effective on January 1 of the next succeeding year in cases where, at the time the agreement is approved, the county committee determines that the agreement signers will be unable to comply with the provisions in § 752.7 relating to the use of the designated acreage for the year in which the agreement is approved.

(b) Subject to such modification of payment rates and other provisions as are determined to be desirable by the Secretary and announced by amendment to this part, agreements may be renewed for additional periods of 10 years each.

§ 752.10 Awarding water bank agreements.

(a) Persons wishing to be considered for an agreement shall file a request therefor with the county committee, not later than a date established by the Deputy Administrator, showing the acreage to be designated. In order to be eligible for participation, the persons must agree to designate at least (1) 2 acres of type 3, 4, or 5 wetlands, and (2) a total of at least 10 acres of type 3, 4, or 5 wetlands or adjacent land, including types 1 and 2 wetlands, or any combination thereof, identified in a conservation plan developed in cooperation with the Soil and Water Conservation District in which the farm is located: *Provided*, That an acreage less than such minimum may be designated if the Soil Conservation Service representative recommends acceptance of such acreage and certifies that the area offered for agreement is a good viable wetlands unit and that the acceptance of the acreage would be in accord with the purposes of the program.

(b) Persons desiring to participate in the program may agree to designate any additional amount of types 3, 4, and 5 wetlands and land adjacent to such wetlands, including types 1 and 2 wetlands: *Provided*, That the maximum acreage of adjacent land on which payment shall be based is limited to four times the total acreage of types 3, 4, and 5 wetlands designated under the agreement: *Provided further*, That, if less than 2 acres of type 3, 4, or 5 wetlands are designated pursuant to the proviso in paragraph (a) of this section, the maximum acreage of adjacent land on which payment shall be based is limited to 10 acres minus the total acreage of types 3, 4, and 5 wetlands which is designated under the agreement.

(c) Where funds allocated to the county do not permit accepting all requests which are filed, the county committee may limit the approval of requests for agreements in accordance with instructions issued by the Deputy Administrator.

§ 752.11 Responsibility of agreement signers.

(a) The owner of the designated acreage is responsible for compliance with the agreement and for any refunds or deductions for failure to comply fully with the terms of the agreement while he is a party to the agreement.

(b) Each other person signing the agreement is jointly and severally responsible with the owner for compliance with the agreement and for any refunds or deductions for failure to comply fully with the terms of the agreement while he is a party to the agreement.

§ 752.12 Provisions relating to tenants and sharecroppers.

(a) No agreement shall be approved if it shall appear that the owner, landlord, or operator has (1) not afforded his tenants and sharecroppers having an interest in the designated acreage an opportunity to participate in the program, or (2) adopted any device or scheme of any sort whatever for the purpose of depriving any tenant or sharecropper of his payment or any other right under the program.

(b) The agreement shall be deemed to be in noncompliance if any of the conditions set forth in paragraph (a) of this section occurs after the approval of the agreement.

§ 752.13 Determination of compliance.

(a) Determination of the acreage designated shall be made in accordance with Part 718 of this chapter, as amended.

(b) A representative of the county committee or the State committee or any authorized representative of the Secretary shall have the right at any reasonable time to enter a farm concerning which representations have been made on any forms filed under the program in order to measure the designated acreage, to examine any records pertaining thereto, and otherwise to determine the accuracy of an agreement signer's representations and the performance of his obligations under the program.

§ 752.14 Annual payments.

(a) Persons on the farm having an interest in the designated acreage shall be eligible for an annual payment on such acreage.

(b) The farm annual per acre payment rate shall be $5 for types 3, 4, and 5 wetlands: *Provided*, That, if the wetlands are under a drainage easement with the U.S. Department of the Interior or a State Government, the rate shall be $4 per acre. The payment rate for adjacent land shall be established by the Deputy Administrator for each county on the basis of the productivity of the land. Such rates shall be available for inspection at the county ASCS office.

(c) The payment shall be divided among the owner of the designated acreage and other persons having an interest in such acreage, including tenants and sharecroppers, in the manner agreed upon by them as representing their respective contributions to compliance with the agreement, except that the county committee shall refuse to approve an agreement if it determines that the proposed division of payment is not fair and equitable. The annual payment and the division of the payment shall be specified in the agreement.

§ 752.15 Refunds or forfeitures for noncompliance.

(a) Except as otherwise provided in paragraph (b) of this section, no payment shall be made to any person for any year with respect to any farm on which it is determined that for such year:

(1) There has been a failure to comply with the prohibition against draining, burning, filling, or otherwise using the designated acreage in a manner which would destroy the wetland character of the acreage as provided in § 752.7(b);

(2) There has been a failure to comply with the prohibition against using the designated acreage as a dumping area for draining other wetlands as provided in § 752.7(c);

(3) There has been a failure to comply with the prohibition against using the designated acreage as a source of irrigation water, as set-aside or diverted acreage, or as acreage to meet the conserving base requirement under any other program as provided in § 752.7(d);

(4) There has been a failure to comply with the prohibition against harvesting a crop from or grazing the designated acreage as provided in § 752.7(e);

(5) There has been a failure to maintain the wetland character of the designated acreage and devote the adjacent land to the use specified in the agreement as provided in § 752.7(a); or

(6) There has been a failure to comply with the provisions relating to tenants and sharecroppers as provided in § 752.12.

(b) The regulations governing the making of payments when there has been a failure to comply fully with the provisions of the program, Part 791 of this chapter, are applicable to the water bank program.

(c) The agreement shall be terminated in any case in which the failure to comply with the provisions of this part requires a refund or forfeiture of the entire annual payment under the agreement for the year and it is determined that such failure to comply is of such a nature as to warrant termination of the agreement. In case of such termination, the persons signing the agreement shall forfeit all rights to further payments under the agreement and shall refund all payments made under the agreement.

§ 752.16 Practices defeating purposes of program.

If the county committee finds that any person has adopted or participated in any practice which tends to defeat the purposes of the program, it may withhold, or require to be refunded, all or any part of the annual payment which otherwise would be due him under the program.

§ 752.17 Filing of false claims.

The making of a fraudulent representation by a person in the payment documents or otherwise for the purpose of obtaining a payment from the county committee shall render the person liable, aside from any additional liability under criminal and civil fraud statutes, for a refund of the payments received by him with respect to which the fraudulent representation was made.

§ 752.18 Depriving others of payments.

If the State committee finds that any person has employed any scheme or device (including coercion, fraud, or misrepresentation), the effect of which would be or has been to deprive any other person of the payment due that person under the program, it may withhold in whole or in part from the person participating in or employing such a scheme or device, or require him to refund in whole or in part, the payment which otherwise would be due him under the program.

§ 752.19 Modification of an agreement.

(a) Reconstitution of farms shall be made in accordance with the regulations governing reconstitution of farms, Part 719 of this chapter, as amended.

(b) If the farm is reconstituted because of purchase, sale, change of operation, or otherwise, the agreement shall be modified in accordance with instructions issued by the Deputy Administrator with respect to any resulting farm containing all or any part of the original designated acreage. Such modified agreement or agreements shall reflect the changes in the number of acres in any resulting farm, the designated acreage, interested persons, and division of payments. If persons who were not signatories to the original agreement are required to sign such modified agreement or agreements in accordance with § 752.8 but are not willing to become parties to the modified agreement or for any other reason a modified agreement is not entered into, the agreement shall be terminated with respect to the designated acreage not continued in the program, and all unearned payments shall be forfeited or refunded. The annual payment for the year in which reconstitution occurs shall not be considered earned unless the designated acreage is continued in the program and there is a compliance with the agreement for the full agreement year. The persons on the farm prior to the reconstitution who were signatories to the agreement shall be jointly and severally responsible for refunding the unearned payments previously made.

(c) Except in cases in which the farm is reconstituted, if the ownership or operation of the farm changes in such a manner that the agreement no longer contains the signatures of persons required to sign the agreement in accordance with § 752.8, the agreement shall be modified in accordance with instructions issued by the Deputy Administrator to reflect the new interested persons and new divisions of payments. If such persons are not willing to become parties to the modified agreement or for any other reason a modified agreement is not entered into, the agreement shall be terminated and all unearned payments shall be forfeited or refunded. The annual payment for the year in which the change of ownership or operation occurs shall not be considered earned unless the designated acreage is continued in the program and there is compliance with the agreement for the full agreement year. The persons on the farm prior to the change of ownership or operation who were signatories to the agreement shall be jointly and severally responsible for refunding the unearned payments previously made.

(d) The Deputy Administrator may authorize other agreement modifications determined to be desirable to carry out the purposes of the program or facilitate its administration.

§ 752.20 Termination of agreements.

The Deputy Administrator may, by mutual agreement with the parties to the agreement, consent to the termination of an agreement in cases where (a) the operator of the farm is physically handicapped to such an extent that he could not reasonably be expected to carry out the terms and conditions of the agreement and that to require him to do so would work an undue hardship on him, (b) the operator is or was at the time he signed the agreement mentally unstable and could not reasonably be expected to comply with the agreement, (c) the parties to the agreement are unable to comply with the terms of the agreement due to conditions beyond their control, (d) compliance with the terms of the agreement would work a severe hardship on the parties to the agreement, or (e) termination of the agreement would be in the public interest. The annual payment for the year in which the agreement is terminated pursuant to this section shall not be considered earned.

§ 752.21 Transfer of interest in an agreement.

(a) If, during the period covered by an agreement, a person acquires an interest in the designated acreage, he may, with the consent of the other parties to the agreement and approval of the county committee, become a party to the agreement and share in payments thereunder. By becoming a party to the agreement, he also becomes jointly and severally responsible with the other agreement signers for compliance with the agreement and liable for any deductions or refunds for failure to comply with the agreement which occurs after he becomes a party to the agreement.

(b) If an agreement signer ceases to have an interest in the designated acreage, he thereby ceases to be a party to the agreement. However, this will not relieve him of his liability for deductions and refunds for failure to comply with the terms of the agreement while he was a party to the agreement.

§ 752.22 Successors-in-interest.

In case of death, incompetency, or disappearance of any person, any payment due him shall be paid to his successor, as determined in accordance with the provisions of the regulations in Part 707 of this chapter, as amended.

§ 752.23 Agreement not in conformity with regulations.

If it is discovered after an agreement is approved by the county committee that, through a misunderstanding of the program by a person acting in good faith, the agreement is not in conformity with these regulations, the agreement shall be corrected to meet all requirements of the program. If persons who are currently eligible to sign the corrected agreement are unwilling to do so, the agreement shall be terminated and all payments paid or payable under the agreement shall be forfeited or refunded except as may be allowed by the Deputy Administrator under the provisions of § 752.24.

§ 752.24 Performance based upon advice or action of a county or State committee.

The provisions of Part 790 of this chapter, as amended, relating to performance based upon action or advice of an authorized representative of the Secretary shall be applicable to this program.

§ 752.25 Setoffs and withholdings.

The regulations issued by the Secretary governing setoffs and withholdings, Part 13 of this title, as amended, shall be applicable to this program.

§ 752.26 Liability for interest.

Where a refund is required under this part, interest shall be payable at the rate of 6 per centum per annum on the amount of the refund due from the date of written notice to persons liable for such refund to the date the refund is made, except that there shall be no interest due on any amount of such refund which is remitted to the office of the county committee within 30 days from the date of such notice.

§ 752.27 Appeals.

Any person may obtain reconsideration and review of determinations made

under this part in accordance with the Appeal Regulations, Part 780 of this chapter, as amended.

§ 752.28 Payments not subject to claims.

Any payments due any person shall be determined and allowed without regard to State law and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor, except as provided in § 752.25.

§ 752.29 Prohibition against payments.

The regulations in Part 796 of this chapter prohibiting the making of payments to program participants who harvest or knowingly permit to be harvested for illegal use marihuana or other such prohibited drug-producing plants on any part of the lands owned or controlled by them are applicable to this program.

§ 752.30 Delegation of authority.

No delegation herein to a State or county committee shall preclude the Administrator, or his designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

Effective date: Upon publication in the FEDERAL REGISTER (5–20–72).

Signed at Washington, D.C., on May 16, 1972.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72–7672 Filed 5–19–72;8:48 am]

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

[Lemon Reg. 534]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.834 Lemon Regulation 534.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), 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.

(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 May 16, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period May 21, 1972, through May 27, 1972, is hereby fixed at 270,000 cartons.

(2) As used in this section, "handled" and "carton(s)" 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: May 18, 1972.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–7758 Filed 5–19–72;8:50 am]

Title 12—BANKS AND BANKING

Chapter III—Federal Deposit Insurance Corporation

SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

PART 329—INTEREST ON DEPOSITS

Methods of Computing and Advertising Interest on Time and Savings Deposits

1. Effective upon publication (5–20–72), § 329.3 of the rules and regulations of the Federal Deposit Insurance Corporation (12 CFR 329.3) is amended to read as follows:

§ 329.3 Interest on time and savings deposits.

* * * * *

(e) *Computation of interest on time and savings deposits.* In computing interest on time and savings deposits, the time factor should be expressed as a fraction in which the actual number of days the funds earn interest is the numerator, and the denominator is either 360, 365, or, in a leap year, 366. However, when a deposit matures in 1 month, or multiples thereof, the bank may use 30 days in the numerator, or corresponding multiples thereof.

* * * * *

Effective upon publication (5–20–72), § 329.8 of the rules and regulations of the Federal Deposit Insurance Corporation (12 CFR 329.8) is amended to read as follows:

§ 329.8 Advertising of interest on deposits.

* * * * *

(b) *Percentage yields based on 1 year.* Where a percentage yield achieved by compounding interest during 1 year is advertised, the annual rate of simple interest shall be stated with equal prominence, together with a reference to the basis of compounding. No insured nonmember bank shall advertise a percentage yield based on the effect of grace periods permitted in § 329.3(d) or § 329.7(d).

* * * * *

2. The principal effect of the above amendments is to authorize the use of a 360-day basis in computing and advertising interest on time and savings deposits of any maturity. The accompanying interpretation (§ 329.101) indicates that an insured nonmember bank may use the 360-day basis in compounding interest, irrespective of the basis of compounding.

3. The requirements of sections 553 (b) and (d) of title 5, United States Code, with respect to notice, public participation, and deferred effective date were not followed in connection with these amendments because their effect, while substantive in nature, is to relax existing restrictions and the Board found for good cause that notice and public procedure thereon were unnecessary and not in the public interest.

By order of the Board of Directors, May 12, 1972.

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

[FR Doc.72–7698 Filed 5–19–72;8:51 am]

PART 329—INTEREST ON DEPOSITS

Computation and Payment of Interest; Interpretation

§ 329.101 Computation and payment of interest on time and savings deposits.

The Board of Directors of the Federal Deposit Insurance Corporation has

adopted the following position concerning the methods of computing interest on time and savings deposits.

(a) The maximum rate of simple interest that an insured nonmember bank may pay on a deposit is established by §§ 329.6 and 329.7 of the rules and regulations of the Federal Deposit Insurance Corporation. In January 1970, the Federal Deposit Insurance Corporation established certain rates on deposits with a maturity of "1 year or more." To qualify for the maximum rate that may be paid on such a deposit, the deposit must not mature before 1 full year, 365 or 366 days as the case may be, from the date of deposit.[19]

(b) Section 329.3(e) of the Corporation's regulations has been amended to authorize the use of 360 or 365 days (or 366 in a leap year) as the basis for computing interest on time or savings deposits, regardless of the actual number of days the funds earn interest.[20] For example, in computing interest on a 295-day deposit, the bank could use the fraction $^{295}/_{360}$ or $^{295}/_{365}$ or $^{295}/_{366}$ if a leap year. On a 360-day deposit the fraction could be $^{360}/_{360}$ or $^{360}/_{365}$ or $^{360}/_{366}$ if a leap year. On a 365-day deposit the fraction may exceed a value of 1, i.e. $^{365}/_{360}$. Additionally, § 329.3(e) authorizes 1 month, or multiples thereof, to be figured as 30 days, or multiples thereof, for interest computation purposes. For example, for a deposit made February 1 for 1 month, the fraction could be $^{30}/_{360}$ or $^{30}/_{365}$ or $^{28}/_{360}$ or $^{28}/_{365}$, etc.

(Interprets and applies sec. 9, 18(g), 64 Stat. 881–82, 83 Stat. 371; 12 U.S.C. 1819, 1828(g))

By order of the Board of Directors, May 12, 1972.

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

[FR Doc. 72-7697 Filed 5-19-72;8:51 am]

[19] Part 329 of the Corporation's regulations prescribes certain maximum interest rates for consumer-type time deposits (i.e., deposits of less than $100,000) with maturity intervals of 30 days or more and 90 days or more. Deposits that mature 1 month from the date of deposit or at 1-month intervals normally cover a period of at least 30 days. Deposits that mature 3 months from the date of deposit or at 3-month intervals normally cover a period of at least 90 days. However, if the date of deposit is in February such deposits will mature 28 days or 89 days, respectively, from the date of deposit in years other than leap years. The Board of Directors regards this de minimis departure from the 30- or 90-day interval required for payment of interest at the applicable maximum rate as justified on grounds of fairness and mathematical simplicity.

[20] Interest may not be computed or paid on time deposits after maturity or the expiration of the period of notice given with respect to the repayment thereof, except in the case of deposits which are renewed within 10 days therafter (§ 329.3(f)). This is true even where the funds remain on deposit for a longer period of time. Consequently, interest must be computed on the numbr of days the funds are actually eligible to earn interest and not necessarily on the number of days the funds remain on deposit.

Chapter VII—National Credit Union Administration

PART 700—DEFINITIONS

Insolvency

On page 813 of the FEDERAL REGISTER of January 19, 1972, notice of proposed rule making regarding the definition of insolvency was published. After consideration of all such relevant matter as was presented by interested persons, the regulation as so proposed is hereby adopted, subject to the following changes:

1. In § 700.1(k)(1), line 2, delete the word "normally" and change the word "deemed" to "determined to be".

2. In § 700.1(k)(1)(i), line 1, change the word "deemed" to "determined".

3. In § 700.1(k)(2)(i), lines 4–6, delete "and the 'Accounting Manual for Federal Credit Unions' ".

4. In § 700.1(k)(2)(i), lines 8–11, delete all after the word "met" and change the comma after the word "met" to a period.

5. In § 700.1(k)(2)(ii), line 2, delete "plus unrecorded liabilities".

Effective date. This regulation is effective June 1, 1972.

HERMAN NICKERSON, Jr.,
Administrator.

MAY 16, 1972.

§ 700.1 Definitions.

* * * * *

(k) (1) *Insolvency.* A credit union will be determined to be insolvent when the total amount of its shares exceeds the present cash value of its assets after providing for liabilities unless:

(i) It is determined by the Administrator that the facts that causd the deficient share-asset ratio no longer exist; and

(ii) The likelihood of further depreciation of the share-asset ratio is not probable; and

(iii) The return of the share-asset ratio to its normal limits within a reasonable time for the credit union concerned is probable; and

(iv) The probability of a further potential loss to the insurance fund is negligible.

(2) For purposes of this section, the following definitions are used:

(i) "Cash value of assets". Recorded value will be considered the cash value of any asset account providing accepted accounting principles and practices are followed and the provisions of law, regulation, and bylaws are met.

(ii) "Liabilities". Recorded liabilities which are due and payable, excluding shares of members and non-members, are considered liabilities.

(Sec 120, 73 Stat. 635; 12 U.S.C. 1766)

[FR Doc.72-7651 Filed 5-19-72;8:46 am]

PART 702—RESERVES

Reserves in General; Correction

On page 70 of the FEDERAL REGISTER of January 5, 1972, there was published a technical change to § 702.1. The regulation is corrected as set forth below. This correction is made pursuant to the authority conferred in section 120, 73 Stat. 635, 12 U.S.C. 1766.

1. In § 702.1, line 3, following the comma after the word "Act", insert the word "or", and delete the comma after the word "regulation".

2. In § 702.1, line 8, add the following sentence: "The terms 'interests of its members' is defined as including, but not limited to, the protection of the shareholdings of the credit union's members and the continued solvent operation of the credit union."

Effective date. This regulation is effective immediately.

HERMAN NICKERSON, Jr.,
Administrator.

MAY 16, 1972.

§ 702.1 Reserves in general.

Federal credit unions shall establish and maintain such reserves as may be required by the Act or by regulation or in special cases by the Administrator on his finding that the reserves of the Federal credit union concerned are insufficient to protect the interests of its members. The term "interests of its members" is defined as including, but not limited to, the protection of the shareholdings of the credit union's members and the continued solvent operation of the credit union.

[FR Doc.72-7652 Filed 5-19-72;8:46 am]

PART 715—SUSPENSION OR REVOCATION OF CHARTER, INVOLUNTARY LIQUIDATION

On pages 95–99 of the January 5, 1972 edition of the FEDERAL REGISTER, there was published a proposed revision of procedures concerning the suspension or revocation of charter and involuntary liquidation.

After consideration of all such relevant matter as was presented by interested persons, the regulation as so proposed is hereby adopted subject to the following changes:

1. In § 715.2, line 2, after the word "revoked", delete the comma and insert the word "or".

2. In § 715.3(a), line 3, after the word "subject", insert the word "may".

3. In § 715.3(a), line 10, after the word "facts", insert the words "and law".

4. In § 715.3(a), line 13, after the word cerned fails to exercise said options." the following: ", a recitation of the options available under § 715.3(b), and an explanation of the results which will occur if the Federal credit union concerned fails to exercise said options."

5. In § 715.3(b), lines 1–5, delete all after the letter "(b)" through the word "shall" and insert the following: "Not later than forty (40) days after receipt of the notice provided for in § 715.3(a), the Federal credit union may"

6. In § 715.3(b), line 19, after the word "request", delete the period and add the following: ", such certification to be made by the president and secretary of said board."

7. In § 715.4(a), line 2, after the word "hearing", insert the following: "(including the recommended findings of fact and conclusions of law of the hearing officer),".

8. In § 715.4(b), line 4, after the word "statement", change "of" to "or".

9. In § 715.4(b), line 5, after the word "hearing", insert the following: "(including the recommended findings of fact and conclusions of law of the hearing officer),".

10. § 715.7(a), line 21, delete all after "he" and insert: "is duly qualified to so act."

11. In § 715.8(a), lines 8–11, delete all after the period in line 8 through the comma in line 11, and in line 11, change "a" to "A".

12. In § 715.8(c), lines 12–13, delete the words "containing such findings and appropriate conclusions" and insert the following: "relating said failure to answer and recommending that the party so failing to answer be deemed to have consented to the relief sought."

13. In § 715.8(c), lines 13–14, delete all after "The" and insert "presiding individual (the Administrator or the hearing officer, as the case may be)".

14. In § 715.8(c), line 15, following the comma after "shown", insert the following: "extend the time for filing or".

15. In § 715.8(d), delete the entire first sentence and insert in its place the following:

"Counsel (or representative) for the credit union concerned and counsel for the Administration may, at any time, hold conferences for the purpose of arriving at a settlement agreement which, if reached, shall be submitted, in writing, to the Administrator for consideration and which shall be without prejudice to the rights of the parties."

16. In § 715.8(d), line 13, change "settlement" to "resolution".

17. In § 715.9(a), lines 3–5, delete all after the word "or" and insert the following: "a trial examiner (herein referred to as the hearing officer) selected by the Civil Service Commission and designated by the Administrator."

18. In § 715.9(b), lines 3–6, delete all after the word "in" through the word "located" and insert the following: "the Federal judicial district or in the territory in which the principal office of the credit union is located,".

19. In § 715.9(c)(1), line 2, before the semicolon, insert the following: "and take depositions or have depositions taken when the ends of justice would be served".

20. In § 715.9(c)(2), lines 2–3, delete "the admission of evidence and".

21. In § 715.9(c)(4), line 2, following the word "settlement", change "of" to "or" and after the word "issues" add "by consent of the parties".

22. In § 715.9(c)(5), line 14, delete the period and add: "except that the hearing officer shall not have authority to issue subpoenas."

23. In § 715.9(d), line 5, after the word "time" delete the words "and place" and insert "at the place of the hearing or other mutually acceptable place".

24. In § 715.9(d)(1), line 2, after the word "issues", insert "by consent of the parties".

25. In § 715.9(d), line 35, after the word "injustice", begin a new paragraph labeled "(e) *Impartial conduct.*" and delete "Except as authorized by law" and insert the following: "Except to the extent required for the disposition of ex parte matters as authorized by law,".

26. In § 715.9(e), line 1, change "(e)" to "(f)".

27. In § 715.9(f), lines 11–12, delete "and to the extent permitted by law".

28. In § 715.9(f), line 1, change "(f)" to "(g)".

29. In § 715.9(g), lines 1–3, change "(g)" to "(h)" and change this paragraph (h) to read as set forth below.

30. In § 715.9(h), line 1, change "(h)" to "(i)" and in lines 3–4, delete all from "Except" through the comma after "law" and capitalize the "t" in "the".

31. In § 715.9(i), line 8, after the word "Administrator", insert ", or hearing officer as the case may be," and in line 9, delete the words "change or".

32. In § 715.9(i), line 1, change "(i)" to "(j)" and in line 9, after the word "recommended", insert "findings, conclusions and".

33. Following § 715.9(j), add a new paragraph (k).

34. Following § 715.9(k), add a new paragraph (l).

35. Following § 715.9(l), add a new paragraph (m).

36. Following § 715.9(m), add a new paragraph (n).

37. In § 715.10(a), line 2, delete the words "of defense".

38. In § 715.11(a), line 7, after the word "recommended", insert "findings, conclusions and".

39. In § 715.11(d), lines 6–11, delete all after the word "directs" through the period after decisions and insert a period after the word "directs".

40. In § 715.11(e), line 10, delete "they" and insert "such rulings" following the word "but".

41. In § 715.12(a), line 6, change "(f)" to "(g)".

42. In § 715.13(a), line 4, change "of" to "or".

43. In § 715.13(a), line 13, after the word "officer" insert the following: "to make any recommendation, finding, or conclusion, or to the admission or exclusion of evidence, or other ruling of the hearing officer".

44. In § 715.14(b), line 7, after the word "Administrator", insert "or the hearing officer, as the case may be".

45. In § 715.14(c), line 4, after the word "Administrator", insert "or the hearing officer, as the case may be".

46. In § 715.15, line 1, change "its" to "his".

47. In § 715.15, lines 4–5, delete all after the word "exceptions" through the word "any" and insert "and briefs relative thereto".

48. In § 715.15, lines 12–13, delete all after the word "recorded" and insert a period after "recorded".

49. In § 715.21(a), line 8, after the word "Columbia" insert the following: "(as listed in Rule 6(a) of the Federal Rules of Civil Procedure)".

50. In § 715.21(b), lines 7–10, delete all after the comma following the word "mail" and insert "said period of time shall commence from the date shown on the return receipt and where filing by the party so served is required, said filing shall be deemed timely if the matter filed is postmarked within the time prescribed for such filing."

51. In § 715.25(a), line 7, following the word "concerned", change the period to a semicolon and add the following: "and if the Administrator shall find that the interests of the members so warrant, he may take possession of all books, records, assets, and property of every description of the Federal credit union."

52. In § 715.25(a), line 12, after the word "suspension", insert "and the authority upon which such grounds are based".

53. In § 715.25(a), lines 12–17, delete all after the period following the word "suspension" through the period following the word "liquidation".

54. In § 715.25(a), line 18, change "twenty (20)" to "forty (40)".

Effective date. This regulation shall be effective on June 1, 1972.

HERMAN NICKERSON, Jr.,
Administrator.

MAY 16, 1972.

Subpart A—Rules and Procedures Applicable to Procedures for Suspension or Revocation of Charters and Involuntary Liquidation

Sec.
715.1 Scope.
715.2 Grounds for suspension or revocation of charter and involuntary liquidation.
715.3 Notice of intention to suspend or revoke a charter.
715.4 Order directing suspension or revocation and involuntary liquidation.

Subpart B—Rules of Practice and Procedure Applicable to Hearings Pursuant to Subpart A of This Part

715.5 Scope.
715.6 Notice of hearing.
715.7 Appearance and practice before the Administration.
715.8 Answer.
715.9 Conduct of hearings.
715.10 Rules of evidence.
715.11 Motions.
715.12 Proposed findings and conclusions and recommended decision.
715.13 Exceptions.
715.14 Briefs.
715.15 Oral argument before the Administrator.
715.16 Notice of submissions to the Administrator.
715.17 Decision of the Administrator.
715.18 Filing papers.
715.19 Service.
715.20 Copies.
715.21 Computing time.
715.22 Documents in proceedings confidential.
715.23 Formal requirements as to papers filed.

Subpart C—Procedures Applicable to Immediate Suspension of Charter; Cancellation of Charter

715.24 Scope.
715.25 Immediate suspension.
715.26 Cancellation of charter.

AUTHORITY: The provisions of this Part 715 issued pursuant to section 120, 73 Stat. 635, 12 U.S.C. 1766.

Subpart A—Rules and Procedures Applicable to Procedures for Suspension or Revocation of Charters and Involuntary Liquidation

§ 715.1 Scope.

This subpart prescribes the grounds and procedures for the suspension or revocation of the charter of a Federal credit union and, where applicable, the placing of such Federal credit union in involuntary liquidation.

§ 715.2 Grounds for suspension or revocation of charter and involuntary liquidation.

The charter of any Federal credit union may be suspended or revoked or the Federal credit union placed in involuntary liquidation and a liquidating agent appointed therefor upon a finding by the Administrator that the Federal credit union concerned is insolvent or bankrupt, has violated any provisions of its charter, its bylaws, the Federal Credit Union Act, any Regulation issued by the Administration, or has failed to obtain share insurance in accordance with the provisions of section 201 of the Federal Credit Union Act.

§ 715.3 Notice of intention to suspend or revoke a charter.

(a) Upon a determination that one or more of the grounds listed in § 715.2 of this subpart may apply to a particular Federal credit union, the Administrator shall cause to be served on that Federal credit union a notice of intention to suspend or revoke its charter and, if applicable, the intent to place such Federal credit union in involuntary liquidation. Such notice shall contain a statement of the facts and law which constitute the alleged grounds for suspension or revocation of the charter of the Federal credit union concerned, a recitation of the options available under § 715.3(b), and an explanation of the results which will occur if the Federal credit union concerned fails to exercise said options.

(b) Not later than forty (40) days after the receipt of the notice provided for in § 715.3(a), the Federal credit union may: (1) File with the Administrator a statement in writing setting forth the grounds and reasons why its charter should not be suspended or revoked and, where applicable, why it should not be placed in involuntary liquidation, or (2) in lieu of a written statement, it may request an oral hearing which shall be conducted in accordance with the procedures set forth in this part. This statement or request shall be accompanied by a certified copy of a resolution of the board of directors of the Federal credit union concerned authorizing such statement or request, such certification to be made by the president and secretary of said board.

(c) If the Federal credit union concerned does not exercise either alternative available in paragraph (b) of this section within the time required, it shall be deemed to have admitted the facts alleged in the notice of intent to suspend or revoke and shall be deemed to have consented to the relief sought.

§ 715.4 Order directing suspension or revocation and involuntary liquidation.

(a) If, after reviewing all relevant materials or the record of the hearing (including the recommended findings of fact and conclusions of law of the hearing officer), as the case may be, the Administor finds that the charter of the Federal credit union concerned should be suspended or revoked and, where applicable, the Federal credit union placed in involuntary liquidation, he shall cause to be served on the Federal credit union concerned an order directing the suspension or revocation of its charter and, where applicable, directing that it be placed in involuntary liquidation and the appointment of a liquidating agent. Such order shall contain a statement of the findings upon which the order is based. The provisions of this section are also applicable to situations arising under § 715.3(c).

(b) The Administrator shall arrive at his decision and cause such order to be served not later than forty-five (45) days after receipt of the written statement or record of the hearing (including the recommended findings of fact and conclusions of law of the hearing officer), as the case may be.

(c) On the receipt of a copy of the order which provides that the Federal credit union concerned be placed in involuntary liquidation, the officers and directors of that Federal credit union shall immediately deliver to the liquidating agent possession and control of all books, records, assets, and property of every description of the Federal credit union, and the liquidating agent shall proceed to convert said assets to cash, collect all debts due to said Federal credit union and to wind up its affairs in accordance with the provisions of the Federal Credit Union Act.

Subpart B—Rules of Practice and Procedure Applicable to Hearings Pursuant to Subpart A of This Part

§ 715.5 Scope.

This subpart prescribes the rules of practice and procedure followed by the National Credit Union Administration in hearings held pursuant to the provisions of Subpart A of this part.

§ 715.6 Notice of hearing.

(a) Immediately upon receipt of a request for an oral hearing pursuant to § 715.3(b), the Administrator shall notify, in writing, the Federal credit union making such request of the time, place, and nature of such hearing. Such hearing shall be fixed for a date not earlier than thirty (30) days nor later than sixty (60) days after service of such notice unless an earlier or later date is requested by the Federal credit union concerned and is granted by the Administrator in his discretion.

(b) Unless the Federal credit union shall appear at such hearing by a duly authorized representative, it shall be deemed to have consented to the suspension or revocation of its charter and, where applicable, the placing of said Federal credit union in involuntary liquidation.

§ 715.7 Appearance and practice before the Administration.

(a) *Power of attorney.* Any person who is a member in good standing of the bar of the highest court of any State, possession, or territory of the United States, Commonwealth, or the District of Columbia may represent a Federal credit union before the Administration upon filing with the Administrator a written declaration that he is currently qualified as provided by this paragraph, and is authorized to represent the particular Federal credit union on whose behalf he acts. Any other person desiring to appear before or transact business with the Administration in a representative capacity may be required to file with the Administrator a power of attorney showing his authority to act in such capacity, and he may be required to show to the satisfaction of the Administrator that he is duly qualified to so act.

(b) *Notice of appearance.* Attorneys and representatives of parties to proceedings shall file a written notice of appearance with the Administrator.

(c) *Summary suspension.* Contemptuous conduct at such an oral hearing shall be ground for exclusion therefrom and suspension for the duration of the hearing.

§ 715.8 Answer.

(a) *When required.* In any notice of hearing issued by the Administrator, the Administrator may direct the party or parties afforded the hearing to file an answer to the allegations contained in the notice of intention to suspend or revoke its charter, and any party to any proceeding may file an answer. A party directed to file an answer, or a party who elects to file an answer, shall file the same with the Administrator within 20 days after service upon him of the notice of hearing.

(b) *Requirements of answer; effect of failure to deny.* An answer filed under this section shall specifically admit, deny, or state that the party does not have sufficient information to admit or deny each allegation in the notice of intention to suspend or revoke its charter. A statement of lack of information shall have the effect of a denial. Any allegation not denied shall be deemed to be admitted. When a party intends to deny only a part or a qualification of an allegation, he shall specify so much of it as is true and shall deny only the remainder.

(c) *Effect of failure to answer.* Failure of a party to file an answer required by this section within the time provided shall be deemed to constitute a waiver of his right to appear and contest the allegations of the notice of intention to suspend or revoke its charter and to authorize the hearing officer, without

further notice to the party, to find the facts to be as alleged in the notice and to file with the Administrator a recommended decision relating said failure to answer and recommending that the party so failing to answer be deemed to have consented to the relief sought. The presiding individual (the Administrator or the hearing officer, as the case may be) may, for cause shown extend the time for filing or permit the filing of a delayed answer after the time for filing the answer has expired.

(d) *Opportunity for informed settlement.* Counsel (or representative) for the credit union concerned and counsel for the Administration may, at any time, hold conferences for the purpose of arriving at a settlement agreement which, if reached, shall be submitted, in writing, to the Administrator for consideration and which shall be without prejudice to the rights of the parties. No such offer or proposal, or counteroffer or proposal, shall be admissible in evidence over the objection of any party in any hearing in connection with such proceeding. The foregoing provisions of this section shall not preclude resolution of any proceeding through the regular adjudicatory process by the filing of an answer as provided in this section.

§ 715.9 Conduct of hearings.

(a) *Hearing officer.* A hearing held under the provisions of this subpart shall be before the Administrator or a trial examiner (herein referred to as the hearing officer) selected by the Civil Service Commission and designated by the Administrator.

(b) *Place of hearing.* A hearing provided for in this subpart shall be held in the Federal judicial district or in the territory in which the principal office of the credit union is located, unless such Federal credit union requests a different location and the Administrator, in his discretion, approves such request.

(c) *Authority of hearing officer.* All hearings governed by this part shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code. The hearing officer designated by the Administrator to preside at any such hearing shall have complete charge of the hearing, and he shall have the duty to conduct it in a fair and impartial manner and to take all necessary action to avoid delay in the disposition of proceedings. Such hearing officer shall have all powers necessary to that end, including the following:

(1) To administer oaths and affirmations and take depositions or have depositions taken when the ends of justice would be served;

(2) To receive relevant evidence and to rule upon offers of proof;

(3) To regulate the course of the hearing and the conduct of the parties and their counsel;

(4) To hold conferences for the settlement simplification of issues by consent of the parties or for any other proper purpose; and

(5) To consider and rule upon, as justice may require, all procedural and other motions appropriate in an adversary proceeding, except that a hearing officer shall not have power to decide any motion to dismiss the proceedings or other motion which results in final determination of the merits of the proceedings. Without limitation on the foregoing provisions of this paragraph, the hearing officer shall, subject to the provisions of this part, have all authority of section 556(c) of title 5 of the United States Code except that the hearing officer shall not have authority to issue subpoenas.

(d) *Prehearing conference.* The hearing officer may, on his own initiative or at the request of any party, direct counsel for all parties to meet with him at a specified time at the place of the hearing or other mutually acceptable place prior to the hearing, or to submit suggestions to him in writing, for the purpose of considering any or all of the following:

(1) Simplification and clarification of the issues by consent of the parties;

(2) Stipulations, admissions of fact and of the contents, and authenticity of documents;

(3) Matters of which official notice will be taken; and

(4) Such other matters as may aid in the orderly disposition of the proceeding, including disclosure of the names of witnesses and of documents or other physical exhibits which will be introduced in evidence in the course of the proceeding.

Such conferences shall, at the request of any party, be recorded and at the conclusions thereof the hearing officer shall enter in the record an order which recites the results of the conference. Such order shall include the hearing officer's rulings upon matters considered at the conference, together with appropriate directions to the parties, if any; and such order shall control the subsequent course of the proceedings, unless modified at the hearing to prevent manifest injustice.

(e) *Impartial conduct.* Except to the extent required for the disposition of ex parte matters as authorized by law, the hearing officer shall not consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate, not be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions. No officer, employee, or agent engaged in the performance of investigative of prosecuting function in any case shall, in that case or a factually related case, participate or advise in the decision of the hearing officer except as a witness or counsel in the proceedings.

(f) *Attendance at hearings.* A hearing shall ordinarily be private and shall be attended only by the parties, their representatives or counsel, witnesses while testifying, and other persons having an official interest in the proceedings: *Provided, however,* That on written request by a party or representatives of the Administrator, or on the Administrator's own motion, the Administrator, in his discretion, may permit other persons to attend or may order the hearing to be public.

(g) *Transcript of testimony.* Hearings shall be recorded and transcripts will be available to any party upon payment of the cost thereof, and, in the event the hearing is public, shall be furnished on similar payment to the other interested persons. A copy of the transcript of the testimony taken at any hearing, duly certified by the reporter, together with all exhibits, all papers and requests filed in the proceeding, shall be filed with the Administrator, who shall transmit the same to the hearing officer. The Administrator shall promptly serve notice upon each of the parties of such filing and transmittal. The hearing officer shall have authority to rule upon motions to correct the record.

(h) *Order of procedure.* At the time for opening arguments, counsel for the Administration will argue first and at the time for closing arguments the counsel for the Administration shall argue last.

(i) *Continuances and changes or extention of time and changes of place of hearing.* The Administrator may, by the notice of hearing or subsequent order, provide time limits different from those specified in this part, and the Administrator or hearing officer as the case may be, may, on his own initiative or for good cause shown, extend any time limit prescribed by these rules or, with the consent of the Federal credit union afforded the hearing, change the time and place for beginning any hearing hereunder. The hearing officer may continue or adjourn a hearing from time to time and, as permitted by law or agreed to by parties, from place to place. Extensions of time for making any filing or performing any act required or allowed to be done within a specified time in the course of a proceeding may be granted by the hearing officer for good cause shown.

(j) *Call for further evidence, oral argument, briefs, reopening of hearing.* The hearing officer may call for the production of further evidence upon any issue, may permit oral argument and submission of briefs at the hearing and, upon appropriate notice, may reopen any hearing at any time prior to the certification of his recommended findings, conclusions and decision to the Administrator. The Administrator shall render his decision within forty-five (45) days after the parties have been notified pursuant to § 715.16 that the case has been submitted to the Administrator for final decision, unless within such forty-five (45) day period the Administrator shall order that such notice be set aside and the case reopened for further proceedings.

(k) *Burden of proof.* Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof.

(l) *Failure to appear.* Where an answer is not required and the credit union fails

to appear at the hearing by a duly authorized representative, the credit union shall be deemed to have admitted to the facts as alleged and consented to the relief sought.

(m) *Depositions.* The procedures set forth in § 747.7 (e), (f), (g), and (h) of this chapter shall be followed in the taking of depositions: *Provided,* That any provisions contained in the aforementioned sections which relate to subpoenas shall not apply to depositions taken pursuant to this section.

(n) *Docket file.* The presiding individual (the Administrator or the hearing officer, as the case may be) shall keep a docket file. All papers filed with the presiding individual and all process and orders shall be entered chronologically in the docket file and each item shall be assigned a number. Entries shall be brief but shall show the nature of each item filed. In a case where a hearing officer is the presiding individual, he shall transmit the docket file to the Administrator at the time he files his recommended findings, conclusions, and decision with the Administrator.

§ 715.10 Rules of evidence.

(a) Evidence: Every party shall have the right to present his case of defense by oral and documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

(b) Objections to the admission or exclusion of evidence shall be in short form, stating the grounds relied upon, and the transcript shall not include argument therein except as ordered, allowed, or requested by the hearing officer. Rulings of objections and on any other matter shall be a part of the transcript. Failure to object to admission or exclusion of evidence or to any ruling shall be considered a waiver of such objection.

(c) Official notice: All matters officially noticed by the hearing officer shall appear on the record.

§ 715.11 Motions.

(a) *In writing.* An application or request for an order or ruling not otherwise specifically provided for in this part shall be made by motion. After a hearing officer has been designated and before the filing with the Administrator of his recommended findings, conclusions and decision, such applications or requests shal be addressed to and filed with the hearing officer. At all other times motions shall be addressed to and filed with the Administrator. Motions shall be in writing, except that a motion made at a session of a hearing may be made orally upon the record unless the hearing officer directs that it be reduced to writing. All written motions shall state with particularity the order or relief sought and the grounds therefor.

(b) *Objections.* Within 5 days after service of any written motion, or within such other period as may be fixed by the hearing officer or the Administrator, any party may file a written answer or objections to such motion. The moving party shall have no right to reply, except as permitted by the hearing officer or the Administrator. As a matter of discretion, the hearing officer or the Administrator may waive the requirements of this section as to motions for extensions of time, and may rule upon such motions ex parte.

(c) *Oral argument.* No oral argument will be heard on motions except as otherwise directed by the hearing officer of the Administrator. Written memoranda or briefs may be filed with motions or answers or objections thereto, stating the points and authorities relied upon in support of the position taken.

(d) *Rulings on motions.* Except as otherwise provided in this part, the hearing officer shall rule upon all motions properly addressed to him and upon such other motions as the Administrator directs. The Administrator shall rule upon all motions properly submitted to him for decision;

(e) *Appeal from rulings on motions.* All motions and answers or objections thereto and rulings thereon shall become a part of the record. Rulings of a hearing officer on any motion may not be appealed to the Administrator prior to his consideration of the hearing officer's recommended decision, findings, and conclusions except by special permission of the Administrator; but such rulings shall be considered by the Administrator in reviewing the record. Requests to the Administrator for special permission to appeal from such rulings of the hearing officer shall be filed promptly, in writing, and shall briefly state the grounds relied upon. The moving party shall immediately serve a copy thereof on every other party to the proceeding.

(f) *Continuation of hearing.* Unless otherwise ordered by the hearing officer or the Administrator, the hearing shall be continued pending the determination of any motion by the Administrator.

§ 715.12 Proposed findings and conclusions and recommended decision.

(a) *Proposed findings and conclusions by parties.* Each party to a hearing shall have a period of 15 days after service of the Administrator's notice of the filing and transmittal of the record as provided in § 715.9(g), or such further time as the hearing officer for good cause shall determine, to file with the hearing officer proposed findings of fact, conclusions of law, and orders which may be accompanied by a brief or memorandum in support thereof. Such proposals shall be supported by citation of those statutes, decisions, and other authorities which may be relevant and by page references to appropriate parts of the record. All such proposals, briefs, and memoranda shall become a part of the record.

(b) *Recommended decision and filing of record.* The hearing officer shall, within 30 days after the expiration of the time allowed for the filing of proposed findings, conclusions, and order, or within such further time as the Administrator for good cause shall determine, file with and certify to the Administrator for decision the entire record of the hearing, which shall include his recommended decision, findings of fact, conclusions of law, and proposed order, the transcript, exhibits (including on request of any of the parties any exhibits excluded from evidence or tenders of proof), exceptions, rulings, and all briefs and memoranda filed in connection with the hearing. Promptly upon such filing the Administrator shall serve upon each party to the proceeding a copy of the hearing officer's recommended decision, findings, conclusions and proposed order. The provisions of this paragraph and § 715.13 shall not apply, however, in any case where the hearing was held before the Administrator.

§ 715.13 Exceptions.

(a) *Filing.* Within 15 days after service of the recommended decision, findings, conclusions, and proposed order of the hearing officer, or such further time as the Administrator for good cause shall determine any party (other than a party who has not filed an answer in accordance with paragraphs (a) and (c) of § 715.8, unless no answer was required of such party by the Administrator) may file with the Administrator exceptions thereto or any part thereof, or to the failure of the hearing officer to make any recommendation, finding, or conclusion, or to the admission or exclusion of evidence, or other rulings of the hearing officer, supported by such brief as may appear advisable.

(b) *Waiver.* Failure of a party to file exceptions to the recommended decision, findings, conclusions, and proposed order of the hearing officer, or any portion thereof, or to his failure to adopt a proposed finding or conclusions, or to the admission or exclusion of evidence or other ruling of the hearing officer, within the time prescribed in paragraph (a) of this section, shall be deemed a waiver of objection thereto.

§ 715.14 Briefs.

(a) *Contents.* All briefs shall be confined to the particular matters in issue. Each exception or proposed finding or conclusion which is briefed shall be supported by a concise argument or by citation of such statutes, decisions or other authorities and by page references to such portions of the record or recommended decision of the hearing officer as may be relevant. If the exception relates to the admission or exclusion of evidence, the substance of the evidence admitted or excluded shall be set forth in the brief with appropriate references to the transcript.

(b) *Reply briefs.* Reply briefs may be filed with the hearing officer within 10 days after service of briefs and shall be confined to matters in original briefs of opposing parties. Further briefs may be filed only with the permission of the Administrator or the hearing officer, as the case may be.

(c) *Delays.* Briefs not filed on or before the time fixed in this subpart will be received only upon special permission of the Administrator or the hearing officer, as the case may be.

§ 715.15 Oral argument before the Administrator.

Upon his own initiative, or upon the written request of any party made within the time prescribed for the filing of exceptions, and briefs relative thereto, for oral argument on the findings, conclusions, and recommended decision of the hearing officer, the Administrator, if he considers that justice will best be served, may order the matter to be set down for oral argument before him. Oral argument before the Administrator shall be recorded.

§ 715.16 Notice of submission to the Administrator.

Upon filing of the record with the Administrator, and upon the expiration of the time for the filing of exceptions and all briefs, including reply briefs or any further briefs permitted by the Administrator and upon the hearing of oral argument by the Administrator if ordered by the Administrator, the Administrator shall notify the parties that the case has been submitted to him for final decision.

§ 715.17 Decision of the Administrator.

Appropriate members of the staff of the National Credit Union Administration, who are not engaged in the performance of investigative or prosecuting functions in the case, or in a factually related case, may advise and assist the Administrator in the consideration of the case and in the preparation of appropriate documents for its disposition. Copies of the decision and order of the Administrator shall be furnished to the Federal credit union concerned.

§ 715.18 Filing papers.

Recommended decisions, exceptions, briefs and other papers required to be filed with the Administrator in any proceeding shall be filed with the Administrator, National Credit Union Administration, Washington, D.C. 20456. Any such papers may be sent to the Administrator by mail but must be received in the office of the Administrator in Washington, D.C. or post marked by a post office, within the time limit for such filing.

§ 715.19 Service.

(a) *By the Administrator.* All documents or papers required to be served by the Administrator upon any party afforded a hearing shall be served by him or his duly authorized representative. Such service, except for service upon counsel for the Administration, shall be made by personal service or by registered or certified mail, addressed to the last known address as shown on the records of such party: *Provided,* That if there is no attorney or representative of record, such service shall be made upon such party at the last known address as shown on the records of the Administration. Such service may also be made in such other manner reasonably calculated to give actual notice as the Administrator may by regulation or otherwise provide. The provisions of this section are also applicable to service required in Subpart A of this part.

(b) *By the parties.* Except as otherwise expressly provided in this part, all documents or papers filed in a proceeding under this part shall be served by the party filing the same upon the attorneys or representatives of record of all other parties to the proceeding, or, if any party is not so represented, then upon such party. Such service may be made by personal service or by registered or certified mail addressed to the last known address of such parties, or their attorneys or representatives of record. All such documents or papers shall, when tendered to the Administrator or hearing officer for filing, show that such service has been made.

§ 715.20 Copies.

Unless otherwise specifically provided in the notice of hearing, an original and seven copies of all documents and papers required or permitted to be filed or served upon the Administrator under this part, except the transcript of testimony and exhibits, shall be furnished to the Administrator.

§ 715.21 Computing time.

(a) *General rule.* In computing any period of time prescribed or allowed by this part, the date of the act, event or default from which the designated period of time begin to run is not to be included. The last day so computed shall be included, unless it is a Saturday, Sunday, or legal holiday in the District of Columbia (as listed in rule 6(a) of the Federal Rules of Civil Procedure), in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor such legal holiday. Intermediate Saturdays, Sundays, and legal holidays shall be included in the computation unless the time within which the act is to be performed is 10 days or less in which event Saturdays, Sundays, and legal holidays shall not be included.

(b) *Service by mail.* Whenever any party has the right or is required to do some act or take some proceeding, within a period of time prescribed in this part, after the service upon him of any document or other paper of any kind, and such service is made by mail, said period of time shall commence from the date shown on the return receipt and where filing by the party so served is required, said filing shall be deemed timely if the matter filed is postmarked within the time prescribed for such filing.

§ 715.22 Documents in proceedings confidential.

Unless and until otherwise ordered by the Administrator, the notice of intent to suspend or revoke, the notice of hearing, the transcript, the recommended decision of the hearing officer, exceptions thereto, proposed findings or conclusions, the findings and conclusions of the Administrator and other papers which are filed in connection with any hearing shall not be made public, and shall be for the confidential use only of the Administrator, the hearing officer, the parties and appropriate authorities. The provisions of this section also apply to all papers concerned where the particular Federal credit union elects to submit a written statement under § 715.3(b)(1).

§ 715.23 Formal requirements as to papers filed.

(a) *Form.* All papers filed under this subpart shall be printed, typewritten, or otherwise reproduced. All copies shall be clear and legible.

(b) *Signature.* The original of all papers filed by the Federal credit union shall be signed by an officer thereof, and if filed by another party shall be signed by said party, or by the duly authorized agent or attorney of the Federal credit union or other party, and in all such cases shall show the signer's address. Counsel for the Administration shall sign the original of all papers filed by him.

(c) *Caption.* All papers filed must include at the head thereof, or on a title page, the name of the Administration, the name of the party, and the subject of the particular paper.

Subpart C—Procedures Applicable to Immediate Suspension of Charter; Cancellation of Charter

§ 715.24 Scope.

This subpart prescribes the procedures to be used by the National Credit Union Administration when immediate suspension of a Federal credit union's charter is necessary. Also contained is the provision for cancellation of the charter of a Federal credit union upon completion of the liquidation thereof.

§ 715.25 Immediate suspension.

(a) In any case where the Administrator shall find that a Federal credit union is insolvent or that the interest of its members require immediate action, he may order, without prior notice, the immediate suspension of the charter of the Federal credit union concerned; and if the Administrator shall find that the interests of the members so warrant, he may take possession of all books, records, assets, and property of every description of the Federal credit union. The Administrator shall cause to be served upon such Federal credit union a notice of suspension of its charter. Such notice shall contain a statement of the grounds for the immediate suspension and the authority upon which such grounds are based. The Federal credit union shall have forty (40) days from the date of receipt of such notice and order to exercise its options as listed in § 715.3(b).

(b) Should the Federal credit union concerned fail to exercise either alternative provided in § 715.3(b) within the prescribed time, it shall be deemed to have consented to the revocation of its charter and the involuntary liquidation sought under paragraph (a) of this section.

§ 715.26 Cancellation of charter.

On the completion of the liquidation and certification by the liquidating agent

that the distribution of the assets of the Federal credit union has been completed, the Administrator shall cancel the charter of the Federal credit union concerned.

[FR Doc.72-7653 Filed 5-19-72;8:46 am]

PART 741—REQUIREMENTS FOR INSURANCE

Criteria

On pages 813-814 of the FEDERAL REGISTER of January 19, 1972, notice of proposed rule making regarding criteria for insurance was published. After consideration of all such relevant matter as was presented by interested persons, the regulation as so proposed is hereby adopted, subject to the following changes:

1. In § 741.4(a), lines 6-8, delete all after the word "requirements" through the word "Act", and insert the following after the word "requirements": "set forth in § 702.3 of this chapter".

2. In § 741.4(a), lines 18-24, delete all following the period after the word "Act" and insert: "State-chartered credit unions may be required to establish an additional special reserve for investments if those credit unions are permitted by their respective state laws to make investments beyond those authorized in the Federal Credit Union Act."

3. In § 741.4(b)(1), delete the entire subparagraph (1) and substitute another therefor.

4. In § 741.4(b)(2), line 2, after the word "loans", insert the following: "(as described in Chapter V of the Credit Manual for Federal Credit Unions)".

5. In § 741.4(b)(2), line 3, delete the entire line and insert the following: "and the protection of security interests by recording, bond, insurance or other adequate means,".

6. In § 741.4(b)(2), line 7, after the word "loans", insert the following: "(as described in Chapter V of the Credit Manual for Federal Credit Unions)".

7. In § 741.4(b)(3), line 3, delete the period after the word "regulations" and insert the following: ", i.e., the Federal Credit Union Act and Part 703 of this chapter for Federal credit unions and the laws of the State in which the credit union operates for State-chartered credit unions."

8. In § 741.4(d), line 10, following the period after the word "present", add: "For purposes of this section, the term 'undue risk to the Fund' is defined as a condition which creates a probability of loss in excess of that normally found in a credit union and which would indicate a reasonably forseeable probability of the credit union becoming insolvent because of such condition, with a resultant claim against the Fund and a decrease therein."

9. In § 741.4, last paragraph, line 1, prior to the word "A", insert the following: "(f) *Letter of disapproval.*"

Effective date. This regulation shall be effective June 1, 1972.

HERMAN NICKERSON, JR.,
Administrator.

MAY 16, 1972.

§ 741.4 Criteria.

In determining the insurability of a credit union which makes application for insurance of its accounts pursuant to title II of the Federal Credit Union Act, the following criteria shall be applied:

(a) *Adequacy of reserves.* The credit union must be solvent. A Federal credit union must meet the reserve transfer requirements of section 116(a) of the Federal Credit Union Act and the reserve transfer requirements set forth in § 702.3 of this chapter. In the case of a state chartered credit union, that credit union must meet the reserve transfer requirements of the law of the state under which the credit union is chartered: *Provided however,* That the Administrator may require additional reserves where the reserves required by State law are not substantially similar to those required by section 116 of the Federal Credit Union Act. State-chartered credit unions may be required to establish an additional special reserve for investments if those credit unions are permitted by their respective State laws to make investments beyond those authorized in the Federal Credit Union Act.

(b) *Financial condition and policies.* In addition to the requirements of paragraph (a) of this section, the following factors are to be considered in determining whether the credit union's financial condition and policies are both safe and sound:

(1) The existence of unfavorable trends which may include excessive losses on loans (i.e., losses which exceed the regular reserve or its equivalent [in the case of State-chartered credit unions] plus other irrevocable reserves established as a contingent against losses on loans), and an expense ratio so high that the required transfers to reserves create a net operating loss for the period or that the net gain after these transfers is not sufficient to permit the payment of a nominal dividend.

(2) Lending policies including adequate documentation of secured loans (as described in Chapter V of the *Credit Manual for Federal Credit Unions*) and the protection of security interests by recording, bond, insurance, or other adequate means, adequate determination of the financial capacity of borrowers and comakers for repayment of the loan, and adequate determination of value of security on loans (as described in Chapter V of the *Credit Manual for Federal Credit Unions*) to ascertain that said security is adequate to repay the loan in the event of default;

(3) Investment policies which are within the provisions of applicable law and regulations, i.e., the Federal Credit Union Act and Part 703 of this chapter for Federal credit unions and the laws of the State in which the credit union operates for State-chartered credit unions.

(c) *Fitness of management.* The officers, directors, and committee members of the credit union must adhere to the provisions of applicable law, regulations, its charter and bylaws, and to the accounting requirements set forth in the Accounting Manual for Federal Credit Unions or similar acceptable accounting principles. No person shall serve as a director, officer, committee member, or employee of an insured credit union who has been convicted of any criminal offense involving dishonesty or breach of trust, except with the written consent of the Administrator.

(d) *Insurance of member accounts would not otherwise involve undue risk to the Fund.* The credit union must maintain adequate surety bond coverage as specified in § 741.1. Any circumstances which may be unique to the particular credit union concerned shall also be considered in arriving at the determination of whether or not an undue risk to the Fund is or may be present. For purposes of this section, the term "undue risk to the Fund" is defined as a condition which creates a probability of loss in excess of that normally found in a credit union and which indicates a reasonably foreseeable probability of the credit union becoming insolvent because of such condition, with a resultant claim against the Fund and a decrease therein.

(e) *Powers and purposes.* The credit union must not perform services other than those which are consistent with the promotion of thrift and the creation of a source of credit except as otherwise permitted by law or regulation.

(f) *Letter of disapproval.* A credit union which makes application for share insurance and its application is disapproved shall receive a letter indicating the reasons for such disapproval, a citation of the authority for such disapproval, and suggested methods by which the applying credit union may correct these deficiencies and thereby qualify for share insurance.

(Sec. 209, 85 Stat. 1015; P.L. 91-468)

[FR Doc.72-7654 Filed 5-19-72;8:46 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-2192]

PART 13—PROHIBITED TRADE PRACTICES

Acme Quilting Company, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.170 *Qualities or properties of product or service:* 13.170-40 Fire-extinguishing or fire-resistant. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1885 *Qualities or properties.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat 719, as amended; 15 USC. 45) [Cease and desist order, Acme Quilting Co., Inc., et al., New York, N.Y., Docket No. C-2192, Apr. 14, 1972]

In the Matter of Acme Quilting Co., Inc., a Corporation, and Ephraim S. Young, Herbert Goldman, and Richard G. Rattner, Individually and as Officers of Said Corporation

Consent order requiring a New York City firm which manufactures and sells

mattress pads and covers, moving van pads, bedspreads and pillow protectors to cease misrepresenting its products as flame retardant without also attaching to its products a label stating the number of washings or dry cleanings the flame retardant will withstand.

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

It is ordered, That respondent Acme Quilting Co., Inc., a corporation, its subsidiary and affiliated corporations, its successors and assigns, and respondents Ephraim S. Young, Herbert Goldman, and Richard G. Rattner individually, and as officers of said corporate respondent, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale and distribution of mattress pads, mattress covers, pillow protectors, bedspreads, sheets, and pillow cases in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or indirectly that said products are flame retardant, or have been treated with a flame retardant finish, and from utilizing any words or depictions of similar import or meaning in connection therewith, unless all uncovered or exposed parts (except sewing threads), as well as any other parts represented directly or by implication to be flame retardant or as treated with a flame retardant finish, will retard and resist flame, flare, and smouldering, or have been treated with a finish which will retard and resist flame, flare, and smouldering.

It is further ordered, That in all instances where respondents represent said products to be flame retardant or treated with a flame retardant finish, that warnings be provided in or on the packaging in immediate conjunction with said representations and in type or lettering of equal size and conspicuousness, and on a label affixed to the products securely and with sufficient permanency to remain in a conspicuous, clear, and plainly legible condition, of any danger from flammability which may result if these products be dry-cleaned or washed by other than the recommended means or in excess of a stated number of times.

It is further ordered, That respondents attach a permanent, legible, sewn-in label, having dimensions no smaller than 3½ x 5 inches, to any product which it may advertise as flame retardant, flame resistant, flameproof, or by means of other words or depictions of similar import or meaning, which will clearly, conspicuously, and adequately alert both purchasers of such products and commercial laundries, as to the proper laundering instructions required to preserve the flame retardant effectiveness of such products, informing them as to the number of washings the flame retardant finish is designed to withstand if such laundering instructions are followed, and warning against the dangers from flammability which may result from failure to follow such instructions.

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

It is further ordered, That respondents deliver a copy of this order to cease and desist to all personnel of respondents responsible for the preparation, creation, production, or publication of advertising, packaging, or labeling of all products covered by this order.

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

Issued: April 14, 1972.

By the Commission.

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

[FR Doc.72-7688 Filed 5-19-72;8:48 am]

[Docket No. C-2191]

PART 13—PROHIBITED TRADE PRACTICES

Clayton Mobile Homes, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.71 *Financing:* 13.71-10 Truth in Lending Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73-92 Truth in Lending Act: § 13.155 *Prices:* 13.155-95 Terms and conditions: 13.155-95(a) Truth in Lending Act: 13.155-100 Usual as reduced, special, etc. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623-95 Truth in Lending Act; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions:* 13.-1823-20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-75 Truth in Lending Act; § 13.1905 *Terms and conditions:* 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Clayton Mobile Homes, Inc. et al., Knoxville, Tenn., Docket No. C-2191, Apr. 12, 1972]

In the Matter of: Clayton Mobile Homes, Inc., Clayton Motors, Inc., Western Mobile Homes, Inc., Factory Housing Associates, Inc., Clayton Lincoln/Mercury, Inc., Clayton Mobile Home of Middlesboro, Inc., Corporations, and James L. Clayton, Individually and as an Officer of Said Corporations

Consent order requiring six firms headquartered in Knoxville, Tenn., which sell and distribute new and used mobile homes and automobiles to cease violating the Truth in Lending Act by failing to disclose in extending consumer credit the finance charge, the annual percentage rate, the deferred payment price, and other disclosures required by said Act; respondents are also required to cease misrepresenting the price of their products or services as being any dollar amount or percentage over respondent's wholesale cost.

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

I. *It is ordered,* That respondents Clayton Mobile Homes, Inc., Clayton Motors, Inc., Western Mobile Homes, Inc., Factory Housing Associates, Inc., Clayton Lincoln/Mercury, Inc., and Clayton Mobile Homes of Middlesboro, Inc., corporations, and their successors and assigns and their officers, and James L. Clayton, individually and as an officer of said corporations, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale and delivery of mobile homes and automobiles or any other products in commerce, as "commerce" is defined in the Federal Trade Commisson Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any product or service may be purchased for any dollar amount or percentage over wholesale cost unless substantial sales are made at the stated markup over respondents' actual wholesale cost, or misrepresenting in any manner respondents' selling prices and markups.

2. Representing, directly or by implication, that any price or amount for any product or service is respondents' wholesale cost unless such price or amount accurately represents respondents' actual wholesale cost, or misrepresenting in any manner respondents' wholesale costs.

3. Representing, directly or by implication, that in event of a credit sale downpayments of any dollar amount or percentage of the selling price will be accepted unless such downpayments are usually and customarily accepted.

4. Representing, directly or by implication, that in event of a credit sale credit terms of 5 percent add-on interest or any other percentage will be arranged unless such credit terms are usually and customarily made available and arranged.

5. Misrepresenting in any manner the downpayments required the interest rates arranged, or other terms and conditions incident to respondents' credit sales.

It is further ordered, That for a period of five (5) years respondents maintain records which disclose the factual basis for any representation of respondents' cost or special prices for any products or services.

II. *It is further ordered,* That respondents Clayton Mobile Homes, Inc., Clayton Motors, Inc., Western Mobile Homes, Inc., Factory Housing Associates,

Inc., Clayton Lincoln/Mercury, Inc., and Clayton Mobile Homes of Middlesboro, Inc., corporations, their successors and assigns and their officers, and James L. Clayton, individually and as an officer of said corporations, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with any extension of consumer credit or any advertisement to aid, promote, or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to disclose the amount of the "finance charge," as required by § 226.8 (c) (i) of Regulation Z.

2. Failing to disclose accurately the "annual percentage rate", as required by § 226.8(b) (2) of Regulation Z.

3. Failing in any credit sale to disclose accurately the "deferred payment price," as required by § 226.8(c) (8) (ii) of Regulation Z.

4. Failing in any credit sale to describe payments which are more than twice the amount of an otherwise scheduled equal payment by the term "balloon" payment, as required by § 226.8(b) (3) of Regulation Z.

5. Failing in any credit sale to provide customers with the disclosures required by § 226.8 of Regulation Z.

6. Stating the rate of any finance charge unless respondents state the rate of that charge expressed as an "annual percentage rate," as required by § 226.10 (d) (1) of Regulation Z.

7. Stating the amount of monthly installment payments which can be arranged in connection with a consumer credit transaction, without also stating all of the following items, in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d) (2) thereof:

(i) The cash price;

(ii) The amount of a downpyament or that no downpayment is required, as applicable;

(iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(iv) The amount of the finance charge expressed as an annual percentage rate;

(v) The deferred payment price.

8. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form, and amount required by §§ 226.6, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any sale or extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

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

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

Issued: April 12, 1972.

By the Commission.

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

[FR Doc.72–7687 Filed 5–19–72;8:48 am]

[Docket No. C–2189]

PART 13—PROHIBITED TRADE PRACTICES

Grolier, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.71 *Financing:* 13.71–10 Truth in Lending Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73–92 Truth in Lending Act; § 13.155 *Prices:* 13.155–95 Terms and conditions: 13.155–95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623–95 Truth in Lending Act; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions:* 13.1823–20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–75 Truth in Lending Act; § 13.1905 *Terms and conditions:* 13.1905–60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605) [Cease and desist order, Grolier, Inc., et al., New York, N.Y., Docket No. C–2189, Apr. 11, 1972]

In the Matter of Grolier, Inc., Americana Corp., Federated Credit Corp., R. H. Hinkley Co., Spencer International Press, Inc., the Grolier Society, Inc., the Richards Co., Inc., Corporations

Consent order requiring a New York City company selling and distributing encyclopedias, yearbooks, and other publications and its six subsidiaries to cease violating the Truth in Lending Act by failing to disclose the annual percentage rate in its retail installment contracts, failing to use the terms amount financed, total of payments, unpaid balance of cash price, finance charge, and failing to make all other disclosures required by Regulation Z of the Act.

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

It is ordered, That respondents Grolier, Inc., Americana Corp., Federated Credit Corp., R. H. Hinkley Co., Spencer International Press, Inc., the Grolier Society, Inc., and the Richards Co., Inc., and their successors or assigns, officers, and respondents' representatives, employees, salesmen, agents, or solicitors, directly or through any corporate or other device, in connection with any credit sale or advertisement of any textbook, encyclopedia, reference or educational material, training courses or teaching machine, or any other publication, merchandise or services, as "credit sale" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. By and through the use of the "retail installment contract":

(a) Failing to disclose the annual percentage rate, computed accurately to the nearest quarter of 1 percent in accordance with § 226.5 of Regulation Z, as required by § 226.8(b) (2) of Regulation Z.

(b) Failing to use the term "amount financed," to describe the sum of the unpaid balance of cash price and all other charges, individually itemized, which are included in the amount financed but which are not part of the finance charge, as required by § 226.8(c) (7) of Regulation Z.

(c) Failing to describe the sum of the payments scheduled to repay the indebtedness as the "total of payments," as required by § 226.8(b) (3) of Regulation Z.

(d) Failing to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by § 226.8(b) (7) of Regulation Z.

(e) Failing to describe as the "unpaid balance of cash price" the difference between the cash price and the total downpayment as required by § 226.8(c) (3) of Regulation Z.

(f) Stenciling, overprinting, or rubber stamping language over the disclosures required by Regulation Z in a manner which may obscure or detract attention from the information required by Regulation Z to be disclosed.

2. By and through the use of any open-end credit agreement:

(a) Failing to disclose any explanation of the time period, if any, within which any credit extended may be paid without incurring a finance charge, as required by § 226.7(a) (1) of Regulation Z.

(b) Failing to use the term "finance charge" to describe the sum of all charges required by § 226.4 to be included in the finance charge, as required by § 226.7(a) of Regulation Z, and failing to print the term "finance charge" more conspicuously than other required terminology, as required by § 226.6(a) of Regulation Z.

3. Failing to disclose in any lease and rental contract or agreement that constitutes a "credit sale," as that term is defined in § 226.2(n) of Regulation Z, all of the credit cost information required

by § 226.8 of Regulation Z, in the manner and form prescribed therein.

4. Stating in any advertisement for other than open-end credit, the amount of the downpayment required, the amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, without also stating all of the following items in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d)(2):

(a) The cash price;

(b) The amount of downpayment required or that no downpayment is required, as applicable;

(c) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(d) The amount of finance charge expressed as an annual percentage rate; and

(e) The deferred payment price.

5. Engaging in any consumer credit transaction or disseminating any advertisement within the meaning of Regulation Z of the Truth in Lending Act without making all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the amount, manner and form specified in §§ 226.8 and 226.10 of Regulation Z.

It is further ordered, That the respondents shall forthwith distribute a copy of this order to each of their operating divisions.

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

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

Issued: April 11, 1972.

By the Commission with Chairman Kirkpatrick not participating.

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

[FR Doc.72-7685 Filed 5-19-72;8:48 am]

[Docket No. C-2190]

PART 13—PROHIBITED TRADE PRACTICES

Haran, Inc., and Arthur W. Hartinger

Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-80 Textile Fiber Products Identification Act: 13.1185-90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-80 Textile Fiber Products Identification Act: 13.1212-90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-70 Textile Fiber Products Identification Act: 13.1852-80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719 as amended, 72 Stat. 1717, secs. 2-5, 54 Stat. 1128-1130, 15 U.S.C. 45, 70, 68) [Cease and desist order, Haran, Inc. et al., Sunnyvale, Calif., Docket No. C-2190, Apr. 12, 1972]

In the Matter of Haran, Inc. a Corporation, and Arthur W. Hartinger Individually and as an Officer of Said Corporation

Consent order requiring a Sunnyvale, Calif., retailer of wearing apparel to cease misbranding its textile fiber and wool products.

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

It is ordered, That respondents Haran, Inc., a corporation, and its officers, and Arthur W. Hartinger, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Failing to affix labels to textile fiber products showing each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

2. Failing to affix labels to samples, swatches or specimens of textile fiber products used to promote or effect the sale of such textile fiber products showing in words and figures plainly legible all the information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

It is further ordered, That respondents Haran, Inc., a corporation, and its officers, and Arthur W. Hartinger, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Failing to securely affix to, or place thereon, each such product a stamp, tag, label, or other means of identification correctly showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

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

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

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

Issued: April 12, 1972.

By the Commission.

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

[FR Doc.72-7686 Filed 5-19-72;8:48 am]

[Docket No. 8830]

PART 13—PROHIBITED TRADE PRACTICES

Medi-Hair International and Jack I. Bauman

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods;* § 13.170 *Qualities or properties of product or service:* 13.170-24 Cosmetic or beautifying; § 13.195 *Safety:* 13.195-60 Product. Subpart—Misrepresenting oneself and goods—Goods: § 13.1590 *Composition;* § 13.1710 *Qualities or properties;* § 13.1730 *Results.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition;* § 13.1885 *Qualities or properties;* § 13.1890 *Safety;* § 13.1892 *Sales contract, right-to-cancel provision.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Medi-Hair International et al., Beverly Hills, Calif., Docket No. 8830, Apr. 21, 1972]

In the Matter of Medi-Hair International, a Corporation, and Jack I. Bauman, Individually and as a Director of Said Corporation

Consent order requiring a Beverly Hills, Calif., corporate franchisor of a Medi-Hair replacement system involving surgical procedures to cease misrepresenting that respondent's system will restore the customer's hair so well that there will be no need for further attention. Respondent is further required to disclose that its system involves

the applying of wire sutures in the scalp which may cause pain and risk of infection; to notify prospective purchaser to consult his personal physician, and to devote at least 15 percent of its advertising to the disclosure that the system deals with surgical procedures and to advise to consult a physician. Respondent is further required to advise purchasers that contracts may be cancelled up until the third day; and respondent may not negotiate a customer's note to a finance company prior to midnight of the fifth day.

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

It is ordered, That respondents Medi-Hair International, a corporation, and Jack I. Bauman, individually, and as an officer and director of said corporation if he should again become an officer and/or a director of said corporation (hereinafter sometimes referred to as "respondents"), and respondents' agents, representatives, employees, successors, and assigns, directly or through any corporate or other device or through its franchisees or licensees, in connection with the advertising, offering for sale, sale, or distribution of the Medi-Hair hair replacement system or other hair replacement product or process involving surgery (hereinafter sometimes referred to as the "System"), in commerce, as "commerce" is defined in the Federal Trade Commission Act, or by the United States mails within the meaning of section 12(a)(1) of the Federal Trade Commission Act do forthwith cease and desist from representing, directly or by implication:

1. That the System does not involve wearing a device or cosmetic which is like a hairpiece or toupee;

2. That after the System has been applied, the hair applied becomes part of the anatomy like natural hair, teeth, and fingernails and has the following characteristics of natural hair.

a. The same appearance in all applications as natural hair upon normal observation, and upon extreme closeup examination;

b. It may be cared for like natural hair where care involves possible pulling on the hair;

c. The wearer may engage in physical activity and movement with the same disregard for his hair as he would if he had natural hair.

3. That after the System has been applied, the wearer can care for it himself, and will not have to seek professional or skilled assistance in maintaining the System, and that the customer will not incur maintenance costs over and above the cost of applying the System.

It is further ordered, That respondents, in advertising, offering for sale, selling or distributing the System, disclose clearly and conspicuously that:

1. The System involves a surgical procedure resulting in the implantation of wire sutures in the scalp, to which hair is affixed.

2. By virtue of the surgical procedure involving implantation of wire sutures in the scalp, and by virtue of the wire suture remaining in the scalp, there is a high probability of discomfort and pain, and a risk of infection, skin disease and scarring.

3. The System has been in use for too short a period of time to determine to a reasonable medical certainty the extent or seriousness of the above-described side-effects, or whether there are other side-effects.

4. Continuing special care of the System is necessary to minimize the probabilities and risks referred to in subparagraph 2 of this paragraph, and such care may involve additional costs for medications and assistance.

5. The purchaser is advised to consult with his personal physician about the System before deciding whether to purchase it.

Respondents shall set forth the above disclosures separately and conspicuously from the balance of each advertisement or presentation used in connection with the advertising, offering for sale, sale, or distribution of the System, and shall devote no less than 15 percent of each advertisement or presentation to such disclosures. *Provided, however,* That in advertisements which consist of less than 10 column inches in newspapers and periodicals, and in radio and television advertisements with a running time of one minute or less, respondents may substitute the following statement, in lieu of the above requirements:

"Warning: This application involves surgery whereby wire sutures are placed in the scalp. Discomfort, pain, and medical problems may occur. Continuing care is necessary. Consult your own physician."

No less than 15 percent of such advertisements shall be devoted to this disclosure, such disclosure shall be set forth clearly and conspicuously from the balance of each of such advertisements, and if such disclosure is in a newspaper or periodical, it shall be in at least 11-point type.

It is further ordered, That respondents, in connection with the sale of the System, provide prospective purchasers with a separate disclosure sheet containing the information required in the immediately preceding paragraph of this order, subparagraphs 1 through 5, thereof, and that respondents require that such prospective purchasers, subsequent to receipt of such disclosure sheet, consult with a duly licensed physician regarding the nature of the surgery to be done, the probabilities of discomfort and pain, and risk of infection, skin disease, and scarring.

It is further ordered, That, in connection with the sale of the System, no contract for application of the System shall become binding on the purchaser prior to midnight of the third day, excluding Sundays and legal holidays, after the day of the purchaser's above-described consultation with a duly licensed physician, or after the day on which said contract for application of the System was executed, whichever day is later, and that:

1. Respondents shall clearly and conspicuously disclose, orally prior to the time of sale, and in writing on any contract, promissory note or other instrument executed by the purchaser in connection with the sale of the System, that the purchaser may rescind or cancel any obligation incurred by mailing or delivering a notice of cancellation to the office responsible for the sale prior to midnight of the third day, excluding Sundays and legal holidays, after the day of the purchaser's above-described consultation with a duly licensed physician, or after the day on which said contract for application of the System was executed, whichever day is later.

2. Respondents shall provide a separate and clearly understandable form which the purchaser may use as a notice of cancellation.

3. Respondents shall not negotiate any contract, promissory note, or other instrument of indebtedness to a finance company or other third party prior to midnight of the fifth day, excluding Sundays and legal holidays, after the day of the purchaser's above-described consultation with a duly licensed physician, or after the day on which said contract for application of the System was executed, whichever day is later.

4. Respondents shall obtain for each purchaser a certificate signed by the physician who was consulted as required by this order, such certificate specifying that the said physician has explained to the purchaser the nature of the surgery to be done, and has advised him of the probabilities of discomfort and pain, and risk of infection, skin disease and scarring, and specifying the date and approximate time of the consultation, and respondents shall retain all such certificates for 3 years.

It is further ordered, That respondents, in connection with the advertising, offering for sale, sale, or distribution of the System, serve a copy of this order upon each present and every future licensee or franchisee, and upon each physician participating in application of respondents' System, and obtain written acknowledgement of the receipt thereof; and that respondents obtain from each present and future licensee or franchisee an agreement in writing (1) to abide by the terms of this order, and (2) to cancellation of their license or franchise for failure to do so; and that respondents cancel the license or franchise of any licensee or franchisee that fails to abide by the terms of this order. Respondents shall retain such acknowledgements and agreements for so long as such persons or firms continue to participate in the application or sale of respondents' System.

It is further ordered, That respondents, in connection with the advertising, offering for sale, sale, or distribution of the System, forthwith distribute a copy of this order to each of their operating divisions or departments.

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

It is further ordered, That in the event that the corporate respondent merges with another corporation or transfers all or a substantial part of its business or assets to any other corporation or to any other person, said respondent shall require such successor or transferee to file promptly with the Commission a written agreement to be bound by the terms of this order: *Provided,* That if said respondent wishes to present to the Commission any reasons why said order should not apply in its present form to said successor or transferee, it shall submit to the Commission a written statement setting forth said reasons prior to the consummation of said succession or transfer.

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

Issued: April 21, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.72-7689 Filed 5-19-72;8:48 am]

Title 20—EMPLOYEES' BENEFITS

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

[Reg. 5, further amended]

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

Subpart D—Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians

PROVIDER APPORTIONMENT METHODS AND COST FINDING

On December 2, 1971, there was published in the FEDERAL REGISTER (36 F.R. 22987) a notice of proposed rule making with proposed amendments to Subpart D of Regulations No. 5. The proposed amendments (i) require the use of the Combination Method of apportionment for all extended care facilities and for hospitals having less than 100 beds; (ii) require the use of the Departmental Method of apportionment by all other hospitals; (iii) revise the Departmental Method to require apportionment of routine service costs on an average cost per diem basis; (iv) provide for separate average cost per diem apportionment of the intensive care units, coronary care units, and other special care inpatient hospital units; (v) specifically provide for the nonrecognition of the cost of luxury items or services; (vi) exclude delivery room costs under the Combination Method and the Departmental Method; and (vii) provide for simplified cost finding procedures for providers required to use the Combination Method. All comments submitted with respect to the proposed amendments were given due consideration.

In regard to comments of a general nature many parties expressed the view that the Administration was taking a "piecemeal" approach to revising procedures for reimbursing providers and no action should be taken on regulation revisions until the entire reimbursement process was evaluated. The Department is in agreement that reimbursement to providers should be reexamined and has recommended to Congress that legislation provide for authority to make program payments under a prospective method of payment rather than under the existing retrospective method of reimbursement. Although the Congress is considering providing this authority on an experimental basis, the Department must nonetheless improve current methods of reimbursement and make them as equitable as possible.

Some parties expressed the view that the proposed regulations were developed and published without consultation with the health care field. Actually prior to drafting the proposed changes as a notice of proposed rule making, the Social Security Administration consulted with the major provider organizations and other persons knowledgeable in the health care field and solicited their views and recommendations.

Many of the correspondents opposed elimination of the option, heretofore permitted under regulations, allowing hospitals to use either the Combination Method or Departmental Method of apportionment. Elimination of the option has been retained. The option was originally granted to accommodate institutions that found the more sophisticated Departmental Method difficult to employ. In practice, however, this provider option gives each provider the opportunity to select the method that will result in greatest reimbursement from the program. Objections were also raised about the elimination of delivery room costs under the proposed Combination Method. In regard to this issue, the amendment as proposed was designed to preclude unintended reimbursement for services not associated with the aged and has been adopted since the statute requires that the health insurance program pay only for services furnished beneficiaries.

Some smaller hospitals objected to the elimination of conventional cost finding to be used with the Combination Method of apportionment and its replacement by a simplified method of cost finding as proposed in the notice of proposed rule making. However, over the years, many providers have indicated the need for simplified cost finding, especially for smaller providers, and the Department has concluded that it would be appropriate to revise the regulations accordingly.

Other comments contemplated the necessity of substantial revisions to provider accounting systems and higher audit costs as a result of the new regulations. However, cost finding and data accumulation requirements under the Departmental Method are similar to what is currently required under the Combination Method, whereas under simplified cost finding recordkeeping requirements would be greatly reduced.

To further simplify the proposed reporting for smaller hospitals having more than one special care unit, a change has been made in the proposed regulations permitting hospitals using the Combination Method to determine the combined costs of services provided in their intensive care units, coronary care units, and other special care inpatient hospital units rather than separately determining the cost of each special care unit.

Various editorial changes have also been made in the interest of clarity. Accordingly, with these changes, the proposed amendments as set forth below are adopted.

(Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), and 1871, 49 Stat. 647, as amended, 79 Stat. 296–297, 79 Stat. 302, 79 Stat. 322, 79 Stat. 335, 42 U.S.C. 1302, 1395 et seq.)

Effective date. These amendments shall be effective upon publication in the FEDERAL REGISTER (5–20–72).

Dated: April 21, 1972.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: May 15, 1972.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

Subpart D of Part 405 is amended as follows:

1. Section 405.404 is revised to read as follows:

§ 405.404 Methods of apportionment under title XVIII.

(a) For cost reporting periods starting before January 1, 1972, the principles for reimbursement under title XVIII of the Act establish two basic methods of apportionment, either of which may be used at the option of a provider, for the determination of the share of allowable costs for which payment is to be made to the provider.

(1) One alternative method of apportionment is the Departmental Method. Use of the Departmental Method requires cost finding, as defined in § 405.453(b)(1), to determine the division of the provider's costs between routine services and each ancillary department that is revenue producing, i.e., departments furnishing services to patients for which charges are made. See § 405.452(a)(1) for a description of this method.

(2) The second alternative method of apportionment is the Combination Method. Use of the Combination Method necessitates cost finding, as defined in § 405.453(b)(1), to determine the division of the provider's total allowable costs between routine services and aggregate ancillary services. See § 405.452(a)(2) for a description of this method.

(3) It is recognized that prior to the effective date of the health insurance program many hospitals and other providers did not employ methods for ascertaining the cost of the services they produce, either by departmental or other groupings of services. To avoid an undue burden on providers and to allow ample time for all providers to adopt the cost-finding methods needed for the apportionment methods under the program, a temporary method has been authorized at the option of the provider, for accounting periods ending before January 1, 1968, and with the approval of the intermediary for accounting periods ending after December 31, 1967, but before January 1, 1969. Under this option, a provider may employ the Combination Method of apportionment by using an estimated percentage obtained from the intermediary as the basis for arriving at a division of total allowable costs between routine and other services. This estimated percentage basis for division of costs will be accepted in lieu of actual cost finding as the basis for the division in the initial reporting period(s) of any provider of service. Furthermore, where there are special factors which make the apportionment methods difficult to apply, the intermediary may approve appropriate adaptations to accomplish the objective of determining the share of the provider's allowable costs which is attributable to services rendered to beneficiaries.

(b) For cost reporting periods starting after December 31, 1971, the principles of reimbursement under title XVIII of the Act require certain providers described in § 405.452(c) to use the Departmental Method of apportionment as described in § 405.452(b)(1), and other providers to use the Combination Method of apportionment as described in § 405.452(b)(2). Use of the Departmental Method requires cost finding (see § 405.453) to determine the division of the provider's costs between general routine care, routine care in special care units, and each ancillary department that is revenue producing, i.e., departments furnishing services to patients for which charges are made. Use of the Combination Method necessitates cost finding (see § 405.453) to determine the division of the provider's total allowable cost between general routine care, routine care in special care units, and aggregate ancillary services.

2. In § 405.430, paragraphs (b)(1), (2), (3), (5), and (6) are revised and new paragraph (b)(9) is added to read as follows:

§ 405.430 Inpatient routine nursing salary cost differential.

* * * * *

(b) *Definitions*—(1) *Aged day.* Aged day means a day of care rendered to an inpatient 65 years of age or older. Effective for cost reporting periods starting after December 31, 1971, aged days will not include any days of care rendered to an inpatient 65 years of age or older in an intensive care unit, coronary care unit, or other special care inpatient hospital units.

(2) *Pediatric day.* Pediatric day means a day of care rendered to an inpatient less than age 14 who is not occupying a bassinet for the newborn in the nursery. Effective for cost reporting periods starting after December 31, 1971, pediatric days will not include any days of care rendered to an inpatient less than 14 years of age in an intensive care unit, coronary care unit, or other special care inpatient hospital units.

(3) *Maternity day.* Maternity day means a day of care rendered to a female inpatient admitted for delivery of a child. Effective for cost reporting periods starting after December 31, 1971, maternity days will not include any days of care rendered to a female inpatient admitted for delivery of a child in an intensive care unit, coronary care unit, or other special care inpatient hospital units.

* * * * *

(5) *Inpatient day.* Inpatient day means a day of care rendered to any inpatient (except an individual occupying a bassinet for the newborn in the nursery). Effective for cost reporting periods starting after December 31, 1971, inpatient days will not include any days of care rendered to inpatients in an intensive care unit, coronary care unit, or other special care inpatient hospital units.

(6) *Inpatient routine nursing salary cost.* Inpatient routine nursing salary cost includes only the gross salaries and wages of nurses and other personnel for nursing activities performed in nursing units not associated with the nursery and not associated with services for which a separate charge is customarily made. This cost includes gross salaries and wages of head nurses, registered nurses, licensed practical and vocational nurses, aides, orderlies, and ward clerks. It does not include salaries and wages of administrative nursing personnel assigned to the departmental office or nursing personnel who perform their work in surgery, central supply, recovery units, emergency units, delivery rooms, nurseries, employee health service, or any other areas not providing general inpatient care, nor does it include the salaries and wages of personnel performing maintenance or other activities that do not directly relate to the care of patients. Effective for cost reporting periods starting after December 31, 1971, inpatient routine nursing salary cost will not include salaries or wages of nursing personnel assigned to an intensive care unit, coronary care unit, or other special care inpatient hospital units.

* * * * *

(9) *Intensive care units, coronary care units, and other special care inpatient hospital units.* To be considered an intensive care unit, coronary care unit, or other special care inpatient hospital unit, the unit must be in a hospital, must be one in which the care required is extraordinary and on a concentrated and continuous basis and must be physically identifiable as separate from general patient care areas. There shall be specific written policies for each of such designated units which include, but are not limited to burn, coronary care, pulmonary care, trauma, and intensive care units but exclude postoperative recovery rooms, post anesthesia recovery rooms, or maternity labor rooms.

3. In § 405.451, paragraph (c)(3) is revised to read as follows:

§ 405.451 Cost related to patient care.

* * * * *

(c) *Application.* * * *

(3) The determination of reasonable cost of services must be based on cost related to the care of beneficiaries of title XVIII of the Act. Reasonable cost includes all necessary and proper expenses incurred in rendering services, such as administrative costs, maintenance costs, and premium payments for employee health and pension plans. It includes both direct and indirect costs and normal standby costs. However, where the provider's operating costs include amounts not related to patient care, specifically not reimbursable under the program, or flowing from the provision of luxury items or services (that is, those items or services substantially in excess of or more expensive than those generally considered necessary for the provision of needed health services), such amounts will not be allowable. The reasonable cost basis of reimbursement contemplates that the providers of services would be reimbursed the actual costs of providing quality care however widely the actual costs may vary from provider to provider and from time to time for the same provider.

4. Section 405.452 is revised to read as follows:

§ 405.452 Determination of cost of services to beneficiaries.

(a) *Principle for cost reporting periods starting before January 1, 1972.* Total allowable costs of a provider shall be apportioned between program beneficiaries and other patients so that the share borne by the program is based upon actual services received by program beneficiaries. To accomplish this apportionment, for cost reporting periods starting before January 1, 1972, the provider shall have the option of either of the two following methods:

(1) *Departmental Method.* The ratio of beneficiary charges to total patient charges for the services of each department is applied to the cost of the department, taking into account, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential. (See § 405.430 for definition and application of this differential.)

(2) *Combination Method.* The cost of "routine services" for program beneficiaries is determined on the basis of average cost per diem of these services, taking into account, to the extent pertinent, for services provided after June 30,

1969, an inpatient routine nursing salary cost differential (see § 405.430 for definition and application of this differential). To this amount is added the cost of ancillary services used by beneficiaries, determined by apportioning the total cost of ancillary services on the basis of the ratio of beneficiary charges for ancillary services to total patient charges for such services.

(b) *Principle for cost reporting periods starting after December 31, 1971.* Total allowable costs of a provider shall be apportioned between program beneficiaries and other patients so that the share borne by the program is based upon actual services received by program beneficiaries. For cost reporting periods starting after December 31, 1971, the methods of apportionment are defined as follows:

(1) *Departmental Method.* The ratio of beneficiary charges to total patient charges for the services of each ancillary department is applied to the cost of the department; to this is added the cost of routine services for program beneficiaries, determined on the basis of a separate average cost per diem for general routine patient care areas, taking into account, to the extent pertinent, an inpatient routine nursing salary cost differential (see § 405.430 for definition and application of this differential), and in hospitals, a separate average cost per diem for each intensive care unit, coronary care unit, and other special care inpatient hospital units.

(2) *Combination Method.* The cost of routine services for program beneficiaries is determined on the basis of a separate average cost per diem for general routine patient care areas, taking into account, to the extent pertinent, an inpatient routine nursing salary cost differential (see § 405.430 for definition and application of this differential), and in hospitals, a separate average cost per diem for the aggregate of intensive care, coronary care, and other special care inpatient hospital units. To this amount is added the cost of ancillary services used by beneficiaries, determined by apportioning the total cost of ancillary services excluding delivery room costs, on the basis of the ratio of beneficiary charges for ancillary services to total patient charges for such services excluding charges for delivery room.

(c) *Availability of apportionment methods for cost reporting periods starting after December 31, 1971.* For cost reporting periods starting after December 31, 1971, providers shall use the applicable apportionment method indicated as follows:

(1) *Hospitals having less than 100 beds.* Any hospital having less than 100 beds, certified and noncertified, on the first day of its cost reporting period must use the Combination Method of apportionment. Where the combined bed capacity of a hospital-extended care facility complex is less than 100 beds, the Combination Method shall be used by both components.

(2) *Other hospitals.* Any hospital or hospital-extended care facility complex having 100 or more beds, certified and noncertified, on the first day of its cost reporting period must use the Departmental Method of apportionment.

(3) *Extended care facilities.* Extended care facilities, regardless of bed size, must use the Combination Method of apportionment, except as specified in subparagraph (2) of this paragraph.

(d) *Definitions*—(1) *Apportionment.* Apportionment means an allocation or distribution of allowable cost between the beneficiaries of the health insurance program and other patients.

(2) *Routine services.* Routine services means the regular room, dietary, and nursing services, minor medical and surgical supplies, and the use of equipment and facilities for which a separate charge is not customarily made.

(3) *Ancillary services.* Ancillary services or special services are the services for which charges are customarily made in addition to routine services.

(4) *Charges.* Charges refer to the regular rates for various services which are charged to both beneficiaries and other paying patients who receive the services. Implicit in the use of charges as the basis for apportionment is the objective that charges for services be related to the cost of the services.

(5) *Cost.* Cost refers to reasonable cost as described in § 405.451.

(6) *Ratio of beneficiary charges to total charges on a departmental basis.* Ratio of beneficiary charges to total charges on a departmental basis, as applied to inpatients, means the ratio of inpatient charges to beneficiaries of the health insurance program for services of a revenue-producing department or center to the inpatient charges to all inpatients for that center during an accounting period. After each revenue-producing center's ratio is determined, the cost of services rendered to beneficiaries of the health insurance program is computed by applying the individual ratio for the center to the cost of the related center for the period.

(7) *Average cost per diem for routine services.* With respect to cost reporting periods starting before January 1, 1972, average cost per diem for routine services means the amount computed by dividing the total allowable inpatient cost for routine services by the total number of inpatient days of care (excluding newborn days where nursery costs are excluded from routine service costs) rendered by the provider in the accounting period. With respect to cost reporting periods starting after December 31, 1971, average cost per diem for general routine services means the amount computed by dividing the total allowable inpatient cost for routine services (excluding the cost of services provided in intensive care units, coronary care units, and other special care inpatient hospital units as well as nursery costs) by the total number of inpatient days of care (excluding days of care in intensive care units, coronary care units, and other special care inpatient hospital units and newborn days) rendered by the provider in the accounting period.

(8) *Average cost per diem for hospital special care units.* Average cost per diem for intensive care units, coronary care units, and other special care inpatient hospital units as defined in subparagraph (10) of this paragraph means the amount computed by dividing the total allowable costs for routine services in each (see paragraph (b)(1) of this section), or the aggregate (see paragraph (b)(2) of this section), of these units by the total number of inpatient days of care rendered in each or the aggregate of these units.

(9) *Ratio of beneficiary charges for ancillary services to total charges for ancillary services.* With respect to cost reporting years starting before January 1, 1972, the ratio of beneficiary charges for ancillary services to total charges for ancillary services, as applied to inpatients, means the ratio of the total inpatient charges for covered ancillary services rendered to beneficiaries of the health insurance program to the total inpatient charges for ancillary services to all patients during an accounting period. This ratio is applied to the allowable inpatient ancillary costs for the period to determine the amount of reimbursement to a provider for the covered ancillary services rendered to beneficiaries. With respect to cost reporting periods starting after December 31, 1971, the ratio of beneficiary charges for ancillary services to total charges for ancillary services, as applied to inpatients, means the ratio of the total inpatient charges for covered ancillary services rendered to beneficiaries of the health insurance program to the total inpatient charges, excluding delivery room charges, for ancillary services to all patients during an accounting period. This ratio is applied to the allowable inpatient ancillary costs for the period, excluding delivery room costs, to determine the amount of reimbursement to a provider for the covered ancillary services rendered to beneficiaries.

(10) *Intensive care units, coronary care units, and other special care inpatient hospital units.* To be considered an intensive care unit, coronary care unit, or other special care inpatient hospital unit, the unit must be in a hospital, must be one in which the care required is extraordinary and on a concentrated and continuous basis and must be physically identifiable as separate from general patient care areas. There shall be specific written policies for each of such designated units which include, but are not limited to burn, coronary care, pulmonary care, trauma, and intensive care units but exclude postoperative recovery rooms, postanesthesia recovery rooms, or maternity labor rooms.

(e) *Application*—(1) *Objective.* (i) The law provides that the costs with respect to individuals covered by the health insurance program will not be borne by individuals not so covered, and, conversely, that costs with respect to individuals who are not under the program will not be borne by the program.

(ii) The cost of services to beneficiaries of the health insurance program may, for cost reporting periods starting before January 1, 1972, be determined by either of the alternative methods that is selected by a provider; however, the

objective of whatever method of apportionment is used will be to approximate as closely as practicable the actual cost of services rendered.

(iii) The two methods of apportionment available for use in determining the cost of services rendered to beneficiaries of the program have as their goal the allocation of the total allowable costs between the beneficiaries and other patients in as equitable a manner as possible. Under these methods, if it is found that beneficiaries receive more than the average amount of services, the providers would receive reimbursement greater than average cost for all patients. Conversely, if the beneficiaries receive less than the average amount of services, the providers would be reimbursed accordingly for the services rendered.

(2) *Departmental Method*—(i) *For cost reporting periods starting before January 1, 1972.* The following illustrates how apportionment based on the ratio of beneficiary charges to total charges applied to cost on a departmental basis would be determined for cost reporting periods starting before January 1, 1972, using only inpatient data.

HOSPITAL A

Department	Charges to program beneficiaries	Total charges	Ratio of beneficiary charges to total charges	Total cost	Cost of beneficiary services
			Percent		
Routine services	$140,000	$600,000	23⅓	$630,000	$147,000
X-ray	24,000	100,000	24	75,000	18,000
Operating room	20,000	70,000	28⅔	77,000	22,000
Laboratory	40,000	140,000	28⅔	98,000	28,000
Pharmacy	20,000	60,000	33⅓	45,000	15,000
Others	6,000	30,000	20	25,000	5,000
Total	250,000	1,000,000		950,000	235,000

To the total shown in the illustration is added, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential adjustment factor as defined and illustrated in § 405.430.

(ii) *For cost reporting periods starting after December 31, 1971.* The following illustrates how apportionment based on the average cost per diem for general routine services, taking into account, to the extent pertinent, an inpatient routine nursing salary cost differential (see § 405.430 for definition and application of this differential) and each special care unit, and apportionment of the cost of ancillary services on the ratio of beneficiary charges to total charges applied to cost by department would be determined for cost reporting periods starting after December 31, 1971, under the Departmental Method, using only inpatient data:

HOSPITAL Y

Department	Charges to program beneficiaries	Total charges	Ratio of beneficiary charges to total charges	Total cost	Cost of beneficiary services
			Percent		
Operating rooms	$20,000	$70,000	28⅔	$77,000	$22,000
Delivery rooms	0	12,000	0	30,000	0
Pharmacy	20,000	60,000	33⅓	45,000	15,000
X-ray	24,000	100,000	24	75,000	18,000
Laboratory	40,000	140,000	28⅔	98,000	28,000
Others	6,000	30,000	20	25,000	5,000
Total	110,000	412,000		350,000	88,000

	Total inpatient days	Total cost	Average cost per diem	Program inpatient days	Cost of beneficiary services
General routine	30,000	$630,000	$21	8,000	$168,000
Coronary care unit	500	20,000	40	200	8,000
Intensive care unit	3,000	108,000	36	1,000	36,000
Total	33,500	758,000		9,200	212,000
					300,000

To the cost of general routine services rendered to program beneficiaries and to the total shown in the illustration are added, to the extent pertinent, an inpatient routine nursing salary cost differential adjustment factor as defined and illustrated in § 405.430.

(3) *Combination Method*—(i) *Using cost finding for cost reporting periods starting before January 1, 1972.* A provider may, at its option, for cost reporting periods starting before January 1, 1972, elect to be reimbursed for the cost of routine services on the basis of the average cost per diem, taking into account, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential (as defined and illustrated in § 405.430). To this amount is added the cost of the ancillary services rendered to beneficiaries of the program determined by computing the ratio of total inpatient charges for ancillary services to beneficiaries to the total inpatient ancillary charges to all patients and applying this ratio to the total allowable cost of inpatient ancillary services.

COMBINATION METHOD EMPLOYED BY HOSPITAL B

Statistical and financial data:	
Total inpatient days for all patients	30,000
Inpatient days applicable to beneficiaries	7,500
Inpatient routine services—total allowable cost	$600,000
Inpatient ancillary services—total allowable cost	$320,000
Inpatient ancillary services—total charges	$400,000
Inpatient ancillary services—charges for services to beneficiaries	$80,000
Computation of cost applicable to program:	
Average cost per diem for routine services: $600,000÷30,000 days=$20 per diem.	
Cost of routine services (exclusive of any inpatient routine nursing salary cost differential adjustment factor pertinent for services provided after June 30, 1969) rendered to beneficiaries: $20 per diem×7,500 days	$150,000
Ratio of beneficiary charges to total charges for all ancillary services: $80,000÷$400,000=20 percent.	
Cost of ancillary services rendered to beneficiaries: 20 percent×$320,000	$64,000
Total cost (exclusive of any inpatient routine nursing salary cost differential adjustment factor pertinent for services provided after June 30, 1969) of beneficiary services	$214,000

To the cost of routine services and total cost shown in the above illustration are added, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential adjustment factor as defined and illustrated in § 405.430.

(ii) *Using estimated percentage.* For periods ending after December 31, 1968, providers are required to use the cost-finding methods described in § 405.453 to determine the costs of routine and ancillary services. Where the intermediary determines, however, that a provider is unable to make the necessary computations by cost-finding methods as indicated in § 405.453, the intermediary will estimate the appropriate percentage of the provider's allowable cost that represents routine service costs and the appropriate percentage that represents the ancillary service costs. These percentages are to be based upon study, analysis, and judgment by the intermediary and designed to approximate the result that a cost-finding method would have produced for the particular provider. The use of estimated percentages would apply only to cost reports for periods ending before January 1, 1969. For subsequent periods, the use of cost-finding methods as described in § 405.453 will be required for the apportionment of allowable costs.

ESTIMATED PERCENTAGE EMPLOYED BY HOSPITAL C

Statistical and financial data:	
Total inpatient days for all patients	35,000
Inpatient days applicable to beneficiaries	5,000
Total allowable inpatient cost	$1,000,000
Estimated percent for routine inpatient services	70
Estimated percent for ancillary inpatient services	30
Inpatient ancillary services:	
Total charges	$400,000
Charges for services to beneficiaries	$80,000
Computation of cost applicable to program:	
Average cost per diem for routine services: 70 percent × $1,000,000=$700,000 (routine service cost). $700,000÷35,000 days=$20 per diem.	
Cost of routine services rendered to beneficiaries: $20 per diem × 5,000 days	$100,000
Ratio of beneficiary charges to total charges for all ancillary services: $80,000÷$400,000=20 percent.	
Cost of ancillary services rendered to beneficiaries: 30 percent × $1,000,000=$300,000 (ancillary service costs).	
20 percent × $300,000	$60,000
Total cost of beneficiary services	$160,000

(iii) *Combination Method for cost reporting periods beginning after December 31, 1971.* The following illustrates how apportionment based on the average cost per diem for general routine services, taking into account, to the extent pertinent, an inpatient routine nursing salary cost differential (see § 405.430 for definition and application of this differential) and the aggregate of the special care units, and apportionment of the cost of ancillary services on the basis of the ratio of total beneficiary ancillary charges to total patient ancillary charges (excluding delivery room charges) applied to the cost of all such ancillary services (excluding delivery room costs) would be determined for cost reporting periods beginning after December 31, 1971, under the Combination Method using only inpatient data.

HOSPITAL Z

Statistical and financial data:	
Total inpatient days for all patients—General area	30,000
Total inpatient days for all patients—All special care units	2,500
Inpatient days applicable to program beneficiaries—General area	7,500
Inpatient days applicable to program beneficiaries—All special care units	750
Total allowable costs—General inpatient routine area	$600,000
Total allowable costs—All special care units	$95,000
Inpatient ancillary services—Total allowable cost excluding delivery room cost	$320,000
Inpatient ancillary services—Total charges excluding delivery room charges	$400,000
Inpatient ancillary services—Charges for services to program beneficiaries	$80,000
Computation of cost applicable to program:	
Average cost per diem for general routine services: $600,000÷30,000=$20 per diem.	
Cost of general routine services (exclusive of any inpatient routine nursing salary cost differential adjustment factor) rendered to program beneficiaries: $20 per diem × 7,500 days	$150,000
Average cost per diem for special care units: $95,000÷2,500=$38 per diem.	
Cost of services rendered to program beneficiaries in special care units: $38 per diem × 750 days	$28,500
Ratio of beneficiary charges to total charges for all ancillary services excluding delivery room charges: $80,000÷$400,000=20 percent.	
Cost of ancillary services rendered to program beneficiaries: 20 percent × $320,000	$64,000
Total cost (exclusive of any inpatient routine nursing salary cost differential adjustment factor) of services rendered to program beneficiaries	$242,500

To the cost of general routine services rendered to program beneficiaries and to the total shown in the illustration are added, to the extent pertinent, an inpatient routine nursing salary cost differential adjustment factor as defined and illustrated in § 405.430.

(4) *Option to use Departmental Method or Combination Method for the first reporting period for cost reporting periods beginning before January 1, 1972.* (i) The provider has the option of using either the Departmental Method or the Combination Method for the first reporting period. Thereafter, a provider may change from one to the other method provided a written request is made to the intermediary before the end of the fourth month of the period for which the change is to be applied and such request is approved.

(ii) A request to change from one to the other method made by a provider prior to or at the time it submitted an audited cost report for its first reporting period is acceptable and the change may be made if approved by the intermediary provided that the audited report was submitted before the end of the second reporting period. Providers which submit an audited cost report for the first period after the end of the second reporting period must use the same method of apportionment for both the first and second periods.

(iii) The provisions of subdivisions (i) and (ii) of this subparagraph (4) apply to cost reporting periods beginning before January 1, 1972.

(5) *Temporary methods of apportionment for cost reporting periods ending before January 1, 1969.* (i) The intermediary may find that a provider is unable to apply either the Departmental Method or the Combination Method employing cost finding or estimated percentages. In such case, the intermediary can authorize the provider to use, on a temporary basis, an apportionment based on the ratio of beneficiary inpatient charges to total inpatient charges applied to the total cost of all services. This would permit the provider time to establish the records necessary for applying either of the basic alternative methods of apportionment in the next accounting period This method may not, however, be used by hospitals which have all-inclusive rates, or no-charge structures. In some cases, the intermediary may determine that a provider is unable to employ this temporary method of apportionment based on the ratio of beneficiary inpatient charges to total inpatient charges applied to total inpatient cost. In such a case any other method determined by the intermediary to be reasonable may be used on a temporary basis, however, methods for providers having all-inclusive rates or no-charge structures will be developed by the Social Security Administration. Any temporary method of apportionment may not be used to cover cost reporting periods ending on or after January 1, 1969.

EXAMPLE: The following illustration demonstrates the apportionment of cost based on the ratio of beneficiary inpatient charges to all inpatient charges computed on a total basis for all inpatient services.

HOSPITAL D

Financial data:	
Inpatient services:	
Total allowable cost	$950,000
Total charges	$1,000,000
Charges for beneficiary services	$200,000
Computation of cost of beneficiary inpatient services:	
Ratio of beneficiary charges to total charges: $200,000÷$1,000,000=20 percent.	
Cost of services rendered to beneficiaries: 20 percent × $950,000	$190,000

(ii) Whenever authorization is given to apportion costs by a method other than one of the two basic alternative methods, such authorization would be considered to be a temporary expediency to cover only cost reports for periods ending before January 1, 1969. It would be available to a provider only after diligent efforts have been made by the provider to apportion its costs based upon either of the approved methods of apportionment.

5. In paragraph (d) of § 405.453, the material preceding subparagraph (1) is revised, subparagraph (3) is redesignated (4), and a new subparagraph (d)(3) is added to read as follows:

§ 405.453 Adequate cost data and cost finding.

* * * * *

(d) *Cost finding methods.* After the close of the accounting period, one of the following methods of cost finding is to be used to determine the actual costs of services rendered during that period. However, for reporting periods beginning after December 31, 1971, providers using the Departmental Method of cost apportionment must use the Step-Down Method described in subparagraph (1) of

this paragraph or an "Other Method" described in subparagraph (2) of this paragraph under the conditions provided therein. The modified cost finding method provided in subparagraph (3) of this paragraph must be used for reporting periods beginning after December 31, 1971, by providers which are required to use the Combination Method of cost apportionment.

* * * * *

(3) *Modified cost finding for providers using the Combination Method for reporting periods beginning after December 31, 1971.* This method differs from the Step-Down Method in that services rendered by nonrevenue-producing departments or centers are allocated directly to revenue-producing departments or centers even though these services may be utilized by other nonrevenue-producing departments or centers. In the application of this method the cost of nonrevenue-producing centers having a common basis of allocation are combined and the total distributed to revenue producing centers. All nonrevenue-producing centers having significant percentages of cost in relation to total costs will be allocated this way. The combined total costs of remaining nonrevenue-producing cost centers will be allocated to revenue-producing cost centers in the proportion that each bears to total costs, direct and indirect, already allocated. The bases which are to be used and the centers which are to be combined for allocation are not optional, but are identified and incorporated in the cost report forms developed for this method. Providers using this method must use the program cost report forms devised for it. Alternative forms may not be used without prior approval of the Social Security Administration, based upon a written request by the provider submitted through the intermediary.

[FR Doc.72-7663 Filed 5-19-72;8:47 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

Procedures for Classification of Over-the-Counter Drugs; Correction

In F.R. Doc. 72-7190 appearing at page 9464 in the May 11, 1972 issue of the FEDERAL REGISTER, the penultimate paragraph is deleted and the *Effective date* statement, due to error, is corrected to read:

Effective date. This order shall be effective upon signature by the Commissioner of Food and Drugs. It would be contrary to the public interest to delay the effective date because:

(1) The review and classification of OTC drugs as generally recognized as safe and effective and not misbranded under prescribed, recommended, or suggested conditions of use cannot be conducted until these regulations are placed into effect; and

(2) Delay in the effective date would serve no useful purpose since interested persons were provided 60 days for the submission of comments on the proposal published in the FEDERAL REGISTER of January 5, 1972 (37 F.R. 85), and all comments have been considered in detail and discussed in the preamble to this order.

Dated: May 15, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-7645 Filed 5-19-72;8:47 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Sulfadimethoxine

The Commissioner of Food and Drugs has evaluated supplemental new animal drug applications (12-554V and 12-087V) filed by Pitman-Moore, Inc., Camp Hill Road, Fort Washington, Pa. 19034, proposing the safe and effective use of sulfadimethoxine injection and sulfadimethoxine tablets for veterinary use. The supplemental applications are approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135b and 135c are amended as follows:

1. In Part 135b, § 135b.15 is amended by adding a new paragraph (c) as follows:

§ 135b.15 Sulfadimethoxine injection.

* * * * *

(c) (1) *Specifications.* Sulfadimethoxine containing 100 milligrams per milliliter.

(2) *Sponsor.* See code No. 066 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) It is used or intended for use in the treatment of sulfadimethoxine-susceptible bacterial infections in dogs, cats and horses.

(ii) It is administered by subcutaneous, intramuscular or intravenous injection to dogs and cats and by intravenous injection only to horses at an initial dose of 25 milligrams per pound of body weight followed by 12.5 milligrams per pound of body weight every 24 hours thereafter. Continue treatment until the animal is free from symptoms for 48 hours.

(iii) Not to be administered to horses intended for use as food.

(iv) For use by or on the order of a licensed veterinarian.

2. In Part 135c, § 135c.13 is amended by adding a new subparagraph (3) to paragraph (b) and by adding a new item 3 to table 2, as follows:

§ 135c.13 Sulfadimethoxine.

* * * * *

(b) * * *

(3) For item 3 in table 2, paragraph (e), see code No. 066 in § 135.501(c) of this chapter.

* * * * *

(e) *Conditions of use.* It is used as follows:

* * * * *

TABLE 2—IN TABLETS

	Amount	Limitations	Indications for use
* * *	* * *	* * *	* * *
3. Sulfadimethoxine.	12.5-25 milligrams per pound body weight.	For dogs and cats; administer 25 milligrams per pound body weight for first day followed by 12.5 milligrams per pound body weight per day until the animal is free of symptoms for 48 hours; for use only by or on the order of a licensed veterinarian.	Treatment of sulfadimethoxine-susceptible bacterial infections.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (5-20-72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: May 10, 1972.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.72-7644 Filed 5-19-72;8:47 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development

[Docket No. R-72-189]

PART 3—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Effective April 16, 1972, the Department is transferring the responsibilities set forth in 24 CFR 200.77 through 200.82 from the Assistant Secretary for Housing Production and Mortgage Credit-Federal Housing Commissioner to the Assistant Secretary for Administration. Accordingly, Title 24 is being amended to include a new Part 3 which will eventually describe the organization, functions, and delegations of authority for the Department as a whole, and under Subpart C, setting forth delegations of authority to heads of offices, we are including the authority newly delegated to the Assistant Secretary for Administration with respect to accounting and fiscal authority and functions.

Concurrently with this adoption of Part 3, but under separate document, Chapter II is being amended to revoke §§ 200.77 through 200.82 which delegated accounting and fiscal responsibilities to the Assistant Commissioner-Comptroller and officials in his office. Such revocation is consonant with the transfer of these responsibilities from the Assistant Secretary for Housing Production and Mortgage Credit-Federal Housing Commissioner to the Assistant Secretary for Administration.

Notice and public procedure, as well as postponement of the effective date, is not required inasmuch as this amendment relates solely to agency management and organization.

Accordingly, Title 24 is amended by adding a new Part 3 as follows; Subparts A, B, and D are reserved.

Subpart C—Secretary's Delegations of Authority to Heads of Offices

Office of the Comptroller

§ 3.1 Comptroller and Deputy Comptroller.

To the position of Comptroller, and under his general supervision to the position of Deputy Comptroller, there is delegated the following basic authority and functions:

(a) To be responsible for coordination and general supervision of the Accounting Division, the Insurance Division, the Fiscal Division, the Procedures Division, and the Financial Reports Division.

(b) To devise and establish insurance fiscal servicing, accounting and fiscal procedures and to administer the fiscal policies and activities of FHA; and to provide or cause to be provided under his direction technical advice and guidance to all organizational elements of the FHA in the fields of accounting, insurance fiscal servicing and fiscal matters.

(c) To be responsible for the establishment and maintenance of appropriate accounting, fiscal and mortgage insurance controls and for the safeguarding of cash, notes, mortgages, negotiable instruments, checks, securities, debentures, contracts, and properties.

(d) To develop and recommend policies, rules and procedures governing the settlement of title I claims.

(e) To exercise the authority of the Assistant Secretary-Commissioner in any instance which is subject to the approval of the Assistant Secretary in connection with the settlement of claims under section 2 of title I of the National Housing Act.

(f) To direct and supervise, or cause to be directed and supervised, periodic portfolio examinations of institutions insured under the provisions of section 2 of title I of the National Housing Act.

(g) (1) To submit to the Treasury Department authorizations for:

(i) Investment of moneys held in the various insurance funds, not needed for the current operations of the FHA, in bonds or other obligations of the United States, or in bonds or other obligations guaranteed as to principal and interest by the United States, and

(ii) The redemption or sale of investments in bonds or other obligations of the United States, or in bonds or other obligations guaranteed as to principal and interest by the United States, representing undisbursed mortgage proceeds relating to multifamily mortgages assigned to the Secretary; and

(2) To recommend, or cause to be recommended under his direction, liquidation of investments and redemption of debentures; to execute, or cause to be executed under his direction, assignments in connection with the redemption of debentures held for the account of the FHA insurance funds or received in exchange for acquired security; and to maintain, or cause to be maintained under his direction, liaison with the Treasury Department in the execution of fiscal proposals.

(3) To determine or cause to be determined under his direction the cash requirements of the various insurance funds for payment of insurance claims and to recommend borrowings from and repayments to the Treasury Department for this purpose.

(h) To certify financial statements, and to execute and submit or to cause to be executed and submitted under his direction to the Treasury Department and/or to the Office of Management and Budget intergovernmental financial reports required by applicable statutes or regulations of the Treasury Department or Office of Management and Budget.

(i) To designate certifying officers and to revoke such designation, to execute and submit to the Treasury Department necessary statements and schedules with respect thereto, and perform all functions pertaining to the bonding of FHA employees, pursuant to applicable statutes, regulations, and the standards and procedures of the Secretary of the Treasury thereunder.

(j) To submit or cause to be submitted under his direction to the Treasury Department (1) authorizations for (i) purchase of U.S. Government securities, pursuant to agreements between mortgagors or other depositors and FHA, and (ii) sale and disposition of U.S. Government securities purchased for mortgagors or other depositors, received as a result of assignment of insured mortgages or as a result of other agreements; (2) for safekeeping, U.S. Government securities deposited in accordance with mortgagor corporate charters, regulatory or special agreements; and (3) requests for withdrawal of U.S. Government securities.

(k) To develop and maintain or cause to be developed and maintained under his direction a program for the fiscal servicing of all Secretary-held home and project mortgages; to execute or cause to be executed under his direction all vouchers for expenditures from mortgagor's escrow accounts, for payment of taxes on home and project properties where title is vested in the Secretary and, with respect to home properties acquired by the Secretary, vouchers for payment of excess proceeds to effect final settlement on certificates of claim; and to execute and receipt or cause to be executed and receipted under his direction applications and receipts for any payments received representing refunds of taxes or other payments made by the Secretary in connection with property acquired by the Secretary under the provisions of the National Housing Act.

(l) To keep, or cause to be kept under his direction, a seal of the Department of Housing and Urban Development; to certify as to delegations of authority by any Assistant Secretary and as to the truth or accuracy of copies of original papers or documents in the possession of the FHA; to prepare and execute, or cause to be prepared and executed, certified and notarized affidavits for the use of U.S. attorneys in presenting the fiscal status of Secretary-held mortgages at foreclosure trials, and to maintain the Archives files of FHA.

(m) To recommend the terms and conditions under which FHA offers to sell purchase money mortgages and assigned mortgage notes to approved mortgagees; upon approval of the recommendation make offers for the sale of such mortgages and assigned notes; and execute in the name of the Secretary acceptance of such offers.

(n) To endorse or cause to be endorsed under his direction, mortgage notes for insurance; to take, or cause to be taken under his direction, any action necessary to consummate the sale of Secretary-held mortgages to purchasers of such mortgages; and to execute, or cause to be executed, satisfactions of Secretary-held mortgages when the mortgage indebtedness has been paid in full.

(o) To endorse, or cause to be endorsed under his direction, checks and other negotiable instruments for deposit or collection; to endorse, or cause to be endorsed under his direction, loss drafts relating to insurance coverage on Secretary-held home and project mortgages; to endorse, or cause to be endorsed under his direction, checks and other negotiable instruments in order to perfect negotiability for other parties at interest where the Secretary is not entitled to the proceeds of such instruments, relating to applications for insurance benefits; and to execute assignments and other instruments pertaining to the sale or other disposition of stock or other securities received as a result of agreements between mortgagors or other depositors and FHA.

(p) To approve or cause to be approved under his direction all expenditures and to receipt or cause to be receipted under his direction all vouchers necessary to carry out the provision of the National Housing Act.

(q) To certify or cause to be certified under his direction that all required documents, information, and approvals respecting each transaction are present; verify or cause to be verified under his direction the accuracy of the computations, the consistency of the information

included in the various documents and determined or cause to be determined under his direction that the transactions are in strict accordance with all applicable regulations, decisions, and laws.

(r) To approve or disapprove, or cause to be approved or disapproved under his direction, amounts claimed by mortgagees in their applications for insurance benefits, including amounts for operating, protecting, and preserving properties prior to conveyance to the Secretary; to execute, or cause to be executed under his direction, certificates of claim; to certify, or cause to be certified under his direction, the requisitions to the Treasury Department for the issuance of debentures; to certify, or cause to be certified under his direction, vouchers for cash settlement of applications for insurance benefits; and to approve or disapprove, or cause to be approved or disapproved under his direction, the purchase of debentures submitted by mortgagees in connection with the payment of mortgage insurance premiums and adjusted premium charges.

(s) To extend or cause to be extended under his direction the period of time for submission of fiscal data or title evidence supporting a mortgagee's application for insurance benefits.

(t) To maintain or cause to be maintained under his direction liaison with the General Accounting Office, Treasury Department, and other agencies of the Government on accounting, insurance fiscal servicing and fiscal matters, and to collaborate with such departments and agencies in the formation of accounting and fiscal programs.

(u) To issue, or cause to be issued, duplicate or corrective mortgage insurance certificates; to cancel, or cause to be canceled under his direction, insurance endorsement or the mortgage insurance certificate on insured mortgages where a joint request for termination is made by the mortgagor and mortgagee, or when the insurance endorsement or the mortgage insurance certificate is otherwise to be canceled; and to exercise the authority of the Assistant Secretary in any instance which is subject to the approval of the Assistant Secretary in connection with the prepayment or voluntary termination of insured mortgages.

(v) To take any action authorized to be taken by any division or office within his jurisdiction.

(w) To exercise, or cause to be exercised, the authority of the Assistant Secretary to endorse any preferred stock certificate held by him in any corporation for the purpose of retirement and cancellation.

(x) To approve the sale and terms of sale of mortgages taken as security in connection with the sale of property acquired in connection with Federal Housing Administration insurance claims.

(y) With respect to the Appalachian Housing Fund, pursuant to the Appalachian Regional Development Act of 1965:

(1) To reserve or, as appropriate, record, or cause to be reserved or recorded, all approved reservations of funds and to record and control, or cause to be recorded and controlled, all obligations of funds for loans under this fund.

(2) To disburse, or cause to be disbursed, moneys in the fund for making loans to sponsors for development of applications for commitments for project mortgages for projects under section 207 of the Appalachian Regional Development Act of 1965 approved pursuant to section 223 of such Act and for general expenses of administration of section 207 of such Act; and

(3) To collect, or cause to be collected, the loan repayments and interest thereon, and to execute, or cause to be executed, the satisfaction of loan and trust agreement when the loan indebtedness has been paid in full or canceled.

(z) With respect to section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966: To perform, or cause to be performed, all fiscal duties and functions necessary to comply with the requirements of the agreement entered into between the Department of Defense and the Department of Housing and Urban Development.

(aa) With respect to the Low and Moderate Income Sponsor Fund, pursuant to section 106 of the Housing and Urban Development Act of 1968:

(1) To reserve or, as appropriate, record, or cause to be reserved or recorded, all appoved reservations of funds and to record and control, or cause to be recorded and controlled, all obligations of funds for loans or grants made under the fund.

(2) To disburse, or cause to be disbursed, moneys in the fund for making grants to public bodies, nonprofit or cooperative organizations, and loans, without interest, to nonprofit sponsors of housing for low- and moderate-income families; and

(3) To collect, or cause to be collected, the loan repayments, and to execute, or cause to be executed, the satisfaction of loan and trust agreements when the loan indebtedness has been paid in full or canceled.

(bb) To reserve or, as appropriate, record, or cause to be reserved or recorded, all approved reservations of contract authority and to record and control, or cause to be recorded and controlled, all contractual obligations of contract authority pertaining to assistance payment contracts under section 235; interest reduction contracts under section 236; contracts for debt management or counseling services under section 237; and contracts for rent supplement payments, pursuant to section 101 of the Housing and Urban Development Act of 1965, and amendments thereto.

(cc) To establish and maintain or cause to be established and maintained under his direction an account for the deposit of fees collected under the Interstate Land Sales Full Disclosure Act; and to make disbursements from appropriated funds and receipts, for general expenses of administration of the land sales registration under such Act and make refunds of overpayments of land sales registration fees.

(dd) To reendorse, or cause to be reendorsed, for insurance under section 222 eligible mortgages on single-family dwellings insured under other home mortgage sections of the Act, where the mortgages have been assumed by eligible servicemen.

(ee) To approve or disapprove, or cause to be approved or disapproved under his direction, the settlement of mortgagees' applications for insurance benefits without deduction from the insurance benefits for losses occasioned by fire damage to home properties or by fire and other hazards to multifamily properties, in accordance with the provisions of §§ 203.379(b) and 207.260(d), respectively, of the FHA regulations.

(ff) To extend, or cause to be extended under his direction, the period of time for assignment to the Secretary of a mortgage on which the assistance payment contract has been terminated because of nonoccupancy by the original mortgagor or qualified purchaser.

(gg) To approve or disapprove, or cause to be approved or disapproved, certificates of interest rate changes submitted by mortgagees with respect to mortgages with flexible interest rates insured under section 236.

(hh) To establish and maintain, or cause to be established and maintained under his direction, an account for the deposit of excess rental income collected under section 236 of the National Housing Act.

(ii) To prepare and execute, or cause to be prepared and executed, certified statements of account on Secretary-held home properties for the General Counsel as requested by the Department of Justice.

(jj) To execute, or cause to be executed, agreements with mortgagors that provide for the deposit of the mortgagors' reserve for replacement funds in federally insured depositories when the Secretary is the holder of a multifamily mortgage; to open, or cause to be opened, for this purpose appropriate accounts with federally insured depositories and to deposit and withdraw, or cause to be deposited and withdrawn, funds in these accounts.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Effective date. These amendments are effective as of April 16, 1972.

HARRY T. MORLEY,
Assistant Secretary for Administration.

[FR Doc.72-7681 Filed 5-19-72;8:47 am]

[Docket No. R-72-188]

PART 3—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Secretary's Delegations of Authority to Heads of Offices

This amendment redelegates to Division Directors and Deputy Division Directors of the Office of the Comptroller certain responsibilities being delegated concurrently under separate document to the Comptroller and Deputy Comptroller

pursuant to the Department's transfer of accounting and fiscal authority and functions from the Office of the Assistant Secretary for Housing Production and Mortgage Credit-Federal Housing Commissioner to the Office of the Assistant Secretary for Administration.

Notice and public procedure, as well as postponement of the effective date, is not required for this amendment inasmuch as it relates solely to agency management and organization.

Accordingly, Title 24, Part 3 is amended as follows:

Subpart D—Secretary's Delegations of Authority to Heads of Offices

OFFICE OF THE COMPTROLLER

3.10 Director Accounting Division and Deputy.
3.11 Director Insurance Division and Deputy.
3.12 Director Fiscal Division and Deputy.
3.13 Director Procedures Division and Deputies.
3.14 Director Financial Reports Division and Deputy.

AUTHORITY: The provisions of this Subpart D issued under the Secretary's delegation of authority to the Assistant Secretary for Administration, effective Apr. 16, 1972, 37 F.R. 10358.

Subpart D—Secretary's Delegations of Authority to Heads of Offices

OFFICE OF THE COMPTROLLER

§ 3.10 Director Accounting Division and Deputy.

To the position of Director, Accounting Division, and under his general supervision to the position of Deputy Director, Accounting Division, there is delegated the following basic authority and functions:

(a) To direct the activities of the Accounting Division.

(b) To devise and establish accounting procedures and policies and to maintain official accounting records for all activities of the Administration.

(c) To devise and establish procedures and policies and to maintain official records for all home properties and mortgages held by the Secretary.

(d) To provide technical advice and guidance to all organizational elements of the Administration in the fields of accounting, including property and mortgage servicing accounting.

(e) To maintain liaison with the General Accounting Office, Treasury Department and other agencies of the Government on accounting matters and to collaborate with such departments and agencies in the formation of accounting programs.

(f) To maintain liaison with the Government National Mortgage Association and other Government agencies on matters pertaining to the sale and insurance of Secretary-held mortgages.

(g) To endorse mortgage notes for insurance; to take any action necessary to consummate the sale of Secretary-held mortgages to purchasers of such mortgages, and to execute the satisfaction of Secretary-held mortgages when the mortgage indebtedness has been paid in full.

(h) To develop and maintain a program for the fiscal servicing of Secretary-held home mortgages including the execution of vouchers for expenditures from mortgagors' escrow accounts.

(i) To execute vouchers for payment of taxes on home properties where title is vested in the Secretary and for payment of excess proceeds to effect final settlement with mortgagees on certificates of claim under provisions of the National Housing Act.

(j) To act with the Comptroller and under his direction in the determination of basic policies on accounting and the fiscal servicing of home property and mortgage note accounts.

(k) With respect to the Appalachian Housing Fund, pursuant to the Appalachian Regional Development Act of 1965:

(1) To reserve or, as appropriate, record all approved reservations of funds and to record and control all obligations of funds for loans under this fund.

(2) To disburse moneys in the fund for making loans to sponsors for development of applications for commitments for project mortgages for projects under section 207 of such Act, approved pursuant to section 223 of such Act, and for general expenses of administration of section 207 of such Act; and

(3) To collect the loan repayments and interest thereon, and to execute the satisfaction of the loan and trust agreements when the loan indebtedness has been paid in full or canceled.

(l) With respect to section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966: To perform all fiscal duties and functions necessary to comply with the requirements of the agreement entered into between the Department of Defense and the Department of Housing and Urban Development.

(m) With respect to the Low and Moderate Income Sponsor Fund, pursuant to section 106 of the Housing and Urban Development Act of 1968:

(1) To reserve or, as appropriate, record all approved reservations of funds and to record and control all obligations of funds for loans made under the fund.

(2) To disburse moneys in the fund for making loans, without interest, to nonprofit sponsors of housing for low- and moderate-income families; and

(3) To collect the loan repayments and to execute the satisfaction of loan and trust agreements when the loan indebtedness has been paid in full or canceled.

(n) To reserve or, as appropriate, record all approved reservations of contract authority and to record and control all contractual obligations of contract authority pertaining to assistance payment contracts under section 235; interest reduction contracts under section 236; contracts for debt management or counseling services under section 237; and contracts for rent supplement payments, pursuant to section 101 of the Housing and Urban Development Act of 1965, and amendments thereto; and

(o) To establish and maintain an account for the deposit of fees collected under the Interstate Land Sales Full Disclosure Act.

(p) To prepare and execute certified and notarized affidavits for the use of U.S. attorneys in presenting the fiscal status of Secretary-held mortgages at foreclosure trials.

(q) To establish and maintain an account for the deposit of excess rental income collected under section 236 of the National Housing Act.

(r) To issue duplicate or corrective mortgage Insurance certificates in connection with mortgages insured under the Government National Mortgage Association and/or Federal National Mortgage Association direct sales program.

(s) To prepare and execute certified statements of account on Secretary-held home properties for the General Counsel as requested by the Department of Justice.

§ 3.11 Director Insurance Division and Deputy.

To the position of Director, Insurance Division, and under his general supervision to the position of Deputy Director, Insurance Division, there is delegated the following basic authority and functions:

(a) To direct the activities of the Insurance Division.

(b) To devise and maintain procedures relating to the establishment of mortgage insurance records, the modification and termination of such insurance for home and project mortgages and to register title I loans reported for insurance.

(c) To provide fiscal and technical advice and guidance with respect to mortgage modifications prior to administrative approval.

(d) To cancel the insurance endorsement or the mortgage insurance certificate on insured mortgages when a joint request for termination is made by the mortgagor and mortgagee, or when the insurance endorsement or the mortgage insurance certificate is otherwise to be canceled.

(e) To ascertain sufficiency of renewal and adjusted premium collections with respect to termination of insurance; authorize refund of unearned premiums collected or institute billing for the collection of premiums due.

(f) To authorize payment of earned distributive shares in the participation reserve account of the Mutual Mortgage Insurance Fund to the rightful recipients thereof.

(g) To devise and maintain procedures relating to the fiscal servicing of Secretary-held project mortgages and to execute vouchers for payment of all expenditures from mortgagor escrow accounts relating thereto.

(h) To develop and maintain fiscal procedures for the operation of Secretary-owned project properties by agents of the Secretary under contract for the management of such properties; to provide advice and guidance to those agents with respect to such fiscal procedures, and to execute vouchers for payment of real estate taxes, special assessments,

hazard insurance, and repairs relating to such properties.

(i) To certify vouchers in payment of title I claims representing the insurable loss sustained and to refund to the remitter of record any collections obtained in excess of the established indebtedness.

(j) To act with the Comptroller and under his direction in the determination of basic insurance fiscal servicing policy.

(k) To direct and supervise periodic portfolio examinations of institutions insured under the provisions of section 2 of title I of the National Housing Act.

(l) To execute satisfactions and releases of Secretary-held mortgages when the mortgage indebtedness has been paid in full.

(m) To issue duplicate or corrective mortgage insurance certificates.

(n) To exercise the authority of the Assistant Secretary-Commissioner to endorse any preferred stock certificate held by him in any corporation for the purpose of retirement and cancellation.

(o) To reendorse for insurance under section 222 eligible mortgages on single-family dwellings insured under other home mortgage sections of the Act, where the mortgages have been assumed by eligible servicemen; and

(p) To approve or disapprove certificates of interest rate changes submitted by mortgagees with respect to mortgages with flexible interest rates insured under section 236.

(q) To execute agreements with mortgagors that provide for the deposit of the mortgagors' reserve for replacement funds in federally insured depositories when the Secretary is the holder of a multifamily mortgage; to open for this purpose appropriate accounts with federally insured depositories and to deposit and withdraw funds in these accounts.

§ 3.12 Director Fiscal Division and Deputy.

To the position of Director, Fiscal Division, and under his general supervision to the position of Deputy Director, Fiscal Division, there is delegated the following basic authority and functions:

(a) To direct the activities of the Fiscal Division.

(b) To devise and establish fiscal procedures and to administer the fiscal policies and activities of the Administration.

(c) To approve all operating and property expenditures and receipt vouchers necessary to carry out the provisions of the National Housing Act upon his determination that they are in accordance with applicable regulations, decisions, and laws.

(d) To certify that all required documents, information, and approvals with respect to operating and property expense and debenture transactions are present; to verify the accuracy of the computations and the consistency of the information included in the various documents; to determine that the transactions are in strict accordance with all applicable regulations, decisions and laws; to execute certificates of claim; to certify requisitions to the Treasury Department for the issuance of debentures; and to certify vouchers for cash settlement of applications for insurance benefits.

(e) To approve or disapprove amounts claimed by mortgagees in their applications for insurance benefits, including amounts for operating, protecting, and preserving properties prior to conveyance to the Secretary.

(f) To extend the period of time for submission of fiscal data or title evidence supporting a mortgagee's application for insurance benefits.

(g) To maintain liaison with the General Accounting Office, Treasury Department and other agencies of the Government on fiscal matters and to collaborate with such departments and agencies in the formation of fiscal programs.

(h) To act with the Comptroller and under his direction in the determination of basic fiscal policy.

(i) To make disbursements to mortgagees for assistance payments under section 235; interest reduction payments under section 236; payments under contracts with public or private organizations to provide budget, debt management, and related counseling services to mortgagors whose mortgages are insured under section 237; and payments to mortgagors under contracts for rent supplement payments pursuant to section 101 of the Housing and Urban Development Act of 1965 and amendments thereto, and to process notices of termination of assistance payment contracts due to nonoccupancy by original mortgagors or qualified purchasers or for other reasons and collect any overpaid assistance payments.

(j) To be responsible for the collection, receipt, and deposit of all funds covering fees, premiums, and other charges affecting FHA programs.

(k) To approve or disapprove the settlement of mortgagees' applications for insurance benefits without deduction from the insurance benefits for losses occasioned by fire damage to home properties or by fire and other hazards to multifamily properties, in accordance with the provisions of §§ 203.379(b) and 207.260 (d), respectively, of the FHA regulations.

(l) To approve or disapprove the purchase of debentures submitted by mortgagees in connection with the payment of mortgage insurance premiums and adjusted premium charges.

(m) To endorse checks and other negotiable instruments for deposit or collection; to endorse loss drafts relating to insurance coverage on Secretary-held home and project mortgages; to endorse checks and other negotiable instruments in order to perfect negotiability for other parties at interest, where the Secretary is not entitled to the proceeds of such instruments, relating applications for insurance benefits.

(n) To deposit fees collected under the Interstate Land Sales Full Disclosure Act, and to make disbursements from appropriated funds and receipts for general expenses of administration of land sales registration under such Act and make refunds of overpayments of land sales registration fees.

(o) To extend the period of time for assignment to the Secretary of a mortgage on which the assistance payment contract has been terminated because of nonoccupancy by the original mortgagor or qualified purchaser.

§ 3.13 Director Procedures Division and Deputies.

To the position of Director, Procedures Division, and under his general supervision to the position of Deputy Director for Accounting Systems with respect to paragraphs (a), (b), (f), (g), (h), (i), and (j) of this section and to the position of Deputy Director for Automatic Data Processing with respect to paragraphs (c), (d), and (e) of this section, there is delegated the following basic authority and functions.

(a) To initiate, develop, and maintain an accounting systems and procedures program for the Administration.

(b) To coordinate and direct a program to preserve or reconstruct basic records of the Administration for Civil Defense purposes and in the event of a national emergency.

(c) To serve as a member of the Departmental ADP Services Management Advisory Committee.

(d) To advise the FHA Automatic Data Management Board with respect to data, information, and reports requirements of the Administration, recommending systems and procedures for gathering the input data for processing by the Departmental Office of ADP Systems Management and Operations.

(e) To maintain liaison with the Office of ADP Systems Management and Operations with respect to FHA fiscal and reporting operations.

(f) To prepare for the Assistant Secretary-Commissioner letters to FHA approved mortgagees and lenders pertaining to fiscal and accounting procedures.

(g) To provide advice within FHA concerning field office accounting, fiscal insurance servicing procedures, assessability of fees, and the interpretation of related procedures.

(h) To review for fiscal implications proposed agreements with other Government agencies establishing procedures pertaining to special-purpose programs.

(i) To provide liaison service with the Treasury Department pertaining to depositary facilities for FHA field offices.

(j) To maintain archives files of the Administration.

§ 3.14 Director Financial Reports Division and Deputy.

To the position of Director, Financial Reports Division, and under his general supervision to the position of Deputy Director, Financial Reports Division, there is delegated the following basic authority and functions:

(a) To direct the activities of the Financial Reports Division.

(b) To devise and establish basic policies, practices, and procedures with respect to the preparation, analysis, and interpretation of the financial statements

and fiscal reports of the Administration, and to direct the preparation of such statements and reports.

(c) To maintain effective control over the management of the various FHA insurance funds and accounts and to provide adequate financial information pertaining thereto.

(d) To submit to the Treasury Department authorizations for purchase of U.S. Government securities, pursuant to agreements between mortgagors or other depositors and FHA, and sales and disposition of U.S. Government securities purchased for mortgagors or other depositors, received as a result of assignment of insured mortgages or as a result of other agreements; U.S. Government securities deposited in accordance with mortgagor corporate charters, regulatory or special agreements, for safekeeping; and requests for withdrawal of U.S. Government securities.

(e) To execute and certify vouchers in payment of U.S. Government securities invested for the various insurance funds and/or pursuant to agreements between mortgagors or other depositors and FHA.

(f) To execute and certify vouchers to provide funds in the account of the Treasurer of the United States for payment of principal and interest on FHA debentures, for the repayment of borrowed funds and interest thereon, and for return to the Treasury Department of surplus funds arising out of operations of certain accounts.

(g) To execute and submit to the Treasury Department and/or to the Office of Management and Budget intergovernmental financial reports required by applicable statutes or regulations of the Treasury Department or Office of Management and Budget.

(h) To maintain liaison with the General Accounting Office, Treasury Department, and Office of Management and Budget on matters pertaining to financial activities, and with mortgagees concerning the acceptance of debentures in exchange for mortgages held by the Secretary.

(i) To act with the Comptroller and under his direction in the determination of basic financial management and reporting policy.

(j) To determine the present and future cash requirements of the various insurance funds and accounts, and to recommend investment, borrowing, and repayment transactions.

(k) To prepare certifications to Department of Defense, National Aeronautics and Space Administration, and Atomic Energy Commission of operating losses incurred by FHA under Armed Services Housing Insurance programs as provided for in agreements.

(l) To recommend liquidation of investments and redemption of debentures; to execute assignments in connection with the redemption of debentures held for the account of the FHA insurance funds or received in exchange for acquired security; and to maintain liaison with the Treasury Department in the execution of fiscal proposals.

Effective date. These amendments are effective as of April 16, 1972.

HARRY T. MORLEY,
Assistant Secretary for Administration.

[FR Doc.72-7680 Filed 5-19-72;8:47 am]

Chapter II—Office of Assistant Secretary for Housing Production and Mortgage Credit-Federal Housing Commissioner [Federal Housing Administration], Department of Housing and Urban Development

[Docket No. R-72-187]

SUBCHAPTER A—GENERAL

PART 200—INTRODUCTION

Delegations of Basic Authority and Functions

This revocation of §§ 200.77 through 200.82, which delegated accounting and fiscal responsibilities to the Assistant Commissioner-Comptroller and officials in his office, reflects the transfer of these responsibilities from the Assistant Secretary for Housing Production and Mortgage Credit-Federal Housing Commissioner to the Assistant Secretary for Administration.

Concurrently, but under separate document, the Department is publishing an amendment to Title 24, Subtitle A which adds a new Part 3. Under Subpart C of Part 3 the authority for fiscal and accounting functions heretofore vested in the Assistant Commissioner-Comptroller will be delegated to the Assistant Secretary for Administration.

Notice and public procedure, as well as postponement of the effective date, is not required inasmuch as this amendment relates solely to agency management and organization.

Accordingly, Part 200, Subpart D is amended by revoking §§ 200.77 through 200.82 in the text and reserving the appropriate section numbers in the Table of Contents.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Effective date. This revocation is effective April 16, 1972.

EUGENE A. GULLEDGE,
Assistant Secretary for Housing Production and Mortgage Credit-Federal Housing Commissioner.

[FR Doc.72-7679 Filed 5-19-72;8:47 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

SUBCHAPTER C—MINERALS MANAGEMENT (3000)

[Circular 2331]

OIL AND GAS LEASES

Payment of Bids

On page 24005 of the FEDERAL REGISTER of December 17, 1971, there was published a notice and text of a proposed amendment to Parts 3120, 3300, 3520, and 3560 of Title 43, Code of Federal Regulations. The purpose of the amendment is to provide that successful bidders who are awarded leases for oil and gas or other minerals as provided by the Mineral Leasing Act of February 25, 1920 (30 U.S.C. 181 et seq.), as amended and supplemented, and the Outer Continental Shelf Lands Act of August 7, 1953 (43 U.S.C. 1331 et seq.) will be required within 15 days from receipt of the lease forms, or within 30 days from the date of the lease sale, whichever comes later, to execute the lease forms, pay the first year's rental and the balance of the bonus bid, and file a bond as required in 43 CFR 3104.1, and 3562.3-5. The existing regulations require that these actions be accomplished by the successful bidder within 30 days from his receipt of the lease forms.

Interested persons were given until January 15 to submit comments, suggestions, or objections to the proposed amendment. Twenty-one comments, all objecting to the proposed amendment, were received. Most persons commenting indicated a desire to continue the present practice of providing 30 days from receipt of the lease forms for submitting the balance of the bid on the basis that the full 30 days are necessary to complete the lease forms and submit the balance of the bid. Under the proposed revision, the high bidder will know at the time of sale the date that the minimum period of 30 days expires, even though the time period for completing the lease forms may be less. In any case, the bidder has at least 15 days from receipt of the lease forms to complete the lease arrangements.

After careful consideration of the comments it is deemed to be in the public interest to adopt the proposed regulations without substantive change.

In order to clarify the regulation, an editorial change has been made. The language "within 15 days from his receipt thereof * * *" is changed to read "not later than the 15th day after his receipt thereof, or the 30th day after the date of sale, whichever is later."

The proposed amendment as changed is set forth below. This amendment shall become effective May 26, 1972.

PART 3120—COMPETITIVE LEASES

1. In § 3120.3–2 the words "within 30 days from receipt thereof" are changed to read "not later than the 15th day after his receipt thereof, or the 30th day after the date of the sale, whichever is later."

PART 3300—OUTER CONTINENTAL SHELF LEASING; GENERAL

2. In § 3302.5 the words "within 30 days from his receipt thereof" are changed to read "not later than the 15th day after his receipt thereof, or the 30th day after the date of the sale, whichever is later."

PART 3520—PREFERENCE RIGHT AND COMPETITIVE LEASES

3. In § 3521.3–2(a) the words "within 30 days from receipt thereof" are changed to read "not later than the 15th day after his receipt thereof, or the 30th day after the date of the sale, whichever is later."

PART 3560—SPECIAL LEASING ACT

4. In § 3562.4–4(a) the words "within 30 days from receipt thereof" are changed to read "not later than the 15th day after his receipt thereof, or the 30th day after the date of the sale, whichever is later."

HARRISON LOESCH,
Assistant Secretary of the Interior.

MAY 15, 1972.

[FR Doc.72–7661 Filed 5–19–72;8:48 am]

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5212]

[ES 3108]

MICHIGAN

Addition to National Forest; Partial Revocation of Executive Order of July 2, 1872

By virtue of the authority vested in the President by section 24 of the Act of March 3, 1891, 16 U.S.C. section 471 (1970), and section 1 of the Act of June 4, 1897, 16 U.S.C. section 473 (1970), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby added to and made a part of the Manistee National Forest, and hereafter shall be subject to all laws and regulations applicable to said national forest:

MICHIGAN MERIDIAN

T. 15 N., R. 19 W.,
Sec. 35, lot 2.

The area described aggregates 38.12 acres in Oceana County.

2. The Executive order of July 2, 1872, reserving the land for lighthouse purposes is hereby revoked, subject to the continued right of the U.S. Coast Guard to go upon the land for the purpose of maintaining and servicing the Little Sable Light located thereon.

HARRISON LOESCH,
Assistant Secretary of the Interior.

MAY 15, 1972.

[FR Doc.72–7649 Filed 5–19–72;8:45 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER D—TARIFFS AND SCHEDULES

[Docket No. 35613]

PART 1300—FREIGHT SCHEDULES; RAILROADS

PART 1303—PASSENGER SERVICE SCHEDULES, RAIL AND WATER CARRIERS

PART 1304—EXPRESS COMPANIES SCHEDULES AND CLASSIFICATIONS

PART 1306—PASSENGER AND EXPRESS TARIFFS AND SCHEDULES OF MOTOR CARRIERS

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES AND CLASSIFICATIONS OF MOTOR CARRIERS

PART 1308—FREIGHT TARIFFS AND SCHEDULES OF WATER CARRIERS

PART 1309—TARIFFS AND CLASSIFICATION OF FREIGHT FORWARDERS

Transmission of Tariffs and Schedules to Subscribers and Other Interested Parties

Correction

In F.R. Doc. 72–7481, appearing at page 9778, in the issue of Wednesday, May 17, 1972, in the third column, delete the part headings and each of the entries beneath them, and on page 9779, delete the material in Appendices A, B, and C, and substitute the following:

1. In §§ 1300.30, 1303.36, 1304.42, 1307.48, 1308.12, and 1309.5, add the following text:

§ _____ **Transmission of publications to subscribers.**

(a) (1) Copies of each new tariff, supplement and loose-leaf page must be transmitted to subscribers thereto not later than the time the copies for official filing are transmitted to this Commission. The letter of transmittal accompanying the copies to the Commission must contain the following certification:

I hereby certify that I have on or before this day sent copies of the publication(s) listed hereon to all subscribers thereto by (here state the exact manner of tranmission, such as messenger service, express service, U.S. Postal Service, etc. If the U.S. Postal Service is used, the exact class of mail must be shown).

(Signature of person transmitting publication(s))

(Date)

(2) Expedited service when transmitting copies of publications must be provided to any subscriber requesting it. The cost of this service may be passed on to the subscriber.

(3) Carriers and agents shall furnish a copy of any of their tariff publications at time of publication or at any time during which the publication is effective to any person upon reasonable request therefor, free or at a reasonable price, not to be greater than that charged subscribers.

2. In §§ 1307.14 and 1308.109, add the following text:

§ _____ **Transmission of publications to subscribers.**

(a) (1) Copies of each new schedule, supplement, and loose-leaf page must be transmitted to subscribers thereto not later than the time the copies for official filing are transmitted to this Commission. The letter of transmittal accompanying the copies to the Commission must contain the following certification:

I hereby certify that I have on or before this day sent copies of the publication(s) listed hereon to all subscribers thereto by (here state the exact manner of transmission, such as messenger service, express service, U.S. Postal Service, etc. If the U.S. Postal Service is used, the exact class of mail must also be shown).

(Signature of person transmitting publication(s))

(Date)

(2) Expedited service when transmitting copies of publications must be provided to any subscriber requesting it. The cost of this service may be passed on to the subscriber.

(3) Carriers and agents shall furnish a copy of any of their schedule publications at time of publication or at any time during which the publication is effective to any person upon reasonable request therefor, free or at a reasonable price not to be greater than that charged subscribers.

3. In § 1306.17, add the following text:

§ 1306.17 **Transmission of publications to subscribers.**

(a) (1) Copies of each new tariff, schedule, supplement, and loose-leaf page must be transmitted to subscribers thereto not later than the time the copies for official filing are transmitted to this Commission. The letter of transmittal accompanying the copies to the Commission must contain the following certification:

I hereby certify that I have on or before this day sent copies of the publication(s) listed hereon to all subscribers thereto by (here state the exact manner of transmission, such as messenger service, express service, U.S. Postal Service, etc. If the U.S. Postal

Service is used, the exact class of mail must also be shown).

(Signature of person transmitting publication(s))

(Date)

(2) Expedited service when transmitting copies of publications must be provided to any subscriber requesting it. The cost of this service may be passed on to the subscriber.

(3) Carriers and agents shall furnish a copy of any of their tariff or schedule publications at time of publication or at any time during which the publication is effective to any person upon reasonable request therefor, free or at a reasonable price, not to be greater than that charged subscribers.

Title 50—WILDLIFE AND FISHERIES

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

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 16—MIGRATORY BIRD PERMITS

Toe-Clipping Requirement

In recent months, a number of bona fide aviculturists have appealed to the Bureau for relief from the waterfowl toe-clipping requirement. It is their contention they should be afforded the right and the opportunity to propagate, possess, exhibit, and sell physically perfect waterfowl specimens.

They further contend that captive-reared waterfowl permanently identified by removal of the hind toe from the right foot are unsuitable for their show purposes and that toe-clipped birds are maimed insofar as show birds are concerned and, in consequence, do not and cannot meet show bird standards.

It is determined that the regulatory relief requested should be granted. Accordingly, § 16.11(a) is amended by adding a new subparagraph (6) to read as follows:

§ 16.11 Scientific collecting and special permits.

(a) * * *

(6) (i) Persons issued a special aviculturist permit are authorized to acquire, propagate, possess, exhibit, and dispose of by exchange, sale, or gift to another person who has been issued a special aviculturist permit, waterfowl not marked by toe-clipping, and such birds are exempted from the toe-clipping requirements set forth in §§ 16.14, 16.15, and 16.16: *Provided*, That, on each date that any such birds or their eggs are transferred to another special aviculturist permittee, the permittee transferring the birds or their eggs must complete a form 3–186, Notice of Waterfowl Sale or Transfer. The permittee will furnish the original of completed form 3–186 to the permittee acquiring the birds or eggs; retain one copy in his files as a record of his operations; and, on or before the last day of each month, mail three copies of each form completed during that month to the regional office of the Bureau of Sport Fisheries and Wildlife which issued his permit. The Bureau will provide form 3–186 to permittees upon request. See § 16.10 for geographic jurisdiction and addresses of regional offices issuing permits from which this form is available.

(ii) Within 10 days following December 31 of each calendar year, permittee must file a report, negative or otherwise, on a form furnished for that purpose. This form will require each permittee to record information concerning his transactions during the year, and will include but may not be limited to, the number of each species of non-toe-clipped waterfowl and waterfowl eggs on hand at the beginning of the period covered by the report, the name, address, and aviculturist permit number of each permittee from whom he acquired and to whom he transferred any non-toe-clipped waterfowl or waterfowl eggs, and the number of each species of non-toe-clipped waterfowl and waterfowl eggs left on hand as of December 31 of the year covered in the report.

Since this amendment grants an exemption and relieves a restriction, it is determined that notice and public procedure thereon are impracticable, unnecessary, and contrary to the public interest, and this amendment is effective upon publication in the FEDERAL REGISTER.

(16 U.S.C. 704)

Effective date: Upon publication in the FEDERAL REGISTER (5–20–72).

F. V. SCHMIDT,
Acting Director, Bureau of Sport Fisheries and Wildlife.

[FR Doc.72–7767 Filed 5–19–72;8:51 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Domestic International Sales Corporations (DISC)

Notice is hereby given that the regulations set forth in tentative form 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 (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, DC 20224, by June 19, 1972. 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 by June 19, 1972. 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, unless the person or persons who have requested a hearing withdraw their request for a hearing before notice of the hearing has been filed with the Office 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] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) to sections 991 and 992 of the Internal Revenue Code of 1954, as added by section 501 of the Revenue Act of 1971 (85 Stat. 535), such regulations are amended as follows:

PARAGRAPH 1. The following new sections are added immediately after § 1.972–1:

DOMESTIC INTERNATIONAL SALES CORPORATIONS

§ 1.991 Statutory provisions; taxation of a domestic international sales corporation.

SEC. 991. *Taxation of a domestic international sales corporation.* For purposes of the taxes imposed by this subtitle upon a DISC (as defined in section 992(a)), a DISC shall not be subject to the taxes imposed by this subtitle except for the tax imposed by chapter 5.

[Sec. 991 as added by sec. 501, Rev. Act 1971 (85 Stat. 535)]

§ 1.991–1 Taxation of a domestic international sales corporation.

(a) *In general.* A corporation which is a DISC for a taxable year is not subject to any tax imposed by subtitle A of the Code (sections 1 through 1564) for such taxable year, except for the tax imposed by chapter 5 thereof (sections 1491 through 1494) on certain transfers to avoid tax. Thus, for example, a corporation which is a DISC for a taxable year is not subject for such year to the corporate income tax (section 11), the minimum tax on tax preferences (sections 56 through 58), or the accumulated earnings tax (sections 531 through 537). A DISC is liable for the payment of all taxes payable by corporations under other subtitles of the Code, such as, for example, income taxes withheld at the source and other employment taxes under subtitle C and the interest equalization tax and other miscellaneous excise taxes imposed by subtitle D. In addition, a DISC is subject to the provisions of chapter 3 of subtitle A (including section 1461), relating to withholding of tax on nonresident aliens and foreign corporations and tax-free covenant bonds. See § 1.992–1 for the definition of the term "DISC."

(b) *Determination of taxable income*—(1) *In general.* Although a DISC is not subject to tax under subtitle A of the Code (other than chapter 5 thereof), a DISC's taxable income shall be determined for each taxable year in order to determine, for example, the amount deemed distributed for that taxable year to its shareholders pursuant to section 995(b)(1)(D). Except as otherwise provided in the Code and the regulations thereunder, the taxable income of a DISC shall be determined in the same manner as if the DISC were a domestic corporation which had not elected to be treated as a DISC. Thus, for example, a DISC chooses its method of depreciation, inventory method, and annual accounting period in the same manner as if it were a corporation which had not elected to be treated as a DISC. Any elections affecting the determination of taxable income shall be made by the DISC. Thus, as a further example, a DISC which makes an installment sale described in section 453 is able to avail itself of the benefits of section 453: *Provided,* The DISC complies with the election requirements of such section. See section 995 and the regulations thereunder for rules relating to the application for a taxable year of a DISC of a deduction under section 172 for a net operating loss carryback or carryover or of a capital loss carryback or carryover under section 1212.

(2) *Choice of method of accounting.* A DISC may, generally, choose any method of accounting permissible under section 446(c) and the regulations thereunder. However, if a DISC is a member of a controlled group (as defined in § 1.993–1(k)), the DISC may not choose a method of accounting which, when applied to transactions between the DISC and other members of the controlled group, will result in a material distortion of the income of the DISC or any other member of the controlled group. Such a material distortion of income would occur, for example, if a DISC chooses to use the cash method of accounting where the DISC acts as commission agent in a substantial volume of sales of property by a related corporation which uses the accrual method of accounting and which customarily pays commissions to the DISC more than 2 months after such sales. As a further example, a material distortion of income would occur if a DISC chooses to use the accrual method of accounting where the DISC leases a substantial amount of property from a related corporation which uses the cash method of accounting, if the DISC customarily accrues any portion of the rent on such property more than 2 months before the rent is paid. Changes in the method of accounting of a DISC are subject to the requirements of section 446(e) and the regulations thereunder.

(3) *Choice of annual accounting period*—(i) *In general.* A DISC may choose its annual accounting period without regard to the annual accounting period of any of its stockholders. In general, changes in the annual accounting period of a DISC are subject to the requirements of section 442 and the regulations thereunder.

(ii) *Transition rule for change in taxable year in order to become a DISC.* A corporation may, without the consent of the Commissioner, change its annual accounting period and adopt a new taxable year beginning on the first day of any month in 1972: *Provided,* That—

(*a*) Such change has the effect of accelerating the time as of which such corporation can become a DISC,

(*b*) The Commissioner is notified of such change by means of a statement filed (with the regional service center with which such corporation files its election to be treated as a DISC) not later than the end of the period during which such corporation may file an election to be treated as a DISC for such new taxable year, and

(*c*) The short period required to effect such change is not a taxable year in which such corporation has a net operating loss as defined in section 172.

Thus, for example, if a corporation which uses the calendar year for its taxable year does not complete arrangements to become a DISC until May 15, 1972, such corporation can, pursuant to this subdivision, change its annual accounting period and adopt a taxable year beginning on the first day of any month in 1972 after May. A change to a new annual accounting period made pursuant to this subdivision is effective only if the corporation which makes such change qualifies as a DISC for such new period. A corporation may change its annual accounting period and adopt a new taxable year pursuant to this subdivision without regard to the provisions of § 1.1502–76 (relating to the taxable year of members of a group). A copy of the statement described in (b) of this subdivision shall be attached to the return of a corporation for the new taxable year to which such corporation changes pursuant to this subdivision. A corporation which changes its annual accounting period pursuant to this subparagraph will not be permitted under section 442 to change its annual accounting period at any time before 1982, except with the consent of the Commissioner as provided in § 1.442–1(b)(1) or pursuant to subparagraph (4) of this paragraph.

(4) *Transition rule for change of taxable year of certain DISC's.* In the case of a DISC all of the shares of which are held by a single shareholder or by members of a group who file a consolidated return, such DISC may (without the consent of the Commissioner) change its annual accounting period and adopt a taxable year beginning in 1972 which is the same as the taxable year of such shareholder or the members of such group. A change to a new annual accounting period may be made by a DISC pursuant to this subparagraph even if such DISC has changed its annual accounting period pursuant to subparagraph (3)(ii) of this paragraph.

(5) *Transition rule for beginning of first taxable year of certain corporations.* If a corporation organized before January 1, 1972, neither acquires assets (other than cash or other property acquired as consideration for the issuance of stock) nor begins doing business prior to January 1, 1972, the first taxable year of such corporation is deemed to begin at the time such corporation acquires any asset (other than cash or other property acquired as consideration for the issuance of stock) or begins doing business, whichever is earlier: *Provided*, That such corporation is a DISC for such first taxable year. For purposes of § 1.6012–2(a), such corporation is treated as not coming into existence until beginning of such first taxable year.

(c) *Effective date.* The provisions of this section and the regulations under sections 992 through 997 apply with respect to taxable years ending after December 31, 1971, except that a corporation may not be a DISC for any taxable year beginning before January 1, 1972.

(d) *Related statutes.* For rules relating to the transfer, during a taxable year beginning before January 1, 1976, to a DISC of assets of an export trade corporation (as defined in section 971), where a parent owns all the outstanding stock of both such DISC and such export trade corporation, see section 505(b) of the Revenue Act of 1971 (85 Stat. 551). For rules regarding limitations on the qualification of a corporation as an export trade corporation for any taxable year beginning after October 31, 1971, see section 971(a)(3).

§ 1.992 Statutory provisions; requirements of a domestic international sales corporation.

SEC. 992. *Requirements of a domestic international sales corporation*—(a) *Definition of "DISC" and "Former DISC"*—(1) *DISC.* For purposes of this title, the term "DISC" means, with respect to any taxable year, a corporation which is incorporated under the laws of any State and satisfies the following conditions for the taxable year:

(A) 95 percent or more of the gross receipts (as defined in section 993(f) of such corporation consist of qualified export receipts (as defined in section 993(a)),

(B) The adjusted basis of the qualified export assets (as defined in section 993(b)) of the corporation at the close of the taxable year equals or exceeds 95 percent of the sum of the adjusted basis of all assets of the corporation at the close of the taxable year,

(C) Such corporation does not have more than one class of stock and the par or stated value of its outstanding stock is at least $2,500 on each day of the taxable year, and

(D) The corporation has made an election pursuant to subsection (b) to be treated as a DISC and such election is in effect for the taxable year.

(2) *Status as DISC after having filed a return as a DISC.*—The Secretary or his delegate shall prescribe regulations setting forth the conditions under and the extent to which a corporation which has filed a return as a DISC for a taxable year shall be treated as a DISC for such taxable year for all purposes of this title, notwithstanding the fact that the corporation has failed to satisfy the conditions of paragraph (1).

(3) *"Former DISC".*—For purposes of this title, the term "former DISC" means, with respect to any taxable year, a corporation which is not a DISC for such year but was a DISC in a preceding taxable year and at the beginning of the taxable year has undistributed previously taxed income or accumulated DISC income.

(b) *Election*—(1) *Election*—(A) An election by a corporation to be treated as a DISC shall be made by such corporation for a taxable year at any time during the 90-day period immediately preceding the beginning of the taxable year, except that the Secretary or his delegate may give his consent to the making of an election at such other times as he may designate.

(B) Such election shall be made in such manner as the Secretary or his delegate shall prescribe and shall be valid only if all persons who are shareholders in such corporation on the first day of the first taxable year for which such election is effective consent to such election.

(2) *Effect of election.*—If a corporation makes an election under paragraph (1), then the provisions of this part shall apply to such corporation for the taxable year of the corporation for which made and for all succeeding taxable years and shall apply to each person who at any time is a shareholder of such corporation for all periods on or after the first day of the first taxable year of the corporation for which the election is effective.

(3) *Termination of election*—(A) *Revocation.*—An election under this subsection made by any corporation may be terminated by revocation of such election for any taxable year of the corporation after the first taxable year of the corporation for which the election is effective. A termination under this paragraph shall be effective with respect to such election—

(i) For the taxable year in which made, if made at any time during the first 90 days of such taxable year, or

(ii) For the taxable year following the taxable year in which made, if made after the close of such 90 days, and for all succeeding taxable years of the corporation. Such termination shall be made in such manner as the Secretary or his delegate shall prescribe by regulations.

(B) *Continued failure to be DISC.*—If a corporation is not a DISC for each of any 5 consecutive taxable years of the corporation for which an election under this subsection is effective, the election shall be terminated and not be in effect for any taxable year of the corporation after such 5th year.

(c) *Distributions to meet qualification requirements*—(1) *In general.*—Subject to the conditions provided by paragraph (2), a corporation which for a taxable year does not satisfy a condition specified in paragraph (1)(A) (relating to gross receipts) or (1)(B) (relating to assets) of subsection (a) shall nevertheless be deemed to satisfy such condition for such year if it makes a pro rata distribution of property after the close of the taxable year to its shareholders (designated at the time of such distribution as a distribution to meet qualification requirements) with respect to their stock in an amount which is equal to—

(A) If the condition of subsection (a)(1)(A) is not satisfied, the portion of such corporation's taxable income attributable to its gross receipts which are not qualified export receipts for such year,

(B) If the condition of subsection (a)(1)(B) is not satisfied, the fair market value of those assets which are not qualified export assets on the last day of such taxable year, or

(C) If neither of such conditions is satisfied, the sum of the amounts required by subparagraphs (A) and (B).

(2) *Reasonable cause for failure.*—The conditions under paragraph (1) shall be deemed satisfied in the case of a distribution made under such paragraph—

(A) If the failure to meet the requirements of subsection (a)(1)(A) or (B), and the failure to make such distribution prior to the date on which made, are due to reasonable cause; and

(B) The corporation pays, within the 30-day period beginning with the day on which such distribution is made, to the Secretary or his delegate, if such corporation makes such distribution after the 15th day of the ninth month after the close of the taxable year, an amount determined by multiplying (i) the amount equal to 4½ percent of such distribution, by (ii) the number of its taxable years which begin after the taxable year with respect to which such distribution is made and before such distribution is made. For purposes of this title, any payment made pursuant to this paragraph shall be treated as interest.

(3) *Certain distributions made within 8½ months after close of taxable year deemed for reasonable cause.*—A distribution made on or before the 15th day of the 9th month after the close of the taxable year shall be deemed for reasonable cause for purposes of paragraph (2)(A) if—

(A) At least 70 percent of the gross receipts of such corporation for such taxable year consist of qualified export receipts, and

(B) The adjusted basis of the qualified export assets held by the corporation on the last day of each month of the taxable year equals or exceeds 70 percent of the sum of the adjusted basis of all assets held by the corporation on such day.

(d) *Ineligible corporations.*—The following corporations shall not be eligible to be treated as a DISC—

(1) A corporation exempt from tax by reason of section 501,

(2) A personal holding company (as defined in section 542),

(3) A financial institution to which section 581 or 593 applies,

(4) An insurance company subject to the tax imposed by subchapter L,

(5) A regulated investment company (as defined in section 851(a)),

(6) A China Trade Act corporation receiving the special deduction provided in section 941(a), or

(7) An electing small business corporation (as defined in section 1371(b)).

(e) *Coordination with personal holding company provisions in case of certain produced film rents.*—If—

(1) A corporation (hereinafter in this subsection referred to as "subsidiary") was established to take advantage of the provisions of this part, and

(2) A second corporation (hereinafter in this subsection referred to as "parent") throughout the taxable year owns directly at least 80 percent of the stock of the subsidiary,

then, for purposes of applying subsection (d)(2) and section 541 (relating to personal holding company tax) to the subsidiary for the taxable year, there shall be taken into account under section 543(a)(5) (relating to produced film rents) any interest in a film acquired by the parent and transferred to the subsidiary as if such interest were acquired by the subsidiary at the time it was acquired by the parent.

[Sec. 992 as added by sec. 501, Rev. Act 1971 (85 Stat. 535)]

§ 1.992–1 Requirements of a DISC.

(a) *"DISC" defined.* The term "DISC" refers to a domestic international sales corporation. The term "DISC" means a corporation which, for a taxable year—

(1) Is duly incorporated and existing under the laws of any State or the District of Columbia,

(2) Satisfies the gross receipts test described in paragraph (b) of this section,

(3) Satisfies the assets test described in paragraph (c) of this section,

(4) Satisfies the capitalization requirement described in paragraph (d) of this section,

(5) Satisfies the requirement that an election to be treated as a DISC be in effect for such year, as described in paragraph (e) of this section,

(6) Has its own bank account,

(7) Maintains separate books and records, and

(8) Is not an ineligible corporation described in paragraph (f) of this section.

A corporation which satisfies the requirements described in subparagraphs (1) through (8) of this paragraph for a taxable year is treated as a separate corporation for Federal tax purposes and qualifies as a DISC, even though such corporation would not be treated (if it were not a DISC) as a corporate entity for Federal income tax purposes. An association cannot qualify as a DISC even if such association is taxable as a corporation pursuant to section 7701(a)(3). In addition, a corporation created or organized in, or under the law of, a possession of the United States cannot qualify as a DISC. The rules contained in this paragraph constitute a relaxation of the general rules of corporate substance otherwise applicable under the Code. The separate incorporation of a DISC is required under section 992(a)(1) to make it possible to keep a better record of the income which is subject to the special treatment provided by sections 991 through 996, but this does not necessitate in all other respects the separate relationships which otherwise would be required between a parent corporation and its subsidiary. However, this relaxation of the general rules of corporate substance does not apply with respect to other corporations in other contexts. In the case of a transaction between a DISC and a person related to such DISC for purposes of section 482, see § 1.993–1(l) for rules for determining whether income is income of a DISC to which the intercompany pricing rules authorized by section 994 apply.

(b) *Gross receipts test.* In order for a corporation described in paragraph (a)(1) of this section to be a DISC for a taxable year, 95 percent or more of its gross receipts (as defined in section 993(f)) for such year must consist of qualified export receipts (as defined in § 1.993–1). Gross receipts for a taxable year are determined in accordance with the method of accounting adopted by the corporation pursuant to § 1.991–1(b)(2). However, for rules regarding gross receipts in the case of a commission sale by such corporation, see section 993 and the regulations thereunder. See § 1.992–3 with respect to distributions to meet qualification requirements in the event the requirements of this paragraph are not satisfied for the taxable year.

(c) *Assets test*—(1) *In general.* In order for a corporation described in paragraph (a)(1) of this section to be a DISC for a taxable year, the adjusted basis (determined under section 1011) of its qualified export assets (as defined in § 1.993–2) at the close of such year must equal or exceed 95 percent of the sum of the adjusted bases (determined under section 1011) of all assets of such corporation at the close of such year. See § 1.992–3 with respect to distributions to meet qualification requirements in the event the requirements of this paragraph are not satisfied for the taxable year.

(2) *Assets acquired to meet assets test.* For purposes of determining whether the requirements of subparagraph (1) of this paragraph are satisfied by a corporation at the end of a taxable year, an asset which is a qualified export asset (as defined in § 1.993–2) is treated as not being an asset of such corporation at such time if such asset is held for a total of 60 days or less and is acquired directly or indirectly through borrowing, unless the acquisition of such asset is established to the satisfaction of the Commissioner or his delegate to have been for bona fide purposes. Such acquisition is deemed to have been for bona fide purposes if, for example, it is made in the usual course of the corporation's trade or business.

(d) *Capitalization requirement*—(1) *In general.* In order for a corporation to be a DISC for a taxable year, such corportation must have, on each day of such taxable year, only one class of stock, and the par value (or, in the case of stock without par value, the stated value) of such corporation's outstanding stock, and the amount of cash or other property which was paid in, must be, on each day of such taxable year, at least $2,500. In the case of a new corporation which elects to be treated as a DISC for its first taxable year, the requirements of this subparagraph are satisfied if such corporation has no more than one class of stock at any time during such year and if the par value (or, in the case of stock without par value, the stated value) of such corporation's outstanding stock, and the amount of cash or other property paid in, is at least $2,500 on the last day of the period within which such election must be made and on each succeeding day of such year. For purposes of this subparagraph, the stated value of shares is the aggregate amount of the consideration paid for such shares which is not allotted to paid in surplus, or other surplus. If a corporation has a loss for a taxable year which results in the impairment of all or part of the capital required under this subparagraph, such impairment does not result in disqualification under this subparagraph, provided that such corporation does not take any legal or formal action under State law to reduce capital for such year below the amount required under this subparagraph.

(2) *Treatment of debt payable to shareholders*—(i) *In general.* Purported debt of a DISC payable to any person, whether or not such person is a shareholder or a member of a controlled group (as defined in § 1.993–1(k)) of which such DISC is a member, is treated as debt for all purposes of the Code, provided that such purported debt—

(a) Would qualify as debt for purposes of the Code if the DISC were a corporation which did not qualify as a DISC,

(b) Qualifies under subdivision (ii) of this subparagraph, or

(c) Are trade accounts payable described in subdivision (iii) of this subparagraph.

Such debt is not treated as stock, and interest payable by the DISC on such debt is treated as interest by both the DISC and the holder of such debt. Payment of the principal of such debt by a DISC does not constitute the payment of a dividend by such DISC. The provisions of this subparagraph apply for a taxable year of a DISC, even though debt described in this subparagraph would be treated as stock of the corporation if such corporation did not qualify as a DISC for such year.

(ii) *Safe harbor rule.* Purported debt of a DISC will in no event be treated as other than debt for purposes of subdivision (i) of this subparagraph if—

(*a*) It is a written obligation to pay a sum certain on or before a fixed maturity date,

(*b*) Interest is payable on such purported debt at an arm's length interest rate (as determined under § 1.482–2(a)(2)), expressed as a fixed dollar amount or a fixed percentage of principal,

(*c*) Such purported debt is not convertible into stock or into purported debt unless such purported debt qualifies under this subparagraph as debt of the DISC.

(*d*) Such purported debt does not confer voting rights upon its holder, except in the event of default thereon, and

(*e*) Interest and principal are paid in accordance with the terms of such purported debt or with any modification of such terms consistent with (*a*) through (*d*) of this subdivision.

The determination of whether purported debt of a DISC constitutes debt described in this subdivision is made without regard to the proportion of debt of the DISC held by any of its shareholders, to the ratio of the outstanding debt of the DISC to its equity, or to the amount of outstanding debt of such DISC. The provisions of (*e*) of this subdivision do not prevent the modification of the terms of debt of a DISC where, for example, a DISC becomes unable to make timely payments of principal required under such terms, provided that such modification is consistent with (*a*) through (*d*) of this subdivision.

(iii) *Trade accounts payable.* Trade accounts payable of a DISC which arise in the normal course of its trade or business (such as in consideration for inventory or supplies) constitute debt of the DISC (whether or not such accounts payable are debt described in subdivision (i) (*a*) or (*b*) of this subparagraph), provided that such accounts are payable within 15 months after they arise. If such accounts are payable more than 15 months after they arise, they are debt of such DISC only if they are debt described in subdivision (i) (*a*) or (*b*) of this subparagraph.

(iv) *Relation of subparagraph to other corporations.* The provisions of this subparagraph generally constitute a relaxation of the ordinary rules used in determining whether purported debt of a corporation is debt or equity. This relaxation is in recognition of the principle that a corporation may qualify as a DISC even though it has relatively little capital. This relaxation does not apply with respect to purported debt of other corporations in other contexts.

(3) *Classes of stock.* In determining, for purposes of this paragraph, whether a corporation has more than one class of stock, only stock which is issued and outstanding is considered. Therefore, treasury stock and unissued stock of a different class than that held by the shareholders will not disqualify a corporation under section 992(a)(1)(C). If the outstanding shares of stock of the corporation are not identical with respect to the rights and interest which they convey in the control, profits, and assets of the corporation, then the corporation is considered to have more than one class of stock. Thus, a difference as to voting rights, dividend rights, or liquidation preferences of outstanding stock will disqualify a corporation. However, if two or more groups of shares are identical in every respect except that each group has the right to elect members of the board of directors in a number proportionate to the number of shares in each group, they are considered one class of stock. Obligations treated as debt obligations pursuant to subparagraph (2) of this paragraph do not constitute stock. However, obligations which do not so qualify and which would be treated as equity capital of a corporation which did not elect to be treated as a DISC will generally constitute a second class of stock. However, if such purported debt obligations are owned solely by the owners of the nominal stock of the corporation in substantially the same proportion as they own such nominal stock, such purported debt obligations will be treated as contributions to capital rather than a second class of stock. But, if an issuance, redemption, sale, or other transfer of nominal stock, or of such purported debt obligations, results in a change in a shareholder's proportionate share of nominal stock or his proportionate share of such purported debt, a new determination shall be made as to whether the corporation has more than one class of stock as of the time of such change.

(e) *Election in effect.* In order for a corporation to be a DISC for a taxable year, an election to be treated as a DISC must be made by such corporation pursuant to section 992(b) and must be in effect for such taxable year. A corporation does not become or remain a DISC solely by making such an election. A corporation is a DISC for a taxable year only if such an election is in effect for that year and the corporation also satisfies the requirements of paragraphs (a) through (d) of this section. See § 1.992–2 for rules regarding the time and manner of making such an election.

(f) *Ineligible corporations.* [Reserved]

(g) *Status as DISC after having filed return as a DISC.* Under section 992(a)(2), notwithstanding the failure of a corporation to meet the requirements of paragraph (a) of this section for a taxable year, such corporation will be treated as a DISC for purposes of the Code for such taxable year if—

(1) Such corporation files a return as a DISC for such taxable year,

(2) Such corporation does not notify the district director, more than 30 days before the expiration of the period of limitation (including extensions thereof) on assessment for underpayment of tax for such taxable year (as determined under section 6501 and the regulations thereunder), that it is not a DISC for such taxable year, and

(3) The Internal Revenue Service has not issued, within such period of limitation (including extensions thereof) on assessment for underpayment of tax for such taxable year, a notice of deficiency based on a determination that such corporation is not a DISC for such taxable year.

A corporation is treated as a DISC, for all purposes, pursuant to the provisions of this paragraph for any taxable year for which it meets the requirements of this paragraph, even if such corporation is an ineligible corporation described in paragraph (f) of this section for such taxable year. Thus, for example, a corporation which is treated as a DISC for a taxable year pursuant to this paragraph is treated as a DISC for that taxable year for purposes of section 992(b)(3)(B) (relating to the termination of a DISC election if a corporation is not a DISC for each of any 5 consecutive taxable years) and the regulations thereunder. If a corporation is treated as a DISC for a taxable year pursuant to this paragraph, persons who held stock of such corporation at any time during such taxable year are treated, with respect to such stock, as holders of stocks in a DISC for the period or periods during which they held such stock within such taxable year.

(h) *Definition of "former DISC".* Under section 992(a)(3), the term "former DISC" refers to a corporation which is not a DISC for a taxable year but which was (or was treated as) a DISC for a prior taxable year. However, a corporation is not a former DISC for a taxable year unless such corporation has, at the beginning of such taxable year, undistributed previously taxed income (as defined in section 996(f)(2)) or accumulated DISC income (as defined in section 996(f)(1)). A corporation which is a former DISC for a taxable year is a former DISC for all purposes of the Code.

§ 1.992–2 Election to be treated as a DISC. [Reserved]

§ 1.992–3 Distributions to meet qualification requirements. [Reserved]

§ 1.992–4 Coordination with personal holding company provisions in case of certain produced film rents. [Reserved]

PAR. 2. Subparagraph (4) of § 1.442–1(c) is revised to read as follows:

§ 1.442–1 Change of annual accounting period.

* * * * *

(c) *Special rule for certain corporations.* * * *

(4) A corporation which is an electing small business corporation (as defined in section 1371(b)) or a DISC (as defined in section 992(a)(1)) during the short period required to effect the change of annual accounting period may change its taxable year only if it secures the prior approval of the Commissioner in accordance with paragraph (b)(1) of this section. This subparagraph shall apply only if such short period ends after February 28, 1959. See subparagraphs (3)(ii) and (4) of § 1.991–1(b) for special rules relating to the change of a DISC's annual accounting period during 1972.

* * * * *

PAR. 3. The first two sentences of paragraph (a) of § 1.1502–77 are revised to read as follows:

§ 1.1502–77 Comment parent agent for subsidiaries.

(a) *Scope of agency of common parent corporation.* The common parent, for all purposes (other than the making of the consent required by paragraph (a)(1) of § 1.1502–75, the making of an election to be treated as a DISC under § 1.992–2, and a change of the annual accounting period pursuant to paragraph (b)(3)(ii) of § 1.991–1) shall be the sole agent for each subsidiary in the group, duly authorized to act in its own name in all matters relating to the tax liability for the consolidated return year. Except as provided in the preceding sentence, no subsidiary shall have authority to act for or to represent itself in any such matter. * * *

* * * * *

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DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

[21 CFR Parts 301, 303, 304, 305, 306, 307, 308, 311, 312, 316]

DRUG ABUSE PREVENTION AND CONTROL

Notice of Proposed Rule Making

During the 10 months the regulations implementing the Comprehensive Drug Abuse Prevention and Control Act of 1970 have been in operation, the Bureau has revised portions of these regulations as circumstances warranted. In recent weeks several proposals have been offered and new experience has been gained which call for another series of changes.

Therefore, under the authority vested in the Attorney General by sections 201(a), 201(g), 202(d), 301, 302(f), 304, 306(f), 307, 308, 501(b), 505, 507, 511, 513, 704(c), 705, 1002, 1003, 1004, 1006, 1007(b), 1008(d), 1008(e), and 1015 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and redelegated to the Director, Bureau of Narcotics and Dangerous Drugs, by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby proposes that Parts 301, 303, 304, 305, 306, 307, 308, 311, 312, and 316 of Title 21 of the Code of Federal Regulations be amended with the following changes:

PART 301—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

The following changes are proposed to be made in Part 301:

1. *Registration regarding ocean vessels, aircraft, and certain other entities.* Sections 301.28 and 301.29 will be replaced by a single section which applies not only to vessels and aircraft (subjects of the current sections) but also other situations where controlled substances are held at scattered locations for emergency purposes: Offshore oil rigs, landing fields in Alaska, remote industrial locations, and so forth. The proposed language was developed in cooperation with the Public Health Service.

2. *Import authority for researchers.* Section 301.22(b)(5) will be revised to permit researchers to import controlled substances for research purposes without a separate registration as an importer. (The researcher must still comply with import permit and import declaration requirements.)

3. *Application to manufacture new narcotic controlled substances.* Section 301.33 will be deleted as unnecessary in this form. A similar provision will be added in the near future.

4. *Certificate of Registration.* Section 301.44(b) will be amended to eliminate the requirement that the Certificate of Registration be prominently displayed. Numerous complaints were made regarding this provision and the Bureau has decided that the decor of professional offices is probably not enhanced by this Certificate.

5. *Modification of registration to change name or address.* Sections 301.61 and 301.62 will be revised to permit a registrant to change the name and/or address of his registration without reregistering, paying a fee, and obtaining a new BNDD number. This should alleviate problems caused by changes of office locations and other technical matters.

6. *Physical security for nonpractitioners.* Section 301.72 will be amended to bring the standards for safes and vaults up to contemporary definitions. The substantive requirements are not changed and can be met by a safe, cabinet, or steel door with a GSA rating of class 5. An Underwriters' Laboratory approved money safe is also satisfactory.

7. *Technical amendments.* Section 301.24 will be revised to accommodate health officials in the Canal Zone and to expressly permit administering by officials covered by that section. Section 301.32 will be amended to provide the Bureau more notice regarding bulk manufacturers of controlled substances. Section 301.45 will be amended to cover situations where registration is suspended.

1. By amending § 301.22 by revising paragraph (b)(5) to read as follows:

§ 301.22 Separate registration for independent activities.

* * * * *

(b) * * *

(5) A person registered or authorized to conduct research (other than research described in paragraph (a)(6) of this section) with controlled substances listed in schedules II through V shall be authorized to conduct chemical analysis with controlled substances listed in those schedules in which he is authorized to conduct research, to manufacture such substances if and to the extent that such manufacture is set forth in a statement filed with the application for registration, to import such substances for research purposes, to distribute such substances to other persons registered or authorized to conduct chemical analysis, instructional activities, or research with such substances and to persons exempted from registration pursuant to § 301.26, and to conduct instructional activities with controlled substances;

* * * * *

§ 301.24 [Amended]

2. By amending § 301.24 as follows:

a. By adding, immediately after the words "Veterans Administration facility" in paragraphs (b) and (c), the words "or physician who is an agent or employee of the Health Bureau of the Canal Zone Government,".

b. By adding the word "administer," between the word "dispense" and the words "and prescribe" in the opening paragraph of paragraph (c) and by adding the word "administering" between the word "dispensing" and the words "or prescribing" in subparagraph (1) of paragraph (c).

3. By deleting § 301.28 and § 301.29 and adding a new § 301.28 to read as follows:

§ 301.28 Registration regarding ocean vessels, commercial aircraft and certain other entities.

(a) Controlled substances may be held for stocking, be maintained in, and dispensed from medicine chests, first aid packets, or dispensaries:

(1) On board any vessel engaged in international trade or in trade between ports of the United States and any merchant vessel belonging to the U.S. Government;

(2) On board any aircraft operated by an air carrier under a certificate of permit issued pursuant to the Federal Aviation Act of 1958 (48 U.S.C. 1301); and

(3) In any other entity of fixed or transient location approved by the Director as appropriate for application of this section (e.g., emergency kits at field sites of an industrial firm).

If such controlled substances are acquired by and dispensed under the general supervision of a medical officer employed by the owner or operator of the vessel, aircraft or other entity.

(b) A medical officer shall be:

(1) Licensed in a State as a physician; and

(2) Registered under the Act at the location of the principal office of the owner or operator of the vessel, aircraft or other entity.

(c) A registered medical officer may serve as medical officer for more than one vessel, aircraft, or other entity under a single registration, unless he serves as medical officer for more than one owner or operator, in which case he shall attain a separate registration at the location of the principal office of each such owner or operator.

(d) If no medical officer is employed by the owner or operator of a vessel, or in the event such medical officer is not accessible and the acquisition of controlled substances is required, the master of the vessel, who shall not be registered under the Act, may purchase controlled

substances only with the approval of, and upon special order forms (HSM-590, formerly PHS-2341) provided by, a medical officer of the U.S. Public Health Service.

(e) Any medical officer described in paragraph (b) of this section shall, in addition to complying with all requirements and duties prescribed for registrants generally, prepare an annual report as of the date on which his registration expires, which shall give in detail an accounting for each vessel, aircraft, or other entity, and a summary accounting for all vessels, aircraft, or other entities under his supervision for all controlled substances purchased, dispensed or disposed of during the year. The medical officer shall maintain this report with other records required to be kept under the Act and, upon request, deliver a copy of the report to the Bureau. The medical officer need not be present when controlled substances are dispensed, if the person who actually dispensed the controlled substances is responsible to the medical officer to justify his actions.

(g) Owners or operators of vessels, aircraft, or other entities described in this section shall not be deemed to possess or dispense any controlled substance acquired, stored and dispensed in accordance with this section.

(h) The Master of a vessel shall prepare a report for each calendar year which shall give in detail an accounting for all controlled substances purchased, dispensed, or disposed of during the year. The Master shall file this report with the medical officer employed by the owner or operator of his vessel, if any, or, if not, he shall maintain this report with other records required to be kept under the Act and, upon request, deliver a copy of the report to the Bureau.

(i) Controlled substances acquired and possessed in accordance with this section shall not be distributed to persons not under the general supervision of the medical officer employed by the owner or operator of the vessel, aircraft, or other entity, except in accordance with § 307.21 of this chapter.

4. By amending § 301.32 by amending paragraph (b)(5) to read as follows:

§ 301.32 Application forms; contents; signature.

* * * * *

(b) * * *

(5) To conduct research with narcotic drugs listed in schedules II through V, as described in § 301.22(a)(6), he shall apply on BND Form 227;

* * * * *

§ 301.33 [Reserved]

5. By deleting § 301.33 in its entirety and reserving it.

6. By amending § 301.44 by revising the final sentence of paragraph (b) to read as follows:

§ 301.44 Certificate of registration; denial of registration.

* * * * *

(b) * * * The registrant shall maintain the certificate of registration at the registered location in a readily retrievable manner and shall permit inspection of the certificate by any official, agent or employee of the Bureau or of any Federal, State, or local agency engaged in enforcement of laws relating to controlled substances.

§ 301.45 [Amended]

7. By amending § 301.45 by adding the words "or suspending" after the words "order of the Director revoking" in the third sentence of paragraph (d), and by adding the words "upon service of the order of the Director revoking or suspending registration," after the word "Also," in the fourth sentence of paragraph (e).

8. By amending § 301.61 as follows:

a. By revising the first two sentences to read as set forth below.

b. By adding a new sentence at the end of the section to read as set forth below.

§ 301.61 Modification in registration.

Any registrant may apply to modify his registration to authorize the handling of additional controlled substances or to change his name or address, by submitting a letter of request to the Registration Branch, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Post Office Box 28083, Central Station, Washington, DC 20005. The letter shall contain the registrant's name, address, and registration number as printed on the certificate of registration, and the substances and/or schedules to be added to his registration or the new name or address and shall be signed in accordance with § 301.22(f). * * * If the modification in registration is approved, the Director shall issue a new certificate of registration (BND Form 223) to the registrant, who shall maintain it with the old certificate of registration until expiration.

9. By amending § 301.62 to read as follows:

§ 301.62 Termination of registration.

The registration of any person shall terminate if and when such person dies, ceases legal existence, or discontinues business or professional practice. Any registrant who ceases legal existence or discontinues business or professional practice shall notify the Director promptly of such fact.

10. By amending § 301.72 as follows:

a. By revising paragraph (a)(1) to read as set forth below.

b. By revising paragraph (a)(3)(ii) to read as set forth below.

§ 301.72 Physical security controls for nonpractitioners: Storage areas.

(a) * * *

(1) Where small quantities permit, a safe or steel cabinet:

(i) Which safe or steel cabinet shall have the following specifications or the equivalent: 30 man-minutes against surreptitious entry, 10 man-minutes against forced entry, 20 man-hours against lock manipulation, and 20 man-hours against radiological techniques.

(ii) Which safe or steel cabinet, if it weighs less than 750 pounds, is bolted or cemented to the floor or wall in such a way that it cannot be readily removed; and

(iii) Which safe or steel cabinet, if necessary, depending upon the quantities and type of controlled substances stored, is equipped with an alarm system which, upon attempted unauthorized entry, shall transmit a signal directly to a central protection company or a local or State police agency which has a legal duty to respond, or a 24-hour control station operated by the registrant, or such other protection as the Director may approve.

* * * * *

(3) * * *

(ii) The door and frame unit of which vault shall conform to the following specifications or the equivalent: 30 man-minutes against surreptitious entry, 10 man-minutes against forced entry, 20 man-hours against lock manipulation, and 20 man-hours against radiological techniques.

* * * * *

11. By amending § 301.76 by adding a new paragraph (c) to read as follows:

§ 301.76 Other security controls for practitioners.

* * * * *

(c) Whenever the registrant distributes a controlled substance (without being registered as a distributor, as permitted in § 301.22(b) and/or §§ 307.11-307.14), he shall comply with the requirements imposed on nonpractitioners in § 301.74 (a), (b), and (e).

PART 303—QUOTAS

The following changes are proposed to be made in the quota system:

1. *Definition of "net disposal."* Section 303.02(c) will be revised to clarify the meaning of "net disposal" for purposes of estimating the need for each basic class of controlled substance subject to quotas. Revisions of §§ 303.25 and 303.26 will be required to complete this change.

2. *Changes in hearing procedures for determining aggregate production quotas.* Section 303.11(c) will be revised to eliminate the provision for an adversary hearing in the process of fixing aggregate production quotas. The information needed for consideration by the Director can be adduced entirely by written materials, thereby obviating the need for oral testimony by witnesses; in addition, the issues are not generally amenable to cross-examination and oral argument. Therefore, in order to expedite the determination of quotas and unnecessary procedural steps, the process for public participation in fixing aggregate production quotas should be simplified. This change will require changes in §§ 303.31, 303.32, 303.34, 303.35, 303.36, and 303.37.

3. *Procurement quotas for raw opium.* Section 303.12 will be revised to require persons who obtain raw opium other than by importation (i.e., by purchase from a registered importer) to apply and obtain a procurement quota for raw opium. This is necessary to determine the import requirements for opium.

4. *Procedure for adjusting aggregate production quotas.* A new § 303.13 will be added to provide upward or downward revision of aggregate quotas after the quotas are initially determined. This procedure, which is essential to a flexible quota system, is not provided for in the current regulations.

5. *Procedures for fixing individual manufacturing quotas.* Section 303.22(b) will be revised to require information regarding past production to be included on applications for quotas. Section 303.23(c) will be revised to extend by 1 month the time in which individual quotas are adjusted to account for actual inventories.

6. *Recognition of import permits.* Sections 303.25 and 303.26 will be revised to take into account the existence of permits to import a quantity of a basic class when increasing or decreasing individual manufacturing quotas for that class.

7. *Deletion of transitional regulations.* Sections 303.41 and 303.42 will be deleted as no longer necessary.

12. By amending § 303.02(c) by revising the definition of "net disposal" to read as follows:

§ 303.02 Definitions.

* * * * *

(c) The term "net disposal" means, for a stated period, the quantity of a basic class of controlled substance distributed by the registrant to another person, plus the quantity of that basic class used by the registrant in the production of (or converted by the registrant into) another basic class of controlled substance or a noncontrolled substance, plus the quantity of that basic class otherwise disposed of by the registrant, less the quantity of that basic class returned to the registrant by any purchaser, and less the quantity of that basic class distributed by the registrant to another registered manufacturer of that basic class for purposes other than use in the production of, or conversion into, another basic class of controlled substance or a noncontrolled substance or in the manufacture of dosage forms of that basic class.

* * * * *

13. By amending § 303.11 by deleting the words, "on or before May 1 of each year," in paragraph (a) and by revising paragraph (c) to read as follows:

§ 303.11 Aggregate production quotas.

* * * * *

(c) The Director shall, on or before May 1 of each year, publish in the FEDERAL REGISTER, general notice of an aggregate production quota for any basic class determined by him under this section. A copy of said notice shall be mailed simultaneously to each person registered as a bulk manufacturer of the basic class. The Director shall permit any interested person to file written comments on or objections to the proposal and shall designate in the notice the time during which such filings may be made. The Director may, but shall not be required to, hold a public hearing on one or more issues raised by the comments and objections filed with him. In the event the Director decides to hold such a hearing, he shall publish notice of the hearing in the FEDERAL REGISTER, which notice shall summarize the issues to be heard and shall set the time for the hearing which shall not be less than 10 days after the date of publication of the notice. After consideration of any comments or objections, or after a hearing if one is ordered by the Director, the Director shall issue and publish in the FEDERAL REGISTER his final order determining the aggregate production for the basic class of controlled substance. The order shall include the findings of fact and conclusions of law upon which the order is based. The order shall specify the date on which it shall take effect. A copy of said order shall be mailed simultaneously to each person registered as a bulk manufacturer of the basic class.

§ 303.12 [Amended]

14. By amending § 303.12 by adding the words "being imported by the registrant pursuant to an import permit" after the words "except raw opium" within the parenthetical items in paragraph (a) and the first sentence of paragraph (b).

15. By adding a new § 303.13 to read as follows:

§ 303.13 Adjustments of aggregate production quotas.

(a) The Director may at any time increase or reduce the aggregate production quota for a basic class of controlled substance listed in Schedule I or II which he has previously fixed pursuant to § 303.11.

(b) In determining to adjust the aggregate production quota, the Director shall consider the following factors:

(1) Changes in the demand for that class, changes in the national rate of net disposal of the class, and changes in the rate of net disposal of the class by registrants holding individual manufacturing quotas for that class;

(2) Whether any increased demand for that class, the national and/or individual rates of net disposal of that class are temporary, short term, or long term;

(3) Whether any increased demand for that class can be met through existing inventories, increased individual manufacturing quotas, or increased importation, without increasing the aggregate production quota, taking into account production delays and the probability that other individual manufacturing quotas may be suspended pursuant to § 303.24(b);

(4) Whether any decreased demand for that class will result in excessive inventory accumulation by all persons registered to handle that class (including manufacturers, distributors, practitioners, importers, and exporters), notwithstanding the possibility that individual manufacturing quotas may be suspended pursuant to § 303.24(b) or abandoned pursuant to § 303.27;

(5) Other factors affecting medical, scientific, research, and industrial needs in the United States and lawful export requirements, as the Director finds relevant, including changes in the currently accepted medical use in treatment with the class or the substances which are manufactured from it, the economic and physical availability of raw materials for use in manufacturing and for inventory purposes, yield and stability problems, potential disruptions to production (including possible labor strikes), and recent unforeseen emergencies such as floods and fires.

(c) The Director in the event he determines to increase or reduce the aggregate production quota for a basic class of controlled substance, shall publish in the FEDERAL REGISTER general notice of an adjustment in the aggregate production quota for that class determined by him under this section. A copy of said notice shall be mailed simultaneously to each person registered as a bulk manufacturer of the basic class. The Director shall permit any interested person to file written comments on or objections to the proposal and shall designate in the notice the time during which such filings may be made. The Director may, but shall not be required to, hold a public hearing on one or more issues raised by the comments and objections filed with him. In the event the Director decides to hold such a hearing, he shall publish notice of the hearing in the FEDERAL REGISTER, which notice shall summarize the issues to be heard and shall set the time for the hearing, which shall not be less than 10 days after the date of publication of the notice. After consideration of any comments or objections, or after a hearing if one is ordered by the Director, the Director shall issue and publish in the FEDERAL REGISTER his final order determining the aggregate production for the basic class of controlled substance. The order shall include the findings of fact and conclusions of law upon which the order is based. The order shall specify the date on which it shall take effect. A copy of said order shall be mailed simultaneously to each person registered as a bulk manufacturer of the basic class.

16. By amending § 303.22(b) by renumbering subparagraphs (2), (3), and (4) as subparagraphs (3), (4), and (5) and adding a new subparagraph (2) to read as follows:

§ 303.22 Procedure for applying for individual manufacturing quotas.

* * * * *

(b) * * *

(2) The actual or estimated quantity manufactured;

* * * * *

§ 303.23 [Amended]

17. By amending § 303.23(c) by deleting the words "January 31" and substituting the words "March 1."

§ 303.25 [Amended]

18. By amending § 303.25 by adding, in paragraph (b), the words ", as adjusted pursuant to § 303.13," after the words "and import permits" after the words "individual manufacturing quotas."

§ 303.26 [Amended]

19. By amending § 303.26 by adding the words "and import permits" after the words "individual manufacturing quotas" in the seventh and 23d lines of the section, and by adding the words ", as adjusted pursuant to § 303.13" after the words "§ 303.11" in the 10th and 21st lines of the section.

§ 303.31 [Amended]

20. By amending § 303.31 by adding the words "or regarding the adjustment of an aggregate production quota pursuant to § 303.13(c)," immediately after the words "pursuant to § 303.11(c)," in paragraph (a).

21. By amending § 303.32 by revising paragraph (a) to read as follows:

§ 303.32 Purpose of hearing.

(a) The Director may, in his sole discretion, hold a hearing for the purpose of receiving factual evidence regarding any one or more issues (to be specified by him) involved in the determination or adjustment of any aggregate production quota.

* * * * *

22. By amending § 303.34 as follows:

a. By revising paragraph (b) to read as set forth below.

b. By replacing the words "303.11(c)" with the words "paragraph (b) of this section" in paragraphs (c) and (d).

§ 303.34 Request for hearing or appearance; waiver.

* * * * *

(b) Any interested person who desires to participate in a hearing on the determination or adjustment of an aggregate production quota, which hearing is ordered by the Director pursuant to § 303.11 (c) or § 303.13(c) may do so by filing with the Director, within 10 days of the date of publication of notice of the hearing in the FEDERAL REGISTER, a written notice of his intention to participate in such hearing in the form prescribed in § 316.48 of this chapter.

* * * * *

§ 303.35 [Amended]

23. By amending § 303.35 by adding the words "or adjustment" after the word "determination" in paragraph (a).

§ 303.36 [Amended]

24. By amending § 303.36 by adding the words "or § 303.13(c)" after the words "§ 303.11 (c)" in paragraph (b).

§ 303.37 [Amended]

25. By amending § 303.37 by adding the words "or adjustment" after the words "on the determination" in the first sentence of the section.

§§ 303.41, 303.42 [Deleted]

26. By deleting § 303.41 and § 303.42 ("Transitional Regulations") in their entirety.

PART 304—RECORDS AND REPORTS OF REGISTRANTS

The following changes are proposed for Part 304:

1. *Records for coincident activities.* Section 304.03(a) will be revised to state more clearly the Bureau's policy with regard to records required of a person who is registered to do one activity and, as a part of that registration, is authorized to do other limited activities. There has been considerable confusion and misinterpretation of the Bureau's position.

2. *Initial inventory.* A new sentence will be added to § 304.12 to eliminate confusion about when an initial inventory is required. In those cases where a person commences business with no inventory in controlled substances, his initial inventory should reflect this. He need not take an inventory when his first order of controlled substances arrives. When, however, there is an existing inventory (e.g., where a merger, purchase, or other business transfer occurs), an initial inventory will still be required.

3. *Records for manufacturers.* A new cross-reference to § 307.12 will be added to § 304.22 to clarify the recordkeeping requirements for pharmacists who use substances in one schedule to compound and dispense medicine in another schedule. As a general rule, the pharmacy should record the quantity used in manufacture and treat the finished item as the drug dispensed. Thus, a prescription for a schedule III narcotic which is made from a schedule II narcotic will be treated as a schedule III prescription, and the preparation of it will be reflected as a "manufacturing" record.

27. By amending § 304.03 by deleting the parenthetical item "(e.g., when a registered manufacturer conducts chemical analysis, he shall maintain the records and inventories required of chemical analysis)" from the end of paragraph (a) and replacing it with the following:

§ 304.03 Persons required to keep records and file reports.

(a) * * * This latter requirement should not be construed as requiring stocks of controlled substances being used in various activities under one registration to be stored separately, nor that separate records are required for each activity. The intent of the Bureau is to permit the registrant to keep one set of records which are adapted by the registrant to account for controlled substances used in any activity. Also, the Bureau does not wish to acquire separate stocks of the same substance to be purchased and stored for separate activities. Otherwise, there is no advantage gained by permitting several activities under one registration. Thus, when a researcher manufactures a controlled item, he must keep a record of the quantity manufactured; when he distributes a quantity of the item, he must use and keep invoices or order forms to document the transfer; when he imports a substance, he keeps as part of his records the documentation required of an importer; and when substances are used in chemical analysis, he need not keep a record of this because such a record would not be required of him under a registration to do chemical analysis. All of these records may be maintained in one consolidated record system. Similarly, the researcher may store all of his controlled items in one place, and every two years take inventory of all items on hand, regardless of whether the substances were manufactured by him, imported by him, or purchased domestically by him, of whether the substances will be administered to subjects, distributed to other reseachers, or destroyed during chemical analysis.

* * * * *

28. By amending § 304.12(b) by adding the following to the end of the paragraph:

§ 304.12 Initial inventory date.

* * * * *

(b) * * * In the event a person commences business with no controlled substances on hand, he shall record this fact as his initial inventory.

§ 304.22 [Amended]

29. By amending § 304.22 as follows:

a. Substituting the word "for" for the "of" in the title; and

b. By adding the reference "§ 307.12," between the references "§ 301.22(b)" and "or § 307.15" in the opening sentence of the section.

PART 305—ORDER FORMS

The following changes are proposed to be made in the order form system:

1. *Power of attorney procedures.* Section 305.07 will be revised to alter the present power of attorney operation. Under the change, a power of attorney to execute order forms will be executed by the registrant as before, but it will not be filed with or approved by the Bureau. Instead, it will be retained by the registrant with other records required under the law, to be available upon inspection by the Bureau.

2. *Persons entitled to fill order forms.* Section 305.08 will be revised to permit chemical analysts and researchers to transfer Schedule I and II substances on order forms.

3. *Transitional regulations.* Section 305.16 will be deleted on May 1, 1972, as no longer necessary.

4. *Technical change.* Section 305.03(e) will be changed to accord with changes proposed in §§ 301.28 and 301.29.

§ 305.03 [Amended]

30. By amending § 305.03 by deleting the numbers "(a)(3)" after the numbers "§ 301.28" in paragraph (e).

31. By amending § 305.07 to read as follows:

§ 305.07 Power of attorney.

Any purchaser may authorize one or more individuals, whether or not located at the registered location of the purchaser, to obtain and execute order forms on his behalf by executing a power of attorney for each such individual. The power of attorney shall be signed by the same person who signed the most recent application for registration or reregistration and by the individual being authorized to obtain and execute order forms. The power of attorney shall be filed with the executed order forms of

the purchaser, and shall be retained for the same period as any order form bearing the signature of the attorney. The power of attorney shall be available for inspection together with other order form records. Any power of attorney may be revoked at any time by executing a notice of revocation, signed by the person who signed the power of attorney or by his successor, whoever signed the most recent application for registration or reregistration, and filing it with the power of attorney being revoked. The form for the power of attorney and notice of revocation shall be similar to the following:

POWER OF ATTORNEY FOR BNDD ORDER FORMS

(Name of registrant)

(Address of registrant)

(BNDD registration number)

I, ---, the
(name of person granting power)
undersigned, whose signature appears on the current application for registration of the above-named registrant under the Controlled Substances Act or Controlled Substances Import and Export Act, have made, constituted, and appointed, and by these presents, do make, constitute, and appoint ---, my true and
(name of attorney-in-fact)
lawful attorney for me in my name, place, and stead, to execute applications for books of official order forms and to sign such order forms in requisition for Schedule I and II controlled substances, in accordance with section 308 of the Controlled Substances Act (21 U.S.C. 828) and Part 305 of Title 21 of the Code of Federal Regulations. I hereby ratify and confirm all that said attorney shall lawfully do or cause to be done by virtue hereof.

(Signature of person granting power)

I, ---, hereby affirm
(name of attorney-in-fact)
that I am the person named herein as attorney-in-fact and that the signature affixed hereto is my signature.

(Signature of attorney-in-fact)

Witnesses:
1. ---
2. ---
Signed and dated on the ------ day of ---, 19--, at ---,

NOTICE OF REVOCATION

The foregoing power of attorney is hereby revoked by the undersigned, whose signature appears on the current application for registration of the above-named registrant under the Controlled Substances Act of the Controlled Substances Import and Export Act. Written notice of this revocation has been given to the attorney-in-fact ---- this same day.

(Signature of person revoking power)

Witnesses:
1. ---
2. ---
Signed and dated on the ------ day of ---, 19--, at ---.

32. By amending § 305.08 to delete the word "and" at the end of paragraph (b), to add a semicolon and the word "and" at the end of paragraph (c), and to add a new paragraph to read as follows:

§ 305.08 Persons entitled to fill order forms.

* * * * *

(d) A person registered or authorized to conduct chemical analysis or research with controlled substances may distribute a controlled substance listed in schedule I or II to another person registered or authorized to conduct chemical analysis, instructional activities, or research with such substances pursuant to the order form of the latter person, if such distribution is for the purpose of furthering such chemical analysis, instructional activities, or research.

§ 305.16 [Deleted]

33. By deleting § 305.16 in its entirety on May 1, 1972.

PART 306—PRESCRIPTIONS

The following changes are proposed to be made in prescription requirements:

1. *Duration of Schedule II prescription.* A new paragraph will be added to § 306.11 to require a prescription for a Schedule II substance to be presented for filling within 1 week of issuance. Because of the potential for abuse of Schedule II substances and the limited situations in which they can properly be used, the American Pharmaceutical Association recommended this limitation. The Bureau believes that it is proper and desirable.

2. *Quantity limitations on dispensing.* New paragraphs will be added to § 306.11 and § 306.21 to limit the quantity of a controlled substance that may be dispensed at any one time to a 34-day supply, or 100 dosage units, whichever is less. These limitations, which were suggested by the American Pharmaceutical Association, will prohibit a practice recently employed by certain physicians who, after the stimulants were transferred to Schedule II, commenced issuing prescriptions for supplies for 90, 120, or 180 days, apparently to avoid the nonrefillability of prescriptions for stimulants.

3. *Labeling of prescriptions.* Sections 306.14 and 306.24 will be revised to make exceptions for labeling of controlled substance prescriptions to be dispensed on a unit dosage basis in nursing homes, hospitals, and other institutions. This was also recommended by the American Pharmaceutical Association.

34. By amending § 306.11 as follows:

a. By adding new paragraphs (e) and (f) to read as follows:

§ 306.11 Requirement of prescription.

* * * * *

(e) No prescription for a controlled substance listed in Schedule II shall be filled unless presented for filling within 7 days following the date of issue.

(f) No pharmacist, individual practitioner or institutional practitioner shall dispense, and no individual practitioner shall prescribe, a controlled substance listed in Schedule II in any quantity exceeding a 34-day supply or 100 dosage units, whichever is less.

35. By amending § 306.14 by designating the current paragraph as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 306.14 Labeling of substances.

* * * * *

(b) The requirements of paragraph (a) of this section do not apply when a controlled substance listed in schedule II is prescribed for administration to an ultimate user who is institutionalized: *Provided,* That:

(1) Not more than 3 days' supply of the controlled substance listed in schedule II is dispensed at one time;

(2) The controlled substance listed in schedule II is not in the possession of the ultimate user prior to the administration; and

(3) The institution maintains appropriate safeguards and records regarding the proper administration, control, dispensing, and storage of the controlled substance listed in schedule II.

36. By amending § 306.21 by adding a new paragraph (d) to read as follows:

§ 306.21 Requirement of prescriptions.

* * * * *

(d) No pharmacist, individual practitioner, or institutional practitioner shall dispense at any one time, and no individual practitioner shall prescribe for dispensing at any one time, a controlled substance listed in schedule III or IV in any quantity exceeding a 34-day supply or 100 dosage units whichever is less.

37. By amending § 306.24 as follows:

a. By designating the current paragraph as paragraph (a);

b. By deleting the words "initial filling" in paragraph (a) and substituting the words "actual filling or refilling," and;

c. By adding a new paragraph (b) to read as follows:

§ 306.24 Labeling of substances.

* * * * *

(b) The requirements of paragraph (a) of this section do not apply when a controlled substance listed in Schedule III or IV is prescribed for administration to an ultimate user who is institutionalized: *Provided,* That:

(1) Not more than 3 days' supply of the controlled substance listed in schedule III or IV is dispensed at one time;

(2) The controlled substance listed in schedule III or IV is not in the possession of the ultimate user prior to administration; and

(3) The institution maintains appropriate safeguards and records the proper administration, control, dispensing, and storage of the controlled substance listed in schedule III or IV.

PART 307—MISCELLANEOUS

The following changes are proposed to be made in Part 307:

1. *Procedure for transferring business.* Section 307.14 will be completely revised

to provide a new procedure for transferring a business involving controlled substances. The present regulations require prior approval of the Regional Director of the transfer, including submission to the Bureau of an inventory 15 days prior to the date of transfer. This procedure has proven cumbersome and often unrealistic. In order to alleviate some of these problems, and in response to a suggestion from the National Association of Chain Drug Stores, the Bureau has attempted to simplify the process. No inventory will be required to be filed with the Bureau, before or after the transfer. Records of the seller will be transferred to the buyer and kept by him for the 2-year period required by law. The only two requirements now are (1) prior notice to the Regional Director (who will only act if he finds the transfer should not occur) and (2) registration of the buyer prior to the transfer.

2. *Blanket approval of disposal programs.* Section 307.21 will be amended to permit registrants to dispose of controlled substances at the time disposal is first warranted. Under present regulations, the registrant must submit a request for each disposal; this requires considerable administrative work for the Bureau, and often results in registrants' collecting quantities of items for disposal prior to making a request. A new paragraph will be added to § 307.21 will allow a registrant to request permission to follow a certain disposal system (e.g., incineration or dissolution) at any time substances need to be disposed. The registrant would only file a report of disposal after the event.

38. By amending § 307.14 to read as follows:

§ 307.14 Distribution upon discontinuance or transfer of business.

(a) Any registrant desiring to discontinue business activities altogether or with respect to controlled substances (without transferring such business activities to another person) shall return for cancellation his certificate of registration, and any unexecuted order forms in his possession, to the Registration Branch, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Post Office Box 28083, Central Station, Washington, DC 20005. Any controlled substances in his possession may be disposed of in accordance with § 307.21.

(b) Any registrant desiring to discontinue business activities altogether or with respect to controlled substance (by transferring such business activities to another person) shall submit in person or by registered or certified mail, return receipt requested, to the Regional Director in his region, at least 14 days in advance of the date of the proposed transfer (unless the Regional Director waives this time limitation in individual instances), the following information:

(1) The name, address, registration number, and authorized business activity of the registrant discontinuing the business (registrant-transferor);

(2) The name, address, registration number, and authorized business activity of the person acquiring the business (registrant-transferee);

(3) Whether the business activities will be continued at the location registered by the person discontinuing business, or moved to another location (if the latter, the address of the new location should be listed);

(4) Whether the registrant-transferor has a quota to manufacture or procure any controlled substance listed in Schedule I or II (if so, the basic class or class of the substance should be indicated); and

(5) The date on which the transfer of controlled substances will occur.

(c) Unless the registrant-transferor is informed by the Regional Director, before the date on which the transfer was stated to occur, that the transfer may not occur, the registrant-transferor may distribute (without being registered to distribute) controlled substances in his possession to the registrant-transferee in accordance with the following:

(1) On the date of transfer of the controlled substances, a complete inventory of all controlled substances being transferred shall be taken in accordance with §§ 304.11–304.19 of this chapter. This inventory shall serve as the final inventory of the registrant-transferor and the initial inventory of the registrant-transferee, and a copy of the inventory shall be included in the records of each person. It shall not be necessary to file a copy of the inventory with the Bureau unless requested by the Regional Director. Transfers of any substances listed in Schedule I or II shall require the use of order forms in accordance with Part 305 of this chapter.

(2) On the date of transfer of the controlled substances, all records required to be kept by the registrant-transferor with reference to the controlled substances being transferred, under Part 304 of this chapter, shall be transferred to the registrant-transferee. Responsibility for the accuracy of records prior to the date of transfer remains with the transferor, but responsibility for custody and maintenance shall be upon the transferee.

(3) In the case of registrants required to make reports pursuant to Part 304 of this chapter, a report marked "Final" will be prepared and submitted by the registrant-transferor showing the disposition of all the controlled substances for which a report is required; no additional report will be required from him, if no further transactions involving controlled substances are consummated by him. The initial report of the registrant-transferee shall account for transactions beginning with the day next succeeding the date of discontinuance or transfer of business by the transferor-registrant, and the substances transferred to him shall be reported as receipts in his initial report.

39. By amending § 307.21 by designating paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

§ 307.21 Procedure for disposing of controlled substances.

* * * * *

(c) In the event that a registrant is required regularly to dispose of controlled substances, the Regional Director may authorize the registrant to dispose of such substances, in accordance with paragraph (b) of this section, without prior approval of the Bureau in each instance, on the condition that the registrant keep records of such disposals and file periodic reports with the Regional Director summarizing the disposals made by the registrant. In granting such authority, the Regional Director may place such conditions as he deems proper on the disposal of controlled substances, including the method of disposal and the frequency and detail of reports.

* * * * *

PART 308—SCHEDULES OF CONTROLLED SUBSTANCES

The following changes are proposed to be made in Part 308:

1. *Submission of information by manufacturers.* The Bureau, which is required to regulate the manufacture, distribution, and dispensing of controlled substances, does not presently possess a complete list of all products under its jurisdiction and the schedules in which those products are listed. Many controlled substances are repackaged and sold under a brand name on a local or regional basis and have not been brought to the Bureau's attention under that particular trade name. Other products contain controlled and noncontrolled drugs in combination; because the Bureau lacks information regarding dosage unit size and comparative quantities of ingredients, it is unable to determine to which schedule the products should be assigned, or whether the product is excepted from control. Thus, the Bureau is unable to respond to inquiries from members of the legitimate drug industry, from law enforcement agencies, and from the general public regarding the status of industrial products. This interferes significantly with the ability of the Bureau to execute efficiently its functions under the Controlled Substances Act.

In order to remedy this situation, a new section will be added to require each manufacturer to submit information regarding the products containing controlled substances manufactured by it. Much of the information needed by the Bureau and set forth in the regulations can be provided simply by a copy of the label of the product. If additional information not contained on the label is required, it should be filed by a letter accompanying the label.

2. *Technical changes.* Section 308.12 will be amended by adding a Bureau Controlled Substances Code Number for opium poppy and poppy straw; this was omitted previously by oversight. Section 308.13 will be amended to designate nalorphine as a narcotic drug; this is necessary to give proper notice regarding treatment of nalorphine for import and export purposes.

40. By adding a new § 308.05 to read as follows:

§ 308.05 Submission of information by manufacturers.

(a) Each person registered to manufacture a controlled substance, or to use a controlled substance in the manufacture of a substance which is not controlled or which is excepted, excluded, or exempted from certain controls pursuant to §§ 308.21–24 and 308.31–32, shall submit information required in paragraph (b) of this section for each dosage form or other unit form of each product, diagnostic, reagent, buffer, or biological containing any quantity of any controlled substance manufactured by him on June 1, 1972, to the Assistant Director for Scientific Support, Attention: Label Project, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Room 221, 1405 Eye S'reet NW., Washington, DC 20537, by July 31, 1972. The material should be submitted by registered mail return receipt requested. In the case of new products, diagnostics, reagents, buffers, or biologicals manufactured after June 1, 1972, or new dosage forms or other unit forms manufactured after June 1, 1972, or changes in information submitted by July 31, 1972, the registrant shall submit the information regarding such item within 30 days after the date on which the manufacture commences or information change occurs. In the case of products, diagnostics, reagents, buffers, or biologicals, the manufacture of which is discontinued after June 1, 1972, the registrant shall submit notice of such discontinuance within 30 days after the date on which manufacture ceases.

(b) Two labels or other documents reflecting the following information shall be submitted with reference to each dosage form or other unit form of each item containing any quantity of any controlled substance:

(1) The trade name, brand name, or other commercial name of the product;

(2) The generic or chemical name and quantity of each ingredient, including both controlled and noncontrolled substances (if any of this information is a proprietary trade secret, please indicate those portions);

(3) The National Drug Code Number assigned to the product, if any; and

(4) The weight (in metric measure) of each dosage unit or the weight (in metric measure) of the controlled substance per 100 grams of finished product for all items containing any quantity of any narcotic controlled substance in solid dosage forms.

§ 308.12 [Amended]

41. By amending § 308.12 by adding the Bureau Controlled Substances Code No. "9650" after the item "Opium poppy and poppy straw" in paragraph (b)(3).

§ 308.13 [Amended]

42. By amending § 308.13 by adding the words "(A narcotic drug)" after the word "Nalorphine" in paragraph (d).

PART 311—REGISTRATION OF IMPORTERS AND EXPORTERS OF CONTROLLED SUBSTANCES

The following changes are proposed to be made in Part 311:

1. *Basis for registration to import schedule I and II substances.* Section 311.42(b)(6) will be amended to establish a fourth basis for issuing registration to import controlled substances listed in schedules I and II. Law enforcement and private laboratories frequently need to import shall amounts of these items for ballistics or analytical purposes and the proposed change will allow this.

2. *Technical changes.* Section 311.43 will be modified in accordance with the change in § 301.44, eliminating the requirement that the certificate of registration be displayed. Section 311.44 will be amended to cover situations involving suspension of registration. Sections 311.61 and 311.62 will be altered to permit a change of name and/or address without changing the registration number. Sections 311.26 and 311.27 will be merged to coincide with changes proposed in §§ 301.28 and 301.29.

43. By deleting § 311.26 and § 311.27, by renumbering § 311.28 to § 311.27 and by adding a new § 311.26 to read as follows:

§ 311.26 Exemption for ocean vessels, commercial aircraft, and certain other entities.

Owners or operators of vessels, aircraft, or other entities described in § 301.28 of this chapter or in Article 32 of the Single Convention on Narcotic Drugs, 1961, shall not be deemed to import or export any controlled substance purchased and stored in accordance with that section or article.

44. By amending § 311.42 by deleting the word "and" and substituting the word "or" at the end of paragraph (b)(6)(iii), and by adding a new paragraph (b)(6)(iv) to read as follows:

§ 311.42 Application for importation of Schedule I and II substances.

* * * * *

(b) * * *

(6) * * *

(iv) Such amounts of any controlled substance listed in Schedule I or II as the Director shall find to be necessary to provide for ballistics and other analytical or scientific purposes; and

* * * * *

§ 311.43 [Amended]

45. By amending § 311.43 by deleting the word "displayed" and replacing it with the word "maintained" in paragraph (b).

§ 311.44 [Amended]

46. By amending § 311.44 by adding the words "or suspending" after the words "order of the Director revoking" in the third sentence of paragraph (d), and by adding the words "upon service of the order of the Director revoking or suspending registration," after the words "Also," in the third sentence of paragraph (e).

47. By amending § 311.61 to read as follows:

§ 311.61 Modification in registration.

Any registrant may apply to modify his registration to authorize the handling of additional controlled substances or to change his name or address, by submitting a letter of request to the Registration Branch, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Post Office Box 28083, Central Station, Washington, DC 20005. The letter shall contain the registrant's name, address, and registration number as printed on the certificate of registration, and the substances and/or schedules to be added to his registration or the new name or address, and shall be signed in accordance with § 311.32(f). No fee shall be required to be paid for the modification. The request for modification shall be handled in the same manner as an application for registration. If the modification in registration is approved, the Director shall issue a new Certificate of Registration (BND Form 223) to the registrant, who shall maintain it with the old certificate of registration until expiration.

48. By amending § 311.62 to read as follows:

§ 311.62 Termination of registration.

The registration of any person shall terminate if and when such person dies, ceases legal existence or discontinues business or professional practice. Any registrant who ceases legal existence or discontinues business or professional practice shall notify the Director promptly of such fact.

PART 312—IMPORTATION AND EXPORTATION OF CONTROLLED SUBSTANCES

The following changes are proposed to be made in Part 312:

1. *Import declarations.* Sections 312.11(b) and 312.19(b) will be revised to eliminate conflict between these sections and § 312.18.

2. *Information regarding applications.* Sections 312.13(b), 312.23(b), and 312.31(f) will be revised and clarified regarding request and submission for additional information regarding applications for permits.

3. *Hearing procedures.* Subsequent to publication of hearing procedures for the denial of import and export permit applications, it was brought to the Bureau's attention that the procedures set forth (i.e., rule making procedures) were not appropriate to the type of hearing likely to be sought (i.e., adjudication). Therefore, the procedures contained in §§ 312.41–312.47 will be revised and expanded to include hearings on applications for permits to transship controlled substances under section 1004 of the Controlled Substances Import and Export Act.

4. *Technical amendments.* Sections 312.18, 312.27, and 312.31 will be revised to make technical corrections.

5. *Import permits.* Section 312.13(a) will be revised in conjunction with the change proposed in § 311.42.

§ 312.11 [Amended]

49. By amending § 312.11 by deleting the words "at least 15 days prior to importation" from paragraph (b).

50. By amending § 312.13 as follows:

a. By adding paragraph (a) (4) to read as set forth below.

b. By revising paragraph (b) to read as set forth below.

§ 312.13 Issuance of import permit.

(a) * * *

(4) That the importation of the controlled substance is for ballistics or other analytical or scientific purposes, and that the importation of that substance is only for delivery to officials of the United Nations, of the United States, or of any State, or to any person registered or exempted from registration under sections 1007 and 1008 of the Act (21 U.S.C. 957 and 958).

(b) The Director may require an applicant to submit such documents or written statements of fact relevant to the application as he deems necessary to determine whether the application should be granted. The failure of the applicant to provide such documents or statements within a reasonable time after being requested to do so shall be deemed to be a waiver by the applicant of an opportunity to present such documents or facts for consideration by the Director in granting or denying the application.

* * * * *

§ 312.18 [Amended]

51. By amending § 312.18 by deleting the words "A registrant" and substituting the words "Any person registered or authorized to import and" in paragraph (b), and by deleting the words "a registrant" and substituting the words "an applicant" in paragraph (d).

§ 312.19 [Amended]

52. By amending § 312.19 by deleting the words "at least 15 days prior to the proposed date of importation" from paragraph (b).

§ 312.21 [Amended]

53. By amending § 312.21 by deleting the reference "§ 312.26" and substituting the reference "§ 312.28" at the end of paragraph (b).

54. By amending § 312.23 by revising paragraph (b) to read as follows:

§ 312.23 Issuance of export permit.

* * * * *

(b) The Director may require an applicant to submit such documents or written statements of fact relevant to the application as he deems necessary to determine whether the application should be granted. The failure of the applicant to provide such documents or statements within a reasonable time after being requested to do so shall be deemed to be a waiver by the applicant of an opportunity to present such documents or facts for consideration by the Director in granting or denying the application.

* * * * *

55. By amending § 312.27 as follows:

a. By revising paragraph (a) to read as set forth below.

b. By adding the words ", if any," between the words "registration number" and the words "of the exporter" in paragraph (b) (1).

§ 312.27 Contents of special controlled substances invoice.

(a) A person registered or authorized to export and desiring to export any nonnarcotic controlled substance listed in Schedule III or IV or any person desiring to export any controlled substance listed in Schedule V must furnish a special controlled substances export invoice on BND Form 236 to the Registration Branch, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Post Office Box 28082, Central Station, Washington, DC 20005, not less than 15 calendar days prior to the proposed date of exportation, and distribute four copies of same as hereinafter directed in this § 312.27.

* * * * *

56. By amending § 312.31 as follows:

a. By revising paragraph (a) (2) to read as set forth below.

b. By deleting the words "prior written approval" and substituting the words "a transshipment permit", and in the first sentence of paragraph (b).

c. By revising paragraph (f) to read as set forth below.

d. By revising paragraph (g) to read as set forth below.

§ 312.31 Schedule I: Application for prior written approval.

(a) * * *

(2) A transshipment permit has been issued by the Director.

* * * * *

(f) The Director may require an applicant to submit such documents or written statements of fact relevant to the application as he deems necessary to determine whether the application should be granted. The failure of the applicant to provide such documents or statements within a reasonable time after being requested to do so shall be deemed to be a waiver by the applicant of an opportunity to present such documents or facts for consideration by the Director in granting or denying the application.

(g) The Director shall, within 21 days from the date of receipt of the application, either grant or deny the application. The applicant shall be accorded an opportunity to amend the application, with the Director either granting or denying the amended application within 7 days of its receipt. If the Director does not grant or deny the application within 21 days of its receipt, or in the case of an amended application, within 7 days of its receipt, the application shall be deemed approved and the applicant may proceed.

§ 312.41 [Amended]

57. By amending § 312.41 by deleting the words "or export" and substituting the words, "export or transshipment" and by deleting the words "rule making" and substituting the word "adjudication".

58. By amending § 312.42 as follows:

a. By revising paragraph (a) to read as set forth below.

b. By deleting paragraph (b) and redesignating paragraph (c) to be paragraph (b).

§ 312.42 Purpose of hearing.

(a) If requested by a person applying for an import, export, or transshipment permit, the Director shall hold a hearing for the purpose of receiving factual evidence regarding the issues involved in the issuance or denial of such permit to such person.

* * * * *

59. By amending § 312.44 to read as follows:

§ 312.44 Request for hearing or appearance; waiver.

(a) Any applicant entitled to a hearing pursuant to § 312.42 and who desires a hearing on the denial of his application for an import, export, or transhipment permit shall, within 30 days after the date of receipt of the denial of his application, file with the Director a written request for a hearing in the form prescribed in § 316.47 of this chapter.

(b) Any applicant entitled to a hearing pursuant to § 312.42 may, within the period permitted for filing a request for a hearing, file with the Director a waiver of an opportunity for a hearing, together with a written statement regarding his position on the matters of fact and law involved in such hearing. Such statement, if admissible, shall be made a part of the record and shall be considered in light of the lack of opportunity for cross-examination in determining the weight to be attached to matters of fact asserted therein.

(c) If any applicant entitled to a hearing pursuant to § 312.42 fails to appear at the hearing, he shall be deemed to have waived his opportunity for the hearing unless he shows good cause for such failure.

(d) If the applicant waives or is deemed to have waived this opportunity for the hearing, the Director may cancel the hearing, if scheduled, and issue his final order pursuant to § 312.47 without a hearing.

60. By amending § 312.45 to read as follows:

§ 312.45 Burden of proof.

At any hearing on the denial of an application for an import, export, or transshipment permit, the Bureau shall have the burden of proving that the requirements for such permit pursuant to sections 1002, 1003, and 1004 of the Act (21 U.S.C. 952, 953, and 954) are not satisfied.

61. By amending § 312.46 to read as follows:

§ 312.46 Time and place of hearing.

(a) If any applicant for an import, export, or transshipment permit requests a hearing on the issuance or denial of his application, the Director shall hold such hearing. Notice of the hearing shall be given to the applicant of the time and place at least 30 days prior to the hearing, unless the applicant waives such notice and requests the hearing be held at an earlier time, in which case the Director shall fix a date for such hearing as early as reasonably possible.

(b) The hearing will commence at the place and time designated in the notice given pursuant to paragraph (a) of this section but thereafter it may be moved to a different place and may be continued from day to day or recessed to a later day without notice other than announcement thereof by the presiding officer at the hearing.

62. By amending § 312.47 to read as follows:

§ 312.47 Final order.

As soon as practicable after the presiding officer has certified the record to the Director, the Director shall issue his order on the issuance or denial of the application for and import, export, or transshipment permit. The order shall include the findings of fact and conclusions of law upon which the order is based. The Director shall serve one copy of his order upon the applicant.

PART 316—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

The following changes are proposed to be made in Part 316:

1. *Protection of researchers and research subjects.* Sections 316.21 and 316.22 will be substantially revised to spell out more clearly the standards and requirements for obtaining confidentiality and/or exemption from prosecution. These changes were felt necessary after the Bureau's initial experience with these sections.

2. *Enforcement proceedings.* Section 316.34 will be revised to limit use of verbatim records at section 513 hearings.

3. *Technical amendments.* Sections 316.08 and 316.41 and the authority note to Subpart D will be revised for technical reasons.

§ 316.08 [Amended]

63. By amending § 316.08 by deleting the words "of his" and substituting the words "That he has a" in paragraph (b)(2), and by deleting the words "Of the possibility that" and substituting the word "That" in paragraph (b)(3).

64. By amending § 316.21 to read as follows:

§ 316.21 Confidentiality of research subjects.

(a) The Director may authorize persons engaged in research to withhold the names and other identifying characteristics of persons who are the subjects of such research. Persons who obtain this authorization may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which such authorization was obtained.

(b) Any person engaged in research involving or related to controlled substances, who intends to maintain the confidentiality of those persons who are the subjects of such research pursuant to section 502(c) of the Controlled Substances Act (84 Stat. 1271; 21 U.S.C. 872(c)), shall submit to the Director, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Washington, D.C. 20537, the following:

(1) The researcher's registration number for the project, if the person is registered to conduct research in controlled substances under the Controlled Substances Act (84 Stat. 1242; 21 U.S.C. 801);

(2) The location of the research project;

(3) A general description of the research or a copy of the research protocol;

(4) A specific request to withhold the names and/or any other identifying characteristics of the research subjects; and

(5) The reasons supporting the request.

(c) Within 30 days from the date of receipt of the request, the Director shall issue a letter, either granting confidentiality, requesting additional information, or denying confidentiality, in which case the reasons for the denial shall be included. The letter of confidentiality, if granted, shall include:

(1) The researcher's name and address;

(2) The researcher's registration number for the research project, if any;

(3) The location of the research project;

(4) A concise statement of the purpose and scope of the research project; and

(5) The limits of the confidentiality, including its duration, if set by the Director.

(d) The grant of confidentiality shall apply to withhold the names and other identifying characteristics of all persons who are subjects of the research while the grant is in effect. The grant shall remain in effect until completion of the research project, until the date set in the letter for expiration of the grant, if any, or until the registration of the researcher is either revoked or suspended or his renewal of registration is denied. Within 30 days of the date of completion of the research project, the researcher shall so notify the Director. Upon expiration or termination of the grant, the Director shall issue another letter including the information required in paragraph (c) of this section and stating the date on which the period of the grant was concluded; upon receipt of this letter, the researcher shall return the original letter granting confidentiality.

65. By amending § 316.22 to read as follows:

§ 316.22 Exemption from prosecution for researcher.

(a) The Director, on his own motion or at the request of the Secretary of Health, Education, and Welfare, may authorize the possession, distribution, and dispensing of controlled substances by person engaged in research pursuant to section 502(d) of the Controlled Substances Act (84 Stat. 1271; 21 U.S.C. 872(d)). Persons who obtain this authorization shall be exempt from State or Federal prosecution for possession, distribution, and dispensing of controlled substances to the extent authorized by the Director. The purpose of this exemption is to permit a person registered or authorized to conduct research under the Controlled Substances Act (84 Stat. 1242; 21 U.S.C. 801) to carry out such research in a location or manner where other Federal laws or State or local laws would otherwise interfere with the research project. Therefore, the Director will only grant the exemption when there is clear indication, in the form of statutes, regulations, court decisions, legal opinions interpreting the statutes, regulations, or decisions, or other evidence, that the research project as approved by the Bureau and the Secretary cannot be fully, effectively or efficiently conducted without such exemption.

(b) Any person registered or authorized to conduct research in controlled substances under the Controlled Substances Act, who desires to obtain exemption from prosecution for possession, distribution and dispensing of controlled substances, shall submit to the Director, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Washington, D.C. 20537, for each research project involving controlled substances for which an exemption is requested, the following:

(1) The researcher's registration number for that project;

(2) The location of the research project;

(3) A detailed description of the research or a copy of the research protocol;

(4) A specific request for exemption from Federal or State prosecution setting forth the areas of the research project which the registrant believes cannot be conducted without violating or conflicting with Federal, State, or local law; and

(5) A copy of the specific statutory section, regulation, court decision, legal opinion, or other document which would, in the belief of the registrant, render his proposed activity a violation of law.

(c) Within 30 days from the date of receipt of the request, the Director shall issue a letter either granting the exemption, requesting additional information or denying the exemption, in which case the reasons for the denial shall be included. The Director shall exempt the registrant, when acting in the scope of his registration, from prosecution for violations of Federal, State, or local laws relating to possession, distribution or dispensing of controlled substances which the Director finds might reasonably occur while the registrant is conducting his research project. The Director cannot

grant an exemption from prosecution for activities which are not in the scope of the research project or are not carried on as part of the research project. The exemption, if granted, shall include:

(1) The researcher's name and address;

(2) The researcher's registration number for the research project;

(3) The location of the research project;

(4) A concise statement of the purpose and scope of the research project; and

(5) The limits of the exemption, including its duration, if set by the Director.

(d) The exemption shall apply to all acts done in the scope of the exemption while the exemption is in effect. The exemption shall remain in effect until completion of the research project, until the date set in the letter for expiration of the exemption, if any, or until the registration of the researcher is either revoked or suspended or his renewal of registration is denied. Within 30 days of the date of completion of the research project, the researcher shall so notify the Director. Upon expiration or termination of the exemption, the Director shall issue another letter including the information required in paragraph (c) of this section and stating the date on which the period of exemption was concluded; upon receipt of this letter, the researcher shall return the original letter of exemption.

(e) Exemption under this section does not diminish any requirement of compliance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301).

66. By amending § 316.34 to read as follows:

§ 316.34 Records of proceeding.

A formal record, either verbatim or summarized, of the hearing may be made at the discretion of the Regional Director. If a verbatim record is to be made, the person attending the hearing will be so advised prior to the start of the hearing.

67. By amending Subpart D—Administrative Hearings by revising the "Authority" section to read as follows:

AUTHORITY: The provisions of this Subpart D issued under secs. 201, 301, 501(b), 505, 1008(d), 1015, 84 Stat. 1245, 1246, 1247, 1253, 1271, 1272, 1289, 1291; 21 U.S.C. 811, 821, 271(b), 875, 958(d), 965.

§ 316.41 [Amended]

68. By amending § 316.41 by deleting the word "or" in the second parenthetical item and adding the following references after the number "308.51" in the second parenthetical: "§§ 311.51–311.53, or §§ 312.41–312.47."

All interested person are invited to submit their comments and objections in writing regarding this proposal. Comments and objections should be submitted in quintuplicate to the Office of Chief Counsel, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Room 611, 1405 Eye Street NW., Washington, DC 20537, and must be received no later than 30 days after publication of this proposal in the FEDERAL REGISTER.

Dated: May 16, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics, and Dangerous Drugs.

[FR Doc.72-7682 Filed 5-19-72;8:48 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 2820]

PUBLIC LANDS

Additional Use of Highway Rights-of-Way

The purpose of this amendment is to delete those provisions of the Code of Federal Regulations whereby holders of highway rights-of-way granted under title 23 U.S.C. and R.S. 2477 may grant other parties rights-of-way within the highway rights-of-way. Under the proposed amendment, such additional uses of highway rights-of-way would be granted by the Government. This would allow establishment of appropriate terms and conditions to protect environmental values within and outside the highway rights-of-way and assure an appropriate monetary return to the Government for the use of its property.

In accordance with the Department's policy on public participation in rule making (36 F.R. 8336) interested parties may submit written comments, suggestions, or objections with respect to the proposed rules to the Director (210), Bureau of Land Management, Washington, D.C. 20240 until June 26, 1972.

Copies of comments, suggestions, or objections made pursuant to this notice will be available for public inspection in the Office of Information, Bureau of Land Management, Room 5643, Interior Building, Washington, D.C., during regular business hours (7:45 a.m.–4:15 p.m.).

1. Section 2821.6 is revised to read as follows:

§ 2821.6 Additional rights-of-way within highway rights-of-way.

A right-of-way granted under this subpart confers upon the grantee the right to use the lands within the right-of-way for highway purposes only. Separate application must be made under pertinent statutes and regulations in order to obtain authorization to use the lands within such rights-of-way for other purposes.

2. Section 2822.1–2(b) is revised to read as follows:

§ 2822.1–2 Procedure when reserved land is involved; rights-of-way over revested and reconveyed lands.

* * * * *

(b) *Revocation or modification of withdrawal.* Where reserved lands are involved, no rights to establish or construct the highway may be acquired before the reservation is revoked or modified to permit construction of the highway, subject to terms and conditions, if any, as may be deemed reasonable and necessary for the adequate protection and utilization of the reserve and for the protection of the natural resources and the environment.

* * * * *

3. Section 2822.2 is revised to read as follows:

§ 2822.2 Nature of interest.

§ 2822.2–1 Effective date of grant.

Grants of rights-of-way under R.S. 2477 are effective upon the construction or establishment of highways in accordance with the State laws over public lands that are not reserved for public uses.

§ 2822.2–2 Extent of grant.

A right-of-way granted pursuant to R.S. 2477 confers upon the grantee the right to use the lands within the right-of-way for highway purposes only. Separate application must be made under pertinent statutes and regulations in order to obtain authorization to use the lands within such rights-of-way for other purposes. Grants under R.S. 2477 are made subject to the provisions of § 2801.1–5 (c), (d), (e), (i), and (k) of this chapter.

HARRISON LOESCH,
Assistant Secretary of the Interior.

MAY 15, 1972.

[FR Doc.72-7650 Filed 5-19-72;8:50 am]

Office of Oil and Gas

[32A CFR Ch. X]

CANADIAN IMPORTS, CRUDE, AND UNFINISHED OILS

Proposed Additional Allocations in Districts I–IV

Presidential Proclamation 4099 of December 20, 1971, authorized the importation into Districts I–IV of 965,000 barrels per day of crude oil, unfinished oils, and finished products during the period from January 1, 1972, through December 31, 1972, exclusive of Canadian imports. Five-hundred forty-thousand (540,000) barrels daily of Canadian imports were authorized. Presidential Proclamation 4133 of May 11, 1972, raises the total level of "offshore" imports into Districts I–IV to 1,165,000 barrels per day, and the level of Canadian imports to 570,000 barrels daily.

It is proposed (1) to allocate the additional 30,000 barrels daily of Canadian imports to current allocation holders by making additional allocations which

would increase current allocations by 5.56 percent, and (2) to allocate the additional 200,000 barrels daily of "offshore" imports to refiners in Districts I–IV by making additional allocations which would increase current allocations by 30.35 percent.

Accordingly, it is proposed to amend sections 10, 25, and 29 of Oil Import Regulation 1 (Revision 5) as set forth below. Final action upon this proposal will be subject to concurrence by the Director of the Office of Emergency Preparedness.

Interested persons are invited to submit written comments on this proposed amendment within thirty (30) days after publication of this notice in the FEDERAL REGISTER to the Director, Office of Oil and Gas, Department of the Interior, Washington, D.C. 20240. Each person who submits comments is asked to provide fifteen (15) copies.

GENE MORRELL,
Director, Office of Oil and Gas.

MAY 18, 1972.

1. A new paragraph (e), reading as follows, would be added to section 10 of Oil Import Regulation 1 (Revision 5), as amended (36 F.R. 24220):

Sec. 10 Allocations; Refiners; Districts I–IV.

* * * * *

(e) The holder of an allocation made under this section for the current allocation period shall receive an additional allocation equal to approximately 30.35 percent of the amount of that allocation. Unfinished oils may be imported under such an additional allocation, but imports of such oil shall not exceed 15 percent of the additional allocation.

2. Paragraph (k) of section 25 of Oil Import Regulation 1 (Revision 5), as amended (36 F.R. 17346), would be amended to read as follows:

Sec. 25 Allocations of crude and unfinished oils—Districts I–IV, District V—new or reactivated refinery capacity and petrochemical plants—based upon estimated inputs.

* * * * *

(k) The holder of an allocation made under this section of imports into Districts I–IV for the current allocation period shall receive an additional allocation equal to approximately 30.35 percent of that allocation. Unfinished oils may be imported under such an additional allocation, but imports of such oil shall not exceed 15 percent of the additional allocation.

3. A new paragraph (o), reading as follows, would be added to section 29 of Oil Import Regulation 1 (Revision 5), as amended (37 F.R. 2439):

Sec. 29 Canadian Imports—Districts I–IV—1972.

* * * * *

(o) (1) Except as provided in the last sentence of this subparagraph (1), the holder of an allocation made under this section for the current allocation period (who has not relinquished the same) shall receive an additional allocation of Canadian imports equal to approximately 5.56 percent of that allocation. Paragraphs (g), (h), and (k) of this section 29 shall apply to additional allocations made pursuant to this paragraph (o); however, the date for relinquishment of all or a part of such additional allocations shall be October 15, 1972. No additional allocation shall be in an amount which, when added to the regular allocation of the allocation holder, exceeds the qualified inputs of the allocation holder during the period October 1, 1970, through September 30, 1971.

(2) Except as provided in the last sentence of this subparagraph (2), the holder of an allocation of Canadian imports for the current allocation period made by the Oil Import Appeals Board (who has not relinquished the same) shall receive an additional allocation equal to approximately 5.56 percent of the allocation made by the Oil Import Appeals Board. No additional allocation shall be in an amount which, when added to the regular allocation of the allocation holder, exceeds the qualified inputs of the allocation holder during the period October 1, 1970, through September 30, 1971.

[FR Doc.72–7757 Filed 5–19–72;8:50 am]

DEPARTMENT OF COMMERCE

Office of Foreign Direct Investments

[15 CFR Part 1000]

FOREIGN DIRECT INVESTMENT REGULATIONS

Notice of Proposed Rule Making

EDITORIAL NOTE: The Foreign Direct Investment Regulations appear in Title 15, Chapter X, Part 1000 of the Code of Federal Regulations (CFR). All sections of the Foreign Direct Investment Regulations contained in CFR are preceded by the designation "1000" (e.g. § 1000.312). The "1000" prefix has, for convenience, been eliminated from the section references contained in this notice. The abbreviations "DI" and "AFN" are used in this notice to refer to "direct investor" and "affiliated foreign national."

Notice is hereby given that the Office of Foreign Direct Investments (the "Office") proposes to make certain amendments to the Foreign Direct Investment Regulations (the "regulations"). The amendments relieve restrictions or are editorial in nature, and consequently will become effective as of the date of publication in final form in the FEDERAL REGISTER. Prior to the adoption of these amendments, consideration will be given to any comments, data, views, arguments, or suggestions pertaining thereto which are submitted in writing and received by the Office on or before Friday, June 16, 1972. Such comments or suggestions should be directed to the Chief Counsel, Office of Foreign Direct Investments, Department of Commerce, Washington, D.C. 20230.

The proposed amendments will (i) permit substitution of foreign borrowing by a DI for borrowing by the DI from its overseas finance subsidiary (OFS), and vice versa, (ii) provide for the assumption by a DI of obligations incurred by its OFS, (iii) provide greater flexibility for holding and allocation of available proceeds of long-term foreign borrowing, and (iv) extend the period for DI's to engage in transactions in order to comply with the regulations during 1972. In addition, corrections and other editorial changes are made. The amendments are described below in the order of their appearance in the regulations.

Prior to allocating available proceeds of long-term foreign borrowing under section 306(e), many DI's have used such proceeds for domestic purposes. Thereafter, proceeds that were not specifically distinguishable could not be held in the form of liquid foreign balances under the section 203(c) exemption for available proceeds, although the amount of such proceeds remained available for allocation. Under the proposed amendment to section 203(c), the exemption for available proceeds will correspond to the amount that is available for allocation.

Many DI's have expended available proceeds of long-term foreign borrowing in making transfers of capital, although their allowables were sufficient to authorize positive direct investment without the deduction for expenditure of available proceeds that is now required under section 313(d)(1). In cases where the DI elected the historical or earnings allowables under section 504, the unneeded deduction for the expenditure of available proceeds was remedied by the carryforward allowable which it generated. A DI which elected the minimum allowable under section 503 or section 507, however, has been unable to carry forward unused allowable. The proposed revocation of section 313(d)(1) will remove this barrier to the free use of funds for transfers of capital that are within a DI's allowables. Expended proceeds of long-term foreign borrowing will remain available for allocation under section 306(e) when required for compliance. Correspondingly, an amendment to section 306(e) is proposed to permit expenditure of available proceeds in making transfers of capital to affiliated foreign nationals, without deduction, at any time before or after the allocation of such proceeds.

The revocation for 1971 of the prohibition against a positive net transfer of capital under section 203(d)(1) would be made permanent under the proposed amendments. The 2-month allocation and negative transfer of capital provisions that applied only to the 1971 compliance year would be retained in substantially the same form for the 1972 compliance year in sections 306(e)(1) and 313(e), respectively. Under the proposed amendment to section 306(e)(1), a DI will be permitted to deduct from positive direct investment made during 1972 an amount equal to available proceeds of long-term foreign borrowing (or proceeds borrowing from its OFS) made on or before February 28, 1973. Under the proposed amendment to section 313(e), a DI will be permitted to treat as repaid during 1972 any debt obligations or other credits of AFN's

that are outstanding on December 31, 1972, and are in fact repaid by the AFN's to the DI during the month of January 1973 or, as alternatively elected by the DI, during January and February 1973. The aggregate amount of repayments receiving this prior-year treatment may not exceed the worldwide negative net transfer of capital to all non-Canadian AFN's that is made by the DI during the period elected.

Under section 3(a) of the Interest Equalization Tax Extension Act of 1971 (the "Act"), a U.S. person may assume certain debt obligations incurred by a finance subsidiary and elect under section 4912(c) of the Internal Revenue Code of 1954, as amended (IRC) to have such obligations treated as obligations of a foreign obligor. The acquisition by U.S. persons of such obligations is subject to the Interest Equalization Tax. The election is also available with respect to certain debt obligations issued by U.S. corporations and partnerships. Under this procedure, interest payments to nonresident aliens and foreign corporations are not subject to withholding of U.S. income tax at source. It is recognized that a substantial U.S. balance of payments benefit will be realized upon return of OFS equity capital to the United States following assumption by U.S. persons of indebtedness incurred by the OFS's. In order to further this objective, various legislative proposals are at present under consideration to supplement the provisions of the Act. H.R. 9040 would accommodate U.S. estate tax provisions to the section 4912(c) election procedure. In a memorandum for DI's dated April 14, 1971, the Office requested comments on the effect of the election and assumption provisions of the Act upon the treatment of OFS's under the regulations. The Office now proposes to amend the regulations to facilitate the assumption by a DI of obligations incurred by its OFS (section 1407), and also to permit the interchange of DI and OFS borrowing (section 1406).

Additional proposed changes in the regulations will (i) correct the numbering of citations contained in sections 304 and 505(c), (ii) reflect the revocation of section 313(d)(1), and (iii) clarify the meaning of section 1405(c).

The proposed amendments are described in greater detail as follows:

1. *Liquid foreign balance exemption for available proceeds.* Amended section 203(c) provides that a DI must limit the amount of non-Canadian liquid foreign balances held at the end of any month to an amount determined by adding together (1) the amount of the DI's available proceeds of long-term foreign borrowing, calculated at the end of such month under section 324, plus (2) a minimum amount of $100,000 or, if greater, the average end-of-month amount of non-Canadian liquid foreign balances (excluding available proceeds) that were held by the direct investor during 1965 and 1966.

Under amended section 203(c) the average amount of historical liquid foreign balances of the DI is calculated in the same manner as the calculation under the present section 203(c), i.e., both Canadian foreign balances and available proceeds are excluded from the calculation of the historical amount. Consequently, DI's will not be required to recalculate this amount as reported on Forms FDI–102 previously filed with the Office.

2. *Revocation of prohibition against positive net transfer of capital.* Section 203(d)(1) prohibits a DI electing historical or earnings allowables from making a positive net transfer of capital during a year at the end of which the DI holds available proceeds in the form of foreign property. It is proposed that this section, which was revoked for compliance year 1971, be permanently revoked.

3. *Definition of affiliated foreign national.* Sections 304 and 505(c) are amended to correct citation errors within the sections.

4. *Allocation and expenditure of available proceeds.* Section 313(d)(1) is revoked, thereby removing from the regulations the mandatory deduction for expenditure of available proceeds of long-term foreign borrowing. Instead, available proceeds that are expended by a DI in making a transfer of capital will remain available for allocation and may be allocated as required by the DI to achieve compliance with the regulations. A corresponding amendment to section 306(e) permits proceeds that are expended and subsequently allocated to remain expended in the AFN to which the transfer of capital was made by the DI. Except for proceeds that are expended in making a transfer of capital, however, the prohibition against holding allocated proceeds in any form of foreign property remains in effects.

DIs are cautioned that deductions under section 313(d)(1) must be made for all transfers of capital made with available proceeds prior to the effective date of these amendments. Available proceeds that were so expended prior to the effective date may not be allocated to positive direct investment under amended section 306(e)(1). Also, the repayment of long-term foreign borrowing at any time will continue to involve a transfer of capital under section 312(a)(7) or section 1404(a)(2) to the extent that a deduction for expenditure of available proceeds of such borrowing was made under section 313(d)(1). Amended section 203(d)(2) provides for allocation where a deduction for expenditure of available proceeds previously was made under section 313(d)(1). Amended section 1404(a)(2) provides for the recognition of a transfer of capital upon repayment of an overseas borrowing where a deduction for expenditure of available proceeds previously was made under section 313(d)(1).

5. *Allocation to 1972 positive direct investment.* The proposed amendment to section 306(e)(1) will permit a DI to deduct from positive direct investment made during 1972 an amount equal to any available proceeds of long-term foreign borrowing (or proceeds borrowing from the DI's overseas finance subsidiary) made on or before February 28, 1973, that are allocated to such positive direct investment, provided (1) the DI makes the appropriate bookkeeping entries for allocation, (2) the allocation and deduction are reported on the DI's Form FDI–102F for 1972, and (3) the proceeds, as of February 28, 1973, are not held, directly or indirectly, in any form of foreign property. However, the proceeds may be expended by the DI in making a transfer of capital to an AFN at any time on or after the effective date of these amendments.

Thus, a DI may reduce positive direct investment made during 1972 by allocating available proceeds of any long-term foreign borrowing that is outstanding on February 28, 1973. Such borrowing may be made during January or February 1973, or may have been made by the DI during 1972 or a prior year. The 12-month maturity test for long-term foreign borrowing will, of course, apply to any borrowing of which available proceeds are allocated, i.e., the borrowing, as refinanced, must be continuously outstanding for at least 12 months.

It should be noted by DI's that they may still allocate to positive direct investment made during 1972 any proceeds that are available for allocation on December 31, 1972, notwithstanding the repayment of the underlying long-term foreign borrowing during January or February 1973. Such repayment will involve a transfer of capital during 1973.

6. *Repayment of debt by AFN to DI.* The proposed amendment to section 313(e) will permit a DI, in calculating a net transfer of capital made during 1972, to treat as repaid during 1972 any debt obligation or other credit of an AFN that was outstanding on December 31, 1972, and is in fact repaid by the AFN to the DI during January or February 1973. The aggregate amount of repayments receiving this prior-year treatment may not exceed the worldwide negative net transfer of capital to all non-Canadian AFN's that is made by the DI during such 2-month period. If the DI makes a positive net transfer of capital to all non-Canadian AFN's during such period, prior-year treatment of repayments is not available.

Alternatively, a DI may treat as repaid during 1972 any debt obligation or other credit of an AFN that was outstanding on December 31, 1972, and is in fact repaid by the AFN to the DI on or before January 31, 1973. If the DI elects this 1-month period, the aggregate amount of repayments receiving prior-year treatment may not exceed the worldwide negative net transfer of capital to all non-Canadian AFN's that is made by the DI during January 1973. Prior-year treatment is not available under this alternative if the DI makes a positive net transfer of capital to all non-Canadian AFN's during January.

In calculating the net transfer of capital to determine whether prior-year treatment of repayments is available, the aggregate of all transfers of capital made during the relevant 1- or 2-month period by all non-Canadian incorporated AFN's

to the DI is subtracted from the aggregate of all transfers of capital made during such period by the DI to its non-Canadian incorporated AFN's, and the result is added to the net transfer of capital made by the DI to all of its non-Canadian unincorporated AFN's during such period. This calculation is made on a worldwide basis by all DI's, without regard to the election of worldwide or schedular allowables for 1972. Transfers of capital resulting from the repayment of long-term foreign borrowing during the 1- or 2-month period must be included. A DI shall exclude from this calculation any transfers of capital that are deemed to occur as the result of conditions imposed by specific authorization or compliance settlement.

If a DI makes a negative net transfer of capital, calculated as described above, repayments of qualifying debt obligations or other credits by AFN's to the DI during the 1- or 2-month period in 1973 that is elected for such purpose may be treated as having been made from their respective scheduled areas during 1972. The aggregate amount of repayments selected by the DI to receive such prior-year treatment may not exceed the worldwide negative net transfer of capital. However, such repayments are not required to be made from a particular scheduled area in which there is a negative net transfer of capital.

The effect of prior-year treatment of repayments is to reduce direct investment made by the DI during 1972 for all purposes, including compliance and the calculation of amounts specifically authorized. For example, prior-year treatment may reduce the amount of merchandise export credit relief available under a specific authorization issued for 1972. It should be noted that repayments during 1973 that are treated as having occurred during 1972 will be excluded from the calculation of direct investment made during 1973, which will increase correspondingly.

7. *Authorized repayment of overseas borrowing.* Amended section 1405(c) clarifies the inclusion of repayment of overseas borrowing within the meaning of the term "transfer of capital" as used in section 1002 (b) and (c).

8. *Interchange of borrowing by DI and OFS.* Under proposed section 1406, a DI may substitute foreign borrowing for borrowing by the DI from its OFS, or vice versa, and treat the later borrowing as a continuance of the borrowing for which it was substituted. The two types of borrowing that may be interchanged under section 1406 are (i) foreign borrowing, as defined in section 324(a)(1), and (ii) proceeds borrowing as defined in section 1401(e), or borrowing by a DI from its OFS that would qualify as proceeds borrowing under section 1401 (e) if such borrowing and the underlying borrowing by the OFS were continuously outstanding for at least 12 months. All or a portion of a borrowing of one type may be substituted for an equal amount of the other type of borrowing. A borrowing that is substituted for an earlier borrowing must be made on or before the date of repayment of the earlier borrowing. The DI must record as substitution on the books and records required under sections 203(b), 601 and 1402(b).

The original and substitute borrowings are tacked together for the purpose of determining the period during which the original borrowing is treated as having been outstanding. Substitution may be used to qualify a foreign borrowing as long-term foreign borrowing under section 324(a)(2), or to qualify a borrowing by a DI from its OFS as proceeds borrowing under section 1401(e). The borrowing for which another borrowing has been substituted may be repaid to the extent of the substitution without any reduction of available proceeds or charge for a transfer of capital. A borrowing by an OFS underlying a borrowing by the DI from the OFS may likewise be repaid without any reduction of available proceeds or charge for a transfer of capital, to the extent that foreign borrowing is substituted for the borrowing by the DI from the OFS.

Although a substitute borrowing is treated as a continuance of the earlier borrowing, the repayment of the substitute borrowing will have the effect provided under the regulations for repayment of the substitute type of borrowing. Thus, foreign borrowing that is substituted for borrowing by the DI from its OFS may qualify the earlier borrowing as proceeds borrowing under section 1401(e), but the repayment of the foreign borrowing will reduce proceeds as provided under section 324(c) or involve a transfer of capital under section 312 (a)(7). Similarly, a proceeds borrowing that is substituted for foreign borrowing may qualify the foreign borrowing as a long-term foreign borrowing under section 324(a)(2), but the repayment of the proceeds borrowing will have the effect provided under section 1404.

8. *Assumption by a DI of borrowing by its OFS.* The Office proposes to add to the regulations a new section 1407 under which a DI making an election under IRC section 4912(c) may assume an obligation of its OFS to repay overseas borrowing or borrowing that would qualify as overseas borrowing if it were continuously outstanding for at least 12 months. Under section 1407, the effect of an assumption of overseas borrowing will be determined by serial application of the following rules:

(i) To the extent of available overseas proceeds held by the OFS at the time of the assumption, the DI will be charged with a transfer of capital to the OFS. At the same time, however, the assumption will constitute a foreign borrowing by the DI in an amount equal to the DI's transfer of capital to the OFS. If such borrowing qualifies as long-term foreign borrowing under section 324(a)(2), available proceeds thereof may be deducted from positive direct investment by allocation under section 306(e).

(ii) In proportion to and to the extent of overseas proceeds which, prior to the time of the assumption, have been transferred by the OFS under section 1403 (a)(2) to other AFN's of the DI, the DI will be charged with transfers of capital to such AFN's. The assumption will also constitute a foreign borrowing by the DI in an amount equal to the total transfers of capital to such AFN's. If such borowing qualifies as long-term foreign borrowing under section 324(a)(2), available proceeds thereof may be deducted from positive direct investment by allocation under section 306(e).

(iii) To the extent of overseas proceeds which, prior to the time of assumption have been transferred to the DI in proceeds borrowing under section 1403 (a)(1), the DI will not be charged with a transfer of capital. The assumption will constitute a foreign borrowing by the DI which has been substituted for proceeds borrowing under section 1406. The foreign borrowing involved in the assumption will be treated as a continuance of the borrowing by the DI from its OFS that is repaid (without effect under the regulations) in connection with the assumption.

(iv) Any additional amount of assumed obligation that is not covered under paragraphs (i) through (iii) will constitute foreign borrowing by the DI, but not a transfer of capital. Ordinarily such amount will correspond to the difference between the aggregate principal amount of the obligation that was assumed and the amount of funds or other property received by the OFS after the initial offering expenses were deducted.

Finally, an assumption will reduce overseas proceeds of the overseas borrowing which the DI has obligated itself to repay by the amount of the assumed obligation or the amount of such overseas proceeds, whichever is less.

The above rules, appropriately adjusted, apply also to assumption of borrowing that would qualify as overseas borrowing if outstanding for at least 12 months.

Any assumption of an OFS's debt obligation under section 1407 must be recorded by the DI in the books and records required to be maintained under sections 203(b) and 1402(b). The DI should identify the specific borrowing it has become obligated to repay and reflect its application of the rules of sections 1406 and 1407 to the assumption.

The Office does not propose to add any provision to the regulations relating to a DI's assumption of debt obligations of an international finance subsidiary (IFS), as defined in section 323(a). A DI and its IFS are considered a single person under section 323(b). Any assumption of an IFS's obligation, if made pursuant to an election under IRC section 4912(c), would not bring about any change in a DI's foreign borrowing under section 324.

9. *Effect on 1970 General Bulletin and Supplement No. 1.* The "1970 General Bulletin" and "Supplement No. 1" thereto interpret the regulations as in effect for 1971 and will continue to do so for 1972 to the extent not affected by these or any subsequent amendments. Material in these documents relating to the holding, allocation, and expenditure of available proceeds of long-term foreign borrowing, and to OFS's, should be used

carefully in view of these proposed amendments.

The revised and added provisions read as follows:

1. Section 1000.203 is amended to read as follows:

§ 1000.203 Liquid foreign balances.

* * * * *

(c) Each direct investor is hereby required to limit the amount of liquid foreign balances held at the end of any month (other than Canadian foreign balances, as defined in § 1000.1105(a)) to the sum of (1) the amount of available proceeds (as defined in § 1000.324(d)) of such direct investor at the end of such month, plus (2) the greater of (i) the average end-of-month amount of such balances (other than available proceeds in the form of such balances, and Canadian foreign balances) held by such direct investor during 1965 and 1966 (whether or not a direct investor at that time) or (ii) $100,000.

(d) (1) [Revoked]

(2) A direct investor which, during 1968 or any succeeding year, expended proceeds of long-term foreign borrowing and made a deduction from net transfer of capital to a scheduled area under § 1000.313(d)(1) may thereafter deduct, during 1969 or any succeeding year, from positive direct investment in a different scheduled area, an amount equal to all or a part of such expended proceeds as are allocated pursuant to this subparagraph. Proceeds shall be allocated in a different scheduled area pursuant to this subparagraph if (i) an entry is made in the books and records maintained by the direct investor under paragraph (b) of this section and § 1000.601; (ii) the allocation and the deduction from positive direct investment in a different scheduled area are reported on the next annual report of the direct investor (Form FDI–102F) filed for the year for which the deduction is made; and (iii) the proceeds with respect to which such deduction is made, as of the end of the year for which the deduction is made and thereafter, are not held, directly or indirectly, in the form of foreign balances or in the form of securities (including debt obligations, equity interests and any other type of investment contract) of foreign nationals or in the form of any other foreign property: *Provided*, That such proceeds may remain expended in an affiliated foreign national or again be expended at any time in making transfers of capital to affiliated foreign nationals. The direct investor shall be deemed at the time of such deduction from positive direct investment in a different scheduled area to have made a transfer of capital equal to the amount of such deduction to the scheduled area in which the deduction from net transfer of capital under § 1000.313(d)(1) was previously made. The direct investor may thereafter continue to change the scheduled area in which a deduction from positive direct investment is made, up to the amount of proceeds of long-term foreign borrowing expended in making the original transfer of capital for which a deduction under § 1000.313(d)(1) was made: *Provided*, That each time such change occurs, the direct investor shall be deemed to have made a transfer of capital to the immediately previous scheduled area in the amount of the deduction from positive direct investment in the subsequent scheduled area.

* * * * *

2. Section 1000.304 is amended to read as follows:

§ 1000.304 Affiliated foreign national.

* * * * *

(b)(1) A corporation or partnership referred to in paragraph (a)(1) of this section is an affiliated foreign national in the scheduled area in which the foreign country under whose laws it is organized is located. A business venture referred to in paragraph (a) (2) and (3) of this section is an affiliated foreign national in the scheduled area in which the business is conducted: *Provided*, That, if such a business venture is conducted in more than one scheduled area during any year, the scheduled area in which the business venture is conducted for the greatest period of time during such year shall, for purposes of this section, be deemed the only scheduled area in which the business venture is conducted during such year.

(2) The term "10 percent interest," when used with respect to any corporation, partnership or business venture referred to in paragraph (a) of this section, means (i) 10 percent or more of the total combined voting power of all outstanding securities of such corporation or (ii) 10 percent or more of the profit interest in such partnership or business venture. Whether a person within the United States directly or indirectly owns a 10 percent interest in a corporation, partnership or business venture referred to in paragraph (a) of this section shall be determined in accordance with the provisions of §§ 1000.901 and 1000.902.

(3) For purposes of this part, the term "incorporated affiliated foreign national" includes a corporation described in paragraph (a)(1) of this section and the term "unincorporated affiliated foreign national" includes a partnership described in paragraph (a)(1) of this section and a business venture described in paragraph (a) (2) or (3) of this section.

(4) Notwithstanding the provisions of paragraph (a) of this section and the foregoing provisions of this paragraph (b), the Secretary retains full power, with respect to any person within the United States, to determine that any person is an affiliated foreign national of such person within the United States and to determine the scheduled area in which such affiliated foreign national is located.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a corporation, partnership or business venture referred to in paragraph (a) of this section shall not be considered an affiliated foreign national of a person within the United States if the operations of such corporation, partnership or business venture consist solely of charitable, educational, religious, scientific, literary or other similar activities not engaged in for profit.

(d) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a business venture referred to in paragraph (a) (2) or (3) of this section shall not be considered an affiliated foreign national of a person within the United States during any year if (1) the business venture does not have or involve, at any time during such year, gross assets of more than $50,000 (valued at the greatest of cost, book value, replacement value or market value); or (2) the business venture is commenced during such year and is not reasonably expected to be conducted within one or more foreign countries for more than 12 consecutive months; or (3) the business venture is terminated during such year and was not in fact conducted within one or more foreign countries for more than 12 consecutive months.

3. Section 1000.306(e) is amended to read as follows:

§ 1000.306 Positive and negative direct investment.

* * * * *

(e)(1) There shall be deducted from positive direct investment in a scheduled area during any year, as calculated under paragraph (a) of this section, an amount equal to any available proceeds (as defined in § 1000.324(d)) allocated by the direct investor to such positive direct investment for such year. Available proceeds shall be allocated to such positive direct investment for such year if (i) an entry is made in the books and records maintained by the direct investor under §§ 1000.203(b) and 1000.601; (ii) the allocation and deduction is reported on the next annual report of the direct investor (Form FDI–102F) filed for the year for which the deduction is made; and (iii) the proceeds, as of the end of the year for which the deduction is made and thereafter, are not held, directly or indirectly, in the form of foreign balances or in the form of securities (including debt obligations, equity interests and any other type of investment contract) of foreign nationals or in the form of any other foreign property: *Provided*, That proceeds so allocated may at any time be expended in making transfers of capital to affiliated foreign nationals. In addition, available proceeds of long-term foreign borrowing made on or before February 28, 1973 (including available proceeds so treated under § 1000.1403(a)(1) as the result of proceeds borrowing made on or before February 28, 1973) shall be allocated to such positive direct investment for the year 1972 if bookkeeping entries and a report on Form FDI–102F for 1972 are made with respect to such allocation, as required under this section, and such proceeds, as of February 28, 1973, are not held, directly or indirectly, in the form of foreign balances or in the form of securities of foreign nationals or in the form of any other foreign property: *Provided*, That proceeds so allocated may at any time be expended in making transfers of capital to affiliated foreign nationals.

(2) [Revoked]

* * * * *

4. Section 1000.313 (d) and (e) are amended to read as follows:

§ 1000.313 Net transfer of capital.

* * * * *

(d) In calculating the amount of the net transfer of capital made by a direct investor to a scheduled area during any period (including the years 1965 and 1966) pursuant to paragraph (c) of this section:

(1) [Revoked] [1]

(2) There shall be included all transfers of funds or other property as a result of which the direct investor became a direct investor in any affiliated foreign national and all transfers of funds or other property to or on behalf of or for the benefit of such affiliated foreign national made by or on behalf of or for the benefit of such direct investor within 12 months (whether or not during the period for which the calculation is being made) prior to the date of the transfer by which it became a direct investor in such affiliated foreign national, to the same extent as if the direct investor had been a direct investor in such affiliated foreign national during such 12-month period.

(e)(1) In calculating the amount of the net transfer of capital made by a direct investor to all affiliated foreign nationals in any scheduled area during the year 1972, the direct investor may include transfers of capital by incorporated affiliated foreign nationals and decreases in net assets of unincorporated affiliated foreign nationals in such scheduled area that are recognized upon repayments of debt obligations outstanding as of December 31, 1972, by such affiliated foreign nationals to the direct investor during January 1973 or, as alternatively elected by the direct investor, during January and February 1973: *Provided*, That the direct investor has made a worldwide negative net transfer of capital during the period elected under this section: *And provided further*, That the aggregate amount of such transfers of capital and decreases in net assets included in calculating the amounts of the net transfers of capital made by the direct investor during the year 1972 does not exceed the amount of such worldwide negative net transfer of capital.

(2) The worldwide net transfer of capital by a direct investor during the period elected by the direct investor under this section means the algebraic sum of the net transfers of capital by the direct investor to all incorporated and unincorporated affiliated foreign nationals in all scheduled areas during such period.

(3) Any transfer of capital or decrease in net assets that is included in calculating the amount of a net transfer of capital made by a direct investor to all affiliated foreign nationals in any scheduled area during the year 1972 pursuant to this section shall be excluded in calculating the amount of the net transfer of capital made by the direct investor to such affiliated foreign nationals in such scheduled area during the year 1973.

5. Section 1000.505(c) is amended to read as follows:

§ 1000.505 Transfers between affiliated foreign nationals.

* * * * *

(c) For purposes hereof, the immediate parent of a partnership referred to in § 1000.304(a)(1) is the direct investor or affiliated foreign national which is the partner, the immediate parent of a business venture referred to in § 1000.304(a)(2) is the direct investor, and the immediate parent of a business venture referred to in § 1000.304(a)(3) is the corporation or partnership on whose behalf the business venture is conducted.

6. Section 1000.1404(a)(2) is amended to read as follows:

§ 1000.1404 Repayment of overseas borrowing and proceeds borrowing.

(a) * * *

(2) The amount of any repayment by the direct investor or overseas borrowing or proceeds borrowing that exceeds the aggregate amount of reduction of available proceeds pursuant to subparagraph (1) of this paragraph shall constitute a transfer of capital to each scheduled area in proportion to and to the extent that the direct investor has expended or allocated to each such scheduled area available proceeds of long-term foreign borrowing and has made a deduction under § 1000.203(d)(2), § 1000.203(d)(3), § 1000.306(e), or § 1000.313(d)(1). Overseas proceeds so expended or allocated shall be reduced in the amount of transfers of capital to scheduled areas prescribed by this subparagraph.

* * * * *

7. Section 1000.1405(c) is amended to read as follows:

§ 1000.1405 Authorized repayments.

* * * * *

(c) For the purposes of § 1000.1002 (b) and (c), the term "transfer of capital" shall include a transfer of capital attributable to a repayment of overseas borrowing pursuant to § 1000.1404(a).

* * * * *

8. Section 1000.1406 is added:

§ 1000.1406 Substitution of borrowing.

(a) To the extent that a foreign borrowing (as defined in § 1000.324(a)(1)) is substituted for a proceeds borrowing, as defined in § 1000.1401(e), or for other borrowing by a direct investor from its overseas finance subsidiary that would qualify as a proceeds borrowing under § 1000.1401(e) if such borrowing and the underlying borrowing by the overseas finance subsidiary were continuously outstanding for at least 12 months, such foreign borrowing shall, for the purposes of this part, be treated as a continuance of such proceeds borrowing or other borrowing by the direct investor from its overseas finance subsidiary: *Provided*, That repayment of such foreign borrowing shall reduce proceeds of long-term foreign borrowing or involve a transfer of capital, or both, as prescribed under §§ 1000.324(c) and 1000.312(a)(7).

(b) To the extent that a proceeds borrowing, as defined in § 1000.1401(e), or other borrowing by a direct investor from its overseas finance subsidiary that would qualify as a proceeds borrowing under § 1000.1401(e) of such borrowing and the underlying borrowing by the overseas finance subsidiary were continuously outstanding for at least 12 months, is substituted for a foreign borrowing (as defined in § 1000.324(a)(1)), such proceeds borrowing or other borrowing by the direct investor from its overseas finance subsidiary shall, for the purposes of this part, be treated as a continuance of such foreign borrowing: *Provided*, That repayment of such borrowing from the overseas finance subsidiary or underlying foreign borrowing shall have the effect prescribed under § 1000.1404 and shall be authorized as provided by § 1000.1405.

(c) A substitution under paragraph (a) or (b) of this section shall be made on the books and records maintained by the direct investor under §§ 1000.203(b), 1000.601, and 1000.1402(b).

9. Section 1000.1407 is added:

§ 1000.1407 Assumption of debt obligation incurred by overseas finance subsidiary.

(a) To the extent that a direct investor, pursuant to an election under section 4912(c) of the Internal Revenue Code of 1954, as amended, assumes the obligation to repay overseas borrowing incurred by an overseas finance subsidiary, such assumption shall have the effect prescribed by subparagraphs (1) through (5) of this paragraph:

(1) To the extent of available overseas proceeds of such overseas borrowing held by the overseas finance subsidiary at the time of assumption, such assumption shall constitute a transfer of capital by the direct investor to the overseas finance subsidiary.

(2) The amount of such assumption that exceeds the amount of the transfer of capital pursuant to subparagraph (1) of this paragraph shall constitute a transfer of capital by the direct investor to each scheduled area in proportion to and to the extent of the amount of overseas proceeds of such overseas borrowing that have, prior to the time of the assumption, been transferred by the overseas finance subsidiary to other affiliated foreign nationals in such scheduled area pursuant to § 1000.1403(a)(2).

(3) The amount of such assumption that exceeds the aggregate amount of transfers of capital to subparagraphs (1) and (2) of this paragraph shall constitute foreign borrowing substituted for proceeds borrowing pursuant to § 1000.1406(a) to the extent that overseas proceeds of such overseas borrowing have, prior to the time of the assumption, been

[1] All references to § 1000.313(d)(1) refer to that section prior to its revocation on , 1972. Former § 1000.313(d)(1) read as follows:

"(1) There shall be deducted an amount equal to the proceeds of long-term foreign borrowing actually expended in making transfers of capital to affiliated foreign nationals in such scheduled area during such period."

transferred by the overseas finance subsidiary to the direct investor in a proceeds borrowing, as defined in § 1000.1401(e).

(4) The amount of such assumption that exceeds the amount of substituted foreign borrowing pursuant to subparagraph (3) of this paragraph shall constitute foreign borrowing made by the direct investor on the date of the assumption.

(5) Overseas proceeds of such overseas borrowing shall be reduced by the amount of such assumption or the amount of such proceeds, whichever is less.

(b) To the extent that a direct investor, pursuant to an election under section 4912(c) of the Internal Revenue Code of 1954, as amended, assumes the obligation to repay borrowing incurred by an overseas finance subsidiary that would qualify as overseas borrowing if it were continuously outstanding for at least 12 months, such assumption shall have the effect prescribed by subparagraphs (1) through (4) of this paragraph:

(1) To the extent that proceeds of such borrowing by the overseas finance subsidiary are held by the overseas finance subsidiary at the time of assumption, such assumption shall constitute a transfer of capital by the direct investor to the overseas finance subsidiary.

(2) The amount of such assumption that exceeds the amount of the transfer of capital pursuant to subparagraph (1) of this paragraph shall constitute a transfer of capital by the direct investor to each scheduled area in proportion to and to the extent of the amount of proceeds of such borrowing by the overseas finance subsidiary that have, prior to the assumption, been transferred by the overseas finance subsidiary to other affiliated foreign nationals in such scheduled area pursuant to § 1000.1403(a)(2).

(3) The amount of such assumption that exceeds the aggregate amount of transfers of capital pursuant to subparagraphs (1) and (2) of this paragraph shall constitute foreign borrowing substituted for borrowing by a direct investor from its overseas finance subsidiary pursuant to § 1000.1406(a) to the extent that proceeds of such borrowing by the overseas finance subsidiary have, prior to the assumption, been transferred by the overseas finance subsidiary to the direct investor in a borrowing that would qualify as proceeds borrowing under § 1000.1401(e) if such borrowing and the underlying borrowing by the overseas finance subsidiary were continuously outstanding for at least 12 months.

(4) The amount of such assumption that exceeds the amount of substituted foreign borrowing pursuant to subparagraph (3) of this paragraph shall constitute foreign borrowing made by the direct investor on the date of assumption.

(c) An assumption under paragraph (a) or (b) of this section shall be reported on the books and records maintained by the direct investor under §§ 1000.203(b), 1000.601 and 1000.1402(b).

(Sec. 5, Act of Oct. 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; E.O. 11387, Jan. 1, 1968, 33 F.R. 47)

The amendments hereby adopted shall be effective as of the date of publication in final form in the FEDERAL REGISTER.

WILLIAM V. HOYT,
Director, Office of Foreign Direct Investments.

MAY 17, 1972.

[FR Doc.72-7700 Filed 5-19-72;8:50 am]

DEPARTMENT OF LABOR

Office of Labor-Management and Welfare-Pension Reports

[29 CFR Part 460]

DESCRIPTION OF EMPLOYEE WELFARE OR PENSION BENEFIT PLANS

Proposed Additional Reporting Requirements; Notice of Hearing

On February 1, 1972, notice was published in the FEDERAL REGISTER (37 F.R. 2443) of a proposed revision of Department of Labor regulations governing the filing of pension plan descriptions under the Welfare and Pension Plans Disclosure Act, and Form D–1, entitled "Employee Welfare or Pension Benefit Plan Description Form." The proposal would require administrators of pension plans to furnish participants with a comprehensive description of such plans, to notify them of the availability of copies of the plan, and to notify them of amendments to the plan. Pursuant to the notice a considerable number of comments were received, and a number of persons requested a public hearing or an opportunity to amplify their written comments orally.

In order to accommodate the persons who have requested a hearing, as well as others who might also desire an opportunity to be heard, the Department of Labor will hold a public hearing on the proposal. The hearing will be held at 10 a.m. on June 26, 1972, in Conference Room B, Interdepartmental Auditorium, Constitution Avenue, between 13th and 14th Streets NW., Washington, D.C. 20210. The hearing will continue on June 27 and 28, if necessary. Persons desiring to appear and to make an oral statement at the hearing shall give written notice of such intent not later than June 10, 1972, to the Director, Office of Labor-Management and Welfare-Pension Reports, Room 801, 8701 Georgia Avenue, Silver Spring, MD 20910. The notice shall identify the person desiring to be heard, the approximate amount of time wished to make a presentation and, if appearance is in a representative capacity, the entity or organization represented. In the event that a large number of persons indicate a desire to be heard and it appears that the hearing will extend over a considerable period of time, persons scheduled to testify will be notified of the approximate date and time set aside for their appearance.

The hearing will be informal in nature. Cross-examination and rebuttal comments will not be permitted. A transcript will be made. Any written submissions must be accompanied by at least 10 copies which will be made available to participants at the hearing, and must be received by June 16, 1972.

The proposal which is the subject matter of the hearing is as follows:

PROPOSED REVISION OF U.S. DEPARTMENT OF LABOR FORM D–1

It is proposed to revise the regulations (29 CFR Part 460) governing the filing of plan descriptions under the Welfare and Pension Plans Disclosure Act (29 U.S.C. 301), and the plan description form (Form D–1) entitled "Employee Welfare or Pension Benefit Plan Description Form" to require that the administrator of any employee pension plan subject to the provisions of the Act shall furnish a comprehensive description of the provisions of the plan relating to: The eligibility requirements to participate under the plan; the vesting provisions, including conditions under which vested benefits may be divested, sources of contributions, amount, period when due, whether by checkoff or direct payment; the benefits provided under the plan and the method by which they are computed; procedures to be followed in presenting claims for benefits and for appealing denial of claims; the effect of suspension or termination of contributions; the effect of merger or termination of the plan; details as to the administration of the plan; a description of the management and investment of plan funds; and any other provisions which relate to the participant's or beneficiary's rights or obligations under the plan. Such information shall be written in a manner calculated to be understood by the average participant or beneficiary.

If plan booklets are distributed to participants or beneficiaries, such booklets should also include the foregoing information.

Administrators of pension plans who have previously submitted a description of the plan to the Office of Labor-Management and Welfare-Pension Reports, Department of Labor, which does not include a description of the plan as proposed, shall submit either a revised description of the plan on the revised Form D–1 incorporating all current information required or shall submit an addendum to the Form D–1 originally filed containing the new information required. Such new description of the plan or such addendum shall be submitted within 120 days after the effective date of the amendment.

Whenever any such plan is amended to reflect a change in the information provided in the Form D–1, the amendment(s) shall also be written in a manner calculated to be understood by the average participant or beneficiary.

PROPOSED NOTIFICATION OF PLAN PARTICIPANTS AND BENEFICIARIES BY THE ADMINISTRATOR

It is proposed that the administrator of any plan which is subject to the provisions of the Act shall notify the participants or beneficiaries of such plan that, pursuant to the provisions of the Act, they are entitled to examine copies of the description of the plan and the latest annual report in the principal office of the plan, indicating the location of such office and the hours during which such reports will be available for examination, and that a copy of the description of the plan and an adequate summary of the annual report will be delivered to a plan participant or beneficiary upon receipt of a written request therefor by the administrator of the plan. Whenever such plan is amended and the amendment(s) might affect the substantive rights of plan participants or beneficiaries, the plan administrator shall notify the participants and beneficiaries as to the nature of the amendment(s) and advise them that a copy of the amendment(s) will be made available for examination at the principal office of the plan or, upon written request, be delivered to the participant or beneficiary.

Copies of the proposed Form D-1 and the proposed regulation (29 CFR Part 460) may be obtained by request to the Office of Public Information, U.S. Department of Labor, Washington, D.C. 20210.

Signed at Washington, D.C., this 11th day of May 1972.

W. J. USERY, Jr.,
Assistant Secretary of Labor for Labor-Management Relations.

[FR Doc.72-7692 Filed 5-19-72;8:50 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 42]

[Docket No. R-72-186]

CLAIMS AND PAYMENTS

Establishment of Grievance Procedures

Pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894; 42 U.S.C. 4601) the Department proposes to amend Title 24, Part 42 of the Code of Federal Regulations to include a new Subpart F entitled "Grievance Procedures Relating to Claims and Payments." This proposed subpart is intended to prescribe the Department's procedures for the implementation of section 213(b)(3) of the Act, which provides that any person aggrieved by a determination as to eligibility for a payment authorized by the Act or the amount of a payment may have his application reviewed by the head of the State agency receiving Federal financial assistance. This subpart would supersede § 42.190, which would be revoked. Principal provisions of the proposed subpart are summarized below:

Section 42.225 gives persons aggrieved by determinations regarding eligibility for or amount of relocation payments a right to such review by the head of the State agency receiving Federal financial assistance from the Department.

Section 42.235 details the procedures necessary to obtain such review.

Section 42.240 sets forth the elements which must be considered by a State agency in accomplishing this review, and the time limits for the issuance of a statement of findings upon review by the State agency.

Section 42.245 details the procedures for obtaining HUD review.

Section 42.250 sets forth the elements which must be considered by the HUD area office in accomplishing this review, and the time limit for the issuance of a statement of findings by the HUD area office.

Section 42.275 provides that this subpart is not intended to preclude review by the courts after completion of the administrative reviews.

Interested persons are invited to participate in the making of the proposed rules by submitting written data, views, or statements. Communications should be filed in triplicate with the Rules Docket Clerk, Office of General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. All relevant material received on or before June 22, 1972, will be considered before adoption of final rules. Copies of comments submitted will be available for examination during business hours at the above address.

The proposed amendments of 24 CFR Part 42 are as follows:

Subpart E—Administration

§ 42.190 [Revoked]

(1) Subpart E is amended to revoke § 42.190.

(2) A new Subpart F is added to read as follows:

Subpart F—Grievance Procedures Relating to Claims and Payments

AUTHORITY: The provisions of this Subpart F issued pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894; 42 U.S.C. 4601).

Subpart F—Grievance Procedures Relating to Claims and Payments

§ 42.220 Purpose.

The purpose of this subpart is to set forth the guidelines for processing appeals from State agency determinations as to eligibility for, or the amount of, a payment made under the regulations in this part.

§ 42.225 Right of appeal.

Any claimant, meaning a person aggrieved by a determination as to eligibility for, or the amount of, a payment under the regulations in this part, may have his claim reviewed and reconsidered by the head of the State agency or his designee (other than the person who made the determination in question) in accordance with the procedures set forth in this subpart, as supplemented by such procedures as the State agency shall have established for such review and reconsideration. Where such a person is not satisfied with the State agency's determination after such review and reconsideration, he is entitled to review of his claim by HUD. Any person or class of persons may similarly seek review and revision of any schedule with respect to payments under the regulations in this part.

§ 42.230 Notification to claimant.

If the State agency denies the eligibility of a claimant for a payment or disapproves the full amount claimed, or refuses to consider the claim on its merits because of untimely filing or any other ground, the State agency's notification to the claimant of its determination shall inform the claimant of its reasons therefor and shall also inform the claimant of the applicable procedures for the receipt and consideration by the State agency of an appeal by the claimant of the State agency's determination.

§ 42.235 Request for State agency review.

(a) *General.* Any person who has a right to seek review pursuant to § 42.225 may request the State agency to provide him with a full written explanation of its determination and the basis therefor if he feels that the explanation accompanying the payment of his claim or notice of the agency's determination was incorrect or inadequate. The State agency shall provide such an explanation to the claimant within 15 days of its receipt of claimant's request.

(b) *Informal presentation.* Upon request of the claimant, the State agency shall afford him an opportunity, if he so desires, to make an oral presentation prior to filing a written complaint pursuant to paragraph (c) of this section. This oral presentation shall enable the claimant to discuss his claim with the head of the State agency or a designee having the authority to revise the initial determination on the claim, other than the person who made the initial determination.

(c) *Time limits.* (1) A claimant desiring review and reconsideration of the

State agency's determination may file a written request for review with the State agency either (i) within 6 months of the agency's notification to the claimant of its determination or (ii) prior to final closeout of the project which caused the displacement, whichever is earlier, but in no event less than 21 days following the agency's notification to the claimant of its determination.

(2) The time period specified in subparagraph (1) of this paragraph shall be extended if necessary so that a claimant who previously requested a full written explanation pursuant to paragraph (a) of this section shall have no less than 21 days from his receipt of the written explanation within which to file his request for review and reconsideration.

(d) *Submission of additional material.* The claimant may include in his request for review any statement of facts within his knowledge or belief, or other material which he feels has a direct bearing on his appeal. If the claimant requests more time to gather, prepare, and submit additional material for consideration or review, he shall be granted an additional 21 days from the date of his request for review.

§ 42.240 State agency review.

(a) *Time limits.* The State agency shall issue a statement of its findings on review within 30 days from receipt of the last material submitted for consideration by the claimant in accordance with § 42.235, provided that in the case of complaints dismissed for untimeliness or for any other reason not based on the merits of the claim the State agency shall issue its statement of findings within 10 days from receipt of the last material submitted by the claimant.

(b) *Reconsideration by State agency.* The State agency shall reconsider its initial determination of the claimant's case in light of:

(1) All material upon which the State agency based its original determination including all applicable rules and regulations;

(2) The reasons given by the claimant for requesting reconsideration and review of his claim;

(3) Whatever additional written material has been submitted by the claimant; and

(4) Any further information which the State agency may, in its discretion, obtain by request, investigation, or research, to insure fair and full review of the claim.

(c) *Final determination on review by State agency.* The final determination on review by the State agency shall include, but is not limited to:

(1) The agency's decision on reconsideration of the claim;

(2) The factual and legal basis upon which its decision is based;

(3) Any pertinent explanation or rationale for its decision;

(4) A statement of claimant's right to seek within 25 days, further review of his claim by HUD and an explanation of the steps the claimant must take to obtain this review.

§ 42.245 Request for HUD review.

(a) *General.* Any person who believes himself aggrieved as the result of the final determination of his claim on review by the State agency may request HUD review of his claim. The request for HUD review shall be submitted to the Director of the appropriate HUD area office or, where there is no HUD area office, to the Regional Administrator of the appropriate HUD regional office. (Unless the context indicates otherwise, "Area Director" shall be used in this subpart to refer to the Regional Administrator where there is no area office.)

(b) *Time limit.* The claimant must file a written request for review of his claim with the Area Director within 25 days from the date of receipt of the statement of findings on review by the State agency.

(c) *Submission by claimant.* The claimant may include in his request for review by the Area Director any statement of facts within his knowledge or belief or other material which he feels will have a direct bearing on his claim. The claimant need not repeat arguments nor again submit material previously made available to the State agency for its review. Submissions by the claimant shall not be limited to those presented to the State agency for its review. If the claimant requests more time to gather, prepare, or submit additional material for review by the Area Director, he shall be granted an additional 21 days from the date of his request for HUD review.

(d) *Submission of State agency's file.* Upon receipt of a request for review by HUD, the Area Director shall forward a copy of such request by certified mail, return receipt requested, to the State agency which made the initial determination, and shall direct the State agency to submit a copy of the complete file of the claimant's case, including materials upon which the State agency based its decision. The State agency shall forward this material to the Area Director within 10 days of having been directed to do so.

§ 42.250 HUD review.

(a) *General.* The Area Director shall issue a statement of his findings on review within 30 days from the date of receipt of the last material submitted by the claimant in accordance with § 42.245 or the date of receipt of the complete file of claimant's case from the State agency, whichever is later.

(b) *Final determinations not based on merits.* A State agency's refusal to review a claim (e.g., because of claimant's failure to request such review within the required time period) shall be considered as a "final determination" and upon the claimant's request shall be reviewed by HUD. If the Area Director finds that the State agency's refusal to review the claim was unreasonable, the claim shall be remanded to the State agency for review on its merits within 30 days of the State agency's receipt of the remanded claim. If the State agency's refusal to hear the claim is not found to have been unreasonable, the Area Director shall so notify the claimant and inform him that he may have a right to judicial review.

(c) *Determination by Area Director.* The Area Director shall make his initial determination of the claimant's case in light of:

(1) All material upon which the State agency based its original determination including all applicable rules and regulations;

(2) The reasons given by the claimant for requesting reconsideration and review of his claim;

(3) Whatever written material has been submitted by the claimant; and

(4) Any further information which HUD may, in its discretion, obtain, by request, investigation, or research to insure a fair and full view of the claim.

(d) *Findings on review by HUD.* The statement of findings on review by HUD shall include, but need not be limited to:

(1) The Area Director's decision on reconsideration of the claim;

(2) The factual and legal findings upon which the decision is based;

(3) Any pertinent explanation or rationale for the decision;

(4) A statement of claimant's right to seek judicial review.

§ 42.255 Review procedure in connection with refusals to waive time limitation on filing of claims.

(a) *State agency review.* Whenever a State agency rejects a request by a claimant for a waiver of the time limits provided in § 42.60 for filing payment claims, a claimant may file a written request for review of this decision in accordance with the procedures set forth in §§ 42.235 and 42.240, except that such written request for review must be filed within 30 days of the State agency's determination. If after reviewing the claim the State agency determines that the time limits for filing claims should be waived, the State agency shall promptly request HUD concurrence in accordance with § 42.215 and the claimant shall be so informed.

(b) *HUD review.* If upon review the State agency determines that the time limits for filing claims should not be waived, the claimant should be so informed in accordance with § 42.240(c). If the claimant believes himself aggrieved by this determination, he may then file a written request, in accordance with the procedures of §§ 42.245 and 42.250, to the Director of the appropriate area office for a review of the reasonableness of the State agency's determination in refusing to grant the waiver. If the Area Director determines that there was good cause for the failure to file within the time period of §42.60, he shall then remand the claim to the State agency for consideration on the merits and the claimant shall be so informed. If the Area Director concurs in the State agency's determination that a waiver should not be granted, both the State agency and the claimant shall be notified, and the claimant shall be informed that he may have a right to judicial review.

§ 42.260 Extension of time limits.

The time limits specified in §§ 42.235 and 42.245 may be extended for good cause by the State agency or by the Area Director, respectively.

§ 42.265 Recommendations by third party.

Upon agreement between the claimant and the State agency, a mutually acceptable third party or parties may review the claim and make advisory recommendations thereon to the head of the State agency for its final determination. The agreement between the claimant and the State agency may provide for an extension of the time limit for State agency review set out in § 42.240(a). In reviewing the claim and making recommendations to the State agency, the third party or parties should be guided by the provisions of §42.240(b) and subparagraphs (1) through (3) of § 42.240(c). The requirements of these sections and of subparagraph (4) of § 42.240(c) remain fully applicable to the State agency.

§ 42.270 Construction of rules and regulations.

This subpart, and all applicable rules and regulations on which State agency and HUD determinations are based, shall be liberally construed so as to fulfill the statutory purpose as declared in section 201 of the Act of "fair and equitable treatment" in order that displaced persons "not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole."

§ 42.275 Right to counsel.

Any aggrieved party has a right to representation by legal or other counsel at his own expense at any and all stages of the proceedings set forth in this subpart.

§ 42.280 Right to judicial review.

Nothing in this subpart shall in any way preclude or limit a claimant from seeking judicial review or receiving a fair and impartial consideration of his claim on its merits upon exhaustion of such administrative remedies as are available to him under this subpart.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[FR Doc.72-7691 Filed 5-19-72;8:50 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-WA-28]

NEW YORK, N.Y., TERMINAL CONTROL AREA

Proposed Alteration

The Federal Aviation Administration (FAA) is considering amendments to Part 71 of the Federal Aviation Regulations that would alter the New York, N.Y., terminal control area (TCA) by reducing the size of the "Flushing cutout" and lowering the floor to 1,200 feet MSL and lowering the floor to 3,000 feet MSL in the vicinity of Grumman-Bethpage Airport.

These proposed amendments would allow LaGuardia Tower to use left turns for light aircraft departing runway 13 and right turns for light aircraft landing on runway 31. They will also expedite the movement of runway 13 departures using the Flushing Meadow Park noise abatement route. Use of the east shore of Little Neck Bay, rather than the LaGuardia VOR 6-mile DME arc, to define the eastern boundary of the "Flushing cutout" will enable pilots to recognize it by reference to prominent geographical features without recourse to instruments. In addition, the amendments will provide for expediting both Kennedy and LaGuardia arrival traffic on runways 22.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y., 11430. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

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

The airspace actions proposed in this docket would alter the New York, N.Y., terminal Control Area boundaries as follows:

AREA A

That airspace extending upward from the surface to and including 7,000 feet MSL within an 8-mile-radius circle of Kennedy (JFK) VORTAC; within a 4-mile-radius circle centered at lat. 40°41'30" N., long. 74°10'00" W.; and within a 6-mile-radius circle of LaGuardia. (LGA) VOR; excluding the airspace within and below Areas B, D, and J hereinafter described and excluding that portion of Area E between the east shore of Little Neck Bay and the 6-mile radius of the LGA VOR.

AREA B

That airspace extending upward from above 500 feet MSL to and including 7,000 feet MSL within an 8-mile-radius circle of JFK VORTAC S of a line beginning at the intersection of the JFK VORTAC 237° radial and the Atlantic Ocean Shoreline, thence east along the shoreline to its intersection with the JFK VORTAC 5-mile DME fix, thence north along the 5-mile DME arc to and east along the JFK VORTAC 094° radial to the 8-mile-radius circle of JFK VORTAC; that airspace within a 6-mile-radius circle of LGA VOR bounded by a line beginning at the intersection of the 6-mile-radius circle and the LGA VOR 039° radial, thence southwest along the LGA VOR 039° radial to and south along the Bronx shoreline to the north stanchion of the Throggs Neck Bridge, thence direct to the intersection of the LGA VOR 071° radial and the 6-mile-radius circle of LGA VOR, thence counterclockwise along the 6-mile-radius circle to the point of beginning; and that airspace between the 4-mile and the 6.5-mile radii of a circle centered at lat. 40°41'30" N., long. 74°10'00" W.; excluding the airspace within and below Areas C, D, and J hereinafter described.

AREA C

(No change)

AREA D

That airspace extending upward from above 1,100 feet MSL to and including 7,000 feet MSL within the 6-mile-radius circle of LGA VOR west of the east bank of the Hudson River; that airspace between the east and west banks of the East River southwest of the north end of Welfare Island; and that airspace within the 6.5-mile-radius circle centered at lat. 40°41'30" N., long. 74°10'00" W., of the Colts Neck VORTAC 012° radial.

AREA E

That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within the area bounded by a line beginning at the intersection of the 20-mile-radius circle of JFK VORTAC and the JFK VORTAC 208° radial, thence counterclockwise along the 20-mile arc to its intersection with the Long Island shoreline, thence southwest along the Long Island shoreline to and counterclockwise along the 13-mile-radius circle of JFK VORTAC to and counterclockwise along the 11-mile-radius circle of LGA VOR to the LGA VOR 351° radial, thence direct to the LGA VOR 283° radial at the LGA VOR 17-mile DME fix, thence counterclockwise along a 10-mile-radius circle centered at lat. 40°41'30" N., long. 74°10'00" W., to its intersection with the Colts Neck VORTAC 005° radial, thence direct to the intersection of the Colts Neck VORTAC 034° radial and the New Jersey shoreline at Sandy Hook, thence south along the New Jersey shoreline to the point of beginning; and that airspace within 2 miles each side of the Newark ILS Runway 4L localizer course, extending from the Chelsea outer marker to 6 miles southwest of the outer marker; and that airspace within a 6-mile-radius circle of the LGA VOR beginning at the intersection of the LGA VOR 071° radial and the 6-mile arc of LGA VOR, thence west via the 071° radial to the east shore of Little Neck Bay, thence south along the shoreline to the LGA 093° radial, thence east along the 093° radial to the LGA six-mile DME arc, thence counterclockwise along the arc to the point of beginning; excluding the airspace within Areas A, B, C, and D previously described; and excluding the airspace within Areas F and J hereinafter described.

AREA F

That airspace extending upward from 1,800 feet MSL to and including 7,000 feet MSL within an area bounded by a line beginning at the intersection of the LGA VOR 337° radial and the Erie Lackawanna Railroad tracks, thence south along the railroad tracks to the east branch of the Hackensack River, thence south and west along the river to the LGA VOR 299° radial, thence direct to the intersection of the 6-mile-radius circle of LGA VOR and the LGA VOR 264° radial, thence south along the west bank of the Hudson River to its intersection with, then counterclockwise along the 6.5-mile-radius circle centered at lat. 40°41'30" N., long. 74°10'00" W., to and southwest along New Jersey Highway Route No. 22 to and clockwise along a 10-mile-radius circle centered

at lat. 40°41'30" N., long. 74°10'00" W., to LGA VOR 283° radial, thence direct to the point of beginning.

AREA G

That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within a 20-mile-radius circle centered at lat. 40°41'30" N., long. 74°10'00" W., within a 20-mile-radius circle of JFK VORTAC; and within a 20-mile-radius circle of LGA VOR, excluding the airspace within Areas A, B, C, D, E, and F previously described and excluding the airspace within and below Areas H and J hereinafter described.

AREA H

That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL between the 13- and 20-mile-radii circles of JFK VORTAC bounded on the north by the JFK VORTAC 050° radial and on the south by the Long Island shoreline, excluding that airspace north of Hempstead Turnpike and west of the Seaford-Oyster Bay Expressway.

AREA J

That airspace extending upward from above 1,200 feet MSL to and including 7,000 feet MSL within a 6.5-mile-radius circle centered at lat. 40°41'30" N., long. 74°10'00" W., and bounded by a line beginning at the intersection of the 6.5-mile-radius circle and the tracks of the Central Railroad of New Jersey, thence eastward along the railroad tracks to their point of intersection with the 4-mile-radius circle centered at lat. 40°41'30" N., long. 74°10'00" W., thence counterclockwise along the 4-mile-radius circle to U.S. Highway No. 1 thence southwest along U.S. Highway No. 1 to the 6.5-mile-radius circle, thence clockwise along the 6.5-mile-radius circle to the point of beginning; and that airspace beginning at the intersection of the LaGuardia VOR 071° radial and the east shore of Little Neck Bay, west direct to the Kennedy VORTAC 341° radial 10-mile DME fix, south direct to the Kennedy VORTAC 340° radial 9-mile DME fix, east direct to the Kennedy VORTAC 349° radial 8.5-mile DME fix, east-northeast direct to the intersection of the LaGuardia VOR 093° radial and the east shore of Little Neck Bay, north along the east shore of the bay to the point of beginning.

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

Issued in Washington, D.C., on May 15, 1972.

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

[FR Doc.72-7643 Filed 5-19-72;8:46 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 221]

[Docket No. 24426; EDR 226-A]

AIR FREIGHT FORWARDERS AND DIRECT AIR CARRIERS

Information Required To Be Submitted With Tariff Publications

MAY 17, 1972.

The Board, by circulation of notice of rule making EDR-226, dated April 20, 1972, and published at 37 F.R. 8093, gave notice that it had under consideration proposed amendments to Part 221 of its economic regulations (14 CFR Part 221). These proposals would, inter alia, rescind in part the current exemption of air freight forwarders and international air freight forwarders from the requirement that air carriers submit with the filing of certain tariff publications with the Board supporting economic data and information and a table of comparisons of proposed rates with current rates. Interested parties were invited to participate by submission of twelve (12) copies of written data, views, or arguments pertaining thereto to the Docket Section of the Board on or before May 22, 1972.

On May 11, 1972, the Air Freight Forwarders Association (AFFA) requested a 30-day extension of time for filing comments. Emery Air Freight Corp. joined in this request. AFFA contends, among other things, that the proposal and the factual predicates therefor require analysis and review and extensive treatment in the comments; that AFFA is involved in numerous other matters before the Board, some of which also require submissions on May 22; and that the additional time is needed to reply effectively to EDR-226.

The undersigned finds that good cause has been shown for an extension of time for filing comments and that an additional 30-day period is warranted.

Accordingly, pursuant to the authority delegated in § 385.20(d) of the Board's organization regulations, the undersigned hereby extends the time for submitting comments to June 21, 1972.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

[SEAL] ARTHUR H. SIMMS,
Associate General Counsel, Rules and Rates.

[FR Doc.72-7705 Filed 5-19-72;8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 73, 74]

[Docket No. 18893]

SHOWING OF SPORTS EVENTS ON OVER-THE-AIR SUBSCRIPTION TELEVISION OR BY CABLECASTING

Order Extending Time for Filing Oppositions To Petition for Reconsideration

In the matter of amendment of §§ 73.643(b)(2) and 74.1121(a)(2) of the Commission's rules and regulations pertaining to the showing of sports events on over-the-air subscription television or by cablecasting, Docket No. 18893.

1. On May 12, 1972, public notice (Report No. 814) was given of a petition for reconsideration, filed by the Association of Maximum Service Telecasters, Inc., of the Commission's report and order in Docket No. 18893 (FCC 72-263), released March 29, 1972 (37 F.R. 6738). The date for filing oppositions to the above petition is presently May 22, 1972.

2. On May 12, 1972, the National Cable Television Association (NCTA) and Time-Life Broadcast, Inc. (Time-Life), filed requests for an extension of time to June 5, and June 8, 1972, respectively, to file oppositions to the above-mentioned petition for reconsideration. NCTA states that with the pressing matters of the preparation for and attendance at the upcoming NCTA National Convention, it will be impossible to prepare a detailed and meaningful position of oppositions before the present deadline. Time-Life states that it was not served a copy of the petition for reconsideration and that its existence came to Time-Life's attention on May 8, 1972; therefore its attorneys have not had an adequate opportunity to analyze the petition or prepare comments particularly in view of the upcoming NCTA Convention.

3. It appears that the requested extension is warranted: *Accordingly, it is ordered,* That the time for filing oppositions to the petition for reconsideration in Docket 18893 is extended to and including June 8, 1972.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: May 16, 1972.

Released: May 17, 1972.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.72-7665 Filed 5-19-72;8:46 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 536]

[Docket No. 72-19]

FILING OF TARIFFS BY COMMON CARRIERS BY WATER IN THE FOREIGN COMMERCE OF THE UNITED STATES AND BY CONFERENCES OF SUCH CARRIERS

Proposed Requirements

Notice is hereby given that the Federal Maritime Commission is considering the revision of Part 536 of this chapter which contains the regulations covering the filing of tariffs by common carriers by water in the foreign commerce of the United States and by conferences of such carriers.

Part 536 became effective July 1, 1965. The purpose of the part was to provide regulations covering the form and manner of filing tariffs by common carriers by water in the foreign commerce of the United States and by conferences of such carriers. The Commission has now had several years experience working with the tariffs filed under the existing rules, and has determined that clarification and improvement of such rules is necessary in a number of areas.

Certain minor changes in wording and renumbering have been made in the revised rules. Tariff filing requirements contained in certain other general orders of the Commission have been incorporated by rule or by reference into this revised part in order that all tariff filing requirements are set forth in a single Commission order.

Accordingly, the major changes in the rules and the discussions thereon are set forth below.

Section 536.0 *Purpose*—This new section paraphrases the tariff filing requirements of section 18(b) of the Act, and states the purpose of Part 536. The first paragraph of this new section was simply moved in its entirety from the introductory language of General Order 13, 30 F.R. 7139, May 27, 1965, in order to make it a specific section of Part 536. The second paragraph of this new section, as noted above, merely states the purpose of Part 536. The second paragraph points out the obligations of carriers subject to the Act to file tariffs of through rates over through routes.

Section 536.2(j) *Filing of tariffs; general,* describes the two methods that a common carrier may use to meet its obligation to file tariffs pursuant to section 18(b) of the Act and this part. As far as here pertinent, one of the present methods is by being a member of a conference and participating in the conference tariff. In addition thereto, the proposed revised rule permits a carrier to be shown as a participating carrier in a conference tariff or the tariff of another common carrier under a transshipment agreement filed with the Commission in compliance with General Order 23 (Part 524 of this chapter), or approved by the Commission pursuant to section 15 of the Act.

The revisions to this rule will materially benefit the industry and the shipping public and will assist in effective administration of the Act by:

(a) Reducing expenses of filing and maintaining a number of tariffs since only one tariff may now be filed;

(b) Lessening tariff filing complexities brought about by multiple tariff filings; and

(c) Eliminating the need of tariff users to peruse a number of tariffs to determine the effective rates in the trade covered by the agreement.

The revision also incorporates into Part 536 the tariff filing requirements of the Commission's General Order 23 (see § 536.4(b)(10(vii)).

Section 536.2(o) *Filing of tariffs; general.*—This is a new regulation which provides that no carrier or conference shall publish or maintain any tariff that contains only a single rate for all commodities, i.e., a cargo, n.o.s. (not otherwise specified) rate or a general cargo rate or other comprehensive or all-inclusive description: *Provided, however,* That a tariff may contain such a single rate that is clearly defined and applicable to unitized freight.

Experience has shown that carriers sometime file tariffs naming only a cargo, n.o.s. rate in a particular trade when such carriers have no intention of actually entering and serving that trade. This method of filing appears to be designed for the sole purpose of putting the carrier in the position, should the opportunity present itself, to obtain cargo that would have otherwise moved over the line of an established carrier already in the trade. The "new" carrier merely establishes specific rates, which may become effective upon filing with the Commission, on any commodity as reductions from the cargo, n.o.s. rate. In such instances, neither shippers nor competitive established carriers receive any notice as to what the rates will be. This procedure of filing so-called "convenience" tariffs appears to be nothing more than a device to circumvent the tariff filing requirements of the Act, and therefore, contrary to the spirit, if not the letter, of the law.

Carriers also use the single cargo, n.o.s. rate as a device to establish a tariff in a trade they do contemplate entering and publish actual commodity rates as reductions from that n.o.s. rate, depriving the public of the notice intended under section 18(b) of the Act.

Section 536.2(p) *Information circular*—This rule requires every carrier to file with the Commission (and keep current through annual filings) an information circular. The information to be supplied through this circular is necessary for the effective performance of the Commission's duties imposed by the Shipping Act, 1916, and is now obtained through correspondence and investigative efforts which could be largely eliminated.

Sections 536.3(f) and 436.4(b)(10)—Require tariffs to be published in a uniform manner. Such standardization will make tariffs easier to use and interpret, and will make a major contribution to the Commission's tariff simplification efforts.

Sections 536.4(a)(1) and 536.4(b)(2)—These revisions require that carriers be identified on their tariffs and through their tariff participation as either Vessel Operating Common Carriers or Nonvessel Operating Common Carriers. This is necessary in order for the public and the Commission to readily ascertain the type of service performed.

Section 536.4(a)(4)(i)—This is simply a clarification of the original intent of this regulation. It is necessary due to the common practice of conferences to name all ports covered in its agreement without regard for ports actually served by its member carriers.

Section 536.4(a)(5)—This revision requires that the title page of the tariff indicate whether direct and/or transshipment service is offered so that such information may be apparent to tariff users.

Section 536.4(a)(12)—This rule requires that the title page of every tariff shall show the subscription price of the tariff. Section 18(b)(1) of the Act provides that copies of tariffs shall be made available to any person and permits a reasonable charge to be made therefor. This rule merely provides that the charge, if any, be public information.

Section 536.4(b)(6)—The revision of this rule is to clarify the indexing requirements and to liberalize those requirements by permitting an index to be omitted when the number of commodities in a tariff is less than 100.

Section 536.4(b)(10)(ii)—This added regulation is designed to require carriers and conferences to set forth the time at which rate changes become applicable on any particular shipment. Due to differing practices in applying such rate changes to shipments in the transportation process, the added requirement is necessary in order that shippers may ascertain the proper rate.

Section 536.4(b)(10)(iv)—This rule provides for the tariff publication of carriers requirements for payment of freight charges. It is to insure that all shippers are extended the same privileges and restrictions.

Section 536.4(b)(10)(vi)—This regulation prescribes the method of applying two or more percentage surcharges and/or arbitraries applicable on the same shipment. It is to prevent the pyramiding of surcharges and/or arbitraries and will insure that all shippers receive the same treatment from carriers imposing multiple surcharges and/or arbitraries.

Section 536.4(b)(10)(viii)—This is a new requirement that every tariff naming rates which vary depending upon different minimum quantities shall contain a rule to provide that when the charge on the actual quantity shipped at the higher rate exceeds the charge based on the lower rate and the higher minimum quantity, the lower charge will apply.

Its effect will be to preclude the assessment of a greater charge for a lesser quantity of cargo, and assure that shippers will be treated equitably.

Section 536.4(b)(10)(ix)—This new rule requires the tariff to specifically indicate the basis upon which ad valorem rates will be assessed.

Section 536.4(b)(10)(xvi)—This revision is to liberalize our tariff filing requirements to allow carriers and conferences to refer to other tariffs for (1) terminal or assessorial charges, and (2) for the rates to be assessed for the return of cargo under certain conditions. Under the present rule carriers and conferences must publish specific rates and charges for terminal and accessorial services, and must establish specific rates for any commodity carried on a "return" basis.

Sections 536.5 (n) and (o)—These revisions merely provide for a cross-reference to individual carriers rates for commodities on which the rates have been opened in a conference tariff.

Section 536.5(o)—This revision precludes carriers and conferences who use a contract rate system from publishing temporary or special or emergency rates or rates conditioned upon an expiration date. It is necessary so that contract shippers may receive the notice required by section 14b of the Act.

Section 536.6(c)(5)—This revision merely requires that permanent tariff filings make positive reference to the temporary filing.

Section 536.7(a)—This revision provides that general rate decreases and increases be incorporated into the tariff rates within 90 days after a supplement establishing such decreases and increases has been filed. This requirement is consistent with the Commission's efforts toward tariff simplification.

Section 536.15 sets out special rules governing the filing of tariffs covering through rates and through routes in intermodal services. Amendment 4 to the existing regulation sets out the requirement to file such rates and routes. This new section merely tells how they are to be filed.

Therefore, pursuant to the authority of section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 14B, 18(b), and 43 of the Shipping Act, 1916 (46 U.S.C. 813a, 817(b), and 841a), 46 CFR is hereby proposed to be amended by revising and reissuing Part 536 as follows:

AUTHORITY: The provisions of this Part 536 issued under secs. 14b, 18(b), 43 of the Shipping Act, 1916, 46 U.S.C. 813a, 817(b), 841a.

§ 536.0 Purpose.

(a) Section 18(b) of the Shipping Act, 1916, requires every common carrier by water in foreign commerce and every conference of such carriers to file with the Federal Maritime Commission, and keep open to public inspection, tariffs showing all the rates and charges of such carrier or conference for transportation to and from U.S. ports and foreign ports between points on its own route and on any through route which is established. It is further required that such tariffs shall plainly show the places between which freight will be carried and shall contain the classification of freight in force, and shall also state separately such terminal or other charge, privilege, or facility under the control of the carrier or conference which is granted or allowed, and any rules or regulations which in anywise change, affect, or determine any part of the aggregate of such aforesaid rates, or charges, and shall include specimens of any bill of lading, contract of affreightment, or other document evidencing the transportation agreement. Copies of such tariffs shall be made available to any person, and a reasonable charge may be made therefore.

(b) The provisions of section 18(b) that rates and charges be filed "on any through route which is established" and that rules and regulations which in anywise change, affect, or determine any part or the aggregate of such rates "* * * for transportation to and from U.S. ports and foreign ports," requires that the carriers subject to the Shipping Act, 1916, file with the Commission any through rate and route in which they participate for transportation between ports or points in the United States and ports or points in a foreign country.

(c) The purpose of this part is to provide rules governing the form and manner of filing tariffs by common carriers by water in the foreign commerce of the United States and conferences of such carriers.

§ 536.1 Definitions.

The following definitions of terms used in this tariff circular shall apply unless the context indicates otherwise.

(a) *Person.* The term "person" includes individuals, firms, partnerships, corporations, companies, associations, joint stock associations, trustees, receivers, assignees, or personal representatives.

(b) *Carrier.* The term "carrier" means a common carrier engaged in the transportation of property.

(c) *Water carrier.* The term "water carrier" means a common carrier by water in the foreign commerce of the United States as referred to in section 1 of the Shipping Act, 1916.

(d) *Conference.* For the purpose of this tariff circular only, the term "conference" means any association of common carriers by water, in the foreign commerce of the United States, which is permitted, pursuant to an agreement approved by the Commission under section 15 of the Shipping Act, 1916, to discuss and establish rates and practices for the common carriers who are members of the approved agreement.

(e) *Local rates.* The term "local rates" means rates or charges for transportation over the route of a single water carrier (or any one water carrier member of a conference) between two points, the application of which is not contingent upon a subsequent movement or any other separate consideration.

(f) *Proportional rates.* The term "proportional rates" means those rates or charges assessed by a carrier for transportation services; the application of which are conditioned on a prior or subsequent movement.

(g) *Through rates.* The term "through rates" means either (1) a joint rate offered by two or more carriers; or (2) a combination of two or more local rates; or (3) a combination of proportional rates or factors; for transportation services performed by one or more carriers over a through route.

(h) *Class rates.* The term "class rates" means rates applicable to all articles which have been grouped or "classified" together in a classification tariff or a classification section of a rate tariff.

(i) *Commodity rates.* The term "commodity rates" means rates applying on a commodity or on commodities specifically named or described in the tariff in which the rate or rates are published.

(j) *Through route.* The term "through route" means an arrangement for the continuous carriage of goods between origin and destination offered or performed by: (1) Two or more water carriers in a movement entirely by water; or (2) one or more water carriers in connection with one or more other carriers when the origin and/or destination of the cargo lies beyond port terminal areas; or (3) a carrier which is a water carrier and also offers transportation services beyond port terminal areas.

(k) *Transshipment.* For the purposes of this part, the term "transshipment" means the physical transfer of cargo from the vessel of one common carrier by water to a vessel of another common carrier by water. The transfer of cargo between vessels operated by the same common carrier by water shall not be deemed to be "transshipment" for the purposes of regulation. Neither shall the transfer of barges or lighters from or to ocean going vessels be considered "transshipment" when the water carrier subject to regulation under this part offers the complete water service to the public from the point of loading to the point of unloading of the barge or lighter conveyance.

(l) *Interchange.* (1) "Cargo interchange" shall mean the transfer of cargo from one carrier to another, either prior to or subsequent to the carriage by water in foreign commerce, and shall also mean the change from one mode of transport to another in the course of international through intermodal transportation.

(2) The term "equipment interchange" shall mean the transfer of carrier equipment such as container, trailers, pallets, barges, lighters, and other transportation equipment from one carrier to another prior to, during, or subsequent to through transportation.

(m) *Substituted service.* The term "substituted service" shall mean the use of the facilities of another carrier or another mode of transportation than that which the carrier normally and regularly offers to the public. Further, "substituted service" as used in shipping documents and tariffs shall mean those instances where transportation of cargoes is occasionally performed by utilizing the transport facilities of another carrier due to unexpected operating exigencies. The offering or performing a regular service by means of overland or air transportation over part of the route; or by using a waterborne feeder service not under control of the publishing water carrier is not to be described as substituted service, but, rather is an

arrangement for through transportation.

(n) *Absorption.* The term "absorption" when used in connection with the transportation of cargo shall be deemed to mean the assumption of any or all of the cost of performing a transportation or other service from revenues received in the course of performing a different service.

(o) *Equalization.* The term "equalization" shall mean that allowance or payment made by a carrier to a shipper which, when deducted from the cost of transportation to or from the port served by the carrier, will equalize the costs actually incurred with the costs which would have been incurred had the cargo been routed to the nearest port.

(p) *Port.* When used in this part the term "port" means a place having facilities to originate or terminate water transportation and at which the actual transportation by water commences or terminates as to any particular movement of cargo.

(q) *Feeder service.* The term "feeder service" shall be used to identify those water services using barges, lighters, floats, or interport vessels which travel between the ocean going vessel and ports at which the ocean vessel does not call.

(r) *Intermodal transportation.* The term "intermodal transportation" means the carriage of cargo from origin to destination utilizing, during the movement, two or more different modes of transportation, at least one of which is water carriage subject to the Shipping Act, 1916. For the purposes of this part the modes are enumerated as: (1) Water, (2) highway, (3) railroad, and (4) air.

(s) *Open rate.* The term "open rate" means a rate which is fixed by individual members of a conference in those instances when the conference has relinquished or suspended its ratemaking authority.

(t) *Dual rates.* The term "dual rates" means that system of rating, established pursuant to section 14(b), Shipping Act, 1916, in which a carrier or conference is permitted to offer a lower rate to a shipper who has contracted to give all or a fixed portion of his patronage to such carrier or conference, and at the same time offer a higher rate to shippers who are not signatory to such contracts.

(u) *Tariff.* The term "tariff" means a publication containing the actual rates, charges, classifications, rules, regulations, and practices of a carrier or conference of carriers for transportation by water; or for through intermodal transportation, a segment of which is performed by a carrier by water. For the purposes of this tariff circular, the term "practices" refers to those usages, customs, or modes of operation which in anywise affect, determine, or change a transportation rate, charge, or service provided by the carrier and, in the case of conferences, must be restricted to those practices authorized by the basic conference agreement.

(v) *Tariff filing.* The term "tariff filing" means any tariff, or modification thereto, which is received by the Commission as filed pursuant to these rules.

(w) *Commission.* The term "Commission" means the Federal Maritime Commission.

(x) *Open for public inspection.* The term "open for public inspection" means that each carrier shall maintain a complete and current set of the tariffs issued by it or to which it is a party in each of its offices and those of its agents in any city where it transacts business involving such tariffs.

(y) *Act.* The term "Act" means the Shipping Act, 1916.

§ 536.2 Filing of tariffs; general.

(a) Where used in this part, the words "filing," "filed," or "file" when used with respect to time of filing with the Commission shall mean actual receipt by the Federal Maritime Commission at its offices in Washington, D.C., United States of America.

(b) All tariffs shall be published and filed by an officer or employee of the carrier, or if a conference tariff, by an officer or employee of the conference. In the alternative, publication and filing may be accomplished through an agent authorized to act for such carrier or conference as provided in § 536.12.

(c) No carrier or conference shall publish and file any tariff or modification thereto which duplicates or conflicts with any other tariff on file with the Commission to which such carrier is a party whether filed by such carrier or by an authorized agent. Neither shall any carrier publish and file any tariff or modification thereto which conflicts with any other tariff on file with the Commission and which names such carrier as a participant thereto.

(d) All tariffs published in a foreign language shall be accompanied, when submitted for filing with the Commission, by three true copies translated into the English language.

(e) All tariffs filed with the Comission. except temporary filings as permitted hereinafter in § 536.6(c)(1) shall be accompanied by a letter of transmittal which shall clearly identify the tariff and pages involved. If the sender desires a receipt, a duplicate of such letter must be furnished together with an envelope approximately 4½ by 9¾ inches completely blank except for the name and address of the sender. The duplicate will be stamped with the date of receipt by the Commission and returned to the sender. If a duplicate and an envelope are not submitted, a receipt will not be furnished.

(f) All tariffs, except as hereafter provided, shall be filed in triplicate. Temporary filings made by mail, as permitted in § 536.6(c)(1) shall be filed in triplicate. Temporary filings made by telegraph or cable, as hereafter provided in § 536.6(c)(1) are not subject to the triplicate filing requirements of this section.

(g) Tariffs sent for filing shall be addressed to:

Federal Maritime Commission, Washington, D.C. 20573.

(h) Each carrier shall keep open for public inspection all tariffs published by it or to which it is a party in the foreign commerce of the United States.

(i) Carrier participants in a conference tariff are not relieved from the necessity of complying with the Commission's regulations and the requirements of section 18(b) of the Act with regard to keeping tariffs open for public inspection.

(j) The obligation of a common carrier by water to file tariffs pursuant to section 18(b) of the Act and this part must be carried out as follows: (1) When the carrier is not a party to an approved agreement by filing its own tariff or tariffs, and (2) when the carrier is a party to an approved agreement by participation in a single tariff filed by the conference; except as provided in § 536.12. No common carrier may be shown as a participant in a tariff filed by another carrier or conference where such participation has not been approved by the Commission, pursuant to section 15 of the Act; filed with the Commission pursuant to Part 524 of this chapter; or filed with the Commission pursuant to § 536.15(d).

(k) When a carrier is admitted to membership in a conference, cancellation of the carrier's individual tariff (if any) in the trade served by the conference (see § 530.7 of this chapter), and revision of the participating carrier page of the conference tariff (naming the newly admitted carrier) shall be published and filed with the Commission and may become effective upon the date of such filing. *Provided,* That, if the carrier has an individual tariff in the trade served by the conference and cancellation of that tariff and revision of the participating carrier page of the conference tariff (naming the newly admitted carrier) results in the increase of any rate in the carrier's individual tariff, such cancellation and revision shall be published and filed with the Commission and may become effective not earlier than 30 days after such filing, unless special permission to become effective or less than said 30 days has been granted by the Commission pursuant to § 536.8.

(l) Any tariff submitted for filing, which fails to conform with section 14(b) or 18(b) of the Act or with the provisions of this part, is subject to rejection by the Commission and, upon rejection will be void and its use unlawful. Rejection will be accomplished as set forth in § 536.6(d)(1).

(m) Copies of all tariffs, subsequent revisions, and changes thereto on file with the Commission and in effect, shall be made available by carriers and conferences, to any person in the United States or abroad, and a reasonable charge may be made therefore.

(n) Any new or initial tariffs shall be published and filed with the Commission to become effective not earlier than 30 days after such publication and filing with the Commission, unless special permission to become effective on less than said 30 days has been granted by the Commission pursuant to § 536.8.

(o) No carrier or conference shall publish or maintain any tariff that contains only a single rate for all commodities, i.e., a cargo, n.o.s. (not otherwise specified) rate or general cargo rate or other comprehensive or all-inclusive description.

(p) Each carrier shall file with the Commission an information circular as set forth in Exhibit No. 8 within (90) days from the effective date of this part. Any completely new tariff filed on or after the effective date of this part must be accompanied by such an information circular, unless previously filed in the current calendar year. A revised circular or a written certification that none of the information has changed shall be filed on January 1 of each year thereafter.

(q) Rules limited in application to tariffs containing rates and charges, rules and regulations for through intermodal transportation are set forth in § 536.15. The requirements of § 536.15 are additional requirements for use in such circumstances and not as a substitution for any other requirements of this part.

§ 536.3 Form and preparation of tariffs.

(a) All tariffs which are filed and kept open to public inspection shall be clear and legible and shall be plainly printed, mimeographed, multilithed, or prepared by other similar permanent process on durable paper of good quality.

(b) No alteration in writing or erasure shall be made in any tariff publication.

(c) Sufficient marginal space of not less than three-fourths of an inch shall be allowed at the left side of each tariff page to permit insertion in tariff binders. In addition, a margin of not less than one-half inch shall be allowed at the bottom of each tariff page for insertion by the Commission of its receipt stamp.

(d) Tariffs shall be in looseleaf form and shall be on pages approximately 8½ by 11 inches. If other than a looseleaf tariff is to be filed, application for permission to make such filing shall be made to the Commission. If permission to file other than a looseleaf tariff is granted by the Commission, such permission will set forth the form and manner of filing the tariff and any amendments or supplements thereto.

(e) Tariff pages shall be printed on one side only, and each page after the title page shall be numbered in the upper right-hand corner. Each page must show the name of the carrier or conference for whose account the tariff is issued, the effective date, the page number, the FMC number of the tariff, etc., as prescribed in Exhibit No. 1.

(f) To the extent applicable, all tariffs filed pursuant to this part shall be arranged in the following order:

Title page.
Check sheet.
Table of contents.
Participating carrier page.
Surcharge and/or arbitrary/differential/outport differential (or other identifying term) section.
Rules and regulations section.
Index of commodities.
Commodity rate section.
Classification and class rate section.
Routing section.
Open rate section.

§ 536.4 Contents of tariffs.

(a) The first page of every tariff shall be a title page and shall be printed on paper heavier than that used in the body of the tariff. The title page shall contain the following information:

(1) The name of the carrier, appropriately identified as a Nonvessel Operating Common Carrier (NVOCC) or a Vessel Operating Common Carrier (VOCC), or the name of the conference. Tariffs filed pursuant to an agreement approved under section 15 of the Act shall be further identified with the agreement number.

(2) An FMC tariff number assigned by the carrier or conference. For example:

Smith Line Tariff FMC–1.

The first tariff filed by a carrier or conference pursuant to this or any prior regulation shall be assigned FMC–1. Each tariff thereafter issued by the carrier or conference pursuant to this or any prior regulation shall be assigned the next, consecutive, FMC number. Under the FMC tariff number shall be shown the FMC tariff number or numbers of any tariff or tariffs canceled by the issuance of such tariff. For example:

Smith Line Tariff FMC–14 cancels Smith Line Tariff FMC–5 and Smith Line Tariff FMC–9.

or

Smith Line Tariff FMC–14 cancels Smith Line Tariff FMC–12.

(3) When an individual carrier, partnership, or joint service operates under a trade name, the individual name or names shall be shown as well as the trade name, or reference may be made to an internal tariff page where this information is shown. When the trade name is utilized by a partnership or a joint service, the number of the approved agreement shall also be shown.

(4) (i) A list of the ports covered by the tariff, or reference to an internal tariff page where such ports are listed. In lieu of such listing of ports, a statement of the range of ports served will be accepted. All conference tariffs shall indicate the specific ports or range of ports generally served by each participating water carrier. Any restriction applying at any port shall be specifically stated.

(ii) Whenever tariff application is shown by identification of a range of ports in lieu of listing of ports, such range of ports must be within a geographical area generally served by the carrier or carriers participating in the tariff. Any port within a specified range of ports which is not served or to which service is restricted must be identified.

(5) A statement showing the type of service offered by the carrier(s), i.e., direct service, by transshipment, or both. When transshipment service is indicated, reference shall be made to the page in the tariff describing such service (see paragraph (b)(10)(vii) of this section.)

(6) A statement showing the type of rates contained in the tariff. For example:

Local, proportional, class, commodity, overland common point, joint, through, intermodal, etc. Where a carrier or conference tariff includes contract rates as described in § 536.5(1), the title page shall state that such rates are included.

(7) A reference to other publications which in any manner govern the tariff, or reference may be made on the title page to an internal page identifying such governing publications, as prescribed in paragraph (b)(8) of this section.

(8) The date on which the tariff will become effective. Every tariff in which any provision is to become effective upon a date different from the general effective date of such tariff shall so indicate in substantially the following form:

Effective: _____ (except as otherwise herein provided) or (except as provided in Item No. _____) or (except as provided on page _____).

(9) The name, title, and address of the person issuing the tariff, or if the carrier or conference has authorized an agent other than an official thereof to file a tariff with the Commission as authorized in § 536.12 the name, title and address of the agent making such filing.

(10) An expiration date, if the entire tariff publication is to expire on a specified date.

(11) The names of all participating carriers in the tariff, if more than one such carrier participates, or reference may be made to an internal page on which are listed the names of all participating carriers (see paragraph (b)(2) of this section).

(12) The subscription price of the tariff, or a statement that it will be furnished without charge, with reference to a rule in the tariff which clearly sets forth where it may be obtained and what is to be furnished the subscriber. If a separate bill of lading and/or rules and regulations tariff is published such tariffs must be furnished to subscribers of rate tariffs which refer thereto without additional charge.

(b) All pages after the title page shall be numbered beginning with "Original Page 1," "Original Page 2," etc. Each page as thereafter revised shall be a consecutively numbered revision of the same page. For example:

The seventh page in a tariff as originally filed would be titled "Original Page 7." The first revision of this page 7 would be titled "First Revised Page 7," cancels original page 7. See § 536.6(b(3).

The body of the tariff shall contain the following:

(1) A table of contents containing a full and complete statement of the exact locations where information in the tariff will be found. Such statement shall show all subjects in alphabetical order and shall show the page number and number of the item, rule or unit where such subject will be found.

(2) The full corporate name of each participating carrier, appropriately

identified as a Nonvessel Operating Common Carrier (NVOCC) or Vessel Operating Common Carrier (VOCC), with address of the principal office. Where a joint service participates, the agreement number shall also be shown.

(3) The trade name, if any, and the carrier or carriers, if not shown on the title page.

(4) A list of the ports or range of ports to and from which the tariff rates apply, if not shown on the title page, in conformity with paragraph (a)(4) of this section.

(5) A statement indicating the extent of any limitation or restriction, if the application of any of the rates, charges, rules, or regulations stated in the tariff are restricted to any particular port, pier, etc., or otherwise limited.

(6) A single, complete index alphabetically arranged for commodities for which rates in the tariff are named, together with a reference to each item or page where a particular article is shown. If a rate item embraces two (2) or more commodities, each commodity shall be shown in the index. Class rate tariffs and tariffs containing both class and commodity rates shall contain, in addition to item or page reference where applicable, the ratings of commodities to which class rates apply (see Exhibit No. 6). Such index may be omitted where rates on less than 100 commodities are included in the tariff. All articles generic to different species of the same commodity should be grouped together. For example:

Paper, building; paper, printing; paper, wrapping.

(7) A full explanation of any symbols, reference marks, or abbreviations used in the tariff. If such explanation does not appear on the page where the reference marks or symbols are used, such page shall refer to the page in the tariff where the explanation is given. The symbols shown in § 536.6(b)(2) shall be used only for the purpose indicated therein.

(8) If governed in any manner by other publications, as may be permitted herein, a reference thereto substantially in the following form.

This tariff is governed, except as otherwise provided herein, by Bill of Lading Tariff FMC No. _____ (or by Rules Tariff FMC No. _____), etc.

Where such reference is fully made on the title page, reference in the tariff elsewhere is unnecessary. Governing publications must be on file with the Federal Maritime Commission.

(9) All rates applicable to the transportation of the articles or classes of articles named in the tariff. Rates shall be set forth as required by § 536.5.

(10) Rules and regulations which in anywise affect the application of the tariff. Specific rules shall be published to govern each of the following subjects and shall bear the rule numbers designated:

(i) Scope. See subparagraph (4) of this paragraph.

(ii) Application of rates. See subdivision (i) of this subparagraph.

(iii) Effective date rule. See subdivision (ii) of this subparagraph.

(iv) Heavy lift.

(v) Extra length.

(vi) Minimum bill of lading charge(s).

(vii) Payment of freight charges. See subdivision (iv) of this subparagraph.

(viii) Specimen bill of lading. See subdivision (iii) of this subparagraph.

Every tariff shall contain the following rules, when applicable:

(ix) Freight forwarder compensation. See subdivision (v) of this subparagraph.

(x) Application of surcharge and/or arbitraries/differentials/outport differentials (or other identifying term). See subdivision (vi) of this subparagraph.

(xi) Minimum quantity rates. See subdivision (viii) of this subparagraph.

(xii) Ad valorem rates. See subdivision (ix) of this subparagraph.

(xiii) Transshipment service. See subdivision (vii) of this subparagraph.

(xiv) Application of contract rate system. See subdivision (xii) of this subparagraph.

(xv) Open rates. See subdivision (xiii) of this subparagraph.

(xvi) Explosives or other dangerous articles. See subdivision (xi) of this subparagraph.

(xvii) Green salted hides. See subdivision (x) of this subparagraph.

(xviii) Returned cargo. See subdivision (xvi) of this subparagraph.

(xix) Shippers requests and complaints. See subdivision (xiv) of this subparagraph.

(11) Additional rules which affect the application of the tariff shall follow the rules specified above and shall be numbered consecutively.

(i) *Application of rates.* Tariffs shall clearly state all of the services provided to the shipper and included in the transportation rates set forth therein.

(ii) *Effective date rule.* Every tariff shall contain a rule which sets forth in clear and definite terms the time at which rate changes become applicable on any particular shipment. Such time may not be earlier than the date the carrier received the goods for transportation nor later than the date the vessel sails. The effective date applicable to intermodal shipments accepted at an inland point, must be the date the cargo is tendered to the originating carrier.

(iii) *Bill of lading.* The rules shall include specimens of any bill of lading, contract of affreightment, or other document evidencing the transportation agreement, unless a separate bill of lading tariff is on file with the Commission as permitted in § 536.10(a). Such documents shall not contain provisions which are inconsistent with or which conflict with the rules and regulations published in the applicable tariffs.

(iv) *Payment of freight charges.* Every tariff shall set forth requirements for the payment of freight charges. Currency restrictions, if any, must be specified and the basis for determining the rates of currency exchange must be set forth. If credit is extended to shippers, the rule must include the credit terms available and the conditions upon which credit is extended. When credit applications or agreements are required, specimens of such applications or agreements shall be published as part of this rule.

(v) *Freight forwarder compensation.* Every tariff in the United States export trade shall contain a rule specifying the rate or rates of compensation to be paid to licensed ocean freight forwarders in accordance with § 510.24(f) of this chapter.

(vi) *Surcharges and/or arbitraries.* Every tariff shall contain the following rule:

Whenever more than one surcharge and/or arbitrary, which are stated in percentages, are imposed upon the same shipment, such surcharges and/or arbitraries shall first be combined and the aggregate shall be applied in computing the additional charges.

(vii) *Transshipment service.* When transshipment services are offered under either nonexclusive transshipment agreements filed with the Commission in compliance with Part 524 of this chapter; or pursuant to agreements approved by the Commission under section 15 of the Act, the following information shall be shown in the tariff containing the applicable through rates: (*a*) The routings (origin, transshipment, and destination ports), additional charges, if any (i.e. port arbitrary and/or additional transshipment charges), and the originating, delivering, and/or intermediate participating carriers, and (*b*) a tariff provision reading substantially as follows:

The rules, regulations, and rates apply to all transshipment arrangements between the participating carriers. Participating carriers have agreed to observe the rules, regulations, rates, and routings established herein as evidenced by the agreement on file with the Commission.

The foregoing requirements shall be set forth in the tariff in a routing section substantially as shown in Exhibit No. 9.

(viii) *Minimum quantity rates.* Every tariff that names two or more rates, dependent upon different quantities of the same description shall contain the following rule:

When two or more freight rates are named for carriage of goods of the same description, and the application is dependent upon the quantity of the goods shipped, the freight charges assessed against the shipment shall not exceed the charges computed for a larger quantity.

(ix) *Ad valorem rates.* When an ad valorem rate is provided in a tariff, a rule shall be published to specify the exact method of computing the charge, i.e., shipper's declaration, invoice value, delivered value, etc., and the additional liability, if any, assumed by the carrier in consideration therefore.

(x) *Green salted hides.* In accordance with Part 534 of this chapter, every tariff that names rates on green salted hides shall contain a rule which requires that: (*a*) The shipping weight for purposes of assessing transportation charges shall be either a scale weight or a scale weight minus a deduction whose amount and method of computation are specified in said rule, and (*b*)

the shippers furnish to the carrier a weighing certificate or dock receipt from an inland carrier for each shipment of green salted hides at or before the time the shipment is tendered to the ocean carrier. The weighing certificate, if furnished, shall either be certified or attested by the signature of the shipper's supplier of the hides. For purchase lots which are split by the shipper after purchase into two or more shipments, a weighing certificate covering the entire purchase lot may be provided, and the shipping weight shall be determined from a computation of the average weight of the hides in said purchase lot.

(xi) *Explosives and other dangerous articles.* Tariffs which contain rates for the transport of explosives, inflammables, corrosive material, or other dangerous articles, shall contain the rules and regulations of the carrier or conference governing the transportation of such articles, or shall bear reference to a separate publication which contains such rules and regulations.

(xii) *Application of contract rate system.* Where a carrier or conference uses a contract rate system the tariff shall fully and clearly explain the application of the contract rate system, and shall include a true copy of the approved contract.

(xiii) *Open rates.* Where a conference opens rates as permitted in § 536.5 (n) and (o) the tariff shall fully and clearly explain the extent to which rates have been opened. Any restriction or limitation on the right of participating carriers to fix their own rates on open rate items, and the extent to which applicable rules and regulations of the conference tariff will continue to govern the rates filed by each individual line, shall be stated.

(xiv) *Shippers requests and complaints.* All conference tariffs shall contain a rule that sets forth full instructions as to where and by what method shippers may file their requests and complaints, together with a sample of the rate request form if one is used or, in lieu thereof, a statement as to what supporting information is considered necessary for processing the request or complaint through conference channels. All changes made in such instructions shall be published in said tariffs (see § 527.6 of this chapter).

(xv) Where a rule affects only particular items or rates, such items or rates must specifically refer to such rule.

(xvi) *Reference to other rate tariffs.* No rate tariff shall require reference to any other rate tariff for determination of any applicable rate: *Provided, however,* That:

(*a*) Reference may be made to another tariff for terminal and accessorial charges, and

(*b*) Rules or regulations providing for return of refused, damaged, or rejected shipments or exhibits at trade fairs, shows, or expositions, to port of origin and which provide for assessment of the freight rates (or a portion thereof) which were assessed on the original movement, when such rates are lower, may be published. Such rules or regulations, if published, shall provide that:

(*1*) The return of shipments be accomplished within a specified period, such period not to exceed 1 year;

(*2*) The original movement was made over the lines of the carrier performing the return carriage; except in the case of a conference tariff, the rules may provide either that the return be made over the lines of the originating carrier or that return will be made by any member line when the originating carrier is also a member of the conference;

(*3*) A copy of the bill of lading, attesting to the original movement and the rate assessed, be surrendered to the carrier making the return.

§ 536.5 Statement of rates.

(a) The application of all rates shall be clear and definite and explicitly stated per 100 pounds, per cubic foot, per ton of 2,000 pounds, per ton of 2,240 pounds, or some clearly defined unit.

(b) Commodities and generic commodity groupings on which rates are stated shall be listed in alphabetical order and item numbers shown if published in the index. All rates shall be stated in a simple and systematic manner.

(c) Where rates are stated in amounts per package; the method of packing and specifications showing size, measurement, or weight of the packages on which such rates apply shall be shown.

(d) Where rates vary depending upon whether cargo is packed, crated, palletized, bundled, strapped, loose, or otherwise prepared or delivered for shipment, there shall be a statement clearly and specifically governing the application of such rates (see Exhibit No. 2).

(e) Where rates from or to designated ports are determined by the addition or deduction of arbitraries or differentials to or from rates applicable at other ports, such application shall be clearly shown.

(f) A commodity item may, by use of a generic term, provide rates on a number of articles without naming such articles, provided such term contains reference to an item in the tariff which clearly defines the type of commodities contained in such generic term or which contains a complete list of such articles, or contains reference to the FMC number of a separate tariff of the same carrier or conference containing such definition or list of such articles.

Example. Packinghouse products, as described in Item _____ or packinghouse products as described under heading "Packinghouse products" in FMC No. _____, or successive issues thereof.

(g) A separate tariff, not containing rates, may be filed by a carrier or conference showing a list of the commodities on which rates published by reference to generic terms will apply, and rate tariffs shall be made subject thereto as provided in paragraph (f) of this section.

(h) When commodity rates are established, the description of the commodity must be specific. Rates may not be applied to analogous articles.

(i) The rate section of a tariff may include a rate applicable to all commodities, or all commodities of a class, on which specific commodity rates are not stated in the tariff, to be called cargo, n.o.s. (not otherwise specified), general cargo, or other identifying name, or by broad generic heading such as chemicals, n.o.s.

(j) A separate tariff naming rates on a group of related commodities may be published: *Provided however,* That such tariff shall contain all of the rates applicable to such commodities, which are published by the same carrier or conference, to or from the same ports or points. When such tariffs are published, reference shall be made thereto in the tariff of general application for the same carrier or conference, to or from the same ports or points.

(k) Publication of rates which duplicate or conflict with the rates published in the same or any other tariff is not permissible, and, except as otherwise authorized in this part, the publication of a statement in a tariff to the effect that the rates published therein take precedence over the rates published in some other tariff, or that the rates published in some other tariff take precedence over or alternate with rates published therein, is prohibited: *Provided however,* That where a carrier or conference publishes both commodity and class rates a statement shall be published in the tariff clearly indicating which of the two rates shall apply on the commodity or commodities on which both class rates and commodity rates are published; or where alternate rates or charges are permitted pursuant to § 536.4(b)(10)(xvi).

(l) Where a conference or carrier uses a dual rate system approved by the Commission and states in its tariff two rates pursuant to such system, each commodity item in the tariff subject to dual rates shall indicate such "Contract Rates" and "Noncontract Rates" as prescribed in Exhibits Nos. 3 through 7.

(m) Where a conference opens any or all rates, each tariff item so opened shall be amended to indicate the word "open" in place of the previously stated rates, and shall indicate a reference to a published rule in the tariff clearly defining the word "open" as used in each tariff and indicates where the rates of the individual members on such items will be found.

(n) Where a conference opens rates pursuant to paragraph (m) in this section, for an individual conference member to then charge rates on such an item, there must be on file with the Commission the individual member's proper tariff rate covering such item as required by these rules. This may be accomplished by each individual carrier filing a complete tariff pursuant to this part, or by the official or tariff agent of the conference, or the carrier, filing as a separate supplement at the end of the conference tariff a page or pages indicating the rates which will be charged by each individual carrier, and the governing rules and provisions of the conference tariff which will apply to each carrier. Separate open rate

tariffs may be published by an official or tariff agent of a conference. When the rates to be charged by the individual conference members are published in a separate tariff, such tariffs must refer, on the title page, to the conference tariff in which the open rated condition is reflected.

(o) Temporary or special or emergency rates or rates conditioned upon an expiration date or other factor shall be shown under the same commodity or generic heading or class in the same place in the tariff as the ordinarily applicable rates. See Exhibit No. 5. If only a portion of particular rates or other provisions will expire with a specified date, a notation to that effect shall clearly be shown in connection with such item, as indicated in Exhibit No. 2. Temporary or special or emergency rates or rates conditioned upon an expiration date or other factor may not be published by a carrier or conference that uses a contract rate system unless it shall first, on 90 days' notice, terminate the contract rate system with respect to the commodity or commodities to be accorded such rates.

(p) All rate pages shall be filed in the form and manner as prescribed in Exhibits Nos. 1 through 7. Where space permits, contract and noncontract rates, properly identified, may be shown in column form (side by side) rather than the manner shown in Exhibit No. 3.

(q) The number of rate columns may be varied as required to state rates to one or more ports, groupings or ranges of ports. The width of all columns in the rate block section of tariff rate pages may be varied as required.

§ 536.6 Amendments to tariffs.

(a) *General tariff amendments.* (1) All changes in, additions to, or deletions from a tariff shall be known as amendments. All amendments to tariffs shall be in permanent form as set forth hereafter.

(2) Amendments which provide for new or initial rates, or amendments which provide for changes in rates, charges, rules, or other provisions resulting in an increase in cost to the shipper shall be published and filed with the Commission to become effective not earlier than 30 days after the date of publication and filing with the Commission, unless special permission to become effective on less than said 30 days' notice has been granted by the Commission pursuant to § 536.8. Amendments to tariffs containing contract rates which result in an increase in cost to the shipper shall be published and filed with the Commission to become effective not earlier than 90 days after the lower rate has been in effect and not earlier than 90 days after giving notice to contract shippers by filing the amendment with the Commission, except as otherwise provided in the approved merchant's contract.

(3) Amendments which provide for changes in rates, charges, rules, regulations, or other provisions resulting in a decrease in cost to the shipper, or amendments which result in no change in cost to the shipper may become effective upon the publication and filing with the Commission.

(4) An amendment containing a rate on a specific commodity not previously named in a tariff is a reduction or no change in cost to the shipper and may become effective upon publication and filing with the Commission: *Provided,* That the tariff contains a cargo, n.o.s. rate or similar general cargo rates, which rate would otherwise be applicable to the specific commodity: *And further provided,* That the specific commodity rate is equal to or lower than the previously applicable cargo, n.o.s. rate or general cargo rate.

(5) An amendment which provides for the elimination of a specific commodity and rate applicable thereto from a tariff, thereby resulting in the application of a higher cargo, n.o.s. rate, or general cargo rate, is a rate increase and shall be published and filed with the Commission to become effective not earlier than 30 days after the date of publication and filing with the Commission in the absence of special permission for an earlier effective date pursuant to § 536.8.

(b) *Permanent tariff amendments.* (1) Amendments to looseleaf tariffs shall be made by reprinting the page upon which such amendments are made. Such page shall be designated in the upper right-hand corner as a revised page. For example:

First revised page 1
or
Fifth revised page 21

See Exhibits Nos. 1 through 7.

(2) The revised page filed to accomplish a tariff amendment shall reprint the page to be replaced in its entirety, changing only the matter on the page which is modified. Changes made in existing rates, charges, classifications, rules, or other provisions shall be indicated by the following uniform symbols:

(R) To denote reduction.
(A) To denote increase.
(C) To denote changes in wording which result in neither increase nor reduction in charges.
(D) To denote deletion.
(E) To denote an exception in a general change.
(E) To denote an exception to a general
(I) New or initial matter.

An explanation of such symbols shall be set forth in the tariff as required by § 536.4(b)(7).

(3) Each revised page filed to accomplish a tariff amendment shall cancel the previously issued page of that number upon which the change is made. Immediately under the designation of the new revised page number shall be indicated the previous page which is being canceled. For example:

First revised page 1 cancels original page 1
or
Fifth revised page 21 cancels fourth revised page 21

All matter on the page to be canceled which is not being changed shall be reissued on the revised page as it was in the page being canceled. See Exhibits Nos. 1 through 7.

(4) Each revised page to accomplish a tariff modification shall, in the upper right-hand corner of the page, state the effective date of the changes made on that page. Such effective date shall be subject to the requirements of section 18(b) of the Act and of this section. Revised pages may, if desired, also show an issue date.

(5) When a revised page canceling a previous page deletes any matter contained in the previous page, the deletion shall be indicated by the symbol (D) and the appropriate symbol in subparagraph (2) of this paragraph further indicating the effect of the deletion on rates or charges.

(6) Every tariff amendment which accomplishes a change in the tariff upon less than statutory notice pursuant to special permission granted by the Commission, shall show in connection with such change a notation as provided for in § 536.8.

(7) Increased rates brought forward without change, prior to becoming effective, from a tariff page which has not been in effect 30 days shall be designated "reissued," and shall show the original effective date.

(8) If, on account of expansion of matter on any page, it becomes necessary to add an additional page in order to take care of the additional matter, such additional page (except when it follows the final page) shall be given the same number as the previous page with a letter suffix unless all subsequent pages are reissued and renumbered. For example:

Original Page 4–A, Original Page 4–B, etc.

If it is necessary to change matter on Original Page 4–A, it may be done by issuing First Revised Page 4–A, which shall indicate the cancellation of Original Page 4–A.

(9) When a revised page is issued which deletes rates, rules, or other provisions previously published on the page which it cancels, and such rates, rules, or provisions are published on a different page, the revised page shall make specific reference to the page on which the rates, rules or provisions will be found, and the page to which reference is made shall contain the following notation in connection with such rates, rules, or other provisions, etc.

For (here insert rates, rules, other provisions, etc., as case may be) in effect prior to the effective date hereof see page -------

Subsequently revised pages of the same number shall omit this notation insofar as this particular matter is concerned.

(10) The following method shall be used in identifying and checking revised pages filed for the purpose of amending tariffs:

(i) When the original tariff is filed, the page following the title page shall be designated a "check sheet."

(ii) The check sheet shall contain correction numbers which shall be in consecutive numerical order beginning with the number one (1), with a blank space

provided with each correction number. A correction number shall be placed in the upper right-hand corner of each revised page. This procedure will provide a cross reference and a permanent record of all corrections made to the tariff.

(c) *Temporary tariff amendments.* In order to facilitate the filing of rate changes as quickly as possible, without the delay necessitated by preparation and filing of permanent revised pages as required above, temporary filings will be permitted subject to the following conditions:

(1) Temporary filings may be made by telegram or cable, or by mailing to the Commission letters, rate advices, rate circulars, rate advances, etc. Such temporary filings shall be clear and legible and must contain the following information:

(i) The identification of the carrier or conference.

(ii) Identification of the tariff being amended.

(iii) An exact description of the commodity on which a rate is being changed.

(iv) The previously issued page upon which the item being changed is contained.

(v) The new rate to be filed.

(vi) The effective date of the rate change.

(vii) A statment that this is a rate increase, decrease, or a new or initial filing.

(2) If the temporary filing is pursuant to special permission authority which has been granted, reference must be made to the special permission number.

(3) Temporary amendments received by the Commission for filing cannot be withdrawn or rescinded in any manner.

(4) Any carrier or conference making a temporary filing shall at the same time furnish all subscribers to the tariff all the information furnished to the Commission as required in subparagraph (1) of this paragraph.

(5) All temporary filings permitted by this section must be followed by the permanent filing of a revised page to accomplish tariff changes as required by this section and shall contain a statement to the effect that the filing was submitted by (here insert type of temporary filing such as, letter, telegram, rate advice, etc. and date submitted for filing). Such permanent modifications to take the place of the temporary filing must be received by the Commission within 15 days after receipt of the temporary filing for carriers or conferences making such filing from within the continental United States, and within 30 days after receipt of such temporary filing when the carrier or conference is located outside the continental United States.

(6) A permanent filing need not be made where a temporary filing is rejected by the Commission. However, all tariff subscribers must be notified that the temporary filing has been rejected.

(7) In the event a carrier or conference which has filed a rate change by temporary filing as permitted by this section should fail to properly file the permanent tariff modification to take the place of such temporary filing in the form and within the time limit above: *Provided,* A warning letter or collect telegram shall be sent by the Commission to such carrier or conference. Immediate steps shall be taken by the carrier or conference to properly file the followup permanent filing. If a carrier or conference fails to correct such delinquent permanent filing after one warning, or if a carrier or conference after correction of one such delinquent filing, should fail a second time to file a permanent tariff modification to take the place of a temporary filing within the time limits provided, the Commission shall notify such carrier or conference that it no longer has the privilege of making rate changes by temporary filing as permitted in this section and thereafter, until further notice from the Commission, such carrier or conference may make tariff amendments only by filing of permanent tariff modifications as set forth in this section.

(d) *Rejection of tariff amendments or other tariff publications.* (1) Any amendment or other tariff publication submitted for filing which fails in any respect to conform with sections 18(b) and 14(b) when applicable, of the Act or with the provisions of this part, is subject to rejection. When an amendment or other tariff publication is rejected, the Commission, acting through a designated administrative officer, will inform the carrier, conference, or agent tendering such amendment or other tariff publication for filing, by telegram, cablegram, or letter, of such rejection.

(i) Upon receipt of notice of a rejection, the carrier, conference, or agent shall immediately remove such rejected tariff amendment or other publication from the effective tariff, and shall immediately notify all subscribers to such tariff that the rejected amendment or other tariff publication is void.

(ii) The number assigned to an amendment or other tariff publication which has been rejected may not again be used. The rejected amendment or other tariff publication may not be referred to in any subsequent amendment or other tariff publication in any manner whatsoever, except that a notation shall appear on the new amendment or other tariff publication issued to replace that which has been rejected, reading substantially in accordance with the following example:

Issued in lieu of 5th Revised Page No. 8 (Correction No. 50) rejected by the Federal Maritime Commission.

Such notation shall be shown at the bottom of the new amendment.

(2) Any amendment or other tariff publication submitted for filing containing more than one change, one or more but not all of which fails to conform with sections 18(b) or 14(b) when applicable, of the Act or with the provisions of this part is subject to partial rejection. When an amendment or other tariff publication is partially rejected, the Commission, acting through a designated administrative officer, will inform the carrier, conference, or agent tendering such amendment or other tariff publication for filing, by telegram, cablegram, or letter, of such partial rejection.

(i) Upon receipt of notice of a partial rejection, the carrier, conference, or agent, shall immediately notify all subscribers to the tariff of the partial rejection. The carrier, conference, or agent, shall then resubmit a revised amendment or other tariff publication to the Commission deleting the partially rejected matter or otherwise conforming such matter to section 18(b) of the Act or with the provisions of this part.

(ii) The number assigned to an amendment or other tariff publication which has been rejected in part may not be used again. Resubmission of the revised amendment or other tariff publication shall be accomplished as prescribed in subparagraph (1) of this paragraph.

§ 536.7 Supplements.

(a) Supplements to tariffs may be filed to accomplish the following:

(1) To cancel a tariff in whole or in part.

(2) To provide for a general rate decrease applicable to all, or substantially all, of the commodities listed in a tariff.

(3) To provide for a general rate increase applicable to all, or substantially all, of the commodities listed in a tariff.

(4) To indicate seasonal discontinuance or temporary suspension or reinstitution of service covered by a tariff.

(5) To provide for change in name of carrier or agent.

When supplements are filed as provided for in subparagraphs (2) and (3) of this paragraph and the rate increase or decrease is not applicable to all commodities, a notation shall appear on the supplement in one of the following forms:

The general rate increase (decrease) provided for on this page applies to all commodities stated herein except the following: (Here list the excepted commodities or commodity item numbers) or the general rate increase (decrease) provided for on this page applies to all commodities stated herein except those noted on page _____.

Such general rate decrease or increase supplements shall bear an expiration date that coincides with the date the changes will be reflected in the rates and charges in the tariff. Such date shall not be more than 90 days after the date of receipt of the supplements by the Commission. No more than one such supplement may be in effect at any time.

(b) Additional supplements to other than looseleaf tariffs shall be filed as set forth in any special permission granted by the Commission pursuant to §§ 536.3 (d) and 536.8.

(c) Supplements shall be numbered consecutively on the upper right-hand corner of each as follows:

Supplement No. 1 to FMC Tariff No. _____

§ 536.8 Application for special permission.

(a) Section 18(b) of the Act authorizes the Commission, in its discretion and for good cause shown, to permit increases in rates or issuance of new or initial rates on less than statutory notice. The Commission may also in its discretion and for good cause shown,

permit departure from the regulations in this part. The Commission will grant such permissions only in cases where real merit is demonstrated. Where correction of typographical errors results in a rate increase, section 18(b) of the Act requires such correction to become effective not earlier than 30 days after filing with the Commission. Typographical errors will be considered to constitute good cause for the exercise of this authority, but every application based thereon must plainly specify the error with evidence thereof, together with a full statement of the attending circumstances and must be presented with reasonable promptness after issuance of the defective tariff publication. Section 14(b) of the Act does not permit the Commission to allow relief from the requirements of that section and applications for such permission will not be entertained.

(b) Application of special permission to establish increases in rates on less than statutory notice, or for waiver of the provisions of this tariff circular must be made by the carrier, conference, or agent that holds authorization to file the tariff publication.

(c) Application for special permission shall be made by cable, telegram or letter. In an emergency situation, special permission applications may be made by telephone: *Provided*, That such application is promptly followed by cable, telegram, or letter.

(d) If the authority granted by special permission is used, it must be used in its entirety and in the manner set forth in such special permission. If it is not desired to use all of the authority granted and less or more extensive or different authority is desired, a new application complying with the requirements of this part in all respects and referring to the previous permission must be filed.

(e) Application for special permission shall contain the following information:

(1) The name of the conference or carrier in whose name the special permission is requested.

(2) Identification of the specific tariff involved.

(3) The rate, commodity, rules, etc. (related to the application), and the special circumstances which the applicant believes to constitute good cause to make a tariff change on less than the statutory period required in section 18(b) of the Act.

(f) Every tariff filed pursuant to a special permission granted by the Commission shall contain a notation to such effect in the following form:

Issued under authority of the Federal Maritime Commission Special Permission No. F (here fill in assigned number).

§ 536.9 Statement of terminal and other charges; and free time allowed at New York.

(a) Every tariff filed pursuant to this part shall state separately any terminal or other charges, privileges, or facilities under the control of the carrier or conference which is granted or allowed.

(b) Wherever a tariff includes charges for terminal services, canal tolls, or other additional charges not under the control of the carrier or conference, which merely acts as a collection agent for the charges, and the agency making such charges to the carrier increases the charges without notice to the carrier or conference, such charges may be increased in the carrier or conference tariff without being subject to the 30-day advanced filing requirement of this part whether included in the through rate or separately stated on the bill of lading.

(c) Every tariff naming rates on import traffic to the port of New York, or to a range of ports which includes New York, shall contain a rule in compliance with the Commission's General Order 8 (Part 526 of this chapter).

(d) Every tariff naming rates on export traffic through the port of New York or the port of Philadelphia, or through a range of ports which includes either of those ports, shall contain a rule in compliance with the Commission's General Order 26 (Part 541 of this chapter).

§ 536.10 Other governing tariffs.

(a) If it is not desirable or practical to include governing rules of a tariff as required by § 536.4(b)(10), or bills of lading or contracts of affreightment as required by § 536.4(b)(10)(iii) in the rate tariff, these may be separately filed and published in a rules tariff and/or bills of lading tariff. Similarly, classifications of freight, routing guides and other similar tariffs may be separately published and filed. The rate tariffs which are to be governed by such publications shall be made subject thereto by specific reference substantially as follows:

This tariff is governed, except as otherwise provided by, _____, FMC No. _____.
(type of tariff)

Provided, however, That no rate tariff shall refer to or be governed by another rate tariff.

(b) Tariffs naming rates for the transportation of explosives, inflammables, or corrosive material, or other dangerous articles, shall contain as required by § 536.4(b)(10)(xi), the rules and regulations issued by the carrier or conferences governing the transportation of such articles, or shall bear reference to a separate publication where such regulations are available to the general public.

§ 536.11 Transfer of operations; changes in name and control; changes in conference membership.

(a) Whenever the name of a common carrier having an individual tariff on file with the Federal Maritime Commission is changed, or its operating control is transferred to another common carrier, the carrier which will thereafter operate the service shall make appropriate tariff filings to indicate the change in name. Subsequent filings to such tariffs shall indicate the new name of the carrier involved.

(b) Whenever the name of a carrier which participates in a conference is changed, the conference shall file an appropriate amendment to the tariff to indicate the change in name to the new carrier.

§ 536.12 Delegation of authority to file tariffs.

(a) A carrier or conference may grant authority to a person, not an official or employee of such carrier or conference, as agent to act for such carrier or conference in the issuance of all its tariffs, or any particular tariff.

(b) Whenever there is such delegation of authority by a carrier or conference, there shall be filed with the Commission a statement indicating the appointment of such agent and setting forth the exact limits of the authority of such appointed agent.

§ 536.13 Transportation of U.S. Department of Defense cargo under competitive rates approved by Military Sealift Command (MSC).

(a) All American-flag carriers operating in the foreign commerce of the United States, are hereby granted continuing special permission to file on 1 day's notice in the form and manner indicated in paragraph (c) of this section, all rates or charges for the transportation of U.S. Department of Defense cargo transported under rates, terms, and conditions negotiated and approved by the MSC.

(b) The provisions of this special permission shall apply to copies of quotations or tenders made by American-flag common carriers by water in the foreign commerce of the United States to the MSC.

(c) Copies of all quotations or tenders by common carriers to which this special permission applies shall be submitted to this Commission on or after the effective date of this special permission and shall comply with subparagraphs (1) through (6), inclusive, of this paragraph.

(1) *Copies to be submitted to the Federal Maritime Commission after approval by MSC.* Exact copies of the quotation or tender shall be filed with this Commission as soon as possible after the quotation or tender is approved by MSC on not less than 1 day's filing notice prior to the effective date thereof.

(2) *Filing in triplicate required.* All quotations or tenders shall be filed in triplicate, one copy of which shall be signed and maintained at the Washington office of this Commission for public inspection. The tender shall represent only rates and conditions which have been accepted by the MSC.

(3) *Filing procedure.* Three copies of the quotations or tenders shall be filed together with a letter of transmittal which clearly indicates that they are being filed in accordance with the requirements of section 18(b), Shipping Act, 1916, and this section.

(4) *Numbering.* The copies of quotations or tenders which are filed with the Commission by each carrier or agent shall be numbered consecutively in a series maintained by such carrier or agent beginning with No. "1".

(5) *Quotation or tender superseding prior one.* A quotation or tender which supersedes a prior quotation or tender

shall cancel the prior document by number.

(6) *Amendments or supplements to quotations or tenders.* When amendments or supplements are filed to quotations or tenders, they shall have been first approved by MSC and shall contain appropriate reference to the original tender which is being supplemented.

§ 536.14 Exemptions.

(a) Carriage by vessels operated by the State of Alaska between Prince Rupert, Canada, and ports in southeastern Alaska is exempt from the provisions of section 18(b), Shipping Act, 1916, to the extent that it meets all the following conditions: (1) The carriage of property is limited to vehicles; (2) the tolls for the vehicles so transported are levied solely on the basis of space utilized rather than weight or contents of the vehicle, and such tolls are the same regardless of whether the vehicle is loaded or empty; (3) the operator of the vessel does not move the vehicles on or off the ship; and (4) the carrier does not participate in any joint rates establishing through routes or in any other type of agreements with any other carrier.

(b) Carriage by vessels operated by the State of Alaska between Seattle, Wash., and Prince Rupert, Canada, is exempt from the provisions of section 18 (b), Shipping Act, 1916, with respect to the transportation of passengers, commercial buses carrying passengers, personal vehicles, and personal effects: *Provided,* That such vehicles and personal effects are the accompanying personal property of the passengers, and are not being transported for the purpose of sale.

§ 536.15 Special rules governing the filing of tariffs containing rates and charges and/or rules and regulations for through intermodal transportation.

(a) Tariffs filed pursuant to the requirements of section 18(b) of the Act and this part which publish rates or charges or rules or regulations for the intermodal through transportation of cargo are subject to these special rules and, in addition, to those other rules in this part which govern tariff filing generally.

(b) The title page of such tariffs shall contain:

(1) A list of the places from and to which the rates apply or reference to an interior page where such list may be found. The places shall be described by the names of cities, States, countries, or political subdivisions thereof, or other definite geographical designations.

(2) A statement indicating that the tariff contains rates or provisions for through intermodal services.

(c) The body of the tariff shall include the following:

(1) The identity of each carrier joining in an arrangement for through transportation when such transportation results in a joint service; together with a designation of the mode of transport furnished by each carrier.

(2) A list of the places from and to which the rates apply, if not shown on the title page, together with the ports through which the cargo can move.

(3) A rule setting forth the liability and responsibility of each carrier participating in the offering of through intermodal services together with a specimen of the bill of lading or other contract of affreightment covering the through movement. The tariff and the through bill of lading or contract of affreightment shall clearly provide that the carrier issuing the bill of lading or contract of affreightment; and the carrier delivering the property at destination; or any carrier participating in the movement (if it is established that loss or damage occurred while in its possession); are liable to the lawful holder of the bill of lading or contract of affreightment subject only to any limitations of liability exercised under applicable law.

(d) Statement of rates:

(1) Except as otherwise provided in this part, tariffs naming through intermodal rates shall show the through rate together with the port-to-port division, rate or charge that is to be collected by the water carrier subject to regulation under the Shipping Act, 1916. The port-to-port portion may be shown in (i) a column adjacent to a column containing the through rate or (ii) directly under the commodity description or the through rate.

(2) When the through intermodal rate is to be constructed by combining the ocean rates with inland rates published in tariffs filed with the Interstate Commerce Commission or with the Civil Aeronautics Board, the ICC tariff or the CAB tariff may be incorporated into the through intermodal rate tariff and filed with the Federal Maritime Commission. The tariff format requirements of this part are hereby waived as to that portion of the through intermodal tariff which is also an ICC or CAB tariff only.

(e) Filing of arrangements for through intermodal transportation: A memorandum of every arrangement to which a carrier or conference of carriers subject to the jurisdiction of the Shipping Act, 1916, is or becomes a party, with carriers and persons not subject to that Act, for transportation between a port or point in the United States and a point or port in a foreign country, establishing any joint rate or through route which is offered in connection with any other carrier, shall be filed with the Commission concurrently with the filing of the through intermodal rate tariffs.[1]

§ 536.16 Effective date of this part and time limit within which tariffs must comply therewith.

This part shall become effective on _____. Any completely new tariff or completely reissued tariff made on or after said date must comply in all respects with this part. Any tariff amendment made on and after effective date of this part, to a tariff lawfully on file with the Commission prior to that date may be filed in the same format as used in such lawfully filed tariff: *Provided however,* That such tariffs and amendments thereto must on and after effective date of this part include required matter otherwise prescribed in this part. Within 12 months from said effective date, all tariffs and amendments thereto must be made to conform in all respects with this part.

Interested persons may participate in this rule making proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 14, 1972, an original and 15 copies of their views or arguments pertaining to the proposed amended rules. All suggestions for changes in the text as set out above should be accompanied by drafts of the language thought necessary to accomplish the desired change and by statements and arguments in support thereof.

The Federal Maritime Commission, Bureau of Hearing Counsel, shall participate in the proceeding and shall file Reply to Comments on or before August 11, 1972, serving an original and 15 copies on the Federal Maritime Commission and one copy to each party who filed written comments. Answers to Hearing Counsel's replies shall be submitted to the Federal Maritime Commission on or before September 1, 1972.

By order of the Federal Maritime Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[1] Arrangements subject to sec. 15 of the Act must also be filed and approved in accordance with the requirements of General Order 24 (Part 522 of this chapter).

EXHIBIT No. 1

Name of carrier or conference and tariff number.	Orig./Rev.	Page
	Cancels	Page
From: (Range or ports) To: (Range or ports)	Effective date	
	Correction	

Except as otherwise provided herein, rates apply per ton of ____or____cubic____, whichever produces the greater revenue.		Type [1]	Rate basis	1	2	Item [1]
Commodity code	Commodity description and packaging					
	Explanation for use of this exhibit: All tariff pages, except the title page, shall be filed in the form and manner as prescribed above the rate block on this page.					

[1] As applicable.

EXHIBIT NO. 2

Name of carrier or conference and tariff number	Orig./Rev.	Page
	Cancels	Page
From: (Range or ports) To: (Range or ports)	Effective date	
	Correction	

Except as otherwise provided herein, rates apply per ton of (2,000 lbs.) or (40) cubic (feet) whichever produces the greater revenue.		Rate basis	1	2	Item [1]
Commodity Code	Commodity description and packaging				
	Fans, electric	W/M	78.00		
	Glasses, sun	M	63.75		
	Lime, hydrated, packed	W	29.25		
	Tractors:				
	Unpacked	W/M	45.00		
	Packed	W/M	40.00		
	Zinc, viz:				
	Bars, circles, ingots, pigs, plates, sheets, shot, slabs.	2240 or 40CF	29.00		
	Ingots: Special rate effective May 1, 197- expiring June 1, 197-	2240	27.00		
	Ingots: Special rate effective June 1, 197- expiring September 1, 197-	2240	28.00		

[1] Optional column.

Explanation of use of this exhibit: Conference or Carrier: Single level of rates; one port or the same rate to several ports or range of ports; with temporary rates.

EXHIBIT No. 3

Name of carrier or conference and tariff number	Orig./Rev.	Page
	Cancels	Page
From: (Range or ports) To: (Range or ports)	Effective date	
	Correction	

Except as otherwise provided herein, rates apply per ton of (2,240) lbs. or (40) cubic (feet) whichever produces the greater revenue.		Type [2]	Rate basis	(Ports or range)	(Ports or range)	Item [2]
Commodity Code	Commodity description and packaging					
	Alcohols (effective May 10, 197..) [1] (I) [2]	C	100#	3.30	3.55	
		NC		3.88	4.17	
	Canned Goods:					
	Fish (A) [3]	C	100#	2.15	2.15	
	(A) [3]	NC		2.65	2.65	
	Vegetables:					
	48/9 oz. tins (A) [3]	C	Case	.93	.98	
	(A) [3]	NC		1.01	1.08	
	48/7 oz. tins (A) [3]	C	Case	.70	.75	
	(A) [3]	NC		.85	.90	

[1] Issued under earlier effective date than other changes on page.
[2] As applicable.
[3] Change symbols must be shown in the commodity description column either to the left or right of the commodity.

Explanation of the use of this exhibit: Conference or Carrier: Dual rate system; two ranges of destination ports; rates per case or per 100 lbs.

EXHIBIT No. 4

Name of carrier or conference and tariff number	Orig./Rev.	Page
	Cancels	Page
From: (Range or ports) To: (Range or ports)	Effective date	
	Correction	

Except as otherwise provided herein, rates apply per ton of (2,240) lbs. or (40) cubic (feet) whichever produces the greater revenue.		Type [2]	Rate basis	Rate	Item [1]
Commodity code	Commodity description and packaging				
	Fans, electric	C	W/M	63.75	
		NC		70.75	
	Glasses, sun; (I) [2]	C	M	63.75	
		NC		70.75	
	Lime, hydrated, packs	C	W	23.75	
		NC		26.50	
	Liquors		M	Open	
	Liquors, medicinal: Transferred to Medicines, patent preparations; (D) (R) [2]				
	Scotch, in barrels: Transferred to Liquors; (D) (A) [2]				

[1] As applicable.
[2] Change symbols must be shown in the commodity description column either to the left or right of the commodity.

Explanation of this Exhibit: Conference or Carrier: Dual-rate system; One range or ports; deletion of rates showing reduction and increase due to deletion.

EXHIBIT NO. 5

Name of carrier or conference and tariff number	Orig./Rev.	Page
	Cancels	Page
From: (Range or ports) To: (Range or ports)	Effective date	
	Correction	

Except as otherwise provided herein, rates apply per ton of (2,240) lbs. or (40) cubic (feet) whichever produces the greater revenue.		Type [2]	Rate basis	(Ports or range)	(Ports or range)	Item [2]
Commodity Code	Commodity description and packaging					
	Iron and steel:					
	Turnbuckles		W	29.50	32.50	
	Emergency rate effective temporary 6-1-7- to special 9-1-7- (R).[1]		W	26.00	28.50	
	Medicines, patent preparations:					
	Value up to $200 per 40 cu. ft.	C	M	34.00	37.50	
		NC		37.25	41.00	
	Value exceeding $200 but not exceeding $500 per 40 cu. ft.	C	M	52.75	58.00	
		NC		57.75	65.50	
	Value exceeding $500 per 40 cu. ft.	C	M	67.75	74.00	
		NC	M	74.25	81.50	

[1] Change symbols must be shown in the commodity description column either to the left or right of the commodity.
[2] As applicable.

Explanation of the use of this exhibit: Conference or Carrier: Dual-rate system; Valuation rates and emergency, temporary or special rates.

EXHIBIT NO. 6

Name of carrier or conference and tariff number	Orig./Rev.	Page
	Cancels	Page
From: (Range or ports) To: (Range or ports)	Effective date	
	Correction	

Commodity Index

Commodity Code	Commodity	Class or Item No. [1]	Commodity Code	Commodity	Class or Item No. [1]
	Abrasive	2		Iron or steel articles viz:	
	Absorbent cotton	160		Balls, grinding	9
	Ale, ginger	3 M		Forgings	240
	Cotton, absorbent	160			

[1] Where tariff publishes both class and commodity rates, as above, the commodity item numbers should begin with the next counting unit; example—If class rates are in twelve classes then the commodity rates should not be numbered lower than 100.

Explanation of the use of this exhibit: Conference or Carrier; single level or dual-rate system; class or class and commodity tariff.

EXHIBIT NO. 7

Name of carrier or conference and tariff number	Orig./Rev.	Page
	Cancels	Page
From: (Range or ports) To: (Range or ports)	Effective date	
	Correction	

Class rates

Except as otherwise provided, rates apply per ton of (2,240 lbs.) or (40) cubic (ft.) whichever produces the greater revenue.	Class					
Ports to which rates apply	1	2	3	4	5	6
Ports A,B,C [1]:						
Contract	90.00	85.00	70.00	62.50	50.00	37.50
Noncontract	103.50	97.75	80.50	72.00	57.50	43.25
Ports D,E,F [1]	45.00	42.50	35.00	31.25	25.00	18.75

[1] As applicable to dual-rate or single level rate systems.

Explanation of the use of this exhibit: Conference or carrier; single level or dual-rate system; class rate tariff or class rate section of class and commodity tariff.

EXHIBIT NO. 8

Form FRC-9, Revised
( )

FEDERAL MARITIME COMISSION
Washington, D.C.

INFORMATION CIRCULAR

Questions must be answered in full. If not applicable so state. If additional space is required number items on plain white paper and attach. Part 536, 46 CFR, requires that each carrier subject to the Shipping Act, 1916, complete this circular and return it to the:

Federal Maritime Commission,
Bureau of Compliance,
Washington, D.C. 20573.

1. (a) Your legal business name:

(b) English equivalent if legal name is customarily written in language other than English:

2. (a) State form of organization, i.e. individual, corporation, partnership, or other (explain):

(b) If a corporation or other organization, give:

State or country of incorporation or registry	Date of incorporation or registry

(c) List name, residence, and citizenship of all corporate officers and directors, partnership members, other principals or individual proprietors.

Name	Residence	Citizenship	Title

EXHIBIT 8—Continued

3. Give the following information regarding any person or company controlling, controlled by or under common control with you:

Name	Address	Business and relationship to you

4. Name and Address of Principal U.S. Office and of all persons, whether concerns or individuals, authorized to accept service in the United States of complaints, notices, subpoenas, or other documents which may be issued. Describe limitations.

Name	Address	Authority and limitation

5. (a) Describe freight service(s) provided to and from ports of the United States, its territories or possessions (show trade names utilized in each service):

Trade area	Trade name	No. of vessels	Frequency of service

(b) Indicate type of freight service(s) provided:

- ☐ Break-bulk.
- ☐ Containerization.
- ☐ Roll-on-roll-off.
- ☐ Automated cargo handling (explain).
- ☐ Lighter aboard ship.
- ☐ Other (explain).

If more than one type of service is checked, state approximate percentage of each to total service.

6. Complete (a) and/or (b), as applicable:
(a) Vessel operating common carrier: Under what flag or flags are vessels operating (indicate the number under each flag):

1. Owned vessels
2. Chartered or other

(b) Nonvessel operating common carrier:
Name the ocean carrier(s) generally used in each trade where service is offered

This circular is submitted by or on behalf of:

(Print name legibly)

By—Signature of official Title

Home office—Street and number City State or country

Principal office in the United States—Street and number

City State Date

EXHIBIT No. 9

ROUTING SECTION

The rules, regulations and rates apply to all transshipment arrangements between the participating carriers. Participating carriers have agreed to observe the rules, regulations, rates and routings established herein as evidenced by the agreement on file with the Commission.

	From	To
Agreement No. ------		
Carriers:		
Originating: ABC S.S. Co.	Japanese Ports	Manila
Delivering: XYZ Line, Inc.	Manila	U.S. Pacific Coast Ports
	Additional Charges: None	

	From	To
Agreement No. ------		
Carriers:		
Originating: ABC S.S. Co.	Naha, Okinawa	Kobe/Yokohama
Intermediate: XYZ Line, Inc.	Kobe/Yokohama	U.S. Pacific Coast Ports
Delivering: DEF Maritime Co.	U.S. Pacific Coast Ports	U.S. North Atlantic Ports
	Additional Charges: $4.50 W/M	

	From	To
Agreement No. ------	Transshipment service restricted to shipments of Frozen Fish.	
Carriers:		
Originating: XYZ Line, Inc.	Anchorage	Seattle
Intermediate: PQR Line, Inc.	Seattle	Singapore
Delivering: ABC S.S. Co.	Singapore	Brunei

[FR Doc.72-7397 Filed 5-19-72;8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Definition for Purpose of SBA Financial and Procurement Assistance for Motor Vehicle Parts and Accessories Industry

Until recently, the Bureau of the Census reported data under Classification Code 3717, Motor Vehicles and Parts. These data covered Standard Industrial Classification (SIC) industries 3711, Motor Vehicles, 3712, Passenger Car Bodies, and 3714, Motor Vehicle Parts and Accessories. They were combined in order to overcome certain data collecting problems. As a result data on the separate SIC industries were not available and therefore the Small Business Administration adopted a 1,000 employee size standard for Census Classification Code 3717 covering all three industries. Subsequently a percentage of market standard was adopted for purpose of Government procurements of passenger cars within Census Classification Code 37171.

Census data now have isolated automotive parts and accessories manufacturers from the producers of complete motor vehicles. These data indicate that SIC 3714, Motor Vehicle Parts and Accessories, is comprised of a substantial number of small concerns; 1,300 of the 1,423 companies classified in SIC 3714 (91 percent of the total concerns) employ fewer than 500 persons and these smaller concerns account for slightly less than 10 percent of the Industry's total value added by manufacture.

In comparison, only 78 percent of the concerns classified in SIC industries 3711, Motor Vehicles, and 3712, Passenger Car Bodies, employ fewer than 500 persons, and these concerns account for less than one percent of the total value added in the industry. Thus, SIC 3711 and SIC 3712 exhibit a higher degree of concentration than SIC 3714 and therefore it would be inequitable to continue to allow manufacturers of automotive parts and accessories to be subject to the same size standard originally intended for two very heavily concentrated industries.

Accordingly, notice is hereby given that the Small Business Administration proposes to amend Part 121 of Chapter I of Title 13 of the Code of Federal Regulations by:

1. Revising the title for Census Classification Code 3717 in Schedules A and B to read "Motor vehicles" and revising Footnote 5 to Schedule A and Footnote 6 to Schedule B to read as follows:

Standard Industrial Classification Industries Nos. 3712 and 3714 have been combined under this code number because of the problem of defining the reporting unit in terms of these industries. This difficulty arises from the fact that many large establishments have integrated operations which include the production of bodies and assembly of complete vehicles at the same location. Standard Industrial Classification Industry No. 3714, Motor Vehicle Parts and Accessories used to be, but no longer is, included under Census Classification Code 3717.

2. Adding to Schedule A, a 500 employee size standard for Census Classification Code 3714, Motor Vehicle Parts and Accessories, to read as follows:

SCHEDULE A—EMPLOYMENT SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN MANUFACTURING

Census classification code	Industry or class of products	Employment size standard (number of employees [1])
* * *	* * *	* * *
3714	Motor vehicle parts and accessories	500
* * *	* * *	* * *

Interested parties may file with the Small Business Administration within 30 days of publication of this proposal in the FEDERAL REGISTER, written statements of facts, opinions, or arguments concerning the proposal.

All correspondence shall be addressed to:

William L. Pellington, Acting Director, Size Standards Staff, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

Dated: May 11, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-7694 Filed 5-19-72;8:51 am]

OIL IMPORT APPEALS BOARD

[32A CFR Ch. XI]

RULES AND PROCEDURES

Proposed Clarification of Procedural Matters

Correction

In F.R. Doc. 72-7010, appearing at page 9347, in the issue of Tuesday, May 9, 1972, in Sec. 21, after the figure "4", in the fourth line, insert the following: "of the Regulation".

SELECTIVE SERVICE SYSTEM

[32 CFR Part 1661]

SELECTIVE SERVICE REGULATIONS

Conscientious Objector; Correction

In F.R. Doc. 72-7228 appearing at pages 9566-9567 in the issue of Friday, May 12, 1972, the following correction is made: In the second sentence of paragraph (a) of § 1661.2 the word "less" should read "sooner."

BYRON V. PEPITONE,
Acting Director.

MAY 17, 1972.

[FR Doc.72-7696 Filed 5-19-72;8:48 am]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

NOTICE OF GRANTING OF RELIEF

Notice is hereby given that pursuant to 18 U.S.C. 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding 1 year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Aquino, David Martin, 5437 23d SW., Seattle, WA, convicted on April 11, 1969, in the Superior Court for the County of King, Washington.

Borgerson, Robert Charles, 13061 Eton Place, Santa Ana, CA, convicted on April 5, 1968, in the Superior Court of the State of California.

Boyer, Robert Wayne, 294 Dayton Avenue, Apartment No. 1,. St. Paul, MN, convicted on January 13, 1964, in the Circuit Court of Butler County, Missouri.

Chase, Kenneth Marvin, Rural Route 4, Abilene, Kans., convicted on June 11, 1968, in the U.S. District Court for the District of Kansas.

Dandridge, Charles Milton, 1511 North Broadway, Baltimore, MD, convicted on December 10, 1969, and on April 14, 1970, in the Municipal Court, Eastern District, city of Baltimore, Md.

Dimouro, Samuel Aloysious, 38 Oak Street, Hudson, MA, convicted on October 8, 1951, in the Marlboro District Court, Marlboro, Mass.

Dupont, George E., Sr., Route 30, Jamaica, VT, convicted on or about May 1, 1933, in the U.S. District Court for the District of Massachusetts.

Firestone, Neil Leonard, Mill Run, Pa., convicted on February 14, 1963, in the U.S. District Court, Western District of Pennsylvania.

Fluegel, Manfred Lyle, 11100 59th Avenue South, Seattle, WA, convicted on December 28, 1949, in a General Court-Martial, U.S. Naval Installation, Treasure Island, Calif.; and on July 19, 1963, in the Superior Court of Washington for the County of King.

Frost, Johnnie S., Post Office Box 40, Walnut, KS, convicted on August 15, 1944, in the District Court of Jackson County, Oklahoma.

Herzog, Edward Francis, 78-20 62d Street, Glendale, Long Island, NY, convicted on December 9, 1946, in the Queens County Court, New York.

Hoering, Otto Joseph, 2833 Randall Avenue, Bronx, NY, convicted on May 10, 1948, in the Court of General Sessions of New York County, New York.

Lenton, Johnnie Ray, Jr., 4604 St. Aubin Street, Detroit, MI, convicted on January 16, 1961, in the Criminal Court of Shelby County, Tennessee.

MacKenzie, Harold Earl, 2851 North Arrowhead Avenue, San Bernardino, CA, convicted on July 26, 1955, in the Superior Court, County of Orange, Santa Ana, Calif.; and on November 2, 1955, in the Superior Court, County of Riverside, Riverside, Calif.

Rolley, Frank A., Box 109, New Florence, PA, convicted on March 6, 1949, in the Court of Oyer and Terminer and General Jail Delivery and the Court of Quarter Sessions of the Peace, Westmoreland County, Pa.

Russian, Clifford Arthur, Sr., R.F.D. No. 2, River Road, Winooski, Vt., convicted on June 18, 1958, in the U.S. District Court, Middle District of Tennessee, Nashville, Tenn.

Saulisbury, Claude C., Route 1, Box 133, Ridgeville, SC, convicted on January 15, 1962, in the U.S. District Court, Charleston, S.C.

Skerritt, David C., 267 Stroube Street, Oxnard, CA, convicted on May 23, 1961, in the Superior Court of the State of California, county of Ventura.

Smith, Homer L., 405 Geronimo, Independence, MO, convicted on October 13, 1960, in the Circuit Court of Cooper County, Missouri.

Smith, Wylie Quavis, 2010 North Frontage Road, Meridian, MS, convicted February 6, 1963, in the Circuit Court, Neshoba County, Miss.

Starr, Richard G., 4370 Northeast 35th Street, Des Moines, IA, convicted on June 15, 1948, and on June 18, 1957, in the Polk County District Court, Des Moines, Iowa; on February 9, 1956, in the Warren County District Court, Indianola, Iowa; and on October 25, 1960, in the Hamilton County District Court, Webster City, Iowa.

Terrio, Charles R., 49 11th Street, Clintonville, WI, convicted on April 22, 1957, November 25, 1957, and on December 9, 1959, in the Shawano County Court, Shawano, Wis.

Wagner, James Penny, Route 7, Box 181, Mocksville, NC, convicted on October 22, 1958, and on April 22, 1966, in the U.S. District Court, Middle District of North Carolina.

Walker, George Selby, 820 26th Avenue, Seattle, WA, convicted on August 7, 1947, in the U.S. District Court, Western District of Washington, Northern Division of Seattle, Washington.

Signed at Washington, D.C., this 12th day of May 1972.

[SEAL] REX D. DAVIS,
Director, Alcohol, Tobacco, and Firearms Division.

[FR Doc.72-7664 Filed 5-19-72;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

PINOLEVILLE RANCHERIA IN CALIFORNIA AND INDIVIDUAL MEMBERS THEREOF

Notice of Termination of Federal Supervision Over Property

Notice is hereby given of the deletion of the name of the following as a dependent member of the immediate family of a distributee from those persons listed in the February 14, 1966, approved Notice of Termination of Federal Supervision Over Property and Individual Members of the Pinoleville Rancheria in California.

Deletion of dependent family member	Date of birth	Address	Relationship to the distributee	Distributee
Robert Myers.	2-11-42	Route 1, Box 529-A, Ukiah, CA.	Son	Tillie Myers.

Robert Myers was an adult person and was not a resident on the Pinoleville Rancheria when the notice of February 14, 1966, was given. This notice, with respect to the dependent family members of the distributee Tillie Myers, rescinds, pro tanto, and as of February 14, 1966, the notice of termination, which was published February 18, 1966, in the FEDERAL REGISTER, volume 31, No. 34, page 2911. This notice becomes effective as of the date of publication in the FEDERAL REGISTER (5-20-72).

HARRISON LOESCH,
Assistant Secretary of the Interior.

MAY 16, 1972.

[FR Doc.72-7646 Filed 5-19-72;8:45 am]

[DES 72-60]

PROPOSED WILDERNESS AREA WITHIN THE OREGON ISLANDS NATIONAL WILDLIFE REFUGE, CLATSOP, COOS, CURRY, LANE, LINCOLN, AND TILLAMOOK COUNTIES, OREG.

Notice of Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, the Department of the Interior has prepared a draft environmental statement for a proposed

wilderness area within the Oregon Islands National Wildlife Refuge, Clatsop, Coos, Curry, Lane, Lincoln, and Tillamook Counties, Oreg., and invites written comments within 45 days of this notice.

The proposed wilderness area will include 459 acres of the Oregon Islands National Wildlife Refuge to be designated as wilderness within the National Wilderness Preservation System.

Copies are available for inspection at the following locations:

Bureau of Sport Fisheries and Wildlife, 1500 Plaza Building, Room 288, 1500 Northeast Irving Street, Post Office Box 3737, Portland, OR 97208.

Bureau of Sport Fisheries and Wildlife, Office of Environmental Quality, Department of the Interior, Room 2246, 18th and C Streets NW., Washington, DC 20240.

Single copies may be obtained by writing the Chief, Office of Environmental Quality, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240. Please refer to the statement number above.

Dated: May 11, 1972.

WILLIAM W. LYONS,
Deputy Assistant Secretary, Program Policy.

[FR Doc.72-7647 Filed 5-19-72;8:46 am]

[DES 72-53]

RESTRICTION ON VEHICULAR USE ON BACK BAY NATIONAL WILDLIFE REFUGE, VA.

Notice of Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, the Department of the Interior has prepared a draft environmental statement for proposed special regulations restricting vehicular use on the Back Bay National Wildlife Refuge within the metropolis area of Virginia Beach, Va., and invites written comments within 30 days of this notice.

The special regulations will permit only authorized vehicles to use the beach area of the refuge. All access to or across refuge lands will be subject to control of the refuge manager or his designated representative.

Copies of the draft statement are available for inspection at the following locations:

Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Room 825, Atlanta, Ga. 30323.

Bureau of Sport Fisheries and Wildlife, Office of Environmental Quality, Department of the Interior, Room 2246, 18th and C Streets NW., Washington, DC 20240.

Single copies may be obtained by writing the Chief, Office of Environmental Quality, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240. Please refer to the statement number above.

Dated: May 11, 1972.

W. W. LYONS,
Deputy Assistant Secretary, Program Policy.

[FR Doc.72-7648 Filed 5-19-72;8:46 am]

DEPARTMENT OF COMMERCE

Maritime Administration

CONSTRUCTION OF ORE/BULK/OIL CARRIERS

Computation of Foreign Cost; Notice of Intent

Notice is hereby given of the intent of the Maritime Subsidy Board to compute the estimated foreign costs of the construction of ore/bulk/oil carriers of about 140,000 d.w.t. pursuant to the provisions of section 502(b) of the Merchant Marine Act, 1936, as amended.

Any person, firm or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on June 7, 1972, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235.

Dated: May 17, 1972.

By Order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-7793 Filed 5-19-72;8:51 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-72-180]

ASSISTANT SECRETARY FOR ADMINISTRATION ET AL.

Delegation of Authority and Designation of Functions Regarding Financial Accounting Systems and Operations

SECTION A. *Authority delegated.* The Assistant Secretary for Administration and the Deputy Assistant Secretary for Administration each is authorized to exercise the power and authority of the Secretary to develop, implement, maintain and report with regard to financial and accounting systems and operations for the Department, except as provided in sections B and C of this document.

SEC. B. *Functions assigned.* With respect to the matters set forth in this section B, final authority is not delegated by the Secretary. The Assistant Secretary for Housing Production and Mortgage Credit-Federal Housing Commissioner and the Assistant Secretary for Housing Management shall jointly recommend, on the basis of information provided by the Assistant Secretary for Administration, action to be taken by the Secretary with respect to:

1. Mortgage insurance reserve requirements and the adequacy of reserves based thereon.

2. Approval of borrowings required for the payment of insurance claims and the repayment of funds based thereon to the U.S. Treasury.

3. Requesting appropriation of funds to cover insurance losses.

4. Determination of distributive shares payable from the mutual insurance funds.

SEC. C. *Investment committee for mortgage insurance programs and delegation of authority thereto.* There shall be an investment committee for mortgage insurance programs consisting of the Assistance Secretary for Housing Production and Mortgage Credit-Federal Housing Commissioner, Assistant Secretary for Housing Management, and Assistant Secretary for Administration which shall perform the following functions:

1. To make determinations, based on information provided by the Assistant Secretary for Administration, with respect to the investment of moneys held in the mortgage insurance funds and shall direct the Assistant Secretary for Administration to invest such moneys accordingly.

2. To approve the terms of offers to sell and to approve the sale of purchase money mortgages and assigned mortgage notes to approved mortgages.

SEC. D. *Authority to redelegate.* The Assistant Secretary for Administration and the Deputy Assistant Secretary for Administration each is authorized to redelegate to employees of the Department any of the authority delegated in section A.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Effective date. This delegation and designation is effective as of April 16, 1972.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[FR Doc.72-7678 Filed 5-19-72;8:47 am]

[Docket No. D-72-178]

ASSISTANT SECRETARY FOR HOUSING MANAGEMENT

Redelegation of Authority

SECTION A. *Authority redelegated.* Redelegations of authority by the Assistant Secretary for Administration to the Comptroller and other officials of the Office of the Comptroller issued concurrently with this document are adopted by the Assistant Secretary for Housing Management insofar as the redelegations relate to matters or functions delegated or assigned to the Assistant Secretary for Housing Management.

SEC. B. *Supersedure.* This redelegation of authority supersedes the redelegation published at 36 F.R. 24080, December 18, 1971.

(Secretary's delegation of authority published at 36 F.R. 5005, March 16, 1971)

Effective date. This redelegation of authority is effective April 16, 1972.

NORMAN V. WATSON,
Assistant Secretary for Housing Management.

[FR Doc.72-7676 Filed 5-19-72;8:47 am]

[Docket No. D-72-177]

ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT-FEDERAL HOUSING COMMISSIONER

Redelegation of Authority

Redelegations of authority by the Assistant Secretary for Administration to the Comptroller and other officials of the Office of the Comptroller issued concurrently with this document are adopted by the Assistant Secretary for Housing Production and Mortgage Credit-Federal Housing Commissioner insofar as the redelegations relate to matters or functions delegated or assigned to the Assistant Secretary for Housing Production and Mortgage Credit-Federal Housing Commissioner.

(Secretary's delegation of authority published at 36 F.R. 5006, Mar. 16, 1971.)

Effective date. This redelegation of authority is effective April 16, 1972.

EUGENE A. GULLEDGE,
Assistant Secretary for Housing Production and Mortgage Credit-Federal Housing Commissioner.

[FR Doc.72-7675 Filed 5-19-72;8:47 am]

[Docket No. D-72-179]

INTERSTATE LAND SALES ADMINISTRATOR AND DEPUTY INTERSTATE LAND SALES ADMINISTRATOR

Redelegation of Authority

Redelegations of authority by the Assistant Secretary for Administration to the Comptroller and other officials of the Office of the Comptroller issued concurrently with this document are adopted by the Interstate Land Sales Administrator and the Deputy Interstate Land Sales Administrator insofar as the redelegations relate to matters or functions delegated or assigned to the Interstate Land Sales Administrator.

(Secretary's delegation of authority to the Interstate Land Sales Administrator, 37 F.R. 5071, Mar. 9, 1972)

Effective date. This redelegation of authority is effective April 16, 1972.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.72-7677 Filed 5-19-72;8:47 am]

[Docket No. D-72-176]

REGIONAL ADMINISTRATORS ET AL.

Redelegation of Authority Regarding Property Disposition

The redelegation of authority by the Assistant Secretary for Housing Management published at 35 F.R. 16106, October 14, 1970, as amended at 36 F.R. 13854, July 27, 1971, and 36 F.R. 21539, November 10, 1971, is revised in section A, paragraph 8, to read as follows:

8. As contracting officer, to enter into and administer procurement contracts and make related determinations, except determinations under sections 302(c)(11), (12), and (13) of the Federal Property and Administrative Services Act (41 U.S.C. 252(c)(11), (12), and (13)), with respect to contracts for goods and services for repair, construction, improvement, removal, demolition or alteration, maintenance, and operation of acquired properties, including properties held by HUD as mortgagee in possession, and broker management services in connection with such properties, and the publication of notices and advertisements in newspapers, magazines, and periodicals.

(Secretary's delegation of authority to redelegate published at 36 F.R. 5005, Mar. 16, 1971)

Effective date. This amendment to the redelegation of authority is effective as of May 5, 1972.

NORMAN V. WATSON,
Assistant Secretary for Housing Management.

[FR Doc.72-7674 Filed 5-19-72;8:46 am]

Office of Interstate Land Sales Registration

[Docket No. N-72-111]

LAND DEVELOPERS

Notice of Investigatory Hearings

Notice is hereby given by the Interstate Land Sales Administrator that informal hearings will be held in the locations and on the dates listed below to investigate the practices of land developers who advertise, offer, sell, or lease lots to residents of the listed locations and the surrounding environs.

1. Washington, D.C.—May 31 (7-9:30 p.m.) and June 1 (9:30-12 noon), 1972—G.S.A. Auditorium, Seventh and D Streets SW.

2. Kansas City, Mo.—June 12 (6:30-9 p.m.) and June 13 (9-12 noon), 1972—Federal Building Auditorium, 911 Walnut Street.

3. Denver, Colo.—June 14 (6:30-9 p.m.) and June 15 (9-12 noon), 1972—Room 2330, Federal Building, 1961 Stout Street.

All persons in the areas concerned are invited to attend and present their complaints or otherwise express their comments about land developers who operate through the facilities of interstate commerce or the mails. However, presentation of complaints and comments will be subject to the following qualifications:

1. Priority will be given to persons who submit a written request (addressed to: George K. Bernstein, Interstate Land Sales Administrator, Room 9230, HUD Building, Washington, D.C. 20410), received prior to the hearing, for a place on the hearing agenda.

2. Consumers will be given priority over developers on the agenda.

3. Oral statements will be limited to 5 minutes; written statements of any reasonable length will be accepted for the record.

These hearings will be held pursuant to 15 U.S.C. 1714(b), 24 CFR 1720.10(a) and 24 CFR 1720.75 to aid the Administrator in enforcing the Interstate Land Sales Full Disclosure Act and in determining the necessity for and the basis of recommendations for further legislation or regulations or both. Transcipts of hearings will be made and will be available for public inspection or purchase after the conclusion of all hearings held in 1972.

Additional hearings will be scheduled as time and resources permit, and due notice of such hearings will be published in the FEDERAL REGISTER.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.72-7690 Filed 5-19-72;8:50 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50—254, 50—265]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS AND ELECTRIC CO.

Notice of Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the Atomic Energy Commission (the Commission) has issued Amendments Nos. 3 and 1 to Facility Operating Licenses Nos. DPR-29 DPR-30, respectively. These licenses previously authorized the Commonwealth Edison Co. and the Iowa-Illinois Gas and Electric Co. to possess, use, and operate the Quad-Cities Nuclear Power Station Units 1 and 2 (both single-cycle, boiling water reactors and located in Rock Island County, Ill.) at steady state power levels up to 502 megawatts (thermal) per unit (20 percent of each unit's rated power).

The amendments that are the subject of this notice authorize Commonwealth Edison Co. (acting for itself and Iowa-Illinois Gas and Electric Co.) to operate the Quad-Cities Nuclear Power Station, during the startup testing program, at power levels up to 2,260 megawatts (thermal) when operating a single unit or at power levels up to 2,511 megawatts (thermal) when operating both Units 1 and 2 simultaneously. After completion of the startup testing program, the amendments authorize operation of each unit singly or simultaneously with the other unit at steady state power levels up to (1) 620 megawatts (thermal) at any time, (2) 1,550 megawatts (thermal) when, in the judgment of the system load dispatcher, total demand is likely to exceed available capacity and other power sources are not available to meet system load demand, and (3) 2,260 megawatts (thermal), if after exhausting all means reasonably available, system load demand requires the facility to exceed 1,550 megawatts (thermal). Incorporated in the license amendments and issued therewith are Nonradiological Technical Specifications which govern

activities at the station related to protection of the environment. The license amendments for Unit 1 and Unit 2 revise the licenses in their entirety and are effective upon their date of issuance. The amended licenses will expire on September 15, 1972, unless extended for good cause shown or upon the earlier issuance of superseding licensing actions.

The Commission has found that the applications, as amended, comply with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Chapter I, and has made the remainder of the findings as set forth in the amendments and has concluded that the issuance of these license amendments will not be inimical to the common defense and security or to the health and safety of the public. The Commission also has found that (1) considering and balancing the factors as described in the Commission's regulations in 10 CFR Part 50, Appendix D, section D.3, the balance of such factors warrants the issuance of these amendments, and (2) the emergency demands for power in the area served by the station warrant the issuance of these amendments.

Notice of AEC consideration of issuance of facility operating license for operation of each of the Quad-Cities Units 1 and 2 at 2,511 megawatts (thermal), full-power, was published in the FEDERAL REGISTER on March 16, 1971 (36 F.R. 5008). However, licenses for full-power have not been issued pending review of the additional environmental considerations, including the balancing of factors, required by the September 9, 1971, revision of Appendix D to 10 CFR Part 50. On March 9, 1972, the Commission's draft detailed statement on environmental considerations was published in the FEDERAL REGISTER (37 F.R. 5073), and thereafter on March 24, 1972, a supplementary notice of AEC consideration of issuance of facility operating licenses was published in the FEDERAL REGISTER (37 F.R. 6142). The supplementary notice provided 30 days for intervention on the environmental aspects of the operation of Quad-Cities Units 1 and 2. No request for a hearing by the applicants or petition for leave to intervene by any interested person have been filed following publication of the notice of consideration of issuance of facility operating licenses on March 16, 1971, and the publication of the supplementary notice on March 24, 1972, thereby permitting the licensing actions that are herein being noticed.

For further information concerning these actions, see copies of the following items which are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and at the Moline Public Library at 504 17th Street, Moline, IL 61265: (1) Amendment No. 3 to Facility Operating License No. DPR-29 and Amendment No. 1 to Facility Operating License No. DPR-30, (2) the Technical Specifications dated October 1, 1971, and Nonradiological Technical Specifications, issued as part of Amendments 3 and 1, (3) Commonwealth Edison Co. and Iowa-Illinois Gas and Electric Co.'s applications, as amended, including the letter from Commonwealth Edison Co. dated April 12, 1972, and supplement thereto dated April 28, 1972, (4) the Division of Reactor Licensing's Safety Evaluation for the Quad-Cities Units 1 and 2 dated August 25, 1971, (5) the report of the Advisory Committee on Reactor Safeguards dated March 9, 1971, (6) the discussion and conclusions of environmental impact by the USAEC Directorate of Licensing concerning the proposed issuance of licenses to the Commonwealth Edison Co. and Iowa-Illinois Gas and Electric Co. for emergency operation of Quad-Cities Nuclear Power Station Units 1 and 2 dated May 4, 1972, (7) the discussion and conclusions pursuant to Appendix D to 10 CFR Part 50 dated January 24, 1972, and supplement 1 thereto dated March 31, 1972, and (8) the Commission's draft detailed statement of environmental considerations dated March 6, 1972. A copy of each of the above items, except for item (3), may be obtained, as supply lasts, upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 12th day of May 1972.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72-7716 Filed 5-19-72;8:50 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23694]

SERVICIO AEREO DE HONDURAS, S.A. (SAHSA)

Notice of Prehearing Conference and Hearing Regarding Amendment of Foreign Air Carrier Permit

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 14, 1972, at 10 a.m., local time, in Room 1031, Universal Building North, 1875 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before June 7, 1972.

Dated at Washington, D.C., May 17, 1972.

[SEAL] WILLIAM H. DAPPER,
Hearing Examiner.

[FR Doc.72-7704 Filed 5-19-72;8:51 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN PORTUGAL

Entry or Withdrawal From Warehouse for Consumption

MAY 19, 1972.

On April 21, 1972, there was published in the FEDERAL REGISTER (37 F.R. 7943) a letter of April 18, 1972, from the Chairman, Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that upon publication of that letter in the FEDERAL REGISTER, and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 41/42/43, 44, 53, 56, and 62, produced or manufactured in Portugal and exported therefrom to the United States during the period beginning January 1, 1972 and extending through December 31, 1972, be prohibited.

There is published below a letter of May 19, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs cancelling the letter of April 18, 1972, effective May 23, 1972.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

ASSISTANT SECRETARY OF COMMERCE

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

MAY 19, 1972.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of November 17, 1970, between the Governments of the United States and Portugal, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, the directive issued to you on April 18, 1972, by the Chairman, Committee for the Implementation of Textile Agreements, regarding imports of cotton textile products in Categories 41/42/43, 44, 53, 56, and 62, produced or manufactured in Portugal, is cancelled, effective May 23, 1972.

The actions taken with respect to the Government of Portugal, and with respect to imports of cotton textiles and cotton texile products from Portugal, have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule

making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-7797 Filed 5-19-72;10:31 am]

ENVIRONMENTAL PROTECTION AGENCY

CHEMAGRO CORP.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 2F1260) has been filed by Chemagro Corp., Post Office Box 4913, Kansas City, MO 64120, proposing establishment of tolerances (40 CFR Part 180) for residues of the pesticide *O,O*-diethyl *O*-[*p*-(methylsulfinyl)phenyl] phosphorothioate in or on the raw agricultural commodity sweetpotatoes at 0.05 part per million.

The analytical method proposed in the petition for determining residues of the pesticide is gas chromatography with flame ionization detection.

Dated: May 17, 1972.

LOWELL E. MILLER,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-7703 Filed 5-19-72;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19122-19125; FCC 72-414]

STAR STATIONS OF INDIANA, INC., ET AL.

Order Amending Redesignation Order

In regard applications of Star Stations of Indiana, Inc., for renewal of license of WIFE and WIFE-FM, Indianapolis, Ind., Docket No. 19122, Files Nos. BR-1144, BRH-1276; Indianapolis Broadcasting, Inc., for a construction permit for a standard broadcast station, Indianapolis, Ind., Docket No. 19123, File No. BP-18706; Central States Broadcasting, Inc., for renewal of license of KOIL and KOIL-FM, Omaha, Nebr., Docket No. 19124, Files Nos. BR-516, BRH-992; Star Broadcasting, Inc., for renewal of license of KISN, Vancouver, Wash., Docket No. 19125, File No. BR-1027.

1. We now have under consideration the petition for reconsideration of redesignation order and/or motion for clarification which was filed by Star Stations of Indiana, Inc., Central States Broadcasting, Inc., and Star Broadcasting, Inc., on March 10, 1972. Petitioners assert that the redesignation order, FCC 72-148, released herein on February 24, 1972, failed to specify those aspects of the prior proceeding involving orders of the Commission, itself, which are to be incorporated by reference into the subsequent record in this proceeding. Since rulings have previously been issued on a number of matters affecting the petitioners' procedural rights in this hearing, they request a ruling as to whether prior pleadings must be refiled or whether those matters may be incorporated by reference. In its comments filed on March 17, 1972, the Broadcast Bureau urges that none of the noncomparative aspects of this proceeding are affected by the redesignation order, that the redesignation order incorporates by reference all relevant matters, and that there is no need to refile any prior pleadings.

2. Consistent with our action today in "WPIX, Inc.," Dockets Nos. 18711 and 18712, and for reasons similar to those set forth therein, we are now convinced that the entire record compiled in this proceeding under the original designation order, including all evidentiary submissions, the pleadings filed by the parties, and all rulings on such pleadings by the appropriate authorities, should be incorporated by reference into the redesignated proceeding so that there will be no misunderstanding by the parties. In this connection, the Hearing Examiner is authorized to rely on that record to the extent that it is relevant to the disposition of the issues, but not insofar as any portions of the existing record may have been adversely affected by the application of the "Policy Statement on Comparative Hearings Involving Regular Renewal Applicants," 22 FCC 2d 424 (1970), which was overturned by the U.S. Court of Appeals for the District of Columbia Circuit in "Citizens Communications Center, et al. v. FCC," 447 F. 2d 1201 (1971).

3. *Accordingly, It is ordered,*

(a) That the petition for reconsideration of redesignation order and/or motion for clarification filed March 10, 1972, by Star Stations of Indiana, Inc., Central States Broadcasting, Inc., and Star Broadcasting, Inc., is granted to the extent reflected herein and is denied in all other respects;

(b) That the entire record compiled in this proceeding under the original designation order is incorporated into the redesignated proceeding by reference; and

(c) That the Hearing Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

Adopted: May 10, 1972.

Released: May 15, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-7668 Filed 5-19-72;8:45 am]

[1] Commissioner Reid absent; Commissioner Wiley concurring in the result.

[Dockets Nos. 18711, 18712; FCC 72-413]

WPIX, INC. (WPIX-TV) AND FORUM COMMUNICATIONS, INC.

Memorandum Opinion and Order Amending Redesignation Order

In regard applications of WPIX, Inc. (WPIX-TV), New York, N.Y., for renewal of broadcast license, Docket No. 18711, File No. BRCT-98; Forum Communications, Inc., New York, N.Y., for construction permit for new television broadcast station, Docket No. 18712, File No. BPCT-4249.

1. We now have under consideration the redesignation order in this proceeding (FCC 72-144, released February 24, 1972).[1] This proceeding was conducted in part pursuant to the "Policy Statement on Comparative Hearings Involving Regular Renewal Applicants" (22 FCC 2d 424, released January 15, 1970). However, the U.S. Court of Appeals for the District of Columbia, in "Citizens Communications Center, et al. v. FCC," 447 F. 2d 1201 (1971), ordered that the "Policy Statement" "being contrary to law shall not be applied by the Commission in any pending or future comparative renewal hearings." The Court further directed us to redesignate for hearing all comparative renewal proceedings to which the "Policy Statement" was deemed applicable.

2. In the redesignation order herein, we provided that "the parties will be accorded 45 days following the release of this order within which to attempt to reach a stipulation concerning the validity of those portions of the existing record which may be admitted into evidence * * *" In its petition Forum claims such a procedure may work to the detriment of the parties and the public interest.[2] After further analysis, we agree with Forum that the stipulation procedure may prove unwieldy, lend itself to abuse, and indeed needlessly prolong hearing proceedings. Under the specified procedure, the admissibility of competent evidence of record, taken under oath and subjected to the test of cross-examination, is left to the self-interest

[1] On Mar. 3, 1972, Forum Communications, Inc., filed a petition for reconsideration and clarification of the redesignation order. Also filed were an opposition by WPIX, Inc., on Mar. 16, 1972, comments of the Broadcast Bureau on Mar. 24, 1972, and a reply by Forum on Mar. 27, 1972. On Apr. 7, 1972, Forum filed a motion for leave to file a supplement to its petition for reconsideration together with the supplement. In view of our action herein, no consideration need be given to the supplement and the motion for leave to file that pleading will be dismissed as moot.

[2] As noted in WPIX's opposition, Forum's petition does not comply with the provisions of § 1.111 of the rules, since it does not relate to an adverse ruling with respect to the petitioner's participation in the hearing and since it does not assert that Forum's application should have been granted without hearing. While we would ordinarily dismiss Forum's petition under these circumstances, it has brought a significant matter to our attention which fundamentally affects the course of this proceeding and which should be resolved without further delay,

of the parties. Any party could force a new hearing on any issue simply by refusing to stipulate to the validity of a portion of the record.

3. The evidentiary record in this proceeding was virtually completed at the time of our redesignation order. The transcript involves over 1,200 pages of record, with testimony from 53 witnesses, taken during more than 100 days of hearing. Should the parties fail to reach a stipulation with respect to the record, it is conceivable that substantial portions of it could not be duplicated. In order to insure the rights of the parties both to a full hearing and an expeditious resolution of all of the issues, we are now convinced that the entire record compiled in this proceeding under the original designation order, including all evidentiary submissions, the pleadings filed by the parties, and all rulings on such pleadings by the appropriate authorities, should be incorporated by reference into the redesignated proceeding. In this connection, the Hearing Examiner is authorized to rely on that record to the extent that it is relevant to the disposition of the issues, but not insofar as any portions of the existing record may have been adversely affected by application of the "Policy Statement." We believe that this procedure is fully consistent with the mandate of the Court of Appeals, since the Examiner is empowered to disregard any evidence colored by the "Policy Statement" and since the parties are free to present any new evidence relevant to their comparative qualifications necessary to eliminate any adverse effect which the "Policy Statement" could have had on the proceeding.[3]

4. In addition to the foregoing petition, Forum filed a motion to strike, a request for oral argument, and a motion to consolidate on April 7, 1972.[4] In its motion to strike, Forum urges that an amendment submitted by WPIX in this proceeding should not be accepted. Since the amendment is pending before the presiding Examiner in this case and since such questions may be best resolved by him in the first instance, the motion to strike has been referred to the Examiner as a misdirected pleading pursuant to "Florida-Georgia Television Co.," 12 FCC 2d 332, 333 (1968). In view of our disposition of Forum's petition for reconsideration or clarification of the redesignation order, we are convinced that no useful purpose would be served by hearing oral argument or by delaying our action so that other, independent matters could be consolidated for consideration at the same time.

5. *Accordingly, it is ordered,* That the petition for reconsideration or clarification of redesignation order filed March 3, 1972, by Forum Communications, Inc., is granted to the extent reflected herein and is denied in all other respects.

6. *It is further ordered,* That the entire record compiled in this proceeding under the original designation order is incorporated into the redesignated proceeding by reference.

7. *It is further ordered,* That the Hearing Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

8. *It is further ordered,* That the motion for leave to file supplement to petition for reconsideration filed April 7, 1972, by Forum Communications, Inc., is dismissed as moot and that the request for oral argument and motion to consolidate, both filed April 7, 1972, by Forum Communications, Inc., are denied.

Adopted: May 10, 1972.

Released: May 15, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[5]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-7667 Filed 5-19-72;8:45 am]

[3] Although the Bureau and Forum have posed additional questions, these matters were first raised in responsive pleadings and the other parties have not had an opportunity to address themselves to the merits of these questions. Under these circumstances, we do not believe that it would be appropriate to consider these matters at this time.

[4] The Broadcast Bureau and WPIX filed pleadings in response to Forum's requests on May 5, 1972. However, in view of our disposition of Forum's petitions, no consideration need be given to the responsive pleadings.

[5] Commissioner Reid absent; Commissioner Wiley concurring in the result.

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p)(1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	*Owner/operator and vessels*
01014	Robert Bornhofen Reederei: Citos.
01017	Westfal-Larsen & Co. A/S: Star Heranger.
01019	Hagb Waage: Synia. Sysla. Raila. Ranja.
01039	Den Norske Amerikalinje A/S: Kongsfjord.
01087	Dampskibsselskabet Torm A/S: Aslaug.
01281	Golfos Navegacion S.A.: Stolt Yangos.
01358	Orgulf Transport Co.: Robert A. Taft.
01430	Tankers, Ltd.: Athelcrown.
01910	Deutsche Dampfschiffahrts-Gesellschaft "Hansa": Atlantica Montreal. Atlantica New York.
02506	The Sheaf Steam Shipping Co., Ltd.: Stolt Sheaf.
02889	Showa Kaiun K.K.: Shinsho Maru.
03294	Companhia de Navegacao Lloyd Brasileiro: Itabera. Barao de Jacequay.
03453	Kyosei Kisen Kabushiki Kaisha: Seizan Maru.[1]
03492	Sawayama Kisen K.K.: Hodakasan Maru.
03521	Tokushima Kisen K.K.: Yamaki Maru.
03632	A/S Turid: Rubirose. Garli. Grong.
03645	Tidewater Morgan City, Inc.: Tide Mar XV. Tide Mar XVI. Tide Mar XVII. Tide Mar 22. T.G. 105. Tide Mar 20. Tide Mar 21. Grand 200. Tide Mar XVIII. Tide Mar 19. Tide Mar 23.
03646	Tidewater Catalina, Inc.: Tide Mar III.
03917	Mobil Shipping Co., Ltd.: Sachem.
03968	Zim Israel Navigation Co., Ltd.: Zim Tokyo.
04042	Companhia de Navegacao Maritima Netumar: Daphne.
04061	The Sanko (Hong Kong), Ltd.: Eastern Hazel. Allied Enterprise.
04184	M/G Transport Services, Inc.: H. R. Labar.
04289	Dixie Carriers, Inc.: DXE-238-BDC.
04435	Gateway Barge Lines, Inc.: H & S No. 2. H & S No. 3.
04444	Mid-America Transportation Co.: Maba Kelce.
04469	Choshomaru Gyogyo Kabushiki Kaisha: Choshomaru No. 12.
04478	Takiguchi Gyogyo Kabushiki Kaisha: Taiyomaru No. 1.
04513	Hinode Gyogyo Kabushiki Kaisha: Hinodemaru No. 53.
04559	Daito Enyogyogyo Kabushiki Kaisha: Daitomaru No. 5.
05608	Th. F. Fekete & Co.: Jon Ramsoy. Karen Fekete.
05611	Marine Drilling Co.: Barge Rig No. 8.
05762	Consolidated Edison Co. of New York, Inc.: Narrows 1. Narrows 2.
05998	Navarino Shipping & Transport Co., Ltd.—Piraeus: Humanity.
06092	John W. Stone Oil Distributor, Inc.: S-3. S-5.
06148	First Omega Shipping, Inc.: Omega.

Certificate No.	Owner/operator and vessels
06234---	Kokusai Gyogyo Kabushiki Kaisha: Shoyumaru No. 5.
06248---	Commercial Corp. "Sovrybflot": Professor Mesjatsev.
06575---	Chiba-Ken: Chibamaru.
06596---	Issei Kisen K.K.: Toyo Maru.

[1] Certificate effective June 30, 1972.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-7707 Filed 5-19-72;8:51 am]

COMPANIA TRANSATLANTICA ESPANOLA, S.A. AND TRANSPORTACION MARITIMA MEXICANA, S.A.

Notice of Agreement Filed

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, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, 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. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

W. F. Burns, Traffic Manager, Smith & Johnson, Steamship Operators, Brokers and Managers, 11 Broadway, New York, NY 10004.

Agreement No. 9983 provides for a sailing agreement between the above-named parties in the trade from Mediterranean ports to U.S. Gulf Coast ports.

Dated: May 17, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-7706 Filed 5-19-72;8:51 am]

FEDERAL RESERVE SYSTEM

FIRST CITY BANCORPORATION OF TEXAS, INC.

Acquisition of Banks

First City Bancorporation of Texas, Inc., Houston, Tex., has applied in two separate applications, as set forth below, for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)):

(1) To acquire 29.7 percent of the voting shares of United Bank Shares, Inc., El Paso, Tex., and of the subsequent acquisition of 100 percent of the voting shares (less directors' qualifying shares) of United Bank Shares, Inc.'s wholly owned subsidiary, Southwest National Bank of El Paso, El Paso, Tex.; and

(2) To acquire 100 percent of the voting shares (less directors' qualifying shares) of Executive National Bank, Houston, Tex.

The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the applications should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 5, 1972.

Board of Governors of the Federal Reserve System, May 15, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-7684 Filed 5-19-72;8:48 am]

OFFICE OF EMERGENCY PREPAREDNESS

KENTUCKY

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742); notice is hereby given that on May 15, 1972, the President declared a major disaster as follows:

I have determined that the damages in certain areas of the State of Kentucky from severe storms and flooding, beginning about April 12, 1972, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Kentucky. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91-606, as amended), I hereby appoint Mr. William C. McMillen, Regional Director, OEP Region 4, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Kentucky to have been adversely affected by this declared major disaster:

The counties of:

Breathitt.	Letcher.
Bullitt.	Lincoln.
Floyd.	Madison.
Franklin.	Pike.
Knott.	Wayne.

Dated: May 17, 1972.

G. A. LINCOLN,
Director, Office of Emergency Preparedness.

[FR Doc.72-7699 Filed 5-19-72;8:49 am]

TENNESSEE

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742); notice is hereby given that on May 15, 1972, the President declared a major disaster as follows:

I have determined that the damages in certain areas of the State of Tennessee from flooding beginning about April 12, 1972, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Tennessee. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91-606, as amended), I hereby appoint Mr. William C. McMillen, Regional Director, OEP Region 4, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Tennessee to have been adversely affected by this declared major disaster:

The counties of:
Campbell. Scott.
Cocke.

Dated: May 16, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-7660 Filed 5-19-72;8:46 am]

SECURITIES AND EXCHANGE COMMISSION

[812-3160]

AMERICAN HOUSING PARTNERS—II AND KAUFMAN AND BROAD MANAGERS, INC.

Notice of Filing of Application for Exemption

MAY 15, 1972.

Notice is hereby given that American Housing Partners—II, 1730 K Street NW., Washington, DC 20006 (partnership), a California limited partnership, and its general partner, Kaufman and Broad Managers, Inc. a Delaware corporation (General Partner) have filed an application pursuant to section 6(c) of the investment Company Act of 1940 (Act) for an order exempting applicants from all provisions of the Act and the rules and regulations promulgated thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Applicants state that the Partnership was organized on December 20, 1971, for the purpose of implementing the policy of title IX of the Housing and Urban Development Act of 1968 to provide private investors a means to acquire equity interests in governmentally assisted low- and moderate-income housing and thereby provide equity financing for low- and moderate-income housing. The Partnership will principally acquire equity interests in governmentally assisted rental housing projects (Subsidized Projects) which are, or are about to be, constructed pursuant to section 221(d)(3) or section 236, or both, of the National Housing Act, and which are administered by the Federal Housing Administration (FHA).

Applicants state that the General Partner is a subsidiary of Kaufman and Broad, Inc. The Partnership has filed a registration statement on Form S-11 with the Commission under the Securities Act of 1933 covering the sale of up to $15 million of its limited partnership interests. These interests are to be sold only to qualified investors in units of $1,000 with a minimum subscription of five units per investor.

Applicants state that the Partnership was organized as a limited partnership because applicable legislation limits the cash return to investors in Subsidized Projects to an amount less than can be had in other investments, and the principal advantages to investors are operating losses which can be passed through only by a partnership to investors as an offset against taxable income. Applicants state that each investor will be advised that investment should only be made if the investor anticipates that for a period sufficient to allow utilization of the tax benefits afforded, he will have, after giving effect to his investment in the Partnership, income subject to taxation at a rate which will result in an effective saving of income taxes in an amount equal to 40 percent or greater of any tax losses that may be generated by the Partnership's investments. Applicants state that a limited partnership structure is necessary in order to provide the centralization of management necessary for a publicly held partnership, and to insure that investors are protected from personal liability for any obligations of the Partnership.

Applicants state that the Partnership will invest in Subsidized Projects by becoming a limited partner in a subsidiary partnership in which the sponsor or developer of the Subsidized Project will be the general partner along with an affiliate of the Partnership. This subsidiary partnership will own the entire equity interest in the Subsidized Project and will be liable for the mortgage loan on the project. Applicants state the Partnership will always have a majority and usually 90 percent to 95 percent of the interest in the subsidiary partnership. Applicants state, however, that the Partnership's interests in the subsidiary partnership will be tantamount to direct ownership of the property. The Partnership's interest will have no value other than the value of the project itself, and no income will be generated other than from the operation of the project.

Applicants assert they have no intention of disposing of interests in subsidiary partnerships; when it is determined to dispose of an investment, the Subsidized Project itself will be sold and the partnership liquidated. Thus applicants assert that the Partnership will be primarily engaged in the business of planning, developing, constructing, and operating Subsidized Projects, and that the use of subsidiary limited partnerships is but an incident to the conduct of this business and is designed to minimize the Partnership's risk and to permit tax savings to be returned to investors in the Partnership

Applicants state that for the Partnership to preserve its limited partner status in the subsidiary partnership, it cannot participate in the management of the project. However, the terms of the subsidiary partnership agreement, which will govern all aspects of management of the Subsidized Project, will be negotiated by the Partnership prior to its investment. Applicants state that the Partnership will, among other things, reserve the right in each case to remove the developer or sponsor from the subsidiary partnership if such developer or sponsor becomes insolvent or fails to observe applicable statutes and regulations. In addition, the subsidiary partnership will not be permitted to sell or assign any interest in the project, or withdraw, substitute, or add a general partner without the consent of the Partnership.

The Partnership's investments will be governed by policies which may not be changed without the vote of the holders of at least a majority of its outstanding interests. Limited partner investors in the Partnership will have voting rights with respect to, among other things, the dissolution or transfer of all or substantially all of the assets, and the withdrawal, substitution, or addition of any general partner.

The General Partner will keep the Partnership's books and records, and annually furnish reports containing audited financial statements and information requested by investors for preparation of their income tax returns. The General Partner will also be responsible for the conduct of the Partnership's operations including the origination, investigation and supervision of investments.

The General Partner has delegated certain of its powers, rights and obligations to persons who may, under the supervision of the General Partner, perform acts or services for the Partnership as the General Partner. The General Partner, on behalf of the Partnership, entered into a management contract (herein called the "Management Contract") with Kaufman and Broad Asset Management, Inc. Under the Management Contract, the Management Company is required to pay all of the general administrative expenses of the Partnership, including salaries, travel, rent, telephone and utilities. The Partnership will pay all other expenses, including the fees described below, expenses incident to creation of the Partnership, registration and transfer of limited partner interests, legal and accounting expenses and the costs of communicating with limited partners. The Management Company will hold the Partnership free and harmless from the claims of any real estate brokers, rental agents and other intermediaries. The Partnership will pay, or cause to be paid to, the Management Company fees for its services in connection with finding, appraising, negotiating and acquiring interests in Projects and monitoring construction and for managing the Partnership and for liquidating interests in Projects.

Applicants state that they do not concede that the Partnership is an investment company as defined by the Act, and believe sufficient cause exists for finding the Partnership not to be an investment company. Applicants further submit that in any event the requested exemption is both necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the conditions imposed by the Partnership's Certificate of Limited Partnership and by the FHA, which regulates, among other things, debt, asset and financing arrangements and supervises construction of the project, afford

at least as much protection to investors as is provided in the Act.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is hereby given that any interested person may, not later than June 1, 1972, 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 by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicants 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.

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

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

[FR Doc.72–7655 Filed 5–19–72;8:45 am]

[File No. 500–1]

BEVIS INDUSTRIES, INC.

Order Suspending Trading

MAY 15, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 par value, and all other securities of Bevis Industries, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 10 a.m., e.s.t., May 15, 1972 through May 24, 1972.

By the Commission.

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

[FR Doc.72–7656 Filed 5–19–72;8:45 am]

[Files 7–4139, etc.]

BECTON, DICKINSON AND CO., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 15, 1972.

In the matter of applications of the Boston Stock Exchange for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(b) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Becton, Dickinson & Co	7–4139
Braniff Airways Inc	7–4140
Compugraphic Corp	7–4142
Donaldson Lufkin & Jenrette, Inc	7–4143
Drew National Corp	7–4144
Dynalectron Corp	7–4145
Flock Industries, Inc	7–4146
Grant (W.T.) Co	7–4147
Heublein, Inc	7–4148
McDonald's Corp	7–4150
Wrigley, Jr. (Wm.) Co	7–4151
Dial Finance Corp	7–4152

Upon receipt of a request, on or before May 31, 1972 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.

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

[FR Doc.72–7657 Filed 5–19–72;8:45 am]

[70–5190]

JERSEY CENTRAL POWER & LIGHT CO. AND NEW JERSEY POWER & LIGHT CO.

Notice of Proposed Generation Transmission and Distribution Agreement

MAY 15, 1972.

Notice is hereby given that Jersey Central Power & Light Co. (JCP&L), and New Jersey Power & Light Co. (NJP&L), Madison Avenue at Punchbowl Road, Morristown, N.J. 07960, electric utility subsidiary companies of General Public Utilities Corporation, a registered holding company, have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act) designating section 12 of the Act and Rule 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

JCP&L and NJP&L propose to execute an agreement to jointly operate their generation, transmission, and distribution facilities to service their combined electric loads. It is stated that this agreement represents the final step to be taken prior to the merger of JCP&L and NJP&L which is proposed to be completed by the end of 1973.

The proposed agreement provides that the combined revenues of JCP&L and NJP&L will be applied to pay their combined operating expenses and preferred stock dividends, and that any remaining amounts will be shared in proportion to their respective equity accounts. It is stated that the agreement is consistent with previous steps taken towards the proposed merger of JCP&L and NJP&L, which now have identical boards of directors, officers and department heads as well as common labor practices, rate schedules, and fuel adjustment causes.

JCP&L and NJP&L state that were the merger consummated immediately, the governing indenture of the surviving corporation would prohibit the issuance of additional funded debt as the combined earnings available for interest on funded debt would be less than that required by its indenture and charter. The anticipated retirement by NJP&L of $9 million of debt maturing in 1974, will enable JCP&L, the surviving corporation, to satisfy its coverage requirements without retirement of existing debt or impairment of currently planned financing. It is further stated that the proposed agreement will enable the companies to continue steps toward the proposed merger.

It is stated that the proposed agreement has been authorized by the New Jersey Public Utility Commission, and that no other State commission has jurisdiction over the proposed transactions. It is further stated that JCP&L and NJP&L are parties to a power pooling agreement currently filed as a rate schedule with the Federal Power Commission and that an amendment to this agreement will be filed providing that

JCP&L and NJP&L will be regarded as a single entity for the purposes of said pooling agreement. It is further stated that no other Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment.

Notice is further given that any interested person may, not later than June 1, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

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

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-7658 Filed 5-19-72;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 30 (Rev. 13) Amdt. 14]

BRANCH MANAGER, CORPUS CHRISTI, TEX., BRANCH OFFICE

Delegation of Authority To Conduct Program Activities in the Field Offices

Delegation of Authority No. 30 (Revision 13) (36 F.R. 5881), as amended (36 F.R. 7625, 36 F.R. 11129, 36 F.R. 13713, 36 F.R. 14712, 36 F.R. 15769, 36 F.R. 22876, 36 F.R. 23421, 36 F.R. 25194, 37 F.R. 2615, 37 F.R. 3581, 37 F.R. 4939, 37 F.R. 5984, and 37 F.R. 9266) is hereby further amended to give the Corpus Christi Branch Office certain loan servicing authority. Part III, section C, is revised to read as follows:

PART III. LOAN ADMINISTRATION (LA) PROGRAM

* * * * *

SEC. C. *Loan Administration, Servicing and Collection Authority.* 1. To take all necessary actions in connection with the administration, servicing, and collection of all loans, other than those accounts classified as "in liquidation," and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing, the assignment, endorsement, transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator; the execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing; and the approval of bank applications for use of liquidity privilege under the loan guaranty plan,

a. Except: To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement; to authorize the liquidation of a loan; and the cancellation of authority to liquidate.

* * * * *

(7) Branch Manager, Corpus Christi, Tex., Branch Office.

* * * * *

Effective date: June 7, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-7693 Filed 5-19-72;8:51 am]

[Delegation of Authority 4.4-1 (Region IX) for Disaster 802]

MANAGER, LOS ANGELES, CALIF., DISASTER BRANCH OFFICE

Delegation of Authority

I. Pursuant to the authority delegated to the regional director by Delegation of Authority No. 4.4 (Revision 1) (36 F.R. 7291), the following authority is hereby redelegated to the position as indicated herein:

A. *Manager, Los Angeles, Calif., Disaster Branch Office.* 1. To decline direct disaster and immediate participation disaster loans in any amount and to approve such loans up to the total SBA funds of (a) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (b) $350,000 on disaster business loans except to the extent of refinancing of a previous SBA disaster loan.

2. To approve disaster guaranteed loans up to an SBA guarantee of $350,000, and to decline such loans in any amount.

3. To execute loan authorizations for central, regional, and district office approved loans and disaster loans approved under delegated authority, said execution to read as follows:

(Name), Administrator
By _____
Manager, Disaster Branch Office

4. To cancel, reinstate, modify, and amend authorizations for disaster loans approved under delegated authority.

5. To disburse unsecured disaster loans.

6. To extend the disbursement period on disaster loan authorizations or undisbursed portions of disaster loans.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

Effective date: April 24, 1972.

GILBERT MONTANO,
Regional Director, Region IX, San Francisco, Calif.

[FR Doc.72-7659 Filed 5-19-72;8:45 am]

TARIFF COMMISSION

CONSUMPTION OF KNIVES, FORKS, AND SPOONS WITH STAINLESS-STEEL HANDLES

Report to the President

MAY 17, 1972.

The U.S. Tariff Commission, on May 3, 1972, reported to the President its determination of the apparent U.S. consumption of knives, forks, and spoons with stainless-steel handles for the calendar years 1970 and 1971.

The Commission's report shows that consumption of knives, forks, and spoons with stainless-steel handles amounted to 59,808,000 dozen pieces in 1970 and to 48,794,000 dozen pieces in 1971. Also shown in the report are data on domestic manufacturers' shipments of domestically produced articles, exports, and imports for each of the two most recent years.

The report is the first in a series of annual reports required pursuant to headnote 2(c) to part 2, subpart D of the appendix to Tariff Schedules of the United States.

Copies of the report are available upon request as long as the limited supply lasts. Requests should be addressed to the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC 20436.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

Report to the President

To the President: MAY 3, 1972.

Pursuant to headnote 2(c) to part 2, subpart D of the appendix to the Tariff Schedules of the United States, the U.S. Tariff Commission herein reports its determination of the apparent U.S. consumption of knives, forks, and spoons with stainless-steel handles for the calendar years 1970 and 1971. The Commission has determined that apparent U.S. consumption of knives, forks, and spoons with stainless-steel handles was 59,808,000 dozen pieces in 1970 and 48,794,000 dozen pieces in 1971.

The data for each of the components used in the computation of apparent annual consumption of knives, forks, and spoons with stainless-steel handles are shown in the table below.

Knives, forks, and spoons with stainless-steel handles: Shipments by U.S. manufacturers, U.S. exports, U.S. imports for consumption, and apparent U.S. consumption, 1970 and 1971

(In thousands of dozen pieces)

Year	Shipments by U.S. manufacturers[1]		Imports for consumption	Apparent U.S. consumption[2]
	Total	Exports		
1970	24,769	427	[3] 35,466	[3] 59,808
1971	22,273	482	[4] 27,003	48,794

[1] Includes only shipments of domestically produced products.
[2] Total shipments by U.S. manufacturers, plus imports, minus exports.
[3] Revised.
[4] Data on imports for the quota period, Oct. 1 through Dec. 31, 1971, were obtained from the Bureau of Customs, U.S. Treasury Department; data on imports for 1970 and for the period January through September 1971 were obtained from the Bureau of the Census, U.S. Department of Commerce.

Source: Shipments and exports as reported to the Tariff Commission by the domestic producers; imports compiled from official statistics of the U.S. Department of Commerce, except as noted.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.72-7683 Filed 5-19-72;8:47 am]

INTERSTATE COMMERCE COMMISSION

[35558]

ARKANSAS INTRASTATE FREIGHT RATES AND CHARGES—1972

Extension of Time

MAY 8, 1972.

By order dated March 7, 1972, served April 4, 1972, and published in the FEDERAL REGISTER April 11, 1972 (37 F.R. 7191), the Commission, Division 2, instituted an investigation, under sections 13 and 15a(2) of the Interstate Commerce Act, of rates and charges made or imposed by the State of Arkansas, which failed to include certain increases, and required persons desiring to participate in the proceeding to notify the Commission of their intention to participate within 30 days from the service date of the order. Copies of the order were not served on all persons who had indicated a desire to be served and who probably would desire to participate in the proceeding. Thus, copies of the order[1] are being served along with this notice on all of the parties, and the date for notifying the Commission of intention to participate has been extended to 30 days from the date this notice is published in the FEDERAL REGISTER. Persons who were aware of the order and who previously advised the Commission of their intent to participate as provided in the order need not readvise the Commission.

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

[FR Doc.72-7709 Filed 5-19-72;8:51 am]

ASSIGNMENT OF HEARINGS

MAY 17, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-C-7406, Red Line Express, Inc—Investigation and Revocation of Certificates, now being assigned hearing June 14, 1972 (3 days), at Columbus, Ohio, in a hearing room to be later designated.

MC 106644, Sub 130, Superior Trucking Co., Inc., now assigned May 23, 1972, at Atlanta, Ga., postponed indefinitely.

MC-C-7327, John L. Mason, Jr., Johnny Mason, Johnny Mason doing business as Mason Trucking, Carroll Truck Lines, Inc., John L. Mason, Sr. and John L. Mason, Sr., doing business as West Gin Co.—Investigation of Operations and Practices, now being assigned hearing July 13, 1972, MC 109397 Sub 263, Tri-State Motor Transit Co., now being assigned hearing July 12, 1972, MC 113861 Sub 51, Wooten Transports, Inc., Extention Memphis, Tenn., now being assigned hearing July 11, 1972, MC 106398 Sub 571, National Trailer Convoy, Inc., MC 119700 Sub 17, Steel Haulers, Inc., now being assigned hearing July 10, 1972, MC 127834 Sub 36, Cherokee Hauling & Rigging, Inc., now being assigned hearing July 17, 1972, at Memphis, Tenn., in a hearing room later to be designated.

MC 59150, Sub 64, Ploof Transfer Co., Inc., now being assigned hearing July 17, 1972 (1 day), at Jacksonville, Fla., in a hearing room to be later designated.

[1] Order filed as part of the original document.

MC 121060, Sub 14, Arrow Truck Lines, Inc., now being assigned hearing July 10, 1972 (1 day), at Atlanta, Ga., in a hearing room to be later designated.

MC 134426, Sub 1, Robert E. McCort, doing business as McCort Driveaway, now being assigned hearing July 18, 1972, at Jacksonville, Fla. (2 days), in a hearing room to be later designated.

FD-26564, Penn Central Transportation Co. (George P. Baker, Richard C. Bond, Jervis Langdon, Jr. and Willard Wirtz, Trustees) abandonment Southbridge Branch between West Dudley and Southbridge Worcester County, Mass., assigned June 12, 1972 at Southbridge, Mass., in Courtroom, Police Station Building, 260 Main Street.

No. MC-C-7377, J. J. Sullivan The Mover, Inc., Revocation of certificate, assigned June 14, 1972, MC-F-11292 Trans-World Movers, Inc.—Purchase (portion) R. M. Ormes Transportation, Inc. assigned June 15, 1972, at Boston, Mass., in Room 2211B, John Fitzgerald Kennedy Building, Government Center.

MC 107515 Sub 741, Refrigerated Transport Co., Inc., and MC 107515 Sub 745, Refrigerated Transport Co., Inc., now being assigned continued hearing July 11, 1972, at Atlanta, Ga., in a hearing to be later designated.

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

[FR Doc.72-7712 Filed 5-19-72;8:51 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 17, 1972.

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. 42427—*Commodity rates from and to Gregory, Tex.* Filed by Southwestern Freight Bureau, agent (No. B-322), for interested rail carriers. Rates on property moving on point-to-point commodity rates, from and to Gregory, Tex., on the one hand, to and from points in the United States and Canada, on the other.

Grounds for relief—Rate relationship.

FSA No. 42428—*General commodities between the Port of Hong Kong and rail carrier terminal at Kearny, N.J.* Filed by Sea-Land Service, Inc. (No. 63), for itself and interested rail carriers. Rates on general commodities, from the port of Hong Kong, to the rail terminal at Kearny, N.J.

Grounds for relief—Water competition.

Tariff—Sea-Land Service, Inc., tariff No. 207, ICC No. 75.

Rates are published to become effective on June 15, 1972.

FSA No. 42429—*Ethylene glycol from Wilmington, N.C.* Filed by M. B. Hart, Jr., agent (No. A6308), for interested rail carriers. Rates on ethylene glycol, in tank-car loads, as described in the application, from Wilmington, N.C., to Decatur, Ala.

Grounds for relief—Market competition.

Tariff—Supplement 91 to Southern Freight Association, agent, tariff ICC S-832. Rates are published to become effective on June 22, 1972.

FSA No. 42430—*Citrus pomace and related articles to points in southern territory.* Filed by M. B. Hart, Jr., agent (No. A6309), for interested rail carriers. Rates on citrus pomace, citrus pulp or peel, in carloads, as described in the application, from specified points in Florida, to points in southern territory.

Grounds for relief—Rate relationship.

Tariff—Supplement 13 to Southern Freight Association, Agent, tariff ICC S-1019. Rates are published to become effective on June 22, 1972.

By the Commission.

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

[FR Doc.72-7711 Filed 5-19-72;8:51 am]

[Notice 63]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73384. By order of May 8, 1972, the Motor Carrier Board approved the transfer of a portion of Permit No. MC-115194 to Michael C. Naro, Dunmore, Pa., originally issued January 24, 1967, to Mildred Reining, Gerald M. Reining, and Floyd T. Olver, doing business as W. J. Reining & Sons, Beachlake, Pa., authorizing the transportation of: Wood products, lumber and wood, cement and cinder blocks, limestone, between points in New York, New Jersey, and Pennsylvania. Kenneth R. Davis, Practitioner, 999 Union Street, Taylor, Pa. 18517.

No. MC-FC-73464. By order of May 9, 1972, the Motor Carrier Board, on reconsideration, approved the transfer to James Calder, doing business as Calder Van Lines, Chicago, Ill., of certificate No. MC-95293 issued July 25, 1950 to Reinhold Radke, doing business as A Supreme Motor & Van Service, Chicago, Ill., authorizing the transportation of: Household goods as defined by the Commission, between Chicago, Evanston City, and points in specified townships, Ill., on the one hand, and, on the other, points in Minnesota, Iowa, Nebraska, Wisconsin, Ohio, and Indiana. M. T. Gruener, attorney, 188 West Randolph Street, Chicago, Ill.

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

[FR Doc.72-7710 Filed 5-19-72;8:51 am]

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