AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Part II begins on page 10021

Pages 9973–10112

PART I

FEDERAL REGISTER

VOLUME 28 NUMBER 180

Washington, Saturday, September 14, 1963

Contents

Agricultural Marketing Service

PROPOSED RULE MAKING:
Walnuts grown in California, Oregon, and Washington; expenses of Walnut Control Board and rates of assessment for 1963–64 marketing year 9989

RULES AND REGULATIONS:
Lemons grown in California and Arizona; handling limitations 9977
Potatoes, Irish grown in Colorado; shipment limitations 9978
Valencia oranges grown in Arizona and designated part of California; handling limitation 9977

Agricultural Stabilization and Conservation Service

NOTICES:
Farm marketing quotas and acreage allotments for 1964:
Extra long staple cotton 10001
Upland cotton 10002

RULES AND REGULATIONS:
Sugar cane, Hawaii; determination of prices, 1963 crop 9975
Upland cotton; transfer of farm allotments in designated counties which have floods or excessive rainfall 9975

Agriculture Department

See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Commodity Credit Corporation.

NOTICES:
Designation of areas for emergency loans:
Michigan 10003
Pennsylvania 10003

Army Department

RULES AND REGULATIONS:
Redesignation of parts; editorial note 9980

Atomic Energy Commission

NOTICES:
General Dynamics Corp.; application for utilization facility license 10003
Veterans Administration Hospital; issuance of facility license amendment 10003
Western New York Nuclear Research Center, Inc; issuance of amendment to facility license 10004

Civil Aeronautics Board

PROPOSED RULE MAKING:
Exemption of air carriers for short notice military contracts; statements of general policy 9989

Civil Service Commission

RULES AND REGULATIONS:
Reorganization and revision of chapter 10022
Reorganization and revision of chapter; cross reference 9979
Supersedure of chapter; editorial note 9980

Commodity Credit Corporation

RULES AND REGULATIONS:
Wheat, 1963 crop loan and purchase agreement program; miscellaneous amendments 9979

Customs Bureau

NOTICES:
Standard newsprint paper; tariff classification 9996
White portland cement from Japan; purchase price less than foreign market value 9996

Defense Department

See also Army Department.

RULES AND REGULATIONS:
Redesignation of part; editorial note 9980

Federal Aviation Agency

PROPOSED RULE MAKING:
Control area and reporting points; proposed alteration 9993
Control zone and transition areas; proposed alteration 9994
Douglas; airworthiness directive 9993
Restricted area, controlled airspace and Federal airway; proposed designation and alteration 9995

RULES AND REGULATIONS:
Airworthiness directives:
Douglas 9980
Sensenich 9981
Control zone, control area extension, and transition area; alteration, revocation, and designation 9980

Federal Housing Administration

RULES AND REGULATIONS:
Organization and management; delegations of basic authority and functions 9983

Federal Power Commission

NOTICES:
Hearings, etc.:
American Louisiana Pipe Line Co 10004
Northern Virginia Power Co 10005
Otter Tail Power Co 10005
Public Utility District No. 1 of Klickitat County 10005
Transwestern Pipeline Co., et al 10006
United Gas Pipe Line Co 10006

Federal Trade Commission

RULES AND REGULATIONS:
Prohibited trade practices:
Delaware Watch Co., Inc., et al 9981
Savoy Watch Co., Inc., et al 9982

Food and Drug Administration

PROPOSED RULE MAKING:
Nonalcoholic carbonated beverages; soda water, artificially sweetened carbonated beverages, proposed definitions and standards of identity 9988

RULES AND REGULATIONS:
Nonalcoholic carbonated beverages; extension of effective date of exemption from label declaration of ingredients 9982
Vanilla extract and related products; order correcting wording of definitions and standards of identity and ending stay of effective date 9982

(Continued on next page)

Health, Education, and Welfare Department

See Food and Drug Administration.

Housing and Home Finance Agency

See Federal Housing Administration.

Interior Department

NOTICES:
Director, Office of Survey and Review; delegation of authority... 10001

International Organizations Employees Loyalty Board

RULES AND REGULATIONS:
Redesignation of part; editorial note... 9980

Interstate Commerce Commission

NOTICES:
Fourth section application for relief... 10010
Middle Atlantic Conference; application for approval of agreement... 10010

Justice Department

NOTICES:
Dolan, Joseph F.; delegation of authority to designate officers and employees of Department of Justice to perform the functions of Deputy Marshals in the Northern District of Alabama and to administer oaths of office... 10000

Labor Department

See Wage and Hour Division.

Post Office Department

NOTICES:
Postmaster General et al.; delegation of authority and line of succession... 10000

President's Committee on Equal Employment Opportunity

RULES AND REGULATIONS:
Redesignation of part; editorial note... 9980

Securities and Exchange Commission

NOTICES:
Electric Bond and Share Co., and Escambia Chemical Corp.; application for order exempting transaction between affiliates... 10006

Treasury Department

See also Customs Bureau.

NOTICES:
Offering of bonds:
3⅞ percent Treasury Bonds of 1968... 9996
4 percent Treasury Bonds of 1973... 9997
4⅛ percent Treasury Bonds of 1989–94... 9999

Wage and Hour Division

NOTICES:
Certificates authorizing the employment of full-time students working outside of school hours in retail or service establishments at special minimum wages... 10007
Certificates authorizing the employment of learners or student-workers at special minimum wages... 10008

Codification Guide

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

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the section numbers as well as the part numbers affected.

5 CFR

1—990... 10022
201—210... 9979
350... 9980
401... 9980
501... 9980
601... 9980
1201—1210... 9979
1401... 9980
1501... 9980
1601... 9980

7 CFR

722... 9975
876... 9975
908... 9977
910... 9977
948... 9978
1421... 9979

PROPOSED RULES:
984... 9989

14 CFR

71 [New]... 9980
507 (2 documents)... 9980, 9981

PROPOSED RULES:
71 [New] (3 documents)... 9993–9995
73 [New]... 9995
288... 9989
399... 9989
507... 9993

16 CFR

13 (2 documents)... 9981, 9982

21 CFR

3... 9982
22... 9982

PROPOSED RULES:
31... 9988

24 CFR

200... 9983

Announcing: **Volume 76A**

UNITED STATES STATUTES AT LARGE

Containing

THE CANAL ZONE CODE

Enacted as Public Law 87–845 during the Second Session of the Eighty-seventh Congress (1962)

Price: $5.75

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

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

FEDERAL REGISTER

Telephone WOrth 3-3261

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Office of the Federal Register, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15 cents) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended August 5, 1953. The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of books and pocket supplements vary.

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

Rules and Regulations

Title 7—AGRICULTURE

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

[Amdt. 7]

PART 722—COTTON

Subpart—Regulations Pertaining to Acreage Allotments for the 1963 Crop of Upland Cotton

TRANSFER OF FARM ALLOTMENTS IN DESIGNATED COUNTIES WHICH HAVE FLOODS OR EXCESSIVE RAINFALL

The purpose of this amendment is to provide that the State committee, under certain circumstances, may extend the closing date for county committee approval of transfers of farm allotments in designated counties which have flood or excessive rainfall preventing the timely planting or replanting of a substantial portion of the 1963 farm allotments. The amendment contained herein is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.).

In order that the county committees may perform their assigned functions in connection with the transfer of allotments, it is essential that this amendment be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the notice and public procedure requirements and the 30-day effective date requirement of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) is impracticable and contrary to the public interest and this amendment shall be effective upon filing of this document with the Director, Office of the Federal Register.

Section 722.617, paragraph (j) of the regulations pertaining to acreage allotments for the 1963 crop of upland cotton as amended (27 F.R. 10524, 11215, 12045, 12428; 28 F.R. 3573, 5609, 7888), is amended by adding a new subparagraph (7) to read as follows:

(7) The State committee may extend the closing date set forth in subparagraph (4) of this paragraph for individual cases where it is conclusively shown through information furnished by the person concerned and the county committee that failure to complete the required application forms was due to inadvertence and the conditions set forth in subparagraph (3) (i) and (ii) of this paragraph are found by the county committee to have been met on or before June 10, 1963. Each individual case must be considered on its own merits before an extension of the closing date may be approved.

(Secs. 344(n), 375; 72 Stat. 186, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1344(n), 1375)

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on September 10, 1963.

E. A. JAENKE,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 63-9838; Filed, Sept. 13, 1963; 8:47 a.m.]

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

SUBCHAPTER I—DETERMINATION OF PRICES

[Sugar Determination 876.15]

PART 876—SUGARCANE; HAWAII

Fair and Reasonable Prices for 1963 Crop

Pursuant to the provisions of section 301(c)(2) of the Sugar Act of 1948, as amended, and as further amended by Public Law 87-535 and Public Law 87-539 (herein referred to as "act"), after investigation and due consideration of the evidence obtained at the public hearing held in Hilo, Hawaii on January 11, 1963, the following determination is hereby issued:

§ 876.15 Fair and reasonable prices for the 1963 crop of Hawaiian sugarcane.

A producer of sugarcane in Hawaii who is also a processor of sugarcane (herein referred to as "processor") shall have paid, or contracted to pay, for sugarcane of the 1963 crop grown by other producers and processed by him, or shall have processed sugarcane of other producers under a toll agreement, in accordance with the following requirements:

(a) *Toll agreements.* (1) The rate for processing sugarcane under a toll agreement at Olokele Sugar Company, Ltd., and Kekaha Sugar Company, Ltd., shall be not more than the rate provided in the agreement between the producer and the processor applicable to the prior crop.

(2) (i) The rate for processing sugarcane delivered by a producer under a toll agreement to those processors listed below shall be not more than that established for each such processor.

Processor	Rate for processing	Delivery point
	(*Percent*)	
Puna Sugar Co., Ltd.	36	Mill.
Kohala Sugar Co.	33	Do.
Laupahoehoe Sugar Co.	45	Loaded in trucks.
Hilo Sugar Co., Ltd.	45	Do.[1]
Onomea Sugar Co.	45	Do.[1]
Pepeekeo Sugar Co.	45	Do.[1]
Paauhau Sugar Co., Ltd.	45	Do.
Hawaiian Agricultural Co.	45	Do.
Hutchinson Sugar Co., Ltd.	45	Do.

[1] Where flumes are used to transport sugarcane from the field to the mill, the delivery point shall be alongside flume.

(ii) The gross proceeds from sugar and molasses shall be determined in accordance with the Standard Sugar Marketing Contract and the Standard Molasses Marketing Contract entered into by the producer, or his agent, with the California and Hawaiian Sugar Refining Corporation, Ltd. (a cooperative agricultural marketing association herein referred to as C & H): *Provided*, That the gross proceeds so determined to be applicable to the sugar and molasses recovered from the sugarcane of the producer shall be converted to dollars per hundredweight of sugar, raw value basis, for the purpose of applying the rate for processing.

(iii) The applicable rate for processing established in this subparagraph for sugarcane of the producer shall cover (*a*) all transporting, handling, and processing costs applicable to the producers' sugarcane from the delivery point specified herein until the raw sugar and molasses recovered therefrom leaves the bulk sugar bin or the molasses tank of the processor, except those costs incurred for insuring such raw sugar and molasses while stored therein; (*b*) the cost of insuring such sugarcane against loss by fire to the same extent that sugarcane of the processor is insured; (*c*) the costs of weighing, sampling, and taring such sugarcane; (*d*) the cost of general weed and rodent control other than in the sugarcane fields of producers and alongside the roads adjacent thereto; (*e*) the cost of all research and experimental work applicable to the production and processing of such sugarcane; and (*f*) in the case of Hilo Sugar Company, Ltd., if sugarcane of the producer is cut by hand because equipment was not available to mechanically harvest his sugarcane, and the Supplement to the Processing and Agency Contract between the processor and such producer is applicable to such sugarcane, the rate for processing shall also cover the additional costs of handling and transporting the sugarcane as provided by such supplement.

(iv) The sugarcane received from producers shall be handled and processed by the processor in a manner which is no less favorable than the handling and processing of the sugarcane of the processor. The processor, in acting as agent for the producer, shall handle and deliver to C & H the raw sugar and molasses recovered from the sugarcane of the producer in a manner which is no less favorable than the handling and delivery to C & H of the raw sugar and molasses recovered from the sugarcane of the processor. The processor shall promptly transmit to the producer the amount of gross proceeds received for the sugar and molasses recovered from the sugarcane of the producer, less the applicable processing rate, and less the expenses paid by the processor, as agent for the producer, pursuant to the toll agreement. Handling and delivery expenses shall be limited to those direct expenses paid by the processor as agent for the producer, but shall not include overhead charges of the processor.

(b) *Purchase agreements.* (1) The price for sugarcane under adherent planter agreements shall be not less than the price determined in accordance with the agreement between the processor and the producer applicable to the prior crop.

(2) The price for the producers' share of sugarcane under cultivation contracts at Laupahoehoe Sugar Company shall be not less than the price determined in accordance with the agreement between the processor and the producer applicable to the prior crop.

(3) The price for sugarcane under independent grower purchase agreements shall be not less than the price determined in accordance with the agreement between the processor and the producer applicable to the prior crop: *Provided,* That the items of expense which may be deducted in computing net returns for the 1963 crop shall be limited to the same items as for the 1962 crop, except that if the processor incurs handling and delivery expenses otherwise allowable under the agreement and which are incurred under abnormal conditions which the "State Executive Director" (i.e. the person employed to be responsible for the day-to-day operations of the Hawaii Agricultural Stabilization and Conservation Service State Office, or any employee in such office acting on behalf of such person), determines justify the incurrence of such expenses, such expenses also may be deducted.

(c) *Sugarcane weight and quality determination.* The determination of the net weight and quality of the sugarcane received from the producer, and the allocation of sugar and molasses recoveries to the producer shall be made in accordance with the methods customarily used by the processor; methods which have been approved by the Experiment Station of the Hawaiian Sugar Planters Association; or methods agreed upon between the processor and the producer, which will reflect the true weight and quality of sugarcane and the quantities of sugar and molasses recovered from the sugarcane of the producer.

(d) *Overhead charges for services furnished to producers.* If the processor, at the producer's request, furnishes labor, materials, or services used in producing, harvesting, or transporting the producer's sugarcane, or transports the producer's sugar or molasses from the mill to the port in the processor's own equipment, the processor may charge in addition to the direct costs of such labor, materials, or services, the applicable overhead expenses. Charges for such overhead expenses shall be based on estimated current budgets and adjusted after the end of the calendar year so as not to exceed the actual costs for such year. In addition, the processor may also charge a profit not to exceed 5 percent of the sum of the direct and overhead charges for such labor, materials, or services. Overhead expenses shall be limited to those which are properly apportionable under generally accepted accounting principles, as approved by the "State Executive Director".

(e) *Reporting requirements.* The processor shall submit to the "State Executive Director", a certified statement of the gross proceeds and handling and delivery expenses paid under (1) purchase agreements providing for payment for sugarcane based upon net returns from sugar and molasses, and (2) toll and agency agreements providing for the deduction of handling and delivery expenses on sugar and molasses from the gross proceeds obtained therefrom.

(f) *Subterfuge.* The processor shall not reduce returns to the producer below those determined in accordance with the requirements herein through any subterfuge or device whatsoever.

STATEMENT OF BASES AND CONSIDERATIONS

(a) *General.* The foregoing determination establishes the fair and reasonable rate requirements which must be met, as one of the conditions for payment under the act, by a producer who processes sugarcane of the 1963 crop grown by other producers.

(b) *Requirements of the act.* Section 301(c)(2) of the act provides, as a condition for payment, that the producer on the farm who is also, directly or indirectly a processor of sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for any sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing.

(c) *Public hearing—Kohala Sugar Company.* The representative of this company recommended that the rate for processing of at least 33 percent be continued for the 1963 crop. The witness stated that drought conditions had continued for the fourth consecutive year at this plantation, and that sugar production from the 1962 crop was the lowest since 1949, except for the 1958 crop which was affected by a labor strike. He estimated that the 1963 crop would produce less sugar than the 1962 crop and that because of poor production conditions independent growers had discontinued the cultivation of 46 acres of sugarcane during 1962. The witness stated that the costs of transporting raw sugar had declined $2.24 per ton of sugar as a result of the operation of the new bulk sugar facility at Kawaihae, which reduced the costs borne by growers, but that the company had processed growers cane on a break-even basis over the past few years.

Puna Sugar Company, Limited. The representative of Puna recommended a processing rate of 38 percent, a 10 percent profit margin on charges for services furnished to producers, and continued approval of the core sampling method of determining sugar and molasses credits for growers of sugarcane. The witness stated that estimated cost data for the 1962 crop indicated a processing rate of 36.49 percent but that the results of any one year are not indicative of the long range relationship between the growers and the company. He said that a cost ratio based on average costs for the 7-year period 1956–1962 supported the recommended processing rate of 38 percent for 1963, and that such rate should be continued until substantial changes occur in either growers' costs or company costs. In a supplemental statement it was stated that probably a 7-year average cost ratio was too long a period for the determination of a current trend in the cost relationship and the company proposed instead the use of a 5-year moving average cost ratio. Such a period, it was stated, is adequate to insure some stabilization in the cost relationship and to disclose any current trend in changes in the cost relationship. The company presented average production and processing costs for the 5-year periods, 1956–1960, 1957–61, and 1958–62, which indicated processing rates of 38.29 percent, 38.83 percent, and 38.47 percent, respectively.

The representative of producers at Puna recommended a processing rate of 31 percent for the 1963 crop, the disallowance of the 5 percent profit charge on services furnished to growers by the plantation, and a change in the mill delivery point to "loaded in trucks". The witness stated that because the hauling of sugarcane is a service purchased by growers from the company the delivery point should be "in trucks" so that the company would bear the costs of hauling and road maintenance. He said that producers do not have full confidence in the core sampler, and that since it is still in the experimental stage, the industry as a whole should bear the cost of developing this method of cane analysis.

Brewer and Company. (Representing Hilo, Onemea, Pepeekeo, Paauhau, Hawaiian Agricultural, and Hutchinson Sugar Companies.) The representative of these companies recommended a processing rate of 47 percent for the 1963 crop; that the provision for a profit charge on services provided to growers be continued; and that the price factor provided in Independent Grower Cane Purchase Agreements at Hawaiian Agricultural Company be approved for 1963. The witness stated that Hakalau Sugar Company was merged into Pepeekeo Sugar Company on December 31, 1962, and that the latter company will administer the essentially unchanged producing and processing facilities of the two former companies. He furnished data on actual 1962 crop processing and producing costs for company sugarcane which indicated a processing rate of 46.19 percent. He also testified that based on actual company costs the indicated processing rates were 45.49 percent in 1957, 48.74 in 1958, 48.53 in 1959, 48.07 in 1960, and 47.28 in 1961. The witness said the indicated processing rate for the favorable 1962 crop is lower than for previous crops, but assuming normal production and cost conditions for 1963 the processing rate would be 47 percent or higher.

A representative of producers at the Hawaiian Agricultural Company recommended that the sugarcane pricing arrangements as provided in the present Independent Grower Cane Purchase Agreement be continued for 1963.

The representative of producers at Hilo, Onemea and Pepeekeo Sugar Com-

panies recommended a processing rate of 43 percent, and the disallowance of the 5 percent profit charge on services furnished to producers by the companies. Returns and costs data for producers were presented which showed a profit for 1962 of $2.20 per ton of sugar. The witness stated that the profit was due to favorable weather and increases in the price of sugar and not to a favorable processing rate.

Laupahoehoe Sugar Company. The representative of this company recommended that the tolling and other agreements presently in effect at Laupahoehoe be continued for 1963, except that the processing rate be increased to 49 percent instead of 45 percent. He stated that cost data for recent years continued to reflect a processing rate higher than 45 percent, and that there was no reason to believe that 1963 results would be different. He submitted computations of the processing rate based on actual 1961 and 1962 crop results which indicated processing rates of 51.3 percent for 1961, and 49.5 percent for 1962.

The representative of producers at Laupahoehoe recommended a processing rate of 43 percent. The witness presented cost data representing the operations of 3 independent growers on 43 acres of sugarcane and stated that on the basis of the costs of processing grower cane as submitted by the company, the processor was making a favorable profit with a processing rate of 45 percent.

(d) *1963 price determination.* This determination continues the provisions of the 1962 determination.

Consideration has been given to the recommendations and information submitted in connection with the hearing; in terms of prospective price and producing and processing sugarcane obtained by a recent field study and recast in terms of prosepective price and production conditions for the 1963 crop; and to other pertinent factors.

The recommendations of producers and processors for changes in the processing rates applicable to several of the companies have not been adopted. Estimates of the returns, costs, and profits for the 1963 crop have been based upon prospective production and yield conditions as well as on average production and yield estimates to reflect long range conditions. On the basis of these estimates for the 1963 crop, and considering other pertinent factors, the processing rates for the 1962 crop are considered equitable for the 1963 crop.

Recommendations for changes in the rate of profit charge on services furnished to producers and for changes in the delivery point for sugarcane have again been considered. It is believed that the rate of profit allowed on services furnished to producers and the delivery points specified in the prior determination, continue to be equitable under the circumstances.

In recent years several processors have developed the practice of grinding the cane of independent growers separately from company cane and determining separately the sugar and molasses recoveries. In some instances each grower's cane is ground separately, while in other instances all grower's cane is ground separately as a group and total sugar and molasses recoveries are allocated to such growers on the basis of the quantity of cane delivered by each. The practice of grinding each grower's cane separately is considered a more equitable and accurate method of determining the quantity of sugar and molasses attributable to grower and company cane than conventional methods heretofore followed. Where the cane delivered by a number of growers is ground together, adequate facilities should be available to insure that such cane is transported to the mill and processed in a manner no less favorable than the sugarcane of the processor.

After consideration of all factors this determination is considered to be fair and reasonable. Accordingly, I hereby find and conclude that the foregoing determination will effectuate the price provisions of the Sugar Act of 1948, as amended.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153. Interprets or applies Sec. 301, 61 Stat. 929; 7 U.S.C. Sup. 1131, as amended by Public Law 87-535 and Public Law 87-539)

Signed at Washington, D.C., on September 10, 1963.

CHARLES S. MURPHY,
Acting Secretary

[F.R. Doc. 63-9853; Filed, Sept. 13, 1963; 8:48 a.m.]

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

[Valencia Orange Reg. 64]

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

Limitation of Handling

§ 908.364 Valencia Orange Regulation 64.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908; 27 F.R. 10089), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges as hereinafter provided will tend to effectuate the declared policy of the act.

(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. 1001-1011) 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 Valencia oranges 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 Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on September 12, 1963.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., September 15, 1963, and ending at 12:01 a.m., P.s.t., September 22, 1963, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 650,000 cartons;

(iii) District 3: Unlimited movement.

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

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

Dated: September 13, 1963.

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

[F.R. Doc. 63-9940; Filed, Sept. 13, 1963; 11:17 a.m.]

[Lemon Reg. 80]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.380 Lemon Regulation 80.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-

674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such lemons as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held, the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on September 10, 1963.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., September 15, 1963, and ending at 12:01 a.m., P.s.t., September 22, 1963, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 186,000 cartons;

(iii) District 3: 11,515 cartons.

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

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

Dated: September 11, 1963.

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

[F.R. Doc. 63-9886; Filed, Sept. 13, 1963; 8:49 a.m.]

[948.343]

PART 948—IRISH POTATOES GROWN IN COLORADO

Limitation of Shipments; Area No. 2

Findings. (a) Pursuant to Marketing Agreement No. 97, as amended, and Order No. 948, as amended (7 CFR Part 948), regulating the handling of Irish potatoes grown in Colorado, 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 recommendations and information submitted by the Area No. 2 Committee, established pursuant to the said marketing agreement and order, and other available information, it is hereby found that the limitation of shipments hereinafter set forth, will tend to maintain orderly marketing conditions and increase returns to producers of such potatoes.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice or engage in public rule making procedure, and that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1003) in that (1) shipments of 1963 crop potatoes grown in Area No. 2 will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to all such shipments, (3) producers and handlers have operated under the said marketing order program since 1949 so special preparation on the part of handlers is not required, and (4) information regarding the committee's recommendation has been disseminated to producers and handlers in the production area.

§ 948.343 Limitation of shipments.

During the period from September 16, 1963, through June 30, 1964, no person shall handle any lot of potatoes grown in Area No. 2 unless such potatoes meet the requirements of paragraphs (a) and (b) of this section, or unless such potatoes are handled in accordance with the provisions of paragraphs (c), (d), (e), (f), and (g) of this section. The maturity requirements specified in paragraph (b) shall terminate October 15, 1963, at 11:59 p.m., MST.

(a) *Grade and size requirements*—(1) *Round varieties.* U.S. No. 2, or better grade, 2⅛ inches minimum diameter.

(2) *Long varieties.* U.S. No. 2, or better grade, 2 inches minimum diameter or 4 ounces minimum weight.

(3) *All varieties.* Size B, if U.S. No. 1 or better grade, and if handled in accordance with the reporting requirements of paragraph (g) of this section.

(b) *Maturity (skinning) requirements*—(1) *Russet Burbank and Red McClure varieties.* Not more than "slightly skinned."

(2) *All other varieties.* No more than "moderately skinned."

(c) *Special purpose shipments*—(1) *Chipping stock.* Potatoes may be handled for chipping if they meet the requirements of 2 inches minimum diameter and if they are U.S. No. 2, or better grade, except for (i) scab, and (ii) the maturity requirements of paragraph (b) of this section, if such potatoes are handled in accordance with paragraph (d) of this section.

(2) *Other special uses.* (i) The quality and maturity requirements set forth in paragraphs (a) and (b) of this section and the inspection and assessment requirements of this part shall not be applicable to the handling of potatoes for livestock feed, relief, or charity.

(ii) The quality and maturity requirements set forth in paragraphs (a) and (b) of this section shall not be applicable to the handling of potatoes for seed pursuant to § 948.6, but any lot of potatoes handled for seed shall be subject to assessments.

(d) *Safeguards.* (1) Each handler of potatoes which do not meet the quality and maturity requirements of paragraphs (a) and (b) of this section and which are handled pursuant to paragraph (c) of this section for any of the special purposes set forth therein shall:

(i) Prior to handling, apply for and obtain a Certificate of Privilege from the Committee,

(ii) Furnish the committee such reports and documents as requested, including certification by the buyer or receiver as to the use of such potatoes, and

(iii) Bill each shipment directly to the applicable processor or receiver.

(2) Potatoes handled for livestock feed pursuant to paragraph (c) of this section shall be mutilated so as to render them unfit for commercial tablestock market.

(e) *Minimum quantity.* For purposes of regulation under this part, each person may handle up to but not to exceed 1,000 pounds of potatoes without regard to the requirements of this section, but this exception shall not apply to any portion of a shipment of over 1,000 pounds of potatoes.

(f) *Inspection.* No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purposes of operation under this part it is hereby determined pursuant to paragraph (d) of § 948.40, that each inspection certificate shall be valid for a period not to exceed 5 days following the date shown on the inspection certificate, except that inspection certificates issued on potatoes for use as potato chips handled pursuant to paragraph (c)(1)

of this section shall be exempt from this 5 day requirement.

(g) *Reports.* Pursuant to § 948.80, no handler may ship size B potatoes from Area No. 2 unless he reports to the committee in a manner prescribed by it the quantities handled and the destinations of such potatoes.

(h) *Definitions.* The terms "U.S. No. 1," "U.S. No. 2," "Size B," "slightly skinned," "moderately skinned," and "scab" shall have the same meaning as when used in the United States Standards for Potatoes (§§ 51.1540–51.1556 of this title), including the tolerances set forth therein. Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

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

Dated September 11, 1963, to become effective September 16, 1963.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 63–9837; Filed, Sept. 13, 1963; 8:47 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[C.C.C. Grain Price Support Regulations, 1963-Crop Wheat Supplement, Amdt. 1]

PART 1421—GRAINS AND RELATED COMMODITIES

Subpart—1963-Crop Wheat Loan and Purchase Agreement Program

MISCELLANEOUS AMENDMENTS

The regulations issued by the Commodity Credit Corporation published in 28 F.R. 6959 and containing the specific requirements of the 1963-crop wheat loan and purchase agreement program are hereby amended as follows:

1. Section 1421.2105(b)(1) is amended to also make wheat grading "Sample" because of test weight only, but not less than 40 pounds per bushel, eligible for loans or purchase agreements if it otherwise meets certain requirements so that the amended subparagraph reads as follows:

§ 1421.2105 Eligible wheat.

* * * * *

(b) *Grade requirements.* (1) The wheat must be (i) wheat of any class grading No. 3 or better; (ii) wheat of any class grading No. 4 or No. 5 because of containing "Durum" and/or "Red Durum" but otherwise grading No. 3 or better; (iii) wheat of any class grading No. 4 or No. 5 or "Sample" on the factor of test weight only but otherwise meeting the requirements of subdivision (i) or (ii) of this subparagraph and having a test weight of not less than 40 pounds per bushel; or (iv) wheat of the class Mixed wheat consisting of mixtures of grades of eligible wheat as specified in subdivision (i), (ii), or (iii) of this subparagraph provided such mixtures are the natural products of the field. In addition, wheat may have the special grade designations "Garlicky" and/or "Smutty."

2. Section 1421.2108(c) is amended by extending the schedule therein to apply to wheat testing as low as 40 pounds per bushel so that the amended paragraph reads as follows:

§ 1421.2108 Determination of quantity.

* * * * *

(c) *Adjustment for test weight.* When the quantity is determined by measurement, a bushel shall be 1.25 cubic feet of wheat testing 60 pounds per bushel. The quantity determined for wheat of a different test weight shall be adjusted by the applicable percentage in the following table:

Test weight (pounds per bushel):	Percent
65 or over	108
64.0 to 64.9	107
63.0 to 63.9	105
62.0 to 62.9	103
61.0 to 61.9	102
60.0 to 60.9	100
59.0 to 59.9	98
58.0 to 58.9	97
57.0 to 57.9	95
56.0 to 56.9	93
55.0 to 55.9	92
54.0 to 54.9	90
53.0 to 53.9	88
52.0 to 52.9	87
51.0 to 51.9	85
50.0 to 50.9	83
49.0 to 49.9	82
48.0 to 48.9	80
47.0 to 47.9	78
46.0 to 46.9	77
45.0 to 45.9	75
44.0 to 44.9	73
43.0 to 43.9	72
42.0 to 42.9	70
41.0 to 41.9	68
40.0 to 40.9	67

3. Section 1421.2113(e) is amended to correct basic county support rates as follows:

§ 1421.2113 Support rates.

* * * * *

(e) *Basic support rates (counties).*

ILLINOIS

County	Rate per bushel	
	From	To
Calhoun	$1.92	$1.93
Pike	1.87	1.89

MONTANA

Big Horn	1.56	1.57

4. Section 1421.2113(f)(2) is amended to provide discounts for "Sample" grade wheat so that the amended subparagraph reads as follows:

§ 1421.2113 Support rates.

* * * * *

(f) *Discounts and premiums.* * * *

(2) Grade premium and discounts:

	Cents per bushel
(i) Premium:	
No. 1 Heavy (Hard Red Spring)	+1
(ii) Discounts:	
No. 2	−1
No. 3	−3

(2) Grade premium and discounts—Con.

(ii) Discounts—Continued

No. 4, No. 5, or "Sample on account of test weight":

Hard Red Spring		All other classes	
Test weight	Cents per bushel	Test weight	Cents per bushel
53.0–54.9	−6	54.0–55.9	−6
50.0–52.9	−9	51.0–53.9	−9
49	−13	50	−13
48	−17	49	−17
47	−21	48	−21
46	−25	47	−25
45	−29	46	−29
44	−35	45	−33
43	−41	44	−39
42	−47	43	−45
41	−53	42	−51
40	−59	41	−57
		40	−63

	Cents per bushel
No. 4 or 5 because of containing Durum and/or Red Durum [2] [3]	−6
Smut—degree basis:	
Light smutty	−2
Smutty	−6
Smut—percentage basis:	
One-half of 1 percent	−1
1 percent or over	−3
Garlic—degree basis:	
Light garlicky	−6
Garlicky	−15

[1] Not applicable to any of the undesirable varieties listed in the variety discount schedule.

[2] This discount is in addition to any other applicable numerical grade discount, and any other discounts which may be applicable.

[3] Not applicable to any of the Mixed wheats or Red Durum. For discounts applicable to Mixed wheat containing Durum and/or Red Durum, see (1)(ii) of this paragraph.

(Sec. 4, 62 Stat. 1070 as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051, 1054; sec. 306, 76 Stat. 614; 15 U.S.C. 714c, 7 U.S.C. 1441, 1421)

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on September 10, 1963.

E. A. JAENKE,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 63–9839; Filed, Sept. 13, 1963; 8:47 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

REORGANIZATION AND REVISION OF CHAPTER

CROSS REFERENCE: For reorganization and revision of chapter, see Part II of this issue.

Chapter II—Employment and Compensation in the Canal Zone

REDESIGNATION OF PARTS

EDITORIAL NOTE: Parts 201–210 of this chapter are hereby redesignated Parts 1201–1210, respectively.

Chapter III—Foreign and Territorial Compensation

SUPERSEDURE OF CHAPTER

EDITORIAL NOTE: Regulations comprising Part 350, the only remaining part in this chapter are superseded by the reorganization and revision of Chapter I. See Part II of this issue.

Chapter IV—The President's Committee on Equal Employment Opportunity

REDESIGNATION OF PART

EDITORIAL NOTE: Part 401, the only part in this chapter, is hereby redesignated Part 1401.

Chapter V—The International Organizations Employees Loyalty Board

REDESIGNATION OF PART

EDITORIAL NOTE: Part 501, the only part in this chapter, is hereby redesignated Part 1501.

Chapter VI—Department of Defense

REDESIGNATION OF PART

EDITORIAL NOTE: Part 601, the only part in this chapter, is hereby redesignated Part 1601.

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

SUBCHAPTER E—AIRSPACE [NEW]

[Airspace Docket No. 63–SW–35]

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

Alteration of Control Zone, Revocation of Control Area Extension, and Designation of Transition Area

On June 14, 1963, a notice of proposed rule making was published in the FEDERAL REGISTER (28 F.R. 6092) stating that the Federal Aviation Agency proposed to alter the Truth or Consequences, N. Mex., control zone, revoke the Truth or Consequences control area extension and designate the Truth or Consequences transition area.

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

The substance of the proposed amendments having been published and for the reasons stated in the notice, the following actions are taken:

1. In § 71.171 (27 F.R. 220–91, November 10, 1962), the Truth or Consequences, N. Mex., control zone is amended to read:

Truth or Consequences, N. Mex.

Within a 5-mile radius of Truth or Consequences Municipal Airport (latitude 33°14'10" N., longitude 107°16'20" W.).

2. Section 71.165 (27 F.R. 220–59, November 10, 1962, 28 F.R. 6495), is amended by revoking the following control area extension:

Truth or Consequences, N. Mex.

3. Section 71.181 (27 F.R. 220–139, November 10, 1962) is amended by adding the following:

Truth or Consequences, N. Mex.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Truth or Consequences Municipal Airport (latitude 33°14'10" N., longitude 107°16'20" W.); and that airspace extending upward from 1,200 feet above the surface within 10 miles E and 7 miles W of the Truth or Consequences VOR 013° and 193° radials, extending from 20 miles N to 9 miles S of the VOR, and within 5 miles each side of the Truth or Consequences VOR 143° radial, extending from the 8-mile radius area to 23 miles SE of the VOR. The portion of this transition area within R–5111 shall be used only after obtaining prior approval from appropriate authority.

These amendments shall become effective 0001 e.s.t., January 9, 1964.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on September 9, 1963.

MICHAEL J. BURNS,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 63–9823; Filed, Sept. 13, 1963; 8:46 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 1681; Amdt. 617]

PART 507—AIRWORTHINESS DIRECTIVES

Douglas DC–6 Series Aircraft

A proposal to amend Part 507 of the Regulations of the Administrator to include an airworthiness directive requiring inspection of the spar caps and wing skin on Douglas DC–6 Series aircraft, replacement of any spar caps found cracked, and rework or replacement of cracked wing skin was published in 28 F.R. 3357.

Interested persons have been afforded an opportunity to participate in the making of the amendment. A comment recommended that the inspection requirements of the lower center spar cap at the inboard side of engine nacelles Nos. 2 and 3 be considered separately from the outboard side of engine nacelles Nos. 2 and 3 and that the initial inspection be extended to 500 hours' time in service. The structural integrity of the aircraft is believed to be maintained only when both sides of the nacelles are inspected at the same time interval. Therefore this recommendation was not accepted. The initial inspection time is predicated upon recommendations of the manufacturer with which the Agency concurs.

It was also suggested that provision be included for repairs made in accordance with the manufacturer's instructions and that the special inspections be no longer required in areas where the preventive rework is accomplished. The directive now includes these provisions.

It is further recommended that the special inspections be discontinued after a new splice is installed. The new splice is considered a temporary repair and therefore the repetitive inspections must be resumed within 4,000 hours unless the rework is accomplished.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 507.10(a) of Part 507 (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

DOUGLAS. Applies to all DC–6, DC–6A, and DC–6B aircraft, except Serial Number 44430 (fuselage No. 500) and subsequent. Compliance required as indicated.

There have been several instances of cracks causing failure of the lower center spar caps at Station 121, as well as cracking of the wing skin in the same area. Accordingly, the following shall be accomplished:

(a) Within 100 hours' time in service after the effective date of this AD, unless already accomplished within the last 400 hours' time in service, visually or X-ray inspect for cracks in the lower center spar cap and the surrounding wing skin area from the inboard side of Numbers 2 and 3 engine nacelles inboard to Station 114.500 and from the outboard side of Numbers 2 and 3 engine nacelles outboard to Station 184.000. (For X-ray inspection see X-ray procedures and information as described in Figure 2 in Douglas Alert Service Bulletin No. A–849, Reissue No. 1, dated October 1, 1962.) Pay particular attention to the area around the end attachments through the splice fittings. Reinspect at intervals not to exceed 500 hours' time in service from the last inspection.

(b) If cracks are found in the lower spar cap, replace the part before further flight, except for a ferry flight in accordance with CAR 1.76. When the new spar cap is installed, the original splice may be reworked or replaced with a redesigned splice. The rework instructions and redesign data are described in Accomplishment Instructions, Parts II and III, respectively, of Douglas Alert Service Bulletin No. A–849, Reissue No. 1, dated October 1, 1962. Also, the splice may be reworked or replaced with a new splice in accordance with a method approved by the Chief, Engineering and Manufacturing Branch, FAA Western Region. If cracks are found in the surrounding skin area as set forth in (a), the skins shall be replaced or reworked in accordance with the manufacturer's instructions as authorized in Part I, paragraph (2), of Douglas Alert Service Bulletin No. A–849, Reissue No. 1, dated October 1, 1962, or a method approved by the Chief, Engineering and Manufacturing Branch, FAA Western Region.

(c) The repetitive inspections specified in (a) may be temporarily discontinued for a period not to exceed 4,000 hours' time in service on those aircraft on which the temporary rework described in Accomplishment Instructions, Part II of Douglas Alert Service Bulletin No. A–849, Reissue No. 1, dated October 1, 1962, is accomplished. The 4,000 hour temporary discontinuance period will be computed as starting at the time of the temporary rework accomplishment. If the preventive rework as described in (d) is not accomplished prior to the end of the 4,000 hours' time in service period, the repetitive inspection of (a) must be reinstituted and the first reinspection accomplished prior to the expiration of the 4,000 hour period.

(d) The special inspections described in (a), (b), and (c) may be discontinued when a specific area as described in (a) has been reworked with the preventive rework as outlined in Accomplishment Instructions, Part III of Douglas Alert Service Bulletin No. A–849, Reissue No. 1, dated October 1, 1962.

(e) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Western Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at

an established inspection period of the operator if the request contains substantiating data to justify the increase for such operator.

(Douglas Alert Service Bulletin No. A–849, Reissue No. 1, dated October 1, 1962, covers the same subject.)

This amendment shall become effective October 15, 1963.

(Secs. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on September 9, 1963.

W. LLOYD LANE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 63–9821; Filed, Sept. 13, 1963; 8:46 a.m.]

[Reg. Docket No. 1851; Amdt. 618]

PART 507—AIRWORTHINESS DIRECTIVES

Sensenich Controllable and Constant Speed Propellers

A proposal to amend Part 507 of the Regulations of the Administrator to include an airworthiness directive requiring shorter inspection intervals and including all models affected of Sensenich controllable and constant speed propellers was published in 28 F.R. 7400.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 507.10(a) of Part 507 (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

SENSENICH. Applies to all controllable and constant speed propeller Models C–2FM, CS–2FM, C–3FR4, CS–3FR5, and CS–3FM4.

(Aircraft on which these propeller models are installed include but are not necessarily confined to the Piper PA–12, –14, –16, –20, –22, Monocoupe 90AL–115, Stinson 108–2 and –3, Bellanca 14–13, and Goodyear GA–2B.)

Compliance required as indicated:

(a) On aircraft with Lycoming 0–235C or O–290–D Series engines or Franklin 6A4–165–B3 engines, inspect propellers with 90 hours or more propeller time in service on the effective date of this AD in accordance with (e) within 10 hours propeller time in service after the effective date of this AD, and thereafter each 100 hours propeller time in service from the last inspection.

(b) On aircraft with Lycoming 0–235C or 2–290–D Series engines or Franklin 6A4–165–B3 engines, inspect propellers with less than 90 hours propeller time in service on the effective date of this AD in accordance with (e) prior to the accumulation of 100 hours propeller time in service, and thereafter within each 100 hours propeller time in service from the last inspection.

(c) On aircraft with engines not listed in (a) and (b), inspect propellers with 290 hours or more propeller time in service on the effective date of this AD in accordance with (e) within 10 hours propeller time in service after the effective date of this AD, and thereafter within each 300 hours propeller time in service from the last inspection.

(d) On aircraft with engines not listed in (a) and (b), inspect propellers with less than 290 hours propeller time in service on the effective date of this AD in accordance with (e) prior to the accumulation of 300 hours within each 300 hours propeller time in propeller time in service, and thereafter service from the last inspection.

(e) Remove the propeller blades from the hub and carefully inspect the wood blade shank and split retaining groove in the blade ferrule for cracks. Check and tighten the lag screws to 160 inch pounds of torque. Magnetically inspect the ferrule and all ferrous metallic parts of the hub. Special care should be given to the inspection for cracks originating in the hub lock ring groove. Replace blades with broken lag screws, cracked wood shanks or ferrule before further flight.

(Sensenich Service Bulletins Nos. 133, Revision 1, dated January 29, 1960, and No. R–9 dated December 7, 1962, cover this same subject.)

This supersdes AD 50–47–1, 21 F.R. 9502.

This amendment shall become effective October 15, 1963.

(Secs. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on September 9, 1963.

W. LLOYD LANE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 63–9822; Filed, Sept. 13, 1963; 8:46 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 8411]

PART 13—PROHIBITED TRADE PRACTICES

Delaware Watch Co., Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.70 *Fictitious or misleading guarantees;* § 13.155 *Prices;* § 13.155–40 *Exaggerated as regular and customary;* § 13.170 *Qualities or properties of product or service;* § 13.170–96 *Waterproof, waterproofing, water-repellent.* Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception;* § 13.1055–50 *Pretreating merchandise misleadingly.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition;* § 13.1900 *Source or origin;* § 13.1900–30 *Foreign in general.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Delaware Watch Company, Inc., et. al., New York, N.Y., Docket 8411, Aug. 15, 1963]

In the Matter of Delaware Watch Company, Inc., a Corporation, and A. Schwarcz & Sons, Inc., a Corporation, and Steven Vogel and Leslie Shaw, Individually and as Officers of Said Corporation

Order requiring New York City distributors of watches to wholesalers, retailers and premium users, to cease attaching price tickets to their products and disseminating price lists, catalogs, newspaper and magazine advertisements, etc., which showed excessive amounts as usual retail prices; falsely representing their watches as "fully guaranteed" and "water resistant"; failing to disclose that watch bezels furnished in a color simulating silver, gold or stainless steel were actually composed of base metal; and failing to disclose that watches having the word "Swiss" on the dial were imported from Hong Kong.

The order to cease and desist is as follows:

It is ordered, That respondents Delaware Watch Company, Inc., a corporation, A. Schwarcz & Sons, Inc., a corporation, and their officers, Steven Vogel and Leslie Shaw, individually and as officers of said corporations, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of watches or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That their products are guaranteed, unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

(b) That their watches are "water resistant," it being understood that respondents may successfully defend the use of such representation with respect to any watch, the case of which respondents can show will provide protection against water or moisture to the extent of meeting the test designated test No. 2 of the Trade Practice Conference Rules for the Watch Industry, as set forth in the Code of Federal Regulations, Title 16, Chapter 1, § 170.2(c) (16 CFR 170.2(c)).

2. Offering for sale or selling watches, the cases of which are in whole or in part composed of base metal which has been treated to simulate precious metal or stainless steel, without clearly and conspicuously disclosing on such cases the true metal composition of such treated cases or parts.

3. Offering for sale or selling watches, the cases of which are in whole or in part of foreign origin, without affirmatively disclosing the country or place of foreign origin thereof on the exterior of the cases of such watches on an exposed surface or on a label or tag affixed thereto of such degree of permanency as to remain thereon until consummation of consumer sale of the watches and of such conspicuousness as to be likely observed and read by purchasers and prospective purchasers.

4. Supplying to, or placing in the hands of, any dealer or other purchaser, means or instrumentalities by and through which they may deceive and mislead the purchasing public as to the national origin of their watch cases, the metal composition of their watch cases and the moisture resistant capacity of their watches.

Further order requiring report of compliance is as follows:

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 set forth herein.

Issued: August 15, 1963.

By the Commission.

[SEAL] JOSEPH N. KUZEW,
Acting Secretary.

[F.R. Doc. 63-9830; Filed, Sept. 13, 1963; 8:46 a.m.]

[Docket No. 8080]

PART 13—PROHIBITED TRADE PRACTICES

Savoy Watch Co., Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections;* § 13.15–5 *Advertising and promotional services;* § 13.70 *Fictitious or misleading guarantees;* § 13.170 *Qualities or properties of product or service;* §13.170–96 *Waterproof, waterproofing, water-repellent.* Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1900 *Source or origin;* § 13.1900–30 *Foreign in general.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Savoy Watch Co., Inc., et al., New York, N.Y., Docket 8080, Aug. 14, 1963]

In the Matter of Savoy Watch Co., Incorporated, a Corporation, and Arthur Miller and Isadore S. Miller, Individually and as Officers of Said Corporation

The order to cease and desist is as follows:

It is ordered, That respondent Savoy Watch Co., Incorporated, a corporation, and its agents, representatives and employees, and respondents Arthur Miller and Isadore S. Miller, individually and as officers of said corporation, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of watches or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That their products are guaranteed, unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

(b) That their watches or other products are advertised in "Life," "Reader's Digest," "Saturday Evening Post," or in any other national publication, when they are not in fact so advertised.

(c) That their watches are "water resistant," it being understood that respondents may successfully defend the use of such representation with respect to any watch, the case of which respondents can show will provide protection against water or moisture to the extent of meeting the test designated test No. 2 of the Trade Practice Conference Rules for the Watch Industry, as set forth in the Code of Federal Regulations, Title 16, Chapter 1, § 170.2(c) (16 CFR 170.2(c)).

2. Offering for sale or selling watches, the cases of which are in whole or in part of foreign origin, without affirmatively disclosing the country or place of foreign origin thereof on the exterior of the cases of such watches on an exposed surface or on a label or tag affixed thereto of such degree of permanency as to remain thereon until consummation of consumer sale of the watches and of such conspicuousness as to be likely observed and read by purchasers and prospective purchasers.

By "Final Order", order requiring report of compliance is as follows:

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 set forth herein.

Issued: August 14, 1963.

By the Commission, Commissioner Higginbotham not participating by reason of the fact that this matter was argued before the Commission prior to the time he was sworn into office.

[SEAL] JOSEPH N. KUZEW,
Acting Secretary.

[F.R. Doc. 63-9831; Filed, Sept. 13, 1963; 8:46 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Nonalcoholic Carbonated Beverages; Extension of Effective Date

There is currently being published in the FEDERAL REGISTER, a notice of filing of a proposal to establish standards of identity for nonalcoholic carbonated beverages. Pending the effective date of a final order resulting from the publication of this proposal, the previous exemption of the label declaration of ingredients requirements of section 403(i)(2) of the Federal Food, Drug, and Cosmetic Act is continued. Therefore, under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625), § 3.1 *Termination of exemption for designated foods for which label declaration of ingredients has not been required pending standardization* is amended by changing paragraph (b) to read:

(b) The exemption from label declaration of ingredients requirements of section 403(i)(2) of the Federal Food, Drug, and Cosmetic Act as applied to nonalcoholic carbonated beverages is continued until the effective date of a final order issued as a result of the proceedings started by the publication in the FEDERAL REGISTER of September 14, 1963, of a notice proposing to establish a definition and standard of identity for this class of food.

(Sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a))

Dated: September 11, 1963.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 63-9845; Filed, Sept. 13, 1963; 8:48 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 22—FOOD FLAVORINGS

Vanilla Extract and Related Products; Order Correcting Wording of Definitions and Standards of Identity and Ending Stay of Effective Date

In the matter of establishing definitions and standards of identity for vanilla extract and related products:

An order ruling on proposed definitions and standards of identity for vanilla extract and related products was published in the FEDERAL REGISTER of September 1, 1962 (27 F.R. 8757). The order provided that the standards should become effective after 60 days, except as to any provision stayed by objections meeting fully the requirements of section 701(e) of the Federal Food, Drug, and Cosmetic Act. To meet these requirements, the order pointed out that persons filing objections should show wherein they would be adversely affected by the order, should set out the issues for the hearing, and should support the objections by grounds legally sufficient to justify the relief sought. Comments and statements protesting certain provisions in the order were received from twenty persons. To afford time for evaluating these submittals, an order staying the effective date of the standards was published in the FEDERAL REGISTER of November 1, 1962 (27 F.R. 10651).

Letters from a number of firms and from the Flavoring Extract Manufacturers Association suggested that the wording of certain provisions of the order should be rephrased if this could be achieved without the necessity for hearings. The letters characterized the recommended modifications as noncontroversial. These provisions of the order and the recommended modifications are:

1. In the definition of the term "unit of vanilla constituent" in § 22.1(c), the proportion of alcohol in the aqueous alcohol solvent is prescribed as "not less than 35 percent and not more than 45 percent." It is common practice to add to the extractors a solvent containing, as added, more than 45 percent of alcohol. It is concluded that the protection of consumer's interests does not require that this definition prescribe an upper limit on the proportion of alcohol in the solvent. The recommended modification would change § 22.1(c) by adding a pe-

riod after the words "not less than 35 percent" and deleting the words "and not more than 45 percent."

2. Paragraph (a) of § 22.3 *Concentrated vanilla extract* * * * provides that each gallon of concentrated vanilla extract contains two or more units of vanilla constituent. However, it does not require that the article be made by concentrating a weaker extract to remove part of the solvent. The procedure involving concentrating to remove the solvent is not the only method used to produce a vanilla extract containing two or more units of vanilla constituent per gallon. Such an article is often made by properly percolating a sufficiently greater weight of vanilla beans per gallon of solvent used. The extract so produced complies with the requirements for vanilla extract as set out in § 22.2. To make it clear that such an extract, made without concentration, is not required to be labeled "concentrated," it was proposed that the exception in the first sentence of § 22.3(a) should be modified to read "except that it is concentrated to remove part of the solvent, and each gallon contains two or more units of vanilla constituent as defined in § 22.1(c)."

3. As set out in the order the standard for concentrated vanilla flavoring, § 22.5, is analogous to the standard for concentrated vanilla extract in § 22.3, in that it fails to include a specific requirement for concentrating to remove a portion of the solvent. The reasons recited for including this requirement in the standard for concentrated vanilla extract apply equally to including the same requirement in the standard for concentrated vanilla flavoring. This would be achieved by changing the exception in the first sentence of § 22.5(a) to read "except that it is concentrated to remove part of the solvent, and each gallon contains two or more units of vanilla constituent as defined in § 22.1(c)."

4. The first sentence in paragraph (a) of § 22.8 *Vanilla powder* * * * states: "(a) Vanilla powder is a mixture of ground vanilla beans or vanilla oleoresin with one or more of the following optional blending ingredients:". The recommended modification was that the words "or both" be inserted in this sentence to make it read: "(a) Vanilla powder is a mixture of ground vanilla beans or vanilla oleoresin or both with one or more of the following optional blending ingredients: * * *"

In addition to the foregoing modifications, some letters suggested that certain more substantial changes be made, provided these changes would not require hearings. One letter proposed that the standard for vanilla extract should be changed by deleting the label declaration requirement to show when the extract is made from vanilla oleoresin in lieu of vanilla beans. Another suggested deleting the label requirement to show when the extract is made by dilution of concentrated vanilla extract. Other letters proposed that the standards wherein the names specified call for including a fold number in the name should be changed to provide for declaring the fold strength by fractions or mixed numbers as well as by whole numbers. It is concluded that to make these suggested changes without a hearing would not be proper and that the letters proposing them do not meet the requirements for objections as set out in section 701(e) of the act.

Attorneys representing the Vanilla Bean Association of America and two clients in the Republic of Malagasy have filed letters withdrawing the objections of their clients to the order establishing standards for vanilla extract and related products.

Now, therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919; 21 U.S.C. 341, 371) and delegated by the Secretary to the Commissioner of Food and Drugs (25 F.R. 8625); *It is ordered:*

1. That § 22.1(c) be changed to read:

§ 22.1 Definitions.

* * * * *

(c) The term "unit of vanilla constituent" means the total sapid and odorous principles extractable from one unit weight of vanilla beans, as defined in paragraph (b) of this section, by an aqueous alcohol solution in which the content of ethyl alcohol by volume amounts to not less than 35 percent.

2. That § 22.2(b)(2) be amended by adding at the end thereof a new sentence reading as set forth below. As amended, this subparagraph reads as follows:

§ 22.2 Vanilla extract; identity; label statement of optional ingredients.

* * * * *

(b) * * *

(2) When the vanilla extract is made in whole or in part by dilution of vanilla oleoresin, concentrated vanilla extract, or concentrated vanilla flavoring, the label shall bear the statement "made from _____" or "made in part from _____," the blank being filled in with the name or names "vanilla oleoresin," "concentrated vanilla extract," or "concentrated vanilla flavoring," as appropriate. If the article contains two or more units of vanilla constituent, the name of the food shall include the designation "_____ fold," the blank being filled in with the whole number (disregarding fractions) expressing the number of units of vanilla constituent per gallon of the article.

3. That § 22.3(a) be changed to read:

§ 22.3 Concentrated vanilla extract; identity; label statement of optional ingredients.

(a) Concentrated vanilla extract conforms to the definition and standard of identity and is subject to any requirement for label statement of optional ingredients prescribed for vanilla extract by § 22.2, except that it is concentrated to remove part of the solvent, and each gallon contains two or more units of vanilla constituent as defined in § 22.1(c). The content of ethyl alcohol is not less than 35 percent by volume.

4. That § 22.5(a) be changed to read:

§ 22.5 Concentrated vanilla flavoring; identity; label statement of optional ingredients.

(a) Concentrated vanilla flavoring conforms to the definition and standard of identity and is subject to any requirement for label statement of optional ingredients prescribed for vanilla flavoring by § 22.4, except that it is concentrated to remove part of the solvent, and each gallon contains two or more units of vanilla constituent as defined in § 22.1(c).

5. That the introduction to § 22.8(a) be changed to read:

§ 22.8 Vanilla powder; identity; label statement of optional ingredients.

(a) Vanilla powder is a mixture of ground vanilla beans or vanilla oleoresin or both, with one or more of the following optional blending ingredients:

6. That the stay on Part 22 imposed by the order published November 1, 1962, be, and hereby is, rescinded.

As revised by the changes effected by this order, the definitions and standards of identity for vanilla extract and related products published in the FEDERAL REGISTER of September 1, 1962 (27 F.R. 8757), shall become effective 90 days from the date of publication of this order in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919; 21 U.S.C. 341, 371)

Dated: September 9, 1963.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 63-9782; Filed, Sept. 13, 1963; 8:45 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Housing and Home Finance Agency

SUBCHAPTER A—GENERAL

PART 200—INTRODUCTION

Miscellaneous Amendments

Part 200 is amended as follows:

Section 200.41 is amended to read as follows:

Subpart C—Organization and Management

§ 200.41 Administrative staff.

The principal administrative staff of the FHA includes the Deputy Commissioner, two Associate Deputy Commissioners, the General Counsel, and Assistant Commissioners, whose respective duties and areas of authority are indicated by their titles.

Section 200.43 is amended to read as follows:

§ 200.43 Zone Operations Commissioners.

The territory served by the Federal Housing Administration is divided into

geographical zones or regions comprised of a group of field insuring officers. Each zone is headed by a Zone Operations Commissioner who is responsible to an Associate Deputy Commissioner for the supervision, direction and coordination of all functions and responsibilities of the several officers within the regional jurisdiction established for the particular zone.

Subpart D—Delegations of Basic Authority and Functions

In Part 200, Subpart D, the Table of Contents is revised to read as follows:

DELEGATIONS TO PARTICULAR POSITIONS

Sec.
200.50 Statutory authority for delegation.
200.51 Acting Commissioner.
200.52 Deputy Commissioner.
200.52a Associate Deputy Commissioner for Operations and Deputy.
200.52b Associate Deputy Commissioner for Management.
200.53 General Counsel and Associate General Counsel.
200.54 [Revoked]
200.55 Zone Operations Commissioners and Deputies.
200.55a Assistant Commissioner for Home Mortgages.
200.57 Assistant Commissioner for Multifamily Housing.
200.58 Director of the Rental Housing Division and Deputy.
200.59 Director of the Urban Renewal Division and Deputy.
200.60 Director of the Cooperative Housing Division and Deputy.
200.62 Assistant Commissioner for Technical Standards and Deputy.
200.63 Director of the Architectural Standards Division and Deputy.
200.64 Director of the Appraisal and Mortgage Risk Division and Deputy.
200.65 Assistant Commissioner for Progress and Deputy.
200.66 Director of the Research and Statistics Division and Deputy.
200.67 Director of the Program Division and Deputy.
200.68 Assistant Commissioner for Administration and Deputy.
200.69 Director of Personnel and Deputy.
200.70 Director of the Budget Division and Deputy.
200.71 Director of the General Services Division and Deputy.
200.72 Director of the Management Division.
200.73 Director, Audit and Examination.
200.74 Auditor and Deputy.
200.75 Director of the Examination Division and Deputy.
200.77 Assistant Commissioner-Comptroller and Deputy.
200.78 Accounts Officer and Deputy.
200.79 Insurance Officer and Deputy.
200.80 Fiscal Officer and Deputy.
200.81 Home Property and Mortgage Officer and Deputy.
200.82 Reports Officer and Deputy.
200.83 Assistant Commissioner for Property Disposition and Deputy.
200.84 Assistant Commissioner for Congressional Liaison and Public Information.
200.84a Assistant to the Commissioner, Intergroup Relations.
200.84b Field Office Directors, Deputies, and Assistants.
200.84c Director of the Zone Multifamily Housing Insuring Office.
200.84d Multifamily Housing Representatives.

DELEGATIONS TO COMMITTEES

Sec.
200.85 Executive Board.
200.86 Security Committee.
200.87 Management Improvement Committee.
200.88 Property Disposition Committee.
200.89 Substantial Compliance Committee.
200.90 Finance Committee.

MISCELLANEOUS DELEGATIONS

200.95 Field Office Chiefs of Operations.
200.96 Field Office Directors, Deputy Directors and Assistant Directors; and Director, Zone Multifamily Housing Insuring Office.
200.97 Associate Deputy Commissioner for Operations and Deputy; Zone Operations Commissioners and Deputies; Assistant Commissioner for Home Mortgages; and Assistant Commissioner for Multifamily Housing and Division Directors under his supervision.
200.98 Chief Mortgage Credit Examiner and Deputy.
200.99 Real Property Officer.
200.100 [Revoked].
200.101 Assistant Commissioner for Property Disposition.
200.102 Associate Deputy Commissioners; General Counsel; Assistant Commissioners; and Director, Audit and Examination.
200.103 Division Directors and their superiors; the General Counsel; Field Office Directors, Deputies, and Assistants, and others.
200.104 Classified Information Control Officer.
200.105 Personnel Security Officer and Deputy.
200.106 Associate Deputy Commissioner for Operations and Deputy; Associate Deputy Commissioner for Management; Zone Operations Commissioners; Directors, Deputy Directors, Assistant Directors, and Administrative Officers and Chief Clerks in FHA Field Offices; Assistant Commissioner for Administration; Director of Personnel and Deputy.
200.107 National Emergency.

AUTHORITY: §§ 200.50 to 200.107 issued under sec. 2, 48 Stat. 1246, as amended, sec. 211, 52 Stat. 23, as amended, sec. 607, 55 Stat. 61, as amended, sec. 712, 62 Stat. 1281, as amended, sec. 907, 65 Stat. 301, as amended, sec. 807, 69 Stat. 651, as amended; 12 U.S.C. 1703, 1715b, 1742, 1747k, 1748f, 1750f.

Section 200.51 is amended to read as follows:

§ 200.51 Acting Commissioner.

The Deputy Commissioner, the Assistant Commissioner (Executive Officer), the Associate Deputy Commissioner for Operations, the Associate Deputy Commissioner for Management, the General Counsel, the Assistant Commissioner for Home Mortgages, the Assistant Commissioner for Multifamily Housing, the Assistant Commissioner-Comptroller, and the Assistant Commissioner for Administration, in the order named, are designated by the Commissioner to act in his place and stead in the event of his absence or inability to act, having the title of "Acting Commissioner" with all the powers, duties, and rights conferred on the Commissioner by the National Housing Act, as amended by Reorganization Plan No. 3 of 1947, by any other act of Congress or by any Executive order.

Part 200 is amended by adding a new § 200.52a as follows:

§ 200.52a Associate Deputy Commissioner for Operations and Deputy.

To the position of Associate Deputy Commissioner for Operations and under his general supervision to the position of Deputy to the Associate Deputy Commissioner for Operations there is delegated the following basic authority and functions:

(a) To act with the Commissioner in the determination of basic policy and to be a member of the Executive Board.

(b) To be responsible for the direction of the insurance of mortgages and property improvement loans, for the servicing of insured mortgages, and for the management and disposition of properties acquired in connection with the settlement of insurance claims.

(c) To develop and recommend policies and establish operating plans, technical standards, and procedures for all program operations.

(d) To be responsible to the Commissioner for coordination and general supervision of the Offices of Assistant Commissioner for Property Disposition, Assistant Commissioner for Home Mortgages, Assistant Commissioner for Technical Standards, Assistant Commissioner for Multifamily Housing, and the Zone Operations Commissioners and to direct all field operations.

(e) To approve or disapprove the erroneous or inadvertent noncollection or refund of fees.

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

Part 200 is amended by adding a new § 200.52b as follows:

§ 200.52b Associate Deputy Commissioner for Management.

To the position of Associate Deputy Commissioner for Management there is delegated the following basic authority and functions:

(a) To act with the Commissioner in the determination of basic policy and to be a member of the Executive Board.

(b) To be responsible to the Commissioner for a comprehensive program of financial and administrative management and for the audit, examination, and compliance activities of the Federal Housing Administration.

(c) To be responsible to the Commissioner for coordination and general supervision of the Offices of Assistant Commissioner for Administration; Assistant Commissioner-Comptroller; and Director, Audit and Examination.

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

Section 200.54 is revoked as follows:

§ 200.54 Assistant Commissioner for Field Operations and Deputy.

[Revoked]

In § 200.55 paragraph (a) is amended to read as follows:

§ 200.55 Zone Operations Commissioners and Deputies.

* * * * *

(a) To direct the execution, under the policies and standards of the Federal Housing Administration, of all program activities delegated to the insuring offices under his jurisdiction.

Part 200 is amended by adding a new § 200.55a as follows:

§ 200.55a Assistant Commissioner for Home Mortgages.

To the position of Assistant Commissioner for Home Mortgages there is delegated the following basic authority and functions:

(a) To act with the Commissioner in the determination of basic policy and to be a member of the Executive Board.

(b) To develop and recommend policies and establish operating plans and procedures for the insurance of home mortgages and property improvement loans.

(c) To approve or cancel the approval of financial institutions as approved mortgagees.

(d) To issue or cancel contracts of insurance under Title I of the National Housing Act and transfer such contracts and the rights and benefits accruing thereunder between lending institutions, and to supervise activities in connection with the Certified Agency Program and to designate, qualify and certify approved mortgagees as agents of the Federal Housing Administration to process mortgage insurance applications and issue commitments for insurance.

(e) To exercise the authority of the Commissioner under the regulations governing the insurance of loans under section 2 of Title I of the National Housing Act in any instance which is subject to the approval of the Commissioner.

(f) To reject or accept for insurance loans or advances of credit made under the provisions of section 2 of Title I of the National Housing Act that require the prior approval of the Federal Housing Commissioner.

(g) To institute precautionary measures with respect to any dealer or contractor operating under the provisions of section 2 of Title I of the National Housing Act.

(h) To direct and supervise surveys of Title I lending institutions to assure compliance with established policies and terms of insurance contracts.

Section 200.56 is redesignated as § 200.84b and reads as follows:

§ 200.84b Field Office Directors, Deputies, and Assistants.

To the position of Field Office Director, and to each of them; and to the position of Deputy Field Office Director, and to each of them under the general supervision of the Field Office Director having jurisdiction; and to the position of Assistant Field Office Director, and to each of them under the general supervision of the Field Office Director having jurisdiction there is delegated the basic authority and function to direct and supervise all activities of the Federal Housing Administration in the geographical area under his jurisdiction.

Section 200.57 is amended to read as follows:

§ 200.57 Assistant Commissioner for Multifamily Housing.

To the position of Assistant Commissioner for Multifamily Housing there is delegated the following basic authority and functions:

(a) To act with the Commissioner and under his direction in the determination of basic policy and be a member of the Executive Board.

(b) To develop and recommend policies and establish operating plans and procedures for the insurance and servicing of multifamily housing mortgages, multifamily housing rehabilitation loans and equity investments in multifamily housing.

(c) To be responsible for coordination and general supervision of the Rental Housing Division, the Urban Renewal Division, the Cooperative Housing Division, the Special Assistants for elderly housing, nursing homes, and armed services housing, the Multifamily Housing Representatives, and the Zone I Multifamily Housing Insuring Office.

(d) To approve the sale and terms of sale of mortgages taken as security in connection with the sale of property conveyed to the Federal Housing Commissioner and to approve the modification in the terms of and authorize the foreclosure of insured mortgages and mortgages assigned to the Commissioner in exchange for debentures.

(e) To exercise the authority of the Commissioner as holder of the preferred stock in any corporation or under any regulatory agreement or other agreement made for the purpose of controlling or regulating a housing project on which there is a mortgage held or insured by the Commissioner.

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

Section 200.61 is redesignated as § 200.84c and reads as follows:

§ 200.84c Director of the Zone Multifamily Housing Insuring Office.

To the position of Director of the Zone Multifamily Housing Insuring Office there is delegated the following duties and functions:

(a) To direct multifamily housing mortgage insurance operations and project mortgage servicing operations in the State of New York and to provide advice, guidance, and assistance on multifamily housing to other insuring offices in Zone I.

In § 200.62 paragraph (b) is amended to read as follows:

§ 200.62 Assistant Commissioner for Technical Standards and Deputy.

* * * * *

(b) To be responsible for coordination and general supervision of the Architectural Standards Division and the Appraisal and Mortgage Risk Division comprising the functions of establishing and maintaining standards, methods, procedures and techniques in the areas of architecture and engineering, construction cost, land planning, mortgage credit, valuation, the selection and rating of mortgage risk and the provision of technical advice and guidance in these fields to all organizational elements of the Administration.

In § 200.67 the introductory paragraph is amended to read as follows:

§ 200.67 Director of the Program Division and Deputy.

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

In § 200.68 paragraph (h) is amended to read as follows:

§ 200.68 Assistant Commissioner for Administration and Deputy.

* * * * *

(h) To develop, review, evaluate, and recommend organizational structure, delegations of authority, and distribution of functions.

In § 200.73 paragraphs (a) and (b) are amended and a new paragraph (c) is added as follows:

§ 200.73 Director, Audit and Examination.

* * * * *

(a) To be responsible for the coordination and general supervision of the Audit Division and Examination Division comprising the following functions:

* * * * *

(b) To determine noncompliance with statutes, including the criminal statutes, rules, regulations, policies, procedures and instructions governing FHA operations and participants in FHA programs; to direct remedial action; and to clear, expedite, coordinate and provide liaison with respect to investigation requests to, and investigative reports from, the Office of the Administrator, Housing and Home Finance Agency.

(c) To act with the Commissioner and under his direction in the determination of basic policy and be a member of the Executive Board.

In § 200.77 paragraphs (a), (c), (d), and (o) are amended to read as follows:

§ 200.77 Assistant Commissioner-Comptroller and Deputy.

* * * * *

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

* * * * *

(c) 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, elec-

tronic data processing, insurance fiscal servicing and fiscal matters.

(d) 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.

* * * * *

(o) To recommend (1) the terms and conditions under which FHA offers to sell purchase money mortgages and assigned mortgage notes to approved mortgagees, (2) upon approval of the recommendation makes offers for the sale of such mortgages and assigned notes, and (3) executes in the name of the Commissioner acceptance of such offers.

In Part 200 a new § 200.84a is added to read as follows:

§ 200.84a Assistant to the Commissioner, Intergroup Relations.

To the position of Assistant to the Commissioner, Intergroup Relations, there is delegated the following basic authority and functions:

(a) To act with the Commissioner and under his direction in the determination of basic policy and be a member of the Executive Board.

(b) To be responsible to the Commissioner for advice and assistance with respect to matters affecting minority group housing and recommendation to the Commissioner of policies and procedures with respect to minority group housing.

In Part 200 a new § 200.84d is added to read as follows:

§ 200.84d Multifamily Housing Representatives.

To the position of Multifamily Housing Representative, and to each of them, there is delegated the basic authority and functions to provide advice, guidance, and assistance on multifamily housing to the insuring offices within his geographical jurisdiction.

In § 200.85 paragraph (a) is amended to read as follows:

§ 200.85 Executive Board.

(a) *Members.* The committee called the Executive Board is comprised of the following members: Commissioner, Chairman; Deputy Commissioner, Vice Chairman; Assistant Commissioner (Executive Officer); Associate Deputy Commissioner for Operations; Associate Deputy Commissioner for Management; General Counsel; Assistant Commissioner for Home Mortgages; Assistant Commissioner for Multifamily Housing; Assistant Commissioner for Technical Standards; Assistant Commissioner for Programs; Assistant Commissioner for Administration; Assistant Commissioner-Comptroller; Assistant Commissioner for Property Disposition; Assistant Commissioner for Congressional Liaison and Public Information; Assistant to the Commissioner, Intergroup Relations; and Director, Audit and Examination.

In § 200.86 paragraph (a) is amended to read as follows:

§ 200.86 Security Committee.

(a) *Members.* The Security Committee is comprised of the following members: Personnel Security Officer, Chairman; Assistant Commissioner for Administration, Vice Chairman; and Deputy to the Associate Deputy Commissioner for Operations.

In § 200.87 paragraph (a) is amended to read as follows:

§ 200.87 Management Improvement Committee.

(a) *Members.* The Management Improvement Committee is comprised of the following members: Director of Management Division, Chairman; Director of Personnel, Vice Chairman; and one designee of each of the following: Assistant Commissioner-Comptroller; Assistant Commissioner for Multifamily Housing; Assistant Commissioner for Technical Standards; Assistant Commissioner for Home Mortgages; and Director of Budget Division.

In § 200.88 paragraph (a) is amended to read as follows:

§ 200.88 Property Disposition Committee.

(a) *Members.* The Property Disposition Committee is comprised of the following members: Deputy Commissioner, Chairman; Associate Deputy Commissioner for Operations; Associate Deputy Commissioner for Management; General Counsel; Assistant Commissioner for Home Mortgages; Assistant Commissioner for Multifamily Housing; Assistant Commissioner for Technical Standards; Assistant Commissioner for Property Disposition; and such other members as the Commissioner shall designate.

In § 200.89 paragraph (a)(1) is amended to read as follows:

§ 200.89 Substantial Compliance Committee.

(a) *Members.* (1) The Substantial Compliance Committee is comprised of the following members: Assistant Commissioner-Comptroller, Chairman; Assistant Commissioner for Administration; Assistant Commissioner for Programs; the General Counsel; and the Assistant Commissioner for Home Mortgages, or their designees.

Section 200.96 is amended to read as follows:

§ 200.96 Field Office Directors, Deputy Directors and Assistant Directors; and Director, Zone Multifamily Housing Insuring Office.

To the position of Field Office Director, and to each of them; and to the position of Deputy Field Office Director, and to each of them; and to the position of Assistant Field Office Director, and to each of them; and with respect to insurance and servicing of multifamily housing project mortgages to the position of Director, Zone Multifamily Housing Insuring Office, there is delegated the duties and functions as set forth in § 200.95.

In § 200.97 the introductory text and paragraph (b)(2) are amended to read as follows:

§ 200.97 Associate Deputy Commissioner for Operations and Deputy; Assistant Commissioner for Home Mortgages; Zone Operations Commissioners and Deputies; and the Assistant Commissioner for Multifamily Housing and Division Directors under his supervision.

To the positions of Associate Deputy Commissioner for Operations and his Deputy; and as they apply to home mortgage insurance operations to the positions of Assistant Commissioner for Home Mortgages; Zone Operations Commissioner, and to each of them; and Deputy Zone Operations Commissioner, and to each of them; and as they apply to multifamily housing mortgages to the position of Assistant Commissioner for Multifamily Housing, and to the position of Division Director, and to each of them under his supervision, there is delegated the following duties and functions:

* * * * *

(b) * * *

(2) To the positions in this section there are delegated the duties and functions as set forth in § 200.95.

Section 200.100 is revoked as follows:

§ 200.100 Assistant Commissioner for Multifamily Housing Operations and Directors under his supervision.

[Revoked]

In § 200.102 the introductory text is amended to read as follows:

§ 200.102 Associate Deputy Commissioners; General Counsel; Assistant Commissioners; and Director, Audit and Examination.

To the position of Associate Deputy Commissioner, and to each of them; to the position of General Counsel; to the position of Assistant Commissioner; and to each of them; and to the position of Director, Audit and Examination, in addition to the authority granted under the provisions of Section 204(g) of the National Housing Act, there is delegated the following duties and functions:

Section 200.103 is amended to read as follows:

§ 200.103 Division Directors and their superiors; the General Counsel; Field Office Directors, Deputies, and Assistants, and others.

To the position of Associate Deputy Commissioner for Operations and his Deputy, Associate Deputy Commissioner for Management, Assistant Commissioner and Deputy Assistant Commissioner, Special Assistant and Deputy Special Assistant, Assistant to the Commissioner, Defense Coordinator, General Counsel and Associate General Counsel, Division Director and Deputy Division Director, Zone Operations Commissioner and Deputy Zone Operations Commissioner, Field Office Director, Deputy Field Office Director, Assistant Field Office Director, Director of the Zone Multifamily Housing Insuring Office, and Zone Multifamily Housing Representative and to each of them, there is

delegated the duty and function to certify that official long distance telephone calls made were necessary in the interest of the Government, pursuant to 31 U.S.C. 680a (Section 4 of the Act approved May 10, 1939, 53 Stat. 738).

In § 200.106 paragraph (a) is amended to read as follows:

§ 200.106 Associate Deputy Commissioner for Operations and Deputy; Associate Deputy Commissioner for Management; Zone Operations Commissioners; Directors, Deputy Directors, Assistant Directors, and Administrative Officers and Chief Clerks in FHA Field Offices; Assistant Commissioner for Administration; Director of Personnel; and Deputy Director of Personnel.

(a) To the Associate Deputy Commissioner for Operations; Deputy to Associate Deputy Commissioner for Operations; Associate Deputy Commissioner for Management; Zone Operations Commissioners; Directors, Deputy Directors, Assistant Directors, Administrative Officers, and Chief Clerks in FHA Field Offices; the Assistant Commisisoner for Administration; the Director of Personnel; and the Deputy Director of Personnel, pursuant to 5 U.S.C. 16a, there is delegated the authority to administer the oath required by section 1757, Revised Statutes, as amended (5 U.S.C. 16) incident to entrance into the executive branch of the Federal government, or any other oath, required by law in connection with employment therein, such oath to be administered without charge or fee and to have the same force and effect as oaths administered by officers having seals.

Issued at Washington, D.C., and effective July 8, 1963.

[SEAL] PHILIP N. BROWNSTEIN,
Federal Housing Commissioner.

[F.R. Doc. 63-9846; Filed, Sept. 13, 1963; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 31]

NONALCOHOLIC CARBONATED BEVERAGES

Soda Water, Artificially Sweetened Carbonated Beverages; Proposed Definitions and Standards of Identity

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701(e), 52 Stat. 1055, as amended 70 Stat. 919; 21 U.S.C. 371(e)), notice is given that the American Bottlers of Carbonated Beverages, 1128 Sixteenth Street NW., Washington 6, D.C., representing over 58 percent of the bottlers of nonalcoholic carbonated beverages in the United States, has filed a petition proposing definitions and standards of identity for soda water and artificially sweetened carbonated beverages. The proposed standards read as follows:

PART 31—NONALCOHOLIC CARBONATED BEVERAGES

Sec.

31.1 Soda water; identity; label statement of optional ingredients.

31.10 Artificially sweetened soda water; identity; label statement of optional ingredients.

AUTHORITY: §§ 31.1 and 31.10 issued under sec. 701(e), 52 Stat. 1055, as amended 70 Stat. 919; 21 U.S.C. 371(e).

§ 31.1 Soda water; identity; label statement of optional ingredients.

(a) Soda water is the class of food which is characterized by its carbonation. It contains at least one atmosphere of carbonation (amount of carbon dioxide a beverage will absorb at atmospheric pressure and 60° F.). It is sweetened with one or more nutritive sweeteners and is flavored with natural flavoring ingredients or artificial flavoring ingredients or both and may be colored with natural or artificial coloring ingredients or both; *Provided, however:*

(1) That soda water, commonly known as club soda, or plain soda, or by similar designations, need not be sweetened, flavored, or colored.

(2) That soda water, designated by a name including any proprietary name provided for in paragraph (d) of this section that includes the word "cola" (spelled as such or by a variant spelling; e.g., "kola") or "pepper," or that bears the prominent label declaration "cola beverage" or "cola-type beverage" or "pepper beverage" or "pepper-type beverage" in immediate association with the name of the food, shall contain caffeine in a quantity not to exceed 0.02 percent by weight.

For the purpose of this paragraph, natural flavoring ingredients are derived from fruits, vegetables, berries, buds, roots, leaves, and similar plant materials.

(b) Soda water may contain optional ingredients as provided in paragraph (c) of this section but any such ingredient shall not be a food additive as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act unless it is one for which a food additive regulation has been established pursuant to section 409 of the act and it is used in conformity with the requirements of such regulation.

(c) Optional ingredients that may be used in soda water in such proportions as are reasonably required to accomplish their intended effects are:

(1) One or more of the acidifying agents acetic, adipic, citric, fumaric, lactic, l-malic, phosphoric, or tartaric acid.

(2) One or more of the salts or buffering agents consisting of the acetate, bicarbonate, carbonate, chloride, citrate, lactate, phosphate, or sulfate of calcium, magnesium, potassium, or sodium.

(3) One or more of the emulsifying, stabilizing, or viscosity-producing agents brominated edible vegetable oils, carob bean gum, glyceryl abietate (glycerol ester of wood rosin), guar gum, gum acacia, gum tragacanth, lecithin, methylcellulose, mono- and diglycerides of fat-forming fatty acids, pectin, sodium alginate, sodium carboxymethylcellulose, sodium hexametaphosphate, or sorbitol.

(4) One or more of the carriers ethyl alcohol (not in excess of 0.5 percent by volume), glycerin, or propylene glycol.

(5) One or more of the foaming or antifoaming agents ammoniated glycyrrhizin, dimethylpolysiloxane, gum ghatti, licorice or glycyrrhiza, or quillaia extract (soap bark extract, china bark extract).

(6) One or more of the nutrients ascorbic acid or thiamine hydrochloride.

(7) Caffeine, other than as provided for in paragraph (a) of this section, in an amount not to exceed 0.02 percent by weight.

(8) One or more of the chemical preservatives ascorbic acid, benzoic acid, BHA, BHT, calcium disodium EDTA (calcium disodium ethylenediaminetetraacetate), erythorbic acid, methyl or propyl paraben, nordihydroguaiaretic acid, propyl gallate, potassium or sodium benzoate, potassium or sodium bisulfite, potassium or sodium metabisulfite, potassium or sodium sorbate, sorbic acid, sulfur dioxide, stannous chloride, or tocopherols.

(d) The name of each food for which a definition and standard of identity is established by this sections is "_____ soda" or "_____ soda water" or "_____ beverage," the blank being filled in with the word or words that designate the characterizing flavor of the soda water; e.g., "grape soda." However, if the soda water is one that is generally designated by a particular common name; e.g., ginger ale or root beer, that name may be used in lieu of the name prescribed in the first sentence of this paragraph. For the purposes of this section, a proprietary name used as the designation of a particular kind of soda water may likewise be used in lieu of the name prescribed in the first sentence of this paragraph.

(e) Soda water that contains artificial flavoring, artificial coloring, or the optional ingredient authorized by paragraph (c)(7) of this section shall be labeled to show that fact by one of the following statements or a combination of these statements, as appropriate:

"With artificial flavoring" or "artificial flavoring added" or "artificially flavored."

"With artificial color" or "artificial color added" or "artificially colored;" or "(name of color) colored" or "colored with (name of color)."

"With caffeine" or "caffeine added" or "caffeine."

If the soda water, subject to any limitations prescribed in the food additive regulations in Part 121 of this chapter, contains one or more of the optional ingredients authorized by paragraph (c)(8) of this section, which has or is intended to have a preservative effect in the finished beverage, it shall be labeled to show that fact by one of the following statements: "_____ added as a preservative" or "preserved with _____" or "_____ (preservative)," the blank being filled in with the common name of the preservative ingredient.

(f) The statements specified in this paragraph pertaining to artificial flavoring, added coloring or artificial coloring, preservatives, or the optional ingredient authorized by paragraph (c)(7) of this section shall appear on a labeling surface of the product in such manner as to render the statements likely to be read by the ordinary individual under customary conditions of purchase or use of such foods. Where these statements appear, they shall immediately and conspicuously precede or follow the name of the food, without intervening written, printed, or graphic matter, *Provided,* That this restriction does not exclude trademark notices if used. Further, if the soda water contains optional ingredients authorized by paragraph (c)(6) of this section, for which special dietary claims are made, it must be labeled to conform to the labeling requirements prescribed for foods which purport to be or are represented for special dietary usage by the regulations in Part 125 of this chapter.

§ 31.10 Artificially sweetened soda water; identity; label statement of optional ingredients.

(a) Artificially sweetened soda water conforms to the definition and standard of identity prescribed for soda water by § 31.1, except that it is sweetened with one or more of the nonnutritive artificial sweeteners calcium cyclamate, magne-

sium cyclamate, potassium cyclamate, sodium cyclamate, saccharin or the calcium, sodium, or ammonium salts of saccharin, and does not contain nutritive sweeteners other than those normally present in flavoring and coloring as provided for by § 31.1(a). Artificially sweetened soda water is labeled to conform to the labeling requirements prescribed for soda water by § 31.1 and to the labeling requirements for foods which purport to be or are represented for special dietary use by the regulations in Part 125 of this chapter.

(b) The name of each artificially sweetened soda water for which a definition and standard of identity is prescribed by this section consists of the words "artificially sweetened," preceded or followed by the name prescribed by § 31.1 for the corresponding kind of soda water sweetened with a nutritive sweetener. The words "artificially sweetened" shall be prominently and conspicuously displayed.

All interested persons are invited to present views and comments, in writing, regarding this proposal. Such comments should be submitted, preferably in quintuplicate, to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., within 60 days from the date of publication of this notice in the FEDERAL REGISTER.

Dated: September 11, 1963.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 63-9844; Filed, Sept. 13, 1963; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 984]

EXPENSES OF WALNUT CONTROL BOARD AND RATES OF ASSESSMENT FOR 1963-64 MARKETING YEAR

Notice of Proposed Rule Making

Notice is hereby given that there is under consideration a proposal regarding expenses of the Walnut Control Board and rates of assessment for the 1963-64 marketing year which began August 1, 1963. The proposal, which is based on the recommendation of the Walnut Control Board and other available information, would be established pursuant to amended Marketing Agreement No. 105 and Order No. 984 (7 CFR Part 984), regulating the handling of walnuts grown in California, Oregon, and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Consideration will be given to written data, views, or arguments pertaining to the proposal, which are received by the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C., 20250, not later than ten days after publication of this notice in the FEDERAL REGISTER.

The proposal is as follows:

§ 984.315 Expenses of the Walnut Control Board and rates of assessment for the 1963-64 marketing year.

(a) *Expenses.* The expenses that are reasonable and likely to be incurred by the Walnut Control Board during the marketing year beginning August 1, 1963, in accordance with § 984.68, will amount to $104,200, and the Board is authorized to incur such expenses.

(b) *Rates of assessment.* The rates of assessment fixed for said marketing year, payable by each handler in accordance with § 984.69, shall be 0.10 cent per pound for merchantable in-shell walnuts and 0.20 cent per pound for merchantable shelled walnuts.

Dated: September 11, 1963.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 63-9836; Filed, Sept. 13, 1963; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 288, 399]

[Docket No. 14749]

EXEMPTION OF AIR CARRIERS FOR SHORT NOTICE MILITARY CONTRACTS AND STATEMENTS OF GENERAL POLICY

Notice of Proposed Rulemaking

SEPTEMBER 11, 1963.

Notice is hereby given that the Civil Aeronautics Board is proposing various amendments to Part 288 which exempts air carriers, subject to certain conditions, limitations, and requirements, from sections 401 and 403 of the Federal Aviation Act to enable such carriers to perform services for the military establishment called for on short notice. The principal features of the proposed amendments are explained in the Explanatory Statement below and the text of the proposed rules is attached as well. The rules are proposed under the authority of sections 204(a), 407 and 416 of the Federal Aviation Act, as amended (72 Stat. 743, 766, 771; 49 U.S.C. 1324, 1377, 1386).

Interested persons may participate in the proposed rulemaking through submission of ten (10) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C., 20428. All relevant matter in communications received on or before October 14, 1963, will be considered by the Board before taking action. Upon receipt by the Board, copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

EXPLANATORY STATEMENT

Part 288 provides the exemption authority for air carriers to perform short notice MATS charters in foreign and overseas air transportation and between the 48 contiguous states, on the one hand, and the state of Alaska or Hawaii, on the other. Such authority is conditioned upon the observance of the minimum rates specified in § 288.7 which are also made applicable to all MATS charters to points outside of the 48 contiguous states by § 399.36 of the Board's Policy Statements, governing the grant of individual exemptions for overseas and foreign MATS charters, and § 208.30, which conditions the military certificate authority of supplemental carriers.

In February of this year the Defense Department announced that its international and overseas civil augmentation procurement for fiscal 1964 would be confined entirely to turbine-powered aircraft except in areas where that would not be operationally or economically feasible. Since turbine-powered aircraft are generally more efficient than piston aircraft, the Department requested the Board to re-examine the minimum rates and make any adjustment that might be appropriate as a result of the more expanded use of its newer type aircraft.

In accordance with the Defense Department's request, data were informally solicited from the 1963 contractors with respect to their costs of performing MATS charters with turbine aircraft. In addition, those carriers receiving contracts for fiscal 1964 responded to a request for up-to-date data based on the operations they could expect under their 1964 contracts.

The fiscal 1964 contracts, under which the great bulk of the international and overseas MATS charters will be performed, are now in effect and the carriers are operating the services called for pursuant to the exemptions specified in Order E-19742. The contract rates are the same as those now specified in Part 288, but all contracts call for an automatic rate adjustment if the Part 288 minimums are revised.

On the basis of a review of the data submitted by the carriers, the financial reports on file with the Board, the terms of the 1964 contracts and its over-all experience in the regulation of military charters, the Board has tentatively determined that Part 288 should be amended as follows: (1) reduce the level of the minimum rates except with respect to areas where services will continue to be performed exclusively with piston aircraft; (2) revise the minimum utilization of aircraft requirements; (3) provide for minimum charges for mixed passenger-cargo services; (4) authorize the carriers to accommodate extra traffic in any excess capacity on particular flights without applying the unit minimum rate to such extra traffic; (5) provide an exception to the minimum load requirement in certain cases; and (6) add a new exemption to authorize an air carrier to perform another carrier's MATS charter contract.

MINIMUM RATES

The proposed new minimum rates compare with those presently specified in Part 288 as follows:

	Present	Proposed	Unit
Round-trip passenger	2.75	2.5	Per passenger-mile.
One-way passenger	4.2	4.2	Do.
Round-trip cargo	12.5	11.5	Per ton-mile.
One-way cargo	21.5	21.0	Do.
Convertible cargo	15.0	12.5	Do.

Attached hereto as Appendix A[1] are tables showing the cost estimates informally submitted by the carriers together with the adjustments made for purposes of constructing the proposed new minimum rates. There were two adjustments of general significance. Primarily in view of the risks related to the attainment of economical daily aircraft utilization under the contracts, the return element for all carriers has been adjusted upward from 8 to 9 percent, and the utilization factor for most of the route carriers has been adjusted upward so as to equal their 1962 system experience. In addition, Riddle's costs have been adjusted to reflect ownership of its aircraft rather than its actual lease arrangement, in accordance with established policies. Most of the other adjustments were made merely to lower certain costs which appeared to be unreasonably high and to reflect the latest actually experienced cost data.

The investment base recognizes operating property at the depreciated cost as of July 1, 1963, and reflects the adjustment for utilization noted above in the case of the route carriers. Working capital is recognized in an amount equal to one month's cash operating expenses.

Round-trip passenger rate. The following table shows the estimated average unit cost per passenger-mile for the eight reporting passenger carriers, and the breakdown for the five route passenger carriers and three supplementals. Appropriate weight is given to each carrier's costs in relation to the value of its contract. The costs for the supplemental carriers are set forth on three bases, i.e., on the basis of their forecast utilization predicated upon the operation of aircraft solely to perform "fixed buy" and guaranteed expansion services under their MATS contracts and on alternative utilizations of 7 and 8 hours, respectively.

UNIT COST PER PASSENGER-MILE IN TURBINE AIRCRAFT

	Operating expenses				7 hours			8 hours		
	Forecast	Adjusted	Return	Total	Operating expense	Return	Total	Operating expense	Return	Total
Pan American	2.17	2.07	0.32	2.39						
Seaboard	2.52	2.34	.48	2.83						
Trans Caribbean	2.08	1.61	.34	1.95						
Northwest	2.33	2.20	.42	2.62						
Riddle	3.26	2.02	.56	2.58						
Weighted average	2.31	2.07	.38	2.45						
World	2.78	2.61	.63	3.25	2.40	0.47	2.87	2.32	0.42	2.74
Trans. Int	2.21	2.21	.59	2.80	2.12	.51	2.63	2.04	.45	2.50
Capital	2.22	2.20	.82	3.02	1.88	.52	2.40	1.81	.46	2.27
Weighted average	2.55	2.45	.63	3.08	2.27	.49	2.76	2.19	.43	2.63
Overall weighted average	2.38	2.17	.45	2.63	[1] 2.13	[1] .41	[1] 2.54	[1] 2.10	[1] .40	[1] 2.50

[1] Weighted average of route carriers as adjusted and supplemental carriers at 7 or 8 hours utilization, as appropriate.

Testing the proposed new round-trip passenger rate of 2.5¢ per passenger mile against the costs shown above, it is clear that the proposed rate will not provide a return of 9 percent to each carrier. The diversity within the group is such that a 9 percent return to all carriers is impossible. The proposed rate is, however, closely in line with the weighted average cost of the route carriers and would more than cover the operating expenses of each individual route carrier. While it is significantly below the weighted average cost of the supplemental carriers, it would more than cover the operating expenses of two of the three contracting supplemental carriers on the basis of the minimum utilization generated solely by the fixed-buy and guaranteed-expansion operations. It must be assumed, however, that the supplemental carriers will obtain some additional business either through the expansion provisions of their MATS contracts, or civil contracts. Improved utilization factors thus obtained would have a marked effect on their unit costs, and, as shown in the foregoing table, should they obtain a utilization of 8 hours per day, their costs would be in line with those of the route carriers. On an over-all basis, it appears to the Board that the 2.5¢ rate will be reasonable and fair to all carriers.

One-way passenger rate. The one-way passenger rate of 4.2¢ per passenger-mile has not been changed. That rate was never based upon the costs of one-way passenger charters as such. Rather, it was established at that level to be competitive with the category A rates applicable in scheduled service. Such category A rates were established on the basis of jet operations and therefore the principal factor supporting a reduction in the round-trip charter minimum does not apply to the one-way rate. The 4.2¢ one-way rate will yield approximately 16 percent less than the reduced round-trip rate. This spread is somewhat greater than would be justified by the costs savings and the availability of backhaul charters.

Round-trip cargo rate. The following table shows the estimated unit costs per ton-mile for the three cargo carriers and their weighted average cost:

UNIT COST PER TON-MILE IN TURBINE AIRCRAFT

	Operating expenses		Return	Total
	Forecast	Adjusted		
Flying Tiger	11.09	9.40	2.38	11.78
Slick	8.32	8.32	2.41	10.74
Seaboard	10.52	9.53	2.31	11.84
Weighted average	10.26	9.09	2.39	11.48

The new round-trip rate of 11.5 cents per ton-mile proposed herein will be in line with the estimated weighted average cost including return and taxes, as well as with the costs of each individual carrier.

One-way cargo rate. The new one-way cargo rate of 21 cents per ton-mile will provide a yield equal to 91 percent of the yield of a round-trip flight at the 11.5 cents minimum rate. This may be compared to an 86 percent relationship at the present minimum rates. It appears that most carriers have continued to be generally unsuccessful in obtaining backhaul cargo charters. The 9 percent differential between the round-trip and one-way rate is, therefore, intended to almost approximate the cost savings in flying empty on the backhaul.

Reference to Appendix A and the above table shows that the cargo rates have been constructed with reference only to the costs of operating with CL–44 aircraft. There appears to be some basis for believing that the cost of cargo operations on some B–707 or DC–8 aircraft are somewhat lower. However, since the great bulk of the MATS cargo charters are presently being performed with CL–44's, the costs of operating that aircraft type are the appropriate measure for rate purposes. Of course, our determination herein will not preclude a subsequent adjustment of the cargo rates in the event that jet aircraft should become the predominant aircraft types for the performance of MATS cargo charters.

Convertible cargo rates. The proposed new convertible cargo rate of 12.5 cents contains a smaller differential over the round-trip cargo rate than is the case with the present 15 cent rate. The purpose of this differential is to take account of the fact that the need to carry seats or other passenger equipment on the cargo segment of a cargo/passenger round-trip represents a significant loss of cargo capacity. In the case of piston aircraft, the loss is usually around 16–17 percent and approximately the same result would obtain in the CL–44's. However, on B–707 and DC–8 aircraft the capacity loss is less than 5 percent. The 12.5 cents per ton-mile convertible rate reflects a balancing of the capacity loss adjustment factor of both CL–44 and jet aircraft.

[1] Filed as part of the original document.

Mixed rates. The proposed amendments would for the first time establish minimum rates for MATS charters carrying a mixture of both passengers and cargo. The proposed minimums for such mixed service are the same as the rates for one-way and round-trip all-passenger service except that we will specify a slightly lower minimum passenger utilization requirement than that applicable to all-passenger charters. This approach is consistent with the approach adopted in Order E–19742 granting exemptions for fiscal 1964 operations. The yield of such rates will be moderately less than the passenger minimum and somewhat higher than the all-cargo minimum. This is consistent with normal cost patterns. Since the spread between yield of the all-passenger minimum and that of the all-cargo minimum is fairly narrow, there appears to be no need for a sliding scale of rates for mixed services as was employed in the exemption order.

Application of the minimums. The old minimum rates have not been retained for general application to such piston services as MATS chooses to buy. It does not appear to be feasible or desirable to establish a higher minimum rate for the inferior piston service where it competes with jet service. Moreover, it would not seem desirable to preclude piston operators from meeting the turbine rate if they elect to do so. However, there are some areas, i.e., services within Alaska, service between Pacific Islands, and service to or from the Canal Zone, where piston engine aircraft are usually employed and the normal use of jet aircraft would not be operationally or economically feasible. The proposed rules retain the present rates limited in their application to operations in the few areas just mentioned.

MINIMUM UTILIZATION OF AIRCRAFT

The schedule of minimum utilization of aircraft specified in § 288.7(b) has been amended to cover mixed services, certain new types of equipment, and to revise certain existing specifications in order to produce better plane-mile rate relationships between cargo and passenger services and between aircraft types. All utilization factors specified are within the physical capacity of the aircraft.

DEFICIT TRAFFIC

In the past MATS has always required contractors to transport any load tendered equal to the contract guaranteed available cabin load except when prevented by adverse weather, MATS off-loading, or a cargo flight bulking out before the minimum weight was reached. In such cases the contractor was usually required to bear the expense of providing equivalent alternative transportation for that part of the load that could not be accommodated and was paid the contract price as if the entire guaranteed available cabin load has been transported on the contract flight. The fiscal 1964 contracts relieve the carriers of this burden but provide that MATS will pay only for the load actually accommodated. Such a proviso appears to be reasonable. Since it appears that because of the unusual circumstances carriers may at times be unable to accommodate a load equal to the minimum utilization specified in § 288.7(b), the Board proposes to amend that paragraph to authorize this practice for handling the deficit traffic problem. However, in order to prevent the operation of unduly uneconomic flights, a floor of 10 percent below the § 288.7(b) minimum utilizations has been established for deficit traffic flights.

FREE EXCESS CAPACITY

The fiscal 1964 contracts provide that any part of the guaranteed available cabin load not used by MATS and any usable capacity over the guaranteed available cabin load may be used by the contractor for route support. On the other hand, when usable capacity over the guaranteed available cabin load is not used by the contractor for route support, the contract calls for such capacity to be made available to MATS without charge. Since this would result in less than the minimum unit rates specified in § 288.7(a) being applied to the traffic carried in such excess capacity, the Board proposes to amend that paragraph so as to permit this new practice. To do so is in accord with the usual concept of a charter that the charterer hires the entire plane and is entitled to use the entire payload available. Moreover, the route support concession to the carrier would appear to make this new practice beneficial from the point of view of the carrier as well as MATS.

SUBSTITUTE SERVICE

The Board originally promulgated the blanket exemption authority for short notice MATS charters in Part 288 largely in recognition of the difficulty involved in processing an individual exemption application in so short a period of time. The same difficulty is presented in cases where an air carrier seeks authority to perform a MATS charter for another air carrier unable to meet its MATS contract because of emergency circumstances. The number of eleventh-hour requests for exemption authority to perform such substitute service filed with the Board suggests the need to promulgate an additional blanket exemption. Accordingly, the Board proposes to add a new definition of "substitute service" to § 288.1 and to amend §§ 288.2 and 288.6 so as to extend the § 288.5 exemptions to substitute service.[2] In addition, the reporting requirements of § 288.8 have been amended to cover substitute service as well as short notice MATS charters.

The exemption for substitute service has been limited to instances where such service is not to be performed for a longer period than three weeks. This is to prevent the exemptions from being used as an authorization for long-term subcontract services. Of course, if a carrier needs a substitute on an emergency basis for a period longer than three weeks, this exemption may be used for the immediate authority and an application for an individual exemption may be filed for authority to perform beyond the three week limitation.

The minimum rates established for substitute service are those that the prime contractor would have received had it performed in accordance with its contract. In other words, a carrier performing substitute service in an aircraft larger than that called for in the contract may be compensated at the lesser compensation applicable to the contract aircraft. Also, substitute service performed on only one leg of a round-trip flight may be compensated at the round-trip rather than the one-way rate.

CRAF requirements and effective date. Finally, minor clarifying changes in the references to the CRAF program in §§ 288.2 and 288.5, as well as § 399.36(a) of the Board's policy statements, are proposed.

In addition the Board wishes to place interested persons on notice that it contemplates making any revised minimums ultimately decided upon effective October 1, 1963. While it is doubtful that the issues involved in this proceeding will be finally resolved by that date, there would seem to be no reason why any revisions ultimately decided upon should not be made effective on October 1, so long as the industry has sufficient notice to guide its operations accordingly. It appears to be in the public interest for the benefits of any revisions to be made available to the Government and the carriers as early as possible, and the Board is tentatively of the opinion that the October 1 date would be reasonable to all.

It is proposed to amend Part 288 of the Economic Regulations (14 CFR Part 288), and Part 399, Statements of General Policy (14 CFR Part 399) as follows:

1. Amend the title of the part to read: Part 288—Exemption of Air Carriers for Short Notice Military Contracts and Substitute Service.

2. Amend § 288.1 by adding immediately after the definition of "Short notice MATS charter service" and immediately before the definition of "Supplemental air carrier" a new definition of "Substitute service" to read as follows:

"Substitute service" means the performance by an air carrier of foreign or overseas air transportation, or air transportation between the 48 contiguous States, on the one hand, and the State of Alaska or Hawaii, on the other hand, in planeload lots pursuant to an agreement with another air carrier to fulfill such other air carrier's contractual obligation to perform such air transportation for MATS and when the performance of such air transportation is not to take place during a period longer than three weeks.

3. Amend § 288.2 to read as follows:

§ 288.2 Applicability.

This part applies to substitute service and short notice MATS charter service by air carriers holding economic authority from the Board to provide air trans-

[2] The Board intends to amend the interim certificates of the supplemental carriers to provide similar authority.

portation of persons and/or property by the use of large aircraft and which have contractually committed their CRAF aircraft to the Department of Defense: *Provided,* That, in the case of short notice MATS charter service, the award contains or is accompanied by a written statement of the military establishment that such award is for transportation necessary to fulfill unforeseen military requirements as to which time is of the essence.

4. Amend § 288.5 to read as follows:

§ 288.5 Exemption.

(a) Subject to the provisions of this part and the conditions imposed, air carriers holding authority from the Board to engage in air transportation of persons and/or property by the use of large aircraft and which have contractually committed their CRAF aircraft to the Department of Defense are hereby exempted from the following provisions of Title IV of the Federal Aviation Act of 1958, as amended, and the Board's Economic Regulations:

Section 403 of the Act; Part 221 of the Regulations.

(b) Subject to the provisions of this part and the conditions imposed, air carriers, other than supplemental air carriers, holding authority from the Board to engage in air transportation of persons and/or property by the use of large aircraft and which have contractually committed their CRAF aircraft to the Department of Defense are hereby exempted from the following provisions of Title IV of the Federal Aviation Act of 1958, as amended, and the Board's Economic Regulations:

Section 401(a) of the Act; Part 202 of the Regulations; Part 207 of the Regulations.

5. Amend § 288.6 to read as follows:

§ 288.6 Scope of exemption.

The exemptions granted in § 288.5 of this part extend only to transportation of persons and/or property under agreements for short notice MATS charter service as defined herein, where the award contains, or is accompanied by, the written statement set forth in the proviso to § 288.2, and to substitute service as defined herein. This authority is in addition to all other authority to engage in air transportation issued by the Board to any air carrier and will not be construed as in any manner limiting such other authority.

6. Amend paragraphs (a), (b) and (c) of § 288.7 to read as follows:

§ 288.7 Reasonable level of compensation.

It shall be a condition on the exemptions granted by this part that the level of compensation for transportation provided for short notice MATS charter service and substitute service shall not be uneconomically low.

(a) *Minimum charges.* (1) In the absence of specific Board approval and except as provided in subparagraphs (2) and (3) of this paragraph, the compensation for such services shall not be less than the following: (i) For round-trip passenger and mixed passenger-cargo services—2.5 cents per passenger-mile. (ii) For round-trip cargo service—11.5 cents per cargo ton-mile. (iii) For one-way passenger and mixed passenger-cargo services—4.2 cents per passenger-mile. (IV) For one-way cargo services—21.0 cents per cargo ton-mile: *Provided,* That a minimum of 12.5 cents per cargo ton-mile shall apply to segments of round trips on which cargo is carried in cases where passengers are carried on one or more other segments of the round trip: *Provided further,* That, subject to the provisions of paragraph (b) of this section, the minimum rates specified above shall not be applicable to the passengers or cargo carried on a particular trip in excess of the amount that the contract calls for MATS to supply and the carrier to provide space.

(2) In the case of services being performed within the State of Alaska, between islands in the Pacific, or to or from the Canal Zone, the compensation shall not, in the absence of specific Board approval, be less than the following: (i) For round-trip and mixed passenger-cargo services—2.75 cents per passenger-mile. (ii) For round-trip cargo services—12.5 cents per cargo ton-mile. (iii) For one-way passenger and mixed passenger-cargo services—4.2 cents per passenger-mile. (iv) For one-way cargo services—21.5 cents per cargo ton-mile: *Provided,* That a minimum of 15.0 cents per cargo ton-mile shall apply to segments of round trips on which cargo is carried, in cases where passengers are carried on one or more other segments of the round trip: *Provided further,* That, subject to the provisions of paragraph (b) of this section, the minimum rates specified above shall not be applicable to passengers or cargo carried on a particular trip in excess of the amount that the contract calls for MATS to supply and the carrier to provide space.

(3) The compensation for substitute service shall not be less than that which the prime contractor would have received under his contract with MATS.

(b) *Minimum utilization of aircraft.* The minimum charges established by paragraph (a) (1) and (2) of this section shall be deemed economic only when the resulting revenues are at least the equivalent of such charges applied to the following minimum loads:

Aircraft type	Number of passengers		Tons of cargo	
	All-passenger flights	Mixed flights	All-cargo flights	Convertible flights
B-707-320C	165	163	32.50	30.00
DC-8F	165	163	32.50	30.00
B-707 (other)	159			
DC-8 (other)	149			
CL-44	148	144	29.35	27.00
L-1649A	95	91	18.00	15.00
L-1049-C/E/G/H	95	91	18.00	15.00
DC-7-B/C/CF/F	95	91	18.00	15.00
L-1049A	88	81	15.00	12.00
DC-7	88	81	15.00	12.00
DC-6-A/B/C	83	73	13.00	12.00
DC-4	60	50	6.00	8.00

Provided, That compensation equal to the minimum rate applied to the load that actually can be accommodated shall be considered economic whenever a carrier is unable to accommodate a load equal to the minimum specified above, for reasons other than adverse weather, off-loading by MATS, or the bulk of the cargo supplied by MATS, but in no event less than 90 percent of the above minimum loads.

(c) *Round-trip services defined.* For purposes of this section, round-trip services means short notice MATS charter service where (1) passengers and/or cargo are transported on two or more successive revenue flights and the last revenue flight terminates within 250 statute miles of the point of origin of the first revenue flight, (2) the scheduling permits departures within 4 hours after arrival at each point to be served except at one point where the aircraft may be scheduled for departure within 72 hours after arrival, and (3) the air carrier operates en route not more than one ferry flight not exceeding 50 statute miles without compensation and not more than one ferry flight not exceeding 1,500 statute miles for compensation equal to not less than 75 percent of the round-trip cargo rate specified in paragraphs (a) and (b) of this section where only cargo is carried on the other portions of the whole trip and for compensation equal to not less than 75 percent of the round-trip all-passenger rate specified in paragraphs (a) and (b) of this section in all cases where passengers are carried on any other part of the whole trip.

7. Amend § 288.8 to read as follows:

§ 288.8 Filing of reports.

(a) *Contents of reports.* Within 10 days of the last flight under each award of a short notice MATS contract or agreement for substituted service performed pursuant to authorization granted by this part, air carriers performing short notice MATS charter service or substitute service shall file with the Board reports covering such operations and containing the following information:

(1) A true copy of the award in the case of short notice MATS charters and, in the case of substitute service, a statement indicating the carrier on behalf of which the service was performed, the type of aircraft called for by the MATS contract, and the date on which it agreed to perform the substitute service;

(2) Number of trips, and date each trip originated;

(3) Origin point, intermediate points (operational and traffic), and destination point of each trip;

(4) Type of aircraft used for each trip;

(5) Aircraft miles (statute) flown on each trip;

(6) Number of passengers and/or tons of cargo carried on each segment of each trip; and

(7) Contract price per pasesnger and/or ton of cargo.

(b) *Filing.* Three copies of the reports shall be filed with the Office of Carrier Accounts and Statistics of the Board.

8. Amend § 399.36(a) to read as follows:

§ 399.36 **Military Air Transport Service charter exemptions.**

* * * * *

(a) Whether the carrier has contractually committed its CRAF aircraft to the Department of Defense.

[F.R. Doc. 63-9854; Filed, Sept. 13, 1963; 8:48 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 507]

[Reg. Docket No. 1948]

AIRWORTHINESS DIRECTIVES

Douglas DC3 Series Aircraft

The Federal Aviation Agency has under consideration a proposal to amend Part 507 of the Regulations of the Administrator to include an airworthiness directive for Douglas DC3 Series aircraft. In complying with AD 63-4-1, which pertains to the wing lower attach angles and doublers on DC3 Series aircraft, cracks were found in the upper attach angles and doublers. In order to correct this unsafe condition, this AD requires inspection and replacement of the upper attach angles and doublers.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the Federal Aviation Agency, Office of the General Counsel: Attention Rules Docket, Room A-103, 1711 New York Avenue N.W., Washington 25, D.C. All communications received on or before October 15, 1963, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a) of Part 501 (14 CFR Part 507), by adding the following airworthiness directive:

DOUGLAS. Applies to all DC3 Series including military type C-47, C-47A, C-47B, C-48, C-48A, C-49, C-49A, C-49B, C-49C, C-49D, C-49J, C-49K, C-50, C-50A, C-50B, C-50C, C-50D, C-51, C-52, C-52A, C-52B, C-52C, C-53, C-53B, C-53C, C-53D, C-68, C-117A, and R4D Series, except R4D-8 aircraft.

Compliance required as indicated.

(a) Unless already accomplished within the last 400 hours' time in service, within the next 50 hours' time in service after the effective date of this AD, inspect the wing upper attach angles on both the outer wing and center section between the front and rear spars for cracks. Use at least a 4-power magnifying glass. Reinspect at periods not to exceed 450 hours' time in service from the last inspection. Replace cracked attach angles before further flight.

(b) At the next wing removal, inspect all wings in the manner specified in (c), and reinspect at intervals not to exceed 8,000 hours thereafter.

(c) At the times specified in (b), the removed wings shall be thoroughly cleaned and inspected as follows:

(1) Inspect the center and outer wing upper attach angle doubler for cracks along the radius of the bent-up flange at the wing attachment point. Conduct the inspection with a 6-power magnifying glass or by dye penetrant.

(2) Inspect the center and outer wing upper attach angles including the areas between the attaching bolt holes for evidence of cracks. Remove all paint to permit inspection with a 6-power magnifying glass or by dye penetrant.

(d) Replace, before further flight, any cracked parts found during the inspection set forth in paragraph (c) with new parts per Douglas Service Bulletin DC-3 No. 262, Reissue No. 1, June 14, 1963.

(e) The proper installation alinement of the attach angles and doublers described in (d) shall be maintained. This shall be accomplished by the use of satisfactory jigs or by FAA approved equivalent means. Douglas jig fixtures P/N's A652-5110506-1-1F2 and A652-5110506-1F2 or P/N's C652-5110500-101-1-1F1 and C652-5110500-101-1F1 or those that meet the criteria of Advisory Circular AC 39-1, are considered to be satisfactory for alinement purposes.

(f) The parts replaced in accordance with paragraph (d) shall be inspected in accordance with the requirements of paragraphs (b) and (c). All uncracked parts which are not replaced shall continue to be inspected per the inspection procedure of (c) with adherence to the previously established inspection schedules for these parts.

(g) Whenever wings are being replaced after modification per (d); whenever spar butt plates on the center and outer wing, the compression angles on the center wing or the waffle plates on the outer wing are being reworked or replaced; or whenever one outer wing is substituted for another, the following tolerances shall be maintained:

(1) Compression angles attached to the corrugations and stringers and the spar cap butt plates of the center wing must be held in place with the wrap around doublers on the attach angle to within plus 0.004 inch/minus 0.000 inch.

(2) Waffle plates attached to the stringers and the spar cap butt plates of the outer wing must be held in place with the wrap around doublers on the attach angle to within plus 0.006 inch/minus 0.000 inch.

NOTE: The tolerances ranges set forth in (g)(1) and (g)(2) will allow a flush to 0.010 interference between the compression angles and plates when the wing is installed. This interference fit assures the most effective distribution of loads across the joint and the maximum service life.

(Douglas Service Bulletin No. 262, Reissue No. 1, June 14, 1963, covers this same subject).

Issued in Washington, D.C., on September 9, 1963.

W. LLOYD LANE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 63-9817; Filed, Sept. 13, 1963; 8:45 a.m.]

[14 CFR Part 71 [New]]

[Airspace Docket No. 63-WA-45]

CONTROL AREA AND REPORTING POINTS

Proposed Alteration

Notice is hereby given that the Federal Aviation Agency (FAA) is considering amendments to Part 71 [New] of the Federal Aviation Regulations. As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices. The substance of these proposals is stated below.

Applicability of International Standards and Recommended Practices, by the Air Traffic Service, FAA, in areas outside domestic airspace of the U.S. is governed by Article 12 and Annex 11 to the Convention on International Civil Aviation (ICAO), which pertains to the establishment of air navigation facilities and services necessary to promoting safe, orderly and expeditious flow of civil air traffic. Its purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its standards and recommended practices. As a contracting state, the U.S. agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Control 1447 is presently designated as that airspace southwest of New Orleans, La., bounded by a line beginning at latitude 29°22'30" N., longitude 91°05'00" W., to latitude 29°15'00" N., longitude 91°05'00" W., to latitude 29°15'00" N., longitude 90°36'15" W., to latitude 28°15'00" N., longitude 91°17'45" W., to latitude 28°15'00" N., longitude 92°21'45" W., to point of beginning, excluding the portion below 2,500 feet MSL.

The Federal Aviation Agency has under consideration alteration of Control

1447 to include the airspace south of New Orleans between Control 1447 and Control 1216. This would provide controlled airspace for the proposed relocation of Bravo and Charlie routes between New Orleans and Tampico and Tuxpan, Mexico, based on the Grand Isle, La., radio beacon in lieu of the New Orleans radio beacon. Recent flight checks indicate that the New Orleans radio beacon, from a safety of flight standpoint, is inadequate for operations along these routes except under ideal meteorological conditions and that the Grand Isle radio beacon would provide more reliable navigational guidance. This would also provide more direct routing for international flights operating between New York and Mexico.

These routes would extend through the northwest portion of W–92 and would be used only when W–92 is not in use. When W–92 is in use, a bypass route would be designated from latitude 25°19′ N., longitude 93°39′ W. (intersection of Charlie route) through latitude 27°34′ N., longitude 92°02′ W. (intersection of Bravo route) to the New Orleans radio beacon based on the 214° True bearing from this beacon.

The bearings for the revised route Bravo would be 227° True from Grand Isle radio beacon and 044° True from Tampico. Route Charlie would be 220° True from Grand Isle radio beacon and 038° True from the Tuxpan radio beacon. The Brim intersection would be redesignated at latitude 28°15′ N., longitude 91°13′ W., Catfish Intersection at latitude 28°15′ N., longitude 90°58′ W. Also a new intersection for the bypass route would be designated at latitude 28°15′ N., longitude 91°35′ W. Alpha route would be realigned on the 188° True bearing from the Galveston, Tex., radio beacon, a change of 3°, to provide a more direct route.

Control 1447 would be redesignated as that airspace southwest of New Orleans bounded by a line beginning at latitude 29°22′30″ N., longitude 91°05′00″ W., to latitude 29°15′00″ N., longitude 91°05′00″ W., to latitude 29°15′00″ N., longitude 90°15′00″ W., to latitude 28°15′00″ N., longitude 90°15′00″ W., to latitude 28°15′00″ N., longitude 92°21′45″ W., to point of beginning, excluding the portion below 2,500 feet MSL.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington, D.C., 20553. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Utilization Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A–103, 1711 New York Avenue NW., Washington, D.C., 20553.

This amendment is proposed under sections 307(a), and 1110, 72 Stat. 749 and 800; 49 U.S.C. 1348 and 1510, and Executive Order 10854, 24 F.R. 9565.

Issued in Washington, D.C., on September 9, 1963.

MICHAEL J. BURNS,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 63–9818; Filed, Sept. 13, 1963; 8:45 a.m.]

[14 CFR Part 71 [New]]

[Airspace Docket No. 63–WE–2]

CONTROL ZONE AND TRANSITION AREAS

Proposed Alteration

Notice is hereby given that the Federal Aviation Agency is considering amendments to Part 71 [New] of the Federal Aviation Regulations, the substance of which is stated below.

The following controlled airspace is presently designated in the Lemoore, Calif., terminal area:

1. The Lemoore control zone is designated within a 5-mile radius of NAS Lemoore; within 2 miles either side of the NAS Lemoore TACAN 356° and 156° True radials extending from the 5-mile radius zone to 8 miles north and 9 miles southeast of the TACAN, and within 2 miles either side of the extended centerline of runway 32R extending from the 5-mile radius zone to 7 miles northwest of runway 32R.

2. The Lemoore transition area is designated as that airspace extending upward from 1,200 feet above the surface bounded on the north by V–230, on the east by V–23, on the south by latitude 36°00′00″ N., and on the west by V–107; that airspace south of latitude 36°00′00″ N. within 5 miles either side of the NAS Lemoore TACAN 191° and 132° True radials, extending to V–107 and V–23, respectively. That airspace south of latitude 36°00′00″ N. extending upward from 6,000 feet MSL bounded on the east by V–23, on the south by V–248, and on the west by V–107, excluding the airspace 5 miles either side of the NAS Lemoore TACAN 191° and 132° True radials.

3. That portion of the Priest, Calif., transition area bounded on the east by Victor 107, and on the south by latitude 35°55′00″ N.

The FAA, having completed a comprehensive review of the terminal airspace structure requirements in the Lemoore Calif., area, including studies attendant to the implementation of the provisions of CAR Amendments 60–21/60–29, has under consideration the following airspace actions:

1. Alter the Lemoore control zone by redesignating it to comprise that airspace within a 6-mile radius of NAS Lemoore (latitude 36°20′00″ N., longitude 119°57′04″ W.); within 2 miles each side of the Lemoore TACAN 336° and 356° True radials, extending from the 6-mile radius zone to 8 miles northwest and north of the TACAN, and within 2 miles each side of the Lemoore TACAN 156° True radial, extending from the 6-mile radius zone to 8 miles southeast of the TACAN.

2. Alter the Lemoore transition area by redesignating it to comprise that airspace extending upward from 700 feet above the surface within a 10-mile radius of the NAS Lemoore TACAN; and that airspace extending upward from 1,200 feet above the surface bounded on the east by a line extending from latitude 36°46′00″ N., longitude 120°03′50″ W., to latitude 36°37′00″ N., longitude 119°56′-00″ W., to latitude 36°37′00″ N., longitude 119°44′10′ W., thence south along the west boundary of Victor 23 to longitude 119°30′00″ W., thence to latitude 35°43′50″ N., longitude 119°30′00″ W., on the south by latitude 35°43′50″ N., on the west by Victor 485 south of the Priest, Calif., VOR and Victor 113 north of the Priest VOR, and on the north by Victor 230.

3. Alter the Priest, Calif., transition area to exclude the portion which would coincide with the Lemoore transition area as proposed for alteration herein.

The floors of the airways that would traverse the proposed transition area for NAS Lemoore would automatically coincide with the floor of the transition area.

The actions proposed herein, would, in part, increase the over-all size of the NAS Lemoore control zone by enlarging the radius area from 5 to 6 miles. This expansion of the NAS Lemoore control zone would eliminate the requirement for designating numerous short control zone extensions to provide protection for aircraft executing prescribed instrument approach and departure procedures at NAS Lemoore. The length of the existing control zone extension based on the Lemoore TACAN 156° True radial would be reduced from 9 to 8 miles. The portion of the Lemoore transition area proposed with a floor of 700 feet above the surface would provide the additional controlled airspace required for the protection of aircraft executing prescribed NAS Lemoore instrument approach, departure and radar vectoring procedures.

The portion of the proposed Lemoore transition area southwest of Fresno, Calif., would provide protection for aircraft executing the higher altitude portions of prescribed Fresno Airport instrument approach and departure procedures. The portion of the Lemoore transition area which is presently designated with a floor of 6,000 feet MSL does not provide adequate protection for aircraft executing prescribed instrument holding, approach, departure and radar vectoring procedures within the Lemoore terminal area. Therefore, the floor of the southern portion of the Lemoore transition area would be lowered to 1,200 feet above the surface.

Portions of the presently designated Lemoore transition area near Fresno and Bakersfield, Calif., which are not included in the proposed transition area will be considered for inclusion in adjoining transition areas which are the subject of other airspace dockets.

Certain minor revisions to prescribed instrument procedures would accompany the actions proposed herein, but operational complexities would not be increased nor would aircraft performance characteristics or established landing minimums be adversely affected. Specific details of the changes to procedures and minimum instrument flight rules altitudes that would be required may be examined by contacting the Chief, Airspace Utilization Branch, Air Traffic Division, Western Region, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles, Calif., 90009.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles, Calif., 90009. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington, D.C., 20553. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A–103, 1711 New York Avenue NW., Washington, D.C., 20553. An informal docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on September 10, 1963.

MICHAEL J. BURNS,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 63–9819; Filed, Sept. 13, 1963; 8:45 a.m.]

[14 CFR Parts 71, 73 [New]]

[Airspace Docket No. 63–CE–68]

RESTRICTED AREA, CONTROLLED AIRSPACE, AND FEDERAL AIRWAY

Proposed Designation and Alteration

Notice is hereby given that the Federal Aviation Agency is considering amendments to §§ 71.123, 71.165, 71.171 and 73.42 of the Federal Aviation Regulations, the substance of which is stated below.

The Air Force has requested the designation of a restricted area/military climb corridor (RA/MCC) at K. I. Sawyer Air Force Base, Marquette, Mich. This climb corridor would be used by Air Defense Command aircraft engaged in air defense missions, and would provide protection for these and other aircraft operating in the vicinity of K. I. Sawyer Air Force Base during the initial climb phase of air defense missions.

The proposed RA/MCC is consistent with criteria developed by the FAA in consultation with the Air Force.

Should this RA/MCC be designated, it would coincide with a portion of the Marquette, Mich. (K. I. Sawyer AFB) and the Marquette (Marquette County Airport) control zones, the Marquette control area extension and VOR Federal airway No. 470. Accordingly, the descriptions of these designated areas would be altered to refer to the requirement for pilots to obtain prior approval for use of the portions of these areas which would be within the RA/MCC. The using agency would authorize other air traffic to transit the RA/MCC when not in use for air defense purposes.

If these actions are taken, the Marquette, Mich. (K. I. Sawyer AFB), Restricted Area/Military Climb Corridor R–4208 would be designated as follows:

R–4208 Marquette, Mich. (K. I. Sawyer AFB), Restricted Area/Military Climb Corridor.

Boundaries. The area centered on the 009° bearing from the N end of Runway 1 at K. I. Sawyer AFB, beginning at a point 2 nautical miles N and extending to a point 32 nautical miles N of the end of the runway, having a width of 1 nautical mile at the beginning and expanding uniformly to a width of 6 nautical miles at the outer extremity.

Designated altitudes. Surface to FL 270 from 2 nmi to 5 nmi from end of runway. 3,000 feet MSL to FL 270 from 5 nmi to 6 nmi from end of runway. 4,000 feet MSL to FL 270 from 6 nmi to 8 nmi from end of runway. 6,000 feet MSL to FL 270 from 8 nmi to 11 nmi from end of runway. 9,000 feet MSL to FL 270 from 11 nmi to 17 nmi from end of runway. 14,000 feet MSL to FL 270 from 17 nmi to 26 nmi from end of runway. 20,000 feet MSL to FL 270 from 26 nmi to 32 nmi from end of runway.

Time of designation. Continuous.

Using agency. K. I. Sawyer AFB Approach Control.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City, Mo., 64110. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington, D.C., 20553. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A–103, 1711 New York Avenue NW., Washington, D.C., 20553. An informal docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on September 9, 1963.

MICHAEL J. BURNS,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 63–9820; Filed, Sept. 13, 1963; 8:46 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[483.21]

STANDARD NEWSPRINT PAPER

Tariff Classification

SEPTEMBER 10, 1963.

The purpose of this notice is to advise interested persons of the standards of specifications descriptive of most standard newsprint papers provided for in Item 252.65, Schedule 2, Subpart B, of the Tariff Schedules of the United States, which are effective as to articles entered, or withdrawn from warehouse, for consumption on or after August 31, 1963.

The test for determining whether a paper is classifiable as standard newsprint paper under Item 252.65 is whether as of the time of its importation the paper is of a class or kind chiefly used in the printing of newspapers.

Chief use is determinable by the use in the United States at, or immediately prior to, the date of importation, in accordance with General Interpretative Rule 10(e)(i) of the General Headnotes and Rules of Interpretation of the Tariff Schedules of the United States, which provides:

10(e) In the absence of special language or context which otherwise requires—(i) A tariff classification controlled by use (other than actual use) is to be determined in accordance with the use of articles of the kind imported into the United States at, or immediately prior to, the date of importation.

The Bureau is presently of the opinion that most papers which conform substantially to the following descriptive specifications:

Weight: 500 Sheets each 24 by 36 inches not less than 30 pounds nor more than 35 pounds.

Size: Rolls not less than 13 inches wide and 28 inches in diameter. Sheets not less than 20 by 30 inches.

Thickness: Not over .0042 inch.

Sizing: Time of transudation of water shall be not more than 10 seconds by the ground glass method.

Ash content: Not more than 6.5 percent.

Color and finish: White; or tinted shades of pink, peach or green in rolls; not more than 50 percent gloss when tested with the Ingersoll glarimeter.

are papers chiefly used in the printing of newspapers in the United States and are, accordingly, classifiable as standard newsprint under Item 252.67 of the Tariff Schedules of the United States so long as the existing conditions of chief use prevail.

As other classes or kinds of standard newsprint paper are imported, additional descriptive specifications will be announced, of which due notice will be given in the FEDERAL REGISTER and in the weekly Treasury Decisions.

Formal adoption of these specifications set out herein will be postponed for a period of 30 days after the publication of this announcement in order to afford interested parties to submit such comments as they consider pertinent.

Consideration will be given to any relevant data, views or arguments pertaining to the correct tariff classification of this merchandise which are submitted to the Bureau of Customs, Washington 25, D.C., in writing. To assure consideration, such communications must be received in the Bureau not later than 30 days from the date of publication of this notice. No hearings will be held.

[SEAL] PHILIP NICHOLS, Jr.,
Commissioner of Customs.

[F.R. Doc. 63-9808; Filed, Sept. 13, 1963; 8:45 a.m.]

[AA 643.3-p]

WHITE PORTLAND CEMENT FROM JAPAN

Notice That There Is Reason To Believe or Suspect Purchase Price Is Less or Likely To Be Less Than Foreign Market Value

SEPTEMBER 12, 1963.

Pursuant to section 201(b) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)), notice is hereby given that there is reason to believe or suspect, from information presented to me, that the purchase price of white portland cement imported from Japan is less or likely to be less than the foreign market value, as defined by sections 203 and 205, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. 162 and 164).

Customs officers are being authorized to withhold appraisement of entries of white portland cement from Japan pursuant to section 14.9 of the Customs Regulations (CFR 14.9).

The complaint in this case was received on February 5, 1963, and was made by O'Melveny & Myers, Los Angeles, California, on behalf of the Riverside Cement Company.

[SEAL] PHILIP NICHOLS, Jr.,
Commissioner of Customs.

[F.R. Doc. 63-9935; Filed, Sept. 13, 1963; 10:29 a.m.]

Office of the Secretary

[Dept. Circular, Public Debt Series No. 14-63]

3⅞ PERCENT TREASURY BONDS OF 1968

Offering of Bonds

SEPTEMBER 5, 1963.

I. *Offering of bonds.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions from the people of the United States for bonds of the United States, designated 3⅞ percent Treasury Bonds of 1968:

(1) At 99.35 percent of their face value in exchange for 3¼ percent Treasury Certificates of Indebtedness of Series B-1964, dated May 15, 1963, due May 15, 1964;

(2) At 98.40 percent of their face value in exchange for 4¾ percent Treasury Notes of Series A-1964, dated July 20, 1959, due May 15, 1964; or

(3) At 99.05 percent of their face value in exchange for 3¾ percent Treasury Notes of Series D-1964, dated June 23, 1960, due May 15, 1964.

Interest adjustments as of September 15, 1963, and the cash payments due to the subscriber on account of the issue prices of the new bonds will be made as set forth in section IV hereof. The amount of the offering under this circular will be limited to the amount of eligible securities tendered in exchange and accepted. Delivery of the new bonds will be made on September 18, 1963. The books will be open only on September 9 through September 13, 1963, for the receipt of subscriptions for this issue.

2. In addition to the offering under this circular, holders of the eligible securities are offered the privilege of exchanging all or any part of such securities for 4 percent Treasury Bonds of 1973, or 4⅛ percent Treasury Bonds of 1989-94 (additional issue), which offerings are set forth in Department Circulars, Public Debt Series—Nos. 15-63 and 16-63, respectively, issued simultaneously with this circular.

3. Nonrecognition of gain or loss for Federal income tax purposes. Pursuant to the provisions of section 1037(a) of the Internal Revenue Code of 1954 as added by Public Law 86-346 (approved September 22, 1959), the Secretary of the Treasury hereby declares that no gain or loss shall be recognized for Federal income tax purposes upon the exchange with the United States of the eligible securities enumerated in paragraph one of this section solely for the 3⅞ percent Treasury Bonds of 1968. Section 1031(b) of the Code, however, requires recognition of any gain realized on the exchange to the extent that money is received by the security holder in connection with the exchange. To the extent not recognized at the time of the exchange, gain or loss, if any, upon the obligations surrendered in exchange will be taken into account upon the disposition or redemption of the new obligations.

II. *Description of bonds.* 1. The bonds will be dated September 15, 1963, and will bear interest from the date at the rate of 3⅞ percent per annum, payable on a semiannual basis on May 15 and November 15, 1964, and thereafter on May 15 and November 15 in each year until the principal amount becomes payable. They will mature November 15, 1968, and will not be subject to call for redemption prior to maturity.

2. The income derived from the bonds is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift or other excise taxes, whether Fed-

eral or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The bonds will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $500, $1,000, $5,000, $10,000, $100,000 and $1,000,000. Provision will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Secretary of the Treasury.

5. The bonds will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States bonds.

III. *Subscription and allotment.* 1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington, D.C., 20220. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies.

2. All subscribers requesting registered bonds will be required to furnish appropriate identifying numbers as required on tax returns and other documents submitted to the Internal Revenue Service, i.e., an individual's social security number or an employer identification number.

3. The Secretary of the Treasury reserves the right to reject or reduce any subscription, and to allot less than the amount of bonds applied for; and any action he may take in these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. *Payment.* 1. Payment for the face amount of bonds allotted hereunder must be made on or before September 18, 1963, or on later allotment, and may be made only in a like face amount of securities of the three issues enumerated in paragraph 1 of section I hereof, which should accompany the subscription. Payment will not be deemed to have been completed where registered bonds are requested if the appropriate identifying number, as required by paragraph 2 of section III hereof, has not been furnished: *Provided, however,* If a subscriber has applied for but is unable to furnish the identifying number by the payment date only because it has not been issued, he may elect to receive, pending the furnishing of the identifying number, interim receipts and in this case payment will be deemed to have been completed. Cash payments due to subscribers, as shown below, will be made in the case of bearer securities following their acceptance and in the case of registered securities following discharge of registration. In the case of registered securities, the payment will be made by check drawn in accordance with the assignments on the securities surrendered, or by credit in any account maintained by a banking institution with the Federal Reserve Bank of its District.

2. 3¼ percent certificates of indebtedness of Series B–1964. Coupons dated November 15, 1963, and May 15, 1964, must be attached to the certificates when surrendered. Accrued interest from May 15 to September 15, 1963 ($10.86277 per $1,000) plus the payment ($6.50 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

3. 4¾ percent notes of Series A–1964. Coupons dated November 15, 1963, and May 15, 1964, must be attached to the notes in bearer form when surrendered. Accrued interest from May 15 to September 15, 1963 ($15.87636 per $1,000) plus the payment ($16.00 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

4. 3¾ percent notes of Series D–1964. Coupons dated November 16, 1963, and May 15, 1964, must be attached to the notes in bearer form when surrendered. Accrued interest from May 15 to September 15, 1963 ($12.53397 per $1,000) plus the payment ($9.50 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

V. *Assignment of registered notes.* 1. Treasury notes in registered form tendered in payment for bonds offered hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Treasury Department governing assignments for transfer or exchange, in one of the forms hereafter set forth, and thereafter should be surrendered with the subscription to a Federal Reserve Bank or Branch or to the Office of the Treasurer of the United States, Washington, D.C., 20220. The notes must be delivered at the expense and risk of the holder. If the new bonds are desired registered in the same name as the notes surrendered, the assignment should be to "The Secretary of the Treasury for exchange for 3⅞ percent Treasury Bonds of 1968"; if the new bonds are desired registered in another name, the assignment should be to "The Secretary of the Treasury for exchange for 3⅞ percent Treasury Bonds of 1968 in the name of _____"; if new bonds in coupon form are desired, the assignment should be to "The Secretary of the Treasury for exchange for 3⅞ percent Treasury Bonds of 1968 in coupon form to be delivered to _____".

VI. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payment for bonds allotted to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

DOUGLAS DILLON,
Secretary of the Treasury.

[F.R. Doc. 63–9847; Filed, Sept. 13, 1963; 8:48 a.m.]

[Dept. Circular, Public Debt Series No. 15–63]

4 PERCENT TREASURY BONDS OF 1973

Offering of Bonds

SEPTEMBER 5, 1963.

I. *Offering of bonds.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions from the people of the United States for bonds of the United States, designated 4 percent Treasury Bonds of 1973:

(1) At 98.85 percent of their face value in exchange for 3¼ percent Treasury Certificates of Indebtedness of Series B–1964, dated May 15, 1963, due May 15, 1964;

(2) At 97.90 percent of their face value in exchange for 4¾ percent Treasury Notes of Series A–1964, dated July 20, 1959, due May 15, 1964;

(3) At 98.55 percent of their face value in exchange for 3¾ percent Treasury Notes of Series D–1964, dated June 23, 1960, due May 15, 1964;

(4) At 98.85 percent of their face value in exchange for 3¾ percent Treasury Bonds of 1966, dated November 15, 1960, due May 15, 1966;

(5) At 98.20 percent of their face value in exchange for 4 percent Treasury Notes of Series A–1966, dated February 15, 1962, due August 15, 1966;

(6) At 99.60 percent of their face value in exchange for 3⅝ percent Treasury Notes of Series B–1967, dated March 15, 1963, due February 15, 1967; or

(7) At 99.30 percent of their face value in exchange for 3¾ percent Treasury Notes of Series A–1967, dated September 15, 1962, due August 15, 1967.

Interest adjustments as of September 15, 1963, and the cash payments due to the subscriber on account of the issue prices of the new bonds will be made as set forth in section IV hereof. The amount of the offering under this circular will be limited to the amount of eligible securities tendered in exchange and accepted. Delivery of the new bonds will be made on September 18, 1963. The books will be open only on September 9 through September 13, 1963, for the receipt of subscriptions for this issue.

2. In addition to the offering under this circular, holders of all of the eligible securities are offered the privilege of exchanging all or any part of such securities for 4⅛ percent Treasury Bonds of 1989–94 (additional issue), and the holders of the certificates and notes maturing on May 15, 1964, are also offered the privilege of exchanging them for 3⅞ percent Treasury Bonds of 1968, which offerings are set forth in Department Circulars, Public Debt Series—Nos. 16–63 and 14–63, respectively, issued simultaneously with this circular.

3. Nonrecognition of gain or loss for Federal income tax purposes. Pursuant to the provisions of section 1037(a) of the Internal Revenue Code of 1954 as added by Public Law 86–346 (approved

September 22, 1959), the Secretary of the Treasury hereby declares that no gain or loss shall be recognized for Federal income tax purposes upon the exchange with the United States of the eligible securities enumerated in paragraph one of this section solely for the 4 percent Treasury Bonds of 1973. Section 1031(b) of the Code, however, requires recognition of any gain realized on the exchange to the extent that money is received by the security holder in connection with the exchange. To the extent not recognized at the time of the exchange, gain or loss, if any, upon the obligations surrendered in exchange will be taken into account upon the disposition or redemption of the new obligations.

II. *Description of bonds.* 1. The bonds will be dated September 15, 1963, and will bear interest from that date at the rate of 4 percent per annum, payable on a semiannual basis on February 15 and August 15, 1964, and thereafter on February 15 and August 15 in each year until the principal amount becomes payable. They will mature August 15, 1973, and will not be subject to call for redemption prior to maturity.

2. The income derived from the bonds is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The bonds will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $500, $1,000, $5,000, $10,000, $100,000 and $1,000,000. Provision will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Secretary of the Treasury.

5. The bonds will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States bonds.

III. *Subscription and allotment.* 1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington, D.C., 20220. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies.

2. All subscribers requesting registered bonds will be required to furnish appropriate identifying numbers as required on tax returns and other documents submitted to the Internal Revenue Service, i.e., an individual's social security number or an employer identification number.

3. The Secretary of the Treasury reserves the right to reject or reduce any subscription, and to allot less than the amount of bonds applied for; and any action he may take in these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. *Payment.* 1. Payment for the face amount of bonds allotted hereunder must be made on or before September 18, 1963, or on later allotment, and may be made only in a like face amount of securities of the seven issues enumerated in paragraph 1 of section I hereof, which should accompany the subscription. Payment will not be deemed to have been completed where registered bonds are requested if the appropriate identifying number, as required by paragraph 2 of section III hereof, has not been furnished: *Provided, however,* If a subscriber has applied for but is unable to furnish the identifying number by the payment date only because it has not been issued, he may elect to receive, pending the furnishing of the identifying number, interim receipts and in this case payment will be deemed to have been completed. Cash payments due to subscribers, as shown below, will be made in the case of bearer securities following their acceptance and in the case of registered securities following discharge of registration. In the case of registered securities, the payment will be made by check drawn in accordance with the assignments on the securities surrendered, or by credit in any account maintained by a banking institution with the Federal Reserve Bank of its District.

2. 3¼ percent certificates of indebtedness of Series B–1964. Coupons dated November 15, 1963, and May 15, 1964, must be attached to the certificates when surrendered. Accrued interest from May 15 to September 15, 1963 ($10.86277 per $1,000) plus the payment ($11.50 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

3. 4¾ percent notes of Series A–1964. Coupons dated November 15, 1963, and May 15, 1964, must be attached to the notes in bearer form when surrendered. Accrued interest from May 15 to September 15, 1963 ($15.87636 per $1,000) plus the payment ($21.00 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

4. 3¾ percent notes of Series D–1964. Coupons dated November 15, 1963, and May 15, 1964, must be attached to the notes in bearer form when surrendered. Accrued interest from May 15 to September 15, 1963 ($12.53397 per $1,000) plus the payment ($14.50 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

5. 3¾ percent bonds of 1966. Coupons dated November 15, 1963, and all subsequent coupons, must be attached to the bonds in bearer form when surrendered. Accrued interest from May 15 to September 15, 1963 ($12.53397 per $1,000) plus the payment ($11.50 per $1,000) due on account of the issue price of the new bonds will be paid to subscribers.

6. 4 percent notes of Series A–1966. Coupons dated February 15, 1964, and all subsequent coupons, must be attached to the notes in bearer form when surrendered. Accrued interest from August 15 to September 15, 1963 ($3.36957 per $1,000) plus the payment ($18.00 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

7. 3⅝ percent notes of Series B–1967. Coupons dated February 15, 1964, and all subsequent coupons, must be attached to the notes in bearer form when surrendered. Accrued interest from August 15 to September 15, 1963 ($3.05367 per $1,000) plus the payment ($4.00 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

8. 3¾ percent notes of Series A–1967. Coupons dated February 15, 1964, and all subsequent coupons, must be attached to the notes in bearer form when surrendered. Accrued interest from August 15 to September 15, 1963 ($3.15897 per $1,000) plus the payment ($7.00 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

V. *Assignment of registered securities.* 1. Treasury notes and bonds in registered form tendered in payment for bonds offered hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Treasury Department governing assignments for transfer or exchange, in one of the forms hereafter set forth, and thereafter should be surrendered with the subscription to a Federal Reserve Bank or Branch or to the Office of the Treasurer of the United States, Washington, D.C., 20220. The securities must be delivered at the expense and risk of the holder. If the new bonds are desired registered in the same name as the securities surrendered, the assignment should be to "The Secretary of the Treasury for exchange for 4 percent Treasury Bonds of 1973"; if the new bonds are desired registered in another name, the assignment should be to "The Secretary of the Treasury for exchange for 4 percent Treasury Bonds of 1973 in the name of _____"; if new bonds in coupon form are desired, the assignment should be to "The Secretary of the Treasury for exchange for 4 percent Treasury Bonds of 1973 in coupon form to be delivered to _____."

VI. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payment for bonds allotted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

DOUGLAS DILLON,
Secretary of the Treasury.

[F.R. Doc. 63-9848; Filed, Sept. 13, 1963; 8:48 a.m.]

[Dept. Circular, Public Debt Series No. 16–63]

4⅛ PERCENT TREASURY BONDS OF 1989–94

Offering of Bonds

SEPTEMBER 5, 1963.

I. *Offering of bonds.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions from the people of the United States for bonds of the United States, designated 4⅛ percent Treasury Bonds of 1989–94:

(1) At 98.65 percent of their face value in exchange for 3¼ percent Treasury Certificates of Indebtedness of Series B–1964, dated May 15, 1963, due May 15, 1964;

(2) At 97.70 percent of their face value in exchange for 4¾ percent Treasury Notes of Series A–1964, dated July 20, 1959, due May 15, 1964;

(3) At 98.35 percent of their face value in exchange for 3¾ percent Treasury Notes of Series D–1964, dated June 23, 1960, due May 15, 1964;

(4) At 98.65 percent of their face value in exchange for 3¾ percent Treasury Bonds of 1966, dated November 15, 1960, due May 15, 1966;

(5) At 98.00 percent of their face value in exchange for 4 percent Treasury Notes of Series A–1966, dated February 15, 1962, due August 15, 1966;

(6) At 99.40 percent of their face value in exchange for 3⅝ percent Treasury Notes of Series B–1967, dated March 15, 1963, due February 15, 1967; or

(7) At 99.10 percent of their face value in exchange for 3¾ percent Treasury Notes of Series A–1967, dated September 15, 1962, due August 15, 1967.

Interest adjustments as of September 15, 1963, and the cash payments due to the subscriber on account of the issue prices of the new bonds will be made as set forth in section IV hereof. The amount of the offering under this circular will be limited to the amount of eligible securities tendered in exchange and accepted. Delivery of the new bonds will be made on September 18, 1963. The books will be open only on September 9 through September 13, 1963, for the receipt of subscriptions for this issue.

2. In addition to the offering under this circular, holders of all of the eligible securities are offered the privilege of exchanging all or any part of such securities for 4 percent Treasury Bonds of 1973, and the holders of the certificates and notes maturing on May 15, 1964, are also offered the privilege of exchanging them for 3⅞ percent Treasury Bonds of 1968, which offerings are set forth in Department Circulars, Public Debt Series—Nos. 15–63 and 14–63, respectively, issued simultaneously with this circular.

3. Nonrecognition of gain or loss for Federal income tax purposes. Pursuant to the provisions of section 1037(a) of the Internal Revenue Code of 1954 as added by Public Law 86–346 (approved September 22, 1959), the Secretary of the Treasury hereby declares that no gain or loss shall be recognized for Federal income tax purposes upon the exchange with the United States of the eligible securities enumerated in paragraph one of this section solely for the 4⅛ percent Treasury Bonds of 1989–94. Section 1031(b) of the Code, however, requires recognition of any gain realized on the exchange to the extent that money is received by the security holder in connection with the exchange. To the extent not recognized at the time of the exchange, gain or loss, if any, upon the obligations surrendered in exchange will be taken into account upon the disposition or redemption of the new obligations.

II. *Description of bonds.* 1. The bonds now offered will be an addition to and will form a part of the series of 4⅛ percent Treasury Bonds of 1989–94 which are described in Department Circular, Public Debt Series—No. 11–63, dated May 16, 1963, will be freely interchangeable therewith, and are identical in all respects therewith except that interest on the bonds to be issued under this circular will accrue from September 15, 1963. Subject to the provision for the accrual of interest from September 15, 1963, on the bonds now offered, the bonds are described in the following quotation from Department Circular No. 11–63:

1. The bonds, dated April 18, 1963, bear interest from that date at the rate of 4⅛ percent per annum, payable on a semiannual basis on November 15, 1963, and thereafter on May 15 and November 15 in each year until the principal amount becomes payable. They will mature May 15, 1994, but may be redeemed at the option of the United States on and after May 15, 1989, at par and accrued interest, on any interest day, on 4 months' notice of redemption given in such manner as the Secretary of the Treasury shall prescribe. From the date of redemption designated in any such notice, interest on the bonds called for redemption shall cease.

2. The income derived from the bonds is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The bonds are acceptable to secure deposits of public moneys.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, are available in denominations of $500, $1,000, $5,000, $10,000, $100,000, and $1,000,000. Provision has been made for the interchange of bonds of different denominations and of bearer and registered bonds, and for the transfer of registered bonds.

5. If the bonds are owned by a decedent at the time of his death and thereupon constitute a part of his estate, they will be redeemed at par and accrued interest at the option of the representative of the estate: *Provided,* The Secretary of the Treasury is authorized by the decedent's estate to apply the entire proceeds of redemption to payment of the Federal estate taxes on such decedent's estate.

6. The bonds are subject to the general rules and regulations of the Treasury Department, now or hereafter prescribed, governing United States securities.

III. *Subscription and allotment.* 1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington, D.C., 20220. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies.

2. All subscribers requesting registered bonds will be required to furnish appropriate identifying numbers as required on tax returns and other documents submitted to the Internal Revenue Service, i.e., an individual's social security number or an employer identification number.

3. The Secretary of the Treasury reserves the right to reject or reduce any subscription, and to allot less than the amount of bonds applied for; and any action he may take in these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. *Payment.* 1. Payment for the face amount of bonds allotted hereunder must be made on or before September 18, 1963, or on later allotment, and may be made only in a like face amount of securities of the seven issues enumerated in paragraph 1 of section I hereof, which should accompany the subscription. Payment will not be deemed to have been completed where registered bonds are requested if the appropriate identifying number, as required by paragraph 2 of section III hereof, has not been furnished: *Provided, however,* If a subscriber has applied for but is unable to furnish the identifying number by the payment date only because it has not been issued, he may elect to receive, pending the furnishing of the identifying number, interim receipts and in this case payment will be deemed to have been completed. Cash payments due from subscribers (paragraphs 7 and 8 below) should accompany the subscription. Cash payments due to subscribers (paragraphs 2 through 6 below) will be made in the case of bearer securities following their acceptance and in the case of registered securities following discharge of registration. In the case of registered securities, the payment will be made by check drawn in accordance with the assignments on the securities surrendered, or by credit in any account maintained by a banking institution with the Federal Reserve Bank of its District.

2. 3¼ percent certificates of indebtedness of Series B–1964. Coupons dated November 15, 1963, and May 15, 1964, must be attached to the certificates when surrendered. Accrued interest from May 15 to September 15, 1963 ($10.86277 per $1,000) plus the payment ($13.50 per $1,000) due to the subscriber on account of the issue price of the bonds will be credited, accrued interest from April 18 to September 15, 1963 ($16.86402 per $1,000) on the bonds to be issued will be charged, and the difference ($7.49875 per $1,000) will be paid to subscribers.

3. 4¾ percent notes of Series A–1964. Coupons dated November 15, 1963, and May 15, 1964, must be attached to the notes in bearer form when surrendered. Accrued interest from May 15 to September 15, 1963 ($15,87636 per $1,000) plus the payment ($23.00 per $1,000) due to the subscriber on account of the issue price of the bonds will be credited, accrued interest from April 18 to September 15, 1963 ($16.86402 per $1,000) on the bonds to be issued will be charged, and

the difference ($22.01234 per $1,000) will be paid to subscribers.

4. 3¾ percent notes of Series D–1964. Coupons dated November 15, 1963, and May 15, 1964, must be attached to the notes in bearer form when surrendered. Accrued interest from May 15 to September 15, 1963 ($12.53397 per $1,000) plus the payment ($16.50 per $1,000) due to the subscriber on account of the issue price of the bonds will be credited, accrued interest from April 18 to September 15, 1963 ($16.86402 per $1,000) on the bonds to be issued will be charged, and the difference ($12.16995 per $1,000) will be paid to subscribers.

5. 3¾ percent bonds of 1966. Coupons dated November 15, 1963, and all subsequent coupons, must be attached to the bonds in bearer form when surrendered. Accrued interest from May 15 to September 15, 1963 ($12.53397 per $1,000) plus the payment ($13.50 per $1,000) due to the subscriber on account of the issue price of the new bonds will be credited, accrued interest from April 18 to September 15, 1963 ($16.86402 per $1,000) on the bonds to be issued will be charged, and the difference ($9.16995 per $1,000) will be paid to subscribers.

6. 4 percent notes of Series A–1966. Coupons dated February 15, 1964, and all subsequent coupons, must be attached to the notes in bearer form when surrendered. Accrued interest from August 15 to September 15, 1963 ($3.36957 per $1,000) plus the payment ($20.00 per $1,000) due to the subscriber on account of the issue price of the bonds will be credited, accrued interest from April 18 to September 15, 1963 ($16.86402 per $1,000) on the bonds to be issued will be charged, and the difference ($6.50555 per $1,000) will be paid to subscribers.

7. 3⅝ percent notes of Series B–1967. Coupons dated February 15, 1964, and all subsequent coupons, must be attached to the notes in bearer form when surrendered. Accrued interest from August 15 to September 15, 1963 ($3.05367 per $1,000) plus the payment ($6.00 per $1,000) due to the subscriber on account of the issue price of the bonds will be credited, accrued interest from April 18 to September 15, 1963 ($16.86402 per $1,000) on the bonds to be issued will be charged, and the difference ($7.81035 per $1,000) must be paid by subscribers.

8. 3¾ percent notes of Series A–1967. Coupons dated February 15, 1964, and all subsequent coupons, must be attached to the notes in bearer form when surrendered. Accrued interest from August 15 to September 15, 1963 ($3.15897 per $1,000) plus the payment ($9.00 per $1,000) due to the subscriber on account of the issue price of the bonds will be credited, accrued interest from April 18 to September 15, 1963 ($16.86402 per $1,000) on the bonds to be issued will be charged, and the difference ($4.70505 per $1,000) must be paid by subscribers.

V. *Assignment of registered securities.* 1. Treasury notes and bonds in registered form tendered in payment for bonds offered hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Treasury Department governing assignments for transfer or exchange, in one of the forms hereafter set forth, and thereafter should be surrendered with the subscription to a Federal Reserve Bank or Branch or to the Office of the Treasurer of the United States, Washington, D.C., 20220. The securities must be delivered at the expense and risk of the holder. If the new bonds are desired registered in the same name as the securities surrendered, the assignment should be to "The Secretary of the Treasury for exchange for 4⅛ percent Treasury Bonds of 1989–94"; if the new bonds are desired registered in another name, the assignment should be to "The Secretary of the Treasury for exchange for 4⅛ percent Treasury Bonds of 1989–94 in the name of _____"; if new bonds in coupon form are desired, the assignment should be to "The Secretary of the Treasury for exchange for 4⅛ percent Treasury Bonds of 1989–94 in coupon form to be delivered to _____".

VI. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payment for bonds allotted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

DOUGLAS DILLON,
Secretary of the Treasury.

[F.R. Doc. 63–9849; Filed, Sept. 13, 1963; 8:48 a.m.]

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Order No. 305–63]

JOSEPH F. DOLAN

Authority To Designate Officers and Employees of the Department of Justice To Perform the Functions of Deputy Marshals in the Northern District of Alabama and To Administer Oaths of Office

SEPTEMBER 11, 1963.

By virtue of the authority vested in me by section 161 of the Revised Statutes, as amended (5 U.S.C. 22), section 360 of the Revised Statutes (5 U.S.C. 311), sections 1 and 2 of Reorganization Plan No. 2 of 1950 (64 Stat. 1261), section 542 of title 28 of the United States Code, section 206 of the Act of June 26, 1943, 57 Stat. 196 (5 U.S.C. 16a), and § 0.15 of title 28 of the Code of Federal Regulations (Departmental Order 271–62, of May 29, 1962, 27 F.R. 5162, 5164), I hereby authorize Joseph F. Dolan, Assistant Deputy Attorney General, to perform the function of authorizing and requiring any officer or employee of the Department of Justice to perform the functions of a United States Deputy Marshal for the Northern District of Alabama, to administer the oath of office required by section 1757 of the Revised Statutes, as amended (5 U.S.C. 16), and to administer any other oath required by law in connection with employment in the executive branch of the Federal Government, in particular the oath required by section 543 of title 28 of the United States Code.

The functions assigned to Joseph F. Dolan and to those officers and employees of the Department of Justice designated by him shall be in addition to the functions presently vested in them.

NICHOLAS DEB. KATZENBACH,
Deputy Attorney General.

[F.R. Doc. 63–9884; Filed, Sept. 12, 1963; 1:35 p.m.]

POST OFFICE DEPARTMENT

POSTMASTER GENERAL ET AL.

Delegation of Authority and Line of Succession

The following is the text of Headquarters Circular 63–25 dated September 10, 1963, signed by the Deputy Postmaster General (28 F.R. 7040):

"Pursuant to Postmaster General Order No. 55507, dated January 13, 1954 (19 F.R. 361) whenever the offices of Postmaster General and Deputy Postmaster General are vacant, or during the absences of the Postmaster General and Deputy Postmaster General, authority is hereby delegated to each of the following officers in the order listed, to execute and perform in his own name and title, all powers, functions and duties conferred by law and regulation upon the Deputy Postmaster General, including authority to modify, suspend, or rescind orders, instructions and regulations which have heretofore or which may hereafter be issued in the name of the Postmaster General, or the Deputy Postmaster General, or the officer, who, pursuant to this delegation of authority, exercises the powers, functions and duties of the Deputy Postmaster General:

1. Assistant Postmaster General, Bureau of Operations.
2. Assistant Postmaster General, Bureau of Transportation.
3. Assistant Postmaster General, Bureau of Finance.
4. Assistant Postmaster General, Bureau of Facilities.
5. Assistant Postmaster General, Bureau of Personnel.
6. General Counsel.
7. Chief Postal Inspector.

The right is hereby exclusively reserved in the Postmaster General or the Deputy Postmaster General to modify, suspend or rescind all or any part of the authority delegated to the above listed officers by this order."

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 309, 501)

LOUIS J. DOYLE,
General Counsel.

[F.R. Doc. 63-9850; Filed, Sept. 13, 1963; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Administrative Management Reg. 6]

DIRECTOR, OFFICE OF SURVEY AND REVIEW

Delegation of Authority

SEPTEMBER 4, 1963.

SECTION 1. *Authority.* The Director, Office of Survey and Review, Office of the Administrative Assistant Secretary, is hereby authorized, without power of redelegation, to make the determinations provided for in the Federal Procurement Regulations, Part 1-2.406-3 and Part 1-2.406-4, as follows:

A. In the event of mistake in a responsive bid alleged after opening and before award:

(1) A determination may be made permitting the bidder to withdraw his bid where the bidder requests permission to do so and clear and convincing evidence establishes the existence of a mistake. However, if the evidence is clear and convincing both as to the existence of a mistake and as to the bid actually intended, and if the bid, both as uncorrected and corrected, is the lowest received, a determination may be made to correct the bid and not permit its withdrawal.

(2) A determination may be made permitting the bidder to correct his bid where the bidder requests permission to do so and clear and convincing evidence establishes both the existence of a mistake and the bid actually intended. However, if such correction would result in displacing one or more lower bids, the determination shall not be made unless the existence of the mistake and the bid actually intended are ascertainable substantially from the invitation and bid itself. If the evidence is clear and convincing only as to the mistake, but not as to the intended bid, a determination permitting the bidder to withdraw his bid may be made.

(3) If the evidence does not warrant a determination under subparagraph (1) or (2) of this paragraph, a determination may be made that a bidder may neither withdraw nor correct his bid.

B. In the event a mistake in a contractor's bid is not discovered until after the award:

(1) A determination may be made to rescind a contract where the original contract price does not exceed $1,000.

(2) A determination may be made to reform a contract, irrespective of amount, (i) to delete the item or items involved in the mistake where such deletion does not reduce the contract price by more than $1,000, or (ii) to increase the price where such increase does not exceed $1,000 and if the contract price, as corrected, does not exceed that of the next lowest acceptable bid under the original invitation for bids.

(3) If the evidence does not warrant a determination under (1) or (2) of this subsection, a determination may be made that no change shall be made in the contract as awarded.

C. Each proposed determination made hereunder shall before becoming effective be approved by the Solicitor, an Assistant Solicitor, or comparable legal officer of the Department.

D. Records shall be maintained of all administrative determinations made in accordance with these provisions, and copies of all such administrative determinations, with the facts involved, shall be included in the case file. Where a contract is awarded under section 1 hereof, the General Accounting Office copy of the contract shall be accompanied by a signed copy of any related determination.

E. The said Director, Office of Survey and Review, may not redelegate the authority herein delegated to him.

SEC. 2. *Revocation.* This regulation revokes Administrative Management Regulation No. 4 published in the FEDERAL REGISTER June 30, 1962 (27 F.R. 6240).

SEC. 3. *Effective date.* This regulation is effective September 4, 1963 (Subpar. 210.1.4B, Delegations of Authority by Secretary of the Interior).

D. OTIS BEASLEY,
Administrative Assistant Secretary.

[F.R. Doc. 63-9832; Filed, Sept. 13, 1963; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

EXTRA LONG STAPLE COTTON

Notice of Determinations To Be Made With Respect to National Marketing Quota; National, State, and County Allotments; Fixing of a Date for Holding Referendum; and Formulation of Regulations Pertaining to Acreage Allotments for 1964 Crop

The Secretary of Agriculture is preparing to determine whether a national marketing quota is required to be proclaimed for the 1964 crop of extra long staple cotton (referred to as "ELS cotton") pursuant to the Agricultural Adjustment Act of 1938, as amended (referred to as the "act") (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). If such quota is required, the Secretary will also determine and proclaim the amount of the quota in bales and the amount of the national allotment in acres for the 1964 crop of ELS cotton.

Section 347(b) of the act requires the proclamation of the national quota to be made not later than October 15, 1963 for a 1964 quota. The Secretary is required to proclaim a 1964 national quota under section 347(b) of the act upon determination that the total supply of ELS cotton for the marketing year beginning August 1, 1963 will exceed the normal supply for such marketing year by more than 8 per centum.

Section 347(b) of the act further provides that the Secretary shall also determine and specify in such proclamation the amount of the national marketing quota which shall be an amount equal to (1) the estimated domestic consumption plus exports for the marketing year which begins in the next calendar year, less (2) the estimated imports, plus (3) such additional number of bales, if any, as the Secretary determines is necessary to assure adequate working stocks in trade channels until ELS cotton from the next crop becomes readily available without resort to Commodity Credit Corporation stocks.

The national marketing quota for 1964 cannot be less than the larger of (1) 30,000 bales, or (2) a number of bales equal to 30 per centum of the estimated domestic consumption plus exports of ELS cotton for the marketing year beginning in the calendar year in which such quota is proclaimed.

As defined in section 301 of the act, for purposes of the determinations provided for in section 347(b) of the act, "total supply" of ELS cotton for any marketing year is the carryover at the beginning of such marketing year, plus the estimated production of ELS cotton in the United States during the calendar year in which such marketing year begins, and the estimated imports of ELS cotton into the United States during such marketing year; "carryover" of ELS cotton for any marketing year is the quantity of ELS cotton on hand in the United States at the beginning of such marketing year not including any part of the crop which was produced in the United States during the calendar year then current nor any Government stocks of ELS cotton acquired pursuant to, or under the authority of, the Strategic and Critical Materials Stockpiling Act; "normal supply" of ELS cotton for any marketing year is the estimated domestic consumption of ELS cotton for the marketing year for which such normal supply is being determined, plus the estimated exports of ELS cotton for such marketing year, plus 30 per centum of such consumption and exports as an allowance for carryover; and "marketing year" for ELS cotton is the period August 1-July 31. For purposes of the supply determinations required to be made under section 347(b) of the act, the term "ELS cotton" refers to all American-Egyptian, Sea Island, and Sealand cotton (United States and Puerto Rico), and to all similar types imported from Egypt, Sudan, and Peru.

Section 344(a) of the act provides that whenever a national marketing quota is proclaimed, the Secretary shall determine and proclaim a national allotment for the crop of ELS cotton to be produced in the next calendar year. The national allotment for 1964 would be that acreage, based upon the national

average yield per planted acre of ELS cotton for the four calendar years 1959–1962, which would be required to make available from the 1964 crop of ELS cotton an amount of ELS cotton equal to the national marketing quota.

If a national allotment is proclaimed for the 1964 crop of ELS cotton, it will be apportioned among the States under section 344(b) of the act on the basis of the acreage planted to ELS cotton during the five calendar years 1958–1962, with adjustments during such period as provided under the act, the Soil Bank provisions of the Agricultural Act of 1956 (7 U.S.C. 1801 et seq.), the Great Plains and land use adjustment programs of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 690p (b) and (e)).

If a national allotment is proclaimed for the 1964 crop of ELS cotton, the State allotment will be apportioned among the counties in accordance with section 344(e) of the act. State and county reserves will be determined in accordance with section 344 (e) and (f) (3) of the act.

If a national allotment is proclaimed for the 1964 crop of ELS cotton, the Secretary will issue regulations governing the establishment of acreage allotments for the 1964 and succeeding crops of ELS cotton. Such regulations will be substantially the same as those issued for the 1963 crop except for changes required to convert from an annual to a continuous basis. Such regulations will provide for approval by the Secretary of allotments and reserves for States and counties which will be published in the FEDERAL REGISTER.

There is under consideration a continuing provision to the Secretary's regulations which would fix the Tuesday preceding December 15 of each year in which a national quota is proclaimed as the date for holding a referendum by secret ballot of farmers engaged in the production of ELS cotton in the calendar year in which the referendum is held, to determine whether such farmers are in favor of or opposed to the quota so proclaimed.

Prior to making any of the foregoing determinations, consideration will be given to any data, views, and recommendations which are submitted in writing to the Director, Policy and Program Appraisal Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington 25, D.C., within 20 days following the publication of this notice in the FEDERAL REGISTER. The date of the postmark will be considered as the date of any submission.

Effective date: Date of publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on September 11, 1963.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 63-9851; Filed, Sept. 13, 1963; 8:48 a.m.]

UPLAND COTTON

Notice of Determinations To Be Made With Respect to National Marketing Quota; National, State and County Allotments; Fixing of a Date for Holding Referendum; and Formulation of Regulations Pertaining to Acreage Allotments for 1964 Crop

The Secretary of Agriculture is preparing to determine whether a national marketing quota is required to be proclaimed for the 1964 crop of upland cotton (referred to as "cotton") pursuant to the Agricultural Adjustment Act of 1938, as amended (referred to as the "act") (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). If such quota is required, the Secretary will also determine and proclaim the amount of the quota in bales and the amount of the national allotment in acres for the 1964 crop of cotton.

Section 342 of the act requires the proclamation of the national quota to be made not later than October 15, 1963 for a 1964 quota. The Secretary is required to proclaim a 1964 national quota under section 342 of the act upon determination that the total supply of cotton for the marketing year beginning August 1, 1963 will exceed the normal supply for such marketing year.

Section 342 of the act further provides that the Secretary shall also determine and specify in such proclamation the amount of the national marketing quota in terms of the number of bales of cotton (standard bales of five hundred pounds gross weight) adequate, together with (a) the estimated carryover at the beginning of the marketing year which begins in the next calendar year and (b) the estimated imports during such marketing year, to make available a normal supply of cotton: *Provided*, That such national marketing quota shall be not less than a number of bales equal to the estimated domestic consumption and estimated exports (less estimated imports) for the marketing year for which the quota is proclaimed, except that the Secretary shall make such adjustment in the amount of such quota as he determines necessary after taking into consideration the estimated stocks of cotton in the United States (including the qualities of such stocks) and stocks in foreign countries which would be available for the marketing year for which the quota is being proclaimed if no adjustment of such quota is made hereunder, to assure the maintenance of adequate but not excessive stocks in the United States to provide a continuous and stable supply of the different qualities of cotton needed in the United States and in foreign cotton consuming countries, and for purposes of national security; but the Secretary, in making such adjustments, may not reduce the national marketing quota below (1) one million bales less than the estimated domestic consumption and estimated exports for the marketing year for which such quota is being proclaimed, or (2) ten million bales, whichever is larger. Notwithstanding the foregoing, the national marketing quota shall be not less than the number of bales required to provide a national acreage allotment of sixteen million acres.

As defined in section 301 of the act for purposes of the determinations provided for in section 342 of the act, "total supply" of cotton for any marketing year is the carryover at the beginning of such marketing year, plus the estimated production of cotton in the United States during the calendar year in which such marketing year begins, and the estimated imports of cotton into the United States during such marketing year; "carryover" of cotton for any marketing year is the quantity of cotton on hand in the United States at the beginning of such marketing year, not including any part of the crop which was produced in the United States during the calendar year then current; "normal supply" of cotton for any marketing year is the estimated domestic consumption of cotton for the marketing year for which such normal supply is being determined, plus the estimated exports of cotton for such marketing year, plus 30 per centum of such consumption and exports as an allowance for carryover; and "marketing year" for cotton is the period August 1–July 31.

Section 344(a) of the act provides that whenever a national marketing quota is proclaimed under section 342 of the act, the Secretary shall determine and proclaim a national allotment for the crop of cotton to be produced in the next calendar year. The national allotment for 1964 would be that acreage, based upon the national average yield per planted acre of cotton for the four calendar years 1959–1962, which would be required to make available from the 1964 crop of cotton an amount of cotton equal to the national marketing quota.

If a national allotment is proclaimed for the 1964 crop of cotton, it will be apportioned among the States under section 344(b) of the act on the basis of the acreage planted to cotton during the five calendar years 1958–1962, with adjustments during such period as provided under the act, the Soil Bank provisions of the Agricultural Act of 1956 (7 U.S.C. 1801 et seq.), as amended, the Great Plains and land use adjustment programs of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 690p (b) and (e)).

Section 344(b) of the act provides a supplemental allotment from the national reserve of up to 310,000 acres for apportionment among States on the basis of their needs for additional acreage for establishing minimum farm allotments. Such needs would be estimated for each State and county for 1964.

If a national allotment is proclaimed for the 1964 crop of cotton, the State allotment will be apportioned among the counties in accordance with section 344(e) of the act. State and county reserves will be determined in accordance with section 344 (e) and (f) (3) of the act.

If a national allotment is proclaimed for the 1964 crop of cotton, the Secre-

tary will issue regulations governing the establishment of acreage allotments for the 1964 and succeeding crops of cotton. Such regulations will be substantially the same as those issued for the 1963 crop except for changes required to convert from an annual to a continuous basis. Such regulations will provide for approval by the Secretary of allotments and reserves for States and counties which will be published in the FEDERAL REGISTER.

There is under consideration a continuing provision to the regulations which will fix the Tuesday preceding December 15 of each year in which a national quota is proclaimed as the date for holding a referendum by secret ballot of farmers engaged in the production of cotton in the calendar year in which the referendum is held, to determine whether such farmers are in favor of or opposed to the quota so proclaimed.

Prior to making any of the foregoing determinations, consideration will be given to any data, views, and recommendations which are submitted in writing to the Director, Policy and Program Appraisal Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington 25, D.C., within 20 days following the publication of this notice in the FEDERAL REGISTER. The date of the postmark will be considered as the date of any submission.

Effective date: Date of publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on September 11, 1963.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 63-9852; Filed, Sept. 13, 1963; 8:48 a.m.]

Office of the Secretary

MICHIGAN

Designation of Areas for Emergency Loans

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

MICHIGAN

Allegan.	Leelanau.
Antrim.	Livingston.
Benzie.	Macomb.
Calhoun.	Manistee.
Cass.	Mason.
Charlevoix.	Muskegon.
Clinton.	Oakland.
Crawford.	Oceana.
Genesee.	Otsego.
Grand Traverse.	Ottawa.
Ingham.	Saginaw.
Ionia.	St. Clair.
Kalamazoo.	Shiawassee.
Kent.	Van Buren.
Lapeer.	Washtenaw.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after December 31, 1964, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 11th day of September 1963.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 63-9840; Filed, Sept. 13, 1963; 8:47 a.m.]

PENNSYLVANIA

Designation of Areas for Emergency Loans

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

PENNSYLVANIA

Allegheny.	Lancaster.
Armstrong.	Lawrence.
Beaver.	Lebanon.
Bedford.	Lehigh.
Berks.	Lycoming.
Blair.	McKean.
Bradford.	Mercer.
Butler.	Monroe.
Carbon.	Northampton.
Centre.	Pike.
Clarion.	Potter.
Clinton.	Somerset.
Cumberland.	Sullivan.
Erie.	Susquehanna.
Fayette.	Tioga.
Forest.	Venango.
Franklin.	Warren.
Fulton.	Washington.
Greene.	Wayne.
Huntingdon.	Westmoreland.
Lackawanna.	Wyoming.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after December 31, 1964, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 11th day of September 1963.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 63-9841; Filed, Sept. 13, 1963; 8:47 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-212]

GENERAL DYNAMICS CORP.

Notice of Application for Utilization Facility License

Please take notice that General Dynamics Corporation, under section 104c of the Atomic Energy Act of 1954, has submitted an application for a license to construct and operate a Fast Critical Assembly type nuclear reactor for research on the Corporation's John Jay Hopkins Laboratory site at Torrey Pines Mesa, California. A copy of the application is available for public inspection in the AEC Public Document Room, located at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 9th day of September 1963.

For the Atomic Energy Commission.

SAUL LEVINE,
Chief, Test and Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 63-9814; Filed, Sept. 13, 1963; 8:45 a.m.]

[Docket No. 50-131]

VETERANS ADMINISTRATION HOSPITAL

Notice of Issuance of Facility License Amendment

Please take notice that the Atomic Energy Commission has issued, effective as of the date of issuance, Amendment No. 2, set forth below, to Facility License No. R-57. The license authorizes The Veterans Administration Hospital to operate its TRIGA type nuclear reactor at power levels up to 10 kilowatts (thermal) on its site in Omaha, Nebraska. The amendment authorizes The Veterans Administration Hospital to operate the TRIGA reactor at power levels up to 18 kilowatts (thermal), as described in the licensee's application for license amendment dated June 28, 1963, and supplementary letter dated July 11, 1963.

The Commission has found that:

(1) Operation of the reactor in accordance with the license as amended will not present undue hazard to the health and safety of the public and will not be inimical to the common defense and security;

(2) The application for amendment complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter 1, CFR;

(3) Prior public notice of proposed issuance of this amendment is not required since the amendment does not involve consideration of safety factors significantly different from those previously evaluated.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice (10 CFR Part 2). If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) a related hazards analysis prepared by the Test and Power Reactor Safety Branch of the Division of Licensing and Regulation and (2) the licensee's application for license amendment dated June 28, 1963, and supplementary letter dated July 11, 1963, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (1) above may be obtained at the Commission's Public Document Room, or upon request addressed to the Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Bethesda, Md., this 9th day of September 1963.

For the Atomic Energy Commission.

SAUL LEVINE,
Chief, Test and Power Reactor Safety Branch, Division of Licensing and Regulation.

[License R–57; Amdt. 2]

License No. R–57 is hereby amended to authorize the change described in the application amendment dated June 28, 1963 and supplementary letter dated July 11, 1963.

Paragraph 1. of License No. R–86, as amended, is hereby amended to read as follows:

"1. This license applies to the TRIGA type heterogeneous, light water cooled, zirconium hydride and water moderated, tank-type nuclear reactor (hereinafter referred to as 'the reactor') which is owned by the applicant and located at Omaha, Nebraska and described in the application dated March 24, 1959, and amendments thereto dated January 31, 1961, June 28, 1963, and supplementary letter dated July 11, 1963 (hereinafter referred to as 'the application')."

Paragraph 4.A. of License No. R–86, as amended, is hereby amended to read as follows:

"4.A. The Veterans Administration Hospital shall not operate the reactor at power levels in excess of 18 kilowatts (thermal) without prior written authorization from the Commission."

This amendment is effective as of the date of issuance.

Date of issuance: September 9, 1963.

For the Atomic Energy Commission.

SAUL LEVINE,
Chief, Test and Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 63–9815; Filed, Sept. 13, 1963; 8:45 a.m.]

[Docket No. 50–57]

WESTERN NEW YORK NUCLEAR RESEARCH CENTER, INC.

Notice of Issuance of Facility License Amendment

Please take notice that the Atomic Energy Commission has issued Amendment No. 5, set forth below, to Facility License No. R–77. The license, as previously amended, authorizes Western New York Nuclear Research Center, Inc., to possess and operate the nuclear reactor located on the campus of The University of Buffalo at Buffalo, New York. The amendment authorizes an increase in the presently authorized power level from 1 megawatt to 1.5 megawatts (thermal) maximum power and requires a control rod reversal setting of 110 percent of maximum power and a scram setting of 120 percent of maximum power. The amendment was requested by the licensee in an application for license amendment dated March 20, 1963 and supplement thereto dated July 1, 1963.

The Commission has found that:

(1) Operation of the reactor in accordance with the license as amended will not present undue hazard to the health and safety of the public and will not be inimical to the common defense and security;

(2) The application for amendment complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;

(3) Prior public notice of proposed issuance of this amendment is not required since the amendment does not involve consideration of safety factors significantly different from those previously evaluated.

Within fifteen days from the date of publication of this notice in the FEDERAL REGISTER, the licensee may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice (10 CFR Part 2). If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment see (1) the hazards analysis prepared by the Research and Power Reactor Safety Branch of the Division of Licensing and Regulation and (2) the licensee's application for license amendment dated March 20, 1963 and supplement thereto dated July 1, 1963, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (1) above may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Bethesda, Md., this 4th day of September 1963.

For the Atomic Energy Commission.

ROBERT H. BRYAN,
Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.

[License R–77; Amdt. 5]

License No. R–77, as amended, which authorizes Western New York Nuclear Research Center, Inc. to possess and operate the nuclear reactor located on the campus of The University of Buffalo at Buffalo, New York, is hereby further amended as follows:

1. Paragraph 4.A. of License No. R–77, as amended, is hereby amended to read as follows:

"4.A. The licensee shall not operate the facility at steady state power levels in excess of 1.5 megawatts thermal without prior written authorization from the Commission."

2. The control rod reversal setting shall be 110 percent maximum power.

3. The maximum high flux scram setting shall be 120 percent maximum power.

4. The minimum reactor flow rate at maximum power shall be 1200 gallons per minute.

This amendment is effective as of the date of issuance.

Date of issuance: September 4, 1963.

For the Atomic Energy Commission.

ROBERT H. BRYAN,
Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 63–9816; Filed, Sept. 13, 1963; 8:45 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP64–28]

AMERICAN LOUISIANA PIPE LINE CO.

Notice of Application and Date of Hearing

SEPTEMBER 6, 1963.

Take notice that on July 26, 1963, American Louisiana Pipe Line Company (Applicant), 1 Woodward Avenue, Detroit 26, Michigan, filed in Docket No. CP64–28 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval of the Commission to abandon a gas purchase measuring station constructed in the Creole Field, Cameron Parish, Louisiana, for the purchase of gas from Hope Natural Gas Company (Hope) and Mississippi River Fuel Corporation (MRF), all as more fully described in the application which is on file with the Commission and open to public inspection.

Applicant states that it no longer has any use for the subject facilities inasmuch as the single well of Hope and MRF in the Creole Field proved commercially unproductive in December 1962, and was shut-in, and the gas purchase contract between Applicant and Hope and MRF was cancelled by an agreement dated March 22, 1963.

The subject facilities were constructed pursuant to "budget-type" certificate authorization issued March 12, 1962, in Docket No. CP62–141 at a cost of $7,730.

Hope and MRF have applied for authorization to abandon the subject sale in Docket Nos. CP63–336 and CP63–298, respectively.[1]

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 15, 1963, at 9:30 a.m., e.d.s.t.,

[1] Notice issued August 15, 1963, in Docket No. G–2668, et al., and published in the FEDERAL REGISTER on August 24, 1963 (28 F.R. 9363).

in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 4, 1963. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 63-9824; Filed, Sept. 13, 1963; 8:46 a.m.]

[Project No. 2391]

NORTHERN VIRGINIA POWER CO.

Notice of Application for License

SEPTEMBER 6, 1963.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by Northern Virginia Power Company (correspondence to: Martin J. Urner, Vice President, 14 North Loudoun Street, Winchester, Virginia) for license for constructed Project No. 2391, known as the Warren Hydro Plant, located on the Shenandoah River, in County of Warren, near the Town of Front Royal, Virginia.

The project consists of a 13-foot high reinforced concrete dam about 420 feet in length, a 45-foot wide by 18 feet deep headrace about 350 feet long, a reinforced concrete powerhouse housing 3 generators having a capacity of 250 kilowatts each, and other appurtenant facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is October 31, 1963. The application is on file with the Commission of public inspection.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 63-9825; Filed, Sept. 13, 1963; 8:46 a.m.]

[Docket No. E-7126]

OTTER TAIL POWER CO.

Notice of Application

SEPTEMBER 6, 1963.

Take notice that on September 3, 1963, an application was filed with the Federal Power Commission pursuant to section 204 of the Federal Power Act by Otter Tail Power Company (Applicant), a corporation organized under the laws of the State of Minnesota and doing business in the States of Minnesota, North Dakota and South Dakota, with its principal business office at Fergus Falls, Minnesota, seeking an order authorizing the issuance of $7,000,000 in principal amount of First Mortgage Bonds _____ percent Series due 1993. The First Mortgage Bonds are to be dated November 1, 1963 and will mature November 1, 1993, and will carry interest at such rate as may be determined by competitive bidding, payable semi-annually on May 1, and November 1 of each year. Said First Mortgage Bonds will be of a series created pursuant to the provisions of Applicant's Indenture of Mortgage as heretofore supplemented and as revised by a Twenty-first Supplemental Indenture thereto and as supplemented by a Twenty-sixth Supplemental Indenture. In connection with the issuance and sale of the First Mortgage Bonds there will be a cash sinking fund of one percent per annum with the first sinking fund payment being made on December 1, 1964. Applicant states that the First Mortgage Bonds will be issued and sold for the purpose of securing funds with which to repay short-term bank loans incurred in 1963 to pay the expenses of the Applicant's construction program and with which to defray a portion of the expense of such construction program during the balance of the year 1963 and subsequent years.

Applicant states that the actual construction expense for the first seven months of 1963 totaled $6,499,000 and that the estimated construction expense for the last five months of 1963 is $5,971,000 and for the year 1964 is expectant to total $7,397,000.

The major portion of the Production construction program consists of the installation of an additional 66,000 kw coal-fired steam turbine generating unit at the Company's Hoot Lake Plant near Fergus Falls, Minnesota, at a total estimated cost of $11,100,000, of which approximately $1,769,000 had been spent at December 31, 1962, and is not included in the Company's 1963–1965 construction program. Of the $9,331,000 balance of said estimated cost, approximately $3,468,000 was spent in the first seven months of 1963, and estimated expenditures of approximately $3,914,000 and $1,949,000 are scheduled for the last five months of 1963 and for the year 1964, respectively.

Other expenditures for Production construction consist of expenditures to increase efficiency of other steam plants, to replace or renovate steam plant equipment, to restore small hydro-electric dams and to move standby diesel electric generating equipment from one location to another. There are no plans for commencing the construction of other major production facilities before 1966.

Any person desiring to be heard or to make any protests with reference to said application should on or before September 25, 1963, file with the Federal Power Commission, Washington 25, D.C., petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 63-9826; Filed, Sept. 13, 1963; 8:46 a.m.]

[Project No. 2241]

PUBLIC UTILITY DISTRICT NO. 1 OF KLICKITAT COUNTY

Notice of Amended Application for License

SEPTEMBER 6, 1963.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by Public Utility District No. 1 of Klickitat County (correspondence to: Public Utility District No. 1 of Klickitat County, Goldendale, Washington) for license for proposed Project No. 2241, known as Nine Foot Creek Section of the White Salmon River Hydroelectric Project, to be located on White Salmon River, Green Canyon Creek and Trout Lake Creek, in Skamania and Klickitat Counties, Washington, in the vicinity of Trout Lake, Washington, and affecting lands of the United States within Gifford Pinchot National Forest.

As proposed, the project consists of: Nine Foot Creek Dam on White Salmon River at mile 34.7—a concrete gravity dam 100 feet high with free overflow spillway and gated diversion works to maintain minimum flows in the White Salmon River; a diversion conduit consisting of about 7,500 feet of open canals to the Green Canyon Reservoir; Green Canal Reservoir on Green Canyon Creek—an earth fill dam about 6,000 feet long with maximum height of about 96 feet; a small emergency saddle spillway at the upper end of the reservoir; a reservoir containing 6,400 acre-feet of storage and an area of 153 acres; a steel penstock 3,350 feet long varying in diameter from 90 to 84 inches to a powerhouse on Trout Creek Lake; and Trout Creek Powerhouse—an outdoor type structure containing two vertical Francis turbines of 27,000 horsepower each, connected to 20,000 kilowatt generators with appurtenant electrical and mechanical equipment; a tailrace leading to a reregulating reservoir having an earth and gravel fill dam 0.5 miles long and a maximum height of 40 feet with a 6 x 14 foot Bascule gate-controlled spillway; and a 115 kilovolt transmission line 28 miles long to the substation and a connection with the Bonneville Power Administration lines.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and regulations of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is October

28, 1963. The application is on file with the Commission for public inspection.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 63-9827; Filed, Sept. 13, 1963; 8:46 a.m.]

[Docket No. G-20464 etc.]

TRANSWESTERN PIPELINE CO. ET AL.

Notice of Postponement of Hearing

SEPTEMBER 6, 1963.

Motions for indefinite postponement of the hearing scheduled for September 9, 1963, in the above-designated proceeding were filed by Cities Service Gas Company on September 3, 1963, and by Transwestern Pipeline Company and Trans-Cities Pipeline Company, jointly, on September 5, 1963.

Upon consideration of the motions, the concurrences filed thereto and the responses to our inquiries: [1]

Notice is given that the hearing heretofore scheduled for September 9, 1963, is postponed until further notice.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 63-9828; Filed, Sept. 13, 1963; 8:46 a.m.]

[Docket No. CP64-31]

UNITED GAS PIPE LINE CO.

Notice of Application and Date of Hearing

SEPTEMBER 6, 1963.

Take notice that on July 29, 1963, United States Gas Pipe Line Company (Applicant) P.O. Box 1407, Shreveport, Louisiana, 71102, filed in Docket No. CP64-31 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction during the calendar year 1964 and the operation of field facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers in the general area of Applicant's existing transmission facilities, at a total cost not to exceed a maximum of $1,600,000, with no single project to exceed a cost of $400,000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in producing areas generally coextensive with said system.

This matter should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 10, 1963, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before September 30, 1963. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 63-9829; Filed, Sept. 13, 1963; 8:46 a.m.]

[1] The Secretary's office contacted the participants to the proceeding by telephone on Sept. 5 and 6, 1963, to obtain their views concerning the subject motions.

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1609]

ELECTRIC BOND AND SHARE CO. AND ESCAMBIA CHEMICAL CORP.

Notice of Filing of Application for Order Exempting Transaction Between Affiliates

SEPTEMBER 9, 1963.

Notice is hereby given that Electric Bond and Share Company ("Bond and Share"), 2 Rector Street, New York 6, New York, a New York corporation and a registered closed-end nondiversified management investment company, and Escambia Chemical Corporation ("Escambia"), 261 Madison Avenue, New York, New York, a Delaware corporation, have filed a joint application under section 17(b) of the Investment Company Act of 1940 ("Act") for an order exempting from the provisions of section 17(a) of the Act the proposed redemption and exchange of certain securities of Escambia held by Bond and Share. All interested persons are referred to the application filed with the Commission for a full statement of applicants' representations which are summarized below.

Escambia has the following securities outstanding: (a) $8,125,500 face amount of 4 percent Notes due October 1, 1966, (b) $10,000,000 face amount of 5½ percent Convertible Notes due December 31, 1967 and (c) 10,150 shares of Common Stock, $1 par value; all of which are owned by Bond and Share, except 150 shares of Common Stock which were issued in July 1963. Bond and Share acquired one-half of the outstanding securities of Escambia owned by it by purchase from United Gas Corporation, said transaction having been authorized by the Commission on April 1, 1963 (Investment Company Act Release No. 3650). The principal products of Escambia and its subsidiaries are anhydrous ammonia, nitric acid, ammonium nitrate, ammonium nitrate solutions, urea and urea solutions, polyvinyl chloride and specialty resins, methanol, and methylamines.

Escambia is expanding its product lines into new fields and is engaged in a construction program in connection therewith. The estimated cost of the present construction program is $7,400,000, of which $3,000,000 must be supplied by the raising of new capital. In order to raise new capital, and to permit Bond and Share to reduce substantially its present debt position in Escambia, Escambia proposes to refinance its existing debt securities, which mature in 1966 and 1967. Negotiations among The Prudential Insurance Company of America ("Prudential"), Escambia and Bond and Share have resulted in a commitment from Prudential to purchase from Escambia at face amount $15,000,000 of a new class of 5½ percent Notes due 1978 of Escambia.

Of the proceeds to be received by Escambia from the sale of the new 5½ percent Notes to Prudential, and as part of the refinancing plan, $12,000,000 will be used to redeem from Bond and Share, at par, all of its outstanding 4 percent Notes, amounting to $8,125,500, due October 1, 1966, and $3,874,500 of its 5½ percent Convertible Notes due December 31, 1967, in accordance with the terms of the Notes and the Mortgage securing such Notes, except that Bond and Share will waive a redemption premium equivalent to 3.5 percent of the face amount of the 5½ percent Convertible Notes to be redeemed. The remainder of the proceeds, $3,000,000, will be available to meet the new capital requirements of Escambia.

As part of the refinancing plan, Bond and Share will exchange $6,125,500 face amount of the 5½ percent Convertible Notes due December 31, 1967 for a like face amount of a new class of 5 percent Convertible Notes due 1979 and will deliver an instrument to Escambia in satisfaction of the outstanding Mortgage. The new class of 5 percent Convertible Notes to be held by Bond and Share will have the same conversion price as the present 5½ percent Convertible Notes. The payment of interest and principal on the new class of 5 percent Convertible Notes is subject to certain restrictions, and said notes also will be subordinated to the 5½ percent Notes to be held by Prudential. The application states that the terms of the new class of Notes to be held by Bond and Share were established as a result of the negotiations with Prudential and are essential conditions of Prudential's commitment to purchase the 5½ percent Notes.

Following the completion of the proposed transactions Escambia will have outstanding long-term debt in the aggregate amount of $21,125,500, $3,000,000 more than the present total of $18,125,500. The new debt will consist of $15,000,000 of 5½ percent Notes due

1978, all of which will be held by Prudential, and $6,125,500 of 5 percent Convertible Notes due 1979, all of which will be held by Bond and Share. None of the proposed debt securities will be secured by any mortgage or other lien on Escambia's properties, and the lien of the present Mortgage will have been satisfied.

Escambia operated at a loss during its initial operating years 1956 through 1958, and earned a small profit in 1959. For the three calendar years 1960 through 1962, it reported consolidated net income of approximately $866,000 (after reflecting a write-down in investments of approximately $457,000), $1,697,000, and $1,827,000 (likewise after reflecting a write-down in investments of $80,000 in the latter year). By virtue of operating tax loss carryovers, it paid no Federal income taxes in 1960; in 1961 it again paid no Federal income tax, but provided $58,500 for deferred Federal income taxes; and in 1962 it provided $315,300 for Federal income taxes and $930,250 for deferred Federal income taxes. For the calendar years 1963 through 1965, Escambia has projected consolidated net income of $1,601,000, $2,407,000, and $2,572,000, respectively. Each of these amounts reflects a provision of $500,000 for deferred Federal income taxes, and varying provisions for current Federal income taxes.

Escambia is an affiliate of Bond and Share as a result of Bond and Share's holdings of the common stock of Escambia. Section 17(a) of the Act, as here pertinent, prohibits an affiliated person of a registered investment company from selling to, or purchasing from, such registered company securities or property, unless the Commission upon application pursuant to section 17(b), grants an exemption from section 17(a) upon a finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act, and is consistent with the general purposes of the Act.

Notice is further given that any interested person may, not later than September 24, 1963 at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address set forth above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 63-9835; Filed, Sept. 13, 1963; 8:47 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS IN RETAIL OR SERVICE ESTABLISHMENTS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR Part 519), and Administrative Order No. 561 (27 F.R. 4001), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates, type of establishment and total number of employees of the establishment are as indicated below. Pursuant to § 519.6(b) of the regulation, the minimum certificate rates are not less than 85 percent of the minimum applicable under section 6 of the Fair Labor Standards Act.

The following certificates were issued pursuant to paragraphs (c) and (g) of § 519.6 of 29 CFR Part 519, providing for an allowance not to exceed the proportion of the total number of hours worked by full-time students at rates below $1.00 an hour to the total number of hours worked by all employees in the establishment during the base period, or 10 percent, whichever is lesser, in occupations of the same general classes in which the establishment employed full-time students at wages below $1.00 an hour in the base period.

REGION II

Neisner Brothers, Inc., No. 149, 1151 Highway No. 35, Middletown Shopping Center, Middletown, N.J.; effective 9-4-63 to 3-31-64 (variety store; 26 employees).

REGION III

Bright Stores, Inc., 28 West Ridge Street, Lansford, Pa.; effective 8-19-63 to 3-31-64 (department store; 111 employees).

Bright Stores, Inc., 109-113 South First Street, Lehighton, Pa.; effective 8-19-63 to 3-31-64 (department store; 59 employees).

REGION IV

Kuhn's 5-10-25¢ Store, 401 West Main Street, Tupelo, Miss.; effective 8-2-63 to 3-31-64 (variety store; 24 employees).

REGION V

Neisner Brothers, Inc., No. 3, 22651 Gratiot Avenue, East Detroit, Mich.; effective 9-18-63 to 3-31-64 (variety store; 9 employees).

REGION VII

S. H. Kress and Co., 540 Main Street, Grand Junction, Colo.; effective 6-10-63 to 3-31-64 (variety store; 30 employees).

S. H. Kress and Co., 15 South Main Street, Fort Scott, Kans.; effective 6-13-63 to 3-31-64 (variety store; 23 employees).

S. H. Kress and Co., 111 North Main Street, Hutchinson, Kans.; effective 6-10-63 to 3-31-64 (variety store; 22 employees).

S. H. Kress and Co., 617 North Broadway, Pittsburg, Kans.; effective 6-10-63 to 3-31-64 (variety store; 41 employees).

S. H. Kress and Co., 224 East Douglas Avenue, Wichita, Kans.; effective 6-10-63 to 3-31-64 (variety store; 63 employees).

S. H. Kress and Co., 215 East High Street, Jefferson City, Mo.; effective 6-10-63 to 3-31-64 (variety store; 16 employees).

S. H. Kress and Co., 103 North Main Street, Nevada, Mo.; effective 6-10-63 to 3-31-64 (variety store; 20 employees).

Neisner Brothers, Inc., No. 48, 1001 16th Street, Denver, Colo.; effective 6-10-63 to 3-31-64 (variety store; 26 employees).

Neisner Brothers, Inc., No. 87, 308 Jefferson Street, Burlington, Iowa; effective 6-10-63 to 3-31-64 (variety store; 13 employees).

Neisner Brothers, Inc., No. 81, 703 Main Street, Dubuque, Iowa; effective 6-10-63 to 3-31-64 (variety store; 27 employees).

Neisner Brothers, Inc., No. 83, 407 Fourth Street, Sioux City, Iowa; effective 6-10-63 to 3-31-64 (variety store; 21 employees).

Neisner Brothers, Inc., No. 59, 2700 Cherokee, St. Louis, Mo.; effective 6-11-63 to 3-31-64 (variety store; 19 employees).

Neisner Brothers, Inc., No. 139, 7450 Forsyth Boulevard, St. Louis, Mo.; effective 6-10-63 to 3-31-64 (variety store; 26 employees).

Neisner Brothers, Inc., No. 70, 308 South 16th Street, Omaha, Nebr.; effective 6-10-63 to 3-31-64 (variety store; 31 employees).

Olson Food Store, Main Street, Erie, Kans.; effective 8-10-63 to 3-31-64 (food store; nine employees).

The following certificates were issued to establishments coming into existence after May 1, 1960, under paragraphs (c), (d), (g), and (h) of § 519.6 of 29 CFR, Part 519. The certificates permit the employment of full-time students at rates of not less than 85 cents an hour in the classes of occupations listed, and provide for limitations on the percentage of full-time student hours of employment at rates below $1.00 an hour to total hours of employment of all employees. The percentage limitations vary from month to month between the minimum and maximum figures indicated.

The J. S. Dillon & Sons Stores Co., Inc., No. 43, 1740 Massachusetts, Lawrence, Kans.; effective 8-28-63 to 3-31-64; cashiers, clerks, carry-out, wrappers, maintenance; 10 percent for each month (food store; 38 employees).

Kohl's Food Stores-Bradley, Inc., 7360 North 43d Street, Post Office Box 4196 Station K, Milwaukee, Wis.; effective 8-27-63 to 3-31-64; bag boys; between 9.7 percent and 10 percent (food store; 65 employees).

Kohl's Food Stores-Hampton, Inc., 2601 West Hampton Avenue, Post Office Box 4196 Station K, Milwaukee, Wis.; effective 8-27-63 to 3-31-64; bag boys; 10 percent for each month (food store; 67 employees).

Kwik Shop, Inc., No. 72, 2232 Amidon, Wichita, Kans.; effective 8-29-63 to 3-31-64;

clerks, cashiers, carry-out, wrappers, maintenance; 10 percent for each month (food store; six employees).

Rusty's North Side IGA, 620 North Second Street, Lawrence, Kans.; effective 8-19-63 to 3-31-64; sacker, carry-out; between 9.6 percent and 10 percent (food store; 25 employees).

Wrights Velda Rose, 5700 East Main, Mesa, Ariz.; effective 8-20-63 to 3-31-64; carry-out boys, bag boys, bottle boys; 10 percent for each month (food store; 22 employees).

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not tend to displace full-time employees. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 5th day of September 1963.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 63-9833; Filed, Sept. 13, 1963; 8:47 a.m.]

CERTIFICATES AUTHORIZING EMPLOYMENT OF LEARNERS OR STUDENT-WORKERS AT SPECIAL MINIMUM RATES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), and Administrative Order No. 561 (27 F.R. 4001) the firms listed in this notice have been issued special certificates authorizing the employment of learners or student-workers at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. The effective and expiration dates, occupations, wage rates, number or proportion of learners and learning periods, for certificates issued under general learner regulations (29 CFR 522.1 to 522.9), and the principal products manufactured by the employer are as indicated below. Conditions provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.20 to 522.25, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Angier Garment Co., Angier, N.C.; effective 9-3-63 to 9-2-64 (men's dress and utility shirts).

Anniston Sportswear Corp., 919 West Ninth Street, Anniston, Ala.; effective 9-10-63 to 9-9-64 (men's dress trousers).

Caledonia Manufacturing Co., Inc., Caledonia, Miss.; effective 9-11-63 to 9-10-64 (men's dress and play slacks).

Carolina Underwear Co., Inc., Carole Division, Pajama Division, Thomasville, N.C.; effective 8-31-63 to 8-30-64 (men's and boys' pajamas and ladies' pajamas).

Glamorise Foundations, Inc., 228 Pine Street, Williamsport, Pa.; effective 8-30-63 to 8-29-64 (ladies' brassieres, girdles, and corselets).

Green Bay Clothing Manufacturing, Inc., 507 Cedar Street, Green Bay, Wis.; effective 9-3-63 to 9-2-64 (men's and boys' outerwear coats and jackets).

Honey Togs, Inc., 605 West Upshur, Gladewater, Tex.; effective 8-29-63 to 8-28-64 (girls' jamaicas, pants, and blouses).

Kenchester Manufacturing Co., Inc., Buchanan, Va.; effective 8-29-63 to 8-28-64 (women's dresses).

Lackawanna Pants Manufacturing Co., Corner Brook Street and Cedar Avenue, Scranton, Pa.; effective 9-8-63 to 9-7-64 (men's trousers).

Meyersdale Manufacturing Co., Inc., Meyersdale, Pa.; effective 9-4-63 to 9-3-64 (men's shirts).

Morehead City Garment Co., Inc., Morehead City, N.C.; effective 9-10-63 to 9-9-64 (men's sport shirts).

Scamper Sportswear, Inc., 315 West 20th Street, Hazleton, Pa.; effective 9-4-63 to 9-3-64 (ladies' and children's outerwear jackets).

Superior Surgical Manufacturing Co., Inc., 63 New York Avenue, Huntington, N.Y.; effective 9-5-63 to 9-4-64 (men's and women's washable service apparel).

Sussex Sportswear, Inc., 419 West Third Street, Lewes, Del.; effective 9-3-63 to 9-2-64 (ladies' blouses and dresses).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Allied Manufacturing Co., 400 South Kansas Street, El Paso, Tex.; effective 9-3-63 to 9-2-64; 10 learners (children's cotton trousers).

Alma Dress Co., Inc., 207-211 South Main Street, Shenandoah, Pa.; effective 8-29-63 to 8-28-64; 10 learners (women's dresses).

Blue Ridge Manufacturers, Inc., Market Street, Laurel, Del.; effective 8-26-63 to 8-25-64; 10 learners (men's lined work and semi-dress jackets).

Covington Manufacturing Co., 1019 Washington Street, Covington, Ind.; effective 8-30-63 to 8-29-64; 10 learners (men's and boys' carcoats and outerwear jackets and girls' outerwear jackets).

Jacobs Bros., Inc., Hancock, Md.; effective 8-29-63 to 8-28-64; 10 learners (nurses', maids', waitresses', and beauticians' uniforms, aprons, and washable service garments).

Newport Dress Factory, 28 South Third Street, Newport, Pa.; effective 8-29-63 to 8-28-64; 10 learners (women's dresses).

Tabor Products Manufacturing Co., Inc., Wall Street, Tabor City, N.C.; effective 8-30-63 to 8-29-64; 10 learners (women's negligees).

Wendell Garment Co., Inc., 91 North Pine Street, Wendell, N.C.; effective 9-5-63 to 9-4-64; 10 learners (men's sport shirts).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Fairchild Tailored Slacks, Inc., Main Alley, Tifton, Ga.; effective 9-3-63 to 3-2-64; 30 learners (men's and boys' trousers).

LGAM Manufacturing Co., Inc., Wooderfield, Ohio; effective 8-26-63 to 2-25-64; 50 learners (ladies' blouses).

Mary Konzman Dress Shop, 814 North Main Street, Forest City, Pa.; effective 9-4-63 to 3-3-64; 10 learners (women's dresses).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.60 to 522.65, as amended).

Conover Glove Manufacturing Co., Inc., Conover, N.C.; effective 8-29-63 to 8-28-64; 10 learners for normal labor turnover purposes (work gloves).

Northern Glove & Mitten Co., 1514 Morrow Street, Green Bay, Wis.; effective 9-3-63 to 9-2-64; five learners for normal labor turnover purposes (leather gloves and mittens).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.40 to 522.43, as amended).

Betterwear Hosiery Mill, Inc., Central Avenue and East Third Street, Catawba, N.C.; effective 9-3-63 to 9-2-64; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Grover Furr Hosiery Co., Marion, Va.; effective 9-3-63 to 9-2-64; 5 percent of the total number of factory production workers for normal labor turnover purposes (full-fashioned hosiery).

Portage Hosiery Co., Portage, Wis.; effective 9-5-63 to 9-4-64; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's, women's, and children's seamless hosiery).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.30 to 522.35, as amended).

Carolina Underwear Co., Inc., Forsyth Division, Rayon Division, Thomasville, N.C.; effective 8-31-63 to 8-30-64; 5 percent of the total number of factory production workers engaged in the production of ladies' and children's panties for normal labor turnover purposes (ladies' and children's panties).

Circle Manufacturing Co., Thomasville, N.C.; effective 8-28-63 to 8-27-64; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' panties and men's shorts).

Junior Form Lingerie Corp., Route 601, Jerome, Pa.; effective 8-29-63 to 8-28-64; five learners for normal labor turnover purposes (women's sleepwear).

Malone Knitting Co., Inc., River Street, Wolfeboro, N.H.; effective 9-4-63 to 9-3-64; five learners for normal labor turnover purposes (infants' and children's knitted underwear).

Merrimaid Manufacturing Co., Inc., Saranac Street, Littleton, N.H.; effective 8-23-63 to 8-22-64; five learners for normal labor turnover purposes (ladies' and men's nylon tricot knit pajamas and travel sets and ladies' panties).

Walter W. Moyer Co., Inc., 400 West Main Street, Ephrata, Pa.; effective 9-3-63 to 9-2-64; 5 percent of the total number of factory production workers for normal labor turnover purposes (infants', children's, misses', and men's knit underwear).

Penn-Morr Manufacturing Corp., 1501 Rural Road, Tempe, Ariz.; effective 9-3-63 to 9-2-64; 5 percent of the total number of factory production workers for normal labor turnover purposes (infants', children's, misses', and men's knit underwear).

Snowdon, Inc., Osceola, Iowa; effective 8-26-63 to 8-25-64; 5 percent of the total number of factory production workers for

normal labor turnover purposes (women's lingerie).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.9, as amended).

The Graham Co., 200 Industrial Drive, Waco, Tex.; effective 9–3–63 to 3–2–64; six learners for normal labor turnover purposes, in the occupation of embroidery machine operator for a learning period of 320 hours at the rate of not less than $1.10 an hour (embroidery of chenille sport letters and emblems and monograms, pennants, and banners).

L. C. Langston & Sons, Post Office Box 268, Arden, N.C.; effective 9–3–63 to 3–2–64; four learners for normal labor turnover purposes, in the occupation of machine operators, tenders, fixers and jobs immediately incidental thereto, each for a learning period of 240 hours at the rate of not less than $1.15 an hour (mop yarns).

Roundtree Ceramic Studio, 107 East Market Street, Highland, Tex.; effective 9–3–63 to 3–2–64; two learners for normal labor turnover purposes, in the occupation of caster for a learning period of 480 hours at the rates of at least $1.10 an hour for the first 320 hours and not less than $1.15 an hour for the remaining 160 hours (plaster molds for hobbiests).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR Part 528.

The following student-worker certificates were issued pursuant to the regulations applicable to the employment of student-workers (29 CFR 527.1 to 527.9). The effective and expiration dates, occupations, wage rates, number of student-workers, and learning periods for the certificates issued under Part 527 are as indicated below.

Adelphian Academy, 820 Academy Road, Holly, Mich.; effective 9–1–63 to 8–31–64; authorizing the employment of 60 student-workers in the woodworking (manufacturing trellises, picnic tables, bird houses, etc.) industry in the occupations of woodworking machine operator, assembler and related skilled and semiskilled occupations including incidental clerical work in the shop, for a learning period of 240 hours at the rates of $1.10 an hour for the first 120 hours and $1.15 an hour for the remaining 120 hours.

Andrews University, Berrien Springs, Mich.; effective 9–1–63 to 8–31–64; authorizing the employment of: (1) 90 student-workers in the bookbinding industry in the occupations of bookbinder, bindery worker and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.10 an hour for the first 300 hours and $1.15 an hour for the remaining 300 hours; (2) 20 student-workers in the printing industry in the occupations of compositor, pressman and related skilled and semiskilled occupations, for a learning period of 1000 hours at the rates of $1.10 an hour for the first 500 hours and $1.15 an hour for the remaining 500 hours; (3) 100 student-workers in the furniture manufacturing industry in the occupations of woodworking machine operator, assembler, finisher and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.10 an hour for the first 300 hours and $1.15 an hour for the remaining 300 hours; (4) 10 student-workers in the clerical industry in the occupations of bookkeeper, stenographer and related skilled and semiskilled occupations, for a learning period of 480 hours at the rates of $1.10 an hour for the first 240 hours and $1.15 an hour for the remaining 240 hours.

Atlantic Union College, Main Street, South Lancaster, Mass.; effective 9–1–63 to 8–31–64; authorizing the employment of: (1) 15 student-workers in the printing industry in the occupations of compositor, pressman, and related skilled and semiskilled occupations, for a learning period of 1000 hours at the rates of $1.10 an hour for the first 500 hours and $1.15 an hour for the remaining 500 hours; (2) 35 student-workers in the bookbinding industry in the occupations of bookbinder, bindery worker, and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.10 an hour for the first 300 hours and $1.15 an hour for the remaining 300 hours; (3) 40 student-workers in the broom manufacturing industry in the occupations of broommaker, stitcher, sorter, winder, and related skilled and semiskilled occupations, for a learning period of 360 hours at the rates of $1.10 an hour for the first 180 hours and $1.15 an hour for the remaining 180 hours.

Auburn Academy, Auburn, Wash.; effective 9–1–63 to 8–31–64; authorizing the employment of 95 student-workers in the furniture manufacturing industry in the occupations of woodworking machine operator, assembler, furniture finisher and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.10 an hour for the first 300 hours and $1.15 an hour for the remaining 300 hours.

Campbellsville College, Campbellsville, Ky.; effective 9–1–63 to 8–31–64; authorizing the employment of: (1) 25 student-workers in the furniture and novelty manufacturing industry in the occupations of woodworking machine operator, veneer machine operator including glue reel worker, assembler, furniture finisher and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.10 an hour for the first 300 hours and $1.15 an hour for the remaining 300 hours; (2) 15 student-workers in the metal fabricating industry in the occupations of machine tools operator, lathe operator, milling machine operator, drill press operator and related skilled and semiskilled occupations, for a learning period of 850 hours at the rates of $1.10 an hour for the first 425 hours and $1.15 an hour for the remaining 425 hours.

Campion Academy, Southwest 42d and Academy Drive, Loveland, Colo.; effective 9–1–63 to 8–31–64; authorizing the employment of 40 student-workers in the broom manufacturing industry in the occupations of broom maker, stitcher, sorter, winder and related skilled and semiskilled occupations, for a learning period of 360 hours at the rates of $1.10 an hour for the first 180 hours and $1.15 an hour for the remaining 180 hours.

Cedar Lake Academy, Cedar Lake, Mich.; effective 9–1–63 to 8–31–64; authorizing the employment of 25 student-workers in the furniture manufacturing (redwood-outdoor) industry in the occupations of woodworking machine operator, assembler, and related skilled and semiskilled occupations including incidental clerical work in the shop, for a learning period of 600 hours at the rates of $1.10 an hour for the first 300 hours and $1.15 an hour for the remaining 300 hours.

Clear Creek Baptist School, Pineville, Ky.; effective 9–1–63 to 8–31–64; authorizing the employment of 30 student-workers in the church furniture manufacturing industry in the occupations of woodworking machine operator, assembler, furniture finisher and related skilled and semiskilled occupations including incidental clerical work in the shop, for a learning period of 600 hours at the rates of $1.10 an hour for the first 300 hours and $1.15 an hour for the remaining 300 hours.

Enterprise Academy, Enterprise, Kans.; effective 9–1–63 to 8–31–64; authorizing the employment of eight student-workers in the printing industry for the occupations of compositor, pressman, linotype operator, bindery worker and related skilled and semiskilled occupations, for a learning period of 1000 hours at the rates of $1.10 an hour for the first 500 hours and $1.15 an hour for the remaining 500 hours.

Forest Lake Academy, Post Office Box 157, Maitland, Fla.; effective 9–1–63 to 8–31–64; authorizing the employment of: (1) 10 student-workers in the printing industry in the occupations of compositor, pressman, and related skilled and semiskilled occupations including incidental clerical work in the shop, for a learning period of 1000 hours at the rates of $1.10 an hour for the first 500 hours and $1.15 an hour for the remaining 500 hours; (2) 20 student-workers in the bookbindery industry in the occupations of bookbinder, bindery worker, sewer, caser and related skilled and semiskilled occupations including incidental clerical work in the shop, for a learning period of 600 hours at the rates of $1.10 an hour for the first 300 hours and $1.15 an hour for the remaining 300 hours.

Hawaiian Mission Academy, 1438 Pensacola Street, Honolulu, Hawaii; effective 9–1–63 to 8–31–64; authorizing five student-workers in the printing industry in the occupations of compositor, pressman, bindery worker and related skilled and semiskilled occupations, for a learning period of 1000 hours at the rates of $1.10 an hour for the first 500 hours and $1.15 an hour for the remaining 500 hours; (2) one student-worker in the clerical industry in the occupations of typist, bookkeeper and related skilled and semiskilled occupations, for a learning period of 480 hours at the rates of $1.10 an hour for the first 240 hours and $1.15 an hour for the remaining 240 hours.

Laurelwood Academy, Route 2, Gaston, Oreg.; effective 9–1–63 to 8–31–64; authorizing the employment of 30 student-workers in the furniture manufacturing industry in the occupations of woodworking machine operator, assembler, finisher and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.10 an hour for the first 300 hours and $1.15 an hour for the remaining 300 hours.

Madison College, Madison, Tenn.; effective 9–1–63 to 8–31–64; authorizing the employment of three student-workers in the steam plant for school industries in the learner occupations of boilerman, fireman and related skilled and semiskilled occupations, for a learning period of 300 hours at the rates of $1.10 an hour for the first 150 hours and $1.15 an hour for the remaining 150 hours.

Newbury Park Academy, 180 Academy Drive, Newbury Park, Calif.; effective 9–1–63 to 8–31–64; authorizing the employment of 25 student-workers in the broom manufacturing industry in the occupations of broom maker, sorter, seeder, winder, stitcher dyer, and related skilled and semiskilled occupations, for a learning period of 360 hours at the rates of $1.10 an hour for the first 180 hours and $1.15 an hour for the remaining 180 hours.

Oak Park Academy, Nevada, Iowa; effective 9–1–63 to 8–31–64; authorizing the em-

ployment of: (1) six student-workers in the printing industry in the occupations of compositor, pressman, and related skilled and semiskilled occupations including incidental clerical work in the shop, for a learning period of 1000 hours at the rates of $1.10 an hour for the first 500 hours and $1.15 an hour for the remaining 500 hours; (2) 10 student-workers in the broom manufacturing industry in the occupations of broom maker, stitcher and related skilled and semiskilled occupations, for a learning period of 360 hours at the rates of $1.10 an hour for the first 180 hours and $1.15 an hour for the remaining 180 hours.

Ozark Academy, Route 2, Gentry, Ark.; effective 9–1–63 to 8–31–64; authorizing the employment of 12 student-workers in the broom and mop manufacturing industry in the occupations of broom maker, stitcher, sorter, winder, painter and related skilled and semiskilled occupations, for a learning period of 360 hours at the rates of $1.10 an hour for the first 180 and $1.15 an hour for the remaining 180 hours.

Sandia View Academy, Post Office Box 98 and 325 (Corrales Road), Sandoval, New Mexico; effective 9–1–63 to 8–31–64; authorizing the employment of 50 student-workers in the furniture manufacturing (wood) industry in the occupations of woodworking machine operator, assembler, finisher and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.10 an hour for the first 300 hours and $1.15 an hour for the remaining 300 hours.

Shenandoah Valley Academy, New Market, Va.; effective 9–1–63 to 8–31–64; authorizing the employment of: (1) 25 student-workers in the bookbinding industry in the occupations of bookbinder, bindery worker, sewer, trimmer, backer cutter, casemaker, letterer, and related skilled and semiskilled occupations including incidental clerical work in the shop, for a learning period of 600 hours at the rates of $1.10 an hour for the first 300 hours and $1.15 an hour for the remaining 300 hours; (2) 20 student-workers in the broom and mop manufacturing industry in the occupations of broom maker, stitcher, seeder, sorter, winder, dyer, and related skilled and semiskilled occupations, for a learning period of 360 hours at the rates of $1.10 an hour for the first 180 hours and $1.15 an hour for the remaining 180 hours.

Southern Missionary College, Collegedale, Tenn.; effective 9–1–63 to 8–31–64; authorizing the employment of: (1) 70 student-workers in the bookbinding industry in the occupations of bookbinder, sewer, casemaker and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.10 an hour for the first 300 hours and $1.15 an hour for the remaining 300 hours; (2) 60 student-workers in the broom manufacturing industry in the occupations of winder, sorter, stitcher and related skilled and semiskilled occupations, for a learning period of 360 hours at the rates of $1.10 an hour for the first 180 hours and $1.15 an hour for the remaining 180 hours; (3) 12 student-workers in the clerical industry in the occupations of typist, filer, stenographer and related skilled and semiskilled occupations, for a learning period of 480 hours at the rates of $1.10 an hour for the first 240 hours and $1.15 an hour for the remaining 240 hours; (4) 35 student-workers in the printing industry in the occupations of compositor, pressman, and related skilled and semiskilled occupations, for a learning period of 1,000 hours at the rates of $1.10 an hour for the first 500 hours and $1.15 an hour for the remaining 500 hours.

Southwestern Union College, Keene, Tex.; effective 9–1–63 to 8–31–64; authorizing the employment of: (1) six student-workers in the printing industry in the occupations of compositor, pressman, bindery worker, camera and plate room technician and related skilled and semiskilled occupations, for a learning period of 1,000 hours at the rates of $1.10 an hour for the first 500 hours and $1.15 an hour for the remaining 500 hours; (2) two student-workers in the clerical industry in the occupations of typist, file clerk, bookkeeper, stenographer, timekeeper and related skilled and semiskilled occupations, for a learning period of 480 hours at the rates of $1.10 an hour for the first 240 hours and $1.15 an hour for the remaining 240 hours.

Thunderbird Academy, 13401 North Scottsdale Road, Scottsdale, Ariz.; effective 9–1–63 to 8–31–64; authorizing the employment of 90 student-workers in the woodworking (manufacturing furniture) industry in the occupations of woodworking machine operator, assembler, furniture finisher, and related skilled and semiskilled occupations including incidental clerical work in the shop, for a learning period of 600 hours at the rates of $1.10 an hour for the first 300 hours and $1.15 an hour for the remaining 300 hours.

Union College, 3800 South 48th Street, Lincoln, Nebr.; effective 9–1–63 to 8–31–64; authorizing the employment of: (1) 8 student-workers in the printing industry in the occupations of compositor, pressman, and related skilled and semiskilled occupations, for a learning period of 1,000 hours at the rates of $1.10 an hour for the first 500 hours and $1.15 an hour for the remaining 500 hours; (2) 15 student-workers in the bookbinding industry in the occupations of bookbinder, bindery worker, and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.10 an hour for the first 300 hours and $1.15 an hour for the remaining 300 hours; (3) 30 student-workers in the furniture manufacturing industry in the occupations of woodworking machine operator, assembler, finisher, and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.10 an hour for the first 300 hours and $1.15 an hour for the remaining 300 hours; (4) 8 student-workers in the clerical industry in the occupations of bookkeeper, business machine operator, and related skilled and semiskilled occupations, for a learning period of 480 hours at the rates of $1.10 an hour for the first 240 hours and $1.15 an hour for the remaining 240 hours; (5) 10 student-workers in the broom manufacturing industry in the occupations of broom maker, stitcher, and related skilled and semiskilled occupations, for a learning period of 360 hours at the rates of $1.10 an hour for the first 180 hours and $1.15 an hour for the remaining 180 hours.

Union Springs Academy, Union Springs, N.Y.; effective 9–1–63 to 8–31–64; authorizing the employment of 25 student-workers in the broom manufacturing industry in the occupations of sorter, winder, stitcher and related skilled and semiskilled occupations, for a learning period of 360 hours at the rates of $1.10 an hour for the first 180 hours and $1.15 an hour for the remaining 170 hours.

Upper Columbia Academy, Spangle, Wash.; effective 9–1–63 to 8–31–64; authorizing the employment of 54 student-workers in the furniture manufacturing industry in the occupations of woodworking machine operator, springer, sewer, trimmer, cutter, assembler, upholsterer, furniture finisher and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.10 an hour for the first 300 hours and $1.15 an hour for the remaining 300 hours.

Walla Walla College, Drawer 1, College Place, Wash.; effective 9–1–63 to 8–31–64; authorizing the employment of: (1) 8 student-workers in the printing industry in the occupations of compositor, pressman, and related skilled and semiskilled occupations, for a learning period of 1,000 hours at the rates of $1.10 an hour for the first 500 hours and $1.15 an hour for the remaining 500 hours; (2) 30 student-workers in the bookbinding industry in the occupations of bookbinding, bindery worker and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.10 an hour for the first 300 hours and $1.15 an hour for the remaining 300 hours.

The student-worker certificate was issued upon the applicant's representations and supporting material fulfilling the statutory requirements for the issuance of such certificates, as interpreted and applied by Part 527.

Signed at Washington, D.C., this 9th day of September 1963.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 63–9834; Filed, Sept. 13, 1963; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 11, 1963.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 38533: *Cement and related articles from Joppa, Ill.* Filed by O. W. South, Jr., agent (No. A4373), for interested rail carriers. Rates on cement and related articles, in carloads, from Joppa, Ill., to points in Kentucky and Tennessee.

Grounds for relief: Market competition.

Tariff: Supplement 14 to Southern Freight Association, agent, tariff I.C.C. S–351.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 63–9842; Filed, Sept. 13, 1963; 8:47 a.m.]

[Application No. 23; Amdt. 5]

MIDDLE ATLANTIC CONFERENCE AGREEMENT

SEPTEMBER 11, 1963.

The Commission is in receipt of an application in the above-entitled and numbered proceeding for approval of amendments to the agreement therein approved under the provisions of section 5a of the Interstate Commerce Act.

Filed August 30, 1963 by: T. B. Alfriend, Executive Vice President and John F. Rose, General Manager, 2111 E Street NW., P.O. Box 686, Washington 4, D.C.

Amendments involved; Change the agreement so as to (1) include provisions governing divisions of interline revenue and procedures with respect thereto, (2) define clearly the geographical scope of the rate making activities, including

Canada, (3) provide clearly that representation on the board of directors and the general rate committee shall be of member carriers within their respective territories, and (4) clarify and correct certain other provisions, including editorial changes required by the above amendments.

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

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 20 days from the date of this notice. As provided by the general rules of practice of the Commission, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, Division 2.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 63-9843; Filed, Sept. 13, 1963; 8:47 a.m.]

CUMULATIVE CODIFICATION GUIDE—SEPTEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during September.

1 CFR

	Page
CFR Checklist	9665

3 CFR

	Page
PROCLAMATIONS:	
2761A	9859
3517	9859
3553	9859
3554	9861
EXECUTIVE ORDERS:	
Oct. 16, 1918	9819
10735	9865
10984	9865
11098	9865
11118	9863
11119	9865

4 CFR

	Page
6	9665

5 CFR

	Page
1—990	10022
6	9876, 9914, 9937
24	9805
29	9839
37	9839
89	9839
201—210	9979
350	9980
401	9980
501	9980
601	9980
1201—1210	9979
1401	9980
1501	9980
1601	9980

6 CFR

	Page
310	9937

7 CFR

	Page
51	9685
401	9837
722	9975
876	9975
905	9806, 9876
908	9807, 9977
910	9807, 9977
927	9837
944	9808, 9877
948	9978
981	9914
987	9667, 9771
1070	9689
1126	9667
1131	9772
1421	9809, 9979
PROPOSED RULES:	
33	9944
362	9783
719	9824

7 CFR—Continued

	Page
PROPOSED RULES—Continued	
906	9696
929	9945, 9946
984	9989
987	9843
989	9923
1040	9881
1044	9946

9 CFR

	Page
56	9915
74	9772
180	9840
PROPOSED RULES:	
201	9783

12 CFR

	Page
1	9916
208	9840, 9938

14 CFR

	Page
71 [New]	9809, 9938, 9939, 9980
73 [New]	9668, 9841
507	9809, 9810, 9841, 9939, 9980, 9981
514	9810, 9939
609	9743, 9752, 9867, 9907
1204	9874
PROPOSED RULES:	
13	9697
40	9674
41	9674
42	9674
71 [New]	9698, 9789, 9790, 9825, 9843–9845, 9948–9955, 9993–9995.
73 [New]	9955, 9956, 9995
75 [New]	9790, 9957
207	9824
208	9824
212	9824
249	9824
288	9989
292	9824
399	9989
507	9790, 9791, 9826, 9827, 9846, 9957, 9993
514	9957

15 CFR

	Page
385	9689
399	9773

16 CFR

	Page
13	9874, 9875, 9917, 9981, 9982

18 CFR

	Page
PROPOSED RULES:	
2	9881
157	9881

19 CFR

	Page
1	9841
6	9841
10	9668, 9811
PROPOSED RULES:	
1	9696

20 CFR

	Page
404	9668

21 CFR

	Page
1	9837
3	9982
22	9982
42	9940
45	9879
121	9669, 9689, 9742, 9838, 9879
130	9941
146	9838
PROPOSED RULES:	
19	9788
31	9988

24 CFR

	Page
200	9983

25 CFR

	Page
PROPOSED RULES:	
221	9824

26 CFR

	Page
1	9762
197	9669

29 CFR

	Page
5	9690
25	9941
541	9782
PROPOSED RULES:	
545	9947
681	9947
1307	9881
1500	9696

32 CFR

	Page
710	9774
1001	9690
1002	9690
1003	9691
1005	9691
1008	9691
1012	9692
1013	9692
1030	9693
1054	9693
1467	9673
1470	9673
1471	9673
1631	9865

33 CFR

Page

202 9693
207 9693
208 9694

36 CFR

6 9694

38 CFR

3 9811

39 CFR

146 9917
147 9917

41 CFR

9–14 9842
9–51 9742
50–204 9812
60–1 9812

43 CFR

PROPOSED RULES:
63 9922
PUBLIC LAND ORDERS:
431 9819
537 9819
2278 9818
2939 9695
3074 9820
3164 9878

43 CFR—Continued

Page

PUBLIC LAND ORDERS—Continued
3181 9695
3206 9818
3207 9819
3208 9819
3209 9819
3210 9819
3211 9820
3212 9820
3213 9820
3214 9820
3215 9820
3216 9821
3217 9821
3218 9821
3219 9821
3220 9878
3221 9878

46 CFR

2 9733
24 9733
30 9733
70 9733
90 9734
110 9734
136 9943
137 9943

46 CFR—Continued

Page

171 9822
175 9734
176 9736
177 9738
178 9738
179 9739
180 9739
181 9740
182 9740
183 9741
184 9742
185 9742

47 CFR

PROPOSED RULES:
3 9958

48 CFR

Ch. I 9921

49 CFR

PROPOSED RULES:
10 9882

50 CFR

10 9778
32 ..... 9672, 9695, 9781, 9782, 9822, 9823, 9842, 9879, 9918–9921.
33 ..... 9695, 9921

Pages 10021–10112

PART II

FEDERAL REGISTER

VOLUME 28 NUMBER 180

Washington, Saturday, September 14, 1963

Civil Service Commission

Reorganization and Revision of Regulations

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

REORGANIZATION AND REVISION OF CHAPTER

The Civil Service Commission has reorganized and rewritten its Federal Personnel Manual. To conform with the format of the new manual, the regulations of the Commission which now appear in Chapters I and III of Title 5 have been reorganized, rewritten, and given new part numbers with three digits. The only change in the civil service rules, which also appear in Chapter I, has been to assign them part numbers 1 through 8.

During the rewrite process no substantive changes have been made in the regulations. However, Part 24, Formal Education Requirements for Appointment to Certain Scientific, Technical, and Professional Positions, has been eliminated as regulatory material. New formal education requirements, or changes in existing requirements, will be published as notices in the FEDERAL REGISTER.

The new regulations published below are effective November 17, 1963, superseding the corresponding old regulations. However, several parts of the new regulations will be published at a later date and will also be effective later.

Those to be published later are pay and leave regulations to replace current Parts 25, 27, and 30. Accordingly, until further notice, the following provisions of the current regulations remain in effect:

Part 25. Federal Employees' Pay Regulations except for the appeals provisions of § 25.416 which are included in new Part 772.

Part 27. Exclusion from provisions of the Federal Employees Pay Act of 1945, as amended, and the Classification Act of 1949, as amended, and establishment of maximum stipends for positions in government hospitals filled by student or resident trainees, except § 27.1 which is included in part in new Part 511.

Part 30. Annual and Sick Leave Regulations.

In addition, Part 12, Standby Regulations for use in a National Emergency Disaster, has not been rewritten or superseded and, therefore, remains in effect until further notice.

The new regulations do not reflect any changes in the current regulations that were published in the FEDERAL REGISTER after August 6, 1963. Those changes will be published in the near future as amendments of the new regulations. Any other changes in the regulations that are to be effective before November 17, 1963, will be published in the FEDERAL REGISTER in both the current and new form. Thus, the new regulations that are effective November 17, 1963 consist of:

1. The regulations as set out below.
2. Amendments of these regulations which reflect amendments of the current regulations between August 7, 1963, and September 14, 1963; and,
3. Any other amendments of these new regulations which are published in the FEDERAL REGISTER after September 14, and before November 17, 1963.

Subchapter A—Civil Service Rules

Part

1 Coverage and definitions (Rule I).
2 Appointment through the competitive system (Rule II).
3 Noncompetitive acquisition of status (Rule III).
4 Prohibited practices (Rule IV).
5 Regulations, investigations, and enforcement (Rule V).
6 Exceptions from the competitive service (Rule VI).
7 General provisions (Rule VII).
8 Appointment to overseas positions (Rule VIII).

Subchapter B—Civil Service Regulations

151 Political activity of State employees: rules of practice.
210 Basic concepts and definitions (general).
211 Veteran preference.
212 Competitive service and competitive status.
213 Excepted service.
230 Organization of the Government for personnel management.
293 Personnel records and files.
300 Employment (general).
301 Overseas employment.
302 Employment in the excepted service.
315 Career and career-conditional employment.
316 Temporary and indefinite employment.
330 Recruitment, selection, and placement (general).
332 Recruitment and selection through competitive examination.
333 Recruitment and selection for temporary and term appointment outside the register.
335 Promotion and internal placement.
337 Examining system.
338 Qualification requirements (general).
339 Qualification requirements (medical).
351 Reduction in force.
352 Reemployment rights.
353 Restoration after military duty.
410 Employee development.
430 Performance evaluation.
451 Incentive awards.
511 Position classification under the Classification Act System.
591 Allowances and differentials payable in non-foreign areas.
713 Nondiscrimination.
731 Suitability.
732 Personnel security program.
733 Political activities of Federal employees.
734 Holding State or local office.
752 Adverse actions.
771 Employee grievances and administrative appeals.
772 Appeals to the Commission.
831 Retirement.
870 Life insurance.
890 Federal employee health benefits.
891 Retired Federal employees health benefits.
930 Programs for specific positions and examinations (miscellaneous).
990 General and miscellaneous.

SUBCHAPTER A—CIVIL SERVICE RULES

PART 1—COVERAGE AND DEFINITIONS (RULE I)

Sec.

1.1 Positions and employees affected by the rules in this subchapter.
1.2 Extent of the competitive service.
1.3 Definitions.
1.4 Extent of the excepted service.

AUTHORITY: §§ 1.1 to 1.4 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633.

§ 1.1 Positions and employees affected by the rules in this subchapter.

The rules in this subchapter shall apply to all positions in the competitive service and to all incumbents of such positions. Except as expressly provided in the rule concerned, the rules in this subchapter shall not apply to positions and employees in the excepted service.

§ 1.2 Extent of the competitive service.

The competitive service shall include: (a) All civilian positions in the executive branch of the Government unless specifically excepted therefrom by or pursuant to statute or by the Civil Service Commission (hereafter referred to in this subchapter as the Commission) under § 6.1 of this subchapter; and (b) all positions in the legislative and judicial branches of the Federal Government and in the Government of the District of Columbia which are specifically made subject to the civil service laws by statute. The Commission is authorized and directed to determine finally whether a position is in the competitive service.

§ 1.3 Definitions.

As used in the rules in this subchapter:

(a) "Competitive service" shall have the same meaning as the words "classified service", or "classified (competitive) service", or "classified civil service" as defined in existing statutes and executive orders.

(b) "Competitive position" shall mean a position in the competitive service.

(c) "Competitive status" shall mean basic eligibility to be noncompetitively selected to fill a vacancy in a competitive position. A competitive status shall be acquired by career-conditional or career appointment through open competitive examination upon satisfactory completion of a probationary period, or may be granted by statute, executive order, or the Civil Service Rules without competitive examination. A person with competitive status may be promoted, transferred, reassigned, reinstated, or demoted without taking an open competitive examination, subject to the conditions prescribed by the Civil Service Rules and Regulations.

(d) An employee shall be considered as being in the competitive service when he has a competitive status and occupies a competitive position unless he is serving under a temporary appointment:

Provided, That an employee who is in the competitive service at the time his position is first listed under Schedule A, B, or C shall be considered as continuing in the competitive service as long as he continues to occupy such position.

(e) "Tenure" shall mean the period of time an employee may reasonably expect to serve under his current appointment. Tenure shall be granted and governed by the type of appointment under which an employee is currently serving without regard to whether he has a competitive status or whether his appointment is to a competitive position or an excepted position.

§ 1.4 Extent of the excepted service.

(a) The excepted service shall include all civilian positions in the executive branch of the Government which are specifically excepted from the requirements of the Civil Service Act or from the competitive service by or pursuant to statute or by the Commission under § 6.1 of this subchapter.

(b) "Excepted service" shall have the same meaning as the words "unclassified service", or "unclassified civil service", or "positions outside the competitive civil service" as used in existing statutes and executive orders.

(c) "Excepted position" shall have the same meaning as "unclassified position", or "position excepted by law", or "position excepted by executive order", or "position excepted by Civil Service Rule", or "position outside the competitive service" as used in existing statutes and Executive orders.

PART 2—APPOINTMENT THROUGH THE COMPETITIVE SYSTEM (RULE II)

Sec.
2.1 Competitive examinations and eligible registers.
2.2 Appointments.
2.3 Apportionment.
2.4 Probationary period.

AUTHORITY: §§ 2.1 to 2.4 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633.

§ 2.1 Competitive examinations and eligible registers.

(a) The Commission shall be responsible for open competitive examinations for admission to the competitive service which will fairly test the relative capacity and fitness of the persons examined for the position to be filled. The Commission is authorized to establish standards with respect to citizenship, age, education, training and experience, suitability, and physical and mental fitness, and for residence or other requirements which applicants must meet to be admitted to or rated in examinations.

(b) In addition to the names of persons who qualify in competitive examinations, the names of persons who have lost eligibility on a career or career-conditional register because of service in the armed forces, and the names of persons who lost opportunity for certification or who have served under career or career-conditional appointment when the Commission determines that they should be given certification, may also be entered at such places on appropriate registers and under such conditions as the Commission may prescribe.

(c) Whenever the Civil Service Commission (1) is unable to certify a sufficient number of names to permit the appointing officer to consider three eligibles for appointment to a fourth-class postmaster position in accordance with the regular procedure, or (2) finds that a particular rate of compensation for fourth-class postmaster positions is too low to warrant regular competitive examinations for such positions, it may authorize appointment to any such position or positions in accordance with such procedure as may be prescribed by the Commission. Persons appointed under this paragraph may acquire competitive status subject to satisfactory completion of a probationary period prescribed by the Commission.

§ 2.2 Appointments.

(a) The Commission shall establish and administer a career-conditional appointment system for positions subject to competitive examinations which will permit adjustment of the career service to necessary fluctuations in Federal employment, and provide an equitable and orderly system for stabilizing the Federal work force. A competitive status shall be acquired by a career-conditional appointee upon satisfactory completion of a probationary period, but the appointee shall have career-conditional tenure for a period of service to be prescribed by regulation of the Commission. When an employee has completed the required period of service his appointment shall be converted to a career appointment without time limitation: *Provided,* That his career-conditional appointment shall not be converted to a career appointment if the limitation on the number of permanent employees in the Federal civil service established under paragraph (b) of this section would be exceeded thereby. Persons selected from competitive civil service registers for other than temporary appointment shall be given career-conditional appointments: *Provided,* That career appointments shall be given to the following classes of eligibles: (1) Persons whose appointments are required by statute to be made on a permanent basis; (2) employees serving under career appointments at the time of selection from such registers; (3) former employees who have eligibility for career appointments upon reinstatement; and (4) to the extent permitted by law, persons appointed to positions in the field service of the Post Office Department for which salary rates are fixed by the act of July 6, 1945, 59 Stat. 435, as heretofore or hereafter amended and supplemented.

(b) Under the career-conditional appointment system there shall be a limit on the number of permanent employees in the Federal civil service which shall be the ceiling established by section 1310 of the Supplemental Appropriation Act, 1952 (65 Stat. 757), as amended. In the event section 1310, supra, is repealed, the Commission is authorized to fix such limitation on the number of permanent employees in the Federal civil service as it finds necessary to meet the needs of the service.

(c) The Commission may determine the types, duration, and conditions of indefinite and temporary appointments, and may prescribe the method for replacing persons holding such appointments.

§ 2.3 Apportionment.

Subject to such modifications as the Commission finds to be necessary in the interest of good administration, appointments to positions in agencies' headquarters offices which are located within the metropolitan area of Washington, D.C., shall be made so as to maintain the apportionment of appointments among the several States, Territories, and the District of Columbia upon the basis of population.

§ 2.4 Probationary period.

Persons selected from registers of eligibles for career or career-conditional appointment shall be required to serve a probationary period under such terms and conditions as the Commission may prescribe.

PART 3—NONCOMPETITIVE ACQUISITION OF STATUS (RULE III)

Sec.
3.1 Classes of persons who may noncompetitively acquire status.
3.2 Appointments without competitive examination in rare cases.
3.3 Conversion of appointments.

AUTHORITY: §§ 3.1 to 3.3 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633.

§ 3.1 Classes of persons who may noncompetitively acquire status.

(a) Upon recommendation by the agency concerned, and subject to such noncompetitive examination, time limits, or other requirements as the Commission may prescribe the following classes of persons may acquire a competitive status without competitive examination:

(1) A person holding a permanent position when it is placed in the competitive service by statute or executive order or is otherwise made subject to competitive examination.

(2) A disabled veteran who, in a manner satisfactory to the Commission, has completed a course of training in the executive branch of the Government prescribed by the Administrator of Veterans' Affairs in accordance with the act of March 24, 1943 (57 Stat. 43).

(3) An employee who has served at least two years in the immediate office of the President or on the White House Staff and who is transferred to a competitive position at the request of an agency.

(4) An employee who was serving when his name was reached for certification on a civil service register appropriate for the position in which he was serving: *Provided,* That the recommendation for competitive status is made prior to expiration of the register on which his name appears or is made during a period of continuous service since his name was reached: *Provided further,* That the register was being used for ap-

pointments conferring competitive status at the time his name was reached.

§ 3.2 Appointments without competitive examination in rare cases.

Subject to receipt of satisfactory evidence of the qualifications of the person to be appointed, the Commission may authorize an appointment in the competitive service without competitive examination whenever it finds that the duties or compensation of the position are such, or that qualified persons are so rare, that, in the interest of good civil-service administration, the position cannot be filled through open competitive examination. Any person heretofore or hereafter appointed under this section shall acquire a competitive status upon completion of at least one year of satisfactory service and compliance with such requirements as the Commission may prescribe. Detailed statements of the reasons for the noncompetitive appointments made under this section shall be published in the Commission's annual reports.

§ 3.3 Conversion of appointments.

Any person who acquires a competitive status under this part shall have his appointment converted to career-conditional appointment unless he meets the service requirement for career appointment prescribed under § 2.2(a) of this subchapter.

PART 4—PROHIBITED PRACTICES (RULE IV)

Sec.
4.1 Prohibition against political activity.
4.2 Prohibition against racial, political or religious discrimination.
4.3 Prohibition against securing withdrawal from competition.

AUTHORITY: §§ 4.1 to 4.3 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633.

§ 4.1 Prohibition against political activity.

No person employed in the executive branch of the Federal Government, or any agency or department thereof, shall use his official authority or influence for the purpose of interfering with an election or affecting the result thereof. No person occupying a position in the competitive service shall take any active part in political management or in political campaigns, except as may be provided by or pursuant to statute. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates.

§ 4.2 Prohibition against racial, political or religious discrimination.

No person employed in the executive branch of the Federal Government who has authority to take or recommend any personnel action with respect to any person who is an employee in the competitive service or any eligible or applicant for a position in the competitive service shall make any inquiry concerning the race, political affiliation, or religious beliefs of any such employee, eligible, or applicant. All disclosures concerning such matters shall be ignored, except as to such membership in political parties or organizations as constitutes by law a disqualification for Government employment. No discrimination shall be exercised, threatened, or promised by any person in the executive branch of the Federal Government against or in favor of any employee in the competitive service, or any eligible or applicant for a position in the competitive service because of his race, political affiliation, or religious beliefs, except as may be authorized or required by law.

§ 4.3 Prohibition against securing withdrawal from competition.

No person shall influence another person to withdraw from competition for any position in the competitive service for the purpose of either improving or injuring the prospects of any applicant for appointment. The Commission is authorized to take such disciplinary action as it deems appropriate whenever it finds that any person has violated this section.

PART 5—REGULATIONS, INVESTIGATION, AND ENFORCEMENT (RULE V)

Sec.
5.1 Regulations.
5.2 Authority of the Commission to make investigations.
5.3 Officers and employees to furnish testimony.
5.4 Enforcement authority of the Commission.

AUTHORITY: §§ 5.1 to 5.4 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633.

§ 5.1 Regulations.

(a) The Commission is authorized and directed to promulgate and enforce such regulations as may be necessary to carry out the provisions of the Civil Service Act and Rules, the Veterans' Preference Act, and all other applicable statutes or executive orders imposing responsibilities on the Commission.

(b) The Commission is authorized, whenever there shall be practical difficulties and unnecessary hardships in complying with the strict letter of its regulations, to grant a variation from the strict letter of the regulations if such variation is within the spirit of the regulations, and the efficiency of the Government and the integrity of the competitive service are protected and promoted: *Provided,* That whenever such a variation is granted the Commission shall record in the minutes of its proceedings (1) the particular practical difficulty or hardship involved, (2) what is permitted in lieu of what is required by regulation, (3) the circumstances which protect or promote the efficiency of the Government and the integrity of the competitive service, and (4) a statement limiting the application of the variation to the continuation of the conditions which gave rise to the variation: *Provided further,* That similar variations shall be granted whenever similar conditions exist. All minutes approved under authority of this section shall be published in the Commission's annual reports.

§ 5.2 Authority of the Commission to make investigations.

The Commission may make appropriate investigations to secure enforcement of the Civil Service Act, Rules and Regulations, including investigation of the qualifications and suitability of applicants for positions in the competitive service. It may require appointments to be made subject to investigation to enable the Commission to determine, after appointment, that the requirements of law or the Civil Service Rules and Regulations have been met. Whenever the Commission finds that an employee serving under such an appointment is disqualified for Federal employment, it may instruct the agency to remove him, or to suspend him pending an appeal from the Commission's finding: *Provided,* That when an agency removes or suspends an employee pursuant to the Commission's instructions, and the Commission, on the basis of new evidence or on appeal, subsequently reverses the initial decision as to the employee's qualifications and suitability, the agency shall, upon request of the Commission, restore the employee to duty.

§ 5.3 Officers and employees to furnish testimony.

All officers and employees in the executive branch, and applicants or eligibles for positions therein, shall give to the Commission or its authorized representatives all information and testimony in regard to matters inquired of arising under the laws, rules, and regulations administered by the Commission. Whenever required by the Commission, such persons shall subscribe such testimony and make oath or affirmation thereto before an officer authorized by law to administer oaths.

§ 5.4 Enforcement authority of the Commission.

(a) Whenever the Commission finds that any person has been appointed to or is holding a position in violation of the Civil Service Act, Rules or Regulations, or that any officer or employee in the executive branch has violated this order or any of the laws, rules or regulations administered by the Commission, it is authorized, after given due notice and opportunity for explanation to the officer or employee and the agency concerned, to certify the facts to the proper appointing officer with specific instructions as to discipline or dismissal or other corrective actions.

(b) Whenever the Commission finds that any officer or employee in the executive branch has failed to adhere to established policies, regulations, and standards relating to personnel management subject to the jurisdiction of the Commission, it shall instruct the agency head to take corrective action.

(c) Whenever, on the basis of an appeal by an employee, the Commission finds that its regulations prescribing procedures to be followed by agencies in connection with adverse actions for disciplinary reasons have not been followed, or that adverse action has been taken for political reasons except as may be required by law, or resulted from discrimi-

nation because of marital status, it shall instruct the agency to restore the employee to duty.

(d) Whenever the Commission issues specific instructions as to discipline or dismissal of an officer or employee, or to restore an officer or employee to duty, the appointing officer concerned shall comply with the Commission's instructions.

(e) If the appointing officer fails to carry out the instructions of the Commission issued under paragraph (a) of this section, the Commission shall certify the facts to the head of the agency concerned. If the head of the agency fails to carry out the instructions of the Commission within ten days after receipt thereof, the Commission shall certify the facts to the Comptroller General of the United States, and shall furnish a copy of such certification to the head of the agency concerned; and thereafter no payment shall be made of the salary or wages accruing to the employee concerned.

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE (RULE VI)

Sec.

6.1 Authority to except positions from the competitive service.
6.2 Schedules of excepted positions.
6.3 Method of filling excepted positions and status of incumbents.
6.4 Removal of incumbents of excepted positions.
6.5 Assignment of excepted employees.
6.6 Revocation of exceptions.
6.7 Movement of persons between the civil-service system and other merit systems.

AUTHORITY: §§ 6.1 to 6.7 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633.

§ 6.1 Authority to except positions from the competitive service.

(a) The Commission is authorized to except positions from the competitive service whenever it determines that appointments thereto through competitive examination are not practicable. Upon the recommendation of the agency concerned, it may also except positions which are of a confidential or policy-determining character. Such exceptions from the competitive service shall be effective upon publication thereof in the FEDERAL REGISTER. Positions excepted by the Commission shall be listed in Schedule A, B, or C as provided for in § 6.2, and shall also be listed in the Commission's annual report for the fiscal year in which the exceptions are made.

(b) The Commission shall decide whether the duties of any particular position are such that it may be filled as an excepted position under the appropriate schedule.

§ 6.2 Schedules of excepted positions.

The Commission shall list positions that it excepts from the competitive service in Schedules A, B, and C, which schedules shall constitute parts of this rule, as follows:

Schedule A. Positions other than those of a confidential or policy-determining character for which it is not practicable to examine shall be listed in Schedule A.

Schedule B. Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination shall be listed in Schedule B. Appointments to these positions shall be subject to such noncompetitive examination as may be prescribed by the Commission.

Schedule C. Positions of a confidential or policy-determining character shall be listed in Schedule C.

§ 6.3 Method of filling excepted positions and status of incumbents.

(a) The head of an agency may fill excepted positions by the appointment of persons without civil service eligibility or competitive status and such persons shall not acquire competitive status by reason of such appointment: *Provided,* That the Commission, in its discretion, may by regulation prescribe conditions under which excepted positions may be filled in the same manner as competitive positions are filled and conditions under which persons so appointed may acquire a competitive status in accordance with the Civil Service Rules and Regulations.

(b) To the extent permitted by law and the provisions of this part, appointments and position changes in the excepted service shall be made in accordance with such regulations and practices as the head of the agency concerned finds necessary.

§ 6.4 Removal of incumbents of excepted positions.

Except as may be required by statute, the Civil Service Rules and Regulations shall not apply to removals from positions listed in Schedules A and C or from positions excepted from the competitive service by statute. The Civil Service Rules and Regulations shall apply to removals from positions listed in Schedule B of persons who have competitive status.

§ 6.5 Assignment of excepted employees.

No person who is serving under an excepted appointment shall be assigned to the work of a position in the competitive service without prior approval of the Commission.

§ 6.6 Revocation of exceptions.

The Commission may remove any position from or may revoke in whole or in part any provision of Schedule A or B, and, with the concurrence of the agency concerned, may remove any position from or may revoke in whole or in part any provision of Schedule C. Such changes shall become effective upon publication thereof in the FEDERAL REGISTER.

§ 6.7 Movement of persons between the civil service system and other merit systems.

Whenever the Commission and any Federal agency having an established merit system determine it to be in the interest of good administration and consistent with the intent of the civil service laws and any other applicable laws, they may enter into an agreement prescribing conditions under which persons may be moved from one system to the other and defining the status and tenure that the persons affected shall acquire upon such movement.

PART 7—GENERAL PROVISIONS (RULE VII)

Sec.

7.1 Discretion in filling vacancies.
7.2 Personnel reports.
7.3 Reemployment rights.

AUTHORITY: §§ 7.1 to 7.3 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633.

§ 7.1 Discretion in filling vacancies.

In his discretion, an appointing officer may fill any position in the competitive service either by competitive appointment from a civil service register or by noncompetitive selection of a present or former Federal employee, in accordance with the Civil Service Regulations. He shall exercise his discretion in all personnel actions solely on the basis of merit and fitness and without regard to political or religious affiliations, marital status, or race.

§ 7.2 Personnel reports.

Each agency shall report to the Commission, in such manner and at such times as the Commission may prescribe, such personnel information as it may request relating to positions and officers and employees in the competitive service and in the excepted service, whether permanent or career, career-conditional, indefinite, temporary, emergency, or subject to contract.

§ 7.3 Reemployment rights.

The Commission, whenever it determines it to be necessary, shall prescribe regulations governing the release of employees (both within the competitive service and the excepted service) by any agency in the executive branch of the Government for employment in any other agency, and governing the establishment, granting, and exercise of rights to reemployment in the agencies from which employees are released.

PART 8—APPOINTMENTS TO OVERSEAS POSITIONS (RULE VIII)

Sec.

8.1 Additional authority of the Commission.
8.2 Appointment of United States citizens.
8.3 Appointment of persons not citizens of the United States.
8.4 Positions excepted from the application of this part.

AUTHORITY: §§ 8.1 to 8.4 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633.

§ 8.1 Additional authority of the Commission.

In addition to authorizing the recruitment and appointment of persons to overseas positions under regulations issued under the preceding Rules, the Commission may, by the regulations prescribed by it, authorize the recruitment and appointment of persons to such positions as provided in § 8.2. As used in this part, "overseas positions" means positions in foreign countries and in other areas beyond the continental limits of the United States, except as provided in § 8.4.

§ 8.2 Appointment of United States citizens.

United States citizens may be recruited overseas for appointment to overseas positions in the competitive service without regard to the competitive requirements of the Civil Service Act. Persons so recruited who meet the qualification standards and other requirements of the Commission for overseas positions may be given appointments to be known as "overseas limited appointments." Such appointments shall be of temporary or indefinite duration, and shall not confer the right to acquire a competitive status. The Commission may authorize overseas limited appointments for United States citizens recruited within the continental limits of the United States whenever it determines that it is not feasible to appoint from a civil-service register. Persons serving under appointments made pursuant to this section are hereby excluded from the operation of the Civil Service Retirement Act of May 29, 1930, as amended, unless eligible for retirement benefits by continuity of service or otherwise.

§ 8.3 Appointment of persons not citizens of the United States.

Persons who are not citizens of the United States may be recruited overseas and appointed to overseas positions without regard to the Civil Service Act.

§ 8.4 Positions excepted from the application of this part.

This part shall not apply to positions in Hawaii, Puerto Rico, the Virgin Islands, and Alaska, and on the Isthmus of Panama.

SUBCHAPTER B—CIVIL SERVICE REGULATIONS

PART 151—POLITICAL ACTIVITY OF STATE EMPLOYEES: RULES OF PRACTICE

Sec.

151.101 Purpose.
151.102 The Commission.
151.103 Executive officer.
151.104 Service.
151.105 Appearance.
151.106 Documents.
151.107 Letter of charges.
151.108 Answer.
151.109 Notice of hearing.
151.110 Motions.
151.111 Continuances and extensions of time.
151.112 Hearings on complaints.
151.113 Hearing examiners.
151.114 Subpenas.
151.115 Witnesses.
151.116 Evidence.
151.117 Depositions.
151.118 Admissions of fact and genuineness of documents.
151.119 Hearing examiner's preliminary report.
151.120 Briefs.
151.121 Hearing examiner's final report.
151.122 The decision.
151.123 Appeal.
151.124 Withholding orders.

AUTHORITY: §§ 151.101 to 151.124 issued under sec. 12(d), 54 Stat. 769, as amended; 5 U.S.C. 118k(d).

§ 151.101 Purpose.

The purpose of this part is to provide the procedures to be followed in making adjudications of whether an individual who is subject to section 12 of the Hatch Political Activities Act has engaged in political activities prohibited by that section.

§ 151.102 The Commission.

(a) *Offices.* The principal office of the Commission is at Washington, D.C. Communications to the Commission shall be addressed to United States Civil Service Commission, Washington 25, D.C., Attention, General Counsel, unless otherwise specifically directed.

(b) *Hours.* The office is open on each business day from 8:45 a.m. to 5:15 p.m.

(c) *Proceedings.* The Commission may conduct any inquiry or hearing necessary to its duties in any part of the United States by one or more of its members or by such hearing examiner as it may designate.

§ 151.103 Executive officer.

The Executive Director is the executive officer of the Commission and has legal custody of its papers, records, and property. The Executive Director, or other individual authorized by the Commission, shall sign the orders of the Commission.

§ 151.104 Service.

(a) An individual authorized by the Commission shall serve copies of letters of charges, orders, and other processes of the Commission by registered or certified mail, return receipt requested, addressed to the individual charged with the violation and to the State or local agency employing the individual.

(b) When service is not accomplished by registered or certified mail, an individual authorized by the Commission, may serve letters of charges, orders, or other processes of the Commission by:

(1) Delivering a copy of the document to the individual to be served or to an officer of the State or local agency or both; or

(2) Leaving a copy of the document at the principal office or place of business of the individual to be served or the State or local agency or both.

(c) The post office return receipt for a document mailed as provided in paragraph (a) of this section, or the verified return by the individual who served the document as provided in paragraph (b) of this section setting forth the manner of service, is proof of the service of the document.

§ 151.105 Appearance.

(a) An individual who is a party to a proceeding before the Commission may appear for himself or by an attorney. A State or local agency may appear or be represented by an attorney.

(b) An attorney who is a member in good standing of the bar of the Supreme Court of the United States or of the highest court of any State or territory of the United States, or of the District of Columbia, and who is not under an order of any court suspending, enjoining, restraining, disbarring, or otherwise restricting him in the practice of law, may represent others before the Commission.

(c) When an attorney appears in person or signs a paper in practice before the Commission, his personal appearance or signature constitutes a representation to the Commission that under this part and the law he is authorized and qualified to represent the particular party in whose behalf he acts. The Commission may require further proof of an attorney's authority to act in a representative capacity.

(d) A former officer or employee of the Commission may not appear as an attorney for a party in any proceeding resulting from an investigation the files of which came to his personal attention during his service with the Commission.

§ 151.106 Documents.

(a) Each document required to be filed with the Commission in a proceeding shall be filed with the General Counsel of the Commission.

(b) Each document shall show clearly the docket number and title of the proceeding.

(c) Five copies of each document other than correspondence shall be filed, except as otherwise specifically required by this part.

(d) Each document not printed shall be typewritten on one side of the paper only, letter or legal size, double or triple spaced, with ample margin.

(e) The original of each document, whether printed or typewritten, shall be signed in ink by the party or his attorney.

§ 151.107 Letter of charges.

When the Commission has reason to believe that there is a violation of the law over which it has jurisdiction, it shall serve the individual charged with the violation and the State or local agency employing him with a notice summarizing the alleged violation. This notice, which is referred to as the letter of charges, shall be accompanied by a notification of the right of hearing on the letter of charges.

§ 151.108 Answer.

(a) A respondent may answer the letter of charges within:

(1) Fifteen calendar days from the day the letter of charges is served; or

(2) Thirty calendar days from that day if the respondent or the local agency is in a territory of the United States.

Failure of the respondent to answer within the time limit is deemed to authorize the Commission to proceed in regular course on the letter of charges without further notice to the respondent.

(b) In the answer, the respondent shall:

(1) State concisely the facts that constitute his defense; and

(2) Specifically admit, deny, or explain each of the facts alleged in the letter of charges unless he states he is without knowledge.

The respondent or his attorney shall sign and submit to the Commission the original and five copies of the answer.

The answer shall show the office and post office address of the signer.

(c) Instead of the statements required by paragraph (b) of this section, the respondent may state in his answer that he admits the truth of all material allegations of fact in the letter of charges and waives a hearing. By this answer respondent is deemed to authorize the Commission to proceed in regular course to adjudicate his case. The Commission shall notify the officer or employee and the appropriate State or local agency of its determination.

(d) On written application made at the time respondent files an answer in accordance with paragraph (c) of this section, the Commission, in its discretion, may hear him, on brief, in oral argument, or both, on the sole question as to whether the facts admitted constitute the violation alleged in the letter of charges.

§ 151.109 Notice of hearing.

After the respondent files his answer or other appropriate response, the Commission shall fix a time and place for a hearing and shall send, by registered or certified mail, a notice of the time and place of the hearing to the respondent and to the State or local agency employing him.

§ 151.110 Motions.

(a) The party making a motion before the Commission or a hearing examiner shall:

(1) Include in the motion a brief statement of its purpose; and

(2) File with and clearly refer to in the motion any supporting affidavit, record, or other paper, except one filed previously.

(b) In a proceeding before a hearing examiner, the party making a motion which relates to the introduction or striking of evidence shall make it to the hearing examiner. An exception to the ruling of the hearing examiner on the motion is not necessary to preserve an objection before the Commission or appellate courts.

§ 151.111 Continuances and extensions of time.

The Commission or the hearing examiner, for cause shown, may extend the prescribed time limit for filing any paper, except the time limit for filing an appeal which is fixed by statute, and may continue or adjourn any hearing. A hearing before a hearing examiner shall begin at the time and place fixed by the Commission, and thereafter the Commission or the hearing examiner may adjourn the hearing from time to time. The party seeking a continuance or an extension of time shall make application therefor before the end of the time prescribed by this part, and shall file with that application an affidavit showing exceptional circumstances.

§ 151.112 Hearings on complaints.

(a) The hearing before the Commission or the hearing examiner on the letter of charges is public unless the Commission orders otherwise.

(b) The official reporter of the Commission shall report the hearing stenographically and shall make a transcript which shall be a part of the record of the proceeding. The record made shall be the sole official record. The official reporter shall supply the respondent or the public with a transcript at a rate not in excess of the maximum rate fixed by the contract between the Commission and the reporter.

§ 151.113 Hearing examiners.

(a) The Commission may designate a hearing examiner to take evidence in any proceeding on a letter of charges.

(b) The hearing examiner shall:

(1) Complete the taking of evidence with all due dispatch;

(2) Conduct a fair and impartial hearing;

(3) Maintain order in a manner consistent with the dignity of the Commission; and

(4) Note on the record any disregard by counsel of his rulings on matters of order or procedure and make a special written report thereon to the Commission when he considers it necessary.

(c) If counsel is guilty of disrespectful, disorderly, or contumacious language or conduct in connection with a proceeding, the hearing examiner may suspend the proceeding and submit to the Commission a report and recommendation for appropriate action. The hearing examiner shall furnish a copy of his report to counsel on whose language or conduct the report is made.

§ 151.114 Subpenas.

(a) The Commission or a member of the Commission may issue subpenas requiring the attendance of witnesses from any place in the United States at any designated place of hearing. The party seeking the subpena shall make application therefor in writing either to the General Counsel or the hearing examiner.

(b) The Commission or the hearing examiner may issue subpenas for the production of documentary evidence. The party seeking the subpena shall make application therefor in writing to the Commission or the hearing examiner. The application shall name as exactly as possible the documents desired, and show their relevancy and materiality. An application by a respondent shall be verified by oath or affirmation.

(c) In case of disobedience to a subpena, the Commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. In case of contumacy or disobedience to a subpena issued to a person, any of the district courts of the United States within the jurisdiction of which the inquiry is carried on, may issue an order requiring the person to appear before the Commission, to produce documentary evidence if so ordered, or to give evidence touching the matter in question. The court may punish any failure to obey its order as a contempt thereof.

§ 151.115 Witnesses.

(a) Witnesses shall be examined orally, except that for good and exceptional cause the Commission may permit their testimony to be taken by a deposition.

(b) The party at whose instance a witness appears shall pay the witness the same fees and mileage as are paid witnesses in the courts of the United States. The party at whose instance a deposition is taken shall pay the witness, and the person who takes the deposition, the same fees as are paid for like service in the courts of the United States.

§ 151.116 Evidence.

(a) *Documentary.* When relevant and material matters offered in evidence are included in a document containing other matters not material or relevant and not intended to be put in evidence, the immaterial or irrelevant parts are excluded and segregated insofar as practicable.

(b) *Objections.* The party making an objection to evidence before the Commission or a hearing examiner shall make it in short form and shall state the ground of the objection relied on. The transcript shall include the ruling on any objection, but shall not include argument or debate on an objection unless the Commission or the hearing examiner so orders. An exception to a ruling is not necessary to preserve the right of the party before the Commission or appellate courts.

§ 151.117 Depositions.

(a) The Commission may order evidence to be taken by deposition at any stage of a proceeding or investigation pending before the Commission. A deposition may be taken before any person who has the power to administer oaths and is designated by the Commission. Unless notice is waived, a deposition shall not be taken except after reasonable notice to the parties.

(b) The party desiring to take the deposition of a witness shall make application therefor in writing to the Commission. The application shall state the reason why the deposition should be taken; the name and post office address of the witness; and the subject matter or matters concerning which the witness is expected to testify.

(c) When good cause is shown, the Commission shall make and have served on the parties or their attorneys an order in which the Commission names the witness whose deposition is to be taken. The order shall specify the time when, the place where, and the person before whom the witness is to testify, but that time, place, and person may or may not be the same as those stated in the application for the deposition.

(d) The person before whom the deposition is taken or a person under his direction shall reduce the testimony of the witness to writing. The deposition shall be typewritten on one side of the paper only, letter or legal size, left margin 1½ inches, right margin 1 inch. The person before whom the deposition is taken shall have the witness subscribe to the deposition; certify to the deposition in the usual form; and forward the certified deposition (together with four copies thereof) in an envelope under seal to the Commission at its principal office.

(e) The Commission, unless it orders otherwise for good cause shown, shall have the deposition filed in the record in the proceeding and shall have a copy thereof supplied to the party on whose application the deposition was taken or to his attorney.

§ 151.118 Admissions of fact and genuineness of documents.

(a) At any time after answer has been filed, the Commission may serve on a respondent, or a respondent may serve on the Commission, a written request for admission of:

(1) The genuineness of any relevant documents described therein; or

(2) The truth of any relevant matters of fact set forth in the documents.

The party making the request shall furnish with it a copy of each document described therein unless a copy has been furnished previously.

(b) The party served is deemed to make the admission requested unless he serves on the party making the request a sworn statement either denying specifically the matters of which the admission is requested, or setting forth in detail the reason why he can neither truthfully admit nor deny those matters, within:

(1) The period designated in the request which may not be less than 10 days after service of the request; or

(2) Such further period as the Commission or the hearing examiner allows on motion and notice.

(c) (1) The attorney for the Commission may make the service on a respondent required by this section by mailing, by registered or certified mail, or delivering the documents to be served to the respondent or his attorney or by leaving the documents at the office or place of business of either.

(2) The respondent or his attorney may make the service on the Commission required by this section by mailing, by registered or certified mail, or delivering the documents to be served to the attorney for the Commission.

§ 151.119 Hearing examiner's preliminary report.

(a) Except as provided in paragraph (b) of this section, the hearing examiner shall make a preliminary report on the evidence as promptly as practicable after his receipt of the stenographic transcript of the hearing. The hearing examiner shall send a copy of the preliminary report to each attorney who appeared in the hearing and to any respondent not represented by an attorney.

(b) For good cause stated at the conclusion of the hearing, the hearing examiner may eliminate the filing and service of a preliminary report. Any party may apply in writing to the Commission for modification of the hearing examiner's ruling concerning the preliminary report.

(c) The preliminary report of the hearing examiner is not a report of finding of the Commission, but is advisory only and is not binding on the Commission.

§ 151.120 Briefs.

When a party desires to submit a brief at the conclusion of a hearing, the hearing examiner shall prescribe the time and other directions for filing briefs. The hearing examiner shall calculate the time within which initial briefs may be filed from the date of service of the hearing examiner's preliminary report on the parties. A party may apply in writing to the Commission for modification of the hearing examiner's ruling concerning the filing of briefs.

§ 151.121 Hearing examiner's final report.

(a) After expiration of the time for filing briefs, the hearing examiner shall reexamine the record, including any briefs filed, and shall make a final report to the Commission as promptly as practicable.

(b) The final report of the hearing examiner is not a report of finding of the Commission, but is advisory only and is not binding on the Commission.

(c) On receipt of the hearing examiner's final report, the Commission may:

(1) Refer the case back to the hearing examiner for the purpose of obtaining additional evidence if the circumstances warrant that action; or

(2) Order and provide for a further hearing if it considers that the recommendations in the final report vary from the tentative recommendations in the preliminary report to the extent that the parties should have further opportunity to be heard.

§ 151.122 The decision.

On receipt of the hearing examiner's final report, the Commission shall review that report and make its own findings and determination on whether or not a violation has occurred and whether the violation warrants the removal of the individual charged with the violation. The Commission shall notify the individual and the State or local agency employing him of its determination by registered or certified mail.

§ 151.123 Appeal.

Appeal procedure is prescribed in section 12(c) of the Act of August 2, 1939, as amended by the Act of July 19, 1940 (5 U.S.C. 118k(d)). This subsection is as follows:

(c) Any party aggrieved by any determination or order of the Commission under subsection (b) may, within 30 days after the mailing of notice of such determination or order, institute proceedings for the review thereof by filing a written petition in the district court of the United States for the district in which such officer or employee resides; but the commencement of such proceedings shall not operate as a stay of such determination or order unless (1) it is specifically so ordered by the court, and (2) such officer or employee is suspended from his office or employment during the pendency of such proceedings. A copy of such petition shall forthwith be served upon the Commission, and thereupon the Commission shall certify and file in the court a transcript of the record upon which the determination or the order complained of was made. The review by the court shall be on the record entire, including all of the evidence taken on the hearing, and shall extend to questions of fact and questions of law. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence may materially affect the result of the proceedings and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Commission, the court may direct such additional evidence to be taken before the Commission in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings of fact or its determination or order by reason of the additional evidence so taken and shall file with the court such modified findings, determination, or order, and any such modified findings of fact, if supported by substantial evidence, shall be conclusive. The court shall affirm the Commission's determination or order, or its modified determination or order, if the court determines that the same is in accordance with law. If the court determines that any such determination or order, or modified determination or order, is not in accordance with law, the court shall remand the proceeding to the Commission with directions either to make such determination or order as the court shall determine to be in accordance with law or to take such further proceedings as, in the opinion of the court, the law requires. The judgment and decree of the court shall be final, subject to review by the appropriate circuit courts of appeals as in other cases, and the judgment and decree of such circuit court of appeals shall be final, subject to review by the Supreme Court of the United States on certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U.S.C. 1934 edition, Title 28, sections 346 and 347). If any provision of this subsection is held to be invalid as applied to any party with respect to any determination or order of the Commission, such determination or order shall thereupon become final and effective as to such party in the same manner as if such provision had not been enacted.

§ 151.124 Withholding orders.

When it is necessary to issue an order requiring the withholding of funds from a State or local agency, the Commission shall make and serve a withholding order on the appropriate Federal agency in conformity with this part and the following specific provisions:

(a) On learning that circumstances exist requiring the issuance of a withholding order, the General Counsel shall file a petition for a withholding order with the hearing examiner. The petition shall recite the circumstances which require the issuance of a withholding order, and shall be accompanied by evidence of the circumstances.

(b) After consideration of the petition, the hearing examiner shall issue an interlocutory order and cause the same to be served on the State or local agency from which funds are to be withheld. This interlocutory order and any accompanying documents shall notify the State or local agency of the nature of the proceeding and shall afford a reasonable time of not less than 15 days for answer.

(c) If the State or local agency files a reply to the petition, the hearing examiner shall make appropriate provision for the presentation of evidence and argument by the agency and the General Counsel, orally or in writing.

(d) After consideration of the evidence and argument presented by the State or local agency and the General Counsel, the hearing examiner shall make a report to the Commission.

(e) If the Commission finds that a withholding order should issue, it shall make and certify to the appropriate Federal agency an order requiring the withholding of funds.

PART 210—BASIC CONCEPTS AND DEFINITIONS (GENERAL)

Subpart A—Applicability of Regulations; Definitions

Sec.
210.101 Applicability of various parts of regulations.
210.102 Definitions.

AUTHORITY: §§ 210.101 and 210.102 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218.

Subpart A—Applicability of Regulations; Definitions

§ 210.101 Applicability of various parts of regulations.

(a) *General.* In most parts, the applicability of the part is stated specifically in the part or is otherwise apparent from the substance of the part.

(b) *Parts 315 through 339.* Parts 315 through 339 of this chapter apply to all positions in the competitive service and to all incumbents of those positions; and, except as specified by or in an individual part, these parts do not apply to positions in the excepted service or to incumbents of those positions.

§ 210.102 Definitions.

(a) The definitions in paragraph (b) of this section apply throughout this chapter, except when a defined term is specifically modified in or specifically defined for the purpose of a particular part.

(b) In this chapter:

(1) "Appointing officer" means a person having power by law, or by lawfully delegated authority, to make appointments to positions in the service of the Federal Government or the government of the District of Columbia.

(2) "Commission" means the United States Civil Service Commission.

(3) "Demotion" means a change of an employee, while serving continously within the same agency:

(i) To a lower grade when both the old and the new positions are under the Classification Act of 1949, as amended, or under the same type graded wage schedule; or

(ii) To a position with a lower rate of compensation when both the old and the new positions are under the same type ungraded wage schedule, or are in different pay method categories.

(4) "Eligible" means an applicant who meets the minimum requirements for entrance to an examination and is rated 70 or more in the examination by the Commission.

(5) "Metropolitan area of Washington, D.C.," means the District of Columbia; Alexandria and Falls Church cities, Virginia; Arlington and Fairfax Counties, Virginia; and Montgomery and Prince Georges Counties, Maryland.

(6) "Noncompetitive action" means a promotion, demotion, reassignment, transfer, reinstatement, or an appointment based on prior service.

(7) "Overseas" means outside the continental United States, but does not include Alaska, Guam, Hawaii, the Isthmus of Panama, Puerto Rico, or the Virgin Islands.

(8) "Position change" means a promotion, demotion, or reassignment.

(9) "Promotion" means a change of an employee, while serving continuously within the same agency:

(i) To a higher grade when both the old and the new positions are under the Classification Act of 1949, as amended, or under the same type graded wage schedule; or

(ii) To a position with a higher rate of compensation when both the old and the new position are under the same type ungraded wage schedule, or are in different pay method categories.

(10) "Reassignment" means a change of an employee, while serving continuously within the same agency, from one position to another without promotion or demotion.

(11) "Reemployed annuitant" means an employee whose annuity under the Civil Service Retirement Act, as amended, was continued on reemployment in an appointive position on or after October 1, 1956.

(12) "Register" means a list of qualified applicants compiled in order of relative standing for certification.

(13) "Reinstatement" means the noncompetitive reemployment for service as a career or career-conditional employee of a person formerly employed in the competitive service who had a competitive status or was serving probation when he was separated from the service.

(14) "Status quo employee" means an employee who failed to acquire a competitive status when the position in which he was serving was placed in the competitive service by a statute, Executive order, or Civil Service rule, which permitted his retention without the acquisition of status.

(15) "Tenure" means the period of time an employee may reasonably expect to serve under his current appointment. It is granted and governed by the type of appointment under which an employee is currently serving without regard to whether he has a competitive status or whether his appointment is in a competitive position or in an excepted position.

(16) "Transfer" means a change of an employee, without a break in service of 1 full workday, from a position in one agency to a position in another agency.

PART 211—VETERAN PREFERENCE

Subpart A—Definitions

§ 211.101 Definitions.

In this chapter, "preference eligible" means a person entitled to preference under section 2 of the Veterans' Preference Act of 1944, as amended.

(Secs. 11, 19, 58 Stat. 390, 391, as amended; 5 U.S.C. 860, 868)

PART 212—COMPETITIVE SERVICE AND COMPETITIVE STATUS

Subpart A—Competitive Service

Sec.
212.101 Definitions.
212.102 Authority to make determinations.

Subpart B—[Reserved]

Subpart C—Competitive Status

212.301 Competitive status defined.

Subpart D—Effect of Competitive Status on Position

212.401 Effect of competitive status on position.

AUTHORITY: §§ 212.101 to 212.401 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958. Comp., p. 218.

Subpart A—Competitive Service

§ 212.101 Definitions.

In this chapter:

(a) "Competitive service" means "classified service," "classified (competitive) service," or "classified civil service," as defined in statutes and Executive orders, and includes:

(1) All civilian positions in the executive branch of the Federal Government not specifically excepted from the civil service laws by or pursuant to statute or by the Commission under Rule VI (Part 6 of this chapter), including postmaster positions whether or not filled by Presidential nomination and Senate confirmation; and

(2) All positions in the legislative and judicial branches of the Federal Government and in the government of the District of Columbia specifically made subject to the civil service laws by statute.

(b) Competitive position means a position in the competitive service.

§ 212.102 Authority to make determinations.

The Commission determines finally whether a position is in the competitive service.

Subpart B—[Reserved]

Subpart C—Competitive Status

§ 212.301 Competitive status defined.

In this chapter, "competitive status" means an individual's basic eligibility for noncompetitive assignment to a competitive position. Competitive status is acquired by completion of a probationary period under a career-conditional or career appointment following open competitive examination, or by statute, executive order, or the Civil Service rules, without open competitive examination. An individual with competitive status may be, without open competitive examination, reinstated, transferred, promoted, reassigned, or demoted, subject to conditions prescribed by the civil service rules and regulations.

Subpart D—Effect of Competitive Status on Position

§ 212.401 Effect of competitive status on position.

(a) An employee is in the competitive service when he has competitive status and is in a competitive position under a nontemporary appointment.

(b) An employee in the competitive service at the time his position is first listed under Schedule A, B, or C remains in the competitive service while he occupies that position.

PART 213—EXCEPTED SERVICE

Subpart A—General Provisions

Sec.
213.101 Definitions.
213.102 Identification of positions in Schedules A, B, or C.

Subpart B—[Reserved]

Subpart C—Excepted Schedules

SCHEDULE A

213.3101 Positions other than those of a confidential or policy-determining character for which it is not practicable to examine.
213.3102 Entire executive civil service.
213.3103 Executive Office of the President.
213.3104 Department of State.
213.3105 Treasury Department.
213.3106 Department of Defense.
213.3107 Department of the Army.
213.3108 Department of the Navy.
213.3109 Department of the Air Force.
213.3110 Department of Justice.
213.3111 Post Office Department.
213.3112 Department of the Interior.
213.3113 Department of Agriculture.
213.3114 Department of Commerce.
213.3115 Department of Labor.
213.3116 Department of Health, Education, and Welfare.
213.3121 National Security Council.
213.3122 Interstate Commerce Commission.
213.3124 Board of Governors, Federal Reserve System.
213.3127 Veterans Administration.
213.3128 United States Information Agency.
213.3129 Federal Power Commission.
213.3130 Securities and Exchange Commission.
213.3133 Federal Deposit Insurance Corporation.
213.3135 National Capital Housing Authority.
213.3136 United States Soldiers' Home.
213.3137 General Services Administration.
213.3138 Federal Communications Commission.
213.3139 United States Tariff Commission.
213.3141 National Labor Relations Board.
213.3142 Export-Import Bank of Washington.
213.3143 Farm Credit Administration.
213.3144 Housing and Home Finance Agency.
213.3146 Selective Service System.
213.3147 Federal Mediation and Conciliation Service.
213.3148 National Aeronautics and Space Administration.
213.3149 Panama Canal Company, New Orleans.
213.3154 Federal Home Loan Bank Board.
213.3156 Commission on Civil Rights.
213.3157 Federal Aviation Agency.
213.3158 Franklin Delano Roosevelt Memorial Commission.
213.3160 Peace Corps.
213.3161 James Madison Memorial Commission.
213.3162 National Aeronautics and Space Council.
213.3163 President's Committee on Youth Employment.
213.3164 U.S. Arms Control and Disarmament Agency.
213.3165 President's Advisory Committee on Labor-Management Policy.
213.3166 President's Committee on Juvenile Delinquency and Youth Crime.
213.3169 President's Committee on Equal Opportunity in Housing.

SCHEDULE B

213.3201 Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination.
213.3204 Department of State.
213.3205 Treasury Department.
213.3206 Department of Defense.
213.3209 Department of the Air Force.
213.3210 Department of Justice.
213.3212 Department of the Interior.
213.3228 United States Information Agency.
213.3229 Federal Power Commission.
213.3244 Housing and Home Finance Agency.
213.3246 Selective Service System.
213.3253 District of Columbia Government.
213.3260 Peace Corps.
213.3268 Agency for International Development.

SCHEDULE C

213.3301 Positions of a confidential or policy-determining character.
213.3303 Executive Office of the President.
213.3304 Department of State.
213.3305 Treasury Department.
213.3306 Department of Defense.
213.3307 Department of the Army.
213.3308 Department of the Navy.
213.3309 Department of the Air Force.
213.3310 Department of Justice.
213.3311 Post Office Department.
213.3312 Department of the Interior.
213.3313 Department of Agriculture.
213.3314 Department of Commerce.
213.3315 Department of Labor.
213.3316 Department of Health, Education, and Welfare.
213.3322 Interstate Commerce Commission.
213.3323 General Accounting Office.
213.3325 The Tax Court of the United States.
213.3326 Office of Emergency Planning.
213.3327 Veterans Administration.
213.3328 United States Information Agency.
213.3329 Federal Power Commission.
213.3330 Securities and Exchange Commission.
213.3331 National Mediation Board.
213.3332 Small Business Administration.
213.3333 Federal Deposit Insurance Corporation.
213.3334 Federal Trade Commission.
213.3337 General Services Administration.
213.3338 Federal Communications Commission.
213.3339 United States Tariff Commission.
213.3340 Civil Aeronautics Board.
213.3341 National Labor Relations Board.
213.3342 Export-Import Bank of Washington.
213.3343 Farm Credit Administration.
213.3344 Housing and Home Finance Agency.
213.3345 Indian Claims Commission.
213.3347 Federal Mediation and Conciliation Service.
213.3348 National Aeronautics and Space Administration.
213.3350 Foreign Claims Settlement Commission of the United States.
213.3351 Subversive Activities Control Board.
213.3352 Saint Lawrence Seaway Development Corporation.
213.3354 Federal Home Loan Bank Board.
213.3355 The Renegotiation Board.
213.3356 Commission on Civil Rights.
213.3357 Federal Aviation Agency.
213.3359 National Capital Transportation Agency.
213.3360 Peace Corps.
213.3364 U.S. Arms Control and Disarmament Agency.
213.3367 Federal Maritime Commission.
213.3368 Agency for International Development.
213.3369 President's Committee on Equal Opportunity in Housing.

AUTHORITY: §§ 213.101 to 213.3369 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218.

Subpart A—General Provisions

§ 213.101 Definitions.

In this part and elsewhere in this chapter:

(a) "Excepted service" means "unclassified service," "unclassified civil service," and "positions outside the competitive civil service," as used in statutes and Executive orders, and includes all positions in the executive branch of the Federal Government which are specifically excepted from the competitive service by or pursuant to statute, by the President, or by the Commission under § 6.1 of the civil service rules.

(b) "Excepted position" means a position in the excepted service.

§ 213.102 Identification of positions in Schedules A, B, or C.

The Commission shall decide whether the duties of any particular position are such that it may be filled as an excepted position under Schedule A, B, or C.

Subpart B—[Reserved]

Subpart C—Excepted Schedules

SCHEDULE A

§ 213.3101 Positions other than those of a confidential or policy-determining character for which it is not practicable to examine.

The positions enumerated in §§ 213.3102 to 213.3199 are positions other than those of a confidential or policy-determining character for which it is not practicable to examine and which are excepted from the competitive service and constitute Schedule A.

§ 213.3102 Entire executive civil service.

(a) Positions of Chaplain and Chaplain's Assistant.

(b) Cooks, except at fixed locations such as hospitals, quarantine stations, and penal institutions.

(c) Positions to which appointments are made by the President without confirmation by the Senate.

(d) Attorneys.

(e) Law clerk-trainee positions. Appointments under this paragraph shall be confined to graduates of recognized law schools or persons having equivalent experience and shall be for periods not to exceed 9 months pending admission to the bar. A person may have his appointment extended not to exceed an additional period of 3 months pending admission to the bar provided he has actually passed the bar examination by the end of the 9-month period. No person

shall be given more than one appointment under this paragraph.

(f) Chinese, Japanese, and Hindu interpreters.

(g) Any position the duties of which are part-time or intermittent in which the appointee will receive compensation during his service year that aggregates not more than 40 percent of the annual salary rate for the first step of GS–3. This limitation on compensation includes any premium pay such as for overtime, night, Sunday, or holiday work. It does not, however, include any mandatory within-grade salary increases to which the employee becomes entitled subsequent to appointment under this authority. Appointments under this authority shall not be for job employment. In the metropolitan area of Washington, D.C., appointments under this authority shall be subject to the prior approval of the Commission.

(h) Subject to prior approval by the Commission, positions in Federal mental institutions when filled by persons who have been patients of such institutions and been discharged and are certified by the medical head thereof as recovered sufficiently to be regularly employed but it is believed desirable and in the interest of the persons and the institution that they be employed at the institution.

(i) Subject to prior approval of the Commission, positions requiring temporary, part-time, or intermittent employment in wage board type occupations (i.e., positions excluded from Classification Act coverage by section 202(7) of the Act) on construction or repair work, where the activity is carried on in localities where examination coverage for the positions has not been provided and where because of employment conditions there is a shortage of available candidates for the positions. Appointments under this paragraph shall not extend beyond 1 year, and the employment thereunder shall not exceed 180 working days a year. Seasonal employments of a recurring nature are not authorized under this paragraph.

(j) Any position directly concerned with the protection of the life and safety of the President and members of his immediate family, the President-elect, the Vice President or other officer next in the order of succession to the Office of President, and the Vice President-elect.

(k) Positions without compensation provided appointments thereto meet the requirements of applicable laws relating to compensation.

(l) Positions requiring the temporary or intermittent employment of professional, scientific, or technical experts for consultation purposes.

(m) Nonsupervisory positions of custodial laborer (levels 1, 2, and 3) and general laborer (levels 2 and 3) in field establishments outside central office and regional office cities of the Commission where examination coverage has not been provided for the positions, as follows:

(1) For temporary, intermittent, or seasonal employment (exclusive of positions covered by paragraph (i) of this section) not to exceed 180 working days a year in the Departments of Agriculture, Commerce, and Interior, in the Federal Aviation Agency, and in the International Boundary and Water Commission; or

(2) When it is specifically held by the Commission that this authority is applicable, for employment in localities that are isolated with respect to labor supply and where there is a shortage of available candidates for the positions.

(n) Any local physician, surgeon, or dentist employed under contract or on a part-time or fee basis when, in the opinion of the Commission, appointment through competitive examination is impracticable.

(o) Positions of a scientific, professional, or analytical nature when filled by bona fide members of the faculty of an accredited college or university who have special qualifications for the positions to which appointed. Employments under this provision shall not exceed 130 working days a year.

(p) Positions of a scientific, professional, or analytical nature when filled by bona fide graduate students at accredited colleges or universities provided that the work performed for the agency is to be used by the student as a basis for completing certain academic requirements toward a graduate degree. Employments under this provision may be continued only so long as the foregoing conditions are met, and the total period of such employment shall not exceed one year in any individual case: *Provided*, That such employment may, with the approval of the Commission, be extended for not to exceed an additional year.

(q) Temporary or intermittent positions at GS–7 and below when the appointees are to assist scientific, professional, or technical employees. Persons employed under this provision shall be (1) bona fide students at high schools or accredited colleges or universities pursuing courses related to the field in which employed, or (2) bona fide high school science and mathematics teachers. No person shall be employed under this provision (1) in a position of a routine clerical type; or (2) in excess of 130 working days a year; or (3) at a compensation during a period of a year that aggregates for positions at GS–4 and below more than 40 percent of the annual salary for the first step of GS–3, and for positions at GS–5, 6, or 7 more than 33⅓ percent of the annual salary for the first step of the grade at which the position is classified. The grade level at which the person enters on duty determines the pay limitation applicable to him throughout his service year. These limitations on compensation include any premium pay such as for overtime, night, Sunday, or holiday work. They do not, however, include any mandatory within-grade salary increase to which the employee becomes entitled subsequent to appointment under this authority. The authority in this paragraph is not applicable from May through September of each year with respect to temporary positions in the Washington, D.C., metropolitan area unless the Commission has approved the employing agency's specific plan and procedures for receiving and considering applications and for making appointment selections.

(r) All positions of a project nature when filled by individuals the salaries for whom are paid out of funds allocated by the President under authority of Public Law 87–658, approved September 14, 1962, the Public Works Acceleration Act. Employment under this authority shall be for a temporary period not to exceed one year.

(s) Temporary positions in the Washington, D.C., metropolitan area, involving performance of laboring work that requires primarily physical effort and no specific knowledges or skills when filled by persons certified by the Juvenile Delinquency Planning Board under its pilot program for the Washington, D.C., metropolitan area. A person may not be employed under this authority (1) unless he has reached his 16th birthday; (2) for more than 700 hours; (3) except during the period from June 1 through September 30, 1963. This authority may not be used for filling custodial laborer positions.

§ 213.3103 Executive Office of the President.

(a) *Office of Science and Technology.* (1) All professional positions on the Staff of the Office.

§ 213.3104 Department of State.

(a) *Office of the Secretary.* (1) Six Physical Science Administration Officers at GS–14 and above in the Office of International Scientific Affairs.

(2) Six positions of Member of the Executive Secretariat.

(3) Chief, Reports and Operations Staff, Executive Secretariat.

(4) Four Assistants to the Executive Secretary, Executive Secretariat.

(5) Executive Officer, Executive Secretariat.

(6) Chief, Correspondence Review Staff, Executive Secretariat.

(7) Not to exceed January 1, 1964, not more than 15 protocol officers, grades GS–5 through GS–15, in the Office of the Chief of Protocol.

(b) *Bureau of Intelligence and Research.* (1) Not to exceed 50 professional and technical positions.

(2) Two professional positions in the Division of Intelligence Acquisition and Distribution.

(c) *International Boundary and Water Commission, United States and Mexico.* (1) Gage readers employed part time or intermittently at isolated localities when, in the opinion of the Commission, appointment through competitive examination is impracticable.

(d) *International Boundary Commission, United States and Canada.* (1) Temporary and intermittent field employees such as instrumentmen, foremen, recorders, packers, cooks, and axemen, for not to exceed 130 working days or 6 months within any 1 calendar year.

(e) *Office of the Assistant Secretary for Public Affairs.* (1) Chief, Public Studies Division.

(2) Chief, Public Services Division.

(3) Chief, Historical Division.

(4) One Special Assistant to the Chief, News Division.

(5) One Special Assistant to the Deputy Assistant Secretary (Domestic Affairs).

(f) *Bureau of International Organization Affairs.* (1) One Special Assistant to the Assistant Secretary.

§ 213.3105 Treasury Department.

(a) *Bureau of Narcotics.* (1) Fifty positions of Narcotic Agent for undercover work.

(b) *Bureau of Customs.* (1) Positions in foreign countries designated as "interpreter-translator" and "special employees," when filled by appointment of persons who are not citizens of the United States; and positions in foreign countries of messenger and janitor.

(2) The positions of Collector of Customs at Puerto Rico and the Virgin Islands.

(3) Part-time, intermittent, or temporary Customs Inspectors, Deputy Collectors, and Deputy Collectors in Charge in Alaska at a salary rate not in excess of GS–8, for not to exceed 130 working days a year.

(4) Positions of day "pickup" laborers whose assignments are to intermittent duties of short duration that must be performed without delay in field establishments where hiring of "pickup" laborers is authorized by the Bureau of Customs headquarters. Persons appointed under this authority may not be employed in this kind of work in the Bureau of Customs for more than 180 working days a year under this authority or under a combination of this authority and any other authority for excepted appointment that may be appropriate. This authority is not appropriate for job employment.

(5) Positions at the GS–9 grade level and below of customs enforcement officer, customs inspector, customs marine clerk/officer, customs sampler, customs warehouse officer, deputy collector, interpreter, janitor, and laborer that are of a continuing nature, and the duties of which are intermittent or part-time and require the services of an employee for not more than 700 hours of employment during his service year. A person appointed under this authority may not be employed in the Bureau of Customs under a combination of this authority and any other authority for excepted appointment for more than 700 hours during his service year.

(c) *Coast Guard.* (1) Lamplighters.

(2) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, and one Cadet hostess at the Coast Guard Academy, New London, Connecticut.

(d) *United States Savings Bonds Division.* (1) Positions of State Director and Deputy State Director, and Regional Director and Assistant Regional Director.

(e) *Internal Revenue Service.* (1) Fifty positions of investigator for special assignments.

§ 213.3106 Department of Defense.

(a) *Office of the Secretary.* (1) Five Special Advisors in the immediate office of the Secretary or Deputy Secretary with responsibility for studies and recommendations in broad program areas. These positions have advisory rather than operating duties, except as operating or administrative responsibility may be exercised in connection with pilot studies.

(2) Positions assigned exclusively to Communications Intelligence Activities.

(3) Positions assigned to or in support of special classified training activities.

(4) Three Staff Assistants.

(5) Not to exceed January 1, 1964, 8 positions of Regional Director in the Office of the Assistant Secretary of Defense (Civil Defense).

(6) Director of Policy Review, Office of the Assistant Secretary of Defense (International Security Affairs).

(b) *Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force).* (1) Professional positions in Military Dependent School Systems overseas.

(2) Positions in Attache Systems overseas, including positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the Staffs of the Chaplains in the military services.

(c) *Interdepartmental Activities.* (1) Positions in support of National Security Programs and Space Council Activities.

(d) *General.* (1) Positions the duties of which are of a quasi-military nature and involve the security of secret or confidential matter when, in the opinion of the Commission, appointment through competitive examination is impracticable.

§ 213.3107 Department of the Army.

(a) *General.* (1) Positions the duties of which are of a quasi-military nature and involve the security of secret or confidential matter when, in the opinion of the Commission, appointment through competitive examination is impracticable.

(2) Unskilled laborers and munitions handlers engaged in handling Ordnance materiel, including ammunition, where temporary or intermittent employment is necessary.

(3) Student occupational therapist positions in Army hospitals. Appointments to these positions will not extend beyond the training period applicable to each individual case, which is a minimum of 3 months' training and a maximum of 12 months' training, depending upon the individual's previous clinical training.

(4) Positions under the program for utilization of alien scientists approved under pertinent directives administered by the Joint Chiefs of Staff of the Department of Defense when occupied by alien scientists initially employed under the program, including those who have acquired United States citizenship during such employment.

(5) Positions assigned exclusively to Army Communications Intelligence Activities.

(6) Trainee student medical technologist (intern) positions at the Rodriquez Army Hospital, Fort Brooke, Puerto Rico. Appointments to these positions will not extend beyond the training period applicable to each individual case, depending upon the individual's previous clinical training. Employment under this provision may not exceed 1 year in any individual case: *Provided,* That such employment may, with the approval of the Commission, be extended for not to exceed an additional year. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of section 3 of Public Law 80–330.

(b) *Transportation Corps.* (1) Longshoremen and stevedores employed at ports of embarkation in the United States; and all positions on vessels operated by the Transportation Corps.

(c) *Corps of Engineers.* (1) Land appraisers employed on a temporary basis for a period not to exceed 1 year on special projects where knowledge of local values or conditions or other specialized qualifications not possessed by appraisers regularly employed by the Corps of Engineers are required for successful results.

(2) Nonsupervisory positions of custodial laborer (levels 1, 2, and 3) and general laborer (levels 2 and 3) on survey, construction, short-term maintenance, or floating-plant operations, where because of turnover, lack of housing facilities, mobility of work site, or remoteness of personnel servicing facilities, an adequate labor force can be recruited only by immediate gate hiring on a local basis. This authority can be used only when the Commission has determined that it is specifically applicable to a given situation; ordinarily, it will not be used for employment in Civil Service central office, regional, and branch office cities or in cities where there is a local Board of U.S. Civil Service Examiners to service the employing establishment.

(3) Positions of Academic Director, Department Head, and Instructor at the U.S. Military Academy Preparatory School, Fort Belvoir, Virginia.

(d) *U.S. Military Academy, West Point, New York.* (1) Civilian professors, instructors, teachers (except teachers at the Children's School), hostesses, chapel organist and choirmaster, librarian when filled by an officer of the Regular Army retired from active service, and military secretary to the Superintendent when filled by a Military Academy graduate retired as a regular commissioned officer for disability.

(e) *National War College, Washington, D.C.* (1) Civilian directors of studies for employment of not to exceed 1 year: *Provided,* That such employment may, with the prior approval of the Commission, be extended for not to exceed 1 additional year.

(f) *Joint Brazil-United States Defense Commission.* (1) One position of clerk-stenographer-translator or civilian aide requiring a knowledge of English, Portuguese, and Spanish.

(g) *Defense Language Institute.* (1) Language instructor positions and professional positions at the West Coast Branch whose duties require supervis-

ing the language instructors or developing and evaluating instructional material and methods directly related to the teaching of foreign languages.

(2) Typists of foreign language material at the West Coast Branch whose duties require them to make corrections in grammar and spelling of the material typed.

(3) Professors, instructors, and teachers at the East Coast Branch.

(h) *Army War College, Carlisle Barracks, Pennsylvania.* (1) One position of Educational Specialist for employment of not to exceed 1 year: *Provided,* That such employment may, with the prior approval of the Commission, be extended for not to exceed 1 additional year.

(i) *Chemical Corps.* (1) Scientific and professional research associate positions at the Army Biological Warfare Laboratories, Fort Detrick, Maryland, when filled on a temporary or intermittent basis by persons having a doctoral degree in the biophysical or biological sciences or related fields of study, for research activities of mutual interest to the appointee and the Laboratories. Total employment under this provision may not exceed five positions at any one time. Employment under this provision shall not exceed 1 year in any individual case: *Provided,* That such employment may, with the approval of the Commission, be extended for not to exceed an additional year.

§ 213.3108 Department of the Navy.

(a) *General.* (1) Intelligence and Counter Intelligence positions assigned exclusively to Naval Intelligence Activities and positions assigned to Naval Security Group Activities/Functions.

(2) Positions under the program for utilization of alien scientists approved under pertinent directives administered by the Joint Chiefs of Staff of the Department of Defense when occupied by alien scientists initially employed under the program, including those who have acquired United States citizenship during such employment.

(3) Two positions of teachers in indigenous schools at Chichi Jima, Bonin-Volcano Islands.

(4) Not to exceed 50 positions of Resident-in-Training at U.S. Naval hospitals which have residency training programs, when filled by residents assigned as affiliates for part of their training from non-Federal hospitals. Assignments to these positions shall be on a temporary (full-time or part-time) or intermittent basis, shall not amount to more than 6 months for any person, and shall be only to positions excepted from the Classification Act under the provisions of Public Law 330 of the 80th Congress.

(b) *United States Naval Academy.* (1) Professors, instructors, and teachers in the United States Naval Academy, the United States Naval Postgraduate School, and the Naval War College; and the librarian, organist-choirmaster, registrar, the assistant to the superintendent for academic matters at the United States Naval Academy, and social counselors.

(c) *United States Naval Home.* (1) Positions of Orderly when filled by the appointment of beneficiaries of the Home.

(d) *Military Sea Transportation Service.* (1) All positions on vessels operated by the Military Sea Transportation Service.

(e) *U.S. Naval Research Laboratory, Washington, D.C.; U.S. Navy Electronics Laboratory, San Diego, California; U.S. Naval Ordnance Laboratory, White Oak, Silver Spring, Maryland; and U.S. Naval Weapons Laboratory, Dahlgren, Virginia.* (1) Scientific and professional research associate positions when filled on a temporary or intermittent basis by persons having a doctoral degree in physical science or related fields of study, for research activities of mutual interest to the appointee and the Laboratory. Total employment under this provision may not exceed 10 positions at the U.S. Naval Research Laboratory, 6 positions at the U.S. Navy Electronics Laboratory, 10 positions at the U.S. Naval Ordnance Laboratory, and 10 positions at the U.S. Naval Weapons Laboratory at any one time. Employment under this provision will not exceed 1 year in any individual case: *Provided,* That such employment may, with the approval of the Commission, be extended for not to exceed an additional year.

(f) *U.S. Naval Radiological Defense Laboratory, San Francisco, California.* (1) Scientific and professional research positions at GS–12 and above when filled on a temporary basis by persons having a doctoral degree or its equivalent in natural science and related fields of study, for research activities of mutual interest to the appointee and the Laboratory. Total employment under this provision may not exceed six positions at any one time. Employment under this provision may not exceed 1 year in any individual case: *Provided,* That such employment may, with the approval of the Commission, be extended for not to exceed 1 additional year.

(g) *U.S. Medical Research Institute, National Naval Medical Center, Bethesda, Maryland.* (1) Scientific and professional resident research associate positions when filled on a temporary basis by persons having a doctoral degree in an appropriate biological or biochemical science, or in medicine or related fields of study, for research activities of mutual interest to the appointee and the Institute. Total employment under this provision may not exceed five positions at any one time. Employment under this provision shall not exceed 1 year in any individual case: *Provided,* That such employment may, with the prior approval of the Commission, be extended for not to exceed an additional year.

§ 213.3109 Department of the Air Force.

(a) *Office of the Secretary.* (1) Five Special Assistants in the Office of the Secretary of the Air Force. These positions have advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with pilot studies.

(b) *General.* (1) Positions under the program for utilization of alien scientists approved under pertinent directives administered by the Joint Chiefs of Staff of the Department of Defense when occupied by alien scientists initially employed under the program, including those who have acquired United States citizenship during such employment.

(c) *Lookout Mountain Laboratory, Los Angeles, California.* (1) All positions.

(d) *United States Air Force Academy, Colorado.* (1) Positions of Cadet Hostesses, Instructors in Physical Education, and two Instructors in Music (Choirmasters).

(e) *The Air Force Systems Command and the Office of Aerospace Research.* (1) Scientific and professional research associate positions when filled on a temporary or intermittent basis by persons having a doctoral degree in physical science or related fields of study, for research activities of mutual interest to the appointee and the Command. Total employment under this provision may not exceed 20 positions at any one time. Employment under this provision shall not exceed 1 year in any individual case: *Provided,* That such employment may, with the approval of the Commission, be extended for not to exceed an additional year.

§ 213.3110 Department of Justice.

(a) *General.* (1) Field deputy United States marshals employed on an hourly basis for intermittent service.

(2) Positions of temporary deputy marshals in lieu of bailiff in the United States courts when employed on an intermittent basis.

(3) United States Marshal in the Virgin Islands.

(b) *Immigration and Naturalization Service.* (1) Information Officer.

(2) Four positions of Regional Commissioner.

§ 213.3111 Post Office Department.

(a) *General.* (1) Clerks in fourth-class post offices.

(2) Substitute Rural Carriers employed:

(i) During the incumbency of a Rural Carrier to serve the Carrier's route when he is absent on leave or for military duty, or

(ii) To serve pending the filling of a Rural Carrier vacancy, provided that the Post Office Department shall obtain prior approval of the Commission for employment of any substitute in a Rural Carrier vacancy in excess of 90 days.

(3) Special delivery messengers in second-, third-, and fourth-class post offices.

(4) One Administrative Assistant to each Regional Office Manager (15 positions).

(5) One Administrative Assistant to the Assistant to the Regional Operations Manager (Dallas Office).

(6) One Administrative Assistant to the Assistant to the Regional Operations Manager (Cincinnati Office).

(7) Clerks employed on a part-time basis in third-class post offices in Alaska.

(8) Fourth-class postmaster positions in Alaska.

(9) Positions (other than Postmaster) in Samoa, The Trust Territory, Canton Island, and Wake Island.

(10) One Additional Assistant to the Boston Regional Director.

(11) Temporary employment of Christmas Assistants in the postal field service for a period of not to exceed 15 calendar days in the month of December.

§ 213.3112 Department of the Interior.

(a) *General.* (1) Temporary, intermittent, or seasonal positions in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damage or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of the Commission.

(4) Temporary, intermittent, or seasonal field assistants at GS–5, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority shall not exceed 180 working days a year for positions at GS–4 and below in survey parties in the Bureau of Land Management and Geological Survey and shall not exceed 130 working days a year for other positions authorized under this subparagraph. This authority shall not apply to positions of field assistants engaged in fishery management work in Alaska.

(5) Temporary emergency forest and range fire and blister rust control employees in the field service of the Department of the Interior employed for fire prevention or suppression or blister rust control for not to exceed 130 working days a year, except that temporary and seasonal forest and range fire employees in the Bureau of Land Management in Alaska may be employed for fire prevention or suppression for not to exceed 180 working days a year.

(6) Persons employed in field positions the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to the providing of services to Indians when filled by the appointment of Indians who are one-fourth or more Indian blood.

(8) Subject to prior approval of the Commission, temporary, intermittent, or seasonal positions at GS–7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such as those of drillers, miners, caterpillar operators; and samplers; and positions of field assistants engaged in fishery management work. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area, there is no Board of U.S. Civil Service Examiners to service the employing establishment, and there is a shortage of available candidates for the positions.

(9) Subject to prior approval of the Commission, temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators and tradesmen on construction, repair, or maintenance work for not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area, there is no Board of U.S. Civil Service Examiners to service the employing establishment, and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(b) *Bureau of Indian Affairs.* (1) Housekeeper positions at a gross salary not in excess of the entrance rate of grade GS–4 or its equivalent when, because of isolation or lack of quarters, appointment through competitive examination is, in the opinion of the Commission, impracticable.

(2) Subject to prior approval of the Commission, assistants in Alaska native schools (not including teachers and instructors) at a salary rate not in excess of that of GS–4 or its equivalent where the schools are in isolated or remote areas or lack suitable quarters.

(c) *Indian Arts and Crafts Board.* (1) The Executive Director.

(d) *Bonneville Power Administration.* (1) Five Area Managers.

(e) *Office of Territories.* (1) The Clerk of the High Court of American Samoa.

(2) One position of part-time Secretary, one position of Administrative Educational Aid, and one position of Instructional Aid to the U.S. Resident Administrator for Canton Island.

(3) The Government Comptroller for the Virgin Islands.

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his immediate staff.

(f) *National Park Service.* (1) Park Ranger positions (general, naturalist, historian, and archeologist) at salaries equivalent to grade GS–4 or below, and not to exceed 200 such positions at salaries equivalent to grade GS–6 or GS–5 in which the duties are supervisory or are limited to a highly specialized part of the duties performed by career protective or interpretive personnel of the National Park Service. Employment at salaries equivalent to GS–6 or GS–5 is restricted to persons who have had at least two seasons of experience in the National Park Service as a park ranger at a salary equivalent to GS–4. Employment under this subparagraph shall be only for duty that is temporary, intermittent, or seasonal; and no person shall be employed by the National Park Service under this subparagraph or under a combination of this and any other excepting authorities in excess of 180 working days a year.

(g) *Bureau of Reclamation.* (1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values or conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: *Provided,* That such employment may, with prior approval of the Commission, be extended for not to exceed an additional 50 days in any single year.

(h) *The Alaska Railroad.* (1) Until December 31, 1963, all positions in Alaska in The Alaska Railroad and four technical positions in The Alaska Railroad Office in Seattle, Washington.

(i) *Office of Geography.* (1) One position of Research Analyst (Native Arabic Language Expert), GS–7.

§ 213.3113 Department of Agriculture.

(a) *General.* (1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. This authority is not applicable to positions in the Agricultural Research Service, or positions in the Statistical Reporting Service, or poultry inspection and tobacco inspection positions in the Agricultural Marketing Service. This authority is not applicable after April 1, 1963, to agricultural commodity grader (meat) positions; nor after July 1, 1963, to agricultural commodity grader (grain) and agricultural commodity aid (grain) positions in the Agricultural Marketing Service.

(2) Any local veterinarian employed on a fee basis or a part-time basis.

(3) Not to exceed 25 professional, scientific, or technical positions in grade GS–7 or higher to be filled on an exchange basis by qualified employees on the rolls of State Governments, colleges, or universities, for a limited period not to exceed 1 year.

(4) Local Agents, except veterinarians, employed temporarily outside Washington, in demonstrating in their respective localities the necessity of eradicating contagious or infectious animal diseases.

(5) Temporary, intermittent, or seasonal employment in the field service of the Department of Agriculture in the kinds of positions indicated below. This authority is applicable to positions where the salary is equivalent to GS–5 or below; except that for the forest worker positions under subdivision (v) of this subparagraph it may be used regardless of salary for wage board positions, and for the positions under subdivision (viii) of this subparagraph it may be used for the levels therein indicated. Employment under this authority shall not exceed 130 working days a year for positions under subdivisions (ii), (iii), and (iv) of this subparagraph; and total employment under this subparagraph shall not exceed 180 working days a year.

(i) Field assistants for subprofessional services.

(ii) Subject to prior approval of the Commission, clerical positions and positions in the trades, crafts, and manual laborer occupational groups exclusive of those covered by § 213.3102(i) and (m) at places other than at central office and regional and branch office cities of the Commission when (*a*) there is no local Board of U.S. Civil Service Examiners to service the employing establishment, and (*b*) there is no appropriate register or there is a shortage of available eligibles.

(iii) Caretakers at temporarily closed camps or improved areas.

(iv) Field enumerators and supervisors.

(v) Forest workers engaged primarily for fire prevention or suppression activities and also other forest workers when the employment is with headquarters other than forest supervisor and regional offices.

(vi) State Performance Assistants of the Agricultural Stabilization and Conservation Service.

(vii) Collectors of the Farmers Home Administration.

(viii) Agricultural Research helpers, helper-leaders, and workers, paid at rates not in excess of WB–5 and Leader–5 in the Agricultural Research Service.

(6) Not to exceed eight positions whose incumbents serve on an intermittent or temporary basis as field representatives of the Department of Agriculture and in this capacity represent the Department's Disaster Committee in conducting surveys and appraisals of conditions in areas whose status as "major disaster" areas under Public Law 81–875, is under consideration. Employment under this authority shall not exceed 130 working days a year.

(7) Not to exceed six Program Assistants, at or above the GS–13 level, who have acquired specialized knowledge and experience in agricultural programs at the State level of the Department, which is needed by the Department for the more efficient administration of its program. This authority may not be used beyond May 5, 1964.

(8) Until December 31, 1964, not to exceed 100 positions directly concerned with programs of the Department for employment of Cuban refugees possessing college-level training appropriate for such positions: *Provided,* That employment under this authority in any individual case shall be on a temporary basis for periods not to exceed 1 year and shall not exceed 2 years without the prior approval of the Civil Service Commission.

(b) *Office of the Secretary.* (1) Special Livestock Loans Committeemen employed for not more than 180 working days a year, to approve and direct the servicing of emergency livestock loans.

(c) *Forest Service.* (1) Temporary, intermittent, or seasonal positions when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a national forest and as being dependent for livelihood primarily upon employment available within the national forest.

(2) Positions in Alaska of Laborers, Boat Operators, Mechanics, Equipment Operators, and Carpenters whose duties require the operation of boats in coastal waters and/or the establishment and maintenance of work camps in remote areas.

(d) *Agricultural Stabilization and Conservation Service.* (1) Six Area Directors above GS–14.

(2) Members of State Committees.

(3) State Executive Directors.

(4) Farmer fieldmen and farmer fieldwomen to interpret and explain and supervise farm programs.

(e) *Farmers Home Administration.* (1) State committeemen to consider, recommend, and advise with respect to the Farmers Home Administration program.

(2) County committeemen to consider, recommend, and advise with respect to the Farmers Home Administration program.

(3) Temporary positions whose principal duties involve the making and servicing of emergency loans pursuant to Public Law 87–128. Appointment under this provision shall not exceed 1 year unless extended with the prior approval of the Commission for additional periods of not to exceed 1 year each.

(4) State Directors and not to exceed three positions of State Director-at-Large.

(f) *Agricultural Marketing Service.* (1) Positions of cotton classers GS–9 and below, clerks GS–2, and laborers, employed on a seasonal basis in cotton-classing offices outside the Washington, D.C., metropolitan area. Employment under this authority (or under a combination of this authority and any other excepting authority) shall not exceed 160 working days a year in the case of cotton classers and laborers and 130 working days a year in the case of clerks; except that GS–5 cotton classers may be employed as trainees during their first appointment only for an initial period of 6 months for training purposes without regard to the above time limitation.

(2) Positions of poultry inspector (veterinarian at GS–11 and below, and nonveterinarian at appropriate grades below GS–11) when the employment is on a temporary, intermittent, or seasonal basis, and does not exceed 160 working days a year.

(3) Milk Market Administrators.

(4) All positions on the staffs of Milk Market Administrators.

(g) *Agricultural Research Service.* (1) Field employees on programs conducted under the terms of cooperative agreements or memorandums of understanding with States or other non-Federal cooperating organizations, provided the employees are jointly selected and their salary is supplied by the cooperators on the basis of not less than a 40 percent contribution by each of the cooperators.

(2) Temporary field positions concerned with the control, suppression, and eradication of emergency livestock diseases. Persons appointed under this authority may not be employed in these positions in the Agricultural Research Service for longer than 1 year under this authority, or under a combination of this and any other authorities for excepted appointment that may be appropriate, without prior approval of the Commission. This authority shall be appropriate only in situations declared by the Secretary of Agriculture to be emergencies threatening the livestock industry of the country.

(3) Not to exceed 25 professional research associate positions, at GS–11 and above, in laboratories doing basic research work in the Agricultural Research Service to be filled on a temporary basis by scientists with a doctoral degree who possess specialized knowledges or abilities applicable to the basic research programs involved. Employment under this provision shall not exceed 1 year in any individual case: *Provided,* That such employment may, with the approval of the Commission, be extended for not to exceed an additional year.

(h) *Foreign Agricultural Service.* (1) Agricultural Attache positions at grade GS–16 and above where the duties require that the major portion of the employee's time be spent in foreign countries.

(2) Positions of Technical Leader at grade GS–12 and above employed in the training of foreign nationals on a temporary basis for not to exceed 130 working days in a year.

§ 213.3114 Department of Commerce.

(a) *General.* (1) Agents to take and transmit meteorological observations in connection with aviation who are employed on a part-time basis and whose compensation is based on a fee for each observation performed rather than on an hourly or per annum basis: *Provided,* That the number of observations shall not exceed a daily average of 12 during any calendar month.

(2) Employment of individuals, firms, or corporations for not to exceed 1 year for special statistical studies and statistical compilations, other than Personal Census Records Service, the compensation for which is derived from funds deposited with the United States under the Act of May 27, 1935 (49 Stat. 292): *Provided,* That such employments may, with the approval of the Commission, be extended for not to exceed an additional year.

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in continental United States for periods of orientation, training, analysis of data, and report writing.

(b) *Office of the Secretary.* (1) The positions of Security Control Officer, Deputy Security Control Officer, and Chief, Personnel Security Division.

(2) One Civil Aviation Specialist.

(3) One Adviser on Equal Employment Opportunity.

(c) *Coast and Geodetic Survey.* (1) All civilian positions on vessels operated by the Coast and Geodetic Survey.

(2) Temporary positions required in connection with the surveying operations of the field service of the Coast and Geo-

detic Survey. Appointment to such positions shall not exceed 8 months in any 1 calendar year.

(d) *Bureau of the Census.* (1) Supervisors, assistant supervisors, supervisors' clerks, and enumerators in the field service for temporary, part-time, or intermittent employment, for not to exceed 1 year: *Provided,* That such appointments may be extended for additional periods of not to exceed 1 year each; but that after December 31, 1960, this subparagraph shall not be authority for employment in full-time positions for longer than 1 year.

(e) *National Bureau of Standards.* (1) Scientific and professional research associate positions when filled on a temporary or intermittent basis by persons having a doctoral degree in physical science or related fields of study, for research activities of mutual interest to the appointee and the Bureau. Total employment under this provision may not exceed 20 new appointments each fiscal year, including those at the headquarters and at the Boulder, Colorado, Laboratories of the Bureau. Employment under this provision shall not exceed 1 year in any individual case: *Provided,* That such employment may, with the approval of the Commission, be extended for not to exceed an additional year. Such extensions shall not be included against the quota of 20 new appointments as stated above.

(f) *Bureau of Public Roads.* (1) Temporary, intermittent, or seasonal employment in the field service of the Bureau of Public Roads at grades not higher than GS–5 for subprofessional engineering aide work on highway surveys and construction projects, for not to exceed 180 working days a year, whenever in the opinion of the Commission appointment through competitive examination is impracticable.

(g) *Business and Defense Services Administration.* (1) Not to exceed 30 positions, at grades GS–13 and higher, to be filled by appointment of persons, qualified as industrial specialists, who possess specialized knowledge and experience in the field of industrial production, industrial operations and related problems, applicable to one or more of the current segments of industry served by the Business and Defense Services Administration. Appointments under this authority may be made for a period not to exceed 2 years, and may, with prior approval of the Commission, be extended for an additional period of 2 years.

(h) *Maritime Administration.* (1) Public Information Officer.

(2) One Private Secretary to the Public Information Officer.

(3) Chief, Program Planning Office.

(4) One Private Secretary to the Chief, Program Planning Office.

(5) The positions of Chief Investigator and Security Officer and Deputy Chief Investigator and Security Officer.

(6) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

(7) Chief, Office of Ship Construction and Repair.

(8) One Special Assistant to the Administrator (Tanker Adviser).

(9) Two Special Assistants to the Deputy Administrator.

(10) U.S. Merchant Marine Academy, positions of: Professors, instructors, and teachers; including Heads of the Departments of Physical Training and Athletics, Ships Medicine, Ship Management, History and Languages, Mathematics and Science, Nautical Science and Engineering; Academy Training Representatives; the Regimental Officer; the Drill and Activities Officers; the Band and Activities Officer; and the First, Second, and Third Battalion Officers.

(11) U.S. Merchant Marine Academy, positions of: The Superintendent; the Executive Officer and Assistant Superintendent; Dean; Registrar and Educational Services Officer; Educational Specialist (Administration) (Assistant Dean); Alumni Records Officer and Placement Director; Librarian; and the Special Assistant to the Superintendent.

(i) *Office of the Assistant Secretary for Domestic and International Business.* (1) Ten positions at GS–13 and above in specialized fields relating to international trade or commerce in the Bureau of International Commerce or in other units under the jurisdiction of the Assistant Secretary for Domestic and International Business. Incumbents shall be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for any individual appointee.

(2) Not to exceed 40 positions of Managers and Deputy Managers of International Trade Fairs and Exhibit Programs in foreign countries when the duties require a considerable portion of the employee's time to be spent in foreign countries.

(j) *Weather Bureau.* (1) Subject to prior approval of the Commission, which shall be contingent upon a showing of inadequate housing facilities, meteorological aid positions at the following stations in Alaska: Barrow, Bethal, Kotzebue, McGrath, Northway, and St. Paul Island.

(2) Cook positions on Swan Island.

§ 213.3115 Department of Labor.

(a) *Office of the Secretary.* (1) Chairman and two Members, Employees' Compensation Appeals Board.

(b) *Bureau of Employment Security.* (1) One Minority Groups Consultant.

(c) *President's Committee on Equal Employment Opportunity.* (1) All positions on the Staff of the President's Committee on Equal Employment Opportunity established by Executive Order 10925 of March 6, 1961.

(d) *Bureau of Labor Statistics.* (1) Not to exceed 40 positions of Statistical Investigators, GS–3 and GS–4, employed on a temporary or intermittent basis for field-survey work. Persons appointed under this authority may not be employed in this kind of work in the Bureau of Labor Statistics for more than 180 working days in any single year under this authority or under a combination of this and any other authorities for excepted appointment that may be appropriate.

(e) *President's Commission on the Status of Women.* (1) All positions on the staff of the President's Commission on the Status of Women established by Executive Order 10980 of December 14, 1961.

§ 213.3116 Department of Health, Education, and Welfare.

(a) *St. Elizabeths Hospital.* (1) Three Medical Officers (Surgical Resident).

(2) Student Medical Interns for temporary or part-time employment.

(3) Temporary positions of graduate nurses appointed as students for the purpose of receiving 12 weeks of training equivalent to psychiatric affiliation. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of section 3 of Public Law 80–330.

(4) Three positions of Medical Officers (Radiology Resident): *Provided,* That employment under this authority shall not exceed 1 year, except that selected residents may be nominated and reappointed for an additional year of training when the parent hospital determines that the supplemental training will meet the specialized needs of the individual resident.

(5) Until June 30, 1964, not to exceed a total of 15 positions including first-, second-, and third-year Psychodrama Interns and first- and second-year Psychodrama Residents who possess B.A., M.A., or Ph. D. degrees. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of section 3 of Public Law 80–330. Appointments under this authority may not extend beyond June 30, 1964.

(6) Two Medical Officers (Anatomical Pathology Resident) for not to exceed 2 years' employment in the case of any one individual.

(7) Three Medical Officers (Internal Medicine Resident) for not to exceed 3 months' employment in the case of any one individual.

(8) Four positions of Medical Officer (Physical Medicine and Rehabilitation Resident): *Provided,* That employment under this authority shall not exceed one year, except that selected residents may be nominated and reappointed for an additional year of training when the parent hospital determines that the supplemental training will meet the specialized needs of the individual resident. Initial appointments may be made at any level within the 3-year residency as approved by the American Medical Association.

(9) Not to exceed 22 positions of Chaplain Residents: *Provided,* That employment under this authority shall not exceed 39 months for any individual. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of section 3 of Public Law 80–330.

(b) *Public Health Service.* (1) Special escorts to accompany patients of the Public Health Service in accordance

with existing laws and regulations. Employment under this subparagraph shall be only for the period of time necessary for the escort to deliver the patient to his destination and to return.

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) All positions in leprosy investigation stations.

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health, Education, and Welfare and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the cooperating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5) Medical and dental interns, externs, and residents; and student nurses.

(6) Positions of scientific, professional, or technical nature when filled by bona fide students enrolled in academic institutions: *Provided,* That the work performed in the agency is to be used by the student as a basis for completing certain academic requirements required by an educational institution to qualify for a scientific, professional, or technical field: *And provided further,* That appropriate exclusions of the positions under the authority of Public Law 80–330 have been approved by the Civil Service Commission.

(7) Student Dietitians and Resident Physicians at Freedman's Hospital.

(8) Positions directly and primarily related to the providing of services to Indians when filled by the appointment of Indians who are one-fourth or more Indian blood.

(9) Not to exceed 30 positions of clerical assistants employed on a part-time and intermittent basis to aid cooperating clinicians in non-Federal tuberculosis sanatoria in the keeping of records and the preparation of reports in connection with research studies into the effectiveness of antimicrobial agents in the treatment of tuberculosis. Persons appointed under this authority may not be employed in this kind of work in the Public Health Service for more than 180 working days in a single year under this authority or under a combination of this and any other authority for excepted appointment that may be appropriate.

(c) *Office of Education.* (1) Positions concerned with problems in education financed and participated in by the Office of Education, Department of Health, Education, and Welfare, and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(2) Ten positions at grade GS–13 and above the incumbents of which will engage in research and consultative services in highly specialized areas within the field of education which present current educational problems of national concern, e.g., the relationship of ROTC training to higher education, the status of a particular area of cooperative educational research, the assessment of the educational system of a particular foreign country, and other equally vital and important problem areas. Appointments made under this authority shall be limited to persons having a particular competency in the area concerned, and shall be restricted to positions concerned with current problem areas that are not a part of the continuing broad educational programs administered by the United States Office of Education. Employment under this provision shall not exceed 2 years for any individual appointee.

(d) *Social Security Administration.* (1) One position of claims examiner or social insurance representative in a district office of the Bureau of Old-Age and Survivors Insurance in the State of Arizona when filled by the appointment of a person of one-fourth or more Indian blood.

(e) *General.* (1) Until December 31, 1963, 50 positions in medical and related occupations for employment under the Cuban refugee program. Employment of any person under this authority shall not extend more than 1 year beyond the expiration date of the authority.

(f) *President's Council on Youth Fitness.* (1) Three Staff Assistants, President's Council on Youth Fitness.

(g) *Welfare Administration.* (1) Not to exceed 150 positions directly concerned with programs conducted by the Department in connection with the problems of Cuban refugees: *Provided,* That employment under this authority shall be temporary and no employment shall be made under it after June 30, 1964.

§ 213.3121 National Security Council.

(a) All positions on the staff of the Council.

§ 213.3122 Interstate Commerce Commission.

(a) One Congressional Liaison Officer.

§ 213.3124 Board of Governors, Federal Reserve System.

(a) All positions.

§ 213.3127 Veterans Administration.

(a) *Construction Division.* (1) Temporary construction workers paid from "purchase and hire" funds and appointed for not to exceed the duration of a construction project.

§ 213.3128 United States Information Agency.

(a) Two Liaison Officers (Congressional) in the Office of the General Counsel.

(b) One Chief of Religious Information.

§ 213.3129 Federal Power Commission.

(a) Three special assistants to the Commission.

§ 213.3130 Securities and Exchange Commission.

(a) Director, Division of Corporation Finance; Director, Division of Corporate Regulations; Director, Division of Trading and Exchange.

(b) Ten positions of Regional Administrator.

§ 213.3133 Federal Deposit Insurance Corporation.

(a) All field positions concerned with the work of liquidating the assets of closed banks or the liquidation of loans to banks, and all temporary field positions the work of which is concerned with paying the depositors of closed insured banks.

(b) One position of Chief Clerk in the San Juan, Puerto Rico, office.

§ 213.3135 National Capital Housing Authority.

(a) Executive Director.

§ 213.3136 United States Soliders' Home.

(a) All positions.

§ 213.3137 General Services Administration.

(a) *General.* (1) Custodians, guards, watchmen, laborers, and other employees engaged in the custody, care, and preservation of plants, warehouses, shipyards, airfields, and surplus facilities of a similar nature pending disposition of such facilities.

§ 213.3138 Federal Communications Commission.

(a) One Associate Chief Engineer.

(b) The Chief of each of the following Bureaus: Broadcast, Common Carrier, Safety and Special Radio Services, and Field Engineering and Monitoring.

§ 213.3139 United States Tariff Commission.

(a) The Secretary of the Commission.

§ 213.3141 National Labor Relations Board.

(a) Election Clerks and Election Examiners for temporary, part-time, or intermittent employment in connection with elections under the Labor Management Relations Act.

§ 213.3142 Export-Import Bank of Washington.

(a) Three Special Assistants to the Board of Directors, grade GS–14 and above, with responsibility for carrying out special overseas assignments for the Board.

§ 213.3143 Farm Credit Administration.

(a) Federal Land Bank Association receivers and conservators.

(b) Not to exceed seven positions in the Credit Services of the Farm Credit Administration in grades GS–13 or above, requiring technical or administrative experience in the field of agricultural credit: *Provided,* That this authority may be used only when making appointments of persons who have acquired such experience in the Farm Credit Administration or in one or more of the institutions supervised by the Farm Credit Administration.

§ 213.3144 Housing and Home Finance Agency.

(a) *Office of the Administrator.* (1) Until July 31, 1965, Executive Secretary and Deputy Executive Secretary of the

National Committee and the Executive Secretary of each regional subcommittee established under Title VI of the Housing Act of 1954.

(2) Director, Compliance Division.

(3) Seven Regional Administrators.

(4) Director, Community Disposition Program.

(5) One Special Assistant to the Deputy Administrator.

(b) *Federal Housing Administration.*

(1) Six Zone Operations Commissioners.

§ 213.3146 Selective Service System.

(a) State Directors.

(b) Deputy or Assistant State Directors and State Medical Officers in State Headquarters.

(c) Until June 30, 1967, Executive Secretary, National Advisory Committee on the Selection of Physicians, Dentists, and Allied Specialists.

(d) Executive Secretary, National Selective Service Appeal Board.

§ 213.3147 Federal Mediation and Conciliation Service.

(a) Executive Secretary of a Board of Inquiry appointed under section 206 of the Labor-Management Relations Act of 1947 (29 U.S.C. 176).

§ 213.3148 National Aeronautics and Space Administration.

(a) Fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

(b) Forty scientific specialists to be engaged on special research projects.

(c) A research and development group consisting of not to exceed 35 aliens having special qualifications in fields closely related to manned space flight, where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

§ 213.3149 Panama Canal Company, New Orleans.

(a) All positions on vessels operated by the Panama Canal Company.

(b) Checkers employed on W.A.E. basis.

(c) One Receiving Clerk, one Delivery Clerk, and one Baggage Master-Storekeeper employed on dock (New Orleans).

(d) One General Agent, Panama Canal Line, at Port-au-Prince, Haiti.

§ 213.3154 Federal Home Loan Bank Board.

(a) One Secretary, Federal Home Loan Bank Board.

(b) One Director, Division of Examinations.

(c) All temporary field positions in the Federal Savings and Loan Insurance Corporation concerned with the work of liquidating the assets of closed insured institutions, or the liquidation of loans or the handling of contributions to insured institutions and the purchase of assets therefrom, and all temporary field positions of the Federal Savings and Loan Insurance Corporation the work of which is concerned with paying the depositors of closed insured institutions.

§ 213.3156 Commission on Civil Rights.

(a) Ten positions at grade GS–11 and above to engage in and advise on the collection, study, and appraisal of information developed in accordance with Public Law 85–315. Appointments made under this authority shall be limited to persons having a particular competency in the areas concerned and shall not extend beyond November 9, 1963.

§ 213.3157 Federal Aviation Agency.

(a) Caretakers and light attendants employed on emergency fields and other air navigation facilities, who are paid on a fee basis.

(b) Medical Officer positions on Canton and Wake Islands.

(c) Laborer positions on Swan Island.

§ 213.3158 Franklin Delano Roosevelt Memorial Commission.

(a) All positions on the staff of the Commission.

§ 213.3160 Peace Corps.

(a) One Special Representative when employed on an intermittent basis.

(b) Thirty-five positions, filled by temporary appointment of 2 years or less, on the staff of the Peace Corps training camp in Puerto Rico.

§ 213.3161 James Madison Memorial Commission.

(a) One Executive Secretary.

§ 213.3162 National Aeronautics and Space Council.

(a) All positions.

§ 213.3163 President's Committee on Youth Employment.

(a) All positions on the staff of the President's Committee on Youth Employment, established by the President on November 16, 1961.

§ 213.3164 U.S. Arms Control and Disarmament Agency.

(a) Until April 30, 1965, 7 project officers at GS–14 and above in the Weapons Evaluation and Control Bureau and 10 Physical Science Administration Officers at GS–13 and above in the Science and Technology Bureau.

(b) Until April 30, 1965, the Chief and Assistant Chief, Political Affairs Division, International Relations Bureau; and one Special Assistant to the Chief and one Project Officer (GS–14 or above), Political Research and Analysis Division, International Relations Bureau.

§ 213.3165 President's Advisory Committee on Labor-Management Policy.

(a) One Assistant Executive Director.

§ 213.3166 President's Committee on Juvenile Delinquency and Youth Crime.

(a) Until July 30, 1964, all positions on the staff.

§ 213.3169 President's Committee on Equal Opportunity in Housing.

(a) Positions, other than the Staff Director, on the Staff of the President's Committee on Equal Opportunity in Housing established by the President on November 20, 1962.

SCHEDULE B

§ 213.3201 Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination.

The positions enumerated in §§ 213.3202 to 213.3299 are positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination and which are excepted from the competitive service and constitute Schedule B. Appointments to these positions are subject to such noncompetitive examination as may be prescribed by the Commission.

§ 213.3204 Department of State.

(a) Persons formerly employed abroad in the Foreign Service of the United States (this means civilian employment in the executive branch) for a period of at least 4 years for service in executive and administrative positions, or for at least 2 years for professional positions, in grades GS–9 and above.

(b) Positions assigned exclusively to Department of State Cryptographic Security Activities.

(c) Director and Deputy Director, Foreign Buildings Operations.

§ 213.3205 Treasury Department.

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Chief National Bank Examiner, Deputy Regional Chief National Bank Examiner, Senior National Bank Examiner, National Bank Examiner, Senior Assistant National Bank Examiner, Assistant National Bank Examiner, Deputy to the Comptroller of the Currency for Trusts, Representatives in Trusts, Associates in Trusts, Assistants in Trusts, and one Administrative Assistant to the Comptroller of the Currency, whose salaries are paid from assessments against national banks and other financial institutions.

(b) Cryptographer, United States Coast Guard.

(c) Not to exceed two positions of Accountant (Tax Specialist) at grades GS–13 and above to serve as specialists on the accounting analysis and treatment of corporation taxes. Employments under this paragraph shall not exceed a period of 18 months in any individual case.

§ 213.3206 Department of Defense.

(a) *Office of the Secretary.* (1) Professional Members of Policy Planning Staff in positions at grades GS–16 and above, Office of Deputy Assistant Secretary (Planning and NSC), Office of the Assistant Secretary of Defense (International Security Affairs).

(2) Positions at grades GS–16, 17, and 18, Office of the Deputy Assistant Secretary (Programming) in the Office of the Assistant Secretary of Defense (Comptroller).

(3) Professional positions at grades GS–16 and above in the Directorate for Special Studies, Office of the Deputy Assistant Secretary (Manpower Requirements and Special Studies), Office of the Assistant Secretary of Defense (Manpower).

§ 213.3209 Department of the Air Force.

(a) Positions assigned exclusively to Air Force Communications Intelligence Activities.

(b) Civilian Deans and Professors at the Air Force Institute of Technology, Wright-Patterson Air Force Base, Dayton, Ohio.

§ 213.3210 Department of Justice.

(a) Deputy United States Marshals, Supervisory Deputy United States Marshals, and Chief Deputy United States Marshals.

(b) Positions of Port Receptionist and Supervisory Port Receptionist, Immigration and Naturalization Service.

§ 213.3212 Department of the Interior.

(a) Any competitive position at an Indian school when filled by the spouse of a competitive employee of the school, when because of isolation or lack of quarters, the Commission deems appointment through competitive examination impracticable.

§ 213.3228 United States Information Agency.

(a) Persons formerly employed abroad in the Foreign Service of the United States or as Binational Center Grantees for a period of at least 4 years for service in executive and administrative positions, or for at least 2 years for professional positions, in grades GS–9 and above.

§ 213.3229 Federal Power Commission.

(a) A Chief Engineer.

§ 213.3244 Housing and Home Finance Agency.

(a) *Federal Housing Administration.* (1) Ten Zone Intergroup Relations Advisors.

§ 213.3246 Selective Service System.

(a) Positions in the Selective Service System when filled by persons who as commissioned officer personnel in the Armed Forces have previously been trained for or have been on active military duty in the Selective Service program, and cannot, for some reason beyond their control, be brought to active military duty in the current Selective Service program.

§ 213.3253 District of Columbia Government.

(a) Chairman, Secretary and Members of the Board of Police and Fire Surgeons, District of Columbia.

§ 213.3260 Peace Corps.

(a) Not to exceed 10 positions in grades GS–9 through GS–15 when filled by persons who have served overseas for at least 2 years in the foreign service of the Peace Corps or in the Foreign Service of the Department of State or of other constituent agencies of the Department.

§ 213.3268 Agency for International Development.

(a) Not to exceed 30 positions at GS–9 and above when filled by persons who have served overseas with the Agency for International Development for not less than 2 years.

SCHEDULE C

§ 213.3301 Positions of a confidential or policy-determining character.

The positions enumerated in §§ 213.3302 to 213.3399 are positions of a confidential or policy-determining character which are excepted from the competitive service, to which appointments may be made without examination by the Commission and which constitute Schedule C.

§ 213.3303 Executive Office of the President.

(a) *Bureau of the Budget.* (1) Three Assistant Directors.

(2) Two Private Secretaries to the Director.

(3) One Private Secretary to the Deputy Director.

(4) One Private Secretary to each of the three Assistant Directors.

(b) *Council of Economic Advisers.* (1) Two Private Secretaries to the Chairman and one to each of the other two members.

(c) *Office of Science and Technology.* (1) One Confidential and Secretarial Assistant to the Director.

(2) One Confidential and Secretarial Assistant to the Deputy Director.

(3) One Special Assistant to the Director.

§ 213.3304 Department of State.

(a) *Office of the Secretary.* (1) Five Special Assistants.

(2) One Special Assistant to the Secretary for Atomic Energy and Outer Space.

(3) One Deputy Special Assistant to the Secretary for Atomic Energy and Outer Space.

(4) Two Confidential Assistants and four Private Secretaries to the Secretary.

(5) Four Special Assistants to the Under Secretary.

(6) One Special Assistant (Fisheries) to the Under Secretary.

(7) Three Confidential Assistants and one Private Secretary to the Under Secretary.

(8) Two Staff Assistants.

(9) The Secretary of the International Joint Commission—United States and Canada.

(10) The Chief of Protocol, Office of the Under Secretary.

(11) One Special Assistant to the Secretary.

(12) One Private Secretary to the Special Assistant to the President.

(13) Two Staff Assistants and one Private Secretary to the Chief of Protocol.

(14) One Personal Assistant, Office of the President's Representative.

(15) One Personal Assistant to the Director, Food for Peace, Office of the Under Secretary.

(16) One Personal Assistant and one Private Secretary to the Under Secretary for Political Affairs.

(17) Two Special Assistants and one Staff Assistant, Office of the President's Representative.

(18) Two Special Assistants to the Under Secretary for Political Affairs.

(19) One Assistant Director, Food for Peace, Office of the Under Secretary.

(b) *Bureau of Security and Consular Affairs.* (1) Deputy Administrator.

(2) Administrator.

(3) Deputy Administrator for Refugee Relief.

(4) One Private Secretary to the Administrator.

(c) *Office of the Assistant Secretary for Congressional Relations.* (1) One Congressional Liaison Officer (House).

(2) Deputy Assistant Secretary.

(3) Congressional Liaison Officer (Senate).

(4) One Confidential Assistant to the Assistant Secretary.

(5) One Executive Assistant.

(6) Three Legislative Management Officers.

(7) One Legislative Officer.

(8) One Special Assistant to the Assistant Secretary.

(9) One Personal Assistant to the Assistant Secretary.

(d) *Office of the Assistant Secretary for Public Affairs.* (1) One Deputy Assistant Secretary.

(2) One Private Secretary to the Assistant Secretary.

(3) One Special Assistant to the Assistant Secretary.

(4) Director of the Office of News.

(5) One Review Officer.

(6) One Deputy Assistant Secretary (Public Services).

(7) One Deputy Assistant Secretary (Policy Plans and Guidance).

(e) *Bureau of Economic Affairs.* (1) One Deputy Assistant Secretary (International Finance and Development), one Deputy Assistant Secretary (International Trade), and one Deputy Assistant Secretary (International Resources).

(2) One Private Secretary to the Assistant Secretary.

(f) *Bureau of Intellience and Research.* (1) One Private Secretary.

(2) Director of Intelligence and Research.

(3) Deputy Director of Intelligence and Research.

(4) Two Staff Assistants.

(g) *Bureau of Near Eastern and South Asian Affairs.* (1) Deputy Assistant Secretary.

(2) One Private Secretary to the Assistant Secretary.

(3) One Deputy Assistant Secretary.

(h) *Bureau of International Organization Affairs.* (1) Two Deputy Assistant Secretaries.

(2) One Private Secretary to the Assistant Secretary.

(3) One Special Assistant to the Assistant Secretary.

(4) One Special Assistant to the Assistant Secretary (Public Affairs).

(i) *Bureau of European Affairs.* (1) Deputy Assistant Secretary.

(2) One Private Secretary to the Assistant Secretary.

(3) Deputy Assistant Secretary (German and NATO Affairs).

(4) One Deputy Assistant Secretary for Atlantic Affairs.

(j) *Bureau of Far Eastern Affairs.* (1) Deputy Assistant Secretary.

(2) One Private Secretary to the Assistant Secretary.

(3) One Deputy Assistant Secretary for Far Eastern Economic Affairs.

(4) One Regional Planning Adviser.

(5) One Special Assistant to the Assistant Secretary.

(k) *Bureau of Inter-American Affairs.* (1) Deputy Assistant Secretary.

(2) One Private Secretary to the Assistant Secretary.

(3) One Special Assistant to the Assistant Secretary.

(4) One Special Assistant to the Assistant Secretary (Public Affairs).

(5) One Deputy Assistant Secretary for Inter-American Economic Affairs.

(6) One Deputy Assistant Secretary (Educational and Cultural Affairs).

(7) Two Secretary and Personal Assistants to the U.S. Representative to the Council of the Organization of American States.

(l) *Office of the Legal Adviser.* (1) Deputy Legal Adviser.

(2) One Private Secretary to the Legal Adviser.

(3) One Special Assistant to the Legal Adviser.

(m) *Executive Secretariat.* (1) The Executive Secretary.

(2) Two Deputy Executive Secretaries.

(n) *Policy Planning Council.* (1) The Deputy Counselor and Vice Chairman.

(2) The Executive Secretary.

(3) Twelve Members.

(4) One Private Secretary to the Counselor and Chairman.

(5) One Alternate Department Representative on the National Security Council Planning Board.

(6) One Staff Assistant.

(o) *Office of the Assistant Secretary for Administration.* (1) Deputy Assistant Secretary for Personnel.

(2) One Confidential Assistant to the Assistant Secretary.

(3) One Private Secretary to the Assistant Secretary for Administration.

(p) *Office of the Deputy Under Secretary for Administration.* (1) One Confidential Assistant to the Deputy Under Secretary.

(2) Chief, Special Liaison Staff.

(3) One Assistant Chief, Special Liaison Staff.

(4) Three Special Liaison Assistants, Special Liaison Staff.

(5) The Deputy Assistant Secretary for Security.

(6) One Special Assistant to the Deputy Under Secretary.

(q) *Office of the Deputy Under Secretary for Political Affairs.* (1) One Special Assistant to the Deputy Under Secretary.

(2) One Confidential Assistant to the Deputy Under Secretary.

(3) One Deputy Assistant Secretary for Political-Military Affairs.

(4) One Special Assistant to the Secretary and Coordinator of International Labor Affairs.

(r) *Bureau of African Affairs.* (1) Deputy Assistant Secretary.

(2) One Private Secretary to the Assistant Secretary.

(3) One Deputy Assistant Secretary for African Economic Affairs.

(4) One Special Assistant to the Assistant Secretary.

(s) *Bureau of Educational and Cultural Affairs.* (1) One Private Secretary to the Assistant Secretary for Educational and Cultural Affairs.

(2) One Special Assistant.

(3) One Deputy Assistant Secretary.

(4) One Deputy Assistant Secretary for Plans.

(t) *Office of the Inspector General, Foreign Assistance.* (1) One Private Secretary to the Inspector General, Foreign Assistance.

(2) One Private Secretary to the Deputy Inspector General, Foreign Assistance.

§ 213.3305 Treasury Department.

(a) *Office of the Secretary.* (1) Four Assistants to the Secretary.

(2) One Confidential Assistant to the Secretary.

(3) One Confidential Assistant to the Under Secretary.

(4) The Director, Office of Tax Legislative Counsel.

(5) The Director, Office of Law Enforcement Coordination.

(6) One Assistant to the Secretary for Congressional Relations.

(7) One Deputy Assistant to the Secretary for Congressional Relations.

(8) One Assistant to the Secretary (National Security Council).

(9) One Deputy Assistant Secretary for International Affairs.

(10) One Public Affairs Specialist.

(11) The Director, Office of Tax Analysis.

(12) One Assistant to the Secretary (Financial Analysis).

(13) One Deputy Under Secretary for Monetary Affairs.

(14) One Special Assistant to the Secretary.

(15) One Special Assistant to the Assistant to the Secretary (Public Relations).

(b) *Office of the Treasurer of the United States.* (1) One Confidential Administrative Assistant to the Treasurer of the United States.

(c) *Bureau of Customs.* (1) Commissioner of Customs.

(2) One Deputy Commissioner of Customs.

(d) *United States Savings Bonds Division.* (1) National Director.

(e) *Bureau of the Mint.* (1) One Special Assistant to the Director of the Mint.

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* (1) One Special Assistant and two Private Secretaries to the Secretary of Defense.

(2) Two Private Secretaries to the Deputy Secretary of Defense and one Private Secretary to each of the following: The Director of Defense Research and Engineering; the Assistant Secretary of Defense (Manpower); the Assistant Secretary of Defense (International Security Affairs); the Senior Military Aide to the President; the Assistant Secretary of Defense (Public Affairs); the Assistant Secretary of Defense (Installations and Logistics); the Assistant Secretary of Defense (Medical and Health); the General Counsel; and the Assistant to the Secretary of Defense (Atomic Energy).

(3) Three Chauffeurs for the Secretary of Defense.

(4) One Deputy Assistant Secretary, Office of the Assistant Secretary of Defense for Public Affairs.

(5) Two Confidential Assistants to the Assistant Secretary of Defense (International Security Affairs).

(6) The Defense Advisor to USRO in Paris, France.

(7) Two Private Secretaries to the Defense Advisor to USRO in Paris, France.

(8) One Deputy Assistant Secretary (Security Policy), Office of the Assistant Secretary of Defense (Manpower).

(9) One Deputy Assistant Secretary (Planning and NSC), Office of the Assistant Secretary of Defense for International Security Affairs.

(10) One Deputy Assistant Secretary (International Security Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.

(11) One Assistant to the Secretary of Defense (Legislative Affairs).

(12) One Private Secretary to the Assistant to the Secretary of Defense (Legislative Affairs).

(13) One Special Assistant to the Assistant to the Secretary of Defense (Legislative Affairs).

(14) One Personal Secretary to the Deputy Secretary of Defense.

(15) One Private Secretary to the Deputy Assistant Secretary (International Security Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.

(16) One Private Secretary to the Principal Special Assistant to the Secretary of Defense.

(17) One Deputy Assistant Secretary (Arms Control), Office of the Assistant Secretary of Defense for International Security Affairs.

(18) Director of Organizational and Management Planning, Immediate Office of the Secretary.

(19) One Deputy Assistant Secretary of Education and Manpower Resources, Office of the Assistant Secretary of Defense (Manpower).

(20) One Deputy Assistant Secretary (Regional Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.

(21) One Special Assistant (Economics Adjustment Advisor) to the Assistant Secretary of Defense (Installations and Logistics).

(22) One Confidential Assistant to the Special Assistant to the Secretary of Defense.

(23) One Private Secretary to the Assistant Secretary of Defense, Office of the Director of Defense Research and Engineering.

(24) One Private Secretary to the Assistant Secretary of Defense (Civil Defense).

(25) One Special and Confidential Assistant to the Assistant Secretary of Defense (Civil Defense).

(26) One Congressional Liaison Officer (Civil Defense), Office of the Assistant to the Secretary of Defense (Legislative Affairs).

(27) The Director of Economic Utilization Policy, Office of the Assistant Secretary of Defense (Installations and Logistics).

(28) One Staff Assistant to the Special Assistant to the Secretary of Defense.

(29) One Staff Assistant to the Director of Economic Utilization Policy, Office of the Assistant Secretary of Defense (Installations and Logistics).

(30) Two Private Secretaries to the Chairman, Joint Chiefs of Staff.

(31) One Deputy Assistant Secretary (Civilian Personnel and Industrial Relations) and one Deputy Assistant Secretary (Manpower Requirements and Special Studies), Office of the Assistant Secretary of Defense (Manpower).

(32) One Confidential Assistant to the Assistant Secretary of Defense (Installations and Logistics).

(b) *Court of Military Appeals.* (1) One Private Secretary and two Technical Assistants to each Judge of the Court.

(c) *Interdepartmental Programs.* (1) Two Personal Secretaries and Confidential Assistants to the Military Representative of the President.

(d) *Defense Supply Agency.* (1) One Confidential Assistant (Economic Utilization Policy) to the Director, Defense Supply Agency.

(e) *Office of the Assistant Secretary of Defense (Civil Defense).* (1) The Director for Public Information.

§ 213.3307 Department of the Army.

(a) *Office of the Secretary.* (1) One Private Secretary or Confidential Assistant to the Secretary, to the Under Secretary, and to each Assistant Secretary of the Army.

(2) One Deputy to the Assistant Secretary of the Army (Financial Management) and one Deputy to the Assistant Secretary of the Army (Installations and Logistics)—Installations.

(3) The General Counsel.

(4) One Special Assistant to the Assistant Secretary of the Army (Installations and Logistics).

(5) One Deputy for International Affairs to the Under Secretary of the Army.

(6) One Special Assistant for Reserve Forces and ROTC Matters to the Under Secretary of the Army.

(7) One Deputy for Manpower to the Under Secretary of the Army.

(8) One Confidential Assistant to the Deputy for International Affairs to the Under Secretary of the Army.

(9) One Confidential Assistant (Economic Utilization Policy) to the Assistant Secretary of the Army (Installations and Logistics).

(10) One Assistant to the Deputy for International Affairs to the Under Secretary of the Army.

(b) *General.* (1) One Administrative Assistant to the Personal Physician to the President.

(2) One Administrative Assistant and one Private Secretary to the Military Aide to the President.

§ 213.3308 Department of the Navy.

(a) *Office of the Secretary.* (1) Three Civilian Aides or Executive Assistants to the Secretary.

(2) Two Private or Confidential Secretaries to the Secretary and one to the Under Secretary and to each Assistant Secretary of the Navy.

(3) One Chauffeur for the Secretary of the Navy.

(4) One Confidential Secretary to the Civilian Aide to the Secretary of the Navy.

(5) One Private Secretary to the Naval Aide to the President.

(6) Two Civilian Aides or Executive Assistants to the Under Secretary.

(7) Four Civilian Aides or Executive Assistants to the Assistant Secretary (Installations and Logistics).

(8) Two Civilian Aides or Executive Assistants each to the Assistant Secretary (Research and Development) and the Assistant Secretary (Financial Management).

(9) One Confidential Assistant (Economic Utilization Policy) to the Assistant Secretary of the Navy (Installations and Logistics).

§ 213.3309 Department of the Air Force.

(a) *Office of the Secretary.* (1) Three Special Assistants to the Secretary, and one Special Assistant to the Under Secretary, and to each Assistant Secretary of the Air Force.

(2) Five Private Secretaries. (For employment of Private Secretaries to officials in the Office of the Secretary who are appointed by the President or are appointed under subparagraph (1) of this paragraph.)

(3) The General Counsel.

(4) One Confidential Assistant (Economic Utilization Policy) to the Assistant Secretary of the Air Force (Materiel).

§ 213.3310 Department of Justice.

(a) *Office of the Attorney General.* (1) The Executive Assistant to the Attorney General.

(2) The Pardon Attorney.

(3) Three Private Secretaries to the Attorney General.

(4) One Chauffeur for the Attorney General.

(5) Two Special Assistants for Public Relations.

(6) One Confidential Assistant to the Attorney General.

(7) Two Secretaries for the Attorney General.

(8) Two Receptionists for the Attorney General.

(9) Three Confidential Assistants to the Attorney General.

(b) *Office of the Deputy Attorney General.* (1) Two Confidential Assistants (Private Secretaries) to the Deputy Attorney General.

(2) Head of Executive Office for United States Attorneys.

(3) Assistant Deputy Attorney General for Legal Administration.

(4) Assistant Deputy Attorney General for Litigation.

(5) Head, Executive Office of U.S. Marshals.

(6) One Executive Assistant to the Deputy Attorney General.

(c) *Office of the Solicitor General.* (1) The First Assistant to the Solicitor General.

(2) One position of Trial Attorney (General)—Second Assistant.

(3) One Confidential Assistant (Private Secretary) to the Solicitor General.

(d) *Anti-Trust Division.* (1) The First Assistant to the Assistant Attorney General.

(2) Chief, General Litigation Section.

(3) Chief, Trial Section.

(4) Chief, Special Litigation Section.

(5) Chief, Judgments and Judgment Enforcement Section.

(6) Chief, Special Trial Section.

(7) Chief, Appellate Section.

(8) Chief, Field Office (six positions).

(9) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(10) Chief, Economic Section.

(11) Chief, Public Counsel Section.

(12) Chief, Section Operations.

(13) Chief, Field Operations.

(e) *Civil Division.* (1) The First Assistant to the Assistant Attorney General.

(2) Second Assistant to the Assistant Attorney General.

(3) Chief, Admiralty and Shipping Section.

(4) Chief, Court of Claims Section.

(5) Chief, Fraud Section.

(6) Chief, General Litigation Section.

(7) Chief, Patent Section.

(8) Chief, Appellate Section.

(9) Chief, Torts Section.

(10) Chief, Admiralty and Shipping Section, New York.

(11) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(12) One Executive Assistant.

(13) Chief, General Claims Section.

(f) *Criminal Division.* (1) The First Assistant to the Assistant Attorney General.

(2) Second Assistant to the Assistant Attorney General.

(3) Chief, Administrative Regulations Section.

(4) Chief, General Crimes Section.

(5) Chief, Trial Section.

(6) Chief, Appeals and Research Section.

(7) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(8) Chief, Organized Crime and Racketeering Section.

(9) Chief, Fraud Section.

(10) One position of Trial Attorney (General)—Staff Assistant.

(g) *Tax Division.* (1) The First Assistant to the Assistant Attorney General.

(2) Chief, Appellate Section.

(3) Chief, Criminal Section.

(4) Chief, Review Section.

(5) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(6) Second Assistant to the Assistant Attorney General.

(7) Chief, General Litigation Section.

(8) One Assistant for Civil Trials.

(h) *Lands Division.* (1) The First Assistant to the Assistant Attorney General.

(2) Chief, Lands Acquisition Section.
(3) Chief, Appellate Section.
(4) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.
(5) Chief, Indian Claims Section.
(6) One Executive Assistant.

(i) *Office of Alien Property.* (1) One Deputy Director.

(j) *Immigration and Naturalization Service.* (1) General Counsel.
(2) One Confidential Assistant (Private Secretary) to the Commissioner.
(3) Executive Assistant to the Commissioner.
(4) Two Associate Commissioners, one for Operations, and one for Management.
(5) Four Deputy Associate Commissioners, one for each of the following: Domestic Control; Travel Control; Security; and Administrative Services.

(k) *Board of Immigration Appeals.* (1) Executive Assistant.
(2) The Chairman.
(3) Four Members of the Board.

(l) *Office of Legal Counsel.* (1) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.
(2) The First Assistant to the Assistant Attorney General.
(3) The Second Assistant to the Assistant Attorney General.

(m) *Bureau of Prisons.* (1) The Director.
(2) The Deputy Director.
(3) Three Assistant Directors.
(4) Technical and Legislative Adviser.

(n) *Federal Prison Industries, Inc.* (1) The Commissioner of Industries.
(2) The Deputy Commissioner of Industries.
(3) The Associate Commissioner.

(o) *Office of United States Attorney.* (1) Secretary and Confidential Assistant to the United States Attorney (10 positions).

(p) *Internal Security Division.* (1) The First Assistant to the Assistant Attorney General.
(2) One Executive Assistant to the Assistant Attorney General.
(3) One Confidential Assistant to the Assistant Attorney General.
(4) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.
(5) Chief, Appeals and Research Section.
(6) Chief, Civil Section.
(7) Chief, Foreign Agents Registration Section.
(8) Chief, Criminal Section.

(q) *Civil Rights Division.* (1) The First Assistant to the Assistant Attorney General.
(2) Second Assistant to the Assistant Attorney General.
(3) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

§ 213.3311 Post Office Department.

(a) *Office of the Postmaster General.* (1) One Executive Assistant to the Postmaster General.
(2) Six Special Assistants to the Postmaster General.
(3) One Receptionist.
(4) Three Assistants to the Executive Assistant to the Postmaster General.
(5) Two Confidential Assistants to the Postmaster General.
(6) Two Secretaries to the Executive Assistant to the Postmaster General.
(7) One Secretarial Assistant to the Postmaster General.
(8) One Confidential Administrative Assistant to the Postmaster General.
(9) One Private Secretary to each of the three Assistants to the Executive Assistant to the Postmaster General.
(10) One Administrative Assistant to the Executive Assistant to the Postmaster General.
(11) One Deputy Special Assistant to the Postmaster General (Information).
(12) One Confidential Assistant to the Special Assistant to the Postmaster General (Information).
(13) One Private Secretary to the Special Assistant to the Postmaster General (Information).
(14) One Deputy Executive Assistant to the Postmaster General.

(b) *Bureau of Facilities.* (1) One Confidential Assistant to the Assistant Postmaster General.
(2) One Private Secretary to the Assistant Postmaster General.
(3) One Deputy Assistant Postmaster General.
(4) One Private Secretary to the Deputy Assistant Postmaster General.
(5) One Executive Assistant to the Assistant Postmaster General.
(6) One Director of Community Programs.
(7) One Private Secretary to the Executive Assistant to the Assistant Postmaster General.
(8) One Deputy Assistant Postmaster General.
(9) One Assistant for Congressional Relations to the Executive Assistant to the Assistant Postmaster General.

(c) *Bureau of Transportation.* (1) One Special and Confidential Assistant to the Assistant Postmaster General.
(2) One Information Specialist.
(3) One Private Secretary to the Assistant Postmaster General.
(4) One Deputy Assistant Postmaster General.
(5) One Executive Assistant to the Assistant Postmaster General.
(6) One Deputy Assistant Postmaster General.

(d) *Bureau of Personnel.* (1) One Private Secretary to the Assistant Postmaster General.

(e) *Office of the General Counsel.* (1) Two Private Secretaries to the General Counsel.

(f) *Bureau of Operations.* (1) One Confidential Assistant to the Assistant Postmaster General.
(2) One Executive Assistant and two Special Assistants to the Assistant Postmaster General.
(3) One Private Secretary to the Assistant Postmaster General.
(4) Two Deputy Assistant Postmasters General.
(5) One Private Secretary to each of two Deputy Assistant Postmasters General.

(g) *Bureau of Finance.* (1) One Confidential Assistant to the Assistant Postmaster General.
(2) One Special Representative to the Assistant Postmaster General.
(3) One Private Secretary to the Assistant Postmaster General.

(h) *Office of the Deputy Postmaster General.* (1) One Assistant to the Deputy Postmaster General.
(2) One Confidential Administrative Assistant to the Deputy Postmaster General.
(3) One Private Secretary to the Deputy Postmaster General.
(4) One Private Secretary to the Assistant to the Deputy Postmaster General.

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* (1) Assistant to the Secretary.
(2) One Confidential Assistant and one Private Secretary to the Secretary.
(3) Four Special Assistants to the Secretary.
(4) Six Confidential Assistants (Field Representatives).
(5) Chauffeur for the Secretary.
(6) One Deputy Under Secretary.
(7) Confidential Assistant (Administrative Assistant) to the Under Secretary.
(8) Four Deputy Assistant Secretaries (one each for Mineral Resources, Public Land Management, Water and Power Development, and Fish and Wildlife); and one Confidential Assistant (Administrative Assistant) to each of the four Assistant Secretaries for Mineral Resources, Public Land Management, Water and Power Development, and Fish and Wildlife.
(9) Director, Resources Program Staff.
(10) Assistant Director, Resources Program Staff.
(11) Planning Reports Review Coordinator, Resources Program Staff.
(12) One Confidential Assistant (Administrative Assistant) to the Director, Resources Program Staff.
(13) One Private Secretary to the Under Secretary.
(14) One Assistant to the Secretary (Public Relations).
(15) Director, Office of Oil and Gas.
(16) One Secretarial Attendant to the Secretary.
(17) Director, Office of Minerals Mobilization.
(18) Director, Office of Minerals Exploration.
(19) Director, Office of Saline Water.
(20) Administrator, Oil Import Administration.
(21) Assistant to the Secretary (Congressional Liaison).
(22) The Administrator, Defense Electric Power Administration, Office of the Assistant Secretary for Water and Power Development.
(23) One Staff Assistant to the Assistant Secretary for Public Land Management.
(24) One Assistant to the Secretary (International Affairs).

(b) *Office of the Solicitor.* (1) One Confidential Assistant to the Solicitor.
(2) Two Special Assistants to the Solicitor.
(3) One Deputy Solicitor.
(4) Five Associate Solicitors.
(5) One Assistant to the Secretary and Legislative Counsel.

(c) *United States Fish and Wildlife Service.* (1) One Special Assistant to the Commissioner of Fish and Wildlife.
(d) *Bureau of Mines.* (1) One Private Secretary to the Director.
(2) One Assistant Director (Programming).
(3) One Assistant Director (Health and Safety).
(4) One Deputy Director.
(5) One Assistant Director (Helium Activities).
(e) *Geological Survey.* (1) One Private Secretary to the Director.
(f) *Bureau of Reclamation.* (1) One Private Secretary to the Commissioner.
(2) Three Assistant Commissioners.
(g) *Southeastern Power Administration.* (1) Administrator.
(2) One Private Secretary to the Administrator.
(h) *National Park Service.* (1) Director.
(2) One Private Secretary to the Director.
(3) One Assistant Director.
(4) One Associate Director.
(i) *Bonneville Power Administration.* (1) Administrator.
(2) One Private Secretary to the Administrator.
(3) One Special Assistant to the Administrator.
(4) Two Assistants to the Administrator.
(j) *Bureau of Indian Affairs.* (1) Three Assistants to the Commissioner.
(2) One Private Secretary to the Commissioner.
(k) *Southwestern Power Administration.* (1) Administrator.
(2) Assistant Administrator.
(3) One Confidential Secretary, Office of the Administrator.
(l) *Office of Territories.* (1) One Director.
(2) One Confidential Assistant to the Director.
(3) Chief, Division of Insular Affairs.
(4) One Governor, American Samoa.
(5) One Secretary of American Samoa.
(6) One Chief Justice of American Samoa.
(7) One Deputy High Commissioner, Trust Territories of the Pacific Islands.
(8) One Private Secretary to the Governor of Virgin Islands.
(9) One Administrative Assistant to the Governor of Virgin Islands.
(10) One Assistant Director.
(11) One Confidential Assistant to the Governor of American Samoa.
(12) One Secretary to the Government Secretary of American Samoa.
(13) One Private Secretary to the Governor of Guam.
(14) One Secretary to the Government Secretary of Guam.
(15) Chief Justice of the Trust Territory.
(16) One Secretary to the High Commissioner of the Trust Territory.
(17) One Secretary to the Deputy High Commissioner of the Trust Territory.
(m) *Bureau of Outdoor Recreation.* (1) The Director.
(2) One Associate Director.
(3) One Confidential Assistant to the Director.

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* (1) One Administrative Assistant to the Secretary.
(2) One Assistant to the Secretary (States Relations).
(3) One Assistant to the Secretary (Agricultural Programs).
(4) One Executive Assistant to the Secretary.
(5) Five Confidential Assistants to the Secretary.
(6) One Private Secretary to the Secretary.
(7) Two Chauffeurs for the Secretary.
(8) One Private Secretary and Administrative Assistant to the Executive Assistant to the Secretary.
(9) One Confidential Assistant to each of the three Assistant Secretaries other than the Administrative Assistant Secretary.
(10) One Private Secretary to each of the three Assistant Secretaries other than the Administrative Assistant Secretary.
(11) One Staff Assistant—Program Appraisal.
(12) One Special Assistant to the Secretary.
(13) One Private Secretary and Administrative Assistant to the Assistant to the Secretary (Agricultural Programs).
(14) One Assistant to the Secretary (Administrative Officer).
(15) One Assistant to the Secretary (Counsel on Consumer Interests).
(16) One Assistant to the Secretary (Defense Mobilization Planning).
(17) One Assistant to the Secretary (Intergroup Relations).
(b) *Rural Electrification Administration.* (1) One Private Secretary to the Administrator.
(2) One Deputy Administrator.
(3) Two Assistant Administrators.
(4) Three Assistants to the Administrator.
(c) *Office of the Under Secretary.* (1) One Administrative Officer and Private Secretary to the Under Secretary.
(2) One Deputy Under Secretary.
(3) One Private Secretary to the Deputy Under Secretary.
(d) *Office of the General Counsel.* (1) One Deputy General Counsel.
(2) Three Assistant General Counsels.
(3) One Private Secretary to the General Counsel.
(e) *Foreign Agricultural Service.* (1) Three Assistant Administrators.
(2) The Administrator.
(3) General Sales Manager.
(4) Deputy General Sales Manager.
(5) The Associate Administrator.
(f) *Farmers Home Administration.* (1) One Deputy Administrator.
(2) One Assistant Administrator.
(3) One Assistant to the Administrator.
(4) Two Confidential Assistants to the Administrator.
(5) One Private Secretary to the Administrator.
(6) One Assistant Administrator (Insured Loan Funds).
(g) *Federal Crop Insurance Corporation.* (1) The Manager.
(2) Members of the Board of Directors.
(3) One Private Secretary to the Manager.
(4) One Deputy Manager.
(h) *Agricultural Stabilization and Conservation Service.* (1) Administrator.
(2) One Associate Administrator.
(3) Two Deputy Administrators.
(4) Six Confidential Assistants to the Administrator.
(5) One Private Secretary to the Administrator.
(6) Director, Livestock and Dairy Policy Staff.
(7) Director, Grain Policy Staff.
(8) Director, Cotton Policy Staff.
(9) Director, Oils and Peanut Policy Staff.
(10) Director, Sugar Policy Staff.
(11) Director, Tobacco Policy Staff.
(12) Director, Policy and Program Appraisal.
(13) Director, Conservation and Land Use Policy Staff.
(i) *Commodity Credit Corporation.* (1) The President.
(2) The Executive Vice-President.
(3) The Secretary.
(4) One Confidential Assistant to the President.
(j) *Federal Extension Service.* (1) The Administrator.
(2) One Deputy Administrator.
(3) One Private Secretary to the Administrator.
(k) *Soil Conservation Service.* (1) Administrator.
(2) One Associate Administrator.
(3) One Confidential Assistant to the Administrator.
(4) One Private Secretary to the Administrator.
(l) *Office of the Director, Agricultural Credit Services.* (1) The Director, Agricultural Credit Services.
(2) One Confidential Assistant to the Director.
(3) One Private Secretary to the Director.
(m) *Agricultural Marketing Service.* (1) The Administrator.
(2) One Private Secretary to the Administrator.
(3) One Confidential Assistant to the Administrator.
(n) *Agricultural Economics.* (1) The Director.
(2) One Confidential Assistant to the Director.
(3) One Private Secretary to the Director.
(4) Two Staff Assistants to the Director.
(o) *Office of Rural Areas Development.* (1) The Director.
(2) One Assistant Director.
(3) One Private Secretary to the Director.
(4) One Private Secretary to the Assistant Director.

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* (1) Nine Confidential Assistants to the Secretary.
(2) Three Private Secretaries to the Secretary.

(3) One Confidential Assistant and two Private Secretaries to the Under Secretary.

(4) One Confidential Assistant and one Private Secretary to the Under Secretary for Transportation.

(5) One Confidential Assistant and one Private Secretary to the Assistant Secretary for Economic Affairs.

(6) One Confidential Assistant and one Private Secretary to the General Counsel.

(7) One Private Secretary to the Deputy Under Secretary for Transportation (Operations).

(8) Deputy General Counsel.

(9) One Private Secretary to the Deputy General Counsel.

(10) One Special Assistant to the Secretary.

(11) One Chauffeur for the Secretary.

(12) One Deputy Assistant Secretary of Commerce for Economic Affairs.

(13) One Private Secretary to the Deputy Assistant Secretary for Economic Affairs.

(14) One Confidential Assistant to the Assistant Secretary for Administration.

(15) Two Congressional Liaison Officers.

(16) Director, Office of Field Services.

(17) One Deputy Under Secretary for Transportation (Operations).

(18) One Deputy Under Secretary for Transportation (Policy).

(19) One Special Assistant to the Director, Office of Field Services.

(20) One Private Secretary to the Director, Office of Field Services.

(21) Director, Office of Emergency Transportation.

(22) Deputy Director, Office of Emergency Transportation.

(23) One National Export Expansion Coordinator.

(24) One Special Assistant to the National Export Expansion Coordinator.

(25) One Private Secretary to the National Export Expansion Coordinator.

(26) One Special Assistant to the Secretary (Economic Affairs).

(27) One Deputy National Export Expansion Coordinator.

(28) One Confidential Assistant to the Deputy to the Secretary.

(29) One Confidential Assistant to the Under Secretary for Transportation.

(30) Deputy Assistant Secretary for Economic Policy Review, Office of the Assistant Secretary for Economic Affairs.

(31) Deputy Assistant Secretary for Statistics and Economic Research, Office of the Assistant Secretary for Economic Affairs.

(b) *Inland Waterways Corporation.* (1) Chairman of the Advisory Board.

(c) *Business and Defense Services Administration.* (1) Administrator.

(2) Three Confidential Assistants to the Administrator.

(3) Deputy Administrator.

(4) One Confidential Assistant to the Deputy Administrator.

(5) One Secretarial Assistant to the Administrator.

(6) The Assistant Administrator for International Commodity Activities.

(7) The Assistant Administrator for Business and Government Services.

(d) *Bureau of Census.* (1) One Private Secretary to the Director.

(2) One personal assistant to the Director.

(e) *Weather Bureau.* (1) One Private Secretary to the Chief.

(f) *National Bureau of Standards.* (1) One Private Secretary to the Director.

(g) *Bureau of Public Roads.* (1) Solicitor.

(2) Four Special Assistants to the Federal Highway Administrator.

(3) One Private Secretary to the Federal Highway Administrator.

(4) One Private Secretary to the Solicitor.

(5) The Deputy Federal Highway Administrator.

(h) *Patent Office.* (1) Private Secretary to the Commissioner, and to each of the Assistant Commissioners.

(2) Assistant to the Commissioner.

(i) *Coast and Geodetic Survey.* (1) One Private Secretary to the Director.

(j) *Maritime Administration.* (1) General Counsel.

(2) One Confidential Assistant to the Administrator.

(3) One Private Secretary to the General Counsel.

(k) *Area Redevelopment Administration.* (1) One Deputy Administrator.

(2) One Assistant Administrator (Area Operations).

(3) Five Special Assistants to the Administrator.

(4) One Private Secretary to the Administrator.

(5) One Private Secretary to the Deputy Administrator.

(6) One Private Secretary to the Assistant Administrator (Area Operations).

(7) Staff Director, Appalachian Project.

(l) *United States Travel Service.* (1) One Confidential Assistant to the Director.

(2) The Deputy Director.

(3) One Private Secretary to the Deputy Director.

(m) *Office of the Assistant Secretary for Domestic and International Business.* (1) One Private Secretary and two Confidential Assistants to the Assistant Secretary for Domestic and International Business.

(2) One Deputy Assistant Secretary for Domestic and International Business.

(3) One Private Secretary to the Deputy Assistant Secretary for Domestic and International Business.

(4) One Deputy Assistant Secretary for Trade Policy.

(5) One Deputy Assistant Secretary for Financial Policy.

(6) One Private Secretary to the Deputy Assistant Secretary for Trade Policy.

(7) One Private Secretary to the Deputy Assistant Secretary for Financial Policy.

(8) The Director, Bureau of International Commerce.

(9) One Deputy Director, Bureau of International Commerce.

(10) One Private Secretary to the Director, Bureau of International Commerce.

(11) One Private Secretary to the Deputy Director, Bureau of International Commerce.

(12) The Director, Office of Trade Adjustment.

(13) One Private Secretary to the Director, Office of Trade Adjustment.

(n) *Office of the Assistant Secretary for Science and Technology.* (1) One Deputy Assistant Secretary for Science and Technology.

(2) Two Special Assistants to the Assistant Secretary for Science and Technology.

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* (1) Four Special Assistants, three Confidential Assistants, and one Confidential Assistant (Private Secretary) to the Secretary of Labor.

(2) One Chauffeur for the Secretary of Labor.

(3) One Special Assistant and one Private Secretary to the Under Secretary of Labor.

(4) One Private Secretary to each Assistant Secretary of Labor who is appointed by the President.

(5) One Private Secretary to the Secretary.

(6) Two Confidential Assistants to the Under Secretary of Labor.

(7) One Confidential Assistant to the Assistant Secretary.

(8) One Executive Assistant to the Secretary.

(9) One Special Assistant to the Secretary.

(10) One Assistant to each Assistant Secretary of Labor appointed by the President.

(11) One Special Assistant to the Assistant Secretary for Labor-Management Relations.

(12) One Private Secretary to the Executive Assistant to the Secretary.

(13) One Confidential Assistant to the Assistant Secretary for International Labor Affairs.

(14) One Assistant to the Special Assistant to the Secretary, Office of Legislative Liaison.

(15) One Economic Advisor to the Secretary.

(16) One Confidential Aide in the Office of the Assistant Secretary for Planning and Policy Development.

(b) *Office of the Solicitor.* (1) One Private Secretary to the Solicitor.

(c) *Bureau of Employment Security.* (1) The Administrator.

(2) One Secretary (Stenography) in the Office of the Administrator.

(d) *Bureau of Labor Statistics.* (1) One Private Secretary to the Commissioner.

(e) *Bureau of Apprenticeship and Training.* (1) Administrator.

(2) One Private Secretary to the Director.

(f) *Women's Bureau.* (1) One Private Secretary to the Director.

(2) Two Special Assistants to the Director.

(g) *Bureau of Labor Standards.* (1) Director.

(2) One Private Secretary to the Director.

(3) One Confidential Assistant to the Director.

(h) *Wage and Hour and Public Contracts Divisions.* (1) Deputy Administrator.

(2) One Confidential Assistant to the Administrator.

(i) *Bureau of Veterans Reemployment Rights.* (1) Director.

(j) *Bureau of Employees' Compensation.* (1) Director.

§ 213.3316 Department of Health, Education, and Welfare.

(a) *Office of the Secretary.* (1) Director of Security.

(2) Two Confidential Assistants to the Secretary.

(3) Publications Writer.

(4) Two Assistants to the Secretary.

(5) One Executive Secretary.

(6) Two Confidential Secretaries to the Under Secretary.

(7) One Assistant to the Secretary.

(8) One Congressional Liaison Officer.

(9) One Assistant to the Congressional Liaison Officer.

(10) One Confidential Assistant to the Under Secretary.

(11) One Assistant to the Secretary (for Program Analysis).

(12) One Confidential Secretary to the Assistant to the Secretary authorized under subparagraph (7) of this paragraph.

(13) One Staff Assistant to the Secretary.

(14) One Confidential Secretary to one of the Special Assistants to the Secretary authorized under subparagraph (4) of this paragraph.

(15) Director, Special Staff on Aging.

(16) One Assistant to the Under Secretary (Manpower Training).

(17) One Staff Assistant to the Under Secretary (Manpower Training).

(18) One Assistant to the Secretary (For Educational Television).

(19) One Deputy Assistant to the Secretary (For Educational Television).

(b) *Vocational Rehabilitation Administration.* (1) Commissioner of Vocational Rehabilitation.

(c) *Office of Education.* (1) One Special Assistant to the Commissioner of Education.

(2) One assistant to the Commissioner (Public Affairs).

(d) *Office of the Assistant Secretary for Federal-State Relations.* (1) One Confidential Assistant to the Assistant Secretary.

(2) One Special Assistant on Federal-State Problems.

(3) One Special Assistant.

(4) One Deputy Assistant Secretary for Federal-State Relations.

(5) One Confidential Secretary to the Deputy Assistant Secretary for Federal-State Relations.

(e) *Office of the General Counsel.* (1) One Associate General Counsel.

(f) *Office of the Assistant Secretary for Legislation.* (1) Two Special Assistants to the Assistant Secretary.

(2) One Deputy Assistant Secretary for Legislation.

(3) One Program Coordination Officer.

(4) One Confidential Secretary to the Deputy Assistant Secretary for Legislation.

(g) *Welfare Administration.* (1) The Commissioner.

(2) One Deputy Commissioner.

§ 213.3322 Interstate Commerce Commission.

(a) One Private Secretary to each Commissioner.

(b) Managing Director.

§ 213.3323 General Accounting Office.

(a) One Administrative Assistant (Confidential Assistant) to the Comptroller General.

(b) One Private Secretary to the Comptroller General.

§ 213.3325 The Tax Court of the United States.

(a) One Private Secretary and two Technical Assistants for the Chief Judge and each Judge.

§ 213.3326 Office of Emergency Planning.

(a) *Office of the Director.* (1) Two Administrative Assistants to the Director.

(2) One Courier.

(3) Two Special Assistants to the Director.

(b) *Office of the Deputy Director.* (1) One Confidential Administrative Assistant to the Deputy Director.

(c) *Office of the Assistant Director for Telecommunications Management.* (1) One Confidential Administrative Assistant to the Assistant Director.

(d) *Office of the Assistant Director.* (1) One Confidential Administrative Assistant to the Assistant Director.

(e) *Office of the Assistant Director.* (1) One Confidential Administrative Assistant to the Assistant Director.

(f) *Office of Liaison and Public Affairs.* (1) The Director.

(2) Director, Information and Press Relations Division.

(3) Director, Federal-State and International Relations Division.

(4) Director, National Organizations Division.

(g) *Economic Affairs Office.* (1) The Director.

(h) *Policy Development Office.* (1) The Director.

(i) *Civil Affairs Office.* (1) The Director.

(j) *Government Readiness Office.* (1) The Director.

(k) *Industry and Finance Office.* (1) The Director.

(l) *Manpower and Services Office.* (1) The Director.

(m) *Telecommunications Office.* (1) The Director.

(n) *Program Evaluation Office.* (1) The Director.

§ 213.3327 Veterans Administration.

(a) *Office of the Administrator.* (1) Two Special Assistants to the Administrator.

(2) Two Confidential Assistants to the Special Assistant to the Administrator.

(3) The Deputy Administrator.

(4) The General Counsel.

(5) The Associate Deputy Administrator.

(6) Chairman, Administrator's Advisory Council.

(7) One Assistant Deputy Administrator.

(8) One Confidential Assistant to the Associate Deputy Administrator.

(b) *Department of Veterans Benefits.* (1) The Chief Benefits Director.

(c) *Department of Data Management.* (1) The Chief Data Management Director.

§ 213.3328 United States Information Agency.

(a) One Secretarial Assistant to the Deputy Director.

(b) One Executive Assistant to the Director.

(c) One Secretarial Assistant to the Director.

(d) One Secretary to the Director.

(e) One Special Assistant to the Deputy Director.

(f) One Special Assistant to the Director.

§ 213.3329 Federal Power Commission.

(a) Two Private Secretaries in the Office of the Chairman, one Confidential Assistant to the Chairman, and one Private Secretary and one Confidential Assistant to each of the other Commissioners.

(b) One Assistant to the Chairman.

(c) General Counsel.

(d) Executive Director.

(e) Two Private Secretaries to the Executive Director.

(f) One Technical Assistant to each Commissioner.

(g) Chief, Bureau of Power.

(h) Chief, Bureau of Natural Gas.

§ 213.3330 Securities and Exchange Commission.

(a) One General Counsel.

(b) One Chief Accountant.

(c) One Associate General Counsel.

(d) One Confidential Assistant to each Member of the Commission (five positions).

(e) One Executive Assistant to the Chairman.

§ 213.3331 National Mediation Board.

(a) One Private Secretary to each Member of the National Railroad Adjustment Board.

(b) One Private Secretary to each Member of the Third Division Regional Supplemental Railroad Adjustment Board (10 positions).

§ 213.3332 Small Business Administration.

(a) Three Deputy Administrators.

(b) One Special Assistant to each Deputy Administrator.

(c) Two Special and Confidential Assistants to the Administrator.

(d) One General Counsel.

(e) Director, Office of Procurement and Technical Assistance.

(f) Director, Office of Economic Adviser.

(g) One Assistant Administrator (Information Services).

(h) One Special Assistant to the Administrator.

(i) One Private Secretary to the Administrator.
(j) Deputy Director, Office of Economic Adviser.
(k) Deputy Director, Office of Procurement and Technical Assistance.
(l) One Program Coordinator (Department of Defense).
(m) The Deputy Administrator for the Small Business Investment Division.
(n) The Director of the Small Business Investment Division.
(o) Director and Deputy Director, Office of Management and Research Assistance.
(p) Director, Office of Loan Processing.
(q) Director, Office of Loan Administration.
(r) One Special Assistant to the Administrator (ARA).
(s) One Assistant to the Special Assistant to the Administrator.

§ 213.3333 Federal Deposit Insurance Corporation.

(a) One Assistant to each member of the Board of Directors.
(b) One Confidential Assistant to the Board of Directors.

§ 213.3334 Federal Trade Commission.

(a) General Counsel.
(b) Director, Bureau of Economics.
(c) One Secretary of the Federal Trade Commission.
(d) Executive Director.
(e) One Confidential Assistant and Chief Legal Adviser to the Chairman.
(f) Director, Bureau of Restraint of Trade.
(g) Director, Bureau of Deceptive Practices.
(h) Director, Bureau of Field Operations.
(i) Director, Bureau of Textiles and Furs.
(j) Director, Bureau of Industry Guidance.

§ 213.3337 General Services Administration.

(a) *Office of the Administrator.* (1) Six Members of the Board of Contract Appeals.
(2) The Deputy Administrator.
(3) One Special Assistant to the Administrator.
(4) Three Confidential Assistants to the Administrator.
(5) The Assistant Administrator.
(6) Two Confidential Assistants to the Assistant Administrator.
(7) Two Assistants to the Assistant Administrator.
(8) One Deputy Assistant Administrator for Congressional and Public Affairs.
(9) Two Confidential Assistants to the Deputy Administrator.
(10) One Assistant to the Assistant Administrator.
(b) *Public Buildings Service.* (1) The Commissioner.
(c) *Federal Supply Service.* (1) The Commissioner.
(d) *National Archives and Records Service.* (1) The Archivist of the United States.
(e) *Defense Materials Service.* (1) The Commissioner.
(f) *Transportation and Communications Service.* (1) The Commissioner.
(g) *Utilization and Disposal Service.* (1) The Commissioner.

§ 213.3338 Federal Communications Commission.

(a) One General Counsel.
(b) One Chief Engineer.

§ 213.3339 United States Tariff Commission.

(a) One Private Secretary to each Commissioner.

§ 213.3340 Civil Aeronautics Board.

(a) One Special Assistant to the Chairman of the Board.
(b) General Counsel of the Board.
(c) Director, Bureau of Economic Regulation.
(d) One Special Assistant for Congressional Relations.
(e) One Secretary to the Special Assistant for Congressional Relations.
(f) Director, Bureau of Safety.
(g) One Administrative Assistant to each Member of the Board.
(h) One Secretary to each Member of the Board.
(i) The Executive Director of the Board.
(j) Chief, Public Information Section.

§ 213.3341 National Labor Relations Board.

(a) One Private Secretary to the Chairman of the Board.
(b) One Solicitor.
(c) One Chief Legal Assistant to each Board Member.
(d) One Confidential Assistant to each Board Member.
(e) One Associate General Counsel, Division of Operations.
(f) One Associate General Counsel, Division of Law.
(g) Two Special Assistants to the General Counsel.
(h) One Confidential Assistant to the General Counsel.
(i) One Special Assistant to the Associate General Counsel, Division of Operations.

§ 213.3342 Export-Import Bank of Washington.

(a) One Executive Vice-President.
(b) One Confidential Assistant to the President.
(c) One Private Secretary to the First Vice-President.
(d) The General Counsel.
(e) One Private Secretary to each of the three members of the Board of Directors.
(f) One Vice-President for Program Planning and Information.
(g) One Vice-President for Exporter Credits, Guarantees, and Insurance.
(h) One Vice-President for Project Financing.
(i) One Special Assistant to the President and Chairman.
(j) One Treasurer-Controller.

§ 213.3343 Farm Credit Administration.

(a) Three Directors of Credit Services.
(b) One General Counsel.
(c) One Deputy Governor.
(d) Four Deputy Directors of Credit Services.

§ 213.3344 Housing and Home Finance Agency.

(a) *Office of the Administrator.* (1) One Deputy Administrator.
(2) One Assistant Administrator (Program Policy).
(3) General Counsel.
(4) One Assistant Administrator (International Housing).
(5) Community Facilities Commissioner.
(6) Deputy Urban Renewal Commissioner.
(7) One Assistant Administrator for Public Affairs.
(8) One Special Assistant to the Administrator.
(9) One Special Assistant (Administrator's Office).
(10) One Assistant Commissioner for Program Planning and Development, Urban Renewal Administration.
(11) One Confidential Assistant to the Commissioner, Urban Renewal Administration.
(12) One Secretary to the Community Facilities Commissioner.
(13) One Secretary to the General Counsel.
(14) One Secretary to the Congressional Liaison Officer.
(15) Assistant Commissioner for Technical Standards, Urban Renewal Administration.
(16) One Secretary to the Assistant Administrator (Program Policy).
(17) Assistant Administrator (Housing for Senior Citizens).
(18) One Private Secretary to the Assistant Administrator (Program for Community Improvement).
(19) Deputy Assistant Administrator (Housing for Senior Citizens).
(20) Two Special Assistants to the Commissioner, Community Facilities Administration.
(21) Two Assistants to the Congressional Liaison Officer.
(22) One Assistant Administrator (Program for Community Improvement).
(23) One Executive Assistant to the Commissioner, Urban Renewal Administration.
(24) One Assistant Commissioner for Field Operations, Urban Renewal Administration.
(25) Assistant Administrator (Transportation).
(26) One Secretary to the Special Assistant to the Administrator.
(27) One Private Secretary to the Assistant Administrator (Transportation).
(28) One Deputy Assistant Administrator (Program Policy).
(29) One Deputy Assistant Administrator (Transportation).
(30) One Secretary and Confidential Assistant to the Assistant Administrator for Public Affairs.
(31) One Congressional Liaison Officer.
(32) One Assistant Commissioner for Urban Planning and Community Development, Urban Renewal Administration.
(33) One Assistant Administrator (Metropolitan Development).

(34) One Deputy Commissioner, Community Facilities Administration.

(b) *Federal Housing Administration.*

(1) One Deputy Commissioner.

(2) One General Counsel.

(3) One Assistant Commissioner, Technical Standards.

(4) One Assistant to the Commissioner.

(5) One Assistant to the Commissioner (Intergroup Relations Service).

(6) One Assistant Commissioner for Programs.

(7) Director, Program Division.

(8) One Confidential Assistant to the Assistant Commissioner for Programs.

(9) One Congressional Liaison Officer.

(10) One Special Assistant for Elderly Housing.

(11) One Special Assistant for Nursing Homes.

(12) One Assistant Commissioner for Multifamily Housing.

(13) One Assistant Commissioner (Executive Officer).

(14) One Assistant Commissioner for Congressional Liaison and Public Information.

(15) One Special Assistant for Home Improvement Plans.

(16) One Assistant to the Commissioner—Special Projects.

(17) One Assistant Deputy Commissioner.

(18) One Associate Deputy Commissioner for Operations.

(19) One Associate Deputy Commissioner for Management.

(c) *Public Housing Administration.*

(1) One Special Assistant to the Commissioner (Liaison).

(2) One Special Assistant to the Commissioner (Racial Relations).

(3) General Counsel.

(4) One Deputy Commissioner.

(5) One Confidential Assistant to the Commissioner.

(6) One Assistant Commissioner for Development.

(7) One Assistant Commissioner for Management.

(8) One Assistant Commissioner for Program Planning.

(d) *Federal National Mortgage Association.* (1) The President.

§ 213.3345 Indian Claims Commission.

(a) One Private Secretary to each Commissioner.

§ 213.3347 Federal Mediation and Conciliation Service.

(a) One General Counsel.

§ 213.3348 National Aeronautics and Space Administration.

(a) One Secretary to the Administrator.

(b) One Secretary to the Deputy Administrator.

(c) One Confidential Assistant to the Assistant Administrator for Management Development.

(d) One Secretary (Stenography) to the Director of Manned Space Flight.

§ 213.3350 Foreign Claims Settlement Commission of the United States.

(a) Special Assistant to the Commissioners.

(b) One Confidential Assistant to the Chairman.

(c) One Private Secretary to the Chairman and to each of the other two Commissioners.

§ 213.3351 Subversive Activities Control Board.

(a) One Executive Secretary and Chief Clerk.

(b) One Private Secretary to each Member of the Board.

(c) One Confidential Administrative Assistant to each Member of the Board.

§ 213.3352 Saint Lawrence Seaway Development Corporation.

(a) One Private Secretary to the Administrator.

(b) One Special Assistant to the Administrator.

(c) One Administrative Assistant to the Deputy Administrator.

§ 213.3354 Federal Home Loan Bank Board.

(a) One Assistant to the Board.

(b) One Director, Federal Home Loan Bank Operations.

(c) One General Counsel.

(d) One Director, Division of Supervision.

(e) Two Secretaries to the Chairman of the Board.

(f) Two Secretaries to Board Members.

(g) One General Manager, Federal Savings and Loan Insurance Corporation.

(h) One Deputy General Manager, Federal Savings and Loan Insurance Corporation.

(i) One Secretary to the Assistant to the Board.

(j) One Director, Office of Research and Home Finance.

(k) One Director, Office of Examinations and Supervision.

§ 213.3355 The Renegotiation Board.

(a) One Special Assistant to the Chairman and one Special Assistant to each of the other four Renegotiation Board Members.

(b) One Secretary to the Chairman.

(c) One Secretary to each of the four Board Members.

§ 213.3356 Commission on Civil Rights.

(a) One Special Assistant to the Staff Director.

(b) One Assistant Staff Director for State Advisory Committees.

(c) One Confidential Secretary to the Staff Director.

§ 213.3357 Federal Aviation Agency.

(a) Two Assistants to the Chief, Congressional Relations Division.

(b) The Director of Information Services.

(c) One Executive Advisor to the Administrator.

(d) One Private Secretary to the Administrator.

(e) The Director, Office of Policy Development.

(f) The Assistant Administrator, Office of General Aviation Affairs.

(g) The Chief, Congressional Relations Division.

(h) One Administrative Secretary to the Director of Information Services.

§ 213.3359 National Capital Transportation Agency.

(a) One Confidential Assistant to the Administrator.

(b) One Confidential Assistant to the Deputy Administrator.

(c) Two Special Assistants to the Administrator.

(d) One Legislative Assistant.

§ 213.3360 Peace Corps.

(a) One Confidential Assistant (Secretary) to the Director.

(b) One Confidential Secretary (Stenography) to the Director.

(c) The General Counsel.

(d) The Associate Director, Office of Program Development and Operations.

(e) The Associate Director, Office of Peace Corps Volunteers.

(f) One Deputy Associate Director, Office of Peace Corps Volunteers.

(g) The Associate Director, Office of Public Affairs.

(h) One Deputy Associate Director, Office of Public Affairs.

(i) The Associate Director, Office of Planning and Evaluation.

(j) The Chief, Division of Public Information.

(k) One Deputy Associate Director, Office of Program Development and Operations.

(l) One Special Assistant for Congressional Relations, Office of Public Affairs.

(m) The Chief, Division of Training.

(n) One Special Assistant to the Director.

(o) The Chief, Division of Selection, Office of Peace Corps Volunteers.

(p) One Confidential Assistant (Secretary) to the Deputy Director.

(q) The Director, Division of Planning, Office of Planning and Evaluation.

(r) The Executive Secretary.

(s) The Director, Division of University, Private, and International Cooperation.

(t) The Deputy Director, Division of University, Private, and International Cooperation.

§ 213.3364 U.S. Arms Control and Disarmament Agency.

(a) One Private Secretary to the Director.

(b) One Private Secretary to the Deputy Director.

(c) One Private Secretary to each Assistant Director appointed by the President (four positions).

(d) One Public Affairs Adviser.

(e) One Special Assistant to the Deputy Director.

(f) Three Disarmament Advisers, Disarmament Advisory Staff.

(g) The General Counsel.

(h) One Private Secretary to the General Counsel.

§ 213.3367 Federal Maritime Commission.

(a) One Confidential Assistant to each Commissioner.

§ 213.3368 Agency for International Development.

(a) *Office of the Administrator.* (1) Three Special Assistants to the Administrator.

(2) One Confidential Assistant (Private Secretary) to the Administrator.

(3) One Chauffeur for the Administrator.

(4) One Private Secretary to each of the two Deputy Administrators.

(b) *Office of the Assistant Administrator for Congressional Liaison.* (1) One Staff Assistant to the Assistant Administrator.

(2) One Private Secretary to the Assistant Administrator.

(c) *Office of the General Counsel.* (1) One Private Secretary to the General Counsel.

(d) *Office of the Assistant Administrator for Development Finance and Private Enterprise.* (1) One Special Assistant (Confidential) to the Assistant Administrator.

§ 213.3369 President's Committee on Equal Opportunity in Housing.

(a) The Staff Director.

PART 230—ORGANIZATION OF THE GOVERNMENT FOR PERSONNEL MANAGEMENT

Subpart A—[Reserved]

Subpart B—Exercise of Agency Authority To Take Personnel Actions

Sec.
230.201 Standards and requirements for agency personnel actions.
230.202 Withdrawal of agency authority.

AUTHORITY: §§ 230.201 and 230.202 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218.

Subpart A—[Reserved]

Subpart B—Exercise of Agency Authority To Take Personnel Actions

§ 230.201 Standards and requirements for agency personnel actions.

In taking a personnel action authorized by this chapter, each agency shall comply with the qualification standards issued by the Commission, the instructions published by the Commission in the Federal Personnel Manual, and the regulations in this chapter.

§ 230.202 Withdrawal of agency authority.

The Commission may suspend or withdraw any authority granted by this chapter to an agency when it finds that the agency has not complied with the qualification standards issued by the Commission, the instructions published by the Commission in the Federal Personnel Manual, or the regulations in this chapter, or that the suspension or withdrawal is in the interest of the service for any other reason.

PART 293—PERSONNEL RECORDS AND FILES

Subpart A—[Reserved]

Subpart B—Official Personnel Folder

Sec.
293.201 Applicability of regulations.
293.202 Establishment of Official Personnel Folder.
293.203 Ownership of folder.
293.204 Maintenance and content of folder.
293.205 Type of folder to be used.
293.206 Use of existing folders upon transfer or reemployment.
293.207 Disposition of folders upon movement to another agency.
293.208 Disposition of folders of former employees.
293.209 Removal of temporary records from folder.

AUTHORITY: §§ 293.201 to 293.209 issued under sec. 4, E.O. 10561, 19 F.R. 5963, 3 CFR, 1954–1958 Comp., p. 205.

Subpart A—[Reserved]

Subpart B—Official Personnel Folder

§ 293.201 Applicability of regulations.

This part applies to, and within this part "agency" means, each executive department and independent establishment of the Federal Government, including (a) each corporation wholly owned or controlled by the United States, and (b) with respect to positions subject to the Civil Service rules and regulations, the legislative and judicial branches of the Federal Government and the Government of the District of Columbia.

§ 293.202 Establishment of Official Personnel Folder.

Each agency shall establish an Official Personnel Folder for each employee occupying a position subject to this part, except as provided in § 293.206. Only one Official Personnel Folder may be maintained for each employee.

§ 293.203 Ownership of folder.

The Official Personnel Folder of each employee in a position subject to the Civil Service Act, as amended, 22 Stat. 403, 5 U.S.C. 632, is under the jurisdiction and control of, and is part of the records of, the Commission.

§ 293.204 Maintenance and content of folder.

The head of each agency shall maintain in the Official Personnel Folder the reports of selection and other personnel actions named in section 2 of the Civil Service Act, as amended, 22 Stat. 403, 5 U.S.C. 633. The folder shall also contain permanent and temporary records affecting the employee's status and service as required by the Commission's instructions.

§ 293.205 Type of folder to be used.

Each agency shall use Official Personnel Folders procurable from Federal Supply Service contracts or stock for the folders required by this part.

§ 293.206 Use of existing folders upon transfer or reemployment.

When an agency hires a person who has served on or after April 1, 1947, in a position subject to this part, it shall request the transfer of the Official Personnel Folder pertaining to the person's employment. The folder so obtained shall be used in lieu of establishing a new Official Personnel Folder.

§ 293.207 Disposition of folders upon movement to another agency.

When a person for whom an Official Personnel Folder has been established transfers from one agency to another or is reappointed in an agency, the last employing agency or the General Services Administration, Federal Records Center, whichever has possession of the folder, shall, on request, transfer the folder to the new employing agency.

§ 293.208 Disposition of folders of former Federal employees.

When a person for whom an Official Personnel Folder has been established is separated from an agency, the agency shall retain the folder for 30 days after the separation and than transfer it to the General Services Administration, Federal Records Center, St. Louis, Mo.

§ 293.209 Removal of temporary records from folder.

The employing agency having possession of an Official Personnel Folder shall remove records of temporary value from the folder and dispose of them in accordance with General Schedule 1 promulgated by the General Services Administration before the folder is transferred to another agency or to the Federal Records Center.

PART 300—EMPLOYMENT (GENERAL)

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—Commission Approval in Filling Positions in GS–16 and Above

Sec.
300.301 Commission approval in filling positions in GS–16 and above.

Subpart D—Ceiling on Permanent Employees

300.401 Limitations on career appointments and conversions.

Subpart E—Obligated Positions

300.501 Definitions.
300.502 Restriction on filling obligated position on permanent basis.

Subpart F—Time-in-Grade Restrictions

300.601 Applicability.
300.602 Restrictions.
300.603 Exceptions to restrictions.
300.604 Periods of creditable service.
300.605 Other time restrictions.

Subpart G—[Reserved]

Subpart H—[Reserved]

Subpart I—Employment of Substitutes in the Field Service of the Post Office Department

300.901 Temporary appointment of substitutes in the postal field service.
300.902 Change of substitutes to regulars in the postal field service.

AUTHORITY: §§ 300.301 to 300.902 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218. §§ 300.601 to 300.605 interpret and apply sec.

1310, 65 Stat. 757, as amended; 5 U.S.C. 43 note. Other statutory provisions interpreted or applied are cited to text in parentheses.

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—Commission Approval in Filling Positions in GS–16 and Above

§ 300.301 Commission approval in filling positions in GS–16 and above.

An agency, unless excepted from this requirement by law, may fill a competitive or excepted position classified in grade GS–16, GS–17, or GS–18 under the Classification Act of 1949, as amended, only by a person whose qualifications for the position have been approved by the Commission.

Subpart D—Ceiling on Permanent Employees

§ 300.401 Limitations on career appointments and conversions.

The Commission may not permit an agency to make an initial career appointment or a conversion to career employment which would increase the number of permanent personnel of the Federal Government above the total number of permanent employees permitted by the Whitten Amendment.

(65 Stat. 1310, 65 Stat. 757, as amended; 5 U.S.C. 43 note)

Subpart E—Obligated Positions

§ 300.501 Definitions.

In this subpart:

(a) "Active military duty" means active duty in full pay status in the Armed Forces of the United States, including an initial period of active duty for training in accordance with section 262 of the Armed Forces Reserve Act of 1952, as amended (69 Stat. 600; 50 U.S.C. 1013); and

(b) "Obligated position" means a position to which an employee has a statutory restoration right based on active military duty or a reemployment right based on Subpart B of Part 352 of this Chapter.

§ 300.502 Restriction on filling obligated position on permanent basis.

An agency may fill an obligated position on a permanent basis, only:

(a) By reassignment through reduction in force to or below a grade (or level) permanently held by the employee before September 1, 1950; or

(b) By demotion to or below a grade (or level) permanently held by the employee before September 1, 1950.

(Sec. 1310, 65 Stat. 757, as amended; 5 U.S.C. 43 note)

Subpart F—Time-in-Grade Restrictions

§ 300.601 Applicability.

(a) This subpart applies to any advancement from a competitive or excepted position that is subject to the Classification Act of 1949, as amended, to a competitive position that is subject to that Act, by:

(1) Promotion;

(2) Transfer to a higher grade; or

(3) Any type of appointment under this chapter (including reemployment and reinstatement) made within 1 year after separation from a nontemporary appointment.

(b) This subpart does not apply:

(1) When the position from which the advancement is made is outside the competitive service and in the legislative or judicial branch; or

(2) When the position from which the advancement is made is not subject to the Classification Act, unless the employee advanced held a position subject to that Act within the preceding year.

§ 300.602 Restrictions.

(a) *Advancement to positions at GS–12 or above.* An agency may advance an employee to a position at GS–12 or above only after he has served 1 year at the next lower grade.

(b) *Advancement to positions at GS–6 through GS–11.* An agency may advance an employee to a position at GS–6 through GS–11 only after he has served:

(1) One year in a position two grades lower, when the position to which he is advanced is in a line of work properly classified at two-grade intervals; or

(2) One year at the next lower grade, when the position to which he is advanced is in a line of work properly classified at one-grade intervals.

(c) *Advancement to positions at GS–5 or below.* An agency may advance an employee to a position at GS–5 or below which is not more than two grades above the lowest grade he held within the preceding year under a nontemporary appointment.

§ 300.603 Exceptions to restrictions.

(a) Section 300.602 does not prevent the advancement of an employee when:

(1) The advancement is in accordance with a training agreement which has been approved by the Commission; however, an agency may not make promotions of more than two grades in 1 year solely on the basis of a training agreement or series of training agreements;

(2) The advancement is to any grade or level up to that from which the employee has ever been demoted or separated by any agency because of a reduction in force;

(3) The employee is within reach on a register for competitive appointment to the position to be filled; or

(4) The Commission, on request of the head of the agency, authorizes the advancement to avoid undue hardship or inequity, in an individual case of meritorious nature.

(b) Section 300.602 (a) and (b) do not prevent the advancement of an employee who has 1 year of service in a position two grades lower than the position to be filled if there is no position in the normal line of promotion that is one grade lower than the position to be filled.

(c) Section 300.602(c) does not prevent the advancement of an employee to a position at grade GS–5 or below which he held previously or to which he could have been advanced previously under that paragraph.

§ 300.604 Periods of creditable service.

(a) The periods of service required by § 300.602 (a) and (b) and § 300.603(b) include all service at the appropriate or higher grade or level in positions in the Federal civilian service regardless of whether or not the positions were subject to the Classification Act.

(b) When two periods of service in positions subject to the Classification Act are interrupted for less than 1 year by service in a position not subject to the Classification Act, the latter service is counted as a continuation of the prior service in the position subject to the Classification Act.

(c) Except as provided in paragraph (b) of this section, service in a position not subject to the Classification Act is counted at the equivalent Classification Act grade in effect when the service was performed. The equivalent Classification Act grade is that grade the minimum rate of which was equivalent to or higher than the base salary rate of the service not subject to the Classification Act. However, when the base salary rate of the service not subject to the Classification Act was not more than one within-grade step below the minimum rate of a Classification Act grade, that Classification Act grade is the equivalent Classification Act grade.

§ 300.605 Other time restrictions.

The time-in-grade restrictions in this subpart are in addition to the time-after-competitive-appointment restriction contained in § 330.501 of this chapter.

Subpart G—[Reserved]

Subpart H—[Reserved]

Subpart I—Employment of Substitutes in the Field Service of the Post Office Department

§ 300.901 Temporary appointment of substitutes in the postal field service.

When a quota of substitutes in the postal field service is filled and the Post Office Department has authorized the appointment of additional substitutes for temporary work of indefinite duration, the appointing officer may fill those positions by either of the following methods:

(a) The appointment of former Federal employees with eligibility for reinstatement. A person so appointed does not gain career status from the appointment.

(b) The selection of eligibles from a certificate furnished by the Commission on request of the appointing officer. The appointing officer shall make selection from a certificate in accordance with §§ 332.404 through 332.407 of this chapter. A person so appointed does not obtain a competitive status from the appointment.

§ 300.902 Change of substitutes to regulars in the postal field service.

(a) *General.* When a vacant regular position in the postal field service is to be

filled, the appointing officer may fill it by:

(1) Changing a substitute to regular, if the substitute is eligible for and will accept the regular position; or

(2) Position change, reinstatement, or transfer of a person with competitive status in accordance with this chapter.

(b) *Order in which changes are made.* (1) An appointing officer shall change substitutes to regulars in the order of their original appointments. An appointing officer shall change substitutes who were appointed on the same day to regulars in the order in which their names appeared on the register from which they were appointed.

(2) When corrective action on an appointment is taken to comply with the requirements of Subpart D of Part 332 of this Chapter, "order of original appointment" means the order in which appointment would have been made had the correct action been taken originally.

(Sec. 8, 58 Stat. 389, as amended; 5 U.S.C. 857)

PART 301—OVERSEAS EMPLOYMENT

Subpart A—[Reserved]

Subpart B—Overseas Limited Appointment

Sec.
301.201 Authorizations of appointment.
301.202 Appointment of United States citizens recruited overseas.
301.203 Appointment of citizens recruited outside overseas areas.
301.204 Duration of appointment.
301.205 Status and trial period.
301.206 Requirements and restrictions.
301.207 Within-grade increases.

AUTHORITY: §§ 301.201 to 301.207 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218, as amended by E.O. 10641, 20 F.R. 8137, 3 CFR, 1954–1958 Comp., p. 274.

Subpart A—[Reserved]

Subpart B—Overseas Limited Appointment

§ 301.201 Authorizations of appointment.

When the Commission finds that overseas limited appointments without competitive examination are in the public interest, it may authorize an agency to make these appointments to overseas positions.

§ 301.202 Appointment of United States citizens recruited overseas.

Subject to prior agreement between an agency and the Commission, the agency may give an overseas limited appointment to a United States citizen recruited overseas, unless there is an adequate and appropriate register resulting from an examination held in the locality where the vacancy exists.

§ 301.203 Appointment of citizens recruited outside overseas areas.

When the Commission determines that unusual or emergency conditions make it infeasible to appoint from register, it may authorize an agency to give an overseas limited appointment to a United States citizen recruited in an area where an overseas limited appointment is not authorized.

§ 301.204 Duration of appointment.

An appointment under this subpart is of indefinite duration except that under conditions published by the Commission in the Federal Personnel Manual, an agency may limit the appointment to a period of 1 year or less to meet administrative needs for temporary employment. An agency may extend an appointment made for a peroid of 1 year or less under this section, under conditions published by the Commission in the Federal Personnel Manual.

§ 301.205 Status and trial period.

(a) An overeas limited employee does not acquire a competitive status on the basis of his overseas limited appointment. He is required to serve a trial period of 1 year when given an overseas limited appointment of indefinite duration.

(b) The agency may terminate an overseas limited employee at any time during the trial period. The employee is entitled to the procedures set forth in § 315.804 or § 315.805 of this chapter as appropriate.

§ 301.206 Requirements and restrictions.

The requirements and restrictions in Subpart F of Part 300 and Part 333 of this chapter apply to appointments under this subpart.

§ 301.207 Within-grade increases.

An employee serving under an overseas limited appointment of indefinite duration in a position covered by the Classification Act of 1949, as amended, is eligible for within-grade increases in accordance with Subpart D of Part 531 of this chapter.

PART 302—EMPLOYMENT IN THE EXCEPTED SERVICE

Subpart A—General Provisions

Sec.
302.101 Definitions; positions covered by regulations.
302.102 Method of filling positions and status of incumbent.
302.103 Applicability of regulations to applicants and employees.
302.104 Special agency plans.

Subpart B—Eligibility Standards

302.201 Persons entitled to military preference.
302.202 Qualification requirements.
302.203 Disqualifying factors.

Subpart C—Accepting, Rating, and Arranging Applications

302.301 Receipt of applications.
302.302 Examination of applicants.
302.303 Maintenance of employment lists.
302.304 Arrangement of ratings.

Subpart D—Selection and Appointment; Reappointment; and Qualifications for Promotion

302.401 Selection and appointment.
302.402 Reappointment.
302.403 Qualifications for promotion.

AUTHORITY: §§ 302.101 to 302.403 issued under sec. 11, 58 Stat. 390; 5 U.S.C. 860. Additional authority is cited in parentheses following the section affected.

Subpart A—General Provisions

§ 302.101 Definitions; positions covered by regulations.

(a) *Definitions.* In this part:

(1) "Act" or "Veterans' Preference Act" means the Veterans' Preference Act of 1944, as amended (58 Stat. 387; 5 U.S.C. 851).

(b) *Positions covered.* This part applies to each position in the executive branch of the Federal Government and in the government of the District of Columbia which is not in the competitive service as defined in § 212.101(a) of this chapter.

(c) *Positions not covered.* This part does not apply to a position or appointment which by the Congress is required to be confirmed by, or made with, the advice and consent of the Senate, or to a position of policeman or fireman in the government of the District of Columbia.

(d) *Positions exempt from appointment procedures.* In view of the circumstances and conditions surrounding employment in the following classes of positions, an agency is not required to apply the appointment procedures of this part to them, but each agency shall follow the principles of veteran preference as far as administratively feasible and, on request of a qualified and available preference eligible, shall furnish him with the reasons for his nonselection:

(1) Positions filled by persons appointed without compensation or at a compensation of $1.00 a year;

(2) Positions outside the continental United States and outside the State of Hawaii and the Commonwealth of Puerto Rico when filled by persons resident in the locality, and positions in the State of Hawaii and the Commonwealth of Puerto Rico when compensated in accordance with local prevailing wage rates;

(3) Positions which the exigencies of the national defense program demand be filled immediately before lists of qualified applicants can be established or used, but appointments to these positions shall be temporary appointments not to exceed 1 year which may be renewed for 1 additional year at the discretion of the agency;

(4) Positions filled by appointees serving on an irregular or occasional basis whose hours or days of work are not based on a prearranged schedule and who are compensated only for the time when actually employed or for services actually performed;

(5) Positions paid on a fee basis;

(6) Positions included in Schedule A (see Subpart C of Part 213 of this Chapter) and similar types of positions when the Commission agrees with the agency that the positions should be included hereunder; and

(7) Positions included in Schedule C (see Subpart C of Part 213 of this chapter).

§ 302.102 Method of filling positions and status of incumbent.

(a) To the extent permitted by statute and this chapter, each appointment, position change, and removal in the excepted service shall be made in accord-

ance with any regulations or practices that the head of the agency concerned finds necessary.

(b) A person appointed to an excepted position does not acquire a competitive status by reason of the appointment.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218)

§ 302.103 Applicability of regulations to applicants and employees.

Each agency shall follow the provisions of this part relating to examination, rating, and selection for appointment of an applicant when a qualified preference eligible applies for appointment to a position covered by this part. Each agency, in its discretion, may follow these provisions in making an appointment when no preference eligible applies.

§ 302.104 Special agency plans.

An agency having a position subject to this part may submit to the Commission a system for making appointments which will result in granting to a person the preference provided by section 2 of the Veterans' Preference Act, but which does not conform to all the procedural requirements set forth in this part. However, an agency may not put such a system into effect until it has received the prior approval of the Commission.

Subpart B—Eligibility Standards

§ 302.201 Persons entitled to military preference.

In actions subject to this part, each agency shall grant 5-point preference or 10-point preference as provided by section 3 of the Veterans' Preference Act to each preference eligible.

§ 302.202 Qualification requirements.

Before making an appointment to a position covered by this part, each agency shall establish qualification standards such as those relating to experience and training, citizenship, age, physical condition, etc., which shall relate to the duties to be performed. An agency may delegate the establishment of standards relating to a group of positions or a specific position to the appropriate administrative level or subdivision of the agency and that level or subdivision may amend or modify the standards in accordance with the needs of the locality in which the position is located, but the agency shall determine that each standard established is in conformity with this part. Each agency shall make its standards a matter of record in the appropriate office of the agency, and shall furnish information concerning the standards for a position to an applicant on his request. Each agency shall apply the standards for a position uniformly to all applicants, except for such waivers as are provided in this part for a preference eligible. An agency shall not include a minimum educational requirement in qualification standards, except for a scientific, technical, or professional position the duties of which the agency decides cannot be performed by a person who does not have a prescribed minimum education. Each agency shall make a part of its records the reasons for its decision under this section, and shall furnish those reasons to an applicant on his request. The qualification standards shall include:

(a) A provision for waiver by the agency of requirements as to age, height, and weight for each preference eligible when the requirements are not essential to the performance of the duties of the position; and

(b) A provision for waiver by the agency of physical requirements for each preference eligible when the agency, after giving due consideration to the recommendation of an accredited physician, finds that the applicant is physically able to discharge the duties of the position.

§ 302.203 Disqualifying factors.

The qualification standards established by an agency or by an administrative level or subdivision of an agency may provide that certain reasons disqualify an applicant for appointment. The following, among others, may be included as disqualifying reasons:

(a) Dismissal from employment for delinquency or misconduct;

(b) Criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct;

(c) Intentional false statement or deception or fraud in examination or appointment;

(d) Habitual use of intoxicating beverages to excess;

(e) Reasonable doubt as to the loyalty of the person involved to the Government of the United States;

(f) Any legal or other disqualification which makes the individual unfit for the service; or

(g) Lack of United States citizenship. An agency may not disqualify an applicant solely because of his retired status.

Subpart C—Accepting, Rating, and Arranging Applications

§ 302.301 Receipt of applications.

(a) Each agency shall establish definite rules regarding the acceptance of applications for employment in positons covered by this part and shall make these rules a matter of record.

(b) Each agency shall apply its rules uniformly to all applicants who meet the conditions of the rules and shall furnish information concerning the rules to an applicant on his request.

§ 302.302 Examination of applicants.

(a) *Rating.* An agency may provide for an evaluation of the qualifications of applicants for a position who are available under §§ 302.202, 302.203, and 302.301 at any time before appointment is made to the position. Numerical ratings shall be assigned on a scale of 100 and each applicant rated 70 or more is eligible for appointment. Numerical ratings are not required when all qualified applicants will be offered immediate appointment. When there is an excessive number of applicants (1) numerical ratings are required only for a sufficient number of the highest qualified applicants to meet the anticipated needs of the agency within a reasonable period of time, and (2) the agency shall adopt procedures to insure the consideration of all preference eligibles in the order in which they would have been considered if all applicants had been assigned numerical ratings. Each agency shall add to the earned numerical ratings of applicants who make a passing grade:

(i) Five points for an applicant entitled to five-point preference under section 3 of the Veterans' Preference Act; and

(ii) Ten points for an applicant entitled to 10-point preference under section 3 of the Act.

An agency shall furnish a notice of the rating assigned to an applicant on his request.

(b) *Nonpreference applicants for certain positions.* An agency may not consider or rate an application for the position of elevator operator, messenger, guard, or custodian submitted by a nonpreference eligible as long as at least three qualified preference eligibles are available for the position.

(c) *Evaluating experience.* When experience is a factor in determining eligibility, an agency shall credit a preference eligible (1) with time spent in the military service of the United States if the position for which he is applying is similar to the position he held immediately before his entrance into the military service; and (2) with all valuable experience, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether compensation was received therefor.

§ 302.303 Maintenance of employment lists.

(a) *Establishment.* An agency shall enter the names of applicants assigned an eligible numerical rating under section 302.302(a) on either (1) the appropriate reemployment list, or (2) the appropriate regular employment list in accordance with their numerical ratings, except that the names of:

(i) Preference eligibles shall be entered in accordance with their augmented ratings and ahead of others having the same rating; and

(ii) Preference eligibles who have a compensable service-connected disability of 10 percent or more shall be entered at the top of the register in the order of their ratings unless the register is for professional or scientific positions in grades GS–9 and above of the Classification Act of 1949, as amended, and in comparable pay levels under other pay-fixing authorities.

(b) *Reemployment list.* The reemployment list shall consist of the names of former employees of the agency who are to be considered for future employment, and shall, in any case, include the following:

(1) The name of each former employee of the agency who (i) is a preference eligible, (ii) has been furloughed or separated without delinquency or misconduct, and (iii) applies for reemployment; and

(2) The name of each former employee of the agency who is a preference eligible and who, as the result of an appeal under part 752 of this chapter, is found by the

Commission to have been unjustifiably dismissed from the agency.

(c) *Regular employment list.* The regular employment list shall consist of the names of eligible applicants who have been assigned numerical ratings and whose names are not on the agency reemployment list.

§ 302.304 Arrangement of ratings.

(a) *Order of consideration.* Except as provided in paragraph (d) of this section, an agency shall consider the names of applicants who have been assigned eligible numerical ratings for a given position in either order A or order B set forth in paragraphs (b) and (c) of this section.

(b) *Order A.* (1) The name of each qualified preference eligible who has a compensable service-connected disability of 10 percent or more and is entitled to 10-point preference under section 3 of the Veterans' Preference Act and whose name appears on the agency reemployment list, in the order of his numerical rating.

(2) The name of each other qualified preference eligible who has a compensable service-connected disability of 10 percent or more and is entitled to 10-point preference under section 3 of the Act in the order of his numerical rating.

(3) The name of each other qualified applicant on the agency reemployment list in the order of his numerical rating.

(4) The name of each other qualified applicant in the order of his numerical rating.

(c) *Order B.* (1) The name of each qualified preference eligible who has a compensable service-connected disability of 10 percent or more and is entitled to 10-point preference under section 3 of the Act and whose name appears on the agency reemployment list, in the order of his numerical rating.

(2) The name of each other qualified applicant on the agency reemployment list, in the order of his numerical rating.

(3) The name of each other qualified preference eligible who has a compensable service-connected disability of 10 percent or more and is entitled to 10-point preference under section 3 of the Act in the order of his numerical rating.

(4) The name of each other qualified applicant, in the order of his numerical rating.

(d) *Professional order.* An agency shall consider the names of applicants who have been assigned eligible numerical ratings for professional and scientific positions at grades GS–9 and above in the following order:

(1) The name of each applicant on the agency reemployment list, in the order of his numerical rating.

(2) The name of each other applicant, in the order of his numerical rating.

Subpart D—Selection and Appointment; Reappointment; and Qualifications for Promotion

§ 302.401 Selection and appointment.

(a) *Selection.* When making an appointment from an employment list, an agency shall select for appointment to each vacancy from not more than the highest three names available for appointment in the order provided in § 302.304, except that an agency is not required to:

(1) Accord an applicant on the agency reemployment list the preference consideration required by § 302.304 if the reemployment list does not contain the names of at least three preference eligibles; or

(2) Consider an applicant who has previously been considered three times or a preference eligible if consideration of his name has been discontinued for the position as provided in paragraph (b) of this section.

(b) *Passing over a preference applicant.* When an agency, in making an appointment as provided in paragraph (a) of this section, passes over the name of a preference eligible who is entitled to prior consideration under § 302.304 and selects a nonpreference eligible, it shall record its reasons for so doing, and shall furnish a copy of those reasons to the preference eligible or his representative on request. An agency may discontinue consideration of the name of a preference eligible for a position if on three occasions the agency has considered him for the position and has passed over his name and recorded its reasons for so doing.

§ 302.402 Reappointment.

An agency may reappoint a former employee of the executive branch of the Federal Government or the government of the District of Columbia who is a preference eligible to a position covered by this part without regard to the names of qualified applicants on the agency reemployment list or regular employment list.

§ 302.403 Qualifications for promotion.

In determining qualifications for promotion with respect to an employee who is a preference eligible, an agency shall waive:

(a) Requirements as to age, height, and weight unless the requirement is essential to the performance of the duties of the position; and

(b) Physical requirements if, in the opinion of the agency, after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position for which the promotion is proposed.

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

Subpart A—[Reserved]

Subpart B—The Career-Conditional Employment System

Sec.
315.201 Service requirement for career tenure.
315.202 Conversion from career-conditional to career tenure.

Subpart C—Career or Career-Conditional Employment From Registers

315.301 Tenure on appointment from register.
315.302 Acquisition of competitive status.

Subpart D—Career or Career-Conditional Employment by Reinstatement

Sec.
315.401 Reinstatement.
315.402 Tenure on reinstatement.
315.403 Acquisition of competitive status.

Subpart E—Career or Career-Conditional Employment by Transfer

315.501 Agency authority.
315.502 Tenure on transfer.
315.503 Acquisition of competitive status.

Subpart F—Career or Career-Conditional Appointment Under Special Authorities

315.601 Appointment of former employees of Canal Zone Merit System.
315.602 Appointment based on service in the Office of the President or on the White House Staff.
315.603 Appointment based on former incumbency of a position brought into the competitive service.
315.604 Employment of disabled veterans who have completed a training course under Chapter 31, Title 38, U.S. Code.
315.605 Appointment of former Peace Corps volunteers.

Subpart G—Conversion to Career or Career-Conditional Employment From Other Types of Employment

315.701 Incumbents of positions brought into the competitive service.
315.702 Employees serving without competitive examination in rare cases.
315.703 Employees formerly reached on a register.
315.704 Disqualifications.

Subpart H—Probation

315.801 Probationary period; when required.
315.802 Length of probationary period.
315.803 Agency action during probationary period (general).
315.804 Termination of probationers for unsatisfactory performance or conduct.
315.805 Termination of probationers for conditions arising before appointment.
315.806 Appeal rights to the Commission.
315.807 Agency action when Commission recommends restoration or other corrective action.

AUTHORITY: §§ 315.201 to 315.807 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218. §§ 315.605 and 315.801(a)(6) also issued under E.O. 11103, 28 F.R. 3571, 3 CFR, 1963 Supp. §§ 315.201(c)(3), 315.601, and 315.801(a)(3) interpret and apply 76A Stat. 18; 2 C.Z.C. 149(c)(2); E.O. 9830, 12 F.R. 1259, 3 CFR, 1943–1948 Comp., p. 606.

Subpart A—[Reserved]

Subpart B—The Career-Conditional Employment System

§ 315.201 Service requirement for career tenure.

(a) *Service requirement.* Except as provided in paragraph (c) of this section, 3 years of creditable service are required for an employee to become a career employee.

(b) *Creditable service.* The Commission shall publish in the Federal Personnel Manual the conditions under which service may be credited in meeting the service requirement in paragraph (a) of this section.

(c) *Exceptions from service requirement.* The service requirement for career tenure does not apply to:

(1) An appointment to a position paid under Chapter 45, Title 39, United States Code or required by law to be filled on a permanent basis, or a conversion under this part while the employee is serving in either type of position;

(2) An appointment from a register of a person who once completed the service requirement for career tenure;

(3) An appointment under § 315.601 of a former Canal Zone Merit System employee who completed the service requirement for career tenure under that system;

(4) The reinstatement of a person who once completed the service requirement for career tenure.

§ 315.202 Conversion from career-conditional to career tenure.

A career-conditional employee becomes a career employee automatically on completion of the service requirement for career tenure.

Subpart C—Career or Career-Conditional Employment From Registers

§ 315.301 Tenure on appointment from register.

(a) Except as provided in paragraph (b) of this section, an eligible appointed from a register for other than temporary or term employment becomes a career-conditional employee.

(b) An eligible appointed from a register for other than temporary or term employment becomes a career employee when he is excepted from the service requirement for career tenure by § 315.201(c).

§ 315.302 Acquisition of competitive status.

An employee appointed as provided in § 315.301 acquires a competitive status automatically on completion of probation.

Subpart D—Career or Career-Conditional Employment by Reinstatement

§ 315.401 Reinstatement.

(a) *Agency authority.* An agency may reinstate a person who had a competitive status or was serving probation when he was separated.

(b) *Time limit.* There is no time limit on the reinstatement of a preference eligible or a person who completed the service requirement for career tenure. An agency may reinstate a nonpreference eligible who has not completed the service requirement for career tenure only within 3 years following the date of his separation.

§ 315.402 Tenure on reinstatement.

(a) Except as provided in paragraph (b) of this section, a person who is reinstated becomes a career-conditional employee.

(b) A person who is reinstated becomes a career employee when he has completed the service requirement for career tenure or is excepted from it by § 315.201(c).

§ 315.403 Acquisition of competitive status.

A person who was serving probation when he was separated and who is reinstated under § 315.401 acquires a competitive status automatically on completion of probation.

Subpart E—Career or Career-Conditional Employment by Transfer

§ 315.501 Agency authority.

An agency may appoint by transfer a career or career-conditional employee of another agency.

§ 315.502 Tenure on transfer.

(a) *General rule.* Except as provided in paragraph (b) of this section, a career employee who transfers remains a career employee and a career-conditional employee who transfers remains a career-conditional employee.

(b) *Exceptions.* (1) A career-conditional employee who transfers to a position paid under Chapter 45, Title 39, United States Code or required by law to be filled on a permanent basis becomes a career employee.

(2) A career employee who transfers from a position paid under Chapter 45, Title 39, United States Code or required by law to be filled on a permanent basis to a position under the career-conditional employment system becomes a career-conditional employee unless he has completed the service requirement for career tenure.

§ 315.503 Acquisition of competitive status.

An employee who was serving probation when he was appointed under § 315.501 acquires a competitive status automatically on completion of probation.

Subpart F—Career or Career-Conditional Appointment Under Special Authorities

§ 315.601 Appointment of former employees of Canal Zone Merit System.

(a) *Agency authority.* An agency may appoint noncompetitively, for other than temporary or term employment, a person separated from a career or career-conditional appointment under the Canal Zone Merit System.

(b) *Service requirement.* An agency may appoint a former employee under this section only when he served continuously under a nontemporary appointment in the Canal Zone Merit System for at least 1 year immediately before his separation.

(c) *Time limit.* There is no time limit on the appointment under this section of a preference eligible or a person who completed the service requirement for career tenure under the Canal Zone Merit System. An agency may appoint under this section a nonpreference eligible who did not complete the service requirement for career tenure under the Canal Zone Merit System only within 3 years following the date of his separation from that system.

(d) *Tenure on appointment.* (1) On appointment under paragraph (a) of this section, a former career employee of the Canal Zone Merit System becomes a career employee.

(2) On appointment under paragraph (a) of this section, a former career-conditional employee of the Canal Zone Merit System becomes a career-conditional employee, except that when he is excepted from the service requirement for career tenure by § 315.201(c) he becomes a career employee.

(e) *Acquisition of competitive status.* A person appointed under paragraph (a) of this section automatically acquires a competitive status:

(1) On appointment, when he satisfactorily completed a 1-year probationary period under the Canal Zone Merit System; or

(2) On satisfactory completion of probation in accordance with § 315.801(a) (3) when he did not complete a 1-year probationary period under the Canal Zone Merit System.

§ 315.602 Appointment based on service in the Office of the President or on the White House Staff.

(a) *Agency authority.* Subject to the prior approval of the Commission, an agency may appoint noncompetitively a person who has served at least 2 years in the immediate office of the President or on the White House Staff.

(b) *Tenure on appointment.* (1) Except as provided in subparagraph (2) of this paragraph, a person appointed under paragraph (a) of this section becomes a career-conditional employee.

(2) A person appointed under paragraph (a) of this section becomes a career employee when he has completed the service requirement for career tenure or is excepted from it by § 315.201(c).

(c) *Acquisition of competitive status.* A person appointed under paragraph (a) of this section acquires a competitive status automatically on appointment.

§ 315.603 Appointment based on former incumbency of a position brought into the competitive service.

(a) *Agency authority—(1) Employee in military service.* Subject to the prior approval of the Commission, an agency may appoint a former incumbent of a permanent excepted position who was serving under an appointment not limited to 1 year or less, or of a position in public or private enterprise when the position was brought into the competitive service on a continuing basis, and who left his position after June 30, 1950, to perform active military service when:

(i) The position was brought into the competitive service before or during his military service or during the period in which he had restoration rights thereto, and he left the position to enter military service before the end of the time limits set forth in § 315.701(c);

(ii) He has been released from military service under honorable conditions;

(iii) The agency submits a recommendation for his appointment to the Commission within 6 months after release from military service under honorable conditions or after hospitalization continuing after release for not more than 1 year; and

(iv) He performed 6 months of satisfactory service immediately before the

date his position was brought into the competitive service, in a position or positions brought into the competitive service, or in the civilian executive branch of the Government, unless the Commission has excepted his particular type of case from this requirement by a provision of the Federal Personnel Manual.

(2) *Employee separated.* Subject to the prior approval of the Commission, an agency may appoint a former incumbent of a permanent excepted position under an appointment not limited to 1 year or less or of a position in public or private enterprise when the position was brought into the competitive service on a continuing basis, and who was separated thereafter, when:

(i) The agency submits a recommendation for his appointment to the Commission within the time limits set forth in § 315.701(c); and

(ii) He performed 6 months of satisfactory service immediately before the date his position was brought into the competitive service, in a position or positions brought into the competitive service or in the civilian executive branch of the Government, unless the Commission has excepted his particular type of case from this requirement by a provision of the Federal Personnel Manual.

(b) *Review of disapproved recommendations.* When the Commission disapproves a recommendation for appointment under this section, the agency or former incumbent concerned may request the Commission to review its action within 6 months after the date of the Commission's disapproval.

(c) *Tenure on appointment.* (1) Except as provided in subparagraph (2) of this paragraph, a person appointed under paragraph (a) of this section becomes a career-conditional employee.

(2) A person appointed under paragraph (a) of this section becomes a career employee when he has completed the service requirement for career tenure or is excepted from it by § 315.201(c).

(d) *Acquisition of competitive status.* (1) A person appointed under paragraph (a)(1) of this section acquires a competitive status automatically on appointment.

(2) A person appointed under paragraph (a)(2) of this section acquires a competitive status automatically on completion of probation.

§ 315.604 Employment of disabled veterans who have completed a training course under Chapter 31, Title 38, U.S. Code.

(a) *Agency authority.* When a disabled veteran completes a course of training prescribed by the Administrator of Veterans' Affairs under Chapter 31, Title 38, United States Code, an agency may appoint him noncompetitively to the position for which he was trained when the Commission determines that the training is adequate for the performance of the duties of the position.

(b) *Recommendation for conversion.* An agency may recommend to the Commission that the employment of a person appointed under paragraph (a) of this section be converted to career or career-conditional employment.

(c) *Disqualifications.* Any law, Executive order, or civil service rule or regulation which would disqualify an applicant for appointment also disqualifies him for conversion of his employment to career or career-conditional employment under this section.

(d) *Tenure on approval of recommendation.* When the Commission approves the agency's recommendation submitted under paragraph (b) of this section, the employee becomes:

(1) A career-conditional employee, except as provided in subparagraph (2) of this paragraph;

(2) A career employee when he has completed the service requirement for career tenure or is excepted from it by § 315.201(c).

(e) *Acquisition of competitive status.* A person whose employment is converted to career or career-conditional employment under this section acquires a competitive status automatically on conversion.

§ 315.605 Appointment of former Peace Corps volunteers.

(a) *Agency authority.* Subject to the prior approval of the Commission, an agency in the executive branch may appoint noncompetitively, for other than temporary employment, a person whom the Director of the Peace Corps certifies as having served satisfactorily as a volunteer or volunteer leader under the Peace Corps Act.

(b) *Time limit.* An agency in the executive branch may make an appointment under this section only within 1 year after the person completes service under the Peace Corps Act. However, an agency may extend the period for 2 more years to a total of 3 years if the person, after his Peace Corps service, is:

(1) In the military service;

(2) Studying at a recognized institution of higher learning; or

(3) In another activity which, in an agency's view, warrants extension.

(c) *Conditions.* Any law, Executive order, or regulation that disqualifies an applicant for appointment also disqualifies an applicant for appointment under this section.

(d) *Tenure on appointment.* Except as provided in subparagraph (2) of this paragraph, a person appointed under paragraph (a) of this section becomes a career-conditional employee.

(2) A person appointed under paragraph (a) of this section becomes a career employee when he has completed the service requirement for career tenure or is excepted from it by § 315.201(c).

(e) *Acquisition of competitive status.* A person appointed under paragraph (a) of this section acquires a competitive status automatically on completion of probation.

Subpart G—Conversion to Career or Career-Conditional Employment From Other Types of Employment

§ 315.701 Incumbents of positions brought into the competitive service.

(a) *Employee coverage.* This section applies to an employee retained under §§ 316.701 and 316.702 of this chapter who:

(1) Was serving in a permanent excepted position under an appointment not limited to 1 year or less, or in a public or private enterprise in a position which the agency determines to be a continuing one, at the time his position was brought into the competitive service; and

(2) Performed 6 months of satisfactory service immediately before the date his position was brought into the competitive service, in a position or positions brought into the competitive service, or in the civilian executive branch of the Government, unless the Commission has excepted his particular type of case from this requirement by a provision in the Federal Personnel Manual.

(b) *Recommendation by agency.* An agency, within the time limits set forth in paragraph (c) of this section, may recommend that the employment of an employee covered by paragraph (a) of this section be converted to career or career-conditional employment.

(c) *Time limits on recommendation.* An agency may submit a recommendation for conversion under paragraph (b) of this section only within 6 months after the position is brought into the competitive service, except that:

(1) When it is necessary for the Commission to determine that § 316.701 or § 316.702 applies to a group of positions, the recommendation shall be submitted within 6 months after the Commission advises the agency of its determination; and

(2) In its discretion the Commission may extend the time limits prescribed in this paragraph on a showing by the agency that circumstances beyond its control prevented it from recommending the person within these time limits.

(d) *Tenure on approval of recommendation.* When the Commission approves the agency's recommendation submitted under paragraph (b) of this section, the employee becomes:

(1) A career-conditional employee, except as provided in subparagraph (2) of this paragraph;

(2) A career employee when he has completed the service requirement for career tenure or is excepted from it by § 315.201(c).

(e) *Acquisition of competitive status.* A person whose employment is converted to career or career-conditional employment under this section acquires a competitive status automatically on completion of probation.

(f) *Review of disapproved recommendations.* When the Commission disapproves a recommendation for conversion under this section, the agency or the employee concerned may request the Commission to review its action within 6 months after the date of the Commission's disapproval.

§ 315.702 Employees serving without competitive examination in rare cases.

(a) *Recommendation by agency.* An agency may recommend to the Commission that the employment of an employee who has completed at least 1 year of satisfactory service under § 316.601 be

converted to career or career-conditional employment.

(b) *Tenure on approval of recommendation.* When the Commission approves the agency's recommendation submitted under paragraph (a) of this section, the employee becomes:

(1) A career-conditional employee, except as provided in subparagraph (2) of this paragraph;

(2) A career employee when he has completed the service requirement for career tenure or is excepted from it by § 315.201(c).

(c) *Acquisition of competitive status.* A person whose employment is converted to career or career-conditional employment under this section acquires a competitive status automically on conversion.

§ 315.703 Employees formerly reached on a register.

(a) *Recommendation by agency.* An agency may recommend to the Commission that the employment of an employee who was serving when his name was within reach for career or career-conditional appointment on a register appropriate for the position in which he was serving be converted to career or career-conditional employment when:

(1) The register was being used for career and career-conditional appointments when he was reached;

(2) He has been continuously employed since he was reached;

(3) The agency in which he was employed when he was reached recommends the conversion either before the expiration of the register or during a period of continuous service since he was reached; and

(4) The agency, when the employee is a nonpreference eligible who was first reached after February 1, 1955, furnishes reasons satisfactory to the Commission for passing over any preference eligible who preceded him on the register when he was reached and who is still within reach and available for appointment.

(b) *Tenure on approval of recommendation.* When the Commission approves the agency's recommendation submitted under paragraph (a) of this section, the employee becomes:

(1) A career-conditional employee, except as provided in subparagraph (2) of this paragraph;

(2) A career employee when he has completed the service requirement for career tenure or is excepted from it by § 315.201(c).

(c) *Acquisition of competitive status.* An employee whose employment is converted to career or career-conditional employment under this section acquires a competitive status automatically on completion of probation.

§ 315.704 Disqualifications.

Any law, Executive order, or civil service rule or regulation which would disqualify an applicant for appointment shall also disqualify an employee for conversion of his employment to career or career-conditional employment under this subpart.

Subpart H—Probation

§ 315.801 Probationary period; when required.

(a) The first year of service of an employee who is given a career or career-conditional appointment under this part is a probationary period when the employee:

(1) Was appointed from a register;

(2) Was reinstated under § 315.401, unless during any period of service which affords a current basis for reinstatement, the employee completed a probationary period or served with competitive status under an appointment which did not require him to serve a probationary period;

(3) Was appointed under § 315.601(a) as a former employee of the Canal Zone Merit System, unless he satisfactorily completed a 1-year probationary period under that system;

(4) Was appointed under § 315.603(a)(2) on the basis of his former incumbency of a position brought into the competitive service;

(5) Has had his employment converted under § 315.701 or § 315.703 from another type of employment; or

(6) Was appointed under § 315.605 as a former Peace Corps volunteer or volunteer leader.

(b) A person who is:

(1) Transferred under § 315.501; or

(2) Promoted, demoted, or reassigned, before he completed probation is required to complete the probationary period in the new position.

(c) A person who is reinstated from the Reemployment Priority List to a position in the same agency and the same commuting area does not have to serve a new probationary period, but, if separated during probation, is required to complete the probationary period in the new position.

§ 315.802 Length of probationary period.

(a) The probationary period required by § 315.801 is 1 year.

(b) The Commission shall publish in the Federal Personnel Manual a statement of the conditions under which prior service is counted toward completion of a probationary period.

§ 315.803 Agency action during probationary period (general).

The agency shall utilize the probationary period as fully as possible to determine the fitness of the employee and shall terminate his services during this period if he fails to demonstrate fully his qualifications for continued employment.

§ 315.804 Termination of probationers for unsatisfactory performance or conduct.

When an agency decides to terminate an employee serving a probationary or trial period because his work performance or conduct during this period fails to demonstrate his fitness or his qualifications for continued employment, it shall terminate his services by notifying him in writing as to why he is being separated and the effective date of the action. The information in the notice as to why the employee is being terminated shall, as a minimum, consist of the agency's conclusions as to the inadequacies of his performance or conduct.

§ 315.805 Termination of probationers for conditions arising before appointment.

When an agency proposes to terminate an employee serving a probationary or trial period for reasons based in whole or in part on conditions arising before his appointment, the employee is entitled to the following:

(a) *Notice of proposed adverse action.* The employee is entitled to an advance written notice stating the reasons, specifically and in detail, for the proposed action.

(b) *Employee's answer.* The employee is entitled to a reasonable time for filing a written answer to the notice of proposed adverse action and for furnishing affidavits in support of his answer. If the employee answers, the agency shall consider the answer in reaching its decision.

(c) *Notice of adverse decision.* The employee is entitled to be notified of the agency's decision at the earliest practicable date. The agency shall deliver the decision to the employee at or before the time the action will be made effective. The notice shall be in writing, inform the employee of the reasons for the action, inform the employee of his right of appeal to the appropriate office of the Commission, and inform him of the time limit within which the appeal must be submitted as provided in § 315.806(d).

§ 315.806 Appeal rights to the Commission.

(a) *Right of appeal.* An employee is entitled to appeal to the Commission in writing from the agency's decision to terminate him under § 315.804 or § 315.805 only as provided in this section. The Commission's review does not include any matter except as provided in paragraphs (b) and (c) of this section.

(b) *On discrimination.* An employee whose termination is subject to the provisions of § 315.804 or § 315.805 may appeal on the ground that the action taken was based on political reasons not required by statute, or resulted from discrimination because of marital status, or from improper discrimination because of physical handicap. When an appeal is based on any of these grounds, the appellant shall submit an affidavit setting forth the facts and circumstances on which the appeal is based.

(c) *On improper procedure.* A probationer whose termination is subject to § 315.805 may appeal on the ground that his termination was not effected in accordance with the procedural requirements of that section.

(d) *Time limits.* An employee may submit an appeal at any time after receipt of the notice of adverse decision, but not later than 10 days after the termination has been effected. The Commission may extend the time limit in this paragraph when the appellant

shows that he was not notified of the time limit and was not otherwise aware of it, or that he was prevented by circumstances beyond his control from appealing within the time limit.

§ 315.807 Agency action when Commission recommends restoration or other corrective action.

(a) It is mandatory that the agency take all corrective action recommended in the Commission's initial decision on an appeal unless it makes a timely appeal to the Board of Appeals and Review.

(b) The decision of the Board is final and compliance with its recommendation for corrective action is mandatory.

PART 316—TEMPORARY AND INDEFINITE EMPLOYMENT

Subpart A—[Reserved]

Subpart B—TAPER Employment

Sec.
316.201 Purpose and duration.
316.202 Eligibility of TAPER employees for within-grade increases.

Subpart C—Term Employment

316.301 Purpose and duration.
316.302 Selection of term employees.
316.303 Tenure of term employees.
316.304 Trial period.
316.305 Eligibility for within-grade increases.

Subpart D—Temporary Limited Employment

316.401 Purpose and duration.
316.402 Authorities for temporary appointments.

Subpart E—Indefinite Employment

316.501 Authorities for indefinite appointment; restrictions on.
316.502 Trial period.
316.503 Tenure of indefinite employees.
316.504 Eligibility of indefinite employees for within-grade increases.

Subpart F—Appointment Without Competitive Examination in Rare Cases

316.601 Appointment without competitive examination in rare cases.

Subpart G—Retention of Incumbents of Positions Brought Into the Competitive Service

316.701 Public or private enterprise taken over by Government.
316.702 Excepted positions brought into the competitive service.
316.703 Effect on tenure of position change of status quo employees.

Subpart H—Separation of Temporary and Indefinite Employees

316.801 Displacement of temporary and indefinite employees.

AUTHORITY: Secs. 316.201 to 316.801 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218. § 316.402(b)(5) also issued under E.O. 11103, 28 F.R. 3571, 3 CFR, 1963 Supp. Statutory provisions interpreted or applied are cited to text in parentheses.

Subpart A—[Reserved]

Subpart B—TAPER Employment

§ 316.201 Purpose and duration.

The Commission may authorize an agency to fill a vacancy by a temporary appointment pending establishment of a register ("TAPER" appointment) when there are insufficient eligibles on a register appropriate for filling the vacancy in a position that will last for a period of more than 1 year and the public interest requires that the vacancy be filled before eligibles can be certified. TAPER employment may continue only for the period necessary to make an appointment through certification.

§ 316.202 Eligibility of TAPER employees for within-grade increases.

A TAPER employee serving in a position covered by the Classification Act of 1949, as amended, is eligible for within-grade increases in accordance with Subpart D of Part 531 of this chapter.

Subpart C—Term Employment

§ 316.301 Purpose and duration.

The Commission may authorize an agency to make a term appointment for a period of more than 1 year on request of the agency and after determination by the Commission that the needs of the service so require and that the employment need is for a limited period of 4 years or less.

§ 316.302 Selection of term employees.

(a) Except as provided in paragraphs (b) and (c) of this section, when making a term appointment an agency shall select an eligible from a register.

(b) The Commission may authorize an agency to make term appointments outside a register when there are insufficient eligibles on the appropriate register.

(c) When the Commission has authorized an agency to make term appointments, the agency may give a term appointment to a person with eligibility for reinstatement, without regard to the existence of an appropriate register.

§ 316.303 Tenure of term employees.

(a) A term employee does not acquire a competitive status on the basis of his term appointment.

(b) The employment of a term employee ends automatically on the expiration of his term appointment unless he has been separated earlier in accordance with this Chapter.

§ 316.304 Trial period.

(a) The first year of service of a term employee is a trial period.

(b) The agency may terminate a term employee at any time during the trial period. The employee is entitled to the procedures set forth in § 315.804 or § 315.805 of this Chapter as appropriate.

§ 316.305 Eligibility for within-grade increases.

A term employee serving in a position covered by the Classification Act of 1949, as amended, is eligible for within-grade increases in accordance with Subpart D of Part 531 of this chapter.

Subpart D—Temporary Limited Employment

§ 316.401 Purpose and duration.

The Commission may authorize an agency to make a temporary limited appointment to meet an administrative need for temporary employment, such as to fill a temporary position or a continuing position for a temporary period. An agency may make a temporary limited appointment only for a definite period of 1 year or less.

§ 316.402 Authorities for temporary appointments.

(a) *General rule.* An agency may make and extend a temporary limited appointment only with specific authorization from the Commission, except under the conditions published by the Commission in the Federal Personnel Manual or as provided in paragraph (b) of this section.

(b) *Noncompetitive temporary limited appointments.* An agency may give a temporary limited appointment, without regard to the existence of an appropriate register, to:

(1) A person with eligibility for reinstatement;

(2) A person eligible for career or career-conditional appointment under § 315.601 of this chapter;

(3) A person who meets the requirements for indefinite appointment under § 316.501;

(4) A former temporary employee of the agency who was originally appointed from a register, subject to the conditions published by the Commission in the Federal Personnel Manual; and

(5) A person eligible for career or career-conditional appointment under § 315.605 of this chapter.

(76A Stat. 18; 2 C.Z.C. 149(c)(2); E.O. 9830, 12 F.R. 1259, 3 CFR 1943–1948 Comp., p. 606)

Subpart E—Indefinite Employment

§ 316.501 Authorities for indefinite appointment; restrictions on.

(a) An agency may give an indefinite appointment to a person without competitive status who last served as an indefinite employee in a competitive position when:

(1) He has received a notice of separation because of reduction in force and is selected not later than 90 days after his separation because of reduction in force;

(2) He is unable to move with his office to a different locality and is selected after receiving notification that his office is to move but not later than 90 days after his separation because of inability to move with his office; or

(3) He entered the military service while serving under an indefinite appointment and is selected not later than 90 days after his honorable separation from the military service.

(b) An agency may not make an indefinite appointment to a position for which an initial overseas limited appointment is authorized under Subpart B of Part 301 of this chapter.

§ 316.502 Trial period.

(a) Except as provided in paragraphs (b) and (c) of this section, the first year of service is a trial period in the case of a person:

(1) Who is given an indefinite appointment; or

(2) Who at the time of separation from indefinite appointment was serving a trial period and was appointed after a break in service of at least 1 workday.

(b) A person who at the time of separation from indefinite appointment was serving a trial period and was appointed without a break in service of 1 workday, is required to complete the trial period in the new position.

(c) A person who has satisfactorily completed a trial period of 1 year is not required to serve a trial period when he is given an indefinite appointment.

(d) The agency may terminate an indefinite employee at any time during the trial period. The employee is entitled to the procedures set forth in § 315.804 or § 315.805 of this chapter, as appropriate.

§ 316.503 Tenure of indefinite employees.

(a) An indefinite employee does not acquire a competitive status on the basis of his indefinite appointment.

(b) An agency may retain an indefinite employee on an indefinite basis, subject to his displacement under § 316.801.

§ 316.504 Eligibility of indefinite employees for within-grade increases.

An indefinite employee serving in a position covered by the Classification Act of 1949, as amended, is eligible for within-grade increases in accordance with Subpart D of Part 531 of this chapter.

Subpart F—Appointment Without Competitive Examination in Rare Cases

§ 316.601 Appointment without competitive examination in rare cases.

(a) The Commission may authorize an agency to make an appointment without competitive examination when the Commission:

(1) Finds that the duties and compensation of the position are such, or that qualified persons are so rare, that in the interest of good civil service administration the position cannot be filled through open competitive examination; and

(2) Receives satisfactory evidence of the qualifications of the person to be appointed.

(b) A person appointed under paragraph (a) of this section does not acquire a competitive status on the basis of that appointment.

(c) When a position filled under paragraph (a) of this section becomes vacant, the agency may fill the vacancy by another appointment under paragraph (a) of this section only with the express prior approval of the Commission in accordance with this section.

Subpart G—Retention of Incumbents of Positions Brought Into the Competitive Service

§ 316.701 Public or private enterprise taken over by Government.

(a) When the Commission finds that the Federal Government has taken over a public or private enterprise, or an identifiable unit thereof, and that a position has thereby been brought into the competitive service, the agency may retain the incumbent of the position.

(b) (1) When an agency retains an employee under paragraph (a) of this section in a position which it determines to be a continuing one, the agency shall decide on a timely basis whether it will recommend that his employment be converted to career or career-conditional under § 315.701 of this chapter.

(2) When an agency decides not to recommend conversion under § 315.701 of this chapter, or recommends the conversion but the conversion fails, the agency, in its discretion, may retain the employee as a status quo employee.

(c) When an agency retains an employee under paragraph (a) of this section in a position which it determines to be a noncontinuing one, the agency shall give the employee a temporary limited appointment under the conditions prescribed by the Commission in the Federal Personnel Manual.

§ 316.702 Excepted positions brought into the competitive service.

(a) When the Commission finds that an excepted position has been brought into the competitive service by statute, Executive order, or the revocation of an exception under Civil Service Rule VI (§ 6.6 of this chapter), or is otherwise made subject to competitive examination, the agency may retain the incumbent of the position.

(b) (1) When an agency retains an employee under paragraph (a) of this section who was serving in a permanent excepted position under an appointment not limited to 1 year or less, the agency shall decide on a timely basis whether it will recommend that his employment be converted to career or career-conditional under § 315.701 of this Chapter.

(2) When an agency decides not to recommend conversion under § 315.701 of this Chapter, or recommends the conversion but the conversion fails, the agency, in its discretion, may retain the employee as a status quo employee.

(c) An employee retained under paragraph (a) of this section who was serving in an excepted position under an appointment limited to 1 year or less is permitted to serve temporarily under the conditions prescribed by the Commission in the Federal Personnel Manual.

§ 316.703 Effect on tenure of position change of status quo employees.

(a) A status quo employee who is promoted, demoted, or reassigned becomes:

(1) An indefinite employee when the position change occurs while he is not serving overseas; or

(2) An overseas limited employee when the position change occurs while he is serving overseas.

(b) An employee referred to in paragraph (a) of this section who is changed back to his status quo position becomes a status quo employee.

Subpart H—Separation of Temporary and Indefinite Employees

§ 316.801 Displacement of temporary and indefinite employees.

(a) An agency shall separate employees serving under the following types of appointments in response to a specific displacement order by the Commission or to comply with the provisions of the Commission's program to place separated career employees:

(1) Temporary pending establishment of a register;

(2) Overseas limited of indefinite duration; and

(3) Indefinite.

(b) An agency may separate employees serving under the types of appointments named in paragraph (a) of this section in order to create vacancies for separated career or career-conditional employees who are listed on the agency reemployment priority list.

(c) When an agency separates employees under this section, it shall follow the order of displacement published by the Commission in the Federal Personnel Manual.

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

Subpart A—Discretion in Filling Vacancies

Sec.
330.101 Methods of filling vacancies.

Subpart B—Appointment From Reemployment Priority List

330.201 Priority in filling vacancies.
330.202 Reemployment priority list appeals.
330.203 Time limit on appeal.
330.204 Agency action when Commission recommends corrective action.

Subpart C—Separated Career Employee (SCE) Program

330.301 Acceptance of applications from separated career and career-conditional employees.
330.302 Order of separated career and career-conditional employees on registers.
330.303 Entry of names of separated career and career-conditional employees on special registers.

Subpart D—Positions Restricted to Preference Eligibles

330.401 Competitive examination.
330.402 Direct recruitment.
330.403 Noncompetitive actions.

Subpart E—Time-After-Competitive-Appointment Restriction

330.501 General restriction.
330.502 Persons within reach on registers.

Subpart F—Prohibited Practices

330.601 Withdrawal from competition.

AUTHORITY: §§ 330.101 to 330.601 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218. Statutory provisions interpreted or applied are cited to text in parentheses.

Subpart A—Discretion in Filling Vacancies

§ 330.101 Methods of filling vacancies.

An appointing officer may fill a position in the competitive service by any of

the methods authorized in this chapter. He shall exercise his discretion in each personnel action solely on the basis of merit and fitness and without the discrimination prohibited in Part 713 of this chapter.

Subpart B—Appointment From Reemployment Priority List

§ 330.201 Priority in filling vacancies.

(a) When a qualified person is available on the agency's reemployment priority list, the agency may not fill a competitive position by:

(1) A new appointment, unless the person appointed is a qualified 10-point preference eligible;

(2) Transfer; or,

(3) Reemployment of a person not on the reemployment priority list unless the person is a preference eligible or is restored under Part 353 of this chapter.

(b) Paragraph (a) of this section does not apply when all qualified persons on the reemployment priority list decline or fail to respond to offers of reemployment.

(c) In selection from a reemployment priority list, an agency shall give preference to tenure group I employees over tenure group II employees and to qualified preference eligibles over nonpreference eligibles within each tenure group.

(d) An agency may make an exception to this section and appoint a person not on the reemployment priority list or a person on the list with lower standing than others on the list only when it is necessary to obtain an employee for duties that cannot be taken over without undue interruption to the agency by a person on the list or a person on the list with higher standing than the person appointed. The agency shall notify each person adversely affected by an appointment under this paragraph of the reasons for the exception and of his right of appeal to the Commission.

§ 330.202 Reemployment priority list appeals.

An employee or former employee who thinks his reemployment priority rights under this subpart have been violated may appeal in writing to the Commission by presenting factual information that he was improperly denied reemployment because of the employment of another person.

§ 330.203 Time limit on appeal.

Although there is no specific time limit on the filing of a reemployment priority list appeal, an employee or former employee shall exercise due diligence in appealing under § 330.202.

§ 330.204 Agency action when Commission recommends corrective action.

(a) It is mandatory that the agency take all corrective action recommended in the Commission's initial decision on an appeal unless it makes a timely appeal to the Board of Appeals and Review.

(b) The decision of the Board is final and compliance with its recommendation for corrective action is mandatory.

Subpart C—Separated Career Employee (SCE) Program

§ 330.301 Acceptance of applications from separated career and career-conditional employees.

Subject to the time limits and other conditions published by the Commission in the Federal Personnel Manual, a career or career-conditional employee separated by reduction in force may apply for examination for any competitive position, except postmaster and rural carrier, whether the examination is open or there is an existing register or a register about to be established.

§ 330.302 Order of separated career and career-conditional employees on registers.

The Commission shall enter the names of career and career-conditional employees separated from competitive positions by reduction in force on the appropriate register at the top of the appropriate group in the order of their ratings. For professional and scientific positions in grades GS–9 and above of the Classification Act of 1949, as amended, and in comparable pay levels under other pay-fixing authorities, all eligibles are in one group. For all other positions, preference eligibles with a compensable service-connected disability of 10 percent or more are in one group and all other eligibles in another.

§ 330.303 Entry of names of separated career and career-conditional employees on special registers.

When there is no appropriate existing register the Commission may establish special registers containing the names of career and career-conditional employees separated from competitive positions by reduction in force, together with the names of eligibles described in §§ 332.311 and 332.322 of this chapter, and use these registers for certification to fill appropriate vacancies.

Subpart D—Positions Restricted to Preference Eligibles

§ 330.401 Competitive examination.

In each entrance examination for the positions of custodian, elevator operator, guard, and messenger (referred to hereinafter in this subpart as restricted positions), the Commission shall restrict competition to preference eligibles as long as preference eligibles are available.

(Sec. 3, 58 Stat. 388, as amended; 5 U.S.C. 852)

§ 330.402 Direct recruitment.

In direct recruitment by an agency under delegated authority, the agency shall fill each restricted position by the appointment of a preference eligible as long as preference eligibles are available.

§ 330.403 Noncompetitive actions.

An agency may fill a restricted position by the appointment by noncompetitive action of a nonpreference eligible only in particular types of cases as determined by the Commission. The Commission shall publish in the Federal Personnel Manual a statement of the circumstances under which a restricted position may be filled by noncompetitive action.

Subpart E—Time-After-Competitive-Appointment Restriction

§ 330.501 General restriction.

An agency may promote, reassign to a different line of work, or reinstate or transfer to a higher grade or different line of work, a present or former employee only after he has served 3 months after his latest nontemporary competitive appointment.

§ 330.502 Persons within reach on registers.

The time-after-competitive-appointment restriction of § 330.501 does not apply to a person who is within reach on a register for competitive appointment to the position to be filled.

Subpart F—Prohibited Practices

§ 330.601 Withdrawal from competition.

An applicant for competitive examination, an eligible on a register, and an officer or employee in the executive branch of the Government shall not persuade, induce, or coerce, or attempt to persuade, induce, or coerce, directly or indirectly, a prospective applicant to withhold filing application, or an applicant or eligible to withdraw from competition or eligibility, for a position in the competitive service, for the purpose of improving or injuring the prospects of an applicant or eligible for appointment. The Commission shall cancel the application or eligibility of an applicant or eligible who violates this section, and shall impose such other penalty as it considers appropriate.

PART 332—RECRUITMENT AND SELECTION THROUGH COMPETITIVE EXAMINATION

Subpart A—General Provisions

Sec.

332.101 General policy of competition.
332.102 Definitions.
332.103 Filling certain postmaster positions.

Subpart B—[Reserved]

Subpart C—Period of Competition and Eligibility

GENERAL

332.301 Termination of eligibility.

ACCEPTANCE OF APPLICATIONS AFTER CLOSING DATE OF EXAMINATIONS

332.311 Quarterly examinations.
332.312 Applicants in military or overseas service.
332.313 Preference eligibles separated from competitive positions.

RESTORATION OF ELIGIBILITY

332.321 Preference eligibles who resigned from competitive positions.
332.322 Persons who lost eligibility because of military service.
332.323 Employees separated during probation.

Subpart D—Consideration for Appointment

332.401 Order on registers.
332.402 Regular order of certification for appointment.
332.403 Selective certification.
332.404 Order of selection from certificates.

Sec.
332.405 Three considerations for appointment.
332.406 Objections to eligibles.
332.407 Passing over preference eligibles.

AUTHORITY: §§ 332.101 to 332.407 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218. Statutory provisions interpreted or applied are cited to text in parentheses.

Subpart A—General Provisions

§ 332.101 General policy of competition.

(a) Examinations for entrance into the competitive service shall be open competitive, except that the Commission may authorize noncompetitive examinations when sufficient competent persons do not compete.

(b) An examination for promotion, demotion, reassignment, transfer, or reinstatement may be a noncompetitive examination.

§ 332.102 Definitions.

In this part: (a) "Certificate" means a list of eligibles from a register submitted to an appointing officer so that he may consider the eligibles for appointment.

(b) "Active military duty" means active duty in full pay status in the Armed Forces of the United States, including an initial period of active duty for training in accordance with section 262 of the Armed Forces Reserve Act of 1952, as amended (69 Stat. 600; 50 U.S.C. 1013).

§ 332.103 Filling certain postmaster positions.

(a) When a vacancy occurs or is about to occur in a postmaster position in a fourth-class post office for which the annual compensation is less than $2,000 a representative of the Post Office Department shall visit the locality and, after due public notice has been given, accept applications from interested persons. The representative shall establish a register based on the qualifications and suitability of each applicant and on his ability to provide proper facilities for transacting the business of the office. The Post Office Department shall submit to the Commission for post audit one copy of the representative's report showing the qualifications of all applicants, the basis for ranking the eligibles, and the selection of an eligible from the register. The report shall be accompanied by the applications of all applicants. A person selected for appointment from such a register may be appointed after the date the annual compensation of the office is advanced to $2,000 or more only with the prior approval of the Commission.

(b) When making an appointment from a register established under paragraph (a) of this section, the appointing officer shall select an eligible in accordance with §§ 332.404 through 332.407.

(c) When the Commission, after holding two examinations, is unable to secure a complete certificate of three eligibles for offices where the annual compensation is $2,000 or more, it may authorize the establishment of a register and selection therefrom in accordance with paragraphs (a) and (b) of this section.

Subpart B—[Reserved]

Subpart C—Period of Competition and Eligibility

GENERAL

§ 332.301 Termination of eligibility.

(a) Except as provided in paragraph (b) of this section, a person's eligibility on a register is terminated when:

(1) He accepts a career or career-conditional appointment from the register; or

(2) The Commission terminates the eligibility of all persons on the register.

(b) The Commission may determine that in particular types of cases eligibility may not be terminated in less than 1 year. The Commission shall publish in the Federal Personnel Manual the conditions under which eligibility may not be terminated in less than 1 year.

ACCEPTANCE OF APPLICATIONS AFTER CLOSING DATE OF EXAMINATIONS

§ 332.311 Quarterly examinations.

(a) A 10-point preference eligible is entitled to file an application at any time for an examination for any position he may name for which there is an existing register or a register about to be established. He is also entitled to file an application for any position to which a career or career-conditional appointment has been made from a register within 3 years preceding the date of his application. For the purpose of this paragraph the Commission shall hold an examination not later than the quarterly period succeeding that in which the application is filed.

(Sec. 10, 58 Stat. 390, as amended; 5 U.S.C. 859)

(b) When there is no appropriate existing register, the Commission may establish special registers containing the names of eligibles from the quarterly examinations authorized by paragraph (a) of this section, together with the names of eligibles described in §§ 332.322 and 330.303 of this chapter, and use these registers for certification to fill appropriate vacancies.

§ 332.312 Applicants in military or overseas service.

Subject to the time limits and other conditions published by the Commission in the Federal Personnel Manual, the following persons are entitled to file applications for open competitive examinations after the closing date for receipt of applications when there is an existing register or a register about to be established:

(a) A person who could not file an application during the filing period, or appear for an assembled examination, because of military service, or hospitalization continuing for 1 year or less following discharge from military service;

(b) An employee of the Federal Government who, as a member of a reserve unit of the military service, could not file an application during the filing period, or appear for an assembled examination, because of active duty beyond 15 days with the military service even though the duty is designated for training purposes; and

(c) A United States citizen who could not file an application during the filing period, or appear for an assembled examination, because of overseas service with a Federal agency or with an international organization in which the United States Government participates.

§ 332.313 Preference eligibles separated from competitive positions.

The following persons are entitled to have their names entered on an appropriate existing register in the order prescribed by § 332.401 if they were last employed under career or career-conditional appointments:

(a) A preference eligible who is declared eligible therefor after appeal from furlough or discharge; and

(b) A preference eligible who has been furloughed or separated without delinquency or misconduct and who applies within 90 days after furlough or separation.

(Secs. 14, 15, 58 Stat. 390, as amended, 391; 5 U.S.C. 863, 864)

RESTORATION OF ELIGIBILITY

§ 332.321 Preference eligibles who resigned from competitive positions.

A qualified preference eligible who resigned without delinquency or misconduct from career or career-conditional employment is entitled to have his name reentered on each register on which his name formerly appeared (or on a successor register) if he applies within 90 days after separation.

(Sec. 16, 58 Stat. 391; 5 U.S.C. 865)

§ 332.322 Persons who lost eligibility because of military service.

(a) A person who lost a period of eligibility on a register because he has served on active military duty since June 30, 1950, is entitled to have his name restored to that register or a successor register when he meets the following conditions:

(1) He has not served more than 4 years following the date of his entrance on active military duty, exclusive of any additional service imposed pursuant to law. The date of entrance on duty means the first date between June 30, 1950, and July 1, 1963, on which he began a new period of active military duty, whether it was by original entry, reentry or extension.

(2) He is honorably separated from active military duty.

(3) He applies for restoration of eligibility within 90 days after discharge from active military duty or from hospitalization continuing for 1 year or less following separation from active military duty.

(4) He is still qualified to perform the duties of the position for which the register is used.

(b) When a person is entitled to have his name restored to a register under paragraph (a) of this section, the Commission shall enter his name at the top of the appropriate group on the register

if another eligible standing lower on the register on which his name formerly appeared was given a career or career-conditional appointment from that register. For professional and scientific positions in grades GS–9 and above of the Classification Act of 1949, as amended, and in comparable pay levels under other pay-fixing authorities, all eligibles are in one group. For all other positions, preference eligibles with a compensable service-connected disability of 10 percent or more are in one group and all other eligibles in another.

(c) When there is no appropriate existing register, the Commission may establish special registers containing the names of persons entitled to priority of certification under paragraph (b) of this section, together with the names of eligibles described in §§ 332.311 and 330.303 of this chapter; and use these registers for certification to fill appropriate vacancies.

(Sec. 1, 67 Stat. 173; 5 U.S.C. 645c)

§ 332.323 Employees separated during probation.

An employee who is separated (voluntarily or involuntarily) without delinquency or misconduct during his probationary period is entitled to have his name restored to the register of eligibles from which he was appointed, if he applies for restoration while the register is still in use.

Subpart D—Consideration for Appointment

§ 332.401 Order on registers.

Subject to apportionment, residence, and other requirements of law and this chapter, the Commission shall enter the names of eligibles on the appropriate register in accordance with their numerical ratings, except that the names of:

(a) Preference eligibles shall be entered in accordance with their augmented ratings and ahead of others having the same rating; and

(b) Preference eligibles who have a compensable service-connected disability of 10 percent or more shall be entered at the top of the register in the order of their ratings unless the register is for professional or scientific positions in grades GS–9 and above of the Classification Act of 1949, as amended, and in comparable pay levels under other pay-fixing authorities.

(Sec. 7, 58 Stat. 389, as amended; 5 U.S.C. 856)

§ 332.402 Regular order of certification for appointment.

When the Commission receives a request for certification of eligibles, it shall prepare a certificate from the top of the appropriate register containing the names of a sufficient number of eligibles to permit the appointing officer to consider three eligibles in connection with each vacancy.

(Sec. 8, 58 Stat. 389, as amended; 5 U.S.C. 857)

§ 332.403 Selective certification.

When there is no register appropriate as a whole for the certification of eligibles for a particular position, the Commission may prepare a certificate from the most nearly appropriate existing register by the selective certification of eligibles qualified for the particular position in the order of their ranking on the register. Special overseas selection factors may also be used as a basis for selective certification from a register used for filling overseas positions. When appropriate, the Commission may rerate the eligibles on the register on the basis of the particular requirements of the position.

§ 332.404 Order of selection from certificates.

An appointing officer, with sole regard to merit and fitness, shall select an eligible for:

(a) The first vacancy from the highest three eligibles on the certificate who are available for appointment; and

(b) The second and each succeeding vacancy from the highest three eligibles on the certificate who are unselected and available for appointment.

§ 332.405 Three considerations for appointment.

An appointing officer is not required to consider an eligible who has been considered by him for three separate appointments from the same or different certificates for the same position.

§ 332.406 Objections to eligibles.

An appointing officer is not required to consider an eligible to whose certification for the particular position he makes an objection that is sustained by the Commission for any of the reasons stated in § 339.101 or § 731.201 of this Chapter or for other reasons considered by the Commission to be disqualifying for the particular position. The Commission may also sustain an objection to certification of an otherwise qualified eligible for an overseas position on the basis of special overseas selection factors.

§ 332.407 Passing over preference eligibles.

(a) When an appointing officer passes over a preference eligible and tentatively selects a nonpreference eligible, he shall submit his reasons for not selecting the preference eligible to the Commission for a finding as to their sufficiency. The appointing officer shall withhold further action on the appointment of the nonpreference eligible until he receives the Commission's finding. If the Commission finds that the reasons are sufficient, the appointing officer may then appoint the nonpreference eligible. If the Commission finds that the reasons are not sufficient, the appointing officer may not pass over the preference eligible and appoint the nonpreference eligible. The appointing officer shall follow the procedure for passing over a preference eligible published by the Commission in the Federal Personnel Manual.

(b) When the Commission has on three occasions found that appointing officers had sufficient reasons for passing over a preference eligible, it may discontinue certifying his name for appointment after notice of that action is sent to the preference eligible.

(Sec. 8, 58 Stat. 389, as amended; 5 U.S.C. 857)

PART 333—RECRUITMENT AND SELECTION FOR TEMPORARY AND TERM APPOINTMENTS OUTSIDE THE REGISTER

Subpart A—General Provisions

Sec.
333.101 Standards for temporary and term appointments outside the register.
333.102 Preference in temporary and term appointments outside the register.

AUTHORITY: §§ 333.101 and 333.102 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218.

Subpart A—General Provisions

§ 333.101 Standards for temporary and term appointments outside the register.

Except as the Commission may otherwise specify in the Federal Personnel Manual, an agency, in making a temporary or term appointment outside the register, shall determine that the applicant meets the qualification standards issued by the Commission and that he is not disqualified for any of the reasons listed in §§ 339.101 and 731.201 of this chapter.

§ 333.102 Preference in temporary and term appointments outside the register.

In making temporary and term appointments outside the register, an agency shall give preference to preference eligibles as follows:

(a) For professional and scientific positions in grades GS–9 and above of the Classification Act of 1949, as amended, and in comparable pay levels under other pay-fixing authorities preference shall be given to preferences eligibles without regard to type of preference.

(b) For other positions, preference shall be given first to preference eligibles with compensable service-connected disability of 10 percent or more, and second to other preference eligibles.

PART 335—PROMOTION AND INTERNAL PLACEMENT

Subpart A—General Provisions

Sec.
335.101 Effect of position change on status and tenure.
335.102 Agency authority to promote, demote, or reassign.
335.103 Agency promotion programs.

AUTHORITY: §§ 335.101 to 335.103 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218.

Subpart A—General Provisions

§ 335.101 Effect of position change on status and tenure.

(a) *Status.* A position change authorized by § 335.102 does not change the competitive status of an employee.

(b) *Tenure.* Except as provided in paragraph (c) of this section and § 316.703 of this chapter, a position change authorized by § 335.102 does not change the tenure of an employee.

(c) *Exceptions.* (1) A career-conditional employee who is promoted, demoted, or reassigned to a position paid under Chapter 45, Title 39, United States Code or required by law to be filled on a permanent basis becomes a career employee.

(2) A career employee who is promoted, demoted, or reassigned from a position paid under Chapter 45, Title 39, United States Code or required by law to be filled on a permanent basis to a position under the career-conditional employment system becomes a career-conditional employee unless he has completed the service requirement for career tenure.

§ 335.102 Agency authority to promote, demote, or reassign.

Subject to § 335.103 an agency may:

(a) Promote, demote, or reassign a career or career-conditional employee;

(b) Reassign an employee serving under a temporary appointment pending establishment of a register to a position to which his original assignment could have been made by the same appointing officer from the same recruiting list under the same order of consideration;

(c) Promote, demote, or reassign an employee serving under an overseas limited appointment of indefinite duration to another position to which an initial appointment under § 301.201, 301.202 or 301.203 of this chapter is authorized.

(d) Promote, demote, or reassign (1) a status quo employee and (2) an employee serving under an indefinite appointment in a competitive position, except that this authority may not be used to move an employee:

(i) From a position in which an initial overseas limited appointment is authorized to another position; or

(ii) To a position in which an initial overseas limited appointment is authorized from another position; and

(e) Promote, demote, or reassign a term employee serving on a given project to another position within the project which the agency has been authorized to fill by term appointment.

§ 335.103 Agency promotion programs.

Except as otherwise specifically authorized by the Commission, an agency may make promotions under § 335.102 only to positions for which the agency has adopted and is administering a program designed to insure a systematic means of selection for promotion according to merit. The promotion program shall conform with the standards and instructions of the Commission and shall include:

(a) Guidelines stating how promotion plans are established and operated; and

(b) Plans for the selection of employees for promotion.

PART 337—EXAMINING SYSTEM

Subpart A—General Provisions

§ 337.101 Rating applicants.

(a) The Commission shall prescribe the relative weights to be given subjects in an examination, and shall assign numerical ratings on a scale of 100. Each applicant who meets the minimum requirements for entrance to an examination and is rated 70 or more in the examination is eligible for appointment.

(b) The Commission shall add to the earned numerical ratings of applicants who make a passing grade:

(1) Five points for an applicant entitled to 5-point preference under section 3 of the Veterans' Preference Act of 1944, as amended; and

(2) Ten points for an applicant entitled to 10-point perference under section 3 of that Act.

(c) When experience is a factor in determining eligibility, the Commission shall credit a preference eligible with:

(1) Time spent in the military service (i) as an extension of time spent in the position in which he was employed immediately before his entrance into the military service, or (ii) on the basis of actual duties performed in the military service, or (iii) as a combination of both methods. The Commission shall credit time spent in the military service according to the method that will be of most benefit to the preference eligible.

(2) All valuable experience, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether compensation was received therefor.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR 1954–1958 Comp., p. 218. Applies sec. 3, 58 Stat. 338, as amended, sec. 4, 58 Stat. 338; 5 U.S.C. 852, 853)

PART 338—QUALIFICATION REQUIREMENTS (GENERAL)

Subpart A—Citizenship Requirements

Sec.
338.101 Citizenship.

Subpart B—Members-of-Family Requirement

338.201 Restriction as to members of family.

Subpart C—Apportionment and Residence Requirements

338.301 Apportionment.

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Age Requirements

338.601 Prohibition of maximum-age requirements.

AUTHORITY: §§ 338.101 to 338.601 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7251, 3 CFR 1954–58 Comp., p. 218. Statutory provisions interpreted or applied are cited to the text in parentheses.

Subpart A—Citizenship Requirements

§ 338.101 Citizenship.

(a) A person may be admitted to competitive examination only if he is a citizen of or owes permanent allegiance to the United States.

(b) A person may be given appointment only if he is a citizen of or owes permanent allegiance to the United States. However, a noncitizen may be given (1) a temporary appointment in the absence of qualified citizens or (2) an appointment in rare cases under § 316.601 of this chapter, unless the appointment is prohibited by statute.

(c) Paragraph (b) of this section applies to reinstatement and transfer as well as to other noncompetitive appointments, and to conversion to career or career-conditional employment.

Subpart B—Members-of-Family Requirement

§ 338.201 Restriction as to members of family.

(a) When two or more members of a family are already serving under career or career-conditional appointments, another member of that family, except a preference eligible, is not eligible for:

(1) Career or career-conditional appointment;

(2) Reinstatement; or

(3) Conversion to career or career-conditional employment under Subpart G of Part 315 of this chapter.

(b) The members-of-family restriction does not apply to:

(1) A temporary, term, or indefinite appointment or an appointment in rare cases, under Part 316 of this chapter;

(2) An overseas limited appointment under Part 301 of this chapter; or

(3) A conversion from career-conditional to career employment under § 315.202 of this chapter.

(Sec. 9, 22 Stat. 406; 5 U.S.C. 641)

Subpart C—Apportionment and Residence Requirements

§ 338.301 Apportionment.

(a) Except as provided in paragraph (c) of this section, the Commission shall certify for career or career-conditional appointment in agency headquarters offices in the metropolitan area of Washington, D.C., so as to maintain the apportionment of appointments among the States, territories, and the District of Columbia on the basis of population.

(b) Except as provided in paragraph (c) of this section, apportionment applies to the career and career-conditional employment in agency headquarters offices, in the metropolitan area of Washington, D.C., by promotion, demotion, reassignment, transfer, reinstatement appointment under § 315.601 of this chapter or conversion under § 315.703 of this chapter.

(c) Apportionment does not apply to a:

(1) Preference eligible.

(2) Temporary, term, or indefinite appointment or an appointment in rare cases, under Part 316 of this chapter.

(3) A person, position, agency, or employment which the Commission excepts from the apportionment requirement in the interest of good administration. The Commission shall publish in the Federal

Personnel Manual (i) a list of the agencies and positions excepted from apportionment and (ii) the conditions under which persons or employments are excepted from apportionment.

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Age Requirements

§ 338.601 Prohibition of maximum-age requirements.

A maximum-age requirement may not be applied in either competitive or noncompetitive examinations for positions in the competitive service.

PART 339—QUALIFICATION REQUIREMENTS (MEDICAL)

Subpart A—General Provisions

§ 339.101 Medical disqualifications.

Subject to Subpart C of Part 731 of this Chapter, the Commission may deny an applicant examination, deny an eligible appointment, and instruct an agency to remove an appointee by reason of physical or mental unfitness for the position for which he has applied or to which he has been appointed.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218)

PART 351—REDUCTION IN FORCE

Subpart A—[Reserved]

Subpart B—General Provisions

Sec.
351.201 Use of regulations.
351.202 Coverage.
351.203 Definitions.

Subpart C—Transfer of Function

351.301 Transfer of employees.

Subpart D—Scope of Competition

351.401 Determining retention standing.
351.402 Competitive area.
351.403 Competitive level.
351.404 Retention register.

Subpart E—Retention Standing

351.501 Tenure groups and subgroups—competitive service.
351.502 Tenure groups and subgroups—excepted service.
351.503 Length of service.
351.504 Performance rating.
351.505 Records.

Subpart F—Release From Competitive Level

351.601 General.
351.602 Order of release from competitive level.
351.603 Actions.
351.604 Use of furlough.
351.605 Liquidation provisions.
351.606 Mandatory exceptions.
361.607 Permissive continuing exceptions.
351.608 Permissive temporary exceptions.

Subpart G—Assignment Rights

351.701 Qualifications for assignment.
351.702 Exception to qualifications.
351.703 Assignment involving displacement.
351.704 Rights and prohibitions.
351.705 Administrative assignment.

Subpart H—Notice to Employee

351.801 Notice period.
351.802 Content of notice.
351.803 General and specific notices.
351.804 Content of general notice.
351.805 Expiration of notice.
351.806 New notice required.
351.807 Status during notice period.

Subpart I—Appeals and Corrective Action

351.901 Initial appeals.
351.902 Agency action when Commission recommends corrective action.
351.903 Correction by agency.

Subpart J—Establishment and Maintenance of Reemployment Priority List

351.1001 Establishment of list.

AUTHORITY: §§ 351.201 to 351.1001 issued under secs. 11, 12, 19, 58 Stat. 390, 391, as amended; 5 U.S.C. 860, 861, 868.

Subpart A—[Reserved]

Subpart B—General Provisions

§ 351.201 Use of regulations.

(a) Each agency shall follow this part when it releases a competing employee from his competitive level by separation, demotion, furlough for more than 30 days, or reassignment requiring displacement, when the release is required because of lack of work, shortage of funds, reorganization, or the exercise of reemployment rights or restoration rights.

(b) This part does not require an agency to fill a vacant position. However, when an agency, in its discretion, chooses to fill a vacancy by an employee who has been reached for release from his competitive level for one of the reasons named in paragraph (a) of this section, this part shall be followed.

(c) This part does not apply to the change of an employee from regular to substitute in the same pay level in the Post Office Department field service.

(d) An agency authorized to administer alien employee programs under section 6 of the Foreign Service Act Amendments of 1960 (74 Stat. 831; 22 U.S.C. 889) may include special plans for reduction in force in its alien employee programs. In these special plans an agency may give effect to the labor laws and practices of the locality of employment by supplementing the selection factors in Subparts D and E of this part to the extent consistent with the public interest. Subpart I of this part does not apply to actions taken under the special plans authorized by this paragraph.

§ 351.202 Coverage.

(a) Except as provided in paragraph (b) of this section, this part applies to each civilian employee in:

(1) The executive branch of the Federal Government,

(2) Those parts of the Federal Government outside the executive branch which are subject by statute to the competitive civil service requirements,

(3) The civil service of the government of the District of Columbia.

(b) This part does not apply to an employee:

(1) In a position in or under the legislative or judicial branch of the Federal Government, except an employee in a position subject by statute to the competitive civil service requirements, or

(2) Whose appointment is required by Congress to be confirmed by, or made with, the advice and consent of the United States Senate, except a postmaster.

§ 351.203 Definitions.

In this part:

(a) "Competing employee" means an employee in tenure group I, II, or III.

(b) "Days" means calendar days.

(c) "Function" means all or a clearly identifiable segment of an agency's mission (including all integral parts of that mission), regardless of how it is performed.

(d) "Local commuting area" means the geographic area that usually constitutes one area for employment purposes. It includes any population center (or two or more neighboring ones) and the surrounding localities in which people live and reasonably can be expected to travel back and forth daily in their usual employment.

(e) "Obligated position" has the meaning given it in Part 300 of this chapter.

(f) "Performance rating" means the current official performance rating under a performance rating plan approved by the Commission.

(g) "Reorganization" means the planned elimination, addition, or redistribution of functions or duties in an organization.

(h) "Representative rate" means the fourth step of the grade for a position under the Classification Act of 1949, as amended, the prevailing rate for a position under a wage-board or similar wage-determining procedure and, for other positions, the rate designated by the agency as representative of the position.

(i) "Transfer of function" means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, or the movement of the competitive area in which the function is performed to another commuting area.

Subpart C—Transfer of Function

§ 351.301 Transfer of employees.

Before a reduction in force is made in connection with the transfer of any or all of the functions of an agency to another continuing agency, each competing employee in a position identified with the function or functions shall be transferred to the continuing agency without change in the tenure of his employment. An employee whose position is transferred solely for liquidation, and who is not identified with an operating function specifically authorized at the time of transfer to continue in operation more than 60 days is not a competing employee for other positions in the receiving agency.

Subpart D—Scope of Competition

§ 351.401 Determining retention standing.

(a) Each agency shall determine the retention standing of each competing employee on the basis of the selection

factors in this subpart and in Subpart E of this part.

§ 351.402 Competitive area.

(a) Each agency shall establish competitive areas in which employees compete for retention under this part.

(b) The standard for a competitive area is that it include all or that part of an agency in which employees are assigned under a single administrative authority. A competitive area in the departmental service meets this standard when it covers a primary subdivision of an agency in the local commuting area. A competitive area in the field service meets this standard when it covers a field installation in the local commuting area.

(c) An agency may establish a competitive area larger than one that meets the standard named in paragraph (b) of this section. In exceptional circumstances, and with the prior approval of the Commission, an agency may establish a competitive area smaller than one that meets the standard named in paragraph (b) of this section.

(d) An agency may combine two or more competitive areas for initial competition in an enlarged competitive level or levels without correspondingly combining the areas for assignments between competitive levels. When an agency combines areas for initial competition only, it may limit competition for assignments between competitive levels to (1) the enlarged area, (2) a single competitive area, or (3) an area larger than a single area but smaller than the enlarged area.

§ 351.403 Competitive level.

(a) Each agency shall establish competitive levels consisting of all positions in a competitive area and in the same grade or occupational level which are sufficiently alike in qualification requirements, duties, responsibilities, pay schedules, and working conditions, so that an agency readily may assign the incumbent of any one position to any of the other positions without changing the terms of his appointment or unduly interrupting the work program. Sex may not be a basis for assigning a position to a competitive level, except for a position for which restriction of certification of eligibles by sex is found justified by the Commission.

(b) Each agency shall establish separate competitive levels for competitive positions as distinguished from excepted positions. Among competitive positions and among excepted positions, each agency shall establish separate competitive levels for positions:

(1) Under different pay schedules;
(2) Filled on a seasonal basis;
(3) Filled on a part-time basis;
(4) Filled on an intermittent basis.

In addition, among excepted positions, each agency shall establish separate competitive levels for positions filled under different appointment authorities.

§ 351.404 Retention register.

(a) Each agency shall establish a separate retention register from the current retention records of employees in each competitive level affected when a competing employee is to be released from a competitive level under this part.

(b) The agency shall enter on the retention register in the order of his retention standing the name of each competing employee in a competitive level (whether in duty, leave, or furlough status), except an employee on military duty with a restoration right.

(c) The agency shall enter on a list apart from the retention register the name and expiration date of the appointment of each employee serving in a position in the competitive level under specifically limited temporary appointment followed by the name of each employee serving in a position in the competitive level with a performance rating of less than "Satisfactory."

Subpart E—Retention Standing

§ 351.501 Tenure groups and subgroups—competitive service.

(a) Each agency shall classify the competing employees on a retention register who occupy positions in the competitive service in the following groups and subgroups on the basis of tenure of employment and veteran preference. The descending order of retention standing:

(1) By groups is group I, group II, group III;

(2) Within each group is subgroup A, subgroup B; and

(3) Within each subgroup begins with the earliest service date.

(b) Group I includes each career employee who is not serving a probationary period. A career employee in an obligated position is in group I only when competing for positions at and below the grade in which he last served on a permanent basis.

(c) Group II includes each employee serving a probationary period, each career-conditional employee, and each career employee in an obligated position.

(d) Group III includes each indefinite employee, each employee serving under a temporary appointment pending establishment of register, each employee in status quo, and each employee serving under other nonstatus nontemporary appointment.

(e) Subgroup A includes each preference eligible employee.

(f) Subgroup B includes each nonpreference eligible employee.

§ 351.502 Tenure groups and subgroups—excepted service.

Each agency shall classify the competing employees on a retention register who occupy positions in the excepted service by groups and subgroups that correspond to those for employees who occupy positions in the competitive service having similar tenure of employment and veteran preference, except that an employee who completes 1 year of current continuous service under a temporary appointment is in tenure group III.

§ 351.503 Length of service.

(a) Each agency shall establish a service date for each competing employee.

(b) An employee's service date is whichever of the following dates reflects his total creditable service and the performance rating credit in § 351.504: (1) his date of entrance on duty, when he has no previous creditable service; (2) the date obtained by subtracting his total creditable previous service from the date he last entered on duty; or (3) the date obtained by subtracting from (1) or (2) the service equivalent allowed for a performance rating above "Satisfactory." Each agency shall adjust the service date for each employee to withhold credit for noncreditable time.

§ 351.504 Performance rating.

(a) Each agency shall credit each employee who has an "Outstanding" performance rating with 4 years of service added to his creditable service.

(b) Each agency shall credit each employee who has a performance rating between "Satisfactory" and "Outstanding," which has been authorized under a Performance Rating Plan approved by the Commission, with 2 years of service added to his creditable service.

§ 351.505 Records.

Each agency shall maintain the current, correct records needed to determine the retention standing of its competing employees. The agency shall allow the inspection of its retention registers and related records by:

(a) A representative of the Commission; and

(b) An employee of the agency to the extent that the registers and records have a bearing on his case.

The agency shall preserve intact all registers and records relating to an employee for at least 1 year from the date the employee is issued a specific notice.

Subpart F—Release From Competitive Level

§ 351.601 General.

An agency may not release a competing employee from a competitive level while retaining in that level an employee with a specifically limited temporary appointment or an "Unsatisfactory" performance rating. It may not release a competing employee from a competitive level while retaining in that level an employee with lower retention standing, except as required under § 351.606 or § 351.806 or as permitted under §§ 351.607 and 351.608.

§ 351.602 Order of release from competitive level.

Each agency shall select competing employees for release from a competitive level under this part in the inverse order of retention standing, beginning with the employee with the lowest retention standing on the retention register. When employees in the same retention subgroup have identical service dates and are tied for release from a competitive level, the agency may select any tied employee for release.

§ 351.603 Actions.

Subject to Subpart G of this part, when an agency selects an employee for release from his competitive level, it shall:

(a) Assign him with his consent to a position for which he is qualified which will last at least 3 months;
(b) Furlough him; or
(c) Separate him.

§ 351.604 Use of furlough.

(a) An agency may furlough a competing employee only when it intends to recall him within 1 year to duty in the position from which furloughed.
(b) An agency may not separate a competing employee under this part while an employee with lower retention standing in the same competitive level is on furlough.
(c) An agency may not furlough a competing employee for more than 1 year.
(d) When an agency recalls employees to duty in the competitive level from which furloughed, it shall recall them in the order of their retention standing, beginning with the highest-standing employee.

§ 351.605 Liquidation provisions.

When an agency will abolish all positions in a competitive area within 3 months it shall release employees in subgroup order but may release them regardless of retention standing within a subgroup, except as provided in § 351.606. When an agency releases an employee under this section, the notice to the employee shall so state and also shall give the date the liquidation will be completed. An agency may apply §§ 351.607 and 351.608 in liquidation.

§ 351.606 Mandatory exceptions.

(a) When an agency applies § 351.602 or § 351.605, it shall give the following special retention priorities:
(1) Each group I or II preference eligible employee entitled under section 9 of the Universal Military Training and Service Act, as amended, to retention for 1 year after restoration shall be retained over other employees in his subgroup for the retention period; and
(2) Each group I or II nonpreference eligible employee entitled under section 9 of the Universal Military Training and Service Act, as amended, to retention for either 6 months or 1 year after restoration shall be retained over other employees in his subgroup for the retention period.
(b) Each agency shall record on the retention register, for inspection by each employee, the reasons for any deviation from the regular order of selection required by paragraph (a) of this section.

§ 351.607 Permissive continuing exceptions.

An agency may make exception to the selection sequence in § 351.602 and to the action provisions of § 351.603 when needed to retain an employee on duties that cannot be taken over within 90 days and without undue interruption to the activity by an employee with higher retention standing. The agency shall notify in writing each higher-standing employee reached for release from the same competitive level of the reasons for the exception.

§ 351.608 Permissive temporary exceptions.

An agency may make exception for not more than 90 days to the selection sequence in § 351.602 and to the action provisions of § 351.603 when needed to retain an employee for 90 days or less after the effective date of release from the same competitive level of a higher-standing employee to continue an activity without undue interruption, or to satisfy a government obligation to the retained employee. When the agency retains an employee for more than 30 days after the effective date of release from the same competitive level of a higher-standing employee, it shall notify in writing each higher-standing employee of the reasons for the exception and the date the lower-standing employee's retention will end. When the agency retains a lower-standing employee for 30 days or less it shall list opposite his name on the retention register the reasons for the exception and the date his retention will end.

Subpart G—Assignment Rights

§ 351.701 Qualifications for assignment.

(a) Except as provided in § 351.702, an employee is qualified for assignment under § 351.603 if he:
(1) Meets the Commission's standards and requirements for the position, including any minimum educational requirement;
(2) Is physically qualified for the duties of the position;
(3) Meets any special qualifying condition which the Commission has approved for the position; and
(4) Has the capacity, adaptability, and any special skills needed to satisfactorily perform the duties and responsibilities of the position without undue interruption to the activity.
(b) An agency may not consider the sex of an employee as a factor in determining the employee's qualification for a position, except when the position is one for which restriction of certification of eligibles by sex is found justified by the Commission.

§ 351.702 Exception to qualifications.

An agency may assign an employee under § 351.201(b) or § 351.603 without regard to the Commission's standards and requirements for the position if:
(a) He meets any minimum education requirement for the position; and
(b) The agency determines that the employee has the capacity, adaptability, and special skills needed to satisfactorily perform the duties and responsibilities of the position.

§ 351.703 Assignment involving displacement.

An agency shall assign under § 351.603 a group I or II employee in a position in the competitive service, rather than furlough or separate him, to a position in the competitive service in another competitive level in his competitive area which requires no reduction, or the least possible reduction, in representative rate when a position in the other competitive level is held by an employee:
(a) In a lower subgroup; or
(b) With lower retention standing in a position from which the group I or II employee was promoted or an essentially identical position.

§ 351.704 Rights and prohibitions.

(a) An agency may satisfy an employee's right to assignment under § 351.703 by assignment under § 351.201 (b) or § 351.705 to a position having a representative rate equal to that to which he would have been entitled under § 351.703.
(b) Section 351.703 does not:
(1) Require an agency to assign an employee to a position having a higher representative rate; or
(2) Authorize or permit an agency to displace a full-time employee by other than a full-time employee.

§ 351.705 Administrative assignment.

(a) An agency may, in its discretion, adopt provisions which:
(1) Provide for assignments across competitive areas;
(2) Permit a competing employee to displace an employee with lower retention standing in the same subgroup when it cannot make an equally reasonable assignment by displacing an employee in a lower subgroup;
(3) Permit an employee in subgroup III–A to displace an employee in subgroup III–B; or
(4) Provide competing employees in the excepted service with assignment rights similar to those in § 351.703 and in subparagraphs (1), (2), and (3) of this paragraph.
(b) Provisions adopted by an agency under paragraph (a) of this section:
(1) Shall be consistent with this part;
(2) Shall be uniformly and consistently applied in any one reduction in force;
(3) May not provide for the assignment of a less-than-full-time employee to a full-time position;
(4) May not provide for the assignment of an employee in a competitive position to a position in the excepted service; and
(5) May not provide for the assignment of an excepted employee to a position in the competitive service.

Subpart H—Notice to Employee

§ 351.801 Notice period.

(a) Each competing employee selected for release from his competitive level under this part is entitled to a written notice at least 30 full days, but not more than 90 full days, before the effective date of his release, except as required to comply with this part.
(b) (1) When an agency retains an employee under § 351.606 or § 351.608 it may give him more than the maximum notice period referred to in paragraph (a) of this section, but it may not continue the notice period beyond the employee's retention period. The notice to the employee shall cite the date on which the retention period ends as the effective date of the employee's release from his competitive level.
(2) An agency may extend the maximum notice period referred to in paragraph (a) of this section for not more than 90 additional days if it establishes

that the extension will protect employee rights or avoid administrative hardship, and if the Commission grants prior approval to the request for the extension.

§ 351.802 Content of notice.

Except as provided in § 351.803, the notice required by § 351.801 shall state specifically the action to be taken and its effective date; the employee's competitive area, competitive level, subgroup, and service date; the place where the employee may inspect the regulations and records pertinent to his case; the reasons for retaining a lower-standing employee in the same competitive level under § 351.607; the reasons for retaining a lower-standing employee in the same competitive level for more than 30 days under § 351.608; and the employee's appeal rights, including the time limit for appeal and the location of the Commission office to which an appeal should be sent.

§ 351.803 General and specific notices.

When an agency cannot determine specifically all individual actions 30 days before the effective date on which employees are to be released from a competitive level, it may issue general notices which shall be supplemented by specific notices. The combined contents of the general and specific notices shall meet the requirements in § 351.802. When an agency issues a general notice, the notice period begins the day after the employee receives the general notice. An agency may cancel an unexpired general notice, or may renew it for additional periods within the maximum notice period referred to in § 351.801. A general notice expires 30 days after the employee receives it, unless, within that 30-day period, the employee receives a renewal of the general notice or a specific notice. When a general notice is supplemented by a specific notice, an agency may not release an employee from his competitive level until at least 5 days after the employee's receipt of the specific notice.

§ 351.804 Content of general notice.

A general notice shall inform the employee that action under this part may be necessary but that the agency has determined no specific action in his case. The notice shall state that as soon as the agency determines what action, if any, will be taken under this part the employee will receive specific notice of the action to be taken. The general notice shall state that it will expire unless, within 30 days, it is renewed or supplemented by a specific notice. A general notice shall inform the employee that he should not appeal to the Commission before he receives a specific notice, and it may include any other information specified in § 351.802.

§ 351.805 Expiration of notice.

A general notice expires as provided in § 351.803. Any notice expires except when followed by the action specified, or by action less severe than specified, in the notice or in an amendment made to the notice before the agency takes the action. The agency may not take the action before the effective date specified in the specific notice. An action taken after the specified date shall not be ruled invalid for that reason except when it is challenged by a higher-standing employee in the competitive level who is reached out of order for reduction in force as a result of the action or except when it results in a notice period longer than the maximum allowed.

§ 351.806 New notice required.

An employee is entitled to a new written notice of at least 30 full days if the agency decides to take an action more severe than first specified.

§ 351.807 Status during notice period.

When possible, the agency shall retain the employee on active duty during the notice period, but it may place him on annual leave with or without his consent, on leave without pay with his consent, or in a nonpay status without his consent when in an emergency the agency lacks work or funds for all or part of the notice period. The Commission, on request by an employee during an appeal, reviews the reasons for any time in a nonpay status during the notice period.

Subpart I—Appeals and Corrective Action

§ 351.901 Initial appeals.

(a) An employee who has received a notice of specific action and who believes this part has not been correctly applied may appeal to the Commission. He may appeal any time after he receives a notice of specific action, but not more than 10 days after the effective date of the action.

(b) The Commission may extend the time limit in paragraph (a) of this section when the appellant shows that he was not notified of the time limit and was not otherwise aware of it, or that he was prevented by circumstances beyond his control from appealing within the time limit.

(c) An appeal shall (1) be in writing, (2) identify the appellant, the agency, and the nature and effective date of the action appealed, and (3) state why the appellant believes the action appealed is improper.

§ 351.902 Agency action when Commission recommends corrective action.

(a) It is mandatory that the agency take all corrective action recommended in the Commission's initial decision on an appeal, except when the agency makes a timely appeal to the Board of Appeals and Review.

(b) The decision of the Board of Appeals and Review is final and compliance with its recommendation for corrective action is mandatory.

§ 351.903 Correction by agency.

When an agency decides that an action under this part was unjustified or unwarranted and restores an individual to his former grade or rate of pay or to an intermediate grade or rate of pay, it shall make the restoration retroactively effective to the date of the improper action.

Subpart J—Establishment and Maintenance of Reemployment Priority List

§ 351.1001 Establishment of list.

(a) Each agency shall establish and maintain a reemployment priority list for each commuting area in which it separates group I or II employees from competitive positions under this part. The agency shall enter the name of each of these employees on the list for all competitive positions in the commuting area for which he qualifies and is available, except as provided in paragraph (b) of this section. A group I employee's name remains on the list for 2 years, and a group II employee's name for 1 year, from the date he was separated. The agency may delete an employee's name from the list on his written request; when he accepts a nontemporary, full-time, competitive position; or when he declines a nontemporary, full-time, competitive position with a representative rate the same as or higher than that of the position he was separated from under this part.

(b) When an agency separates a group I or II employee from a competitive position overseas or in Alaska, it shall enter his name on the reemployment priority list for the area in which the position is located, except when he leaves that area. On the request of an employee who leaves the area, the agency shall enter his name on its reemployment priority list for the commuting area from which he was employed for overseas or Alaskan service or for another area (except overseas or Alaska) mutually acceptable to him and the agency. An agency may delete an employee's name from the list for one of the reasons in paragraph (a) of this section, and shall delete it from an overseas or Alaskan list when he leaves the area covered by that list.

PART 352—REEMPLOYMENT RIGHTS

Subpart A—[Reserved]

Subpart B—Reemployment Rights Based on Movement Between Executive Agencies During Emergencies

Sec.

352.201 Letter of Authority.
352.202 Request for Letter of Authority.
352.203 Standards for issuing Letters of Authority.
352.204 Basic eligibility for reemployment rights.
352.205 Appeal of losing agency.
352.206 Expiration of reemployment rights.
352.207 Exercise or termination of reemployment rights.
352.208 Agency's obligation to reemploy.
352.209 Employee appeals to the Civil Service Commission.

Subpart C—Detail and Transfer of Federal Employees to International Organizations

352.301 Purpose.
352.302 Definitions.
352.303 Effective date of regulations.
352.304 Organizations to which this subpart applies.
352.305 Eligibility for detail.
352.306 Length of details.
352.307 Eligibility for transfer.
352.308 Effecting employment by transfer.

Sec.
352.309 Retirement, group health benefits, and insurance.
352.310 Reemployment.
352.311 When to apply.
352.312 Failure to reemploy and right of appeal.

Subpart D—Employment of Presidential Appointees and Elected Officers by the International Atomic Energy Agency

352.401 Purpose.
352.402 Coverage.
352.403 Definitions.
352.404 Retirement and insurance.
352.405 Resumption of Federal service.

Subpart E—Reinstatement Rights After Service Under Section 625(b) of the Foreign Assistance Act of 1961

352.501 Purpose.
352.502 Coverage.
352.503 Definitions.
352.504 Basic entitlement.
352.505 Proposed termination.
352.506 Application for reinstatement.
352.507 Reinstatement.
352.508 Appeals to the Commission.

Subpart A—[Reserved]

Subpart B—Reemployment Rights Based on Movement Between Executive Agencies During Emergencies

AUTHORITY: §§ 352.201 to 352.209 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended, sec. 1310, 65 Stat. 757, as amended; 5 U.S.C. 43, note, 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1958 Comp., p. 218.

§ 352.201 Letter of Authority.

(a) *Definition.* A Letter of Authority is an authorization from the Commission to an agency appointing officer to grant reemployment rights.

(b) *Scope of authority.* A Letter of authority shall specify the conditions under which it may be used, including the types of positions covered and the organizational and geographic areas to which it is restricted.

(c) *Time limit of authority.* A Letter of Authority shall remain in force for one year from date of issuance unless earlier revoked by the Commission. Renewals or extensions will not be issued unless justified by exceptional circumstances.

§ 352.202 Request for Letter of Authority.

When an agency believes that an emergency situation is so critical as to justify offers of reemployment rights, it may request the Commission to issue a Letter of Authority. In submitting the request the agency shall present its justification in terms of the standards provided in § 352.203.

§ 352.203 Standards for issuing Letters of Authority.

The Commission will determine the standards to be used in issuing Letters of Authority, which shall include the following:

(a) The positions to be filled must be related to emergency situations for which the usual recruiting methods are inadequate.

(b) The positions must be a part of a specific program immediately essential to the national interest.

(c) The positions must be essential to the functioning of the program.

(d) There must be substantial basis for the belief that reemployment rights will be a significant and reasonable aid in meeting the emergency situation.

§ 352.204 Basic eligibility for reemployment rights.

(a) *Employees eligible.* The following employees in the executive branch of the Government are eligible to be granted reemployment rights when they are hired by another executive agency without break in service of a full workday by transfer or reinstatement, or by excepted appointment, in a position which the agency is currently authorized to fill with reemployment rights:

(1) An employee serving in a competitive position under a career or career-conditional appointment;

(2) A nontemporary excepted employee.

(b) *Employees not eligible.* The following employees are not eligible to be granted reemployment rights:

(1) An employee serving a trial or probationary period;

(2) An employee serving in an obligated position;

(3) An employee serving with reemployment rights granted under this subpart;

(4) An employee who has received a notice of involuntary separation because of reduction in force or otherwise; or

(5) An employee who has already submitted a resignation.

§ 352.205 Appeal of losing agency.

An appointing officer who intends to employ with reemployment rights an employee of another executive agency shall give the losing agency written notice at least 10 workdays before the effective date of the proposed action. If the losing agency believes the grant of reemployment rights would be detrimental to the public interest, it may appeal the proposed grant to the Commission within 5 workdays after receipt of the notice. The losing agency, at the same time, shall furnish a copy of the appeal to the prospective appointing officer, who shall withhold the proposed grant pending decision on the appeal. The Commission shall determine whether the employee will be given reemployment rights and notify both agencies accordingly. If the losing agency does not appeal within 5 workdays, the employee shall be granted reemployment rights.

§ 352.206 Expiration of reemployment rights.

Reemployment rights granted under a Letter of Authority expire at the end of 2 years following the date of the personnel action, unless exercised or otherwise terminated before that time, except that the reemployment rights of an employee serving outside the continental United States extend for an additional period of 3 months.

§ 352.207 Exercise or termination of reemployment rights.

(a) *Exercise.* The time limits for application for reemployment under this subpart are:

(1) Within 30 calendar days before the expiration of the term of reemployment rights;

(2) Within 30 calendar days after receipt of notice of involuntary separation;

(3) At least 30 calendar days in advance of the person's scheduled entry into active military duty. In this case he shall be reemployed and separated, furloughed, or granted leave of absence for military service by the reemploying agency; or

(4) At any time before the expiration of the term of reemployment rights with the written consent of the current employing agency if application for reemployment is made within 30 days after date of separation, or after receipt of advance notice of proposed demotion by the current employing agency.

(b) *Termination.* An employee's reemployment rights terminate if:

(1) He fails to apply within the time limits stated in paragraph (a) of this section;

(2) He resigns without the written consent of the current employing agency; or

(3) Within 10 calendar days, he fails to accept an offer of reemployment made under § 352.208 which is determined to be a proper offer of reemployment by the reemploying agency or by the Commission on appeal.

§ 352.208 Agency's obligation to reemploy.

(a) *Employee's right to reemployment.* An employee is entitled to be reemployed by the reemploying agency as promptly as possible, but not more than 30 calendar days after receipt of his application. The employee is entitled to reemployment in the occupational field and at the same grade or level and in the same geographical area as the position which the employee last held in that agency. If the reemployment would cause the separation or demotion of another employee, the applicant shall then be considered an employee for the purpose of applying the reduction-in-force regulations to determine to what, if any, position he is entitled.

(b) *Reemployment in a higher grade.* The reemploying agency may reemploy the employee in a position of higher grade than that to which he is entitled, but not if this reemployment would cause the displacement of another employee.

(c) *Seniority in postal service.* On reemployment in the postal service, the employee is entitled to the seniority he would have attained had he remained in the postal service.

(d) *Basis for agency refusal to reemploy.* An agency may refuse to reemploy under this section only when the employee was last separated for serious cause evidencing his unsuitability for reemployment.

§ 352.209 Employee appeals to the Civil Service Commission.

When an agency denies reemployment to a person claiming reemployment rights under this subpart, the agency shall inform him of that denial by a written notice. In the same notice, the agency shall inform him of his right to appeal to the Commission within 10 calendar days

after receipt of the notice. The Commission may extend this time limit on a showing by the person that circumstances beyond his control prevented him from filing his appeal within the time limit. The Commission shall make the final decision of his right to reemployment.

Subpart C—Detail and Transfer of Federal Employees to International Organizations

AUTHORITY: §§ 352.301 to 352.312 issued under sec. 5, 72 Stat. 961; 5 U.S.C. 2334; E.O. 10804, 24 F.R. 1147, 3 CFR, 1959 Supp.

§ 352.301 Purpose.

The purpose of this subpart is to carry into effect the objective of the Federal Employees Internationl Organization Service Act which is to encourage and authorize details and transfers of Federal employees for service with international organizations.

§ 352.302 Definitions.

In this suppart:

(a) "Act" means the Federal Employees International Organization Service Act;

(b) "Agency" means a "Federal Agency" as defined in section 2 of the act; and

(c) "Term of employment" means not more than (1) 3 consecutive years of employment, or (2) the period of less than 3 years specified at the time of consent to transfer, beginning with entrance on duty in the international organization.

§ 352.303 Effective date of regulations.

The regulations in this subpart are effective August 28, 1958, and as of that date revoke and supersede the regulations of Part 26 of this chapter in effect immediately prior thereto. However, such revocation shall not adversely affect any rights and benefits which were vested in an employee by the former regulations prior to their revocation.

§ 352.304 Organizations to which this subpart applies.

An agency, without the prior approval of the Commission, may detail or transfer an employee under this subpart to an organization which the Commission has designated in the Federal Personnel Manual as an international organization within the meaning of section 2 of the Act. An agency may detail or transfer an employee under this subpart to another public international organization or international organization preparatory commission only with the prior approval of the Commission.

§ 352.305 Eligibility for detail.

An employee, as defined in § 2 of the Act, is eligible to be detailed to an international organization with the rights provided for in, and in accordance with, the Act and this subpart.

§ 352.306 Length of details.

No single detail may exceed 3 years. Similarly, all time spent on any series of successive details shall be considered in the aggregate and not allowed to exceed a total of 3 years. As used in this section "successive details" are those details of a Federal employee to an international organization which follow one another within less than 30 calendar days.

§ 352.307 Eligibility for transfer.

An employee, as defined in section 2 of the Act, is eligible for transfer to an international organization with the rights provided for in, and in accordance with, the Act and this subpart, except the following:

(a) A Presidential appointee (other than a postmaster), regardless of whether his appointment was made by and with the advice and consent of the Senate.

(b) A person serving in the executive branch in a confidential or policy-determining position excepted from the competitive service under Schedule C of Part 213 of this chapter.

(c) A person serving under a temporary appointment pending establishment of a register.

(d) A person serving under an appointment specifically limited to one year or less.

(e) A person serving on a seasonal, intermittent, or part-time basis.

§ 352.308 Effecting employment by transfer.

(a) *Authority to approve transfers.* On written request by an international organization for the services of an employee, the agency may authorize the transfer of the employee to the organization for any period not to exceed 3 years. Refusal to authorize the transfer is not reviewable by or appealable to the Commission.

(b) *Letter of consent.* When the agency consents to the transfer of an employee with the benefits provided in this subpart, the agency shall give its consent to the international organization in writing and shall furnish the employee with a copy of the consent.

(c) *Effective date.* The agency and the international organization shall establish the effective date of transfer by mutual agreement.

(d) *Recording requirement.* The agency shall furnish the employee with a statement of his leave account when he is separated for transfer. In addition, the agency shall include on the personnel action form effecting the employee's separation for transfer, (1) identification of the international organization to which he transfers and (2) a clear statement of the period during which he has reemployment rights in the agency under the Act and this subpart and of the legal and regulatory conditions for his reemployment.

§ 352.309 Retirement, group health benefits, and insurance.

(a) *Group health benefits.* An employee who transfers or has transferred under the Act and this subpart is entitled to enroll or to continue his enrollment in a health benefits plan provided by the Federal Employees Health Benefits Act of 1959 and Part 890 of this chapter. This entitlement continues throughout the period provided by section 4(d) of the Act, including the reemployment period described in that section, and is subject to the provisions of Part 890 of this chapter. For purposes of exercising this entitlement, a transferring employee is considered an employee of the United States. Provisions of the Act that relate to retirement and insurance are also applied to group health benefits so as to assure a transferring employee of the benefits provided by the Federal Employees Health Benefits Act of 1959.

(b) *Agency and employee action.* At the time of consent to an employee's transfer, the agency shall notify the employee in writing that he will retain coverage with resulting rights and benefits under the retirement, group health benefits, and insurance systems only if (1) employee payments made by him, and (2) agency contributions made by him, by the agency, or by the international organization, are currently deposited in the respective funds. The written notice shall state whether the agency contributions will be paid by the agency. The employee shall acknowledge, in writing, his receipt of the notice and state whether or not he wishes to retain his Federal retirement, group health benefits, and life insurance by continuing all required payments.

(c) *Agency responsibility.* A transferred employee is deemed to remain an employee of the agency from which transferred for retirement, group health benefits, and insurance purposes, except that it is not mandatory for the agency to continue to use its appropriations to make agency retirement, group health benefits, and insurance contributions for the employee during his absence. Accordingly, the agency is responsible for determining the applicable rate of compensation in accordance with the provisions of section 4(c) of the Act, for acting as employing officer under Part 890 of this chapter, and for collecting, accounting for, and depositing in the respective funds all retirement, group health benefits, and insurance employee payments and agency contributions required to be made for the purpose of protecting the rights of the employee so transferred. This responsibility includes furnishing the employee, and the international organization when appropriate, with specific information as to how, when, and where the payments and contributions shall be submitted.

(d) *Coverage.* Employee payments and agency contributions are currently deposited if received by the agency before, during, or within one month after the end of the pay period covered thereby. Failure to deposit the payments and contributions currently terminates a transferred employee's retirement, group health benefits, and insurance coverage on the last day of the pay period for which payments and contributions were currently deposited, subject to a 31-day extension of life insurance and group health benefits coverage as provided in Parts 870 and 890 of this Chapter and to the conversion benefits provided in Parts 870 and 890 of this chapter. Coverage so terminated may not attach again before the employee actually enters on duty on his first day in a pay status in an agency. However, terminated Civil Service Retirement Act, Federal Employees Health Benefits Act of 1959, and

Life Insurance Act coverage shall be reinstated retroactively when, in the judgment of the Commission, the failure to make the required current deposit was due to circumstances beyond the control of the employee and the required payments and contributions were deposited at the first opportunity; and coverage under any other retirement system shall be reinstated retroactively if the agency which administers the retirement system determines that the failure to make the required current deposit was due to circumstances beyond the control of the employee and the required payments and contributions were deposited at the first opportunity.

§ 352.310 Reemployment.

A transferred employee (except a congressional employee) is entitled to be reemployed in his former position or one of like seniority, status, and pay within 30 days of his application for reemployment if he meets the following conditions:

(a) He is separated, either voluntarily or involuntarily, within his term of employment; and

(b) He applies for reemployment to his former agency or its successor not later than 90 days after his separation.

§ 352.311 When to apply.

An employee may apply for reemployment either before or after separation by the international organization. If he applies before separation, the 30-day period prescribed in § 352.310 begins either with the date of the application or 30 days before the employee's date of separation, whichever is later.

§ 352.312 Failure to reemploy and right of appeal.

(a) When an agency fails to reemploy an employee within 30 days of his application, it shall notify him in writing of the reasons and of his right to appeal within 10 days to the U.S. Civil Service Commission, Washington 25, D.C. The employee may file his appeal with the Commission not later than 10 days after receipt of notice denying reemployment. The Commission may extend this time limit on a showing by the employee that he was not notified of the applicable time limit, and was not otherwise aware of the limit, or that circumstances beyond his control prevented him from filing an appeal within the prescribed time limit.

(b) If the agency fails to reach and issue a decision to the employee within 30 days from his application for reemployment, the employee is entitled to appeal the agency's failure to the Commission within a reasonable time thereafter.

(c) An appeal alleging that the agency has failed to comply with any of the other provisions of the Act or of this subpart may be submitted to the Commission only within a reasonable time after the alleged violation occurred.

(d) The Commission's decision on appeal is final and the agency shall effect the action finally ordered by the Commission. Decisions favorable to the appellant may be made retroactively effective to the expiration of the agency's 30-day time limit for effecting restoration.

(e) When an appeal under this subpart is filed properly before the death of an appellant, the Commission shall process it to completion and adjudicate it. The Commission, in recommending corrective action in the decision on such an appeal, may provide for amendment of the agency's records to show retroactive restoration and the appellant's continuance on the rolls in an active duty status to the date of death.

Subpart D—Employment of Presidential Appointees and Elected Officers by the International Atomic Energy Agency

AUTHORITY: §§ 352.401 to 352.405 issued under sec. 5, 72 Stat. 961; 5 U.S.C. 2334; E.O. 10804, 24 F.R. 1147, 3 CFR, 1959 Supp.

§ 352.401 Purpose.

The purpose of this subpart is to implement section 6(b) of the International Atomic Energy Agency Participation Act of 1957 and Executive Order 10774 as amended by Executive Order 10804 to protect the civil service rights and privileges, wherever appropriate, of Presidential appointees and elected officers who leave their positions and within 90 days enter employment with the International Atomic Energy Agency.

§ 352.402 Coverage.

This subpart applies to all officers, as defined in § 352.403(d), of any branch of the Federal Government.

§ 352.403 Definitions.

In this subpart:

(a) "Act" means the International Atomic Energy Agency Participation Act of 1957, as amended;

(b) "Agency" means the International Atomic Energy Agency;

(c) "Life Insurance Act" means the Federal Employees' Group Life Insurance Act of 1954, as amended;

(d) "Officer" means any Presidential appointee or elected officer who leaves his position after August 27, 1957, and within 90 days enters employment with the agency.

(e) "Retirement Act" means the Civil Service Retirement Act, approved July 31, 1956, as amended; and

(f) "Term of employment" means not more than 3 consecutive years of employment beginning with entrance on duty in the agency.

§ 352.404 Retirement and insurance.

(a) *Coverage.* (1) To obtain retirement benefits for a term of employment with the agency, an officer covered by the Retirement Act, within 90 days after the date he is separated from the agency, shall pay to the Commission all necessary employee deductions and agency contributions for coverage under the Retirement Act for his term of employment with the agency. Interest shall not be charged an officer on any payment of necessary employee deductions and agency contributions. The amount of the employee deductions so paid shall be added to the officer's lump-sum credit in the Civil Service Retirement and Disability Fund.

(2) To retain coverage under the Life Insurance Act during his term of employment with the agency, an officer covered by the Life Insurance Act shall currently pay employee deductions and agency contributions necessary for coverage under the Life Insurance Act for his term of employment with the agency. Collections may be made under procedures which may be determined in accordance with written agreements reached between accounting representatives of the Commission and the agency.

(3) All retirement and insurance benefits and obligations shall be computed in the same manner as if the rate of basic compensation the officer was receiving on the last day he was in his Federal position before employment with the agency had continued without change.

(4) An officer not covered by either the Retirement Act or Life Insurance Act in the Federal position which he last held or from which he separates to enter employment with the agency does not acquire coverage or benefits under these statutes based on employment with the agency.

(b) *Death coverage.* An officer who dies during his term of employment or within 90 days of his separation therefrom is deemed to have died in the Federal service.

§ 352.405 Resumption of Federal service.

(a) *Pay increase.* An officer who is reemployed in the Federal position which he left or one of like seniority, status, and pay within 90 days of his separation from the agency following a term of employment is entitled to the rate of basic compensation to which he would have been entitled had he remained in the Federal service.

(b) *Sick leave account.* An officer shall have any sick leave account which he may have had in his last Federal position reestablished for credit or charge, if he returns to an appropriate leave system within 52 calendar weeks after the date he is separated from his term of employment with the agency.

(c) *Service credit for agency employment.* An officer who is reemployed in the Federal service within 90 days after completion of his term of employment with the agency is entitled to credit as Federal service for his term of employment with the agency. However, the Commission shall give service credit for Retirement Act purposes only if the officer complies with the requirements of § 352.404(a)(1).

Subpart E—Reinstatement Rights After Service Under Section 625(b) of the Foreign Assistance Act of 1961

AUTHORITY: §§ 352.501 to 352.508 issued under sec. 625(b), 75 Stat. 449, 22 U.S.C., Supp. III 2385(b); E.O. 10973, 26 F.R. 10469, 3 CFR, 1961 Supp.

§ 352.501 Purpose.

This subpart governs reinstatements authorized by section 625(b) of the Foreign Assistance Act of 1961, as amended.

§ 352.502 Coverage.

This subpart applies to any of the following serving in a position in the Federal Government:

(a) A person serving in the competitive service under a career or career-conditional appointment.

(b) A person serving in the excepted service under an appointment without a specific time limitation.

(c) A person appointed or assigned under authority of the Foreign Service Act of 1946, as amended.

§ 352.503 Definitions.

In this subpart:

(a) "Act" means the Foreign Assistance Act of 1961, as amended; and

(b) "Former position" means the position that an employee was occupying at the time of his appointment to a position under authority of section 625(b) of the Act.

§ 352.504 Basic entitlement.

Subject to the conditions specified in this subpart, an employee who is appointed to a position under authority of section 625(b) of the Act is entitled, on termination of that appointment for any reason other than his own misconduct or delinquency, to be reinstated in his former position or in one of like seniority, status, and pay in the same agency. If the functions with which the employee's former position was identified have been transferred to another agency, the employees right to reinstatement is in the gaining agency.

§ 352.505 Proposed termination.

At least 45 days before termination of the appointment of an employee entitled to reinstatement, the agency terminating the employee shall notify the employee and his former agency in writing of the proposed termination. However, notification under this section is not required when:

(a) The termination is at the employee's own request; or

(b) The employee is reinstated without a break in service under an arrangement made between the agencies concerned.

§ 352.506 Application for reinstatement.

An employee who desires reinstatement shall apply for reinstatement, in writing, no later than 30 days after his appointment under authority of section 625(b) of the Act is terminated, unless arrangement has been made for his reinstatement without a break in service under § 352.505(b).

§ 352.507 Reinstatement.

An employee eligible for reinstatement is entitled to be reinstated as soon as possible after his application for reinstatement, filed in accordance with § 352.506, is received. In any event, he is entitled to be reinstated (a) within 30 days after his application for reinstatement is received, or (b) on termination of the appointment made under authority of section 625(b) of the Act, whichever is later.

§ 352.508 Appeals to the Commission.

(a) *Right to appeal.* (1) If an agency determines that an employee who has applied for reinstatement is not eligible for reinstatement, it shall notify the employee as promptly as possible of its decision, of the basis therefor, and of the employee's appeal rights under this subpart. The employee is entitled to appeal the decision to the Commission within 10 days after he receives notice of the decision.

(2) If an agency fails to reinstate an employee within the time limits specified in § 352.507, the employee is entitled to appeal to the Commission within 10 days after the applicable time limit expires.

(3) If an employee considers that his reinstatement is not in accordance with the Act and this subpart, he is entitled to appeal to the Commission within 10 days after his reinstatement becomes effective.

(b) *Where initial appeals are filed.* Initial appeals under this subpart are to be filed with the Chief, Appeals Examining Office, U.S. Civil Service Commission, Washington 25, D.C.

(c) *Finality of initial appeal decisions.* Unless further appealed under paragraph (d) of this section, an appeal decision by the Chief, Appeals Examining Office, is final.

(d) *Right to further appeal.* An initial appeal decision by the Chief, Appeals Examining Office, may be further appealed to the Board of Appeals and Review, U.S. Civil Service Commission, Washington 25, D.C., within 7 days after receipt of the decision. The further appeal shall be in writing and contain the reasons for disagreement with the initial decision.

(e) *Finality of decisions by Board of Appeals and Review.* A decision by the Board of Appeals and Review is final. There is no further right of appeal.

(f) *General provisions governing appeals.* (1) *Delayed appeals.* The Commission may extend the time limits in paragraphs (a) and (d) of this section on a showing by the appellant that he was not notified of the applicable time limit, and was not otherwise aware of the limit, or that circumstances beyond his control prevented him from filing an appeal within the prescribed time limit.

(2) *Appeal decisions.* The Commission shall submit its decisions on an appeal in writing to each appellant and to each agency concerned. An appeal decision may order that the reinstatement of an appellant be made retroactive to the date on which the applicable time limit specified in § 352.507 expired.

(3) *Cancellation of appeals.* The Commission shall cancel an appeal, and the appellant and his agency will be so notified, on receipt of the appellant's written request for cancellation or upon failure of the appellant to furnish information requested by the Commission.

(4) *Death of appellant.* When an appeal under this subpart is filed properly before the death of an appellant, the Commission shall process it to completion and adjudicate it. The Commission, in recommending corrective action in the decision on such an appeal, may provide for amendment of the agency's records to show retroactive restoration and the appellant's continuance on the rolls in an active duty status to the date of death.

(g) *The Commissioners.* The Commissioners may, in their discretion, reopen and reconsider any appeal decision made under this subpart.

PART 353—RESTORATION AFTER MILITARY DUTY

Subpart A—General Provisions

Sec.
353.101 Scope.
353.102 Definitions.
353.103 Employees covered.
353.104 Agency action at time employee enters on military duty.
353.105 Notification of rights and obligations.
353.106 Maintenance of records.

Subpart B—[Reserved]

Subpart C—Agency Action in Employee's Absence

353.301 Consideration for promotion.
353.302 Prohibition against demotion.
353.303 Abolishment of position.
353.304 Transfer of function to another agency.
353.305 Abolishment of agency.

Subpart D—Agency Obligation to Restore

353.401 Extent of agency's obligation and how discharged.
353.402 Time limit for restoration.
353.403 Position to which restored.
353.404 Physical disqualification.
353.405 Conflicting rights.
353.406 Notice of right of appeal.

Subpart E—[Reserved]

Subpart F—[Reserved]

Subpart G—Appeals to the Commission

353.701 Initial appeals to the Commission.
353.702 Where initial appeals are filed.
353.703 Finality of initial appeal decision.
353.704 Further appeals to the Commission.
353.705 Finality of decision by Board of Appeals and Review.
353.706 General provisions governing appeals.
353.707 The Commissioners.

Subpart H—Military Duty Performed by Indefinite Employees

353.801 Rights of indefinite employees performing military duty.

AUTHORITY: §§ 353.101 to 353.707 issued under sec. 9, 62 Stat. 614, as amended; 50 U.S.C. App. 459. § 353.801 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218.

Subpart A—General Provisions

§ 353.101 Scope.

This part sets forth rights and obligations of employees and agencies in connection with military duty subject to the provisions of section 9 of the Universal Military Training and Service Act, as amended.

§ 353.102 Definitions.

In this part:

(a) "Act" means the Universal Military Training and Service Act, as amended.

(b) "Agency" means (1) any department, independent establishment, agency, or corporation in the executive branch of the Federal Government; and (2) the government of the District of Columbia.

(c) "Leave of absence" means military leave, annual leave, leave without pay, or any combination of these.

(d) "Military duty" means a period of (1) active duty for training or for service in the Armed Forces of the United States, (2) inactive duty training in the Armed Forces of the United States, and (3) active duty in the Public Health Service that is covered by section 9(g)(2) of the Act. For the purpose of this paragraph, full-time training or other full-time duty performed by a member of the National Guard under 32 U.S.C. 316, 503, 504, or 505 is considered active duty for training in the Armed Forces of the United States, and inactive duty training performed by a member of the National Guard under 32 U.S.C. 502 or 37 U.S.C. 206(a) or 1002(a) is considered inactive duty training in the Armed Forces of the United States.

§ 353.103 Employees covered.

(a) Subparts A through G of this part cover each employee of an agency who enters on military duty from:

(1) A career or career-conditional appointment in a position in the competitive service; or

(2) An appointment without time limitation in a position outside the competitive service.

(b) Subpart H of this part covers each employee who enters on military duty from an indefinite appointment in the competitive service that is not limited to 1 year or less.

§ 353.104 Agency action at time employee enters on military duty.

Each employee who enters on active duty with restoration rights under section 9(b) or section 9(g) (1), (2), or (3) of the Act shall be either separated or furloughed, at the option of his agency, when he enters on military duty, except that an agency may elect to place a member of a reserve component of the Armed Forces or a member of the National Guard on leave of absence, instead.

§ 353.105 Notification of rights and obligations.

When an employee is separated, furloughed, or given leave of absence for military duty in accordance with the Act and this part, his agency shall notify him of all rights and obligations relating to his Government employment that are affected by that military duty.

§ 353.106 Maintenance of records.

Each agency shall identify for the record the position that an employee leaves to enter on military duty. It shall also maintain such records as are necessary to assure that the benefits granted by the Act and this part are preserved to each employee who enters on military duty.

Subpart B—[Reserved]

Subpart C—Agency Action in Employee's Absence

§ 353.301 Consideration for promotion.

(a) Each agency shall consider every employee absent on military duty for all promotions for which he would be considered were he not absent. A promotion based on this consideration is effective on the date it would have been made if the employee were not absent.

(b) When the position of an employee absent on military duty is regraded upward during his absence, his agency shall place him in the regraded position.

§ 353.302 Prohibition against demotion.

An agency may not demote an employee absent on military duty during his absence.

§ 353.303 Abolishment of position.

If the position of an employee absent on military duty is abolished, the agency concerned shall reassign the employee to another position of like seniority, status, and pay.

§ 353.304 Transfer of function to another agency.

If the function with which an employee absent on military duty was associated at the time he left for military duty is transferred to another agency and if the employee would have been transferred with the function under Part 351 of this chapter if he were not absent, the gaining agency shall retain the employee in his position or assign him to a position of like seniority, status, and pay. It shall also assume the obligation to restore the employee in accordance with the Act and this part. If the employee would not have been transferred with the function, the losing agency shall assign the employee to another position of like seniority, status, and pay.

§ 353.305 Abolishment of agency.

If an agency is abolished and its functions are not transferred to another agency, it shall furnish the Commission a list of its employees absent on military duty. For each employee, the list shall state the employee's name, date of birth, position, grade, and salary, and the name of the organizational unit in which his position was located. The agency shall note in each employee's Official Personnel Folder that notification was made under this section.

Subpart D—Agency Obligation To Restore

§ 353.401 Extent of agency's obligation and how discharged.

When an employee is entitled to restoration under section 9(b) or section 9(g) (1), (2), or (3) of the Act, the agency shall restore him in accordance with this subpart.

§ 353.402 Time limit for restoration.

An employee is entitled to be restored as soon as possible after his application for restoration, filed in accordance with the Act, is received in the agency. In any event, he is entitled to be restored within 30 days after his application is received.

§ 353.403 Position to which restored.

An employee is entitled to be restored to employment in the following order, unless the position is occupied by an employee in a higher retention subgroup under Part 351 of this chapter:

(a) To the position to which promoted while he was on military duty, or, if that position is not available, to a position of like seniority, status, and pay.

(b) To the position he left to enter military duty, or, if that position is not available, to a position of like seniority, status, and pay.

(c) To the next best available position for which he is qualified. For purposes of this paragraph, the next best available position is one that most nearly approximates in seniority, status, and pay the position to which an employee is entitled under either paragraph (a) or (b) of this section.

§ 353.404 Physical disqualification.

A returning employee who becomes disqualified because of disability sustained during military duty for a position to which he has restoration rights, is entitled to be restored to another position in the agency for which he is qualified that will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case.

§ 353.405 Conflicting rights.

If two or more employees are entitled to be restored to the same position, the employee who left his position first is entitled to the prior right of restoration. Each other employee is entitled to be restored in accordance with the provisions of §§ 353.403 and 353.404.

§ 353.406 Notice of right of appeal.

When an agency refuses to restore, or determines that it is not feasible to restore, an employee under the provisions of the Act and this part, it shall notify him in writing of the reasons for its decision, of his right to appeal to the Commission, and of the time limit applicable to the filing of an appeal. The agency shall forward a copy of the notice to the Commission.

Subpart E—[Reserved]

Subpart F—[Reserved]

Subpart G—Appeals to the Commission

§ 353.701 Initial appeals to the Commission.

(a) *Executive branch and District of Columbia employees.* (1) An employee who left an agency with right to restoration under section 9(b) or section 9(g) (1), (2), or (3) of the Act may appeal to the Commission in furtherance of this right, as follows:

(i) *Failure of restoration.* If the agency concerned fails to restore an employee within 30 days after receipt of his application for restoration, filed in accordance with the Act, he may appeal to the Commission not later than 10 days after the 30-day period has expired.

(ii) *Not feasible to restore.* If the agency concerned decides that it is not feasible to restore an employe, he may appeal this decision to the Commission not later than 10 days after receipt of notice from the agency.

(iii) *Refusal of restoration.* If the agency concerned refuses to restore an employee, he may appeal to the Commission not later than 10 days after receipt of notice from the agency.

(iv) *Improper restoration.* If an employee considers that he has been improperly restored, he may appeal to the Commission not later than 10 days after his restoration.

(v) *Former agency abolished.* If the agency in which an employee was employed when he left for military duty is abolished and its functions are not transferred to another agency, the employee may appeal to the Commission not later than 10 days after expiration of the period specified in the Act for applying for restoration.

(2) An employee who left a position in an agency with right to return to his position under section 9(g)(4) or section 9(g)(5) of the Act may appeal to the Commission in furtherance of his right to return to work in accordance with the provisions of section 9(g)(4) or section 9(g)(5) of the Act and this part.

(b) *Legislative employees.* An employee of the legislative branch who is entitled to appeal to the Commission under section 9(e)(2) of the Act may appeal not later than 10 days after expiration of the period specified in the Act for applying for restoration.

§ 353.702 Where initial appeals are filed.

Initial appeals under this subpart are to be filed with the Chief, Veterans Service Staff, or with the director of a regional office of the Commission, as prescribed by the Commission in the Federal Personnel Manual.

§ 353.703 Finality of initial appeal decision.

Unless further appeal is filed in accordance with this subpart, an appeal decision rendered by the Chief, Veterans Service Staff, or a regional director is final.

§ 353.704 Further appeals to the Commission.

An appeal decision rendered by the Chief, Veterans Service Staff, or a regional director, may be appealed to the Board of Appeals and Review, U.S. Civil Service Commission, Washington 25, D.C., within 7 calendar days after receipt of the decision on the initial appeal. The further appeal shall be in writing and shall contain the reasons for disagreeing with the initial decision.

§ 353.705 Finality of decision by Board of Appeals and Review.

A decision by the Board of Appeals and Review is final. There is no further right of appeal.

§ 353.706 General provisions governing appeals.

(a) *Delayed appeals.* The Commission may extend the time limits in §§ 353.701 and 353.704 when the appellant shows that he was not notified of these limits, and was not otherwise aware of them, or that circumstances beyond his control prevented him from filing an appeal within the prescribed limits.

(b) *Ascertainment of facts.* Each appellant shall submit in writing all facts that he considers pertinent to his appeal. The Commission may also conduct such appropriate investigations as it considers necessary.

(c) *Notification of appeal decisions.* The Commission shall submit its decision on an appeal in writing to each appellant and to each agency concerned.

(d) *Cancellation of appeals.* The Commission shall cancel an appeal, and the appellant and the agency concerned will be so notified, on receipt of the appellant's written request for cancellation, or on failure of the appellant to furnish information requested by the Commission.

(e) *Death of appellant.* When an appeal under this subpart is filed properly before the death of an appellant, the Commission shall process it to completion and adjudicate it. The Commission, in recommending corrective action in the decision on such an appeal, may provide for amendment of the agency's records to show retroactive restoration and the appellant's continuance on the rolls in an active duty status to the date of death.

§ 353.707 The Commissioners.

The Commissioners may, in their discretion, reopen and reconsider any appeal decision made under this subpart.

Subpart H—Military Duty Performed by Indefinite Employees

§ 353.801 Rights of indefinite employees performing military duty.

(a) *General.* Subject to the exceptions set forth in paragraph (b) of this section, an employee serving in a position in the competitive service under an indefinite appointment that is not limited to 1 year or less (referred to in this subpart as an indefinite employee) is entitled to rights equivalent to those provided for employees covered by section 9 (b) and (g) of the Act, and Subparts A through G of this part apply to an indefinite employee.

(b) *Exceptions.* (1) Sections 353.305 and 353.701(a)(1)(v) do not apply to an indefinite employee.

(2) The right of restoration of an indefinite employee is restricted to the geographical area in which the installation he left to enter military duty is located.

(3) The prohibitions in section 9(c)(1) and section 9(g)(3) of the Act against discharging employees without cause within 1 year or 6 months, respectively, after restoration do not apply to an indefinite employee; restoration of an indefinite employee may not cause his employment to extend beyond the date it would otherwise be terminated.

(4) An indefinite employee who cannot be restored in his former agency does not have the right to restoration in another agency that nontemporary employees have under section 9(e)(1) of the Act.

(5) An indefinite employee does not have the entitlement to compensation for loss of salary or wages that nontemporary employees have under section 9(e)(1) of the Act.

PART 410—EMPLOYEE DEVELOPMENT

Subpart A—General Provisions

Sec.
410.101 Definitions.

Subpart B—Determining Training Needs

410.201 Review of training needs.

Subpart C—Establishing Training Programs

Sec.
410.301 Scope and general conduct of training programs.
410.302 Selection and assignment of trainees.
410.303 Utilization of trainees.
410.304 Evaluation of training.

Subpart D—Interagency Training

410.401 Utilization of other Government facilities.

Subpart E—Training Through Non-Government Facilities

410.501 Determination of need to utilize non-Government facilities.
410.502 Selection of non-Government facilities for training.
410.503 General prohibitions, training through non-Government facilities.
410.504 Prohibition of training through non-Government facilities advocating overthrow of the Government by force or violence.
410.505 Continuous civilian service.
410.506 Waiver of limitations on training of employees through non-Government facilities.
410.507 Computing time in training through non-Government facilities.
410.508 Agreements to continue in service.
410.509 Failure to fulfill agreements to continue in service.

Subpart F—Payment of Training Expenses

410.601 Determination of necessary expenses of training.
410.602 Exceptions from prohibitions on payment of premium pay.
410.603 Protection of Government's interests, incomplete training.
410.604 Records of training expenses.

Subpart G—Acceptance of Contributions, Awards, and Payments From Non-Government Organizations

410.701 Scope.
410.702 Authority of departments to authorize acceptance.
410.703 Delegation of authority to authorize acceptance.
410.704 Acceptance of contributions, awards, and payments.
410.705 Identification of organization when more than one participates.
410.706 Records.

Subpart H—[Reserved]

Subpart I—Reports and Interchange of Training Information

410.901 Reports.
410.902 Interchange of training information.

AUTHORITY: §§ 410.101 to 410.902 issued under sec. 6, 72 Stat. 329; 5 U.S.C. 2305; E.O. 10800, 24 F.R. 447, 3 CFR, 1959 Supp.

Subpart A—General Provisions

§ 410.101 Definitions.

In this part:

(a) "Act" means the Government Employees' Training Act, as amended, 72 Stat. 327, 5 U.S.C. 2301.

(b) "Government", "department", "employee", "Commission", "training", "Government facility", and "non-Government facility" have the meanings given to these terms by section 3 of the Act.

(c) *Training by, in, or through Government facilities* means training that is conducted (1) by civilian or military personnel of the Government acting in their official capacities, and (2) on property

owned or substantially controlled by the Government. All other training is "training by, in, or through non-Government facilities."

Subpart B—Determining Training Needs

§ 410.201 Review of training needs.

(a) In conducting the reviews of training needs required by section 5 of the Act and by Executive Order 10800, each department shall consider:

(1) Pertinent information available through existing management records such as inspection reports, management audits, and production and staffing studies; and

(2) The needs of all categories of employees.

(b) Reviews shall be conducted in such manner and with such frequency as the department finds best to meet the requirements of the Act, Executive Order 10800, and this part, and to provide sound bases for planning the training to be provided under the Act.

Subpart C—Establishing Training Programs

§ 410.301 Scope and general conduct of training programs.

(a) The head of each department shall determine, and shall make known in writing, the policies which are to govern the training of employees of the department. These policies shall include a statement of the broad purposes for which training will be given and of the assignment of responsibilities for seeing that these purposes are achieved.

(b) The head of each department also shall take such administrative action as is necessary to insure that:

(1) The department's organizational and administrative provisions for training are as adequate as needs justify and circumstances permit; and

(2) Information with respect to the general conduct of the department's training program is available to enable the Commission, the President, and Congress to discharge their respective responsibilities under the Act.

(c) Training programs established by the departments under authority of the Act shall, to the maximum extent feasible:

(1) Be based on actual needs, existing or reasonably foreseeable;

(2) Meet as many of these needs as possible, priority considered; and

(3) Be integrated with other personnel management and operating activities.

§ 410.302 Selection and assignment of trainees.

(a) The head of each department shall establish such procedures as are necessary to insure eligible employees reasonable opportunity for consideration in selection for training which is to result in promotion. Merit promotion programs established under § 335.103 of this chapter shall be followed in selecting career or career-conditional employees for training that is given primarily to prepare trainees for advancement and that is required for promotion.

(b) With respect to selection and assignment of employees to training by, in, and through non-Government facilities, the head of each department shall provide that:

(1) Authority to authorize this training of more than 40 hours' duration be held at a sufficiently high administrative level to insure that the policies and viewpoints of the department head are reflected in each decision; and

(2) Each assignment of an employee who is stationed within the continental limits of the United States to training outside these limits be approved by a specifically designated official at the headquarters level of the department.

(c) The head of each department shall prescribe such procedures as are necessary to assure that in the selection of employees for training there shall be no discrimination because of race, creed, color, national origin, or sex.

§ 410.303 Utilization of trainees.

Each department, in effecting position changes within the department, shall consider significant training and self-development activities undertaken by its employees.

§ 410.304 Evaluation of training.

Each department shall provide for evaluation of the results and effects of training provided under the Act. This evaluation shall be conducted in such manner and with such frequency as the department head considers most appropriate to the department.

Subpart D—Interagency Training

§ 410.401 Utilization of other Government facilities.

(a) Each department is responsible for determining whether its training programs and facilities are to be made available to employees of other departments and other agencies in any branch of the Government.

(b) A department is not required to make its training programs or facilities available to others if it needs the full capacity of its facilities for the training of its own employees or if, in its judgment, the participation of others would be incompatible with the effective conduct of its own training programs or other activities.

(c) Each department is responsible for determining whether training programs or facilities offered by other departments and other agencies in any branch of the Government are suitable, timely, reasonably available, and adequate to meet its training needs.

Subpart E—Training Through Non-Government Facilities

§ 410.501 Determination of need to utilize non-Government facilities.

Training of employees by, in, or through a non-Government facility may be authorized only after the head of the department concerned determines that adequate training for his employees by, in, or through a Government facility is not reasonably available and that appropriate consideration has been given to the then existing or reasonably foreseeable availability and utilization of fully trained employees.

§ 410.502 Selection of non-Government facilities for training.

(a) Each department shall use as the principal criterion for selection of non-Government training facilities the ability of the facilities to meet the department's training needs effectively, economically, and in timely fashion.

(b) A department shall not select for training any non-Government facility that discriminates because of race, creed, color, or national origin in the admission or in the subsequent treatment of students.

§ 410.503 General prohibitions, training through non-Government facilities.

Training of an employee by, in, or through a non-Government facility for the purpose of filling a position by promotion is prohibited if there is in the department concerned another employee of equal ability and suitability who is fully qualified to fill the position and is available at, or within a reasonable distance from, the place or places where the duties of the position are to be performed. The head of each department shall establish such policies or procedures relating to areas of consideration and to determinations concerning ability, suitability, availability, qualification, and geographic location as he considers reasonable and necessary to assure adherence to this prohibition.

§ 410.504 Prohibition of training through non-Government facilities advocating overthrow of the Government by force or violence.

(a) With respect to training by, in, or through an organization, the requirements of section 14 of the Act are met if it is ascertained that the organization is not included in the list of organizations designated by the Attorney General pursuant to section 12 of Executive Order 10450.

(b) With respect to training conducted by an individual with whom contractual or other arrangements are made directly, the requirements of section 14 of the Act are met if both of the following conditions are met:

(1) It is ascertained that the investigative files of the Commission contain no record that a determination has been made that a reasonable doubt exists concerning the individual's loyalty to the Government of the United States. Search of the investigative files of the Commission shall be made before contracting with or otherwise arranging for the services of individuals for training, except that in emergency situations, the search shall be made as soon as possible.

(2) Subject to the exceptions stated in this subparagraph, the individual executes an affidavit, certificate, or express contractual warranty that he does not teach or advocate the overthrow of the Government of the United States by force or violence. This condition does not apply (i) to an individual who performs training under oral or other informal arrangements for periods of 16 hours or less within a single program; or (ii) to an individual who performs

training without compensation by the Government (whether or not the Government provides payment or reimbursement for travel and subsistence incident to the training).

§ 410.505 Continuous civilian service.

For the purpose of applying section 12(a) (2) and (3) of the Act, continuous civilian service includes periods of service in a nonpay status.

§ 410.506 Waiver of limitations on training of employees through non-Government facilities.

(a) Subject to other provisions of the Act and this part, an employee having less than 1 year of current, continuous civilian service in the Government is eligible for training by, in, or through non-Government facilities on a finding by the head of his department that postponement of the training until the employee has completed 1 year of current, continuous civilian service in the Government would be contrary to the public interest.

(b) To the extent he considers justified, the head of each department may waive the limitations contained in section 12(a) (1) and (3) of the Act for:

(1) An employee assigned to training by, in, or through a non-Government facility that does not exceed 40 hours within a single program;

(2) An employee receiving training provided by a manufacturer as a part of the normal service incident to initial purchase or lease of its products under procurement contract; and

(3) An employee receiving training through a correspondence course.

(c) To the extent he considers justified, the head of each department may waive the limitation contained in section 12(a) (3) of the Act for each employee serving in a work-study program when all of the following conditions are met:

(1) The employee is serving under career or career-conditional appointment;

(2) The employee is working in the field of natural or mathematical science or engineering;

(3) The employee's expenses of college training are being paid in the programs concerned only because the department has found that the programs cannot operate successfully without that payment;

(4) The employee's expenses of college training are being paid only to the extent the department deems necessary to attract and retain the employee; and

(5) The employee's expenses of college training that are being paid are limited to the expenses covered by section 10(2) of the Act.

§ 410.507 Computing time in training through non-Government facilities.

For the purpose of the Act and this part:

(a) An employee assigned to full-time training by, in, or through a non-Government facility is counted as being in training the same number of hours he is in a pay status during the training assignment, up to a maximum of 8 hours a day or 40 hours a week. If the employee is not in pay status during the training, he is counted as being in training the same number of hours as are in the period of any leave granted for the purpose of the training.

(b) An employee assigned to training by, in, or through a non-Government facility on less than a full-time basis is counted as being in training the same number of hours he spends in class or with the instructor in the facility.

(c) The Commission may authorize such other procedures for the counting of time in training as it considers appropriate.

§ 410.508 Agreements to continue in service.

(a) For the purpose of administering section 11 of the Act:

(1) The period of time an employee is required to agree to continue in the service of the department begins on the first workday after the end of the training covered by the agreement; and

(2) "Additional expenses incurred by the Government in connection with his training" means expenses of training paid under section 10(2) of the Act, but not salary, pay, or compensation.

(b) An employee selected for training by, in, or through a non-Government facility that involves no expense to the Government other than his salary, pay, or compensation is excepted from the requirement in section 11(a) of the Act for entering into a written agreement.

(c) To the extent he considers justified the head of the department may except from the requirement in section 11(a) of the Act for entering into a written agreement:

(1) An employee selected for training provided by a manufacturer as a part of the normal service incident to initial purchase or lease of a product under a procurement contract;

(2) An employee selected for training by, in, or through a non-Government facility that does not exceed 80 hours within a single program; and

(3) An employee selected for training which is given through a correspondence course.

(d) When a department pays only the expenses of an employee's training that are authorized by section 10(2) of the Act, the head of the department may reduce to 1 month or to a period equal to the length of the training period covered by the payment, whichever is greater, the period of time the employee is required by section 11(a) of the Act to agree to continue in the service of his department.

§ 410.509 Failure to fulfill agreements to continue in service.

(a) (1) Each written agreement under section 11(a) of the Act shall provide that the employee covered thereby give his department at least 10 workdays' notice if he intends to enter the service of another department or other agency in any branch of the Government before the expiration of the period for which he agrees to continue in the service of his department. Each agreement shall also provide that if the employee fails to give this advance notice and enters the service of another department or agency in any branch of the Government, he must repay the Government the amount of the additional expenses incurred by the Government in connection with the training covered by the agreement. The head of the department which has authorized the training may waive in whole or in part the obligation under the agreement when he finds that repayment would be against equity, good conscience, or the public interest.

(2) The prior notice to be given by the head of a department under section 11 (b) of the Act shall be given as soon as practicable after the employee informs the department of his intention to enter the service of another department or agency in any branch of the Government.

(b) (1) The head of a department, or a representative especially designated by him for this purpose, may waive in whole or in part any right of recovery under section 11(c) of the Act when he finds that recovery would be against equity and good conscience or against the public interest.

(2) Delegation of authority to act for the head of a department under subparagraph (1) of this paragraph shall be held to as high an administrative level as practicable to insure that the policies of the head of the department are reflected in each decision.

Subpart F—Payment of Training Expenses

§ 410.601 Determination of necessary expenses of training.

The head of each department shall determine which expenses constitute necessary training expenses under section 10 of the Act.

§ 410.602 Exceptions from prohibition on payment of premium pay.

(a) The following are excepted from the provision of section 10 of the Act that prohibits payment of overtime, holiday, or night differential pay:

(1) An employee given training during a period of duty for which he is already receiving overtime, holiday, or night differential pay, except that this exception does not apply to an employee assigned to full-time training at institutions of higher learning;

(2) An employee given training at night because situations which he must learn to handle occur only at night;

(3) An employee given training on overtime because the costs of the training, overtime pay included, are less than the costs of the same training confined to regular work hours; and

(4) An employee given training during periods of temporary assignment covered by § 550.162(c) of this Chapter.

(b) An employee who is excepted under paragraph (a) of this section is eligible to receive overtime, holiday, and night differential pay in accordance with the pay authorities applicable to him.

§ 410.603 Protection of Government's interests, incomplete training.

The head of each department shall establish such procedures as he considers necessary to protect the Government's interests when employees fail to complete training for which the department pays the expenses.

§ 410.604 Records of training expenses.

Each department shall maintain records of payments made for travel, tuition and fees, and other necessary expenses of training by, in, or through non-Government facilities.

Subpart G—Acceptance of Contributions, Awards, and Payments From Non-Government Organizations

§ 410.701 Scope.

(a) This subpart relates to contributions, awards, and payments made to employees, or on their behalf, by non-Government organizations in connection with training that the employees receive in non-Government facilities, or meetings that they attend, either (1) partially or wholly within periods when they are on duty; or (2) at such other times as their departments pay the expenses of training or of attendance at meetings in whole or in part.

(b) This subpart does not limit the authority of a head of a department to establish such procedures as he considers appropriate concerning the acceptance of contributions, awards, and payments in connection with any training and meetings that are outside the scope of this subpart.

§ 410.702 Authority of departments to authorize acceptance.

The head of a department or a representative designated by him for this purpose under § 410.703, may authorize in writing an employee of his department to accept a contribution or award (in cash or in kind) incident to training in non-Government facilities or to accept payment (in cash or in kind) of travel, subsistence, and other expenses incident to attendance at meetings if the contribution, award, or payment is made by an organization determined by the Secretary of the Treasury to be an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of that code, and if, in the judgment of the head of the department or his designated representative, the following two conditions are met:

(a) The contribution, award, or payment is not a reward for services to the organization prior to the training or meeting; and

(b) Acceptance of the contribution, award, or payment:

(1) Would not reflect unfavorably on the ability of the employee to carry out his official duties in a fair and objective manner;

(2) Would not compromise the honesty and integrity of Government programs or of Government employees and their official actions or decisions;

(3) Would be compatible with the Code of Ethics for Government Service expressed in House Concurrent Resolution 175, 85th Congress, 2d Session; and

(4) Would otherwise be proper and ethical for the employee concerned under the circumstances in his particular case.

§ 410.703 Delegation of authority to authorize acceptance.

The head of a department may designate a representative to act for him in authorizing the acceptance of contributions, awards, and payments under § 410.702. Delegation of authority to act in this mater shall be held to as high an administrative level as practicable to insure that the policies of the department head are reflected in each decision, and that there is full evaluation of the circumstances of each case in the light of the conditions set forth in § 410.702.

§ 410.704 Acceptance of contributions, awards, and payments.

An employee may accept a contribution, award, or payment (whether made in cash or in kind) that falls within the scope of this subpart only with specific written authorization granted under § 410.702.

§ 410.705 Identification of organization when more than one participates.

When more than one non-Government organization participates in making a single contribution, award, or payment, the "organization" referred to in this subpart is considered to be the one that selects the recipient and administers the funds from which the contribution, award, or payment is made.

§ 410.706 Records.

Each department shall maintain, in such form and manner as the head of the department considers appropriate, the following records in connection with each contribution, award, or payment made and accepted under authority of this subpart: the name of the recipient; the name of the organization; the amount and nature of the contribution, award, or payment and the purpose for which it is to be used; and a copy of the written authorization required by § 410.702.

Subpart H—[Reserved]

Subpart I—Reports and Interchange of Training Information

§ 410.901 Reports.

(a) The reports required by section 18(a) of the Act and by this section shall be prepared for each fiscal year. Each department shall submit a consolidated report to the Commission not later than September 1 of the succeeding fiscal year.

(b) The consolidated report shall include:

(1) A brief narrative statement:

(i) Outlining in the first report to the Commission under this section, the department's training policies and overall program and, in each subsequent report, any major changes in policy, shifts in program emphasis, or other significant developments;

(ii) Assessing generally the value of training to the department and the extent to which economies and improved operations have resulted; and

(iii) Summarizing the department's estimated expenditures for all training by, in or through non-Government facilities (including training incident to initial procurement of equipment when information on the costs of this training is available), presenting separate totals for (*a*) tuition and related fees, (*b*) travel, and (*c*) per diem;

(2) An attachment, Standard Form 10, containing special information required by section 18(a)(2) of the Act regarding employees (other than students participating in work-study programs) receiving training by, in, or through non-Government facilities for more than 120 days;

(3) An attachment, Standard Form 11, containing special information regarding employees who, under authority of section 19(a) of the Act, receive from non-Government sources contributions or awards incident to training in non-Government facilities; and

(4) An attachment, in triplicate, containing the names of employees failing to fulfill their obligations under section 11 of the Act, together with a brief account of the reason for the failure and of any action taken to recover additional expenses incurred by the Government in connection with their training.

(c) The Commission may grant exceptions to the requirements stated in paragraphs (a) and (b) of this section.

§ 410.902 Interchange of training information.

Each department, at such time and in such manner as it considers appropriate, shall inform the Commission, or such other departments as it believes may be especially concerned, of new, different, or particularly successful training practices or materials which it develops or acquires, which it considers of probable interest to others, and which it is able to share with others.

PART 430—PERFORMANCE EVALUATION

Subpart A—General Provisions

Sec.
430.101 Coverage.
430.102 Definitions.

Subpart B—[Reserved]

Subpart C—Boards of Review

430.301 Establishment and jurisdiction of boards.
430.302 Members of boards.

Subpart D—Appeals

430.401 Appeals.
430.402 Hearings.
430.403 Board decision.
430.404 Effect of decision.

AUTHORITY: §§ 430.101 to 430.404 issued under sec. 8, 64 Stat. 1099; 5 U.S.C. 2007.

Subpart A—General Provisions

§ 430.101 Coverage.

(a) *Agencies covered.* This part covers:

(1) Executive departments;

(2) Independent establishments and agencies in the executive branch, including corporations wholly owned by the United States;

(3) The Administrative Office of the United States Courts;

(4) The Library of Congress;

(5) The Botanic Garden;

(6) The Government Printing Office;

(7) The General Accounting Office;

(8) The municipal Government of the District of Columbia.

(b) *Agencies not covered.* This part does not cover:

(1) The Tennessee Valley Authority;
(2) The field service of the Post Office Department;
(3) Physicians, dentists, nurses, and other employees in the Department of Medicine and Surgery in the Veterans' Administration paid under 38 USC 73;
(4) The Foreign Service of the United States under the Department of State;
(5) Production credit corporations;
(6) Federal intermediate credit banks;
(7) Federal land banks;
(8) Banks for cooperatives;
(9) Employees of the municipal government of the District of Columbia who are not paid under the Classification Act of 1949, as amended;
(10) The Atomic Energy Commission;
(11) Employees outside the continental limits of the United States paid in accordance with local native prevailing wage rates for the area in which employed;
(12) The Central Intelligence Agency;
(13) Employee members of crew vessels operated by the Departments of the Army and Navy.

§ 430.102 Definitions.

(a) In this Part:
(1) "Agency" means an agency covered in § 430.101(a).
(2) "Board" means Performance Rating Board of Review established under Subpart C of this Part.

Subpart B—[Reserved]

Subpart C—Boards of Review

§ 430.301 Establishment and jurisdiction of boards.

The head of each agency covered by this Part shall establish, with the approval of the Civil Service Commission, one or more boards to consider and pass on the merits of performance ratings under rating plans established under the Performance Rating Act of 1950. The jurisdiction of each board shall be specific and exclusive of that of any other board.

§ 430.302 Members of boards.

(a) *Designation.* Each board shall be composed of a chairman designated by the Commission, an employee member designated in a manner approved by the Commission, and an agency member designated by authority of the agency head. One or more alternate members shall be provided for each department member, each alternate being designated in the same manner as his principal.

(b) *Branch of Government.* Members and alternate members of boards serving agencies in the executive branch of the Government shall be officers or employees of that branch. Members and alternate members of boards (except chairmen and alternate chairmen) serving agencies outside the executive branch shall be designated from the branch to which those agencies respectively belong.

Subpart D—Appeals

§ 430.401 Appeals.

(a) *Unsatisfactory rating.* An employee with an unsatisfactory rating may obtain within his agency the one impartial review provided by law, or may appeal directly to the appropriate board, or may appeal to the board after obtaining the impartial review.

(b) *Satisfactory or better rating.* An employee with a satisfactory or better performance rating may obtain either within his agency the one impartial review provided by law, or he may appeal to the appropriate board, but not both.

(c) *Time limits on appeals.* An appeal to a board shall be made to the chairman of the board. The appeal shall be in writing and shall be submitted within:

(1) Thirty days after the employee receives notice of his rating; or

(2) Ten days after the employee withdraws his request for the impartial review within his agency, when more than thirty days have elapsed since he received notice of his rating; or

(3) Thirty days after the employee receives his agency's decision on the impartial review of an unsatisfactory rating.

(d) *Extension of time limit.* Boards may waive the time limits in paragraph (c) of this section for good and sufficient reasons.

§ 430.402 Hearings.

(a) *Oral hearing.* The chairman or alternate chairman of a board shall preside at an oral hearing held to obtain information needed to determine the merits of an appealed rating, and shall rule on questions arising at the hearing.

(b) *Conduct of hearing.* The appellant and his representative, and representatives designated under authority of the agency head, may attend the hearing. These parties may submit any information the board finds pertinent; and may hear, examine, and reply to information received by the board. The board shall find pertinent the record of any prior review of an appealed rating.

(c) *Stenographic report.* A stenographic report of an oral hearing shall be required only when the board unanimously votes it necessary to the best interests of the Government and the employee.

(d) *Hearing waived.* With the appellant's consent, the board may consider his appeal on the basis of written information submitted by both parties without oral hearing.

§ 430.403 Board decision.

(a) *The decision.* The board shall consider the pertinent facts in an appeal and by majority vote either (1) increase the appealed rating, or (2) sustain the appealed rating without change.

(b) *Notice of decision.* The board's decision shall be in writing and shall contain a summary statement of the facts on which it based its decision. The board shall send a copy of the decision to the appellant, to the head of the agency, and to the Commission.

§ 430.404 Effect of decision.

When an agency receives notice of a board's increase in an employee's rating, the agency shall correct all records of the original rating, shall reconsider any and all administrative actions based on the original rating, and insofar as possible under the law and regulations and in the public interest, redetermine and adjust those administrative actions to conform to the corrected rating.

PART 451—INCENTIVE AWARDS

Subpart A—General Provisions

Sec.
451.101 Purpose.
451.102 Policy.
451.103 Definitions.

Subpart B—Department Plans

451.201 Department plans.
451.202 Awards, promotions, and recognition.
541.203 Stimulating participation.
451.204 Prompt action on contributions.
451.205 Documentation of action.
451.206 Report.

Subpart C—Awards

451.301 Basic requirements.
451.302 Cash award, tangible benefits.
451.303 Cash award, intangible benefits.
451.304 Effect of an award on pay.
451.305 Honorary award.
451.306 Group awards.
451.307 Presidential award.
451.308 Interdepartmental award.
451.309 Interdepartmental referral.
451.310 Award by other benefiting department.

AUTHORITY: §§ 451.101 to 451.310 issued under sec. 302, 68 Stat. 1112; 5 U.S.C. 2121.

Subpart A—General Provisions

§ 451.101 Purpose.

The Government Employees' Incentive Awards Program is established to improve Government operations and to recognize civilian employees by incentive awards. Awards under this program are designed to:

(a) Encourage employees to participate in improving the efficiency and economy of Government operations;

(b) Recognize and reward employees, individually or in groups, for their suggestions, inventions, superior accomplishments, or other personal efforts that contribute to efficiency, economy, or other improvements in Government operations; and

(c) Recognize and reward employees, individually or in groups, who perform special acts or services in the public interest in connection with or related to their official employment.

§ 451.102 Policy.

The policy of the Civil Service Commission in administering the Government Employees' Incentive Awards Act is to:

(a) Establish broad principles and standards for the administration of the Incentive Awards Program;

(b) Delegate to heads of departments authority to establish and operate incentive awards plans consistent with these principles and standards;

(c) Help department officials develop effective programs;

(d) Encourage exchange of contributions among departments; and

(e) Review operation of agency plans to strengthen the Government Employees' Incentive Awards Program.

§ 451.103 Definitions.

In this part:

(a) "Act" means the Government Employees' Incentive Awards Act, as amended, 68 Stat. 1112; 5 U.S.C. 2121.

(b) "Department" means an executive department, an independent agency in the executive branch of the Government, a Government owned or controlled corporation (but not the Tennessee Valley Authority or the Central Bank for Cooperatives), the Administrative Office of the United States Courts, the Library of Congress, the Botanic Gardens, the Government Printing Office, the Office of the Architect of the Capitol, and the municipal government of the District of Columbia.

(c) "Government" means the Government of the United States and the government of the District of Columbia.

(d) "Employee" means a civilian officer of, and an individual employed by a department.

(e) "Plan" means a written statement giving effect to the Act, this Part, and the instructions of the Civil Service Commission concerning the incentive awards program, which has been approved by the head of a department issuing the plan.

(f) "Contribution" means:

(1) An employee's suggestion, invention, superior accomplishment, or other personal effort contributing to the efficiency, economy, or other improvement of Government operations; and,

(2) An employee's special act or service in the public interest, connected with or related to his official employment.

(g) "Incentive award or award" means either a cash award, an honorary award, or both.

(h) "Honorary award" means an incentive award granted by the head of a department in the form of a certificate, emblem, pin, or other item the employee can wear or display.

(i) "Departmental award" means an incentive award granted by the head of a department for an approved contribution from an employee of that department.

(j) "Interdepartmental award" means an incentive award granted by the head of a department for an approved contribution from an employee or employees of another department.

(k) "Presidential award" means an award granted by the President under section 304(b) of the Act.

Subpart B—Department Plans

§ 451.201 Department plans.

(a) *Establishment and change.* The head of each department shall establish and operate a plan to use incentive awards as an integral part of supervision and management, and shall submit any new plan or a change in a plan to the Commission within 30 days of the effective date of the plan or the change.

(b) *Authority for awards.* The head of a department may grant a departmental or interdepartmental award for a contribution, to an employee, a former employee, or the estate of a deceased employee.

(c) *Department administration.* Each plan must provide for:

(1) Central administrative direction and review;

(2) Delegation to bureaus, offices, and field units, of authority and responsibility adequate to insure maximum compliance with the purposes of the Act and with this Part;

(3) Consideration of the applicability of employee contributions throughout the department; and

(4) Referral to the appropriate department or to the Commission of contributions that may apply to other departments.

§ 451.202 Awards, promotions, and recognition.

The head of each department shall provide that:

(a) Due weight be given to incentive awards granted under the Incentive Awards Program when qualifying and selecting for promotion employees who meet the Commission's requirements for promotion; and

(b) Recognition be given to supervisors for the extent of their success in motivating their employees' interests and participation in the Incentive Awards Program.

§ 451.203 Stimulating participation.

To obtain maximum value from the Incentive Awards Program, the head of each department shall emphasize to supervisors and employees the need for their active participation in improving Government operations.

§ 451.204 Prompt action on contributions.

The head of each department shall provide for prompt action on contributions to encourage maximum employee participation, and to obtain all possible benefit to the Government.

§ 451.205 Documentation of action.

The head of each department shall provide that action on a contribution be adequately documented.

§ 451.206 Report.

The head of each department shall submit to the Commission by September first of each year a report on the operation of the department's Incentive Awards Program during the preceding fiscal year.

Subpart C—Awards

§ 451.301 Basic requirements.

A department may not grant an incentive award before the contribution has been approved by the benefiting department. The contribution must have been made while the contributor was a Government employee, and must be described in writing.

§ 451.302 Cash award, tangible benefit.

(a) *The award.* A department may grant an employee a cash award of $15 or more for a contribution that exceeds job requirements and that results in tangible benefits of $50 or more. The amount of the award is based usually on the estimated net money benefit for the first year the contribution is used and is determined by the table in paragraph (b) of this section, except that a department head for special reasons may decide a different amount is justified. He must document his reasons in support of the different amount.

(b) *Award scale.* The amount of a cash award must be based on the following table except when a different amount is justified for special reasons:

Tangible Benefits	*Amount of Award*
$50–$300	$15.
$301–$10,000	$15 for the first $300 in benefits, $5 for each additional $100 or fraction thereof.
$10,001–$20,000	$500 for the first $10,000 in benefits and $5 for each additional $200 or fraction thereof.
$20,001–$100,000	$750 for the first $20,000 in benefits and $5 for each additional $1,000 or fraction thereof.
$100,001 or more	$1,150 for the first $100,000 in benefits and $5 for each additional $5,000 or fraction thereof.

(c) *Award over $5,000.* A department head may not grant a cash award above $5,000 without prior approval of the Commission. The maximum cash award is $25,000.

§ 451.303 Cash award, intangible benefits.

(a) *The award.* A department may grant a cash award for a contribution that results in intangible benefits not susceptible to appraisal on the basis of measurable benefits, or for a contribution that involves a combination of tangible and intangible benefits.

(b) *Amount of award.* The amount of a cash award under this section shall be based on the benefit or value of the contribution to Government operations, considering the extent and scope of the contribution, its significance, and the importance of the programs it affects. A department may grant the minimum cash award of $15 when the contribution compares favorably with one that meets the minimum requirement in § 451.302.

(c) *Department guides on intangible benefits.* The head of each department shall provide as part of his plan, guidelines and criteria on which to base the amounts of awards for contributions under this section.

(d) *Award above $5,000.* A department head may not grant a cash award above $5,000 without prior approval of the Commission. The maximum cash award is $25,000.

§ 451.304 Effect of an award on pay.

(a) *Pay.* A cash award under this part is in addition to the regular pay of the recipient.

(b) *Further claim.* The acceptance of a cash award under this part constitutes an agreement that the use by the Government of a contribution, idea, method or device for which an incentive award is made does not form the basis of a further claim of any nature against the Government by the employee, his heirs, or his assigns.

§ 451.305 Honorary award.

A department may grant an honorary award for a contribution. An honorary award may be granted in addition to a cash award.

§ 451.306 Group awards.

(a) *The award.* When a contribution is made by more than one employee, each contributing employee, including a supervisor, may share in the award.

(b) *Cash award shares.* A department may grant the employees a cash award in equal shares, or in shares proportionate to each employee's participation in the contribution.

(c) *Amount of cash award.* The total amount of a cash award to a group may not exceed the amount that would be authorized if the contribution had been made by one individual, except that a department head for special reasons may decide a different amount is justified. He must document his reasons in support of the different amount.

§ 451.307 Presidential award.

Each department shall submit any recommendation for a Presidential award in accordance with instructions issued by the Distinguished Civilian Service Awards Board.

§ 451.308 Interdepartmental award.

The head of a department in which a contribution originates may grant an incentive award for a contribution that also may benefit another department. The initial award is based on the benefit to the originating department before consideration of additional benefits to another department.

§ 451.309 Interdepartmental referral.

(a) *Originating department.* The head of each department in which a contribution originates shall establish a procedure that requires that the contribution be referred to other departments which may benefit from it. The referral to other departments shall be made only after consideration of the applicability of the contribution in the originating department.

(b) *Referral to one department.* When the department in which a contribution originates determines that only one other department is responsible for acting on the contribution, it shall refer the contribution to that department. The department to which the contribution is referred shall notify the originating department of the action on the contribution and shall send a copy of the notification to the Commission.

(c) *Referral to Commission.* When the originating department determines that more than one other department is responsible for acting on the contribution, it shall refer the file to the Commission, with information on the activities in other departments that may benefit from the contribution.

§ 451.310 Award by other benefiting department.

(a) *Contribution approved.* When the head of a department approves a contribution which originated in another department, he shall report the approval to either the originating department or the Commission, whichever referred the contribution.

(b) *The report.* The approving department shall report its approval as soon as possible and not later than 6 months after receipt of the referral except that the report may be made at a later date with prior approval of the Civil Service Commission. The report shall state the estimated first year net tangible benefits, if any; the intangible benefits, if any; and the incentive award it will grant, under this part.

(c) *Funds for award.* (1) When the head of a department approves a contribution referred by another department, he shall arrange with the originating department for transfer of funds necessary to pay the incentive award.

(2) When more than one department benefits from a contribution, the Commission shall determine the total interdepartmental first year net measurable benefits, and the total intangible benefits, and recommend to the appropriate benefiting departments, their proportionate share of the award.

(3) Within thirty days after receipt of the recommendation referred to in subparagraph (2) of this paragraph, each benefiting department shall notify the Commission in writing of its action on the recommendation.

PART 511—POSITION CLASSIFICATION UNDER THE CLASSIFICATION ACT SYSTEM

Subpart A—General Provisions

Sec.
511.101 Definitions.

Subpart B—Coverage of the Classification Act

511.201 Coverage of and exclusions from the Classification Act.
511.202 Authority of department.
511.203 Exercise of authority.

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Appeals

511.601 Applicability of regulations.
511.602 Notification of classification decision.
511.603 Right of appeal.
511.604 Filing appeal.
511.605 Time limits.
511.606 Form and contents of appeal.
511.607 Ascertainment of facts.
511.608 Notification of appeal decision.
511.609 Cancellation of employee appeal.
511.610 Finality of decision.
511.611 Bureau of Inspections.
511.612 The Commissioners.

Subpart G—Effective Dates of Position-Classification Actions or Decisions

511.701 Effective dates generally.
511.702 Department's or Commission's classification decision on appeal.
511.703 Retroactive effective date.

AUTHORITY: §§ 511.101 to 511.703 issued under sec. 2, 61 Stat. 727, and sec. 1101, 63 Stat. 971; 5 U.S.C. 1052, 1072.

Subpart A—General Provisions

§ 511.101 Definitions.

In this part:

(a) "Act" or "Classification Act" means the Classification Act of 1949, as amended.

(b) "Class" means all positions which are sufficiently similar as to (1) kind or subject-matter of work, (2) level of difficulty and responsibility, and (3) the qualification requirements of the work, to warrant similar treatment in personnel and pay administration.

(c) "Classification" means the analysis and identification of a position and placing it in a class under the position-classification plan established by the Commission under the act.

(d) "Department" includes:

(1) The executive departments;

(2) The independent establishments and agencies in the executive branch, including corporations wholly owned by the United States;

(3) The Administrative Office of the United States Courts;

(4) The Library of Congress;

(5) The Botanic Garden;

(6) The Government Printing Office;

(7) The General Accounting Office;

(8) The Office of the Architect of the Capitol except as indicated in § 511.603; and

(9) The government of the District of Columbia.

(e) "Grade" means all classes of positions which (although different with respect to kind or subject-matter of work) are sufficiently equivalent as to (1) level of difficulty and responsibility, and (2) level of qualification requirements of the work, to warrant their inclusion within one range of rates of basic compensation.

(f) "Position" means the work, consisting of the duties and responsibilities, assigned by competent authority for performance by an officer or employee.

Subpart B—Coverage of the Classification Act

§ 511.201 Coverage of and exclusions from the Classification Act.

(a) *Coverage.* This part and the Classification Act apply to all positions in departments except those specifically excluded by the act, by section 2 of the Act of August 4, 1947 (61 Stat. 727; 5 U.S.C. 1052), and by paragraph (b) of this section.

(b) *Exclusions.* In addition to the positions specifically excluded by the Act and by section 2 of the Act of August 4, 1947, the following positions are excluded from this part and the Classification Act:

Auxiliary medical therapy student positions, Department of Health, Education, and Welfare, as follows: vocational guidance counselors (student); recreation leaders (student); occupational therapists (student); vocational rehabilitation advisers (student); teachers (student) (educational administration and supervision); teachers (student) (business training); teachers (student) (music); teachers (student) (art); and chaplains (student).

Chaplain interns, Department of Health, Education, and Welfare, first year approved clinical training following completion of three or more years approved postgraduate theological training.

Chaplain residents, Department of Health, Education, and Welfare, fifteen months' approved clinical training following completion of four or more years' approved postgraduate theological training.

Chaplain residents, Department of Health, Education, and Welfare, third year approved clinical training following completion of five or more years approved postgraduate theological training.

Chaplain student interns, Department, of Health, Education, and Welfare and Government of the District of Columbia, approved clinical training during second year approved postgraduate theological training.

Clinical psychology interns, Department of Health, Education, and Welfare, second, third, and fourth years approved postgraduate training (predoctoral).

Clinical psychology interns, government of the District of Columbia, third and fourth years approved postgraduate training (predoctoral).

Clinical psychology interns, third year approved postgraduate training (predoctoral), Department of the Navy.

Clinical psychology residents, Department of Health, Education, and Welfare, first and second years approved postdoctoral training.

Clinical psychology residents, government of the District of Columbia, first year approved postdoctoral training.

Clinical psychology students, Department of Health, Education, and Welfare, first year approved postgraduate training.

Counseling psychology interns and speech therapy interns, Department of Health, Education, and Welfare, approved postgraduate training during programs for graduate degree.

Dental hygiene students, Department of Health, Education, and Welfare, approved training during clinical affiliation.

Dietetic residents, second year approved postgraduate training.

Hospital administration interns, U.S. Public Health Service, first year approved postgraduate training.

Hospital administration residents, second year approved postgraduate training.

Hospital administration residents, Freedmen's Hospital, third year approved postgraduate training.

Medical record interns, U.S. Public Health Service, 1 year approved training after a minimum of 3 years college level training.

Medical record students, U.S. Public Health Service, 1 year approved training after 2 years college level training.

Medical student interns, approved training during third and fourth years of medical school.

Occupational therapy students, Department of the Army, approved training after a minimum of 1 year college level training.

Pharmaceutical interns, U.S. Public Health Service, 1 year approved postgraduate training.

Physical therapy students, Department of the Army, approved training after a minimum of 1 year college level training.

Practical nurse affiliates, St. Elizabeths Hospital, 3 months approved postgraduate training.

Psychiatric nurse interns (postgraduate student nurses), St. Elizabeths Hospital and U.S. Public Health Service, 1 year approved postgraduate training.

Psychiatric nurse students, St. Elizabeths Hospital, approved training, undergraduate level.

Psychodrama interns, Department of Health, Education, and Welfare, first and second years approved postgraduate training.

Psychodrama interns, Department of Health, Education, and Welfare, third year approved postgraduate training.

Psychodrama residents, Department of Health, Education, and Welfare, fourth year approved postgraduate training, and fifth year approved postgraduate training or first year approved postdoctoral training.

Psychology student trainee, Department of the Navy, approved postgraduate training in a summer practicum following attainment of bachelor's degree.

Recreation interns, Department of Health, Education, and Welfare, 1 year approved postgraduate training.

Social worker interns (student social workers), U.S. Public Health Service, approved postgraduate training during program for the Master of Science degree.

Sociology interns, Department of Health, Education, and Welfare, approved postgraduate training during program for graduate degree.

Student dental assistants, Department of Health, Education, and Welfare, approved training during clinical affiliation.

Student dental technicians, Department of Health, Education, and Welfare, approved training during clinical affiliation.

Student dietitians, Department of the Army and Department of Health, Education, and Welfare, approved training after a minimum of 3 years college level training.

Student educational therapists and student manual arts therapists, Department of Health, Education, and Welfare, approved training after a minimum of 2 years college level training.

Student hospital administration interns, U.S. Public Health Service, approved training prior to first year postgraduate training in hospital administration.

Student laboratory technicians, Department of the Army and U.S. Public Health Service, 1 year approved training after a minimum of 2 years college level training.

Student medical librarians, first and second years approved postgraduate training during program for the Master of Science degree.

Student medical technologists (interns), Department of the Army and U.S. Public Health Service, 1 year approved training after a minimum of 3 years college level training.

Student medical typists, Department of Health, Education, and Welfare, approved training for a 90-day period.

Student nurse anesthetists, Department of Health, Education, and Welfare, eighteen months approved postgraduate training.

Student nursing assistants, Department of Health, Education, and Welfare, 18 weeks approved clinical training.

Student pharmacists, U.S. Public Health Service, approved training after a minimum of 3 years college level training.

Student practical nurses, U.S. Public Health Service, approved training during clinical affiliation.

Student practical nurses, Department of Health, Education, and Welfare, 1 year approved training.

Student practical nurses, D.C. General Hospital, approved training during clinical affiliation.

Student public health nutritionists, Department of Health, Education, and Welfare, approved training during a program for a graduate degree.

Student X-ray technicians, U.S. Public Health Service, 1 year to 18 months approved training.

Student X-ray technicians, Department of Health, Education, and Welfare, 24 months approved training.

§ 511.202 Authority of department.

Subject to the provisions of Subpart F of this part and § 511.203, a department may determine whether a position is subject to, or is excluded from, the Act under the provisions of sections 202(7) and 202(8) of the Act.

§ 511.203 Exercise of authority.

A department may exercise the authority under § 511.202 only in accordance with guidelines and standards issued by the Commission.

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Appeals

§ 511.601 Applicability of regulations.

This subpart applies to an appeal from an employee or a department for the Commission to review the classification of a position subject to the Act, or for the Commission to determine whether a position is subject to the Act.

§ 511.602 Notification of classification decision.

The incumbent of a position who suffers a loss of grade or compensation which is based in whole or in part on a classification decision is entitled to a prompt written notice of the decision from the department. This notice shall also inform him:

(a) Of his right to appeal the classification decision to the department or to the Commission as provided in this subpart; and

(b) Of the time limits within which he must appeal in order to preserve any retroactive benefits under § 511.703.

§ 511.603 Right of appeal.

(a) *Employee appeal.* An employee, or his representative designated in writing, may appeal and request a Commission decision as to:

(1) The appropriate class or grade of his position.

(2) The inclusion under or exclusion from the Act of his position by his department or the Commission, except in

the case of the incumbent of a position in the Office of the Architect of the Capitol.

(b) *Department appeal.* The head of a department or his authorized representative may appeal any classification decision made by the Commission with respect to any position in the department.

§ 511.604 Filing appeal.

(a) *Employee.* An employee may file an appeal with the Commission directly or through his department.

(b) *Referral of employee appeal to the Commission.* A department shall forward, within 30 calendar days of its receipt in the department, an employee appeal filed through it to the Commission when:

(1) The department chooses to refer the appeal without action to the Commission;

(2) The employee has directed his appeal to the Commission and the department does not act favorably on it; or

(3) The department is not authorized to act on the employee appeal.

§ 511.605 Time limits.

An employee or a department may submit a classification appeal at any time. However, the time limits of § 511.703 must be met in order to receive the benefits of that section.

§ 511.606 Form and contents of appeal.

(a) *Employee appeal.* An employee's appeal shall be in writing and shall contain the reasons why he believes his position is erroneously classified, or should be brought under or excluded from the Act. The department, when forwarding the appeal of an employee or when requested by the Commission, shall furnish the Commission with all relevant facts concerning the position and the department's justification for its decision. The department shall also comment on the information submitted by the appellant.

(b) *Department appeal.* A department's appeal shall be in writing, and shall contain its reasons and justification for requesting a review of the Commission's decision.

(c) *Inspection of appeal file.* The employee and the department will be permitted to inspect the appeal file on request.

§ 511.607 Ascertainment of facts.

The employee and the department shall furnish such facts as may be requested by the Commission. These facts shall be in writing when so requested. The Commission, in its discretion, may investigate or audit the position.

§ 511.608 Notification of appeal decision.

The Commission shall notify the appellant and the department in writing of its decision.

§ 511.609 Cancellation of employee appeal.

An employee appeal shall be canceled and the employee so notified in the following circumstances:

(a) On receipt of the appellant's written request.

(b) On failure to prosecute, when the appellant does not furnish requested information and duly proceed with the advancement of his appeal. In lieu of cancellation for failure to prosecute, an appeal may be adjudicated if the information is sufficient for that purpose. The Commission may reopen a cancelled appeal in its discretion on a showing that circumstances beyond the control of the appellant prevented him from prosecuting the appeal.

(c) On notice that the appellant has left the position, except where he would be entitled to the retroactive benefits of § 511.703, including an appeal pending at the death of an appellant.

§ 511.610 Finality of decision.

An appeal decision made by the Commission is final. There is no further right to appeal. The appeal decision shall constitute a certificate which is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officers of the Government.

§ 511.611 Bureau of Inspections.

The Commission's Bureau of Inspections may, in its discretion, reopen and reconsider any appeal decision made by a Commission regional office under this subpart.

§ 511.612 The Commissioners.

The Commissioners may, in their discretion, reopen and reconsider any previous decision.

Subpart G—Effective Dates of Position-Classification Actions or Decisions

§ 511.701 Effective dates generally.

(a) *Department's classification action.* The effective date of a classification action taken by a department is the date the action is approved in the department or a subsequent date specifically stated.

(b) *Commission's classification decision.* The effective date of a classification decision made by means of a certificate issued by the Commission is not earlier than the date of receipt of the certificate in the department and not later than the beginning of the fourth pay period following the receipt of the certificate in the department, unless a subsequent date is specifically stated in the certificate. The filing of an appeal from such a decision does not delay its effective date.

§ 511.702 Department's or Commission's classification decision on appeal.

Subject to § 511.703, the effective date of a change in the classification of a position resulting from an appeal to either a department or the Commission is not earlier than the date of decision on the appeal and not later than the beginning of the fourth pay period following the date of decision, unless a subsequent date is specifically stated in the decision by the department or the Commission.

§ 511.703 Retroactive effective date.

(a) *Downgrading or loss of compensation.* The effective date of a classification action resulting from an appeal decision reversing in whole or in part either a downgrading or other classification action that resulted in a reduction of compensation shall be made retroactive to the date of adverse action when the initial appeal to either the department or the Commission was submitted within 30 calendar days after receipt of written notice of adverse action. However, when the appeal decision raises the grade of the position above its grade immediately preceding the downgrading, retroactivity will apply only to the extent of restoration to the grade immediately preceding the downgrading. The right to a retroactive effective date provided by this section is preserved on subsequent appeal from a department classification decision to the Commission when the appeal is filed not later than 30 calendar days following receipt of written notification of final administrative decision or 30 calendar days after the effective date of the classification action, whichever is later.

(b) *Grade change based on new duties and responsibilities.* Retroactivity may be based only on duties and responsibilities existing at the time of downgrading or loss of compensation and not on duties and responsibilities later assigned.

(c) *Retroactivity when time limits are extended.* The right to a retroactive effective date provided by this section may be preserved, in the discretion of the Commission, on a showing by the employee that he was not notified of the applicable time limit and was not otherwise aware of the limit or that circumstances beyond his control prevented him from filing an appeal within the prescribed time limit.

PART 591—ALLOWANCES AND DIFFERENTIALS PAYABLE IN NON-FOREIGN AREAS

Subpart A—Definitions

Sec.
591.101 Definitions.

Subpart B—Establishment and Maintenance of Allowances and Differentials

591.201 Areas covered.
591.202 Places and rates at which allowances shall be paid.
591.203 Places and rates at which differentials shall be paid.
591.204 Establishment of rates for additional places.
591.205 Periodic review.
591.206 Deductions from allowances.

Subpart C—Agencies and Employees Affected

591.301 Agencies and employees covered.
591.302 Exclusion of certain employees.
591.303 Eligibility for differential.
591.304 Coordination of allowances and differentials.

Subpart D—Payment of Allowances and Differentials

591.401 Payment of allowances and differentials.

AUTHORITY: §§ 591.101 to 591.401 issued under sec. 207, 62 Stat. 194, as amended; 5 U.S.C. 118h; sec. 202, E.O. 10,000, 13 F.R. 5453, 3 CFR, 1943–48 Comp., p. 792; E.O. 10636, 20 F.R. 7025, 3 CFR, 1954–58 Comp., p. 268.

Subpart A—Definitions

§ 591.101 Definitions.

In this part:

(a) "Act" means section 207 of the Independent Offices Appropriation Act, 1949, as amended (62 Stat. 194; 5 U.S.C. 118h).

(b) "Date of arrival" means the beginning of business on the workday of the employee's arrival at the post, or other place designated. When the employee's arrival is on a nonworkday, "date of arrival" means the beginning of business on the first workday following arrival.

(c) "Date of departure" means the close of business on the workday of the employee's departure from the post or other place designated. When the employee's departure is on a nonworkday, "date of departure" means the close of business on the last workday preceding departure.

(d) "Day or calendar day" means any day of the year. Fractional days are considered whole days.

(e) "Detail" means the temporary assignment or temporary duty of an employee away from his post of regular assignment, including all periods of leave while serving at the post of detail.

(f) "Non-foreign allowance or allowance" means a cost-of-living allowance payable under the Act at a post in a nonforeign area where living costs are substantially higher than in the District of Columbia.

(g) "Non-foreign area" means the States of Alaska and Hawaii, the Commonwealth of Puerto Rico, territories of the United States, and such additional areas located outside the continental United States as the Secretary of State designates as within the scope of Part II of Executive Order 10,000, as amended, and as listed in Part 1326 of this title.

(h) "Non-foreign differential or differential" means additional compensation payable under the Act as a post in a a non-foreign area when conditions of environment differ substantially from conditions of environment in the States and warrant additional compensation as a recruitment incentive.

(i) "On assignment or on transfer" at a post of duty means officially occupying a position located at the post, geographically and organizationally, and having official headquarters at the post for travel and other administrative purposes.

(j) "Rate of basic compensation" means the rate of compensation fixed by statute for the position held by an individual, before any deductions and exclusive of additional compensation of any kind, such as overtime pay, night differential, extra pay for work on holidays, or allowances and differentials.

Subpart B—Establishment and Maintenance of Allowances and Differentials

§ 591.201 Areas covered.

The following areas are subject to this part:

Alaska (including all the Aleutian Islands east of longitude 167 degrees east of Greenwich).

American Samoa (including the island of Tutuila, the Manua Islands, and all other islands of the Samoan group east of longitude 171 degrees west of Greenwich, together with Swains Island).

Canton and Enderbury Islands.

Commonwealth of Puerto Rico.

Guam.

Hawaii (including Ocean or Kure Island).

Howland, Baker, and Jarvis Islands.

Johnston or Cornwallis Island, and Sand Island.

Kingman Reef.

Midway Islands.

Navassa Island.

Palmyra Island.

Swan Islands.

Virgin Islands of the United States.

Wake Island.

Any small guano islands, rocks, or keys which, in pursuance of action taken under the Act of Congress, August 18, 1856, are considered as appertaining to the United States.

Any other islands to which the United States Government reserves claim, such as Christmas Island.

§ 591.202 Places and rates at which allowances shall be paid.

In accordance with the act and section 205 of Executive Order 10,000, as amended, and in consideration of relative consumer price levels in the area and in the District of Columbia, and differences in goods and services available and the manner of living of persons employed in the area concerned in positions comparable to those of United States employees in the area, allowances are established at the following places and rates:

Alaska (including all the Aleutian Islands east of longitude 167 degrees east of Greenwich): 25 percent of rate of basic compensation.

Commonwealth of Puerto Rico: 12½ percent of rate of basic compensation.

Hawaii (excluding Ocean or Kure Island): 15 percent of rate of basic compensation.

Virgin Islands of the United States: 15 percent of rate of basic compensation.

§ 591.203 Places and rates at which differentials shall be paid.

In accordance with the act and section 202 of Executive Order 10,000, as amended, and based on (a) extraordinarily difficult living conditions, (b) excessive physical hardship, or (c) notably unhealthful conditions, differentials are established at the following places and rates:

American Samoa (including the island of Tutuila, the Manua Islands, and all other islands of the Samoan group east of longitude 171 degrees west of Greenwich, together with Swains Island): 25 percent of rate of basic compensation.

Canton Island: 25 percent of rate of basic compensation.

Christmas Island: 25 percent of rate of basic compensation.

Guam: 25 percent of rate of basic compensation.

Johnston or Cornwallis Island, and Sand Island: 25 percent of rate of basic compensation.

Midway Islands: 25 percent of rate of basic compensation.

Swan Islands: 25 percent of rate of basic compensation.

Wake Island: 25 percent of rate of basic compensation.

§ 591.204 Establishment of rates for additional places.

The department or agency concerned shall submit to the Commission in writing requests for the establishment of rates of allowances or differentials for places for which they have not been established by this subpart.

§ 591.205 Periodic review.

The Commission shall review from time to time, but at least annually, the places designated, the rates fixed, and the regulations in this part, which are prescribed for payment of allowances and differentials, with a view to making those changes therein as will insure that payment of additional compensation shall continue only during the continuance of conditions justifying payment of allowances and differentials, and shall not in any instance exceed the amount justified.

§ 591.206 Deductions from allowances.

In accordance with the provisions of section 205(b)(2) of Executive Order 10,000, as amended, deductions from allowances of the following classes of employees shall be made at the following places and rates: None.

Subpart C—Agencies and Employees Affected

§ 591.301 Agencies and employees covered.

(a) In accordance with the Act, Part II of Executive Order 10,000, as amended, and this part, each executive department, independent establishment, and wholly owned Government corporation shall pay (1) an allowance to each of its employees whose rate of basic compensation is fixed by statute, who is located at a place for which an allowance has been established, and who is otherwise eligible to receive allowance payments; and (2) a differential to each of its employees whose rate of basic compensation is fixed by statute, who is located at a place for which a differential has been established, and who is otherwise eligible to receive differential payments.

(b) The Act, Part II of Executive Order 10,000, as amended, and this part apply to civilian employees of the United States whose rates of basic compensation are fixed by statute.

§ 591.302 Exclusion of certain employees.

(a) The Act, Part II of Executive Order 10,000, as amended, and this part do not apply to employees in the Panama Canal Zone whose rates of basic compensation are fixed by statute, or to any other groups of employees for whom additional compensation or salary differentials for service outside the continental United States or in Alaska are otherwise specifically authorized by statute.

(b) Governors of territories. A department or agency shall not pay an allowance or differential to a governor of a territory in a nonforeign area, except that on the specific request of the department or agency concerned, the

Commission may authorize the payment of a differential to a governor whose compensation is fixed under the Classification Act of 1949, as amended, if he is otherwise eligible to receive a differential and the Commission determines that payment is warranted in the circumstances.

§ 591.303 Eligibility for differential.

(a) The department or agency concerned shall determine eligibility to receive a differential of any person not included in a class enumerated in paragraph (c) of this section in accordance with paragraph (b) of this section.

(b) In order for an employee to be eligible to receive a differential, (1) he shall be a citizen or national of the United States; (2) his residence in the area to which the differential applies, at the time of receipt thereof, shall be fairly attributable to his employment by the United States; and (3) his residence in the area over an appropriate prior period of time must not be fairly attributable to reasons other than employment by the United States or by United States firms, interests, or organizations.

(c) Subject to paragraph (b) of this section, the classes of persons eligible to receive differentials include but are not limited to:

(1) Persons recruited or transferred from outside the area to which the differential concerned is applicable, except that the department or agency concerned shall exclude from those eligible to receive a differential the spouse of an individual who is stationed, employed, or resident in the differential area when the department or agency determines that the spouse is there primarily to be near the individual.

(2) Persons employed in the area to which the differential concerned is applicable but (i) who were originally recruited from outside the area and have been in substantially continuous employment by other Federal agencies, contractors of Federal agencies, or international organizations in which the United States Government participates, and whose conditions of employment provide for their return transportation to places outside the differential area concerned; or (ii) who were at the time of employment temporarily present in the differential area concerned for purposes of travel or formal study and maintained residence outside the area during the period so present.

(3) Persons who are not normally residents of the area to which the differential concerned is applicable and who are discharged from the military service of the United States in the area to accept employment therein with an agency of the Federal Government.

§ 591.304 Coordination of allowances and differentials.

An employee eligible to receive an allowance at a post for which both an allowance and a differential have been established shall receive the full allowance otherwise payable to him under this part. When both an allowance and a differential are authorized at one post, the eligible employee shall be paid the full allowance first, and in addition, so much of the differential as will not cause the combined compensation for allowances and differentials to exceed a rate of 25 percent of his rate of basic compensation.

Subpart D—Payment of Allowances and Differentials

§ 591.401 Payment of allowances and differentials.

(a) Payment of an allowance or a differential shall not be made for any time for which an employee does not receive basic compensation.

(b) Additional compensation paid under authority of the Act and this part shall not exceed in any instance 25 percent of the rate of basic compensation.

(c) Payment of an allowance or a differential shall begin as of the date of arrival at the post of duty on regular assignment or transfer, or on the date of entrance on duty in the case of local recruitment. Payment of an allowance or a differential shall cease on separation, or as of the date of departure on transfer to a new post of regular assignment.

(d) An allowance or a differential shall not be included in the base used in computing overtime pay, night differential, holiday pay, retirement deductions, or any other additional compensation, allowance, or pay differential.

(e) Payment of an allowance or a differential is not an "equivalent increase" in compensation within the meaning of the Classification Act of 1949, as amended.

(f) When an employee who is en route to, or returning from, his post of regular assignment is required to perform work in an area where payment of allowances or differentials is authorized, he shall be paid the allowances or differentials for his post of regular assignment while he is performing this work.

(g) Payment of an allowance at the rate prescribed for the post of regular assignment shall continue for all periods of absence from the post on leave, including transit time. Payment of a differential at the rate prescribed for the post of regular assignment shall continue for the first 42 consecutive days of absence from the post on leave, including transit time. Payment of allowances and differentials under this subparagraph is authorized only if the employee returns to a post of regular assignment in a foreign or non-foreign area.

(h) Payment of an allowance at the rate prescribed for the post of regular assignment shall continue for all periods of detail from the post, including transit time. Payment of a differential at the rate prescribed for the post of regular assignment shall continue for the first 42 consecutive calendar days on detail from the post, including transit time. When an employee, during a period of detail, has aggregated 42 days in a pay status at a differential post, he shall thereafter be paid the differential prescribed for each post of detail in a nonforeign or in a foreign area while serving at each post of detail, but not for any time in transit. In any case, the total amount of additional compensation payable under this Part is restricted to 25 percent of the employee's rate of basic compensation as specified in the Act, section 591.304, and paragraph (b) of this section.

(i) When an employee is temporarily absent from his post of regular assignment on leave and detail, payment of the differential for his post of regular assignment is limited to the first 42 consecutive calendar days of the temporary absence, including transit time.

(j) Payment of an allowance or differential to an employee serving on a part-time basis shall be prorated to cover only those periods of time for which the employee receives basic compensation.

PART 713—NONDISCRIMINATION

Subpart A—Policy of Equal Employment Opportunity

Sec.
713.101 When making appointments and position changes.
713.102 Restriction of consideration to one sex.

AUTHORITY: §§ 713.101 and 713.102 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954—1958 Comp., p. 218.

Subpart A—Policy of Equal Employment Opportunity

§ 713.101 When making appointments and position changes.

In determining the merit and fitness of a person for competitive appointment or appointment by noncompetitive action to a position in the competitive service, an appointing officer shall not discriminate on the basis of the person's religious or political affiliations, marital status, race, color, national origin, or sex, nor shall he discriminate on the basis of a physical handicap with respect to any position the duties of which may be performed efficiently by a person with the physical handicap.

§ 713.102 Restriction of consideration to one sex.

An appointing officer may not restrict his consideration of eligibles or employees for competitive appointment or appointment by noncompetitive action to a position in the competitive service, or for training, to one sex, except in unusual circumstances when the Commission finds the action justified.

PART 731—SUITABILITY

Subpart A—[Reserved]

Subpart B—Suitability Disqualifications

Sec.
731.201 Reasons for disqualification.

Subpart C—Suitability Rating Actions

731.301 Jurisdiction.
731.302 Actions against employees.
731.303 Debarment.

Subpart D—Appeals and Reemployment Eligibility

731.401 Reemployment eligibility of certain former Federal employees.

AUTHORITY: §§ 731.201 to 731.401 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954—1958 Comp. p. 218. Statutory provisions interpreted or applied are cited to text in parentheses.

Subpart A—[Reserved]

Subpart B—Suitability Disqualifications

§ 731.201 Reasons for disqualification.

Subject to Subpart C of this Part, the Commission may deny an applicant examination, deny an eligible appointment, and instruct an agency to remove an appointee for any of the following reasons:

(a) Dismissal from employment for delinquency or misconduct;

(b) Criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct;

(c) Intentional false statement or deception or fraud in examination or appointment;

(d) Refusal to furnish testimony as required by § 5.3 of this chapter;

(e) Habitual use of intoxicating beverages to excess;

(f) Reasonable doubt as to the loyalty of the person involved to the Government of the United States; or

(g) Any legal or other disqualification which makes the individual unfit for the service.

(Sec. 8, 22 Stat. 406; 5 U.S.C. 640)

Subpart C—Suitability Rating Actions

§ 731.301 Jurisdiction.

(a) *Appointments subject to investigation.* (1) In order to establish the appointee's qualifications and suitability for employment in the competitive service, all types of appointments to positions in the competitive service are subject to investigation by the Commission, except promotions, demotions, reassignments, and conversions from career-conditional to career employment.

(2) Appointments are subject to investigation to continue the Commission's jurisdiction to investigate the qualifications and suitability of an applicant after appointment and to authorize the Commission to require removal when it finds the appointee is disqualified for Federal employment. The subject-to-investigation condition may not be construed as requiring an employee to serve a new probationary or trial period or as extending the probationary or trial period of an employee.

(b) *Duration of condition.* The subject-to-investigation condition expires automatically at the end of 1 year after the effective date of appointment, except in a case involving intentional false statement or deception or fraud in examination or appointment.

§ 731.302 Actions against employees.

(a) For a period of 1 year after the effective date of an appointment subject to investigation under § 731.301, the Commission may instruct the agency to remove an appointee when it finds he is not qualified or is unsuitable for any of the reasons cited in § 731.201. Thereafter, the Commission may require removal only on the basis of intentional false statement or deception or fraud in examination or appointment.

(b) An action to remove or otherwise discipline an appointee taken pursuant to an instruction by the Commission is not subject to Part 752 or 772 of this chapter. Parts 752 and 772 of this chapter are applicable when removal or other disciplinary action covered by those parts is initiated by an agency.

§ 731.303 Debarment.

When a person is disqualified for any reason named in § 731.201, the Commission, in its discretion, may deny that person examination for and appointment to a competitive position for a period of not more than 3 years from the date of determination of disqualification. On expiration of the period of debarment, the person who has been debarred may not be appointed to any position in the competitive service until his fitness for appointment has been redetermined by the Commission.

Subpart D—Appeals and Reemployment Eligibility

§ 731.401 Reemployment eligibility of certain former Federal employees.

(a) *Request for suitability determination.* When an employee has been removed by an agency on charges (other than security or loyalty) or has resigned on learning the agency planned to prefer charges, or while charges were pending, the former employee may request the Commission to determine his eligibility for further employment in the competitive service, insofar as his suitability and fitness are concerned. The Commission shall consider the request only if the former employee:

(1) Has completed any required probationary period;

(2) Has basic eligibility for reinstatement; and,

(3) Includes a sworn statement with the request which sets forth fully and in detail the facts surrounding his removal or resignation.

(b) *Action by Commission.* (1) After appropriate consideration, including such investigation as the Commission considers necessary, the Commission shall inform the former employee whether it has found him suitable for further employment in the competitive service.

(2) If the former employee is found unsuitable and has had an opportunity to comment on the reasons for this finding, or has furnished them to the Commission, it may cancel his reinstatement eligibility if that eligibility resulted from his last Federal employment and was obtained through fraud. In addition, the Commission may prescribe a period of debarment from the competitive service not to exceed 3 years.

(c) *Time limits for submitting requests.* The Commission may consider a case under this section only if it is submitted to the Commission within 6 months after the date of separation, or 60 days after the date of the last adverse decision as a result of an appeal, whichever is later. The Commission may extend this time limit on a showing by the former employee that circumstances beyond his control prevented him from filing his request within the prescribed period.

PART 732—PERSONNEL SECURITY PROGRAM

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—[Reserved]

Subpart D—Security Determinations

§ 732.401 Reemployment eligibility of certain former Federal employees.

(a) *Request for determination.* A civilian officer or employee whose employment is terminated, or who resigns while suspended, in the interest of national security under the Act of August 26, 1950, as amended, or another statute granting the power of summary dismissal in the interest of national security, may request the Commission, in writing, to determine whether he is eligible for employment in another department or agency of the Government.

(b) *Action by the Commission.* (1) The Commission shall determine, and will notify the former employee, after appropriate consideration of his case, including such investigation as it considers necessary, whether he may be employed in another department or agency of the Government.

(2) If a former Federal employee found unsuitable under this section has had an opportunity to comment on the reasons for the action, or has furnished them to the Commission or to his former employing agency, the Commission may also cancel his reinstatement eligibility if the eligibility resulted from his last Federal employment and was obtained through fraud, or the Commission may prescribe a period of debarment from the competitive service, not to exceed 3 years, or both.

(R.S. 1753; sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218. Interprets or applies sec. 1, 64 Stat. 476, as amended; 5 U.S.C. 22–1; E.O. 10450, 18 F.R. 2489, 3 CFR, 1949–1953 Comp., p. 936)

PART 733—POLITICAL ACTIVITIES OF FEDERAL EMPLOYEES

Subpart A—General Provisions

Sec.
733.101 Purpose.
733.102 Penalties.

Subpart B—[Reserved]

Subpart C—Privileged Localities

733.301 Grant of privilege to residents of certain localities.

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Procedures for the Competitive Service

733.601 Applicability.
733.602 Investigation.
733.603 Notification of closing action or charges.
733.604 Employee's answer.
733.605 Initial decision.
733.606 Hearing; procedure.
733.607 Waiver of hearing.
733.608 Final decision.

Subpart G—Procedures for the Excepted Service

Sec.
733.701 Applicability.
733.702 Investigation.
733.703 Charge and answer.
733.704 Agency decision.
733.705 Appeal.
733.706 Retention of employee pending decision on appeal.
733.707 Hearing on appeal to the Commission.
733.708 Examiner's recommendation.
733.709 Waiver of hearing.
733.710 Final decision.

AUTHORITY: §§ 733.101 to 733.710 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218. Interpret or apply sec. 9, 53 Stat 1148, as amended, sec. 14, 58 Stat. 390, as amended; 5 U.S.C. 118i, 863.

Subpart A—General Provisions

§ 733.101 Purpose.

The purpose of this part is to provide the procedures to be followed in determining whether an officer or employee, referred to in this part as an employee, who is subject to:

(a) Section 9 of the Hatch Political Activities Act (53 Stat. 1148; 5 U.S.C. 118i), referred to in this part as the Act, has engaged in political activities prohibited by that section; or

(b) Civil service rule IV (Part 4 of this chapter), referred to in this part as the rule, has engaged in political activities prohibited by the rule.

§ 733.102 Penalties.

(a) The penalties for violation of section 9(a) of the Act are set forth in section 9(b) of the Act and shall be imposed. The penalties for violation of the rule are imposed in accordance with the Act.

(b) An agency may not employ a person removed for violation of the Act or rule in a position the salary or compensation of which is payable under the same appropriation as the position from which the person was removed. In addition, when it is found that an employee has engaged in prohibited political activity, the Commission may consider the matter from a suitability standpoint and establish a definite period during which the employee is debarred from employment in the competitive service.

(c) An employee suspended under this part for violation of the Act or rule is not eligible for employment in another position subject to section 9 of the Act during the period of his suspension.

Subpart B—[Reserved]

Subpart C—Privileged Localities

§ 733.301 Grant of privilege to residents of certain localities.

(a) Under section 16 of the Act the Commission has excepted employee residents of certain municipalities and political subdivisions from the prohibitions of section 9 of the Act, subject to the following conditions:

(1) An employee shall not neglect his official duties or engage in nonlocal partisan political activities.

(2) An employee shall not run for local office as a candidate representing a political party or become involved in political management in connection with the campaign of a party candidate for office.

(3) An employee who is a candidate for local elective office shall run as an independent candidate.

(4) An employee elected or appointed to an elective local office requiring full-time service shall resign his position that is subject to section 9 of the Act. If an employee is elected or appointed to an elective local office requiring only part-time service, he may accept and hold that office without relinquishing his position that is subject to section 9 of the Act if the holding of the part-time office does not conflict or interfere with his duties in the position that is subject to section 9 of the Act. The agency in which the employee is employed is the sole judge of whether or not the holding of the part-time office conflicts or interferes with his duties in the position that is subject to section 9 of the Act.

(5) The Commission may suspend or withdraw the exception granted employee residents of a particular municipality or political subdivision when the Commission considers that the activities resulting from the exception are or may become detrimental to the public interest or inimical to the proper enforcement of the Act and rule.

(b) The exceptions referred to in paragraph (a) of this section are effective for employee residents in each municipality and political subdivision named in this paragraph, from and after the date specified.

IN MARYLAND

Annapolis (May 16, 1941).
Berwyn Heights (June 15, 1944).
Bethesda (Feb. 17, 1943).
Bladensburg (Apr. 20, 1942).
Bowie (Apr. 11, 1952).
Brentwood (Sept. 26, 1940).
Capitol Heights (Nov. 12, 1940).
Cheverly (Dec. 18, 1940).
Chevy Chase, sections 1 and 2 (Mar. 4, 1941).
Chevy Chase, section 3 (Oct. 8, 1940).
Chevy Chase, section 4 (Oct. 2, 1940).
Martin's Additions 1, 2, 3, and 4 to Chevy Chase (Feb. 13, 1941).
Chevy Chase View (Feb. 26, 1941).
College Park (June 13, 1945).
Cottage City (Jan. 15, 1941).
District Heights (Nov. 2, 1940).
Edmonston (Oct. 24, 1940).
Fairmont Heights (Oct. 24, 1940).
Forest Heights (Apr. 22, 1949).
Garrett Park (Oct. 2, 1940).
Glenarden (May 21, 1941).
Glen Echo (Oct. 22, 1940).
Greenbelt (Oct. 4, 1940).
Hyattsville (Sept. 20, 1940).
Kensington (Nov. 8, 1940).
Landover Hills (May 5, 1945).
Morningside (May 19, 1949).
Mount Rainier (Nov. 22, 1940).
North Beach (Sept. 20, 1940).
North Brentwood (May 6, 1941).
North Chevy Chase (July 22, 1942).
Northwest Park (Feb. 17, 1943).
Prince Georges County (June 19, 1962).
Riverdale (Sept. 26, 1940).
Rockville (Apr. 15, 1948).
Seat Pleasant (Aug. 31, 1942).
Somerset (Nov. 22, 1940).
Takoma Park (Oct. 22, 1940).
University Park (Jan. 18, 1941).
Washington Grove (Apr. 5, 1941).

IN VIRGINIA

Alexandria (Apr. 15, 1941).
Arlington County (Sept. 9, 1940).
Clifton (July 14, 1941).
Fairfax County (Nov. 10, 1949).
Town of Fairfax (Feb. 9, 1954).
Falls Church (June 6, 1941).
Herndon (Apr. 7, 1945).
Vienna (Mar. 18, 1946).
Portsmouth (Feb. 27, 1958).

OTHER MUNICIPALITIES

Bremerton, Wash. (Feb. 27, 1946).
Port Orchard, Wash. (Feb. 27, 1946).
Elmer City, Wash. (Oct. 28, 1947).
Anchorage, Alaska (Dec. 29, 1947).
Benicia, Calif. (Feb. 20, 1948).
Warner Robins, Ga. (Mar. 19, 1948).
Norris, Tenn. (May 6, 1959).
Sierra Vista, Ariz. (Oct. 5, 1955).
New Johnsonville, Tenn. (Apr. 26, 1956).
Huachuca City, Ariz. (Apr. 9, 1959).

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Procedures for the Competitive Service

§ 733.601 Applicability.

This subpart is applicable to employees in the competitive service.

§ 733.602 Investigation.

(a) The Commission shall investigate allegations of prohibited political activity on the part of an empleyee without a pledge of confidence. The Commission shall notify the agency in which the employee is employed of the investigation, and shall afford the agency an opportunity to participate in the investigation.

(b) During the course of the investigation, the Commission shall afford the employee an opportunity to make a statement concerning the substance of any political activity disclosed by the investigation and to furnish the names of any witnesses he wishes to have interviewed.

§ 733.603 Notification of closing action or charges.

(a) The General Counsel of the Commission may close a case when he decides, after reviewing the report of investigation, that violation of the Act and rule has not been established. The General Counsel shall notify the employee and the employing agency of his decision to close the case.

(b) The General Counsel shall notify the employee in writing by registered or certified mail, return receipt requested, when he decides that the report of investigation indicates that the Act and rule have been violated. The notice shall set forth the charges of alleged prohibited political activity specifically and in detail, and shall inform the employee of the penalty under the Act. The employee is entitled to at least 30 full days' advance notice of the proposed action, and is entitled to be retained in an active-duty status during the notice period.

§ 733.604 Employee's answer.

The employee may answer the charges within 15 days from the date of receipt of the notice. He may answer personally or in writing, or both personally and in writing, and may furnish affidavits in support of his answer.

§ 733.605 Initial decision.

When the General Counsel decides, after reviewing the employee's answer and any affidavits submitted therewith, that a violation of the Act and rule has been established, he shall so notify the employee. The notification to the employee shall state the reasons for the decision and inform the employee of his right to a personal appearance, referred to in this subpart as a hearing.

§ 733.606 Hearing; procedure.

(a) The Commission shall determine the time and place for the hearing after giving due consideration to the request of the employee as to time and place. The employee is entitled to notice of the hearing at least 10 calendar days in advance of the date fixed for the hearing.

(b) The hearing shall be held before an examiner designated by the Commission. Testimony at the hearing shall be under oath or affirmation. The parties may introduce affidavits and other documentary evidence. The employee or his representative may review all statements, affidavits, and documents which are to be considered as evidence.

(c) The employee may be represented by counsel of his own choice. The employee and the counsel of the Commission may produce witnesses who are subject to cross examination. The employee and the counsel of the Commission are responsible for securing the attendance of their respective witnesses. There is no power of subpena in these cases.

(d) The Commission shall arrange for the hearing to be reported stenographically by a reporter on behalf of the Commission, unless the parties agree to a summary of the testimony. When the hearing is not reported stenographically, the examiner shall prepare or direct the preparation of a summary of the testimony. The Commission shall furnish, without cost, to each party a copy of the transcript or summary of the hearing. The parties may file written exceptions to the summary. The examiner shall certify the summary and any exceptions thereto which then become part of the record. The examiner may permit and fix the time for the filing of briefs.

(e) The examiner shall submit the record, including the report or summary of the hearing, to the Commissioners with his recommended decision as to the violation found by the General Counsel and any penalty to be imposed.

§ 733.607 Waiver of hearing.

If the employee waives a hearing and the General Counsel agrees to the waiver, the General Counsel shall refer the record to an examiner. The examiner shall submit the record to the Commissioners with his recommended decision as to the violation found by the General Counsel and any penalty to be imposed.

§ 733.608 Final decision.

The Commissioners shall make the final decision. The Commission shall notify the employee and the employing agency of the final decision. When the final decision is adverse to the employee, the Commission shall set forth in the notification to the employee the reasons on which the decision is based and the penalty to be imposed, and shall send the notification to the employee by registered or certified mail, return receipt requested. The employing agency shall take action in accordance with the final decision.

Subpart G—Procedures for the Excepted Service

§ 733.701 Applicability.

This subpart is applicable to employees in the excepted service.

§ 733.702 Investigation.

The employing agency shall investigate allegations of prohibited political activity on the part of an employee without a pledge of confidence.

§ 733.703 Charge and answer.

The employing agency shall issue to the employee a notice of proposed removal when the report of investigation indicates that the Act has been violated. The notice shall set forth the charges of alleged prohibited political activity specifically and in detail. The agency shall send the notice to the employee by registered or certified mail, return receipt requested. The employee may answer the notice within 15 calendar days from the date of receipt of the notice. He may answer personally, or in writing, or both personally and in writing, and may furnish affidavits in support of his answer. The employee is entitled to at least 30 full days' advance notice of the proposed action, and is entitled to be retained in an active-duty status during the notice period.

§ 733.704 Agency decision.

On receipt of the employee's answer, or if he fails to answer within the time set, the employing agency shall make the decision on the entire record and notify the employee thereof by registered or certified mail, return receipt requested. When the decision is adverse to the employee, the notice of decision shall:

(a) Set forth, specifically and in detail, the charges on which the decision is based;

(b) Set forth the effective date of the proposed removal; and

(c) Advise the employee of his right to appeal to the Commission, the time within which the appeal may be filed, and the place where the appeal may be filed.

§ 733.705 Appeal.

An employee may appeal to the Commission from a decision of the employing agency that his removal is warranted for violation of the Act. An appeal to the Commission shall be in writing; addressed to the U.S. Civil Service Commission, Washington 25, D.C.; and state whether the employee wishes a hearing. The appeal shall be filed within 15 calendar days after the employee's receipt of the agency's notice of decision. The Commission may extend the time limit when an employee shows that circumstances beyond his control prevented him from filing the appeal within the time limit.

§ 733.706 Retention of employee pending decision on appeal.

When an employee has filed a timely appeal with the Commission, the employing agency may not remove him, but shall retain him in an active duty status until a final decision is made by the Commissioners. When an employee does not file a timely appeal with the Commission, the decision made by the employing agency becomes final.

§ 733.707 Hearing on appeal to the Commission.

(a) Each employee who appeals under § 733.705 is entitled to a personal appearance, referred to in this subpart as a hearing. The Commission shall determine the time and place for the hearing after giving due consideration to the request of the employee as to time and place. The employee is entitled to notice of the hearing at least 10 calendar days in advance of the date fixed for the hearing.

(b) The hearing shall be held before an examiner designated by the Commission. Testimony at the hearing shall be under oath or affirmation. The parties may introduce affidavits and other documentary evidence. The employee or his representative may review all statements, affidavits, and documents which are to be considered as evidence.

(c) The employee may be represented by counsel of his own choice. The employee and the representative of the employing agency may produce witnesses who are subject to cross examination. The employee and the representative of the employing agency are responsible for securing the attendance of their respective witnesses. There is no power of subpena in these cases.

(d) The Commission shall arrange for the hearing to be reported stenographically by a reporter on behalf of the Commission, unless the Commission or the examiner directs otherwise. When the hearing is not reported stenographically, the examiner shall prepare or direct the preparation of a summary of the testimony. The Commission shall furnish, without cost, to each party a copy of the transcript or summary of the hearing. The parties are entitled to file written exceptions to the summary. The examiner shall certify the summary and any exceptions thereto which then become part of the record.

(e) The examiner may permit and fix the time for the filing of briefs.

§ 733.708 Examiner's recommendation.

The examiner shall submit the record, including the report or summary of the hearing, to the Commissioners with his recommended decision as to the violation found by the employing agency and any penalty to be imposed.

§ 733.709 Waiver of hearing.

If the employee waives a hearing, the examiner shall submit the record to the Commissioners with his recommended decision as to the violation found by the employing agency and any penalty to be imposed.

§ 733.710 Final decision.

The Commissioners shall make the final decision. The Commission shall notify the employee and the employing agency of the final decision. The Commission shall set forth in the notification of decision the reasons on which the decision is based and any penalty to be imposed, and shall send the notification to the employee by registered or certified mail, return receipt requested. The employing agency shall take action in accordance with the final decision.

PART 734—HOLDING STATE OR LOCAL OFFICE

Subpart A—General Prohibition

Sec.
734.101 Prohibition against holding State or local office.

Subpart B—Exceptions From the General Prohibition

734.201 Executive order exceptions.
734.202 Full-time employees.
734.203 Part-time employees.
734.204 Employees on leave without pay.
734.205 Conditions.

AUTHORITY: §§ 734.101 to 734.205 issued under R.S. 1753; 5 U.S.C. 631; E.O. 10530, 19 F.R. 2709, 3 CFR, 1954–1958 Comp., p. 189.

Subpart A—General Prohibition

§ 734.101 Prohibition against holding State or local office.

A person may not accept or hold an office under a State or local government, including a department, agency, or political subdivision of a State or local government, at the same time that he holds an office or employment in the executive branch of the Federal Government by appointment, except as provided by Subpart B of this part.

Subpart B—Exceptions From the General Prohibition

§ 734.201 Executive order exceptions.

Subject to § 734.205, a Federal employee may hold a State or local office as authorized by Executive order.

§ 734.202 Full-time employees.

Subject to § 734.205, a full-time Federal employee may hold a State or local office on other than a full-time basis.

§ 734.203 Part-time employees.

Subject to § 734.205, a Federal employee employed on other than a full-time basis may hold a State or local office, whether full-time or otherwise.

§ 734.204 Employees on leave without pay.

(a) Subject to § 734.205, a Federal employee who is on leave without pay may hold a State or local office on a full-time basis. The Federal employing agency is the sole judge of whether it is in its interest to grant leave without pay for the purpose of this paragraph.

(b) An employee of a State or local government who is on leave without pay may hold a Federal position on a full-time basis under a temporary appointment.

§ 734.205 Conditions.

A Federal employee may accept and hold a State or local office only if he obtains the prior approval of his Federal employing agency, and his service in the State or local office will not interfere with the regular and efficient performance of his Federal position. The Federal employing agency is the sole judge of whether or not the employee's service in the State or local office will interfere with the regular and efficient performance of his Federal position. Nothing in this part may be construed as permitting an employee to engage in partisan political activity prohibited by section 9 of the Hatch Political Activities Act (53 Stat. 1148; 5 U.S.C. 118i) and Civil Service Rule IV (Part 4 of this chapter).

PART 752—ADVERSE ACTIONS

Subpart A—General Provisions

Sec.
752.101 Applicability.
752.102 Definition.
752.103 General exclusions.
752.104 General standards.
752.105 Agency records.

Subpart B—Discharge, Suspension for More Than 30 Days, Furlough Without Pay, and Reduction in Rank or Compensation

752.201 Coverage.
752.202 Procedures.
752.203 Appeal rights to the Commission.

Subpart C—Suspensions of 30 Days or Less

752.301 Coverage.
752.302 Procedures.
752.303 Emergency procedures.
752.304 Appeal rights to the Commission.

Subpart D—Reversals of Adverse Actions

752.401 Agency action when Commission recommends restoration or other corrective action.
752.402 Agency reversal of certain adverse decisions.

AUTHORITY: §§ 752.101 to 752.402 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended, secs. 11, 19, 58 Stat. 390, 391, as amended; 5 U.S.C. 631, 633, 860, 868; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218, E.O. 10988, 27 F.R. 551.

Subpart A—General Provisions

§ 752.101 Applicability.

This part applies to discharges, suspensions, furloughs without pay, and reductions in rank or compensation of employees of the Government of the United States and the government of the District of Columbia.

§ 752.102 Definition.

In this part, "days" means calendar days, not workdays.

§ 752.103 General exclusions.

(a) *Employees.* The employees covered by this part are shown in Subparts B and C of this part. In no case, however, does any of this part apply to:

(1) A reemployed annuitant;

(2) An employee under the legislative or judicial branch of the Government unless he is occupying a position in the competitive service;

(3) An employee occupying a position in the competitive service under a temporary appointment;

(4) An employee whose appointment is required by Congress to be confirmed by, or made with, the advice and consent of the United States Senate, except a postmaster;

(5) An employee currently serving a probationary or trial period;

(6) An employee in the excepted service who is not a preference eligible employee, except an employee with competitive status occupying a position in Schedule B of Part 213 of this chapter; or

(7) An employee serving under a term appointment on expiration of his term appointment.

(b) *Adverse actions.* The adverse actions covered by this part are shown in Subparts B and C of this part. In no case, however, does any of this part apply to:

(1) A decision of the Commission;

(2) An action taken by an agency pursuant to instructions from the Commission;

(3) A reduction-in-force action taken under Part 351 of this chapter; or

(4) An action taken under the Act of August 26, 1950, as amended, or any other statute which authorizes an agency to take suspension or separation action without regard to section 6 of the Act of August 24, 1912, as amended, or any other statute.

§ 752.104 General standards.

(a) An agency may not take an adverse action against an employee covered by this part except for such cause as will promote the efficiency of the service.

(b) An agency may not take an adverse action against an employee covered by this part for political reasons, except when required by statute.

(c) An agency may not take an adverse action against an employee covered by this part that is based on discrimination because of sex, marital status, race, creed, color, national origin, or for physical handicap with respect to any position the duties of which may be efficiently performed by a person with the physical handicap.

§ 752.105 Agency records.

Each agency shall make a part of its records copies of the notice of proposed adverse action, any answer made by the employee, the notice of any agency hearing on the proposed adverse action and the report thereof, and the notice of decision.

Subpart B—Discharge, Suspension for More Than 30 Days, Furlough Without Pay, and Reduction in Rank or Compensation

§ 752.201 Coverage.

(a) *Employees covered.* This subpart applies to:

(1) Any career, career-conditional, overseas limited, indefinite, or term employee in a position in the competitive service who is not serving a probationary or trial period;

(2) Any employee having a competitive status who occupies a position in Schedule B of Part 213 of this chapter under a nontemporary appointment; and

(3) Any preference eligible employee who has completed 1 year of current continuous employment in a position outside the competitive service.

(b) *Adverse actions covered.* This subpart applies to:

(1) Discharge;

(2) Suspension for more than 30 days;

(3) Furlough without pay; and

(4) Reduction in rank or compensation, including that taken at the election of the agency after a position classification decision by the Commission.

(c) *Exclusions.* This subpart does not apply to an employee or adverse action excluded by § 752.103.

§ 752.202 Procedures.

(a) *Notice of proposed adverse action.* Except as provided in paragraph (c) of this section, an employee against whom adverse action is sought is entitled to at least 30 full days' advance written notice stating any and all reasons, specifically and in detail, for the proposed action.

(b) *Employee's answer.* Except as provided in paragraph (c) of this section, an employee is entitled to a reasonable time for answering charges and a notice of proposed adverse action and for furnishing affidavits in support of his answers. The reasonable time required depends on the facts and circumstances of the case, and shall be sufficient to afford the employee ample opportunity to prepare answers and secure affidavits. If the employee answers, the agency shall consider his answer in reaching its decision. The employee is entitled to answer personally, or in writing, or both personally and in writing. The right to answer personally includes the right to answer orally in person by being given a reasonable opportunity to make any representations which the employee believes might sway the final decision on his case, but does not include the right to a trial or formal hearing with examination of witnesses. When the employee requests an opportunity to answer personally, the agency shall make a representative or representatives available to hear his answer. The representative or representatives designated to hear the answer shall be persons who have authority either to make a final decision on the proposed adverse action or to recommend what final decision should be made.

(c) *Exceptions to notice period and opportunity to prepare answer.* (1) Advance written notice and opportunity to answer are not necessary in cases of furlough without pay due to unforeseeable circumstances, such as sudden breakdowns in equipment, acts of God, or emergencies requiring immediate curtailment of activities.

(2) When there is reasonable cause to believe an employee is guilty of a crime for which a sentence of imprisonment can be imposed, the agency is not required to give the employee the full 30 days' advance written notice, but shall give him such less number of days advance notice and opportunity to answer as under the circumstances is reasonable and can be justified.

(d) *Duty status during notice period.* Except as provided in paragraph (e) of this section, an employee against whom adverse action is proposed is entitled to be retained in an active duty status during the notice period. When circumstances are such that the retention of the employee in an active duty status in his position may result in damage to Government property or may be detrimental to the interests of the Government or injurious to the employee, his fellow workers, or the general public, the agency may temporarily assign him to duties in which these conditions will not exist or place him on leave with his consent.

(e) *Suspensions during notice period.* In an emergency case when, because of the circumstances described in paragraph (d) of this section, an employee cannot be kept in an active duty status during the notice period, the agency may suspend him. This suspension is a separate adverse action. An employee whose suspension under this paragraph is proposed is entitled, in connection with the suspension, to the following:

(1) If the suspension is for more than 30 days, to the procedures required by this subpart;

(2) If the suspension is for 30 days or less and the employee is covered under § 752.301, to the procedures required by Subpart C of this Part; or

(3) If the suspension is for 30 days or less and the employee is in the excepted service and not covered by § 752.301, to a written notice at least 24 hours in advance of the effective date of the suspension. The agency shall include in the notice of suspension the reasons for not retaining the employee in an active duty status during the notice period. If the employee appeals from the final adverse decision, the Commission reviews the reasons for not retaining him in an active duty status to determine their consonance with the circumstances described in paragraph (d) of this section. The agency may place the employee in a nonduty status with pay for such time, not to exceed 5 days, as is necessary to effect the suspension.

(f) *Notice of adverse decision.* The employee is entitled to notice of the agency's decision at the earliest practicable date. The agency shall deliver the notice of decision to the employee at or before the time the action will be made effective. The notice shall be in writing, be dated, inform the employee of the reasons for the action, inform the employee of his right of appeal to the appropriate office of the Commission, and inform him of the time limit within which an appeal may be submitted as provided in § 752.203(b). The agency also shall inform the employee of any right of appeal to the agency under Part 771 of this chapter.

§ 752.203 Appeal rights to the Commission.

(a) *Right of appeal.* An employee is entitled to appeal to the Commission from an adverse action covered by this subpart. The appeal shall be in writing and shall set forth the employee's reasons for contesting the adverse action, with such offer of proof and pertinent documents as he is able to submit.

(b) *Time limit.* (1) Except as provided in subparagraphs (2), (3), and (4) of this paragraph, an employee may submit an appeal at any time after receipt of the notice of adverse decision but not later than 10 days after the adverse action has been effected.

(2) When a postmaster appointed by the President and confirmed by the United States Senate is notified of an adverse decision to discharge him and is continued in office until a successor can be installed, the time limit on an appeal is 10 days after his receipt of the notice of adverse decision, except when subparagraph (3) of this paragraph applies.

(3) (i) An appeal may not be processed concurrently by the Commission under this part and by an agency under the agency appeals system established under Part 771 of this chapter.

(ii) If an employee elects to appeal to the agency within the time limit prescribed by Part 771 of this Chapter, he is entitled to appeal to the Commission only after, but not more than 10 days later than, receipt of the first-level agency appeal decision when the agency has more than one level of appeal, or receipt of the final agency appeal decision when the agency has only one level of appeal. However, an employee who has appealed to his agency under Part 771 of this chapter may elect to terminate that appeal by appealing to the Commission if the first-level decision on his appeal, or the final decision when the agency has only one level of appeal, has not been made within 60 days after the employee filed it.

(iii) If an employee elects to appeal first to the Commission within the time limits specified in subparagraph (1) or (2) of this paragraph, he forfeits his right of appeal under the agency appeals system.

(4) The Commission may extend the time limits in this paragraph when the appellant shows that he was not notified of the applicable time limit and was not otherwise aware of it, or that he was prevented by circumstances beyond his control from appealing within the time limit.

Subpart C—Suspensions of 30 Days or Less

§ 752.301 Coverage.

(a) *Employees covered.* This subpart applies to:

(1) Any career, career-conditional, overseas limited, term, or idefinite employee in a position in the competitive service who is not serving a probationary or trial period; and

(2) Any employee having a competitive status who occupies a position in Schedule B of Part 213 of this chapter under a nontemporary appointment.

(b) *Adverse actions covered.* This subpart applies to suspensions of 30 days or less.

(c) *Exclusions.* This subpart does not apply to an employee or adverse action excluded by § 752.103.

§ 752.302 Procedures.

(a) *Notice of proposed suspension.* An employee whose suspension is sought is entitled to an advance written notice stating the reasons, specifically and in detail, for the proposed action.

(b) *Employee's answer.* An employee is entitled to a reasonable time for filing a written answer to the notice of proposed suspension and for furnishing affidavits in support of his answer. If the employee answers, the agency shall consider the answer in reaching its decision.

(c) *Notice of suspension.* The employee is entitled to notice of the agency's decision at the earliest practicable date. The agency shall deliver the notice of decision to the employee at or before the time the action will be made effective. The notice shall be in writing, inform the employee of the reasons for the suspension, inform the employee of his right of appeal to the appropriate office of the Commission, and inform him of the time limit within which an appeal may be submitted as provided in § 752.304(c).

§ 752.303 Emergency procedures.

In an emergency case, when circumstances are such that the retention of an employee in an active duty status in his position may result in damage to Government property or may be detrimental to the interests of the Government or injurious to the employee, his fellow workers, or the general public, the agency may require the employee to answer the charges and submit affidavits within such time as under the circumstances would be reasonable, but not less than 24 hours. When these circumstances require immediate action, the agency may place the employee in a nonduty status with pay for such time, not to exceed 5 days, as is necessary to effect the suspension.

§ 752.304 Appeal rights to the Commission.

(a) *Right of appeal.* An employee is entitled to appeal to the Commission from the agency's decision to suspend him. The appeal shall be in writing.

(b) *Scope of review.* (1) On appeal, the Commission reviews the procedures used in a suspension under this subpart. Its review does not include other matters except as provided in subparagraphs (2) and (3) of this paragraph.

(2) When an employee submits an affidavit to the Commission alleging that adverse action was taken against him for political reasons not required by statue, or resulted from discrimination because of sex or marital status, or from improper discrimination because of physical handicap, the Commission determines the validity of the allegation and takes appropriate action when indicated.

(3) When a suspension was imposed during the advance notice period of some adverse action covered by Subpart B, of this Part, the Commission reviews the reasons for not retaining the employee in an active duty status if the employee appeals from the final adverse action.

(c) *Time limit.* An employee may submit an appeal at any time after receipt of the notice of adverse decision but not later than 10 days after the suspension has been effected. The Commission may extend the time limit in this paragraph when the appellant shows that he was not notified of the time limit and was not otherwise aware of it, or that he was prevented by circumstances beyond his control from appealing within the time limit.

Subpart D—Reversals of Adverse Actions

§ 752.401 Agency action when Commission recommends restoration or other corrective action.

(a) It is mandatory that the agency take all corrective action recommended in the Commission's initial decision on an appeal unless it makes a timely appeal to the Board of Appeals and Review.

(b) The decision of the Board is final and compliance with its recommendation for corrective action is mandatory.

§ 752.402 Agency reversal of certain adverse decisions.

When an employee who has been reduced in grade or compensation is restored to his former grade or rate of pay or to an intermediate grade or rate of pay as the result of an agency decision that its action under Subpart B of this part was unjustified or unwarranted, the agency shall make the restoration retroactively effective to the date of the improper action.

PART 771—EMPLOYEE GRIEVANCES AND ADMINISTRATIVE APPEALS

Subpart A—[Reserved]

Subpart B—Administrative Appeals

DEFINITIONS AND COVERAGE

Sec.

771.201 Purpose.
771.202 Definitions.
771.203 Agency coverage.
771.204 Employee coverage.
771.205 Adverse actions covered.
771.206 Allegations of discrimination.

GENERAL REQUIREMENTS

771.207 Establishment and publication.
771.208 Right to appeal.
771.209 Contents of appeal.
771.210 Time limits for filing appeal.
771.211 Presentation of appeal.
771.212 Appeals levels.
771.213 Appellate review.

HEARING

771.214 Right to a hearing.
771.215 Hearing committee.
771.216 Conduct of hearing.
771.217 Witnesses.
771.218 Record of the hearing.
771.219 Report of committee.

PROCESSING THE APPEAL

771.220 Avoidance of delay.
771.221 Order of processing appeals.
771.222 Termination of appeal.
771.223 Death of employee.
771.224 Agency appellate decision.
771.225 Notice of appellate decision.
771.226 Employee appeal file.

COMMISSION ACTION

771.227 Employee requests for review.
771.228 Review of agency appeals system.

AUTHORITY: §§ 771.201 to 771.228 issued under R.S. 1753, sec. 2, 22 Stat. 403 as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218, E.O. 10987, 27 F.R. 550.

Subpart A—[Reserved]

Subpart B—Administrative Appeals

DEFINITIONS AND COVERAGE

§ 771.201 Purpose.

The purpose of this subpart is to set forth the regulations under which each agency shall establish an agency appeals system, as required by Executive Order 10987, that will provide a simple, orderly method through which an employee may seek prompt administrative reconsideration of a decision to take adverse action against him.

§ 771.202 Definitions.

In this subpart:

(a) "Appeal" means a written request by an employee for reconsideration of an adverse decision under an agency appeals system.

(b) "Employee" includes a former employee of an agency.

(c) "Executive order" means Executive Order 10987, issued January 17, 1962.

§ 771.203 Agency coverage.

(a) *Agencies covered.* Except as provided by paragraph (b) of this section, this subpart applies to the executive departments, military departments, and independent establishments in the executive branch of the Federal Government including Government-owned or controlled corporations, and to those portions of the legislative or judicial branches and of the government of the District of Columbia having positions in the competitive service.

(b) *Agencies not covered.* This subpart does not apply to the Central Intelligence Agency, the National Security Agency, the Federal Bureau of Investigation, the Atomic Energy Commission, and the Tennessee Valley Authority.

§ 771.204 Employee coverage.

(a) *Employees covered.* Except as provided by paragraph (c) of this section, an agency appeals system applies (1) to any career, career-conditional, overseas limited, indefinite, or term employee except as provided in paragraph (b) of this section, in a position in the competitive service who is not serving a probationary or trial period, and (2) to any employee having competitive status and occupying a position in Schedule B under a nontemporary appointment.

(b) *Employees not covered.* An agency appeals system does not apply to (1) a reemployed annuitant, (2) an employee occupying a position in the competitive service under a temporary appointment, (3) an employee (except a postmaster) whose appointment is required by the Congress to be confirmed by, or made with, the advice and consent of the United States Senate, (4) an employee currently serving a probationary or trial period, (5) an employee in a position outside the competitive service except as provided by § 771.204 (a) (2), or (6) an employee serving under a term appointment on expiration of his term appointment.

(c) *Special exclusion.* The agency appeals system does not apply to any

employee otherwise included under paragraph (a) of this section when he is a member of a class of employees excluded from coverage by the Commission on the recommendation of the head of the agency concerned because the nature of the employee's work is such that inclusion under the agency appeals system is inappropriate.

§ 771.205 Adverse actions covered.

(a) *Actions covered.* Except as provided by paragraph (b) of this section, an agency appeals system shall apply to (1) discharge, (2) suspension for more than 30 days, (3) furlough without pay, and (4) reductions in rank or compensation, including those which are taken at the election of the agency after a classification decision by the agency or the Commission.

(b) *Actions not covered.* An agency appeals system does not apply to (1) a decision of the Commission, (2) an action taken pursuant to specific instructions from the Commission, or (3) an action taken under the Act of August 26, 1950, as amended, or any other statute which authorizes an agency to take suspension or separation action without regard to section 6 of the Act of August 24, 1912, as amended, or any other law.

§ 771.206 Allegations of discrimination.

An agency appeals system shall provide that when an employee alleges that the adverse decision was based in whole or in part on discrimination because of race, creed, color, or national origin, the review of that allegation shall be made under the provisions of Executive Order 10925 and the regulations of the President's Committee on Equal Employment Opportunity contained in Chapter IV of this title. The system shall further provide that a decision shall not be made against the employee until a determination has been made on the issue of discrimination.

GENERAL REQUIREMENTS

§ 771.207 Establishment and publication.

(a) Each agency shall establish and administer an agency appeals system in accordance with the Executive order and this subpart. The system applies to appeals from the adverse actions covered which began by issuance of a notification of proposed action after June 30, 1962.

(b) Each agency shall afford its employees and representatives of recognized employee organizations an opportunity to express their views in the development of, operations under, or changes to, its appeals system.

(c) Each agency is authorized to include provision for advisory arbitration, when appropriate, in the agency appeals system.

(d) The provisions of the agency appeals system including its coverage shall be published, copies shall be available to employees and their representatives, and employees shall be notified where a copy is available for review.

§ 771.208 Right to appeal.

(a) *Entitlement.* The agency appeals system shall provide that (1) an employee is entitled to appeal under the agency appeals system from a decision by the agency to take adverse action against him, and (2) an employee's properly filed appeal will be accepted and processed in accordance with the agency appeals system.

(b) *Notice.* The agency appeals system shall require that the notice of decision to take adverse action shall inform the employee of:

(1) His right to appeal under the agency appeals system;

(2) The time limit within which the appeal must be filed under the agency appeals system;

(3) Any appeal rights which he may have to the Commission;

(4) The order of processing appeals as prescribed by § 771.221; and

(5) The person with whom, or the office with which, the appeal must be filed, and from which he may obtain information on how to pursue his appeal.

§ 771.209 Contents of appeal.

The agency appeals system shall require that an employee's appeal be in writing, that it set forth clearly the basis for the appeal, and that it include his request, if any, for a hearing when he is entitled to a hearing on his appeal.

§ 771.210 Time limits for filing appeal.

The agency appeals system shall provide that the employee may file his appeal at any time after the notice of adverse decision but not later than 10 calendar days after the effective date of the adverse action. The agency appeals system shall also provide that this time limit may be extended, in the discretion of the agency, (a) on a showing by the employee that he was not notified of the applicable time limit or that circumstances beyond his control prevented him from filing an appeal within the prescribed time limit, or (b) for other reasons deemed sufficient by the agency.

§ 771.211 Presentation of appeal.

(a) The agency appeals system shall insure that the employee, in presenting his appeal, shall:

(1) Be assured freedom from restraint, interference, coercion, discrimination, or reprisal;

(2) Have the right to be accompanied, represented, and advised by a representative of his own choosing; and,

(3) Be assured a reasonable amount of official time if he is otherwise in an active duty status.

(b) The agency appeals system shall also insure that when an employee of the agency is designated as a representative by an employee appealing under the agency appeals system, the representative, in presenting the appeal, shall:

(1) Be assured freedom from restraint, interference, coercion, discrimination, or reprisal; and

(2) Be assured a reasonable amount of official time if he is otherwise in an active duty status.

§ 771.212 Appeals levels.

The agency appeals system shall provide ordinarily for one level of review, except that it may, with the concurrence of the Commission, include further administrative review when the delegations of authority or organizational arrangements of the agency so require. When an agency requests the concurrence of the Commission to include a provision for further administrative review in its agency appeals system, the agency shall submit justification for this provision and a statement of the procedures that will be followed in putting this provision into effect.

§ 771.213 Appellate review.

(a) *Authorized official.* The agency appeals system shall require that the agency official authorized to decide the appeal be at a higher administrative level than the agency official who made the adverse decision which resulted in the appeal, except that when the head of the agency made the adverse decision, he shall decide the appeal.

(b) *Scope.* The agency appeals system shall provide that the review of the appeal shall include, but shall not be limited to, a review of the issues of fact and of compliance with the agency and Commission procedural requirements for effecting the adverse action.

HEARING

§ 771.214 Right to a hearing.

The agency appeals system shall provide the employee an opportunity for a full and fair hearing on the adverse action, personally or through or accompanied by his representative, before a hearing committee. The hearing may precede either the original decision or the appellate decision. An opportunity for a hearing or a request for a hearing may be denied only (a) when the agency finds a hearing impracticable by reason of unusual location or other extraordinary circumstance, or (b) in connection with the appeal, when it finds that the employee failed to request a hearing offered preceding the original decision. The agency appeals system shall provide that no more than one hearing shall be held unless the agency determines that unusual circumstances require a second hearing. The agency appeals system shall require that the employee be notified as to his rights respecting a hearing preceding the original decision or the appellate decision.

§ 771.215 Hearing committee.

(a) The agency appeals system shall provide that the hearing will be held by a hearing committee consisting of one or more members and shall provide for the selection of the members of the committee in such a manner as to insure that the members will be fair, impartial, and objective. The agency appeals system shall prohibit membership to anyone responsible for reviewing or acting on the proposal to take adverse action or on the adverse decision, or to anyone responsible for reviewing or acting on the report of the committee.

(b) The agency appeals system shall establish reasonable time standards for the selection of the committee, for the conduct of the hearing, for completion of the report of the committee, and for decision on the appeal.

§ 771.216 Conduct of hearing.

(a) The agency appeals system shall provide that the hearing shall be held whenever practicable near the employee's locality of work.

(b) The agency appeals system shall provide that:

(1) The hearing shall be conducted so as to bring out pertinent facts including the production of pertinent records;

(2) The rules of evidence need not be followed, but evidence should be pertinent to the issues;

(3) Testimony of witnesses shall be under oath; and

(4) The employee or his representative and the agency shall both have the right of cross-examination.

§ 771.217 Witnesses.

(a) The agency appeals system shall provide that (1) insofar as administratively practicable and when requested by the hearing committee after consideration of requests by the employee and the agency, employees of the agency will be made available to the committee as witnesses, and (2) when the agency determines that it is impracticable to comply with the request of the committee, the reasons for the declination shall be included in the employee's appeal file. The system shall also provide that employees of the agency made available as witnesses shall be considered to be in a duty status during this time.

(b) The agency appeals system shall provide that witnesses in presenting their testimony shall be assured freedom from restraint, interference, coercion, discrimination, or reprisal.

§ 771.218 Record of the hearing.

The agency appeals system shall require the hearing committee to prepare a written summary or transcript of the hearing, including all pertinent documents submitted to the committee for its consideration. The summary shall be signed by the parties concerned with such exceptions as they submit in writing, and a copy of the summary shall be furnished the employee.

§ 771.219 Report of committee.

The agency appeals system shall require the committee to report in writing its findings of fact, or its findings and recommendations, to the agency official making the decision on the adverse action when the hearing is held before the original adverse decision, or to the agency official authorized to make the decision on the appeal when the hearing is held after the original adverse decision. A copy of the committee's report shall be furnished to the employee and his representative.

PROCESSING THE APPEAL

§ 771.220 Avoidance of delay.

The agency appeals system shall provide for full, impartial, and expeditious consideration of each appeal and shall include regulations designed to prevent unreasonable delay by the employee in pursuing his appeal, and directing the appropriate officials of the agency to process appeals with dispatch.

§ 771.221 Order of processing appeals.

(a) The agency appeals system shall provide that each employee entitled to appeal an adverse action that is also appealable to the Commission shall be informed that the appeals to the agency and to the Commission may not be processed concurrently. The system shall require that the employee be informed that:

(1) If he elects to appeal to the agency within the time limit prescribed by § 771.210, he will be entitled to appeal to the Commission under this chapter only after the notice of the final agency appeal decision when the agency appeals system has only one level of appeal, or after the notice of the first level agency appeal decision when the agency appeals system has more than one level of appeal; and,

(2) If he elects to appeal to the Commission within the same time limit as that prescribed by § 771.210, he forfeits his right of appeal under the agency appeals system.

(b) The agency appeals system shall provide that if the appeal of an employee is not completed within 60 days after filing, the employee may elect to terminate the agency appeal by appealing to the Commission.

§ 771.222 Termination of appeal.

(a) The agency appeals system shall provide for the termination of an employee's appeal at his request or for his failure to prosecute when he does not furnish required information and duly proceed with the advancement of his appeal. The agency appeals system may also provide (1) that, instead of terminating the appeal for failure to prosecute, the appeal will be adjudicated if the information is sufficient for that purpose, and (2) that a closed appeal will not be reopened except in the discretion of the agency on a showing by the employee that circumstances beyond his control prevented him from prosecuting the appeal.

(b) The agency appeals system shall also provide for terminating the employee's appeal if he files an appeal to the Commission from the same adverse decision and the Commission accepts the appeal for adjudication.

§ 771.223 Death of employee.

The agency appeals system shall require (a) a proper appeal filed prior to the death of the employee to be processed to completion and adjudicated, and (b) as necessary, a recommendation for corrective action on such an appeal may provide for cancellation of the adverse action and for amendment of the agency's records to show retroactive restoration and continuance on the rolls to the date of death.

§ 771.224 Agency appellate decision.

The agency appeals system shall require the authorized agency official to consider the entire appellate record and after such consideration, to make his decision in which he may sustain the previous decision to take adverse action, modify the previous decision by substituting a less severe action, or reverse the previous decision.

§ 771.225 Notice of appellate decision.

The agency appeals system shall require that the employee shall be notified promptly of the decision on his appeal or of the termination of his appeal and of any appeal rights the employee may have under this chapter, and that a copy of this notice shall be furnished to the employee's representative.

§ 771.226 Employee appeal file.

The agency appeals system shall require that when an employee files an appeal under that system, an employee appeal file shall be established and that this file shall contain all pertinent documents relating to the appeal, including copies of the notice of proposed adverse action the employee's reply, if any, the notice of adverse decision; the employee's appeal; the reasons for not granting a hearing when one was requested but not granted; the written summary or transcript of the hearing when a hearing was held; the report of the committee; and the notice of the final agency decision.

COMMISSION ACTION

§ 771.227 Employee requests for review.

The Commission shall not act on a request by an employee for a review of the agency action under the agency appeals system unless the employee otherwise has a right to appeal to the Commission from the same adverse action and the Commission has accepted the appeal for adjudication.

§ 771.228 Review of agency appeals system.

From time to time the Commission will review the agency appeals system. When it finds that the agency appeals system or its operations do not conform to the requirements of the Executive order or this subpart the Commission will require corrective action to bring the agency appeals system or operations into conformity.

PART 772—APPEALS TO THE COMMISSION

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—Commission's Appellate Review of Agency Actions

Sec.

772.301 Coverage.
772.302 Failure to prosecute.
772.303 Death of appellant.
772.304 Evidence.
772.305 Hearings.
772.306 Decision on initial appeal.
772.307 Further appeal to the Board of Appeals and Review.
772.308 Appellate review by the Commissioners.

AUTHORITY: §§ 772.301 to 772.308 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended, secs. 11, 14, 19, 58 Stat. 390, 391, as amended, sec. 1101, 63 Stat. 971, sec. 113, 68 Stat. 1108; 5 U.S.C. 631, 633, 860, 863, 868, 1072, 1072a; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218, E.O. 10988, 27 F.R. 551.

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—Commission's Appellate Review of Agency Actions

§ 772.301 Coverage.

Except as otherwise provided, this subpart applies to appeals to the Commission under Subpart H of Part 315 of this chapter, Subpart B of Part 330 of this chapter, Subpart I of Part 351 of this chapter, Subpart E of Part 531 of this chapter, and Subparts B and C of Part 752 of this chapter.

§ 772.302 Failure to prosecute.

The Commission shall close an appeal for failure to prosecute if an appellant does not furnish required information and duly proceed with the advancement of his appeal. However, instead of closing for failure to prosecute, the Commission may adjudicate the appeal if sufficient information for that purpose is available. The Commission may reopen an appeal closed under this section only on a showing by the appellant that circumstances beyond his control prevented him from prosecuting his appeal.

§ 772.303 Death of appellant.

When an appeal under Subpart H of Part 315 of this chapter, Subpart I of Part 351 of this chapter, Subpart E of Part 531 of this chapter, or Subpart B or C of Part 752 of this chapter is filed properly before the death of an appellant, the Commission shall process it to completion and adjudicate it. The Commission, in recommending corrective action in the decision on such an appeal may provide for amendment of the agency's records to show retroactive restoration and the appellant's continuance on the rolls in an active duty status to the date of death.

§ 772.304 Evidence.

(a) *Coverage.* This section applies only to appeals under Subpart H of Part 315 of this chapter, and Subparts B and C of Part 752 of this chapter.

(b) *Evidence.* Statements of witnesses shall be by affidavit, when practicable, and relative to the adverse decision. It is the responsibility of both parties to the appeal to submit all evidence to the Chief, Appeals Examining Office, or to the regional director, as appropriate.

(c) *Availability of evidence and representations.* A representative of the Commission shall discuss all relevant representations and evidence with both parties and make the representations and evidence available to them for review. However, when adverse action has been taken on the basis of a reported mental condition of the appellant or another condition of such a nature that a prudent physician would hesitate to inform a person suffering from it as to its exact nature and probable outcome, the representative of the Commission shall make the medical evidence available only to a duly licensed physician designated in writing by the appellant or the appellant's representative.

§ 772.305 Hearings.

(a) *Coverage.* This section applies only to appeals under Subpart B of Part 752 of this chapter.

(b) *Right to a hearing.* An appellant is entitled to a hearing before the office of the Commission having initial jurisdiction of the appeal. That office shall inform the appellant of his right to a hearing. If the appellant does not desire a hearing, he shall so advise that office in writing.

(c) *Hearing procedures.* (1) An appellant is entitled to appear at the hearing on his appeal personally or through or accompanied by his representative. The agency is also entitled to participate in the hearing. Both parties are entitled to produce witnesses but as the Commission is not authorized to subpena witnesses the parties are required to make their own arrangements for the appearance of witnesses.

(2) Hearings are not open to the public or the press. Attendance at hearings is limited to persons determined by the Commission to have a direct connection with the appeal.

(3) A representative of the Commission shall conduct the hearing and shall afford the parties opportunity to introduce evidence (including testimony and statements by the appellant, his representative, representatives of the agency, and witnesses), and to cross-examine witnesses. Testimony is under oath or affirmation. Rules of evidence are not applied strictly, but the representative of the Commission shall exclude irrelevant or unduly repetitious testimony.

(4) The office of the Commission having initial jurisdiction of the appeal shall determine how the hearing will be reported. When the hearing is reported verbatim, that office shall make the transcript a part of the record of the proceedings and shall furnish a copy of the transcript to each party. When the hearing is not reported verbatim, the representative of the Commission who conducts the hearing shall make a suitable summary of pertinent portions of the testimony. When agreed to in writing by the parties, the summary constitutes the report of the hearing and is made a part of the record of the proceedings. Each party is entitled to be furnished a copy of the report of the hearing. If the representative of the Commission and the parties fail to agree on the summary, the parties are entitled to submit written exceptions to any part of the summary which are made a part of the record of the proceedings for consideration in deciding the appeal.

§ 772.306 Decision on initial appeal.

The office of the Commission having initial jurisdiction of the appeal, after making such investigation as it considers necessary, shall issue a written decision and send copies thereof to the appellant, his representative, and the agency. The decision on each appeal covered by this part shall contain findings, recommendations for any corrective action required, and notification of the right of either party to appeal to the Board of Appeals and Review. In addition, the decision on each appeal under Subpart H, Part 315 of this chapter, and Subparts B and C of Part 752 of this chapter, shall include an analysis of the findings and a statement of the reasons for the conclusions reached. The agency shall report, within 7 days after receipt of the decision, that it has carried the decision into effect or that it is appealing the decision to the Board.

§ 772.307 Further appeal to the Board of Appeals and Review.

(a) *Right of further appeal.* Both parties are entitled to appeal the decision on the initial appeal issued under § 772.306 to the Board of Appeals and Review, U.S. Civil Service Commission, Washington 25, D.C. An appeal to the Board of Appeals and Review shall be in writing, set forth the reasons for the appeal, and be filed with the Board within 7 days after receipt of the decision on the initial appeal. The Board may extend the time limit in this paragraph when a party shows that circumstances beyond the control of the party prevented the filing of the appeal within the time limit.

(b) *Board procedures.* The Board of Appeals and Review shall review the record of the proceedings and all relevant written representations. There is no right to a hearing before the Board. The Board may, in its discretion, afford the parties an opportunity to appear personally and present oral arguments and representations.

(c) *Decision of the Board.* The Board of Appeals and Review shall issue a written decision and shall send copies thereof to the parties and to the employee's representative. The decision of the Board is final and there is no further right of appeal. When corrective action is recommended, the agency shall report promptly to the Board that the corrective action has been taken.

§ 772.308 Appellate review by the Commissioners.

The Commissioners may, in their discretion, when in their judgment such action appears warranted by the circumstances, reopen and reconsider any previous decision.

PART 831—RETIREMENT

Subpart A—Administration and General Provisions

Sec.

831.101 Administration.
831.102 Basic records.
831.103 Evidence.
831.104 Applications.
831.105 Computation of interest.
831.106 Disclosure of information.
831.107 Appeals.

Subpart B—Coverage

831.201 Exclusions from retirement coverage.

Subpart C—Credit for Service

831.301 Military service.

Subpart D—Voluntary Contributions

831.401 Making of voluntary contributions.
831.402 Purchase of additional annuity.

Subpart E—Eligibility for Retirement

Sec.
831.501 Time for filing applications.
831.502 Disability retirement.
831.503 Automatic separation; exemption.

Subpart F—Types of Annuities

831.601 Survivor benefits.

Subpart G—Computation of Annuities

831.701 Effective dates of annuities.

Subpart H—Reemployment of Retired Employees

831.801 Reemployment of annuitants.

Subpart I—[Reserved]

Subpart J—Death Benefits

831.1001 Time for filing applications.
831.1002 Effective dates of survivor annuities.
831.1003 Designation of beneficiary.
831.1004 Designation of agent.

AUTHORITY: §§ 831.101 to 831.1004 issued under sec. 16, 70 Stat. 758; 5 U.S.C. 2266. Additional authority is cited in parentheses following the section affected.

Subpart A—Administration and General Provisions

§ 831.101 Administration.

(a) The Commission has charge of the adjudication of all claims arising under the Civil Service Retirement Act, and of all matters directly or indirectly concerned with these adjudications.

(b) In the adjudication of claims arising under the Civil Service Retirement Act, the Commission shall consider and take appropriate action on counterclaims filed by the Government as set-offs against amounts in the Civil Service Retirement and Disability Fund.

§ 831.102 Basic records.

Every Federal department, agency, corporation or branch, whether executive, legislative, or judicial, and the District of Columbia Government (included in this part collectively in the term department or agency) having employees or Members of Congress (hereinafter referred to in this part as Members) subject to the Civil Service Retirement Act, shall initiate and maintain retirement accounts for those employees and Members as prescribed in Federal Personnel Manual Supplement 831–1.

(Sec. 4, 70 Stat. 748; 5 U.S.C. 2254)

§ 831.103 Evidence.

(a) Standard Form 2806 (Individual Retirement Record) is the basic record for action on all claims for annuity or refund, and those pertaining to deceased employees, deceased Members, or deceased annuitants.

(b) When the records of the department or agency concerned are lost, destroyed, or incomplete, the department or agency shall request the General Accounting Office, through the Commission, to furnish the data that it considers necessary for a proper determination of the rights of the claimant. When an official record cannot develop the required information, the department, agency, or the Commission should request inferior or secondary evidence which is then admissible.

§ 831.104 Applications.

Applications under the Civil Service Retirement Act shall be filed with the Commission and shall be on forms prescribed by the Commission.

§ 831.105 Computation of interest.

(a) The computation of interest is on the basis of 30 days to the month. Interest is computed for the actual calendar time involved in each case, but whenever applicable the rule of average applies.

(b) Interest is allowed on current deductions and deposits at the rate of 4 percent to December 31, 1947, and 3 percent thereafter, compounded annually, to December 31, 1956. However, if an employee or Member, before completing 5 years' civilian service, becomes separated from service or is transferred to a position in which he is not subject to the Civil Service Retirement Act, interest is allowed after December 31, 1956, at the rate of 3 percent, compounded annually, to date of final separation or transfer.

(c) Interest at the rate of 3 percent, compounded annually, is allowed on voluntary contributions during periods of employment and, after the employee or Member has completed at least 5 years' civilian service, during periods of separation until beginning date of annuity or death, whichever is earlier; for refund purposes, interest terminates with the date of separation or of transfer to a position in which he is not subject to the Civil Service Retirement Act.

(d) Interest at the rate of 4 percent to December 31, 1947, and at 3 percent thereafter, compounded annually, is charged on deposits from the midpoint of each service period for which deposit is involved, or from the date refund was paid, to the date of deposit or commencing date of annuity, whichever is earlier, except that interest is not charged for any period of separation from the service which began before October 1, 1956.

§ 831.106 Disclosure of information.

(a) (1) Except as provided in this section, the Commission shall not disclose information from the files, records, reports, and other papers and documents pertaining to a claim filed with the Commission, whether potential, pending, or adjudicated. This information is deemed privileged and confidential.

(2) Except as provided in subparagraphs (3) and (4) of this paragraph, the Commission will disclose information from the files, records, reports, and other papers and documents to an employee or Member or his authorized representative in matters concerning the employee or Member. The term "authorized representative" means a person who has satisfied the Commission of his authority to act.

(3) When an individual contests the Commission's approval of the application of a department or agency for his retirement on a disability that is:

(i) Physical in nature, as distinguished from mental; and

(ii) Of a type concerning which the individual could be fully informed without the probability that the knowledge may affect him adversely,

he is entitled, upon written request, to a summary of the medical evidence which has been submitted to the Commission in his case.

(4) When an individual's case involves a disability that is:

(i) A mental condition; or

(ii) Another condition of such a nature that a prudent physician would hesitate to inform an individual suffering from the condition of its exact nature and probable outcome,

the Commission will make available a complete summary of the medical evidence in the case, including a copy of the resume of the reported behavior irregularities or manifestations of unsatisfactory service which is ordinarily furnished as background factual evidence to Government mental facilities, psychiatrists, or other physicians who conduct the official retirement medical examination, for review only by a licensed physician designated in writing for that purpose by the individual.

(5) During the life of an employee, Member, or annuitant, the Commission will furnish the name or address of a beneficiary designated by the employee, Member, or annuitant to the designator only, at his signed, written request.

(6) When an individual dies, the Commission shall disclose the information which might properly be disclosed to the individual, on proper request, to the person appointed as representative of the estate, to the person designated by the representative, or to a designated beneficiary. When a representative of the estate has not been appointed, the Commission shall recognize the individual's next of kin as the representative of the estate.

(7) The Commission shall furnish, to the court only and on order of the court or subpoena duces tecum addressed to the Chairman of the Commission, copies of documents or other records which are desired by or in behalf of a party to a suit in a United States Court or in any other court.

(8) The Commission will produce documents or records in a retirement file in a United States Court or other court when a process issued by the court requires it. Original records produced shall remain at all times in the custody of a representative of the Commission, and if offered or received in evidence, the representative shall request permission to substitute a copy so that the original record may remain intact in the file.

(9) The Commission may furnish the address of an individual as shown by its records to a police or court official on proper request, or the submission of a certified copy of:

(i) An indictment returned against the individual; or

(ii) A warrant for his arrest.

(10) The Commission shall disclose the amount of an individual's annuity or refund to a National, State, county, municipal, or other publicly recognized charitable or social-security administrative agency.

(11) Subject to the limitation regarding name and address of a beneficiary, the Commission will furnish in response to a proper request, all records or docu-

ments officially required by any department or agency of the Government, and such records, documents, or other information as Members of Congress in their capacity as such may request for their official use.

(12) With the consent of an employee or Member, the Commission will disclose the amount of the annuity or refund paid to the employee or Member, and the factors used in determining the amount of the payment, to a person who makes proper inquiry. A "proper inquiry" is one that is in writing and includes the name of the employee or Member and sufficient information to make positive identification of his records. The Commission may waive the requirement that the inquiry be in writing. On receipt of a proper inquiry, the Commission will ask the employee or Member whether he consents to release of the information sought, and will then advise the inquirer of the decision of the employee or Member. The Commission will furnish to the employee or Member a copy of any information released.

(b) On written request the Commission shall return, to the person entitled to them, certificates of discharge, adoption papers, marriage certificates, decrees of divorce, letters testamentary or of administration, birth or baptismal records, family records, personal letters, diaries, and other personal papers or articles which have been filed in a claim when they are no longer needed in the settlement of the claim. When papers returned constitute part of the material and essential evidence in a claim, the Commission shall retain in the file, photo or other copies of them or of such parts thereof as appear to have evidential value.

§ 831.107 Appeals.

(a) A department, agency, or individual whose rights or interest under the Civil Service Retirement Act are adversely affected by a final action or order of the Bureau of Retirement and Insurance may appeal to the Commission's Board of Appeals and Review from the action or order, as provided in this section.

(b) The individual or his authorized representative may file the appeal with the Commission's Board of Appeals and Review. However, the Board shall not accept an appeal until the Bureau of Retirement and Insurance has completed action.

(c)(1) Except as provided in this paragraph, the time for filing an appeal is not later than 6 months from the date of mailing notice of the final action or order of which complaint is made.

(2) When the Bureau of Retirement and Insurance acts on an application for disability retirement made by a department or agency, the time for filing an appeal is not later than 30 days from the date of receipt of final notice of the action or order of which complaint is made.

(3) When the Bureau of Retirement and Insurance finds, on medical examination, that a disability annuitant has recovered, or determines that he has been restored to earning capacity, the time for filing an appeal is not later than 90 days from the date of receipt of final notice of the proposed discontinuance of annuity. When the Bureau of Retirement and Insurance denies reinstatement of the disability annuity of a former disability annuitant, the time for filing an appeal is not later than 90 days from the date of receipt of final notice of the denial.

(4) When the Bureau of Retirement and Insurance allows one of simultaneously-contested claims and disallows another, the time for filing an appeal is not later than 60 days from the date of receipt of notice of the adverse decision. When an appeal is filed, the Commission shall notify, by certified letter, each party whose interest may be adversely affected by the decision on appeal. This notice shall inform the party of the filing of the appeal and of the substance thereof. Each party may file a brief or argument in answer within 30 days after receipt of notice of the appeal. A certified letter of appeal which is addressed to the last known post office address of a party is deemed sufficient evidence of notice even though it is returned unclaimed.

(d) Each appeal shall show the name and post office address of appellant, his retirement claim number, the date and substance of the action from which the appeal is taken, and full reasons for the appeal.

(e) When the Bureau of Retirement and Insurance decides that a party does not have a right to appeal or that this section does not authorize consideration of the appeal, the party may apply to the Commissioners for an order directing the Bureau to forward the record to the Board of Appeals and Review for adjudication as an appeal. The application shall be in writing and shall set forth fully and specifically the grounds on which it is based.

(f) Except as provided in this section, the Bureau of Retirement and Insurance shall execute the decision of the Board of Appeals and Review within 60 days from the date of receipt of notice of the decision, unless the Board sooner recalls the decision. The Board of Appeals and Review shall mail an explanation of its decision to the appellant or his authorized representative.

(g) In a simultaneously-contested claim referred to in paragraph (c)(4) of this section, the Bureau of Retirement and Insurance shall not execute the decision of the Board of Appeals and Review for 30 days. Within this period a party may file a motion for reconsideration.

(h) The Board of Appeals and Review will consider an appeal to review a decision of the Secretary of the Interior before July 21, 1930, or of the Administrator of Veterans' Affairs before September 1, 1934, on a civil service retirement case only when the Bureau of Retirement and Insurance has reconsidered the case on the basis of newly discovered material evidence. This section applies to the Bureau's decision on reconsideration.

Subpart B—Coverage

§ 831.201 Exclusions from retirement coverage.

(a) The following groups of employees in the executive branch of the Government are excluded from the Civil Service Retirement Act:

(1) Employees serving under appointments limited to 1 year or less.

(2) Part - time, when - actually - employed, or intermittent employees having no regular tour of duty.

(3) Employees whose salary, pay, or compensation on an annual basis is $12 a year or less.

(4) Member or patient employees in Government hospitals or homes.

(5) Employees paid on a contract or fee basis.

(6) Employees paid on a piecework basis, except those whose work schedule provides for regular or full-time service.

(7) Intermittent alien employees engaged on work outside the continental limits of the United States.

(8) Employees serving under temporary appointments pending establishment of registers, or pending final determination of eligibility for permanent appointment.

(9) Acting postmasters, clerks in fourth-class post offices, substitutes rural carriers, and special-delivery messengers at second-, third-, and fourth-class post offices.

(10) Consular agents appointed under authority of section 551 of the Foreign Service Act of 1946, approved August 13, 1946 (Public Law 724, 79th Congress).

(11) Employees serving under emergency-indefinite appointments not exceeding 5 years.

(12) United States citizens given "overseas limited appointments."

(13) Employees serving under nonpermanent appointments made pursuant to section 1 of Executive Order 10180 of November 13, 1950.

(14) Employees serving under nonpermanent appointments, designated as indefinite, made after January 23, 1955, the effective date of the repeal of Executive Order 10180.

(15) Employees serving under term appointments.

(16) Temporary employees of the Census Bureau employed under temporary limited appointments exceeding 1 year.

(b) Paragraph (a) of this section does not deny retirement coverage when (1) employment in an excluded category follows employment subject to the Civil Service Retirement Act without a break in service or after a separation from service of 3 days or less, (2) the employee is granted competitive status under legislation, Executive order, or the civil service rules and regulations, while he is serving in a position in the competitive service, or (3) the employee is granted merit status under Chapter II of this title, "Employment and Compensation in the Canal Zone."

(c) Members of the following boards and commissions of the government of the District of Columbia appointed on

or after August 13, 1960, are excluded from the Civil Service Retirement Act, except that this exclusion does not operate in the case of a member serving on August 13, 1960, who is reappointed on expiration of term without a break in service or after a separation from service of 3 days or less:

Board of Accountancy.
Board of Examiners and Registrars of Architects.
Board of Barber Examiners.
Boxing Commission.
Board of Cosmetology.
Board of Dental Examiners.
Electrical Board.
Commission on Licensure to Practice the Healing Arts.
Board of Examiners in the Basic Sciences.
Board of Examiners in Medicine and Osteopathy.
Motion Picture Operators' Board.
Nurses' Examining Board.
Board of Optometry.
Board of Pharmacy.
Plumbing Board.
Board of Podiatry Examiners.
Board of Registration for Professional Engineers.
Real Estate Commission.
Refrigeration and Air Conditioning Board.
Steam and Other Operating Engineers' Board.
Undertakers' Committee.
Board of Examiners of Veterinarian Medicine.

Subpart C—Credit for Service

§ 831.301 Military service.

(a) Periods of honorable active service in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States, or, after June 30, 1960, in the Regular Corps or Reserve Corps of the Public Health Service, or, after June 30, 1961, as a commissioned officer of the Coast and Geodetic Survey are credited under the Civil Service Retirement Act after the employee has completed 5 years' civilian service. Credit is not allowed for military service if the employee is receiving retired pay awarded for reasons other than (1) service-connected disability incurred in combat with an enemy of the United States, (2) service-connected disability caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is used in Chapter 11 of Title 38, U.S.C.), or (3) under Chapter 67, Title 10, U.S.C.

(b) An applicant for annuity who is in receipt of retired pay which bars credit for his military service may elect to surrender the retired pay and to have his military service added to his period of civilian service for the purpose of obtaining a greater benefit in the form of annuity. When it appears on the adjudication of a claim for annuity that the employee will benefit from relinquishment of retired pay and inclusion of his military service, the Bureau of Retirement and Insurance shall so advise him and permit him to exercise the right of election.

(c) Military service performed by an individual after December 31, 1956 (other than military service covered by military leave with pay from a civilian position), is excluded from credit from and after the first day of the month in which the individual or his widow or his child becomes entitled, or upon application would be entitled, to monthly old-age or survivors benefits under section 202 of the Social Security Act based on the individual's wages or self-employment income.

Subpart D—Voluntary Contributions

§ 831.401 Making of voluntary contributions.

(a) The option to make voluntary contributions to the Civil Service Retirement and Disability Fund for the purchase of additional annuity is limited to those employees or Members (1) serving within the purview of the Civil Service Retirement Act, or (2) whose applications for retirement are being adjudicated by the Commission. To exercise this option, the employee or Member shall apply on the form prescribed by the Commission.

(b) Voluntary contributions may not be accepted from an employee or Member who (1) has not deposited amounts covering all civilian service performed by him since August 1, 1920, or (2) has previously received a refund of voluntary contributions and is not again employed within the purview of the Civil Service Retirement Act after a separation of more than 3 calendar days.

(c) An employee or Member shall forward his voluntary contributions to the U.S. Civil Service Commission, Washington 25, D.C., in the amount of $25, or multiple thereof, by money order, draft, or check payable to the Commission. The total voluntary contributions may not exceed 10 percent of the aggregate annual basic salary received since August 1, 1920.

(d) An employee or Member may withdraw his voluntary contributions while he is still in the service, or after separation but before he receives any additional annuity based thereon. A person entitled to payment of lump-sum benefits under the Civil Service Retirement Act may withdraw the voluntary contributions on the death of an employee or Member or of a separated employee or Member not retired on annuity.

(e) The Commission shall maintain the record and account of voluntary contributions of each employee or Member exercising the option to make such contributions.

§ 831.402 Purchase of additional annuity.

(a) Voluntary contributions may be used to purchase only one of the following types of annuity:

(1) Annuity without survivor benefit; or

(2) Annuity payable during the life of the employee or Member with one-half of the annuity to be payable after his death to a person, named at time of retirement, during the life of the named person.

(b) Any natural person may be designated as survivor under paragraph (a) (2) of this section.

(c) If the employee or Member elects an annuity without survivor benefit, each $100 credited to his voluntary contribution account, including interest, purchases additional annuity at the rate of $7 per annum, plus 20 cents for each full year, if any, he is over age 55 at date of retirement.

(d) If the employee or Member elects an annuity with survivor benefit, each $100 credited to his voluntary contribution account, including interest, purchases additional annuity at the rate of $7 per annum, plus 20 cents for each full year, if any, he is over age 55 at date of retirement, multiplied by the following percentage: 90 percent of such amount if the named person is the same age or older than the annuitant, or is less than 5 years younger than the annuitant; 85 percent if the named person is 5 but less than 10 years younger; 80 percent if the named person is 10 but less than 15 years younger; 75 percent if the named person is 15 but less than 20 years younger; 70 percent if the named person is 20 but less than 25 years younger; 65 percent if the named person is 25 but less than 30 years younger; and 60 percent if the named person is 30 or more years younger.

Subpart E—Eligibility for Retirement

§ 831.501 Time for filing applications.

(a) An employee or Member who is retiring on account of age or optional retirement may file an application for annuity with the Commission within 30 days before, on, or at any time after he reaches the requisite retirement age. When the department or agency contemplates reemployment, the individual, the department, or agency shall submit it immediately to the Commission with a photo copy of Form 2806 or a complete resume of the applicant's service history, salary, and retirement deductions.

(b) An employee or Member who is retiring on account of voluntary or involuntary separation from the service may file an application for immediate or deferred annuity only after his separation from the service or not more than 30 days before the commencing date of his annuity.

(c) An employee or Member who is retiring on account of disability shall file an application for annuity with the Commission before his separation from the service or within 1 year thereafter. The Commission may waive this time limitation when the employee or Member was mentally incompetent on the date of separation or within 1 year thereafter; in such a case the individual or his representative may file the application with the Commission within 1 year after the date the individual is restored to competency, or a fiduciary is appointed, whichever is earlier. An application for annuity which is submitted on an inappropriate form, or on an appropriate form inadequately or incompletely executed, may be accepted as an informal claim.

(d) A department or agency shall file an application for retirement of an employee for disability before the employee's separation from the service.

§ 831.502 Disability retirement.

(a) When an applicant for retirement on account of disability establishes a

prima facie case and legal grounds for rejection do not exist, the Commission shall order the applicant to appear for a medical examination before a medical officer of the United States or a qualified physician or surgeon or board of physicians or surgeons designated by the Commission. When the application is accompanied by a report of examination already made by a medical officer of the United States, or by other good and sufficient medical evidence, the Commission may not require another examination.

(b) (1) Each disability annuitant who is under 60 years of age shall be examined annually under direction of the Commission. When it appears in a particular case that the nature of the disability warrants the conclusion that it will continue for a certain period, the Commission may waive the requirement for regular annual examinations for that period. The Commission may order a medical or other examination in any case at any time to determine the facts relative to the nature and degree of disability of a disability annuitant. When the evidence shows that the disability is permanent in character, the Commission will order further examination only when warranted and will notify the annuitant accordingly.

(2) When a medical examination made in compliance with the direction of the Commission shows that a disability annuitant has recovered, the Commission shall discontinue the annuity at the expiration of 1 year from the date of the medical examination. When the disability annuitant is reemployed by a department or agency within the 1 year, the Commission shall discontinue the annuity from the date of the reemployment.

(3) When a recovered disability annuitant is not reemployed in a position in which he is subject to the Civil Service Retirement Act and, based on current medical examination, the Commission finds that he has again become disabled, before becoming 62 years of age, due to recurrence of the disability for which originally retired, the Commission shall reinstate his disability annuity, of the same type and at the rate last payable, from the date of the medical examination. A current medical examination means a medical examination which was made not more than 90 days before its receipt in the Commission and which is acceptable to the Commission.

(c) (1) Each disability annuitant who is under 60 years of age shall report annually, in such detail as may be required by the Commission, his income from wages or self-employment, or both, for any period after retirement. If an annuitant fails to submit the report, the Commission may suspend annuity payments until entitlement to continuance of annuity is satisfactorily established.

(2) When, in each of two succeeding calendar years, a disability annuitant has received income from wages or self-employment, or both, equaling at least 80 percent of the current rate of compensation of the position from which he retired, his earning capacity is deemed restored and the Commission shall discontinue the annuity at the expiration of 1 year from the end of the 2-year period. When the disability annuitant is reemployed by a department or agency within the 1 year, the Commission shall discontinue the annuity from the date of the reemployment. The Commission presumes receipt of income equaling at least 80 percent of the current rate of compensation of the position from which the disability annuitant retired, in respect to any calendar year for which the disability annuitant fails to report his income.

(3) When a disability annuitant whose earning capacity has been restored:

(i) Is not reemployed in a position in which he is subject to the Civil Service Retirement Act;

(ii) Has not medically recovered from the disability from which retired; and

(iii) The Commission finds that he has again lost his earning capacity, before becoming 62 years of age,

the Commission shall reinstate his disability annuity, of the same type and at the rate last payable, from the first of the year following the calendar year in which the earning capacity was lost. Earning capacity is deemed lost if during any complete calendar year the individual's income from wages or self-employment, or both, is less than 80 percent of the current rate of compensation of the position from which he retired.

(d) Reinstatement of a disability annuity terminates, from reinstatment date, the right to any nondisability annuity which the annuitant may be receiving or entitled to receive, based on the same service, unless the annuitant elects in writing to retain instead the nondisability annuity. When the annuitant is employed in a department or agency in a position not subject to the Civil Service Retirement Act on the date of reinstatement of his disability annuity, the Commission shall suspend payment of the annuity until he is separated from the service.

§ 831.503 Automatic separation; exemption.

(a) When an employee meets the requirements for age retirement on any day within a month, he is subject to automatic separation at the end of that month. The department or agency shall notify the employee of the automatic separation at least 60 days in advance of the separation. If the department or agency fails through error to give timely notice, the employee may not be separated without his consent until the end of the month in which the notice expires.

(b) When a department or agency wishes to secure an exemption from automatic separation for one of its employees, other than a Presidential appointee, the department or agency head shall submit recommedation to that effect to the Commission.

(1) The recommedation shall contain (i) a statement that the employee is willing to remain in service, (ii) a recital of facts tending to establish that his retention would be in the public interest, (iii) the period for which the exemption is desired, which period may not exceed 1 year, and (iv) the reasons why the simpler method of retiring the employee and immediately reemploying him is not being used.

(2) The recommendation shall be accompanied by a medical certificate showing the employee's physical fitness to perform his work.

(c) The Commission may approve an exemption only before the automatic separation date applicable to the employee. For this reason, the department or agency shall forward the recommendation to the Commission at least 30 days before this separation date.

Subpart F—Types of Annuities

§ 831.601 Survivor benefits.

(a) The right to receive annuity with survivor benefit to widow or widower attaches to a married employee or Member retiring under any provision of the Civil Service Retirement Act, unless he elects instead annuity without survivor benefit. An unmarried employee or Member in good health retiring under any provision (except section 7) of the Act may elect, instead of annuity without survivor benefit, an annuity with survivor benefit to a named person having an insurable interest in him.

(b) An employee or Member may name only one natural person as survivor under this option. The Commission will not accept the designation of a contingent survivor annuitant, and such a designation is a nullity.

(c) The employee or Member shall communicate his choice of option over his signature on Standard Form 2801 for use in filing claim for annuity. Receipt of the communication in the Commission constitutes prima facie evidence of the existence of all the elements of an election. The election is considered made when the prima facie evidence becomes conclusive by final adjudication of the claim by the Commission.

(d) An employee or Member may name a new survivor in a proper case or change his election if, before the Commission finally adjudicates his claim, he notifies the Commission or the named survivor dies.

(e) When an election has been conclusively made under this section, the employee or Member may not revoke or change the election or name another survivor.

(f) The death of a named survivor after the final adjudication of the claim does not change the type of annuity, and payments to the former employee or Member continue as though the death had not occurred.

(g) When an employee or Member accepts annuity with survivor benefit, the annuity to the survivor commences on the day after the death of the retired employee or Member.

(h) The right to survivor annuity as student-child shall attach, where all other requirements are met, if the educational or training institution certifies that the child is regularly pursuing a full-time day or evening course of resident study or training. For this purpose a full-time course of resident study or training means a day or evening noncorrespondence course which contem-

plates school attendance at the rate of at least 36 weeks per academic year with a subject load sufficient, if successfully completed, to attain the educational or training objective within the period generally accepted as minimum for completion, by a full-time day student, of the academic or training program concerned.

Subpart G—Computation of Annuities

§ 831.701 Effective dates of annuities.

(a) An annuity payable from the Civil Service Retirement and Disability Fund commences:

(1) The day after (i) separation, or (ii) salary ceases and the applicant meets the disability and service requirements, in case of disability retirement.

(2) The day after (i) separation, or (ii) salary ceases and the applicant meets the age and service requirements, in case of age retirement, optional retirement, or immediate retirement based on involuntary separation.

(3) The day after attainment of the specified age, in case of deferred retirement.

(b) Except as provided in § 831.502, annuity terminates on the day of death or from the date of any other terminating event in each case when, after September 5, 1960, the Commission (1) terminates the annuity, or (2) allows survivor annuity commencing the day after the annuitant's death.

(c) Annuity accrues on a daily basis, one-thirtieth of the monthly rate constituting the daily rate, with no accrual for the thirty-first day of any month, and with the last day of a 28-day month constituting 3 days (or the last day of a 29-day month 2 days) for accrual purposes.

Subpart H—Reemployment of Retired Employees

§ 831.801 Reemployment of annuitants.

(a) In this section, "annuitant" means a former employee who is receiving, or meets the legal requirements and is an applicant for, an annuity under the Civil Service Retirement Act based on his service.

(b) This section does not apply to an annuitant whose annuity was terminated before October 1, 1956, because of reemployment in a position wherein he acquired retirement coverage. Except as provided in paragraph (d) of this section, this section does not apply to an annuitant whose employment in an appointive or elective position began before October 1, 1956, unless he is again appointed or elected to such a position on or after that date.

(c) (1) When an annuitant who retired for disability and is found before becoming 60 years of age to be recovered or restored to earning capacity, or an annuitant whose annuity is based on involuntary separation for reasons other than age or misconduct or delinquency, becomes employed after September 30, 1956, in an appointive or elective position wherein he is not excluded from retirement coverage by statute or § 831.201:

(i) The department or agency shall take retirement deductions from his salary;

(ii) The Commission shall determine his future annuity rights under the law in effect at the date of his subsequent separation; and

(iii) The Commission shall terminate his annuity from the date of employment.

(2) When such an annuitant becomes employed after September 30, 1956, in an appointive or elective position wherein he is excluded from retirement coverage by statute or § 831.201:

(i) The department or agency shall not take retirement deductions from his salary; and

(ii) The Commission shall suspend his annuity from the date of employment to the date of his subsequent separation, except that, when an annuitant whose annuity is based on involuntary separation for reasons other than age or misconduct or delinquency becomes employed after November 14, 1958, the Commission shall continue his annuity; the department or agency shall not take retirement deductions from his salary; and the department or agency shall deduct from his salary, except for lump-sum leave purposes, an amount equal to the annuity allocable to the period of actual employment.

(d) When an annuitant, other than an annuitant described in the first sentence of paragraph (c) of this section, becomes employed after September 30, 1956, in an appointive or elective position:

(1) The Commission shall continue his annuity;

(2) The department or agency shall not take retirement deductions from his salary; and

(3) The department or agency shall deduct from his salary, except for lump-sum leave purposes, an amount equal to the annuity allocable to the period of actual employment.

When such an annuitant, who was serving on July 31, 1956, or becomes employed after September 30, 1956, serves continuously for at least 1 year in full-time employment not excluded from coverage by section 2(b) of the Civil Service Retirement Act, he is entitled to a supplemental annuity on termination of the employment by separation for more than 3 calendar days or by conversion to other than full-time status. The supplemental annuity is (i) computed under the formula provided by the law in effect at the date of termination of employment, (ii) based on all periods of full-time employment performed after his retirement, with such periods considered as part of his total service, and (iii) based on the average basic salary (before annuity deduction) received during the periods of full-time employment. If the annuitant serves continuously for at least 5 years in full-time employment not excluded from coverage by section 2(b) of the Civil Service Retirement Act, and his separation therefrom occurs after July 11, 1960, he may make deposit in the retirement fund covering such employment and elect, instead of the supplemental annuity described herein, to have his retirement rights redetermined under the law in effect at separation date. The supplemental or redetermined annuity commences the day after (a) separation from such employment, or (b) salary ceases and the annuitant meets the service requirements. Employment is considered continuous unless interrupted by a separation from service exceeding 3 calendar days, but credit is not allowed for any period of separation or nonpay status which exceeds 3 calendar days.

Subpart I—[Reserved]

Subpart J—Death Benefits

§ 831.1001 Time for filing applications.

A survivor of a deceased employee, Member, or annuitant, or someone acting in his behalf, may file an application for annuity at any time after the death of the employee, Member, or annuitant.

§ 831.1002 Effective dates of survivor annuities.

(a) A survivor annuity payable from the Civil Service Retirement and Disability Fund commences the day after (1) death of the employee, Member, or annuitant, (2) attainment of age 50 where annuity is so deferred, or (3) claim is received in the Commission when annuity is authorized by section 2 of the act of June 25, 1958, 72 Stat. 218.

(b) A survivor's annuity terminates at the end of the month preceding death or any other terminating event.

(c) Survivor annuity accrues on a daily basis, one-thirtieth of the monthly rate constituting the daily rate, with no accrual for the 31st day of any month and with the last day of a 28-day month constituting 3 days (or the last day of a 29-day month 2 days) for accrual purposes.

§ 831.1003 Designation of beneficiary.

(a) The Designation of Beneficiary shall be in writing, signed and witnessed, and received in the Commission before the death of the designator.

(b) No change or cancellation of beneficiary in a last will or testament, or in any other document not witnessed and filed as required by this section, has any force or effect.

(c) A witness to a Designation of Beneficiary is ineligible to receive payment as a beneficiary.

(d) Any person, firm, corporation, or legal entity may be named as beneficiary.

(e) A change of beneficiary may be made at any time and without the knowledge or consent of the previous beneficiary, and this right cannot be waived or restricted.

§ 831.1004 Designation of agent.

When a deceased employee, Member, or annuitant has not named a beneficiary and one of the next of kin entitled makes a claim for lump-sum benefit, other next of kin entitled to share in the lump-sum benefit may designate the one who made the claim to act as their agent to receive their distributive shares.

PART 870—LIFE INSURANCE

Subpart A—Administration and General Provisions

Sec.
870.101 Actions on the policy.

Subpart B—Coverage

870.201 Coverage.
870.202 Exclusions.
870.203 Effective dates of insurance coverage.
870.204 Cancellation of waiver of life insurance coverage.
870.205 Appeals.

Subpart C—Amount of Insurance

870.301 Amount of employee's insurance.
870.302 Annual rates of compensation.

Subpart D—Withholdings and Contributions

870.401 Withholdings and contributions.

Subpart E—Termination and Conversion

870.501 Cessation and conversion of insurance coverage.

Subpart F—Retired Employees

870.601 Eligibility for group life insurance.
870.602 Amount of group life insurance.

Subpart G—Employees' Compensation

870.701 Eligibility for group life insurance.
870.702 Amount of group life insurance.

Subpart H—[Reserved]

Subpart I—Order of Precedence and Designation of Beneficiary

870.901 Designation of beneficiary.

AUTHORITY: §§ 870.101 to 870.901 issued under sec. 11, 68 Stat. 742; 5 U.S.C. 2100.

Subpart A—Administration and General Provisions

§ 870.101 Actions on the policy.

Group life and accidental death and dismemberment benefits shall be payable in accordance with a policy or policies purchased by the Commission pursuant to the Federal Employees' Group Life Insurance Act of 1954, as amended, from one or more life insurance companies. The Commission will furnish the name and address of the insuring company upon the written request of an employee or beneficiary. Actions at law or in equity to recover on an insurance policy, in which there is not alleged any breach of any obligation undertaken by the United States, should be brought against the insurance company.

Subpart B—Coverage

§ 870.201 Coverage.

Except as provided in § 870.202, each appointive or elective officer or employee (referred to in this part as employee) in or under the executive, judicial, or legislative branch of the United States Government, including a Government owned or controlled corporation, and of the municipal government of the District of Columbia shall, at the time and subject to the conditions prescribed in this part, be insured for an amount of group life and accidental death and dismemberment insurance as specified in §§ 870.301, 870.602, and 870.702.

§ 870.202 Exclusions.

(a) Employees in the following groups are excluded from the application of this part:

(1) An employee in any corporation under the supervision of the Farm Credit Administration of which corporation any member of the Board of Directors is elected or appointed by private interests.

(2) A noncitizen employee whose permanent duty station is located outside a State of the United States or the District of Columbia.

(3) A member of any of the uniformed services as defined in section 102 of the Servicemen's and Veterans' Survivor Benefits Act, approved August 1, 1956.

(4) An employee serving under appointment limited to 1 year or less, except an employee so appointed for full-time employment, without break in service or after a separation of 3 days or less, following service in which he was insured, and an acting postmaster.

(5) Seasonal or emergency employees whose employment is of uncertain or purely temporary duration or who are employed for brief periods at intervals, but this does not exclude employees having career-conditional or career appointments who are employed under a cooperative work-study program of at least 1 year's duration which requires the employee to be in pay status during not less than one-third of the total time required for the completion of the program.

(6) A part-time, when-actually-employed, or intermittent employee having no regular tour of duty.

(7) An empolyee whose salary, pay or compensation on an annual basis is $12 a year or less.

(8) A member or patient-employee in a Government hospital or home.

(9) An employee paid on a contract or fee basis.

(10) An employee paid on a piecework basis, except one whose work schedule provides for regular or full-time service.

(11) An employee whose duties involve the security of the United States and preclude his identification as an employee of the Federal Government.

(12) A retired employee reemployed under conditions not terminating his title to annuity, except such a reemployed retired employee serving from August 29, 1954, to January 31, 1959, without a break in service of more than 3 days.

(b) The Commission shall make final determination regarding applicability of the above classifications to a specific employee or group of employees.

§ 870.203 Effective dates of insurance coverage.

(a) (1) An employee appointed, or transferred from a position wherein he is not insured, is insured at the time he actually enters on duty on his first day in a pay status, unless on or before that day he files with his employing office a "Waiver of Life Insurance Coverage", or had previously filed such waiver which remains uncanceled.

(2) An employee transferring from a position wherein he is insured to another position wherein he is not excluded from coverage is insured at the beginning of the effective date of his transfer, unless on or before that day he files a "Waiver of Life Insurance Coverage" with his new employing office.

(b) An employee who returns to duty and is in a pay status after a period of more than 12 months of continuous nonpay status is insured at the time he actually enters on duty on his first day in a pay status, unless on or before that day he files with his employing office a "Waiver of Life Insurance Coverage", or had previously filed such waiver which remains uncanceled.

(c) An employee serving in cooperation with a non-Federal agency paid in whole or in part from non-Federal funds may not be insured prior to such date as the Commission may prescribe for the group of which he is a member following Commission approval of arrangements which are placed into effect and provide (1) that the required withholdings and contributions will be made from Federally controlled funds and timely deposited into the Employees' Life Insurance Fund, or (2) that the cooperating non-Federal agency will, by written agreement with the Federal agency, make the required withholdings and contributions from non-Federal funds and will transmit the total of such amounts to the Federal agency for timely deposit into the Employees' Life Insurance Fund.

§ 870.204 Cancellation of waiver of life insurance coverage.

(a) An insured employee may at any time cancel his insurance by filing with his employing office a "Waiver of Life Insurance Coverage". The waiver shall be effective and the employee's insurance ceases at the end of the pay period in which the waiver is received in the employing office.

(b) An employee who has filed "Waiver of Life Insurance Coverage" may cancel the waiver and become insured if (1) he is under age 50, (2) at least 1 year has elapsed since the effective date of such waiver, and (3) he furnishes satisfactory evidence of insurability.

(c) An employee who has complied with paragraph (b) of this section is insured at the time he actually enters on duty on his first day in a pay status in a position wherein he is not excluded from insurance by law or regulation, following the approval of his Request for Insurance by the Office of Federal Employees Group Life Insurance. The approval is revoked automatically and the employee is not insured unless he acquires such a duty and pay status effective within 31 days following the date of such approval.

§ 870.205 Appeals.

(a) An appeal may be taken to the Commission's Board of Appeals and Review from the final action or order of the Bureau of Retirement and Insurance

denying insurance coverage, when the denial affects the rights or interest of any person or of the United States under the Federal Employees' Group Life Insurance Act.

(b) The time for filing an appeal is not later than 6 months from the date of mailing notice of the final action or order of which complaint is made.

Subpart C—Amount of Insurance

§ 870.301 Amount of employee's insurance.

(a) The amount of an employee's life insurance is equal to the current rate of his annual compensation if a multiple of $1,000, otherwise to the next higher $1,000, but not exceeding $20,000.

(b) The amount of accidental death and dismemberment insurance for an employee entitled thereto is equal to the amount of his life insurance.

§ 870.302 Annual rates of compensation.

(a) An insured employee's annual compensation is his annual basic salary, pay, or compensation rate as fixed by law or regulation.

(b) A salary rate of other than annual shall be converted to an annual rate by multiplying the prescribed rate by the number of pay units in a 52-week work year.

(c) The annual compensation for a part-time employee is his basic salary applicable to his tour of duty in a 52-week work year.

Subpart D—Withholdings and Contributions

§ 870.401 Withholdings and contributions.

(a) During any period in any part of which an insured employee is in a pay status there shall be withheld from each biweekly salary payment of such employee the sum of 25 cents for each $1,000 of his group life insurance. The amount withheld from the salary payment of an employee who is paid on other than a biweekly basis shall be determined at a proportionate rate, adjusted to the nearest cent.

(b) The amount withheld from the salary payment of an insured employee whose amount of insurance changes during a pay period shall be based on the last amount of insurance in force during the pay period.

(c) For each period in which an employee is insured there shall be contributed from the respective appropriation or fund which is used for the payment of his salary, wage, or other compensation (or, in the case of an elected official, from such appropriation or fund as may be available for payment of other salaries of the same office or establishment) an amount equal to one-half the amount withheld from the employee's salary, wage, or other compensation.

Subpart E—Termination and Conversion

§ 870.501 Cessation and conversion of insurance coverage.

(a) Except as provided in §§ 870.601 and 870.701, the insurance of an insured employee ceases on the date of his separation from the service, subject to a 31-day extension of life insurance coverage.

(b) The insurance of an insured employee who moves without a break in service to a position wherein he is excluded from insurance ceases on his last day on the roll in the former position, subject to a 31-day extension of life insurance coverage.

(c) Except as provided in paragraph (e) of this section and in §§ 870.601 and 870.701, the insurance of an insured employee in a nonpay status continues in force without cost to the employee, and ceases, subject to a 31-day extension of life insurance coverage, at the end of 12 months of continuous nonpay status.

(d) The insurance of an insured employee who enters on active duty or active duty for training as a member of a uniformed service ceases, subject to a 31-day extension of life insurance coverage, on the day preceding his entrance on such duty, unless the period of such duty is covered by military leave with pay from his civilian position. The terms "active duty", "active duty for training", and "member of a uniformed service", have the meanings assigned to them by section 102 of the Servicemen's and Veterans' Survivor Benefits Act, approved August 1, 1956. This cessation of insurance coverage does not operate with respect to insurance granted prior to January 1, 1957, to commissioned officers of the Coast and Geodetic Survey or of the Regular or Reserve Corps of the Public Health Service.

(e) During the 31-day extension of life insurance coverage under this section, an individual may, upon application and without medical examination, convert all or any part of his group life insurance to an individaul policy of life insurance at rates applicable to his attained age and class of risk unless, within 3 calendar days after the date his insurance ceased, he returns to a position wherein he is not excluded from coverage.

Subpart F—Retired Employees

§ 870.601 Eligibility for group life insurance.

(a) The life insurance of an insured employee who is separated from service shall be continued or reinstated without cost to him if he (1) is entitled to retirement on immediate annuity under a system legally established for the retirement of civilian employees of the Federal or District of Columbia Governments, (2) has had at least 12 years of creditable service or retires for disability, (3) has met all requirements for annuity (including filing of application where necessary), whether or not final administrative action has been taken, and (4) has not exercised his right of conversion to an individual policy of life insurance under section 870.501(e).

(b) An immediate annuity is one which begins to accrue not later than 1 month after the date the insurance would otherwise cease.

(c) Creditable service is (1) civilian service allowable under the provisions of section 3 of the Civil Service Retirement Act, as amended, and (2) honorable active service performed as a commissioned officer or enlisted man in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States if the individual at retirement has at least 5 years of such civilian service.

(d) If the annuity of an insured retired employee is terminated under any applicable law or regulation, his life insurance as a retired employee ceases on the date of such termination.

(e) If an insured retired employee is appointed to a position wherein he is not excluded from insurance by law or regulation, his life insurance as a retired employee ceases on the day preceding the first day in a pay status under the appointment.

§ 870.602 Amount of group life insurance.

The amount of a retired employee's life insurance is the amount based on his annual compensation at the date his insurance would otherwise have ceased because of his separation from the service or completion of 12 months of continuous nonpay status, reduced by 2 percent a month, effective at the beginning of the second calendar month after (1) such date, or (2) his 65th birthday, whichever is later, with a maximum reduction of 75 percent.

Subpart G—Employees' Compensation

§ 870.701 Eligibility for group life insurance.

The life insurance of an insured employee who is separated from the service or completes 12 months of continuous nonpay status, and who is receiving benefits under the Federal Employees' Compensation Act because of disease or injury to himself and is held by the Department of Labor to be unable to return to duty, shall be continued or reinstated without cost to him provided he has not, on or after May 28, 1956, exercised his right of conversion under § 870.501(e). Such continued or reinstated insurance shall cease, with no 31-day extension of life insurance coverage and no right of conversion, upon termination of the employee's benefits under the Federal Employees' Compensation Act or upon a finding by the Department of Labor that he is able to return to duty.

§ 870.702 Amount of group life insurance.

The amount of life insurance of an employee whose insurance is continued while he is receiving benefits under the Federal Employees' Compensation Act because of disease or injury to himself and is held by the Department of Labor to be unable to return to duty is the amount based on his annual compensation at the date his insurance would otherwise have ceased because of his separation from the service or completion of 12 months of continuous nonpay status.

Subpart H—[Reserved]

Subpart I—Order of Precedence and Designation of Beneficiary

§ 870.901 Designation of beneficiary.

(a) The designation of beneficiary shall be in writing, signed, and witnessed, and received in the employing office (or, in the case of (1) a retired employee and (2) an employee whose insurance is continued while he is receiving benefits under the Federal Employees' Compensation Act because of disease or injury to himself and who is held by the Department of Labor to be unable to return to duty, in the Commission) prior to the death of the designator.

(b) No change or cancellation of beneficiary in a last will or testament, or in any other document not witnessed and filed as required by the regulations in this part, shall have any force or effect.

(c) A witness to a designation of beneficiary is ineligible to receive payment as a beneficiary.

(d) Any person, firm, corporation, or legal entity (except an agency of the Federal or District of Columbia Governments) may be named as beneficiary.

(e) A change of beneficiary may be made at any time and without the knowledge or consent of the previous beneficiary, and this right cannot be waived or restricted.

(f) A designation of beneficiary is automatically canceled (1) on the day the employee transfers (except by mass transfer) to another agency, or (2) 31 days after the employee ceases to be insured.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS

Subpart A—Administration and General Provisions

Sec.
890.101 Definitions; time computations.
890.102 Coverage.
890.103 Employee appeals.
890.104 Legal actions.

Subpart B—Health Benefits Plans

890.201 Minimum standards for health benefits plans.
890.202 Minimum standards for health benefits carriers.
890.203 Application for approval of, and proposal of amendment to, health benefits plans.
890.204 Withdrawal of approval of health benefits plans.

Subpart C—Registration and Enrollment

890.301 Opportunities to register to enroll and change enrollment.
890.302 Coverage of family members.
890.303 Continuation of enrollment.
890.304 Termination of enrollment.
890.305 Reinstatement of enrollment after military service.
890.306 Effective dates.
890.307 Waiver or suspension of annuity or compensation.

Subpart D—Temporary Extension of Coverage and Conversion

890.401 Temporary extension of coverage and conversion.

Subpart E—Contributions and Withholdings

Sec.
890.501 Government contributions.
890.502 Employee withholdings.
890.503 Reserves.

AUTHORITY: §§ 890.101 to 890.503 issued under sec. 10, 73 Stat. 715; 5 U.S.C. 3009.

Subpart A—Administration and General Provisions

§ 890.101 Definitions; time computations.

(a) In this part:

(1) Terms defined by section 2 of the Federal Employees Health Benefits Act of 1959 have the meanings there set forth.

(2) "Cancellation" means the act of filing a Health Benefits Registration Form terminating enrollment in a health benefits plan and electing not to be enrolled for the future by an enrolled employee or annuitant who is eligible to continue enrollment.

(3) "Change of enrollment" means the registration of an enrolled employee or annuitant to be enrolled for another plan or option, or for a different type of coverage (self alone or self and family), from that for which then enrolled. It does not include changes in amount of Government contribution for female employees enrolled for self and family which are caused by the gain or loss of a nondependent husband.

(4) "Eligible" means eligible under the law and this part to be enrolled.

(5) "Employing office" means the office of an agency to which jurisdiction and responsibility for health benefits actions for the employee concerned have been delegated. For enrolled annuitants who are not also eligible employees, the office which has authority to approve payment of annuity or workmen's compensation for the annuitant concerned is the employing office.

(6) "Immediate annuity" means an annuity which begins to accrue not later than 1 month after the date enrollment under a health benefits plan would cease for an employee or member of family if he were not entitled to continue enrollment as an annuitant. Not withstanding the foregoing, an annuity which commences on the birth of the posthumous child of an employee or annuitant is an immediate annuity.

(7) "Option" means a level of benefits. It does not include distinctions as to the members of the family covered.

(8) "Pay period" means the biweekly pay period established pursuant to the Federal Employees Pay Act of 1945, as amended, for the employees to whom that Act applies; the regular pay period for employees not covered by that Act; and the period for which a single installment of annuity is customarily paid for annuitants.

(9) "Register" means to file with the employing office a properly completed Health Benefits Registration Form, either electing to be enrolled in a health benefits plan or electing not to be enrolled. "Register to be enrolled" means to register an election to be enrolled. "Enrolled" means to be enrolled in a health benefits plan approved by the Commission under this part.

(10) "Regular tour of duty" means a work schedule, prescribed in advance to continue indefinitely or for at least 6 months, of a certain number of hours or other time units in a day, week, biweekly pay period, month or year.

(b) Whenever, in this part, a period of time is stated as a number of days or a number of days from an event, the period is computed in calendar days, excluding the day of the event. Whenever, in this part, a period of time is defined by beginning and ending dates, the period includes the beginning and ending dates.

§ 890.102 Coverage.

(a) Each employee, other than those excluded by paragraph (c) of this section, is eligible to be enrolled in a health benefits plan at the time and under the conditions prescribed in this part.

(b) An employee who serves in cooperation with non-Federal agencies and is paid in whole or in part from non-Federal funds may register to be enrolled within the period prescribed by the Commission for the group of which the employee is a member following approval by the Commission of arrangements providing that (1) the required withholdings and contributions will be made from federally controlled funds and timely deposited into the Employees Health Benefits Fund, or (2) the cooperating non-Federal agency will, by written agreement with the Federal agency, make the required withholdings and contributions from non-Federal funds and transmit them for timely deposit into the Employees Health Benefits Fund.

(c) The following employees are not eligible:

(1) An employee serving under an appointment limited to 1 year or less, except an acting postmaster.

(2) An employee whose employment is of uncertain or purely temporary duration, or who is employed for brief periods at intervals, and an employee who is expected to work less than 6 months in each year, except an employee having a career-conditional or career appointment who is employed under a cooperative work-study program of at least 1 year's duration which requires the employee to be in pay status during not less than one-third of the total time required for completion of the program.

(3) An employee in the postal field service serving in a post office under a temporary appointment pending establishment of a register.

(4) An employee having no regular tour of duty because appointed for irregular part-time, when-actually-employed, or other intermittent employment.

(5) An employee whose salary, pay, or compensation on an annual basis is $350 a year or less.

(6) A beneficiary or patient employee in a Government hospital or home.

(7) An employee paid on a contract or fee basis.

(8) An employee paid on a piecework basis, except one whose work schedule provides for full-time service or part-time service with a regular tour of duty.

(d) The Commission makes the final determination of the applicability of this

section to a specific employee or group of employees.

§ 890.103 Employee appeals.

(a) An employee or annuitant may appeal a refusal of an employing office to permit him to register to enroll, or to change enrollment. The appeal shall be made in writing, within 30 days of the refusal, to the Bureau of Retirement and Insurance, United States Civil Service Commission, Washington 25, D.C.

(b) An employee or annuitant may appeal a refusal of the Bureau of Retirement and Insurance to permit him to register to enroll, or to change enrollment. The appeal shall be made in writing, within 90 days of the refusal, to the Board of Appeals and Review, United States Civil Service Commission, Washington 25, D.C.

(c) The employing office may make, and the Commission may order, prospective correction of administrative errors as to enrollment at any time.

(d) The Commission does not adjudicate individual claims for payment or service under health benefits plans, nor does it arbitrate or attempt to compromise disputes between an employee or annuitant and his carrier as to claims for payment or service.

§ 890.104 Legal actions.

An action to compel enrollment of an employee or annuitant not excluded by § 890.102(c) should be brought against the employing office. An action to recover on a claim for health benefits should be brought against the carrier of the health benefits plan. An action to review the legality of the Commission's regulations or a decision made by the Commission should be brought against the United States Civil Service Commissioners, Washington 25, D.C.

Subpart B—Health Benefits Plans

§ 890.201 Minimum standards for health benefits plans.

(a) To be qualified to be approved by the Commission, a health benefits plan shall:

(1) Comply with the Federal Employees Health Benefits Act of 1959 and this part, as amended from time to time.

(2) Accept the enrollment, in accordance with this part, and without regard to age, race, sex, health status, or hazardous nature of employment, of each eligible employee and annuitant except that a plan which is sponsored or underwritten by an employee organization may not accept the enrollment of a person who is not a member of the organization, but it may not limit membership in the organization on account of these prohibited factors. The carrier may terminate the enrollment of an employee or of an annuitant, other than a survivor annuitant, in a health benefits plan sponsored or underwritten by an employee organization on account of termination of membership in the organization. A comprehensive medical plan need not enroll an employee or annuitant residing outside geographic areas specified by the plan and may terminate the enrollment of an employee or annuitant who moves outside the geographic areas.

(3) Provide for coverage of each enrolled employee and annuitant and covered member of their families wherever they may be.

(4) Provide for conversion to a contract for health benefits regularly offered by the carrier, or an appropriate affiliate, for group conversion purposes, which at the option of the employee, annuitant, or member of the family, as the case may be, shall be guaranteed renewable, subject to such amendments as apply to all contracts of this class, except that it may be canceled for fraud, over-insurance, or nonpayment of periodic charges. A carrier shall permit conversion within the time allowed by the temporary extensions of coverage provided under § 890.401 for each employee, annuitant, and member of family entitled to convert. When an employing office gives an employee written notice of his privilege of conversion, the carrier shall permit conversion at any time before (i) 15 days after the date of notice or (ii) 75 days after his enrollment is terminated, whichever is earlier. When the Commission requests an extension of time for conversion because of delayed determination of ineligibility for immediate annuity, the carrier shall permit conversion until the date specified by the Commission in its request for extension. On conversion, the contract becomes effective as of the day following the last day of the temporary extension, and the employee, annuitant, or member of the family, as the case may be, shall pay the entire cost thereof directly to the carrier. The nongroup contract may not deny or delay an obstetrical or other benefit covered by the contract for a person converting from a plan approved under this part, except to the extent that benefits are continued under the health benefits plan from which he converts.

(5) Provide that each employee and annuitant who enrolls in the plan receive a brochure, in a form to be approved by the Commission, summarizing the conditions of the plan, including, but not limited to, those concerning benefits, claims, and payment of claims, and an identification card or cards as evidence of his enrollment.

(6) Provide a standard rate structure which contains, for each option, one standard individual rate, and one standard family rate, without geographical or other variations.

(7) Maintain statistical records regarding the plan, separately from those of any other activities or benefits conducted or offered by the carrier sponsoring or underwriting the plan.

(8) Provide for a special reserve for the plan. The carrier shall account for amounts retained by it as reserves for the plan separately from reserves maintained by it for other plans. The carrier shall invest the special reserve and income derived from the investment of the special reserve shall be credited to the special reserve. If the contract is terminated or approval of the plan is withdrawn, the carrier shall return the special reserve to the Employees Health Benefits Fund. However, in the case of a group-practice plan, the carrier, without regard to the foregoing provisions of this subparagraph, shall follow such financial procedures as are mutually agreed on by the carrier and the Commission.

(b) To be qualified to be approved by the Commission, a health benefits plan shall not:

(1) Deny a covered person a benefit provided by the plan for a service performed on or after the effective date of coverage solely because of a pre-existing physical or mental condition, except that a plan may provide benefits for dentistry or cosmetic surgery, or both, limited to conditions arising after the effective date of coverage; or require a waiting period for any covered person for benefits which it provides, except that a plan, with the approval of the Commission, may limit benefits for services performed for a person, other than a person changing from a health benefits plan discontinued in whole or part to another, who, on the effective date of enrollment, is confined in a hospital or other institution, so long as the person is continuously confined therein. In this subparagraph, "continuously confined" means one or more periods of confinement without a break of 31 consecutive days between actual confinements, except that a carrier by agreement with the Commission may provide that a shorter break terminates a continuous confinement.

(2) Have more than two options.

(3) Have an initiation, service, enrollment, or other fee or charge in addition to the rate charged for the plan, except that a comprehensive medical plan may impose an additional charge to be paid directly by the employee or annuitant for certain medical supplies and services, if the supplies and services on which additional charges are imposed are clearly set forth in advance and are applicable to all employees and annuitants. This subparagraph does not apply to charges for membership in employee organizations sponsoring or underwriting plans.

§ 890.202 Minimum standards for health benefits carriers.

The Commission shall approve a health benefits plan only when the carrier of the plan meets the requirements of the Federal Employees Health Benefits Act of 1959, as amended, and the following requirements:

(a) It must be lawfully engaged in the business of supplying health benefits.

(b) It must have, in the judgment of the Commission, the financial resources and experience in the field of health benefits to carry out its obligations under the plan.

(c) It must agree to keep such reasonable financial and statistical records and furnish such reasonable financial and statistical reports with respect to the plan as may be requested by the Commission.

(d) It must agree to permit representatives of the Commission and of the General Accounting Office to audit and examine its records and accounts which pertain, directly or indirectly, to the plan at such reasonable times and places as

may be designated by the Commission or the General Accounting Office.

(e) It must agree not to advertise a plan approved under the Federal Employees Health Benefits Program, or its participation in the Program, to employees, or solicit enrollment of employees, in a plan approved under the Program, other than in accordance with the instructions of the Commission.

(f) It must agree to accept, subject to adjustment for error or fraud, in payment of its charges for health benefits for all employees and annuitants enrolled in its plan, the enrollment charges received by the Employees Health Benefits Fund less the amounts set aside for the administrative and contingency reserves prescribed in § 890.503. The Commission will pay over the amounts due each carrier at such times as are agreed on by the carrier and the Commission.

(g) A carrier which is an employee organization must agree to continue coverage, without requirement of membership, of any eligible survivor annuitants of member employees and of annuitants.

§ 890.203 Application for approval of, and proposal of amendment to, health benefits plans.

(a) Application for approval of comprehensive medical plans may be made by letter to the United States Civil Service Commission, Washington 25, D.C. Approval of a plan will become effective on a date to be set by the Commission for the plan. An application received less than 6 months in advance of a contract period will not be approved for that contract period.

(b) Any proposal for change in a health benefits plan shall be in writing, specifically describe the change proposed, and be signed by an authorized official of the carrier. The Commission will review a proposal for change and notify the carrier whether it accepts the change and may make a counterproposal or at any time propose changes on its own motion. The Commission will not consider until after the expiration of the then current contract period any proposal for change which is received less than 6 months before the expiration of the then current contract period.

§ 890.204 Withdrawal of approval of health benefits plans.

(a) The Commissioners, on application of a carrier or on their own motion, may withdraw their approval of a health benefits plan.

(b) Before withdrawing approval of a plan, the Commissioners shall cause to be sent, by certified mail, a notice to the carrier stating that they intend to withdraw their approval, and giving the reasons therefor. The carrier is entitled to reply in writing within 15 days of its receipt of the notice, stating the reasons why approval should not be withdrawn.

(c) On receipt of the reply, or in the absence of a timely reply, the Commissioners shall set a time and place for hearing. The Commissioners shall conduct the hearing or designate a representative to do so. The carrier shall be given notice thereof, by certified mail, at least 15 days in advance of the hearing. The carrier is entitled to appear by representative and present oral and written evidence and argument in opposition to the proposed action.

(d) The Commissioners shall make their decision on the record and communicate it to the carrier by certified mail. The Commissioners may set a future effective date for withdrawal of their approval.

(e) The Commissioners, in their discretion, may reinstate approval of a plan on a finding that the reasons for withdrawing approval no longer exist.

Subpart C—Registration and Enrollment

§ 890.301 Opportunities to register to enroll and change enrollment.

(a) *Initial registration.* Except as otherwise provided in this part, each employee who becomes eligible shall register within 31 days after becoming eligible, except that a substitute in the postal field service shall register within 31 days after completing 6 consecutive pay periods in which he was in pay status and in each of which he drew sufficient pay, after other deductions, to permit withholding of the amount necessary for his share of the cost of the health benefits plan he selects.

(b) *Belated registration.* When an employing office determines that an employee was unable, for cause beyond his control, to register to be enrolled or to change his enrollment within the time limits prescribed by this section, that office shall accept his registration within 31 days after it advises him of that determination.

(c) *Reregistration.* An employee whose enrollment was terminated because of his completion of 365 days in a nonpay status, because he had a break in service of more than 3 days, or because he was furloughed by reason of reduction in force, shall register within 31 days after his return to pay status.

(d) *Open season.* (1) Not less often than once every 3 years, the Commission by regulation shall provide every employee an opportunity for enrollment and change of enrollment, on such terms and conditions as it may prescribe.

(2) During the period October 1 to October 15, 1963, an employee who is not registered to be enrolled may register to be enrolled, and any enrolled employee may change his enrollment from one plan or option to another, or from self alone to self and family, or both.

(e) *Change in family status.* An enrolled employee or annuitant may register to change his enrollment from self alone to self and family, and an employee, if registered not to be enrolled, may register to be enrolled, at any time during the period beginning 31 days before a change in marital status and ending 60 days after the change in marital status. An employee who registers to change his enrollment under the preceding sentence may at the same time, register to change his enrollment to another plan or option. An enrolled employee or annuitant may change his enrollment from self alone to self and family within 60 days after any other change in family status.

(f) *Change to self alone.* An employee or annuitant may register at any time to change his enrollment from self and family to self alone. An employee or annuitant who is covered by the enrollment of another under this part may register to be enrolled for self alone within 31 days after a registration to change the covering enrollment has been filed under authority of this paragraph.

(g) *Loss of coverage under Medicare, under this part, or under Part 891 of this Chapter.* An employee who is not enrolled, but is covered by Chapter 55 of Title 10, United States Code (referred to in this paragraph as Medicare) or by the enrollment under this part or Part 891 of this Chapter of another, may register to be enrolled within 31 days after termination of Medicare or the other's enrollment, other than by death or cancellation, and within 60 days after termination, by death, of Medicare or the other's enrollment. An employee-annuitant who was covered immediately before retirement by the enrollment of another under this part and had been covered (including enrollment in his own right) under this part since his first opportunity or for the 5 years immediately preceding his retirement, whichever is shorter, may enroll within 31 days after the termination of his coverage, other than by cancellation.

(h) *Termination by comprehensive medical plan.* If a comprehensive plan limits full service to a geographic area, an employee or annuitant enrolled in that plan who moves outside the full service area or, if already living outside the full service area, moves farther from the full service area may register to be enrolled in another health benefits plan within 31 days after the move. However, the employee or annuitant may not change his enrollment from self alone to self and family.

(i) *Termination by employee organization plan.* An employee or annuitant who is enrolled in a health benefits plan sponsored or underwritten by an employee organization and whose membership in the employee organization is terminated, may register if the plan terminates his enrollment, within 31 days after termination of his enrollment in the employee organization plan, to be enrolled in another health benefits plan. However, the employee or annuitant may not change his enrollment from self alone to self and family.

(j) *Transfer to or from overseas post of duty.* An employee who is transferred from a post of duty within the several States or the District of Columbia to a post of duty outside the several States and the District of Columbia, or the reverse, may register to be enrolled or to change his enrollment with respect to whether his family is covered, the health benefits plan in which he is enrolled, which of the options he selects, or any combination of these, within the period beginning 31 days before the date he leaves the old post of duty and ending 31 days after he arrives at the new post of duty. An annuitant who is eligible to continue health benefits may register to

change enrollment with respect to the health benefits plan, or option, in which enrolled, within 60 days after retirement or the death of the employee on whose service title to annuity is based, if the employee is stationed at a post of duty outside the several States and the District of Columbia at the time of his retirement or death, as the case may be.

(k) *Termination of plan in which enrolled.* An employee or annuitant who is enrolled in a health benefits plan, and whose enrollment is terminated by the discontinuance of the plan in whole or in part, may register to be enrolled in another plan within the time set by the Commission. However, the employee or annuitant may not change his enrollment from self alone to self and family. This paragraph does not apply to termination of a contract at the end of a contract period immediately preceded by an open season.

(l) *On reaching 19.* An employee who is not registered to be enrolled may register to be enrolled within 31 days after he becomes 19 years of age.

(m) *On return from a uniformed service.* An employee who enters on duty in a uniformed service for a period of time not limited to 30 days or less may register to be enrolled or to change his enrollment within 31 days after he is restored to a civilian position pursuant to Part 353 of this chapter or other similar authority; and an annuitant who enters on duty in a uniformed service for a period of time not limited to 30 days or less may register to change his enrollment within 31 days after he is separated from the uniformed service.

(n) *Change in employment status.* If an employee or annuitant is entitled to provide coverage for another by a self-and-family enrollment, but both are enrolled for self alone, he may change his enrollment to self and family within 31 days after the other enrollment is terminated by a change in employment status which results in loss of eligibility.

(o) *Sole survivor.* When an employee or annuitant enrolled for self and family dies, leaving a survivor annuitant who is entitled to continue the enrollment in a health benefits plan, and it is apparent from available records that the survivor annuitant is the sole survivor entitled to continue enrollment in the health benefits plan, the office of the retirement system which is acting as employing office shall change the enrollment from self and family to self alone, effective on the commencing date of annuity for the survivor annuitant. On request of the survivor annuitant made within 31 days after the first installment of annuity is paid, the office of the retirement system which is acting as employing office shall rescind the action retroactive to the effective date of the action, with corresponding adjustment in withholdings and contributions.

(p) *Annuity insufficient to pay withholdings.* If the annuity of an annuitant or of all annuitants in a family is not sufficient to pay the withholdings for the plan in which the annuitants are enrolled, the employing office shall notify the annuitant of the plans available at a cost not in excess of the annuity. The annuitant may register to be enrolled in another plan whose cost is no greater than his annuity.

(q) *Registration by proxy.* In the discretion of the employing office, a representative of the employee or annuitant having a written authorization to do so may register for him.

§ 890.302 Coverage of family members.

(a) *Family enrollment.* An employee or annuitant who enrolls for self and family includes in his enrollment all members of his family who are eligible to be covered by his enrollment, but no person may be covered by two enrollments.

(b) *Dependent husband.* When an employee or annuitant enrolls for a family which includes a dependent husband, the employing office shall require the employee or annuitant to submit a certificate of a physician that the husband is incapable of self-support because of a physical or mental disability that can be expected to continue for more than 1 year. The certificate shall include a statement of the name of the husband, the nature of his disability, the period of time it has existed, and its probable future course and duration. The certificate shall be signed by the physician and show his office address.

(c) *Child incapable of self-support.* When an employee or annuitant enrolls for a family which includes a child incapable of self-support who has become 19 years of age, the employing office shall require the employee or annuitant to submit a certificate of the physician that the child is incapable of self-support because of a physical or mental disability which existed before the child became 19 years of age, and can be expected to continue for more than 1 year. The certificate shall include a statement of the name of the child, the nature of his disability, the period of time it has existed, and its probable future course and duration. The certificate shall be signed by the physician and show his office address. When an employee or annuitant is enrolled for a family which includes a child under 19 years of age who is incapable of self-support because of a physical or mental disability, the employing office shall require the employee or annuitant to submit the certificate on or before the date the child becomes 19 years of age. However, the employing office may accept otherwise satisfactory evidence of incapacity not timely filed.

(d) *Renewal of certificates of incapacity.* The employing office shall require the employee or annuitant who has submitted a certificate of incapacity to renew that certificate on the expiration of the minimum period of disability certified.

(e) *Determinations of incapacity.* The employing office shall make determinations of incapacity.

§ 890.303 Continuation of enrollment.

(a) *On transfer.* Except as otherwise provided by this part, the registration of an employee or annuitant eligible to continue enrollment continues without change when he (1) moves from one employing office to another, without a break in service of more than 3 days, whether the personnel action is designated as a transfer or not, or (2) changes from one employing office to another by reason of reemployment, if he is an annuitant, or by reason of retirement under conditions making him eligible to continue enrollment. For the purpose of this part, an employee is considered to have enrolled at his first opportunity if he registered to be enrolled during the first of the periods set forth in § 890.301 in which he was eligible to register or was covered at that time by the enrollment of another employee.

(b) *Change of enrolled employees to certain excluded positions.* Employees and annuitants enrolled under this part who move, without a break in service or after a separation of 3 days or less, to an employment in which they are excluded by § 890.102(c), continue to be enrolled so long as they are employed full-time, or part-time with a regular tour of duty, unless excluded by subparagraph (4), (5), (6), (7), or (8) of § 890.102(c).

(c) *On death.* The enrollment of a deceased employee or annuitant who is enrolled for self and family is transferred automatically to his eligible survivor annuitants. The enrollment is considered to be that of the survivor annuitant from whose annuity all or the greatest portion of the withholding for health benefits is made. It covers members of the family of the deceased employee or annuitant. A remarried spouse is not a member of the family of the deceased employee or annuitant.

(d) *Survivor annuitants.* If an employee who is entitled to health benefits coverage as a survivor annuitant elects to enroll or to continue to be enrolled under his eligibility as an employee, and is thereafter separated without entitlement to immediate annuity based on his own service, he is entitled to reinstatement of his employee-acquired enrollment on application to his retirement office. Reinstatement is effective immediately after termination if the application is received by the retirement office within 60 days of separation; otherwise reinstatement is effective on the first day of the first pay period after receipt of the application. The retirement office shall withhold from the annuity that the former employee receives as a survivor annuitant, the amounts necessary to pay his share of the cost of the enrollment.

§ 890.304 Termination of enrollment.

(a) *Employees.* An employee's enrollment terminates, subject to the temporary extension of coverage for conversion, at midnight of the earliest of the following dates:

(1) The last day of the pay period in which he is (i) furloughed by reason of reduction in force, or (ii) separated from the service other than by retirement under conditions entitling him to continue his enrollment.

(2) The last day of the pay period in which his employment status changes so that he is excluded from enrollment.

(3) The last day of the pay period in which he dies, unless he leaves a mem-

ber of the family entitled to continue enrollment as a survivor annuitant.

(4) The 365th day of continuous nonpay status.

(5) For a substitute in the postal field service whose enrollment is not terminated as otherwise provided in this section, the last day of the 13th consecutive pay period, exclusive of periods of approved leave without pay of 6 months or more, during which his pay was not sufficient to permit withholding of the amount necessary for his share of the cost of the health benefits plan in which he is enrolled.

(6) The day he is separated, furloughed, or placed on leave of absence in accordance with the provisions of Part 353 of this chapter or other similar authority for the purpose of performing duty not limited to 30 days or less in a uniformed service.

(b) *Annuitants.* (1) If the annuity of an annuitant or of all annuitants in a family is not sufficient to pay the withholdings for the plan in which the annuitants are enrolled, and the annuitant does not, or cannot, elect a plan under § 890.301(p) at a cost to him not in excess of the annuity, the employing office shall terminate the annuitant's enrollment effective as of the end of the last period for which withholding was made. Each annuitant whose enrollment is so terminated is entitled to a 31-day extension of coverage for conversion.

(2) An annuitant's enrollment terminates, subject to the temporary extension of coverage for conversion, at midnight of the last day of the pay period in which he dies, unless he leaves a member of the family entitled to continue enrollment as a survivor annuitant, or, if his enrollment is not terminated by death, at midnight of the earliest of the following dates:

(i) The last day of the last pay period for which he is entitled to annuity, unless he is eligible for continued enrollment as an employee in which case his enrollment continues without change.

(ii) The last day of the pay period in which his title to compensation under the Federal Employees Compensation Act, as amended, terminates, or in which he is held by the Secretary of Labor to be able to return to duty, unless he is eligible for continued enrollment as an employee or as an annuitant under a retirement system for civilian employees in which cases his enrollment continues without change.

(iii) The day he enters on active duty in a uniformed service for the purpose of performing duty not limited to 30 days or less.

(c) *Coverage of members of the family.* The coverage of a member of the family of an enrolled employee or annuitant terminates, subject to the temporary extension of coverage for conversion, at midnight of the earlier of the following dates:

(1) The day on which he ceases to be a member of the family.

(2) The day the employee or annuitant ceases to be enrolled, unless the member is entitled, as a survivor annuitant, to continued enrollment, or is entitled to continued coverage under the enrollment of another.

(d) *Cancellation.* An enrolled employee or annuitant may register to cancel his enrollment at any time by filing with his employing office a properly completed health benefits registration form. The cancellation becomes effective on the last day of the pay period after the pay period in which the health benefits registration form cancelling his enrollment is received by his employing office, except that the cancellation of an employee or annuitant having a monthly or 4-weekly pay period becomes effective at the end of the pay period in which the health benefits registration form is received if the form is received not less than 15 days before the end of the pay period. He and the members of his family are not entitled to the temporary extension of coverage for conversion or to convert to an individual contract for health benefits.

§ 890.305 Reinstatement of enrollment after military service.

The enrollment of an employee or annuitant whose enrollment was terminated because he entered on duty in a uniformed service for a period of time not limited to 30 days or less is reinstated automatically on the day the employee is restored to a civilian position pursuant to Part 353 of this chapter or other similar authority or on the day the annuitant is separated from the uniformed service, as the case may be.

§ 890.306 Effective dates.

(a) *Termination of plan.* The effective date of change of enrollment under § 890.301(k) is the first day of the first pay period after the health benefits registration form is received by the employing office.

(b) *Change to self alone.* The effective date of a change of enrollment under § 890.301(f) is the first day of the first pay period after the health benefits registration form is received by the employing office.

(c) *Open season.* (1) The effective date of a change of enrollment under § 890.301(d) is the first day of the first pay period beginning on or after November 1 of the year in which the health benefits registration form is received by the employing office.

(2) The effective date of a new enrollment under § 890.301(d) is the first day of the first pay period beginning on or after November 1 of the year in which the health benefits registration form is received by the employing office which follows a pay period in which the employee is in pay status, except that if the employee is a substitute in the postal field service the effective date of his new enrollment is the first day of the pay period beginning on or after November 1 of the year in which the health benefits registration form is received by the employing office which follows the sixth consecutive pay period in which he was in pay status and in each of which he drew sufficient pay, after other deductions, to permit withholding the amount necessary for his share of the cost of the health benefits plan he selects.

(d) *Generally.* The effective date of any other enrollment or change of enrollment is the first day of the first pay period which begins after the health benefits registration form is received by the employing office and which follows:

(1) A pay period during any part of which the employee, if not a substitute in the postal field service, or annuitant is in pay or annuity status; or

(2) If the employee is a substitute in the postal field service, the sixth consecutive pay period in which he was in pay status and in each of which he drew sufficient pay, after other deductions, to permit withholding the amount necessary for his share of the cost of the health benefits plan he selects.

§ 890.307 Waiver or suspension of annuity or compensation.

When annuity or compensation is entirely waived or suspended, the annuitant's enrollment continues for not more than 3 months (not more than 12 weeks for annuitants whose compensation under the Federal Employees' Compensation Act is paid each 4 weeks). When the waiver or suspension expires, the employing office shall make the withholding for the period of suspension or waiver during which enrollment was continued. If the waiver or suspension continues beyond the period during which enrollment is continued by this section, the annuitant's enrollment is suspended, subject to the temporary extension of coverage for conversion, effective at the end of the period of continuation of enrollment provided by this section. If suspension of annuity or compensation is because of employment, the employing office shall make the withholding currently and enrollment continues during employment. A suspended enrollment is reinstated automatically when payment of annuity or compensation is resumed.

Subpart D—Temporary Extension of Coverage and Conversion

§ 890.401 Temporary extension of coverage and conversion.

(a) *Thirty-one day extension and conversion.* An employee or annuitant whose enrollment is terminated other than by cancellation of the enrollment or discontinuance of his plan, in whole or part, and a member of the family whose coverage is terminated other than by cancellation of the enrollment or discontinuance of the plan under which he is covered, in whole or part, is entitled to a 31-day extension of coverage for self alone or self and family, as the case may be, without contributions by the enrolled person or the Government, during which he is entitled to exercise the right of conversion provided for by this part. A change from self and family to self alone operates as a cancellation as to the members of the family. The 31-day extension of coverage and the right of conversion for any person ends on the effective date of a new enrollment under this part which covers the person.

(b) *Continuation of benefits.* (1) Any person who has been granted a 31-

day extension of coverage in accordance with paragraph (a) of this section and who is confined in a hospital or other institution for care or treatment on the 31st day of the temporary extension is entitled to continuation of the benefits of the plan during the continuance of the confinement but not beyond the 60th day after the end of the temporary extension.

(2) Any person whose enrollment has been changed from one plan to another, or from one option of a plan to the other option of that plan, and who is confined in a hospital or other institution for care or treatment on the last day of enrollment under the prior plan or option, is entitled to a continuation of the benefits of the prior plan or option during the continuance of the confinement, but not beyond the 91st day after the last day of enrollment in the prior plan or option. The plan or option to which enrollment has been changed shall not pay benefits with respect to that person while that person is entitled to continuance of benefits under the prior plan or option.

Subpart E—Contributions and Withholdings

§ 890.501 Government contributions.

(a) The Government contribution for all plans, except those for which another contribution is set by paragraph (b) of this section for each enrolled employee who is paid biweekly is as follows:

For an employee enrolled for self alone	$1.30
For an employee enrolled for self and family	3.12
For a female employee enrolled for self and family which includes a nondependent husband	1.82

(b) The biweekly Government contribution for each employee or annuitant enrolled in a plan whose total enrollment charge is less than twice the appropriate contribution listed in paragraph (a) of this section is 50 percent of the enrollment charge, except that the Government contribution for a female employee who is enrolled for herself and a family including a nondependent husband is 30 percent of the enrollment charge.

(c) The Government contribution for annuitants and for employees who are not paid biweekly is a percentage of that fixed by paragraphs (a) and (b) of this section proportionate to the length of the pay period, rounding fractions of a cent to the nearest cent.

(d) The Government contribution for employees whose annual salary is paid during a period shorter than 52 work weeks is determined on an annual basis and prorated over the number of installments of pay regularly paid during the year.

(e) The employing office shall not make a contribution for an employee or annuitant for periods for which withholding is not made.

§ 890.502 Employee withholdings.

(a) The employing office shall make the withholding required from enrolled survivor annuitants from the annuity of any surviving spouse. If that annuity is less than the withholding required, the employing office shall make the withholding to the extent necessary from the annuity of the youngest child, and, if necessary, from the annuity of the next older child, in succession, until the withholding is satisfied.

(b) The employing office shall not withhold from an employee who is in nonpay status, or from an annuitant for periods for which he does not receive annuity.

§ 890.503 Reserves.

(a) The enrollment charge consists of the rate approved by the Commission for payment to the plan for each employee or annuitant enrolled, plus 4 percent, of which one part is for an administrative reserve and three parts are for a contingency reserve for the plan.

(b) The administrative reserve is credited with (1) the one one-hundred-and-fourth of the enrollment charge set aside for the administrative reserve, and (2) income from investment of the reserve. The administrative reserve is available for payment of administrative expenses of the Commission incurred under this part.

(c)(1) The contingency reserve for each plan is credited with (i) the three one-hundred-and-fourths of the enrollment charge set aside for the contingency reserve from the enrollment charges for employees and annuitants enrolled for that plan, (ii) income from investment of the reserve, and (iii) all dividends, rate adjustments, or other refunds made by the plan. The preferred minimum balance for the contingency reserve is 1 month's subscription charges at the average monthly rate paid from the Employees Health Benefits Fund for the plan during the most recent contract period.

(2) When, as of the end of a contract period, the total of all the reserves held by a carrier (other than a group-practice carrier) for the plan amounts to less than the total of the last 5 months' subscription charges paid from the Fund to the carrier for the plan, the carrier is entitled to payment from the contingency reserve of the lesser of: An amount equal to the difference between the total of the last 5 month's subscription charges paid from the fund to the carrier for the plan and the total of the reserves held by the carrier for the plan, or an amount equal to the excess, if any, of the contingency reserve over the preferred minimum balance. The Commission shall authorize this payment after receipt of the accounting report for the contract period. The carrier shall credit the amount so paid to the special reserve for the plan.

(3) If a group-practice carrier's contingency reserve exceeds the preferred minimum balance, the carrier may request the Commission to pay a portion of the reserve not greater than the excess of the contingency reserve over the preferred minimum balance. The carrier shall state the reason for the request. The Commission will decide whether to allow the request in whole or in part and will advise the plan of its decision.

PART 891—RETIRED FEDERAL EMPLOYEES HEALTH BENEFITS

Subpart A—Administration and General Provisions

Sec.
891.101 Relationship to Part 890 of this chapter.
891.102 Definitions.
891.103 Eligibility.
891.104 Responsibilities of retirement offices.
891.105 Appeals.

Subpart B—Election and Change of Election

891.201 Election.
891.202 Change of election.

Subpart C—Suspension and Termination

891.301 Suspension and termination.

Subpart D—Contributions and Withholdings

891.401 Government contributions.
891.402 Withholdings.

Subpart E—Standards for Uniform Plan and Carrier

891.501 Standards for uniform plan.
891.502 Standards for carrier of uniform plan.

AUTHORITY: §§ 891.101 to 891.502 issued under sec. 9, 74 Stat. 851; 5 U.S.C. 3058.

Subpart A—Administration and General Provisions

§ 891.101 Relationship to Part 890 of this Chapter.

This part does not apply to the Federal Employees Health Benefits Program which is governed by Part 890 of this Chapter. Part 890 of this Chapter does not apply to the Retired Federal Employees Health Benefits Program which is governed by this part.

§ 891.102 Definitions.

In this part:

(a) "Annuity" means the periodic payment due a former employee or his survivors by reason of past service, but does not include compensation paid under the Federal Employees' Compensation Act.

(b) "Annuity period" means the period for which an installment of annuity is paid.

(c) "Bureau of Employees' Compensation" means the Bureau of Employees' Compensation, Department of Labor.

(d) "Carrier" means a voluntary association, corporation, partnership, or other nongovernmental organization which lawfully offers a health benefits plan.

(e) "Compensation" means monthly compensation paid under the Federal Employees' Compensation Act, and includes compensation payable every 4 weeks.

(f) "Elect" means to file with the retirement office under which retired or with the Bureau of Employees' Compensation, as the case may be, a properly completed form, prescribed by the Commission for the purpose, giving notice of intention (1) to subscribe to the uniform plan, (2) to receive a Government contribution toward the cost of a private health benefits plan, or (3) not to participate in the program.

(g) "Employee" means an appointive or elective officer or employee in or under

the executive, judicial, or legislative branch of the United States Government, including a Government-owned or controlled corporation (but not including any corporation under the supervision of the Farm Credit Administration, of which corporation any member of the board of directors is elected or appointed by private interests), or of the government of the District of Columbia, and includes an Official Reporter of Debates of the Senate and a person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties, and an employee of Gallaudet College, but does not include (1) a member of a "uniformed service" as that term is defined in section 1072 of Title 10 of the United States Code, (2) a noncitizen employee whose permanent-duty station is located outside a State of the United States or the District of Columbia, or (3) an employee of the Tennessee Valley Authority.

(h) "Government" means the Government of the United States of America and the government of the District of Columbia.

(i) "Health benefits plan" means an individual or group insurance policy or contract, medical or hospital service arrangement, membership or subscription contract, or similar agreement provided by a carrier for a stated periodic premium or subscription charge for the purpose of providing, paying for, or reimbursing expenses for hospital care, surgical or medical diagnosis, care, and treatment, drugs and medicines, remedial care, or other medical supplies and services, or any combination of these.

(j) "Immediate annuity" means (1) as applied to a retired employee, an annuity which begins to accrue not later than 1 month after the date of the separation from the service on which title to the annuity is based; and (2) as applied to a survivor, an annuity which begins to accrue not later than 1 month (i) after the date of death of the employee or annuitant whose service forms the basis for the annuity, or (ii) after the birth of a posthumous child of such an employee or annuitant.

(k) "Member of family" means a former employee's spouse and any unmarried child (1) under 19 years of age (including (i) an adopted child, and (ii) a stepchild or recognized natural child who lives with the former employee in a regular parent-child relationship or did so at the time of the former employee's death); or (2) regardless of age who is incapable of self-support because of mental or physical disability that existed before the child became 19 years of age. As used in this paragraph, "former employee" means the former employee on whose service title to annuity is based.

(l) "Private health benefits plan" means a health benefits plan other than the uniform plan.

(m) "Retired employee" includes (1) a former employee retired under the Civil Service Retirement Act or other retirement system for civilian employees of the Government (not including the social security system), (2) an employee or former employee receiving compensation under the Federal Employees' Compensation Act, and (3) persons who are entitled to annuity or compensation as members of the family of a deceased employee or of a deceased retired employee qualifying under subparagraphs (1) and (2) of this paragraph.

(n) "Retirement office" means (1) any office responsible for the administration of a retirement system for civilian employees of the Government; and (2) the Bureau of Employees' Compensation.

(o) "Service" means service which is creditable for the purposes of the Civil Service Retirement Act.

(p) "Survivor" means a person who is entitled to annuity or compensation as a member of the family of a deceased employee or deceased retired employee.

(q) "Uniform plan" means the health benefits plan for which the Commission contracts pursuant to section 3, 74 Stat. 849.

§ 891.103 Eligibility.

(a) *General conditions of eligibility.* (1) A retired employee who is enrolled or covered by the enrollment of another under Part 890 of this chapter, or who is covered by the election of another retired employee under this part, is ineligible to subscribe to the uniform plan or to receive a Government contribution toward the cost of a private health benefits plan.

(2) A retired employee is ineligible to subscribe to the uniform plan if his annuity or compensation is not sufficient to cover the necessary withholding.

(b) *Retired employees (other than survivors) entitled to annuity.* A retired employee (other than a survivor) who is entitled to an annuity is eligible for the benefits provided by this part if—

(1) He retired before his first pay period beginning after June 30, 1960;

(2) He retired on immediate annuity;

(3) He had at least 12 years of creditable service, or retired under a disability provision of his retirement system;

(4) He retired from employment which was not in the Tennessee Valley Authority or in a corporation under the supervision of the Farm Credit Administration, of which corporation any member of the board of directors was elected or appointed by private interests; and

(5) At the time of retirement, he was a citizen, or a noncitizen having a permanent-duty station within the several States or the District of Columbia on the day before retirement.

For the purpose of this paragraph, an employee is considered to have retired before his first pay period beginning after June 30, 1960, if his annuity began to accrue before his first pay period after June 30, 1960, or if he was eligible under paragraph (d) of this section until the date his annuity began to accrue.

(c) *Survivors entitled to annuity.* A survivor who is entitled to annuity is eligible for the benefits provided by this part if he is—

(1) In receipt of immediate annuity as the survivor of (i) an employee who died before his first pay period beginning after June 30, 1960; or (ii) a retired employee whose annuity began to accrue before his first pay period beginning after June 30, 1960;

(2) The survivor of (i) an employee who had at least 5 years' creditable service, (ii) a former employee who retired having at least 12 years' creditable service and received an immediate annuity, or (iii) a former employee who retired under a disability provision of his retirement system;

(3) Unmarried; and

(4) Not receiving annuity as the survivor of a person who at the time of the retirement or death, as the case may be, on which annuity is based, was an employee of the Tennessee Valley Authority or of any corporation under the jurisdiction of the Farm Credit Administration of which corporation any member of the board of directors was elected or appointed by private interests, or was a noncitizen having a permanent-duty station outside the several States and the District of Columbia.

(d) *Retired employees (other than survivors) entitled to compensation.* A retired employee (other than a survivor) who is entitled to compensation is eligible for the benefits provided by this part if—

(1) He is receiving monthly compensation for an injury sustained or illness contracted before his first pay period beginning after June 30, 1960;

(2) He is held by the Secretary of Labor to be unable to return to duty;

(3) He is receiving compensation based on employment which was not in the Tennessee Valley Authority or in a corporation under the supervision of the Farm Credit Administration, of which corporation any member of the board of directors was elected or appointed by private interests; and

(4) At the time of sustaining the injury or contracting the illness, as the case may be, on which compensation is based, he was a citizen, or a noncitizen having a permanent-duty station within the several States or the District of Columbia at that time.

(e) *Family members entitled to compensation.* A member of a family who is receiving compensation is eligible for the benefits provided by this part if he is—

(1) A survivor beneficiary of (i) an employee who completed 5 years of service and died as a result of injury or illness which is compensable under the Federal Employees' Compensation Act and which was sustained or contracted before his first pay period beginning after June 30, 1960, or (ii) a former employee who was separated after having completed at least 5 years of service and who died while receiving monthly compensation under the Act on account of injury sustained or illness contracted before his first pay period beginning after June 30, 1960, and who has been held

by the Secretary of Labor to have been unable to return to duty;

(2) Unmarried; and

(3) Not receiving compensation as the survivor of a person who at the time of sustaining the injury or contracting the illness, as the case may be, on which compensation is based, was an employee of the Tennessee Valley Authority or of any corporation under the jurisdiction of the Farm Credit Administration of which corporation any member of the board of directors was elected or appointed by private interests, or was a noncitizen having a permanent-duty station outside the several States and the District of Columbia.

(f) *Determinations of eligibility.* The Bureau of Retirement and Insurance of the Commission, on request, shall determine the eligibility of a retired employee, or class of retired employees, to make the elections and receive the Government contributions provided for by this part.

§ 891.104 Responsibilities of retirement offices.

(a) The Bureau of Employees' Compensation is responsible only for retired employees who are receiving compensation from the Bureau and is responsible even though the retired employee has retired under another retirement office from which he is not currently receiving annuity. If the retired employee is currently receiving annuity from another retirement office, that retirement office, rather than the Bureau of Employees' Compensation, will have the responsibilities imposed on retirement offices by this part for that retired employee.

(b) Retirement offices are responsible, in accordance with regulations and instructions issued by the Commission, for withholding from the annuity or compensation of each retired employee within the jurisdiction of the retirement office who elects to subscribe to the uniform plan his share of the cost, for forwarding the amount withheld to the Retired Federal Employees Health Benefits Fund, and for reporting to the Commission amounts required for Government contribution for these retired employees.

(c) Retirement offices are responsible, in accordance with regulations and instructions issued by the Commission, for reporting to the Commission amounts required for Government contributions to retired employees within the jurisdiction of the retirement office who have elected to receive a Government contribution toward the cost of a private health benefits plan, and for paying the Government contributions to these retired employees.

(d) Retirement offices are responsible for advising retired employees within the jurisdiction of the retirement office of the rights and obligations of retired employees under this part.

(e) When one or more of the family members is a child 19 years of age or older who is incapable of self-support because of mental or physical disability which existed before the child became 19 years of age, the appropriate retirement office shall obtain the necessary evidence and make a determination of incapacity.

(f) Retirement offices are responsible, in accordance with regulations and instructions issued by the Commission, for verifying continuing eligibility of retired employees to receive Government contributions.

§ 891.105 Appeals.

(a) A retired employee may appeal any determination by the Bureau of Retirement and Insurance that he is not eligible to make an election or to receive a Government contribution under this part. The appeal shall be made in writing, within 90 days of the determination, to the Board of Appeals and Review, United States Civil Service Commission, Washington 25, D.C.

(b) The Commission may order correction of administrative errors at any time.

(c) The Commission does not adjudicate individual claims for payment or service under health benefits plans, nor does it arbitrate or attempt to compromise disputes between retired employees and carriers as to claims for payment or service.

Subpart B—Election and Change of Election

§ 891.201 Election.

(a) The original period for election by each eligible retired employee was during the months of March and April, 1961. Failure to elect when eligible to do so is deemed an election not to participate in the program unless the failure is determined by the retirement office to be for cause beyond the control of the retired employee. In any case in which annuity or compensation is being paid to a payee in behalf of a retired employee, the payee shall make the election for the retired employee.

(b) (1) A retired employee may elect to participate in the program for self alone or for self and family.

(2) Survivors, if actually or constructively living in the same household, have only one right of election among them. The election shall be made by the payee. The fact that one payee is receiving annuity or compensation for all members of the family is prima facie evidence that they are living in the same household. The existence of more than one payee is prima facie evidence that each payee and the survivors in whose behalf the payee is receiving annuity or compensation constitute a separate household, and each payee may elect for the survivors in whose behalf he is receiving annuity or compensation, but where a family is receiving annuity or compensation through more than one payee, one payee, with the consent of the other payees, may elect for the whole family.

(3) A retired employee may not be covered under more than one election.

(4) A retired employee who is entitled to more than one annuity or to compensation and annuity is entitled to only one election.

(c) Each retired employee who elects to receive a Government contribution toward the cost of a private health benefits plan shall file with his election a certificate of the carrier, on the form prescribed by the Commission for the purpose, that he is a subscriber to a health benefits plan. The Commission, or the appropriate retirement office, at any time may require that a retired employee renew the certificate, or may take such other action as it considers desirable to verify the continuing eligibility of the retired employee to receive a Government contribution. The appropriate retirement office may suspend the Government contribution when there is a reasonable doubt of the retired employee's continuing eligibility to receive the Government contribution.

(d) In the discretion of the retirement office, a representative of the retired employee having a written authorization to do so may elect for him.

(e) A person who was not eligible, during the months of March and April 1961, to elect to subscribe to the uniform plan or to receive a Government contribution toward the cost of a private health benefits plan, may apply to the appropriate retirement office when he becomes eligible. If the retirement office determines that he is eligible, it shall notify the retired employee that he is eligible to make an election in accordance with paragraphs (a) to (d) of this section within 60 days of the date of the notice. If the retirement office determines that a retired employee was unable, for cause beyond his control, to make an election within the time limits prescribed by this section, it shall notify the retired employee that he is eligible to make an election in accordance with paragraphs (a) to (d) of this section within 60 days of the date of the notice. Elections made under this paragraph are effective, for a retired employee receiving annuity and a survivor receiving compensation, on the first day of the third month following the month in which the retirement office receives the election. Withholdings and contributions are effective for months beginning on and after the first day of the second month following the month in which the retirement office receives the election. For any other retired employee receiving compensation, changes of election made under this paragraph are effective on the first day of the third 4-week period following the 4-week period in which the Bureau of Employees' Compensation receives the election, and withholdings and contributions are effective beginning with the second 4-week period following receipt of the election. This paragraph does not apply to retired employees who have been, at any time, covered by the election of another under this part.

§ 891.202 Change of election.

(a) When used in this section, "month" includes the 4-week period for which a retired employee (other than a survivor) receives compensation.

(b) A retired employee shall change his election in accordance with the following table:

TABLE OF REQUIRED CHANGES

Event requiring change	Type of election to which requirement applies	Change required	Effective date of change
(1) Loss of member of family by death or otherwise, leaving only one person covered by the election.	Election for self and family for uniform or private health benefits plan.	Change to self alone	First day of month following the event requiring change. Changes in withholdings and contributions are effective for annuity or compensation accruing for the month in which the event requiring change occurs.
(2) Termination of subscription to a private health benefits plan for all persons covered by the election but the retired employee making the election.[1]	Election for self and family for private health benefits plan.	Do.	Do.
(3) Termination of subscription to a private health benefits plan for all persons covered by the election.[1]	Election for self alone or for self and family for private health benefits plan.	Change to not participating (optional change may be made in accordance with paragraph (c) of this section).	Do.

[1] If the termination is immediately succeeded by a similar subscription in another private health benefits plan a change of election is not required, but the retired employee shall file a certificate of the new carrier that he is a subscriber. A form for the certificate may be obtained from the retirement office.

(c) A retired employee may change his election in accordance with the following table by notifying the appropriate retirement office at any time:

TABLE OF OPTIONAL CHANGES

Change permitted	Type of election from which changing	Effective date of change
(1) Change to not participating	Election for self alone or self and family for uniform or private health benefits plan.	First day of month specified in notice to retirement office, or first day of month following receipt of notice by retirement office, whichever is later. Changes in withholdings and contributions are effective for annuity or compensation accruing for the month preceding the effective date of the change.
(2) Change rom basic and major medical to basic only or to major medical only.	Election for self alone or self and family for uniform plan (basic and major medical).	Do.
(3) Change to self alone in same plan.	Election for self and family for uniform or private health benefits plan.	Do.
(4) Change to private health benefits plan for self alone or self and family.	Election for self alone or self and family for uniform plan.	Do.
(5) Change to self and family in same plan.	Election for self alone for uniform or private health benefits plan.	First day of fourth month following month in which notice is received by retirement office. Changes in withholdings and contributions are effective for annuity or compensation accruing for the third month following month in which notice is received by the retirement office.
(6) Change from major medical only to basic or to basic and major medical.	Election for self alone or self and family for uniform plan (major medical only).	Do.
(7) Change to self alone or self and family for uniform (basic only) or private health benefits plan.	Election not to participate	Do.

(d) Two changes may be made by the same notice. Example: A retired employee originally elected to receive a Government contribution for self and family toward the cost of a private health benefits plan. The subscription to the private health benefits plan is terminated March 15, 1962. He notifies the retirement office of the termination and at the same time notifies the retirement office that he wishes to elect the uniform plan (basic only) for self and family. The retirement office receives the notice March 22, 1962. His election becomes an election not to participate on April 1, 1962, and the Government contribution is not added to the annuity or compensation accrued for March 1962. On July 1, 1962, the family is covered by the basic coverage of the uniform plan, and withholdings and contributions are made for the annuity or compensation accruing in June 1962.

Subpart C—Suspension and Termination

§ 891.301 Suspension and termination.

(a) When used in this section, "month" includes the 4-week period for which a retired employee (other than a survivor) receives compensation.

(b) When compensation is entirely suspended or annuity is entirely waived or suspended, Government contributions are suspended. If the election is to subscribe to the uniform plan, and the annuity or compensation is suspended, or the annuity is waived to the extent that the retired employee's share of the cost cannot be withheld, withholdings and Government contributions are suspended, but the subscription continues.

(c) If the waiver or suspension covers 3 months or less, Government contributions and withholdings for the period of waiver or suspension shall be made when annuity payment is resumed. If the waiver or suspension covers more than 3 months, the retired employee's election is terminated effective at the end of the third month of waiver or suspension. A terminated election is renewed when annuity or compensation payment is resumed. When a terminated election is renewed pursuant to this paragraph, withholdings and Government contributions shall be made for the first 3 months of the waiver or suspension. Withholdings and Government contributions shall be made for annuity or compensation accruing after the election is renewed.

(d) If title of a retired employee to annuity or compensation is terminated, his eligibility under this part is terminated.

(e) If the eligibility of a retired employee is terminated and other members of the same family continue to be eligible under this part, the election of the former retired employee continues for the remainder of the family unless and until changed in accordance with § 891.202.

Subpart D—Contributions and Withholdings

§ 891.401 Government contributions.

(a) The Commission shall pay, through the retirement office, $3.50 monthly to each retired employee receiving annuity and to each survivor receiving compensation who elects to receive a Government contribution toward the cost of a private health benefits plan in which he is a subscriber for self alone, and $7.00 monthly to each retired employee receiving annuity and to each survivor receiving compensation who so elects toward the cost of a private health benefits plan in which he is a subscriber for self and family. The Commission shall pay, through the Bureau of Employees' Compensation $3.27 each 4-week period to each retired employee, other than a survivor, who is receiving compensation and who elects to receive a Government contribution toward the cost of a private health benefits plan in which he is a subscriber for self alone, and $6.53 each 4-week period to each who so elects toward the cost of a private health benefits plan in which he is a subscriber for self and family. The Commission shall not pay, in any case, more than the cost of the private health benefits plan each month or 4-week period, as the case may be.

(b) The Commission shall contribute to the cost of the uniform plan $3.50 monthly for each retired employee receiving annuity and each survivor receiving compensation, and $3.27 each 4-week period for any other retired employee receiving compensation, for an election for self alone; and $7.00 monthly for each retired employee receiving annuity and each survivor receiving compensation, and $6.53 each 4-week period for any other retired employee receiving compensation, for an election for self and family. Election to subscribe to the uniform plan constitutes agreement by the retired employee that the retirement office may withhold from his annuity or compensation his share of the cost of the plan, as provided by this part.

(c) The Government shall contribute to the Retired Federal Employees Health Benefits Fund 2 percent of the total Government contribution authorized by this section, for payment of expenses incurred by the Commission in administering this part.

§ 891.402 Withholdings.

The appropriate retirement office shall withhold from the annuity or compensation of each of its retired employees who has elected to subscribe to the uniform plan so much as is necessary to pay his share of the cost of his subscription. The withholdings shall be forwarded, in accordance with the Commission's instructions, to the Retired Employees Health Benefits Fund.

Subpart E—Standards for Uniform Plan and Carrier

§ 891.501 Standards for uniform plan.

The uniform plan shall be open to all eligible retired employees and members of their families, without regard to race, sex, health status, or age. It shall not deny or limit benefits because of any preexisting condition. It shall offer a choice among basic coverage only, major medical coverage only, and basic plus major medical coverage. It shall provide a 31-day extension of coverage on termination of subscription other than by change of election or termination of the contract. A person confined in hospital for care or treatment on the 31st day of the extension of coverage shall be entitled to continuation of the benefits of the contract during the continuance of the confinement, but not beyond the 60th day following the end of the extension of coverage. The uniform plan shall be experience-rated.

§ 891.502 Standards for carrier of uniform plan.

In the most recent year for which data are available, the carrier of the uniform plan shall have made at least 1 percent of all group health insurance benefit payments in the United States. If the carrier is an insurance company, it must be licensed to issue group health insurance in all the States of the United States and the District of Columbia.

PART 930—PROGRAMS FOR SPECIFIC POSITIONS AND EXAMINATIONS (MISCELLANEOUS)

Subpart A—Motor Vehicle Operators

Sec.
930.101 Purpose.
930.102 Definitions.
930.103 Coverage.
930.104 Reports required.
930.105 Commission standards and procedures required.
930.106 Competitive operator position.
930.107 Waiver of practical road test.
930.108 Details.
930.109 Excepted operator position.
930.110 Incidental operator.
930.111 Identification card.
930.112 To whom issued.
930.113 Contents of identification card.
930.114 Identification card in possession.
930.115 Renewal and reissuance of identification cards.
930.116 State license in possession.
930.117 Periodic physical testing.
930.118 Adverse actions.

Subpart B—Appointment, Compensation, and Removal of Hearing Examiners

GENERAL PROVISIONS

930.201 Coverage.
930.202 Definitions.
930.203 Appointment.
930.204 Promotion.
930.205 Reassignment.
930.206 Transfer.
930.207 Reinstatement.
930.208 Restoration.
930.209 Detail.
930.210 Compensation.
930.211 Performance rating.
930.212 Rotation of examiners.
930.213 Use of examiners of other agencies.
930.214 Separation.
930.215 Reduction in force.

HEARINGS IN REMOVAL CASES; RULES OF PRACTICE

930.221 Letter of charges.
930.222 Service.
930.223 Answer.
930.224 Appearance.
930.225 Notice of hearing.
930.226 Hearing.
930.227 Burden of proof.
930.228 Motions.
930.229 Subpenas.
930.230 Witnesses and fees.
930.231 Proposed findings and conclusions before presiding officer.
930.232 Recommended decision.
930.233 Commission's adjudication.
930.234 Report of action taken.

Subpart A—Motor Vehicle Operators

AUTHORITY: §§ 930.101 to 930.118 issued under R.S. 1753, sec. 2, 22 Stat. 403, as amended, sec. 2, 68 Stat. 1126, as amended; 5 U.S.C. 631, 633, 40 U.S.C. 491; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218.

§ 930.101 Purpose.

The purpose of this subpart is to govern agencies in authorizing employees to operate Government-owned motor vehicles for official purposes within the States of the Union, the District of Columbia, Puerto Rico, and the possessions of the United States.

§ 930.102 Definitions.

In this subpart:

(a) "Agency" means a department, independent establishment, or other unit of the executive branch of the Federal Government, including a wholly owned Government corporation, in the States of the Union, the District of Columbia, Puerto Rico, and the possessions of the United States.

(b) "Employee" means a civilian employee or civilian officer of an agency in either the competitive or excepted service.

(c) "Federal medical officer" means a physician who is a Government employee, civilian or military, paid on a salary basis.

(d) "Identification card" means the United States Government Motor Vehicle Operator's Identification Card, Standard Form 46, which names the types of Government-owned vehicles the holder is authorized to operate.

(e) "Incidental operator" means an employee in other than an operator position who is required to operate a Government-owned motor vehicle in order properly to carry out his assigned duties.

(f) "Motor vehicle" means a vehicle, self-propelled, or drawn by mechanical power, designed and operated principally for highway transportation of property or passengers, but does not include a vehicle (1) designed or used for military field training, combat, or tactical purposes; (2) used principally within the confines of a regularly established military post, camp, or depot; or (3) regularly used by an agency in the performance of investigative, law enforcement, or intelligence duties if the head of the agency determines that exclusive control of the vehicle is essential to the effective performance of those duties.

(g) "Operator" means an employee who is regularly required to operate Government-owned motor vehicles. This includes a chauffeur, mounted messenger, truck driver, garageman-driver, and guard-driver.

(h) "Practical road test" means the Commission's Test No. 347.

(i) "State license" means a valid driver's license of the State, District of Columbia, Puerto Rico, or possession of the United States in which the employee is domiciled or principally employed.

§ 930.103 Coverage.

This subpart governs agencies in authorizing their employees to operate Government-owned motor vehicles for official purposes within the States of the Union, the District of Columbia, Puerto Rico, and the possessions of the United States.

§ 930.104 Reports required.

An agency shall submit to the Commission, on request, (a) a copy of agency orders and directives issued in compliance with this subpart, and (b) such other reports as the Commission may require for adequate administration and evaluation of the motor vehicle operator program.

§ 930.105 Commission standards and procedures required.

An agency shall adopt and use the Commission's minimum standards and testing procedures in filling competitive and excepted operator positions unless the Commission authorizes, on agency request, the use of alternate standards and procedures which meet the objectives of the motor vehicle operator program.

§ 930.106 Competitive operator position.

An agency may fill competitive operator positions by any of the methods normally authorized for filling competitive positions. The experience and training requirements for competitive operator positions shall include (a) an experience requirement, (b) a safe driving record, (c) the possession of a State license, and (d) except as provided in § 930.107, a practical road test.

§ 930.107 Waiver of practical road test.

The Commission, on agency request, may waive the practical road test requirement when qualified examiners or test facilities are not available in the area and the operator position is to be

filled by (a) temporary appointment pending establishment of a register, (b) temporary limited appointment, (c) noncompetitive temporary appointment, (d) reinstatement, (e) position change, or (f) transfer.

§ 930.108 Details.

An agency may detail an employee to a competitive operator position for 30 days or less when he possesses a State license. For details exceeding 30 days, the employee shall meet the Commission's requirement applicable to position change and transfer.

§ 930.109 Excepted operator position.

In filling an excepted operator position, an agency shall apply the provisions of §§ 930.106 and 930.107 which apply to the filling of a competitive operator position by appointment procedures of like nature.

§ 930.110 Incidental operator.

To qualify as an incidental operator in either the excepted or competitive service, an employee shall (a) meet the physical standards established by the Commission; (b) qualify on a road test determined by the agency to be appropriate; and (c) possess a State license. An agency head or his designated representative may waive the road test, but only when in his opinion it is impractical to apply it, and then only for an employee whose competence as a driver has been established by his past driving record.

§ 930.111 Identification card.

(a) An agency shall issue an identification card in accordance with this subpart to each employee who operates a Government-owned motor vehicle.

(b) The Commission may grant exceptions to the requirement in paragraph (a) of this section to certain employees who otherwise meet the requirements of this subpart when it finds these exceptions are in the interest of good administration.

§ 930.112 To whom issued.

(a) Each agency shall issue an identification card to:

(1) Each employee who qualifies for and is assigned to an operator position;

(2) Each employee who qualifiies as an incidental operator; and

(3) Other employees who qualify in accordance with the requirements for incidental operator in § 930.110.

(b) An agency may issue an identification card without regard to the requirements in §§ 930.106 and 930.110:

(1) To an employee in an operator position under temporary appointment or detail not exceeding 1 month;

(2) For 1 month or less, to an employee in an operator position in order to permit completion of special testing approved by the Commission in a particular selection program; and

(3) For 1 month or less, to other employees who are taking training to satisfy requirements as operators or incidental operators or under such circumstances as in the judgment of the agency is necessary in the interests of the Government. An agency may issue an identification card under authority of this paragraph only to an employee who is in possession of a State license. An identification card issued under this paragraph shall include the time restriction imposed.

§ 930.113 Contents of identification card.

(a) An identification card shall show:

(1) Each type of motor vehicle authorized to be operated by the identification card holder;

(2) Any restriction imposed on the holder; and

(3) The date of expiration.

(b) An agency may use the "Other Record" space on the identification card for relevant data such as an award for safe driving or a record of arrest.

§ 930.114 Identification card in possession.

(a) An employee shall have an identification card in his possession at all times while driving a Government-owned motor vehicle.

(b) The Commission may grant exceptions to the requirement in paragraph (a) of this section.

(c) The holder of an identification card shall surrender the card when he leaves the issuing agency or moves to a position in which the driving of a Government-owned vehicle is not necessary.

§ 930.115 Renewal and reissuance of identification cards.

(a) An identification card is valid for not more than 3 years, and is renewable for additional periods of not more than 3 years each.

(b) An agency may renew or reissue an identification card only after the agency head or his designated representative has determined that the employee concerned continues to meet prescribed physical standards and continues to demonstrate competence in driving the motor vehicle to which assigned.

§ 930.116 State license in possession.

(a) An employee shall have a State license in his possession at all times while driving a Government-owned motor vehicle on a public highway.

(b) The Commission may grant exceptions to the requirement in paragraph (a) of this section.

§ 930.117 Periodic physical testing.

At least once every 3 years each agency, in accordance with standards and procedures established by the Commission, shall provide for testing the physical fitness of each employee who operates a Government-owned vehicle.

§ 930.118 Adverse actions.

An agency shall take any adverse action against an operator or an incidental operator in accordance with applicable laws and regulations. Agency orders and directives shall include the following reasons among those constituting sufficient cause for an adverse action against an operator or an incidental operator:

(a) The employee is convicted of operating under the influence of narcotics.

(b) The employee is convicted of leaving the scene of an accident without making himself known.

(c) A Federal medical officer finds the employee fails to meet the required physical standards.

(d) The employee's State license is revoked.

(e) The employee's State license is suspended. However, the agency may continue the employee in his position for operation of Government-owned motor vehicles on other than public highways for not to exceed 45 days from the date of suspension of the State license.

Subpart B—Appointment, Compensation, and Removal of Hearing Examiners

AUTHORITY: §§ 930.201 to 930.234 issued under sec. 11, 60 Stat. 244; 5 U.S.C. 1010.

GENERAL PROVISIONS

§ 930.201 Coverage.

(a) This subpart applies to persons appointed under section 11 of the Administrative Procedure Act for proceedings pursuant to sections 7 and 8 of the Act, and to hearing examiner positions.

(b) Except as otherwise provided in this subpart, the rules and regulations applicable to positions in the competitive service apply to hearing examiner positions.

§ 930.202 Definitions.

In this subpart:

(a) "Agency" means an agency subject to the Administrative Procedure Act as defined in that Act.

(b) "Detail" means the temporary assignment of an employee from one position to another position without change in his civil service or pay status. The assignment to a hearing examiner of a case of the level of difficulty that would ordinarily be assigned to a hearing examiner of a different grade does not of itself constitute a detail within the meaning of this subpart.

(c) "Hearing examiner position" means a position in which any portion of the duties includes those prescribed by the Administrative Procedure Act for a presiding officer appointed under section 11 thereof.

(d) "Promotion" means a change in grade from one position to a higher graded position, whether newly created, or left vacant because of promotion, demotion, transfer, reassignment, retirement, separation of the last incumbent, or a change resulting from the assignment of work of higher grade than the work of the position to which the examiner was absolutely appointed.

(e) "Reinstatement" means reemployment authorized on the basis of the appointee's absolute status as hearing examiner after separation from a hearing examiner position.

(f) "Removal" means an involuntary change in the status of a hearing examiner, including a discharge, demotion, reassignment, suspension, and promotion.

§ 930.203 Appointment.

(a) *Prior approval.* An agency may make an appointment to a hearing ex-

aminer position only with the prior approval of the Commission, except when it makes its selection from a certificate of eligibles furnished by the Commission. An appointment is subject to investigation in accordance with §§ 731.301 and 731.302 of this chapter and subject to security clearance by the agency'

(b) *Probationary and career-conditional periods.* The requirement of a probationary and career-conditional period before absolute appointment does not apply to an appointment to a hearing examiner position.

(c) *Appointment of incumbents of newly classified hearing examiner positions.* An agency may appoint as a hearing examiner an employee who is serving in a position which is classified as a hearing examiner position after June 11, 1947, on the basis of legislation, Executive order, or decision of a court if:

(1) He has a competitive status or was serving in an excepted position under a permanent appointment;

(2) He was serving in the position on the date of the legislation, Executive order, or decision of the court on which the classification of the position is based;

(3) The Commission received a recommendation for his appointment from the agency concerned not later than 6 months after classification of the position on the basis of the legislation, Executive order, or decision of the court; and

(4) The Commission approves his qualifications for the position. In an emergency situation, when the needs of the service require it, the Commission may authorize the conditional appointment of an employee to a hearing examiner position pending final decision on his eligibility for absolute appointment under this paragraph.

(d) *Appointment of legislative and judicial employees.* An agency may appoint a former employee of the legislative or judicial branch to a hearing examiner position if he passes such suitable noncompetitive examination as the Commission prescribes and is otherwise eligible under the provisions of section 2 (b) or (c) of the Ramspeck Act of November 26, 1940, as amended (54 Stat. 1212; 5 U.S.C. 631b).

(e) *Appointment of incumbents of nonhearing examiner positions.* Except as provided in paragraphs (c) and (d) of this section, an agency may not appoint an employee who is serving in a position other than a hearing examiner position to a hearing examiner position, except by selection from a certificate of eligibles furnished by the Commission from the open competitive register.

§ 930.204 Promotion.

(a) When the Commission classifies an occupied hearing examiner position at a higher grade, the Commission determines which hearing examiner shall be promoted to the higher grade.

(b) When a hearing examiner position becomes vacant, the agency may elect to fill the vacancy by the promotion of one of its hearing examiners. The Commission determines which hearing examiner shall be promoted. When an agency elects to have a vacant hearing examiner position filled by promotion, the agency shall promote the hearing examiner designated by the Commission.

(c) A promotion is effective on the date named by the Commission.

(d) The Commission, as necessary, shall establish and maintain registers (to be known as promotion registers) of hearing examiners who are eligible for promotion to higher grade hearing examiner positions in their agency. The Commission shall enter the name of each hearing examiner on the promotion register for his agency in accordance with his rating which is assigned on the basis of the experience and training requirements of the open competitive examination. The Commission shall direct the promotion of the examiner whose name is at the top of the appropriate promotion register.

(e) The Commission shall rerate each promotion register at least biennially.

§ 930.205 Reassignment.

An agency may reassign a hearing examiner who is serving under absolute appointment from one hearing examiner position to another hearing examiner position with the prior approval of the Commission on a noncompetitive basis in accordance with regular civil service procedures.

§ 930.206 Transfer.

(a) Section 930.204 (b) through (e) apply to the transfer of a hearing examiner that involves a promotion. The Commission shall rate the hearing examiner concerned as provided in § 930.204 and shall approve his transfer and promotion only if his rating is such that his name would be at the top of the appropriate promotion register.

(b) An agency may transfer a hearing examiner from one hearing examiner position to another hearing examiner position, when this does not involve a promotion, with the prior approval of the Commission on a noncompetitive basis in accordance with regular civil service procedures.

§ 930.207 Reinstatement.

(a) Section 930.204 (b) through (e) apply to the reinstatement of a former hearing examiner who acquired absolute status as a hearing examiner under the Administrative Procedure Act, if the position to be filled is at a higher grade than the former hearing examiner once occupied. The Commission shall rate the former hearing examiner as provided in § 930.204 and shall approve his reinstatement only if his rating is such that his name would be at the top of the appropriate promotion register.

(b) An agency may reinstate a person who has a reinstatement status and who last served with absolute status as a hearing examiner under the Administrative Procedure Act at the same grade or in a higher grade than the position to be filled, with the prior approval of the Commission, on a noncompetitive basis in accordance with regular civil service procedures.

§ 930.208 Restoration.

Parts 352 and 353 of this chapter governing reemployment rights and restoration after military service apply to reemployment and restoration to hearing examiner positions.

§ 930.209 Detail.

An agency may not detail an employee serving in a position other than a hearing examiner position to a hearing examiner position. An agency may detail a hearing examiner from one hearing examiner position to another hearing examiner position in a higher grade only after the prior written approval of the Commission.

§ 930.210 Compensation.

(a) The Commission shall classify hearing examiner positions in accordance with the regulations and procedures adopted by the Commission for classifications under the Classification Act of 1949, as amended. The Commission shall make these classifications independently of agency recommendations and ratings.

(b) A hearing examiner is entitled to within-grade increases in accordance with Part 531 of this chapter, except that the requirement that his work be of an acceptable level of competence as determined by the head of his agency does not apply.

§ 930.211 Performance rating.

An agency shall not rate the performance of a hearing examiner.

§ 930.212 Rotation of examiners.

Insofar as practicable, each agency shall assign its hearing examiners in rotation to cases of the level of difficulty and importance that are normally assigned to positions of the salary grade they hold.

§ 930.213 Use of examiners of other agencies.

At the request of an agency that is occasionally or temporarily insufficiently staffed, the Commission shall provide for the temporary use by the agency of the services of a hearing examiner of another agency. The Commission, with the consent of the agency in which a hearing examiner is employed, shall select the examiner to be used, and shall name the date on which the examiner is to be made available to the agency in need of his services.

§ 930.214 Separation.

(a) *Removal.* An agency may remove a hearing examiner only for good cause, established and determined by the Commission, after opportunity for a hearing and on the record thereof as provided in §§ 930.221 through 930.234.

(b) *Status during removal proceedings.* In exceptional cases when there are circumstances by reason of which the retention of a hearing examiner in his position, pending adjudication of the existence of good cause for his removal, would be detrimental to the interests of the Government, the agency shall either assign the hearing examiner to duties in which these conditions would not exist,

or place him on annual leave for the period that will be covered by the annual leave to his credit. An agency may take action under this paragraph only with the prior approval of the Commission.

(c) *Exceptions from procedures.* The procedures in this subpart governing the removal of hearing examiners do not apply in making dismissals requested by the Commission under §§ 5.2 and 5.4 of this chapter, nor to dismissals made by agencies in the interest of national security.

§ 930.215 Reduction in force.

(a) *Service date.* The service date for the purpose of reductions in force of hearing examiners reflects the length of Federal Government service.

(b) *Determination of tenure groups.* In determining retention standing in a reduction in force, each agency shall classify its hearing examiners in groups and subgroups according to tenure of employment and veteran preference in the manner prescribed in Part 351 of this chapter. However, as hearing examiners are not given performance ratings, the provisions in Part 351 referring to the effect of performance ratings on retention standing are not applicable to hearing examiners.

(c) *Status of hearing examiners who are reached in reduction in force.* (1) The Commission, on request of a hearing examiner who has been separated, furloughed, or demoted because of reduction in force, shall place his name on:

(i) The Commission's priority referral list for the grade in which he last served and for all lower grades; and

(ii) The open competitive hearing examiner register, ahead of all other eligibles, for the grade from which he was separated, furloughed, or demoted as a hearing examiner and for all lower grades. When more than one hearing examiner is affected, the Commission shall rate the qualifications of the several examiners and relative standing at the top of the register is based on these ratings.

(2) A hearing examiner may file a request under subparagraph (1) of this paragraph at any time after the receipt of the reduction-in-force notice but not later than 90 days after the date of separation, furlough, or demotion. He shall file with his request a Standard Form 57 and a copy of the reduction-in-force notice.

(3) When there is no hearing examiner on the agency's reemployment priority list, but there is a hearing examiner who has been placed on the priority referral list (subparagraph (1)(i) of this paragraph) or on the top of the open competitive register for priority certification (subparagraph (1)(ii) of this paragraph), the agency may fill a vacant hearing examiner position only by selection from the priority referral list or the register, unless it obtains the prior approval of the Commission under § 930.203(c), § 930.204, § 930.205, § 930.206, or § 930.207.

(4) Referral, certification, and selection of hearing examiners from the agency's reemployment priority list, the Commission's priority referral list, or the open competitive register are made without regard to selective certification procedures applied in original appointment.

(d) *Retention preference regulations.* The reduction in force regulations for use in reduction in force (Part 351 of this chapter), except as modified by this section, apply to reductions in force of hearing examiners.

HEARINGS IN REMOVAL CASES; RULES OF PRACTICE

§ 930.221 Letter of charges.

An agency shall initiate removal proceedings against a hearing examiner by filing with the General Counsel of the Commission a letter of charges (original and four copies) which shall set forth specifically and in detail the reasons that are alleged to constitute good cause for the hearing examiner's removal.

§ 930.222 Service.

The Commission, through its General Counsel, shall serve a copy of the letter of charges on the hearing examiner named therein. Service shall be by registered mail.

§ 930.223 Answer.

(a) When a respondent desires to contest the proceedings he shall file an answer (original and four copies) to the letter of charges with the Commission within 15 days of the service of the copy of the letter of charges. The respondent shall specifically admit, deny, or explain each of the reasons alleged in the letter of charges unless he is without knowledge, in which case he shall so state. The Commission shall serve a copy of the answer on the agency.

(b) Failure of respondent to file answer within the time limit is deemed to authorize the Commission, without further notice to the respondent, to proceed in regular course on the reasons set forth in the letter of charges.

§ 930.224 Appearance.

A respondent may appear for himself or by an attorney at law who is admitted to practice before the Federal courts, or before the courts of any State or territory of the United States. An attorney shall file a written notice of appearance. The notice of appearance shall state the court to which the attorney is admitted to practice and the date of that admission.

§ 930.225 Notice of hearing.

After the filing of answer or other appropriate response, the Commission shall fix a time and place for hearing and shall notify the parties.

§ 930.226 Hearing.

(a) The Commission, a member of the Commission, or one or more hearing examiners appointed under the Administrative Procedure Act shall preside at any hearing under this subpart.

(b) Hearings are open to the public unless otherwise ordered by the Commission.

(c) The Commission shall designate an official reporter who shall record the hearing under the supervision of the presiding officer. The official reporter's transcript of the hearing is the sole official transcript of the hearing. The Commission shall make the official transcript a part of the record. The official reporter shall supply each party with a transcript at a rate not in excess of the maximum rate fixed by the contract between the Commission and the reporter.

§ 930.227 Burden of proof.

(a) The agency initiating removal proceedings has the general burden of proof, and the proponent of any factual proposition is required to sustain the burden of proof with reference thereto.

(b) Objections to evidence shall be stated briefly and shall include the grounds relied on. The transcript shall not include argument on objections except as ordered by the presiding officer. Rulings on objections shall appear in the record.

§ 930.228 Motions.

The presiding officer shall act on motions, or he may refer them to the Commission for decision. Each ruling by the presiding officer is subject to review by the Commission on its adjudication of the case.

§ 930.229 Subpenas.

The presiding officer or a member of the Commission may issue subpenas requiring the attendance of witnesses or the production of documentary evidence from any place in the United States, at any designated place of hearing. Application for subpenas may be made either to the presiding officer or to the Commission.

§ 930.230 Witnesses and fees.

A party at whose instance a witness appears shall pay witness fees and mileage. A witness may appear voluntarily without subpena.

§ 930.231 Proposed findings and conclusions before presiding officer.

At the termination of a hearing, the presiding officer shall fix a time within which parties may submit to him proposed findings, conclusions, or reasons therefor (or briefs which may contain the same). Each party shall furnish copies of briefs or proposals to other parties to the proceeding (certifying to the Commission that this has been done) and shall deliver to the presiding officer an original and two copies.

§ 930.232 Recommended decision.

(a) The presiding officer, as soon as practicable after receipt of the transcript of the hearing and of proposed findings and conclusions, or briefs, shall make and file a recommended decision.

(b) The presiding officer shall send a copy of the recommended decision to each party to the proceeding. Any party, within 10 days after receipt of the copy of the recommended decision, may submit:

(1) Exceptions to it or to any omission from it; and

(2) Additional proposals for findings and conclusions with reasons therefor.

The party making the submission shall furnish copies to the other parties (certifying to the Commission that this has been done), and shall file the original and two copies with the presiding officer.

§ 930.233 Commission's adjudication.

On receipt of exceptions and additional proposals, or expiration of time therefor, the presiding officer shall prepare the files of the proceeding and shall transmit them to the Commission, certifying that the record submitted is complete. The Commission shall consider the entire record and decide the issues in accordance with what it considers to be the applicable law and the greater weight of the evidence.

§ 930.234 Report of action taken.

An agency shall take action in accordance with the Commission's decision, not later than 10 days after receipt thereof, and shall report to the Commission without delay, the action taken.

PART 990—GENERAL AND MISCELLANEOUS

Subpart A—Claims and Appeals of Veterans; Recognition of Representatives

Sec.
990.101 Appearance.
990.102 Agents.
990.103 Recognition of service organizations.
990.104 Accredited representatives of service organizations.
990.105 Designation of service organizations as representatives.
990.106 General provisions.

AUTHORITY: §§ 990.101 to 990.106 issued under secs. 11, 14, 19, 58 Stat. 390, 391, as amended; 5 U.S.C. 860, 863, 868.

Subpart A—Claims and Appeals of Veterans; Recognition of Representatives

§ 990.101 Appearance.

A preference eligible who has filed with the Commission a claim or an appeal under section 12 or section 14 of the Veterans' Preference Act of 1944, as amended, may appear in a proceeding in connection therewith either personally or by a representative. The representative may be a person designated by the preference eligible, that person being referred to in this part as agent; or a service organization designated by the preference eligible and approved by the Commission.

§ 990.102 Agents.

A competent person of good moral character and of good repute who is a citizen of the United States, or who has declared his intention to become a citizen of the United States, may be designated as an agent. A person (other than a Member of Congress) claiming to act as an agent shall submit a written statement from the preference eligible (CSC Form 307) authorizing him to represent the preference eligible in his claim or appeal. A written statement is not required of a Member of Congress claiming to act as an agent to represent a preference eligible in his claim or appeal.

§ 990.103 Recognition of service organizations.

A service organization approved by the Commission may be recognized in the presentation of claims or appeals under section 12 or section 14 of the Veterans' Preference Act of 1944, as amended, when the proper officers thereof make application for recognition, and as a part of the application agree and certify that neither the organization nor its representatives will charge claimants or appellants a fee or compensation for their services, except expenses actually incurred with the consent of the claimant. In requesting recognition, the following information shall be supplied:

(a) Statement outlining the purpose of the organization and need thereof, and manner in which the preference eligible will be benefited by the recognition.

(b) Names, titles, and addresses of officers.

(c) Number of posts or chapters, and States in which located.

(d) Names, titles, and addresses of full-time paid employees who are qualified to act as accredited representatives.

(e) Copy of constitution or charter and bylaws of the organization.

§ 990.104 Accredited representatives of service organizations.

(a) Each recognized service organization shall file with the Commission, on the prescribed form (CSC Form 306), the name of any officer whom it desires to be recognized as its accredited representative and the Commission office or offices to which recognition is to be extended in the presentation of claims or appeals. In proposing a candidate for recognition as a representative, the organization, through its appropriate officer, shall certify to the following:

(1) That the candidate is a citizen of the United States, of good character and reputation, is qualified by training or experience to assist in the presentation of claims, and is a member or employee of the organization.

(2) That he is not employed in any civil or military department or agency of the United States, and is not a retired member of the Regular Army, Navy, Marine Corps, Coast Guard, or Public Health Service.

(3) Whether the candidate is a preference eligible and, if so, that he was honorably discharged from active service.

(b) A single application (CSC Form 306) shall be filed with the central office of the Commission for recognition before (1) the central office only, (2) two or more regional offices, or (3) the central office and one or more regional offices. Application shall be filed with the regional office where the candidate is to serve when recognition before only one regional office is requested. Application Form 306 shall be retained by the approving office of the Commission.

(c) The central office (Veterans Service Staff) or regional director, as the case may be, is responsible for determining the qualifications of a candidate of a service organization for recognition. Normally, the candidate of a service organization will be approved. However, if there is doubt as to the qualifications or suitability of a candidate, appropriate investigation may be made to resolve the doubts. If it is determined that the candidate is qualified, duplicate copies of a letter of notice to that effect shall be issued to the veterans organization concerned, with an Identification Card (CSC Form 308) in the candidate's name signed by the Chief of the Veterans Service Staff or the regional director. One copy of the letter of approval shall be retained by the organization and the other forwarded to the candidate with the Identification Card 308 countersigned by the appropriate officer of the organization. When approval is made by the central office, a copy of the letter of approval shall be sent to each regional office before which recognition of the candidate is approved. When approval is made by a regional office, a copy of the letter of approval shall be sent to the central office of the Commission (Veterans Service Staff). Each regional office shall maintain a record of all accredited representatives approved for recognition before that regional office. The Veterans Service Staff of the central office shall maintain a record of all accredited representatives approved by all regional directors and the Chief of the Veterans Service Staff. If the regional director's determination is adverse, or the case is one of doubtful aspect, the entire matter may be referred to the Commission's central office, Veterans Service Staff, at the regional director's option, where it will be handled in the same manner as a request for recognition ordinarily handled by the Veterans Service Staff.

(d) Recognition may be canceled at the request of the organization. The central office or regional director may cancel or suspend a recognition for cause. When a regional director cancels or suspends a recognition, a report of the facts shall be made to the central office. Notice of cancellation or suspension shall be supplied in the same manner as a notice of recognition.

(e) Nominations for accredited representatives of national service organizations are acceptable only if approved by the certifying officer, national headquarters, of the organization.

(f) Letters of recognition issued by the central office to national and field officers of recognized organizations constitute authorization for their recognition in claims or appeals in any regional office within their respective assignments. Letters of recognition issued by a regional director constitute authorization for the accredited representatives to present claims or appeals in any regional office within their respective assignments.

(g) When a representative has been recognized, a card shall be prepared in the office which approves the recognition, showing his name, address, organization, and date of recognition. Copies of this card shall be filed in the central office (Veterans Service Staff) of the Commission, and in the regional office by which

he is recognized or in which he is authorized to act.

§ 990.105 Designation of service organizations as representatives.

(a) Before a service organization may be recognized in an individual claim or appeal, there shall be filed a designation duly executed by the claimant or appellant, specifically conferring on the organization the authority to represent him in the presentation of his claim or appeal, and to receive information in connection therewith. This designation shall be on the form prescribed by the Commission (CSC Form 307) and shall be presented to the office concerned, to be filed in connection with the claim or appeal. The designation shall be signed by the claimant or appellant.

(b) On receipt and approval of the designation, the service organization named therein shall be recognized as the sole agency for the presentation of the claim or appeal covered thereby, and no other organization shall be recognized in the presentation of that claim or appeal. The designation made by the claimant may be revoked by him at any time and a subsequent designation made, naming another organization. A subsequently executed designation constitutes a revocation of any existing designation. A designation may also be revoked by the organization named therein.

§ 990.106 General provisions.

(a) Nothing in this subpart permits the unauthorized practice of law in any place or the giving of any service except the authorized participation in agency proceedings by agents or accredited representatives who have been approved by the Commission.

(b) This subpart does not apply to adjudications of charges of political activity on the part of officers or employees in the competitive service, or of officers or employees of a State or local government, nor to adjudications of the existence of good cause for the removal of hearing examiners appointed under section 11 of the Administrative Procedure Act.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 63-9716; Filed, Sept. 13, 1963; 8:45 a.m.]