control zone and transition area. These amendments were to become effective January 9, 1964.

A subsequent examination of the controlled airspace requirements in the Fresno, Calif., and Lemoore terminal areas revealed that retention of the Lemoore transition area is required until February 6, 1964, to provide controlled airspace until the effective date of the transition area at Fresno to be established in Airspace Docket No. 63–WE–54. Therefore, action is taken herein to alter Airspace Docket No. 63–WE–2 by postponing the effective date until February 6, 1964.

Since thirty days will elapse from the time of publication of the rule as initially adopted to this new effective date, this change is made in compliance with section 4 of the Administrative Procedure Act.

In consideration of the foregoing, effective immediately, the following change is made:

In Airspace Docket No. 63–WE–2 "effective 0001 e.s.t., January 9, 1964." is deleted and "effective 0001 e.s.t., February 6, 1964." is substituted therefor.

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

Issued in Washington, D.C., on December 11, 1963.

H. B. Helstrom,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 63–13056; Filed Dec. 17, 1963; 8:45 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[9th Gen. Rev. of Export Regs., Amdt. 73]

PART 371—GENERAL LICENSES

Shipments of Limited Value; Canada

Section 371.10 *General License GLV; shipments of limited value,* paragraph (d) Positive List commodities, subparagraph (3) Canada is amended by substituting "$50.00" for the figure "$500.00".

This amendment shall become effective as of December 5, 1963.

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

Forrest D. Hockersmith,
Director,
Office of Export Control.

[F.R. Doc 63–13057; Filed, Dec. 17, 1963; 8:45 a.m.]

[9th General Rev. of Export Regs.; Amdt. P.L. 41]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

Substitution to List

Section 399.1 *Appendix A—Positive List of Commodities* is amended by substituting the following entry for the entry presently on the Positive List:

Dept. of Commerce schedule B No.	Commodity description	Unit	Processing code and related commodity group	GLV dollar value limits	Validated license required	Commodity lists
16190	Sugar, beet and cane	Lb.	AGRI	[1] 25	RO [1]	------------

[1] A validated license is also required for an exportation of sugar to Canada where the net value of the shipment exceeds $50.00. If the exportation does not exceed $50.00 it may be made under the provisions of General License GLV (see § 371.10 of this chapter).

This amendment shall become effective as of December 5, 1963.

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

Forrest D. Hockersmith,
Director, Office of Export Control.

[F.R. Doc. 63–13052; Filed, Dec. 17, 1963; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 75—HOUSEHOLD FURNITURE INDUSTRY

Due proceedings having been held under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission:

It is now ordered, That the trade practice rules as hereinafter set forth, which have been approved by the Commission in this proceeding, be promulgated as of December 18, 1963.

Statement by the Commission. Revised trade practice rules for the Household Furniture Industry, formerly known as the Household Furniture and Furnishings Industry, are promulgated by the Federal Trade Commission as hereinafter set forth.

The industry is composed of persons, firms, corporations and organizations engaged in the manufacture, sale or distribution of articles of utility, convenience or decoration which are suitable for use as furniture in a house, apartment or other dwelling place. Such articles include, but are not limited to, all kinds and types of chairs, tables, cabinets, desks, bedsteads and bureaus.

The rules constitute a revision of, and supersede, the rules promulgated for the Household Furniture and Furnishings Industry on May 10, 1932. Numerous changes embodying clarifications of the applicable provisions of laws administered by the Commission have been made.

Suggested trade practice rules were discussed at trade practice conferences held in Los Angeles, California, Chicago, Illinois and High Point, North Carolina.

Proposed rules were subsequently published by the Commission and made available to all industry members and to all interested and affected parties in a public notice whereby they were afforded opportunity to present their views, including such pertinent information, suggestions, amendments or objections as they desired to offer and to be heard in the premises. Pursuant to such notice, a public hearing was held in Washington on November 28, 1962, and all matters presented or otherwise received in the proceeding were duly considered.

Thereafter, and upon full consideration of the entire matter, final action was taken by the Commission whereby it has approved the rules as hereinafter set forth.

Such rules will not become operative until ninety (90) days from the date of promulgation in order to afford industry members opportunity to bring their practices into conformity with the provisions thereof.

The rules. These rules promulgated by the Commission are designed to foster and promote the maintenance of fair competitive conditions in the interest of protecting industry, trade, and the public. It is to this end, and to the exclusion of any act or practice which fixes or controls prices through combination or agreement, or which unreasonably restrains trade or suppresses competition, or otherwise unlawfully injures, destroys, or prevents competition, that the rules are to be applied.

The unfair trade practices embraced in the rules herein are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission, and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its jurisdiction, of such unlawful practices in commerce.

Sec.

Authority: §§ 75.0 to 75.19 issued under 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.

§ 75.0 Definitions.

(a) *Industry member*. Any person, firm, corporation or organization engaged in the manufacture, sale or distribution of industry products as such products are hereinafter defined.

(b) *Industry products*. (1) Articles of utility, convenience or decoration which are suitable for use as furniture in a house, apartment, or other dwelling place. Such articles include, but are not limited to, all kinds and types of chairs, tables, cabinets, desks, bedsteads and bureaus.

(2) The following products, covered by sets of trade practice rules heretofore promulgated, are not to be considered as coming within the purview of this definition: bed mattresses, bedsprings, metal cots, cedar chests, mirrors, musical instruments, radio and television receiving sets and venetian blinds. Also excluded from the purview of these rules are pictures, lamps, clocks, rugs, draperies as well as appliances and fixtures such as refrigerators and air conditioners.

§ 75.1 Deception (general).

Members of the industry shall not distribute any industry product under any representation or circumstance (including failure to adequately disclose relevant facts)[1] which has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers with respect to its utility, composition, construction, durability, design, quality, quantity or number of pieces, model, origin, manufacture, price, grade, or in any other material respect. [Rule 1]

§ 75.2 Wood and wood imitations.

(a) In connection with the sale of furniture having exposed parts or surfaces which are wood, or which are not wood but have the appearance of wood, members of the industry shall not use any direct or indirect representation or sales method which is:

(1) False. Examples would include:

(i) Describing as "maple," furniture which is constructed of birch wood;

(ii) Use of the term "solid mahogany" or the word "mahogany" unqualifiedly to describe a mahogany veneered table;

(iii) Using the designation "Danish style walnut" to describe a walnut-stained hackberry chair;

(iv) Describing a non-lumber product as "wood."

NOTE: Hardboard, although produced from wood fibers, shall not be unqualifiedly represented as "wood" but may be designated as "hardboard," "fiberboard," "wood product" or by any nondeceptive descriptive word or term.

or

(2) Likely to mislead because of telling a half-truth. Examples would include:

(i) Describing as "maple," a table consisting of a solid maple top with pecan legs. Such product may be described as "maple top—pecan legs;"

(ii) Designating as "walnut" or "in walnut," a desk top made of walnut veneered plywood. A proper description would be "walnut veneered top;"

(iii) Describing as "solid mahogany" or "mahogany," a product made with laminations of mahogany plies. A proper designation would be "all mahogany plywood;"

(iv) Describing a table top unqualifiedly as "mahogany veneered top" when such products, although mahogany veneered, has been finished by means of decalcomania, printing or otherwise to simulate a different mahogany grain or figure such as crotch mahogany. Such product could be properly described as "mahogany veneer—imitation mahogany crotch figure," or

(3) Likely to deceive by failure to adequately disclose[1] facts concerning the composition, of plywood having the appearance of solid wood, or of simulated finishes on wood or wood imitations. Examples would include failure to disclose when an item of furniture or part thereof:

(i) Has an exposed surface of plastic, metal, hardboard, or other material not possessing a natural wood growth structure but has the appearance of being wood (e.g., "hardboard — mahogany grained" or "walnut finished particle board");

(ii) Which is wood finished by means of decalcomania, printing or other process so as to have the appearance of a different kind of wood, is not the kind of wood which it resembles (e.g., "mahogany finished gum" or "alder—maple finished");

(iii) Is veneered so as to have the appearance of solid wood (e.g., "mahogany veneered plywood").

(b) Whenever disclosure is required by this section it may be accomplished by stating either the true composition (e.g., "mahogany-grained hardboard"), or a disclaimer of composition (e.g., "imitation wood"). [Rule 2]

§ 75.3 Deceptive use of wood names.

(a) Industry members shall not use any direct or indirect representation concerning the identity of the wood in items of furniture which is false or which is likely to mislead purchasers as to the actual wood composition of furniture.

(b) The unqualified word "walnut," shall not be used as the name or designation of wood other than genuine walnut (Juglans).

(c) The word "mahogany" shall not be used unqualifiedly as the name or designation of wood unless the wood so described is genuine mahogany (Swietenia). In naming or designating the Philippine woods Tanguile, Red Lauan, White Lauan, Tiaong, Almon, Mayapis, and Bagtikan, the word "mahogany" may be used but only when prefixed by the word "Philippine" (e.g., Philippine mahogany table"). Examples of improper use of the word "mahogany" under this section would include reference to Red Lauan as "Lauan mahogany" or White Lauan as "Blonde Lauan mahogany." Such woods, however, may be described unqualifiedly as "Red Lauan" or "Lauan" or "White Lauan," respectively.

(d) The word "mahogany" may be used to name or designate wood of the genus Khaya, but only when prefixed by the word "African" (e.g., "African mahogany desk").

(e) The word "mahogany", with or without qualification, shall not be used to name or designate any wood except as provided above.

NOTE: The term "Philippine mahogany" will be accepted as a name or designation of the seven Philippine woods named above. Such terms shall not be applied to any other wood, whether or not grown on the Philippine Islands.

NOTE: Nothing in this section should be constructed as prohibiting the nondeceptive use of wood names to describe the color, finish or appearance of items of furniture (e.g., "Plastic-oak grained" or "Mahogany finished gum.")

[Rule 3]

§ 75.4 Leather and leather imitations.

(a) Members of the industry shall not make any direct or indirect representation concerning furniture or parts thereof covered with leather or other material which simulates leather, which is false or misleading.

(b) Prohibited by this section is the use of any trade name, coined name, trade-mark, or other word or term, or any depiction or device, which has the capacity and tendency or effect of misleading prospective purchasers into believing that furniture is covered in whole or in part from the skin or hide of an animal or that the covering of furniture is leather, top grain leather, or split leather, when such is not the case. When a furniture covering is made from bonded, shredded, pulverized or powdered leather, industry members shall conspicuously disclose[1] such fact.

(c) In the case of non-leather material having the appearance of leather, industry members shall conspicuously disclose facts concerning the composition thereof either by identifying the composition of the product (e.g., "vinyl covering," "upholstered in plastic") or by a disclaimer that the product is not leather

[1] The Commission, in order to prevent deception, may require affirmative disclosure of material facts concerning merchandise which, if known to prospective purchasers, would influence their decisions of whether or not to purchase. The failure to disclose such information is an unfair trade practice violative of section 5 of the Federal Trade Commission Act. Unless otherwise specified, any disclosure required by this section shall be on, or on a tag or label attached to, the industry product and be of such permanency as to remain on or attached to, the product until consummation of its consumer sale. The disclosure shall also appear in any advertising relating to an industry product irrespective of the media used whenever statements, representations or depictions are used in such advertising which, in the absence of such disclosure, serve to create the false impression that the product, or any part thereof, is of a certain kind or composition. In all cases the disclosure required shall be in close conjunction with the representation and shall be of sufficient clarity, conspicuousness and audibility (when spoken) as to be noted by prospective purchasers.

(e.g., "imitation leather," "not leather"). [Rule 4]

§ 75.5 Outer coverings.[2]

(a) In connection with the sale of furniture, members of the industry shall not use any direct or indirect representation concerning the outer covering thereof which:

(1) Is false (e.g., using the term "Mohair" to describe a fabric not produced from fibers derived from the angora goat); or

(2) Has the capacity and tendency or effect of deceiving furniture purchasers by telling a half-truth (e.g., using the unqualified word "Nylon" to describe a blend of nylon and other fibers).

(b) When any identifying reference is made in advertising to an outer covering made of a mixture of different kinds of fibers, each constituent fiber present in substantial quantity (at least 5 percent) shall be designated[1] in the order of its predominance by weight (e.g., "cotton and nylon"). If a fiber so designated is not present in a substantial quantity (less than 5 percent) the percentage thereof shall be stated (e.g., "cotton, rayon, 3 percent nylon").

(c) When any identifying reference is made on a tag or label to an outer covering made of a mixture of different kinds of fibers, each and every kind of fiber present in such outer covering shall be identified by showing the fiber content with percentages of the respective fibers in order of their predominance by weight (e.g., "55 percent Cotton 45 percent Rayon"). In the case of pile fabrics, identification of the fiber content shall be made by stating:

(1) The fiber content of the face or pile and of the back or base, with percentages of the respective fibers in order of their predominance by weight and the respective percentages of the face and back showing the ratio between face and back (e.g., "Face 60% Rayon, 40% Nylon—Back 100% Cotton; Back constitutes 80% of fabric and pile 20%"); or

(2) The percentages of the fibers of the face or pile and the back or base in relation to the total weight of the fabric (e.g., "40% Cotton, 40% Rayon, 20% Nylon" to describe a fabric having an all nylon pile constituting 20 percent of the total weight backed by a 50 percent-50 percent blend of cotton and rayon).

[Rule 5]

§ 75.6 Stuffing (including filling, padding, etc.).

(a) Members of the industry shall not make any direct or indirect representation relating to the stuffing of furniture which is:

(1) False (e.g., describing cotton stuffing as "wool," or urethane foam as "foam rubber"); or

(2) Likely to mislead because of telling a half-truth (e.g., describing shredded or flaked foam rubber stuffing as a "foam rubber" cushion without disclosing[1] that it is shredded or flaked, or describing any non-rubber foam cushion as "foam" without disclosing the kind of foam such as "urethane foam").

NOTE: The unqualified terms "Latex," "Foam Rubber," "Latex Foam Rubber," or other terms of similar import, shall not be used as descriptive of any part of the filling of an upholstery which does not consist of one or more homogeneous pads of latex.

When the upholstery of an industry product has filling material consisting of a top layer of homogeneous latex which is of substantial thickness, and a lower layer or layers of other material, such terms may be used as descriptive thereof, if in immediate conjunction therewith, nondeceptive disclosure is made of the fact that only a part of such filling is of latex.

When the filling is composed, in whole or in part, of latex which has been shredded, flaked, or ground, full and nondeceptive disclosure shall be made of such fact in immediate conjunction with any such term, irrespective of whether the pieces or shreds of latex are in loose form or are held together by glue or some other adhesive agent.

NOTE: This section is promulgated under the Federal Trade Commission Act for the purposes of interpreting requirements of such Act and to assist in the general enforcement of the Act. The section is not to be construed as relieving industry members from full compliance with applicable State and local legal requirements.

[Rule 6]

§ 75.7 Deception as to origin.

(a) Industry members shall not make any direct or indirect representation which is false or likely to deceive prospective purchasers of furniture as to the origin, either domestic or foreign, of such furniture. For example, furniture manufactured in the United States shall not be unqualifiedly described as "Danish" or "Scandinavian" or "Swedish Modern." Such furniture may, when appropriate, be described as "Danish Style," "Swedish Modern Style" or by any other word or term which nondeceptively characterizes its style. Also furniture shall not be represented by trade name or otherwise as being manufactured in the Grand Rapids, Michigan area or in any other furniture producing area, when such is not the fact.

NOTE: Terms such as "French Provincial" or "Chinese Chippendale," because of long usage and general understanding by the furniture buying public, are considered to have acquired a secondary meaning as descriptive of the style of furniture so described. Thus, the unqualified use of such terminology, when appropriate, would not be considered to be violative of this section.

(b) In connection with the sale of furniture of foreign manufacture, members of the industry shall clearly and conspicuously disclose the fact that such furniture was manufactured in an identified foreign country, when the failure to make such disclosure has the capacity and tendency or effect of deceiving prospective purchasers of such products. The disclosure of foreign origin, when required under this section shall be in the form of a legible marking, stamping, or labeling on the furniture, and shall be of such size, conspicuousness and degree of permanency, as to be and remain noticeable and legible upon casual inspection until consumer purchase. [Rule 7]

§ 75.8 Deception as to being new.

(a) Industry members shall not make any direct or indirect representation that an industry product is new unless such product is composed entirely of unused materials and parts.

(b) In connection with the sale of furniture which has the appearance of being new but which contains used materials or parts, such as springs, foam rubber stuffing, or hardware, members of the industry shall conspicuously disclose[1] such fact (e.g., "cushions made from reused shredded foam rubber").

NOTE: See also § 75.9.

[Rule 8]

§ 75.9 Misuse of the terms "floor sample," "discontinued model," etc.

(a) Representations that furniture is a "floor sample," "demonstration piece," etc., shall not be used to describe "trade-in," repossessed, rented or any furniture used other than by prospective purchasers at the place of sale for the purpose of determining their preference and its suitability for their use.

(b) Furniture shall not be described as "discontinued" or "discontinued model" unless the manufacturer has in fact discontinued its manufacture or the industry member offering it for sale will discontinue offering it entirely after clearance of his existing inventories of furniture so described. [Rule 9]

§ 75.10 Deceptive pricing.

Members of the industry shall not represent directly or indirectly in advertising or otherwise that an industry product may be purchased for a specified price, or at a saving, or at a reduced price, when such is not the fact; or otherwise deceive purchasers or prospective purchasers with respect to the price of any product offered for sale; or furnish any means or instrumentality by which others engaged in the sale of industry products may make any such representation.

NOTE: Guides Against Deceptive Pricing adopted by the Commission October 2, 1958, are now in the process of revision. The new guides will supplement this section by affording additional guidance on the subject. When approved, the new guides will be published in the FEDERAL REGISTER and copies thereof will be furnished upon request.

[Rule 10]

§ 75.11 Bait advertising.

(a) Industry members shall not offer for sale any industry product when the offer is not a bona fide effort to sell the product so offered as advertised and at the advertised price.

NOTE: In determining whether there has been a violation of this section, consideration will be given to acts or practices in-

[1] See footnote to § 75.1.

[2] Section 12(a)(2) of the Textile Fiber Products Identification Act (72 Stat. 1717; 15 U.S.C. 70) specifically exempts "outer coverings of furniture * * *" from the application of the Act. Section 14 of the same Act provides that the Act "shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other Act of the United States." Therefore, corrective action involving deceptive practices in the sale of furniture would be initiated under the Authority of section 5 of the Federal Trade Commission Act which prohibits "unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce."

dicating that the offer was not made in good faith for the purpose of selling the advertised product, but was made for the purpose of contacting prospective purchasers and selling them a product or products other than the product offered. Among acts or practices which will be considered in making that determination are the following:

(1) The creation, through the initial offer or advertisement, of a false impression of the grade, quality, make, value, currency of model, size, usability, or origin of the product offered;

(2) The refusal to show, demonstrate, or sell the product offered in accordance with the terms of the offer;

(3) The disparagement, by acts or words, of the product offered;

(4) The showing, demonstrating, and in the event of sale, the delivery, of a product which is unusable or impractical for the purpose represented or implied in the offer;

(5) The refusal, in the event of sale of the product offered, to deliver such product to the buyer within a reasonable time thereafter;

(6) The failure to have available a quantity of the advertised product at the advertised price sufficient to meet reasonably anticipated demands;

(7) The use of a sales plan or method of compensation for salesmen or penalizing salesmen designed to prevent or discourage them from selling the advertised product.

(b) It is not necessary that each act or practice set forth in paragraph (a) of this section be present in order to establish that a particular offer is violative of this section. [Rule 11]

§ 75.12 Guarantees, warranties, etc.

(a) Industry members shall not represent in advertising or otherwise that a product is "guaranteed" without clear and conspicuous disclosure of:

(1) The nature and extent of the guarantee, and

(2) Any material conditions or limitations in the guarantee which are imposed by the guarantor, and

(3) The manner in which the guarantor will perform thereunder, and

(4) The identity of the guarantor.

(b) Representations that a product is "guaranteed for life" or has a "lifetime guarantee" in addition to meeting the above requirements, shall contain a conspicuous disclosure of the meaning of "life" or "lifetime" as used (whether that of the purchaser, the product or otherwise).

(c) Guarantees shall not be used which under normal conditions are impractical of fulfillment or which are for such a period of time or are otherwise of such nature as to have the capacity and tendency of misleading purchasers or prospective purchasers into the belief that the product so guaranteed has a greater degree of serviceability, durability or performance capability in actual use than is true in fact.

(d) This section has application not only to "guarantees" but also to "warranties," to purported "guarantees" and "warranties," and to any promise or representation in the nature of a "guarantee" or "warranty." [Rule 12]

§ 75.13 Passing off through imitation or simulation of trade-marks, trade names, etc.

Members of the industry shall not mislead or deceive purchasers by passing off the products of one industry member as and for those of another through the imitation or simulation of trade-marks, trade names, brands, or labels. (See also § 75.14.) [Rule 13]

§ 75.14 Misrepresentation as to character of business.

Members of the industry shall not represent, directly or by implication, in advertising or otherwise, that they produce or manufacture products of the industry, or that they own or control a factory making such products, when such is not the fact, or that they are a manufacturer, wholesale distributor or a wholesaler when such is not the fact, or in any other manner misrepresent the character, extent, or type of their business. [Rule 14]

§ 75.15 Push money.

Industry members shall not pay or contract to pay anything of value to a salesperson employed by a customer of the industry member, as compensation for, or as an inducement to obtain, special or greater effort or service on the part of the salesperson in promoting the resale of products supplied by the industry member to the customer—

(a) When the agreement or understanding under which the payment or payments are made or are to be made is without the knowledge and consent of the salesperson's employer; or

(b) When the terms and conditions of the agreement or understanding are such that any benefit to the salesperson or customer is dependent on lottery; or

(c) When any provision of the agreement or understanding requires or contemplates practices or a course of conduct unduly and intentionally hampering sales of products of competitors of an industry member; or

(d) When, because of the terms and conditions of the understanding or agreement, including its duration, or the attendant circumstances, the effect may be substantially to lessen competition or tend to create a monopoly; or

(e) When similar payments are not accorded to salespersons of competing customers on proportionally equal terms in compliance with section 2 (d) and (e) of the Clayton Act.

NOTE: Payments made by an industry member to a salesperson of a customer under any agreement or understanding that all or any part of such payments is to be transferred by the salesperson to the customer, or is to result in a corresponding decrease in the salesperson's salary, are not to be considered within the purview of this section, but are to be considered as subject to the requirements and provisions of section 2(a) of the Clayton Act.

[Rule 15]

§ 75.16 Commercial bribery.

Members of the industry shall not give, or offer to give, or permit or cause to be given, directly or indirectly, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase products manufactured or sold by such industry member or the maker of such gift or offer, or to influence such employers or principals to refrain from dealing in the products of competitors or from dealing or contracting to deal with competitors. [Rule 16]

§ 75.17 Exclusive dealing.

Members of the industry shall not contract to sell or sell industry products or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement, or understanding that the purchaser thereof shall not use or deal in the products of a competitor or competitors of such industry member, where the effect of such sale or contract for sale, or of such condition, agreement, or understanding, may be substantially to lessen competition or tend to create a monopoly in any line of commerce. [Rule 17]

§ 75.18 Prohibited forms of trade restraints (unlawful price fixing, etc.).[3]

Members of the industry, either directly or indirectly, shall not engage in any planned common course of action, or enter into or take part in any understanding, agreement, combination, or conspiracy, with one or more members of the industry, or with any other person or persons, to fix or maintain the price of any industry products or otherwise unlawfully to restrain trade; or use any form of threat, intimidation, or coercion to induce any member of the industry or other person or persons to engage in any such planned common course of action, or become a party to any such understanding, agreement, combination, or conspiracy. [Rule 18]

§ 75.19 Prohibited discrimination.

(a) *Prohibited discriminatory prices, rebates, discounts, etc.* No member of the industry engaged in commerce, in the course of such commerce, shall grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential, where such rebate, refund, discount,

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[3] The prohibitions of this section are subject to Public Law 542, approved July 14, 1952, 66 Stat. 632 (The McGuire Act, commonly referred to as the Fair Trade Amendment) which provides that with respect to a commodity which bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, a seller of such a commodity may enter into a contract or agreement with a buyer thereof which establishes a minimum or stipulated price at which such commodity may be resold by such buyer when such contract or agreement is lawful as applied to intrastate transactions under the laws of the State, Territory, or territorial jurisdiction in which the resale is to be made or to which the commodity is to be transported for such resale, and when such contract or agreement is not between manufacturers, or between wholesalers, or between brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other.

credit, or other form of price differential, effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce, and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided, however:*

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States, and are not purchased by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit, as supplies for their own use;

(2) That nothing contained in this paragraph shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

NOTE: Cost justification under the above proviso depends upon net savings in cost based on all facts relevant to the transactions under the terms of subparagraph (2) of this paragraph. For example, if a seller regularly grants a discount based upon the purchase of a specified quantity by a single order for a single delivery, and this discount is justified by cost differences, it does not follow that the same discount can be cost justified if granted to a purchaser of the same quantity by multiple orders or for multiple deliveries.

(3) That nothing contained in this section shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing contained in this paragraph shall prevent price changes from time to time where made in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned;

(5) That nothing contained in this section shall prevent the meeting in good faith of an equally low price of a competitor.

NOTE 1: Subsection (b) of section 2 of the Clayton Act, as amended, reads as follows: "Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however,* That nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor."

NOTE 2: Nothing in this section should be construed as prohibiting the granting of different prices which are not otherwise violative of the foregoing provisions of this section, to customers in different functional categories. For example, a seller may grant a lower price to wholesalers than to retailers to the extent that such wholesalers resell to retailers. If such wholesalers also sell at retail in competition with their customers they may not properly be granted a price lower than the prices granted to competing retailers on that portion of the goods they sell at retail.

(b) *Prohibited brokerage and commissions.* No member of the industry engaged in commerce, in the course of such commerce, shall pay or grant, or receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.* No member of the industry engaged in commerce shall pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sales by such member, unless such payment or consideration is made known to and is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

NOTE: Subsection (b) of section 2 of the Clayton Act, as amended, which is set forth in the note concluding paragraph (a) of this section is applicable to this paragraph (c).

(d) *Prohibited discriminatory services or facilities.* No member of the industry engaged in commerce shall discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities including, but not limited to, displays, exhibits, and promotional material connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all competing purchasers on proportionally equal terms.

NOTE: Subsection (b) of section 2 of the Clayton Act, as amended, which is set forth in the note concluding paragraph (a) of this section is applicable to this paragraph (d).

(e) *Inducing or receiving an illegal discrimination in price, advertising or promotional allowances, or services or facilities.* No member of the industry engaged in commerce, in the course of such commerce, shall knowingly induce or receive a discrimination in price, advertising or promotional allowances, or services or facilities, which is prohibited by the foregoing provisions of this section. [Rule 19]

Approved: November 26, 1963.

By direction of the Commission.

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

[F.R. Doc. 63-13069; Filed, Dec. 17, 1963; 8:46 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Animal Feed or Animal-Feed Supplements

Subpart D—Food Additives Permitted in Food for Human Consumption

Furazolidone; Corrections

In F.R. Doc. 63-12363, published in the FEDERAL REGISTER of November 28, 1963 (28 F.R. 12664), the following corrections are made:

1. In amendment 1, in § 121.255(b) (5), line 5, the word "if" is changed to "is".
2. In amendment 2, the section number (§ 121.2582) is changed to § 121.1145.

(Sec. 409(c) (1), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1), (4))

Dated: December 12, 1963.

JOHN L. HARVEY, *Deputy Commissioner of Food and Drugs.*

[F.R. Doc. 63-13093; Filed, Dec. 17, 1963; 8:49 a.m.]

SUBCHAPTER C—DRUGS

PART 147—ANTIBIOTICS INTENDED FOR USE IN THE LABORATORY DIAGNOSIS OF DISEASE

Antibiotic Sensitivity Discs; Certification Procedure

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended; 21 U.S.C. 357) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625), the regulations for antibiotic and antibiotic-containing drugs (21 CFR 147.2) are amended as follows:

In § 147.2 *Antibiotic sensitivity discs; certification procedure,* paragraph (c) (1) (iii) (*c*) is changed by adding a new expiration date "36 months" under certain conditions and, as amended, reads as follows:

* * * * *

§ 147.2 Antibiotic sensitivity discs; certification procedure.

* * * * *

(c) * * *

(1) * * *

(iii) * * *

(*c*) For streptomycin, dihydrostreptomycin, chlortetracycline, demethylchlortetracycline, tetracycline, and chloramphenicol: 24 months, except 36 months may be used if the person who requests certification has submitted to the Commisioner results of tests and assays showing that such drug as prepared by him is stable for such time.

Notice and public procedure and delayed effective date are not necessary prerequisites to the promulgation of this order, and I so find, since the nature of the change is such that it cannot be applied to any specific product unless and until the manufacturer thereof has supplied adequate data regarding that article.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463 as amended; 21 U.S.C. 357)

Dated: December 11, 1963.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 63-13029; Filed, Dec. 17, 1963; 8:49 a.m.]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 30—NONDISCRIMINATION IN APPRENTICESHIP AND TRAINING

On October 23, 1963, notice of the substance of proposed rules regarding equality of opportunity in apprenticeship and training was published in the FEDERAL REGISTER (28 F.R. 11313). Interested persons were given 15 days in which to submit written statements of data, views, and arguments concerning the proposal. Having considered all relevant material submitted, I have decided to, and do hereby establish a new 29 CFR Part 30, effective January 17, 1964, to read as follows:

AUTHORITY: §§ 30.1 to 30.16 issued under 50 Stat. 665, R.S. 161; 29 U.S.C. 50, 5 U.S.C. 22.

§ 30.1 Scope and purpose.

This part sets forth policies and procedures to promote equality of opportunity in apprenticeship and training programs registered with the Bureau of Apprenticeship and Training. These policies apply to the selection of apprentices, to waiting lists, and to employment during apprenticeship, and the procedures established provide for review of apprenticeship programs, for processing complaints, for deregistering noncomplying programs and for registering new programs. Provision is also made for cooperative relationships with appropriate State agencies. The purpose of this part is to promote equality of opportunity and to prevent discrimination based on race, creed, color or national origin in all phases of apprenticeship.

§ 30.2 Definitions.

(a) "Bureau" means the Bureau of Apprenticeship and Training.

(b) "Administrator", "Regional Director", and "field representative" mean the Administrator, the Regional Directors and the field representatives of the Bureau.

(c) "Program" means an apprenticeship program registered with the Bureau.

(d) "Employer" means any person or organization employing an apprentice whether or not the apprentice is indentured to such person or organization or to some other person or organization.

(e) "Program sponsor" means any person or organization operating an apprenticeship program, irrespective of whether such person or organization is an employer.

§ 30.3 Equal opportunity standards.

Each apprenticeship program registered with the Bureau shall operate on the basis of the following standards:

(a) The selection of apprentices on the basis of qualifications alone, in accordance with objective standards which permit review after full and fair opportunity for application, unless the selections otherwise made would themselves demonstrate that there is equality of opportunity.

(b) The taking of whatever steps are necessary, in acting upon application lists developed prior to this time, to remove the effects of previous practices under which discriminatory patterns of employment may have resulted.

(c) Nondiscrimination in all phases of apprenticeship and employment during apprenticeship after selections are made.

§ 30.4 Selection of apprentices.

Apprentices may be selected by any of the methods prescribed in paragraphs (a), (b) or (c) of this section.

(a) *Selection on the basis of qualifications alone.* (1) (i) Selection "on the basis of qualifications alone" means that apprentices are chosen from those applicants meeting the minimum qualifications for the trade or craft solely on the basis of their qualifications compared to those of other applicants. Examples of standards by which comparative qualifications may be determined are fair aptitude tests, school diplomas, age requirements, occupationally essential physical requirements, fair interviews, school grades and previous work experience. Under this test, both actual selection for and entry into apprenticeship must be on the basis of comparative qualifications alone. It is not enough for a program sponsor to establish a lengthy list on the basis of minimum qualifications standards and then select apprentices from the list on a basis other than comparative qualifications, such as on the basis of time of application.

(ii) Where the number of applicants meeting the minimum qualifications requirements is greater than the number of job openings, "qualifications alone" means (*a*) that the applicants are ranked on the basis of criteria which measure comparative qualifications (e.g., fair aptitude tests, etc.) and are selected on the basis of the rankings, or (*b*) that without ranking each individual, criteria which measure comparative qualifications are used to identify the "best qualified" in a total number not in excess of the total number of apprentice openings and the order of selection for employment from within the "best qualified" group is determined through any nondiscriminatory system.

(2) "Objective standards" means that qualifications and eligibility must be determined by specific requirements so that questions of discrimination in selection can be fairly adjudicated. It does not mean that all programs must have identical standards for selection. Requirements must be established and disseminated publicly prior to selection. (See § 30.4(a) (4).)

(3) To "permit review" adequate records of the selection process must be kept and made available to the Bureau upon request. These must include a brief summary of each interview and the conclusions on each of the specific factors, e.g., motivation, ambition, willingness to accept direction, which are part of the total judgment. Such records must be retained for at least two years.

(4) "After full and fair opportunity for application" means, with respect to application lists developed prior to January 17, 1964, that in the development of the list the program sponsor had publicly disseminated information about the availability of apprenticeship opportunities and had allowed a substantial period of time for applicants to apply. After January 17, 1964, "After full and fair opportunity for application" means that the program sponsor, prior to time of selection and at least once annually, except in years when no selections are made, has allowed a substantial period of time for new applicants to apply and former applicants to reapply for apprenticeship, has publicly disseminated full information about the availability of apprenticeship opportunities, and has ranked the new applicants thus received along with previous applicants on the basis of their comparative qualifications.

After January 17, 1964, such information shall be posted at the normal place of application for apprenticeship and disseminated to the local employment service and the local schools, except that where selection is made exclusively from a restricted pool (see § 30.4(c)), information need not be disseminated to the local employment service and the local schools.

(b) Selections demonstrating equality of opportunity.

(1) Apprentices may be selected in any manner in which the selections themselves demonstrate equality of opportunity.

(2) Apprentices may also be selected in accordance with any plan which assures equality of opportunity and which is acceptable to the Administrator.

(c) Selection from existing employees. Where apprentices are selected from a restricted pool, e.g., from present employees, admissions to the pool as well as selection for apprenticeship must be on a nondiscriminatory basis after January 17, 1964. Selections from the pools may be made on the basis of seniority of employment.

§ 30.5 Necessary action on prior application lists.

Where program sponsors have or adopt a selection system based on qualifications alone as specified in § 30.4(a), the standard stated in § 30.3(b) does not require any action with regard to "application lists developed prior to this time" beyond that required by § 30.4(a). Where program sponsors do not have a selection system based on qualifications alone, the standard stated in § 30.3(b) requires that "application lists developed prior to this time" be opened to the extent necessary to provide current opportunities for selection of qualified members of racial and ethnic minority groups.

§ 30.6 Nondiscriminatory operation.

There must be no discrimination in apprenticeship or employment during apprenticeship after selections have been made, including but not limited to job assignment, promotion, layoff or termination, rates of pay or other forms of compensation or conditions of work. All apprentices employed shall be subject to the same job performance requirements.

§ 30.7 Formal nondiscrimination provisions.

(a) *Formal provision required.* Except as provided in § 30.7(b), each program registered with the Bureau must contain in its formal apprenticeship standards or in its underlying collective bargaining agreement a formal nondiscrimination provision which is consistent with the standards in § 30.3. The Bureau suggests the following language as appropriate for adoption by program sponsors desiring to select apprentices on the basis of qualifications alone: "Selection of apprentices under the program shall be made from qualified applicants on the basis of qualifications alone and without regard to race, creed, color, national origin, sex, or occupationally irrelevant physical requirements in accordance with objective standards which permit review, after full and fair opportunity for application; and this program shall be operated on a completely nondiscriminatory basis."

(b) *Previously registered programs.* Programs registered prior to January 17, 1964, which contain the following provision or generally equivalent language are not required to revise such language in order to comply with paragraph (a): "Selection of apprentices under this program shall be made from qualified applicant without regard to race, creed, color, national origin or physical handicaps; women shall not be barred from apprenticeships for which they qualify."

(c) *Equal opportunity standards applicable.* Irrespective of the form of the formal nondiscrimination clause adopted or in use, all federally registered programs are required to operate in accordance with the equal opportunity standards in § 30.3 as interpreted in this part.

§ 30.8 New registrations.

Any program sponsor seeking federal registration of a program after January 17, 1964, must select apprentices on the basis of qualifications alone in accordance with objective standards which permit review after full and fair opportunity for application and must adopt a nondiscrimination clause in the form suggested in § 30.7(a) or its equivalent. In addition to the formal provision requirement, the submission to the Bureau must include a concise statement of the selection procedure and of the selection standards which the program sponsor proposes to apply.

§ 30.9 Program reviews.

The Bureau shall conduct a systematic field review of existing federally registered programs, inform program sponsors of the equal opportunity standards, encourage their adoption, and take appropriate action regarding programs which do not adopt and operate in accordance with the standards. Each program field review shall involve the following steps:

(a) Notification to the program sponsor of the equal opportunity standards and the taking of all appropriate action to urge their voluntary acceptance.

(b) Maintenance of a file on the program field review: The file shall accompany the report forwarded by the field representative.

(c) Determination of racial and ethnic composition of the program: Where the composition of the program demonstrates that there is equality of opportunity no further field review will be made. A file shall be maintained regarding such programs, which will contain the information which indicates that equal opportunity is being provided. This file shall be forwarded through supervisory channels to the Administrator for review.

(d) Use of the following checklist where further field review is required:

(1) The formal program language requirement. Does the program contain a formal nondiscrimination clause consistent with the equal opportunity standards in § 30.3? (Programs already containing language generally equivalent to that required by Bureau Circular 62–5 are not required to adopt new written provisions. See § 30.7.)

(2) Selection of apprentices:

(i) Selection on the basis of qualifications alone: Does the program select apprentices on the basis of qualifications alone in accordance with objective standards which permit review after full and fair opportunity for application? (See § 30.4(a)), and is the application list composed entirely of applicants selected and ranked solely on the basis of qualifications alone in accordance with objective standards that permit review after full and fair opportunity for application? (See §§ 30.4(a)(4) and 30.5.)

(ii) Alternative selection plan: If the program does not select apprentices on the basis of qualifications alone, has the program adopted an alternative equal opportunity plan for selecting apprentices which assures equality of opportunity and which is acceptable to the Administrator? Does the program operate in accordance with such plan? Field representatives should submit through channels to the Administrator for approval alternative selection plans which appear to assure equal opportunity. A copy of the approved plan should be included in the case file.

(3) Program operation: Is there any discrimination in apprenticeship or employment during apprenticeship, including but not limited to job assignment, promotion, demotion, layoff, or termination, rates of pay or other forms of compensation or conditions of work? (See § 30.6.)

(e) Where the program sponsor has not adopted or is not operating in accordance with the equal opportunity standards in § 30.3, the field representative shall notify the program sponsor in writing (even in group programs where it is an individual employer who is deficient) and indicate possible methods of providing equal opportunity in accordance with this document. For a reasonable time, not to exceed 30 days from the time the program sponsor is notified of the lack of equal opportunity, the field representative shall make every reasonable effort to encourage corrective action, recording the facts and information in the case report. This effort to obtain corrective action shall include an opportunity for any body designated by the program sponsor or industry group for reviewing complaints of discrimination to resolve the issue.

§ 30.10 Review by Regional Director.

(a) *Forwarding of file.* At the close of the field review for programs found to be in conformity, or at the close of the time allowed for voluntary corrective action for programs found not to be in conformity, the field representative shall forward the case file with his recommendations through supervisory channels to the Regional Director for review.

(b) *Conformity findings.* The Regional Director shall review findings of conformity or achievement of corrective action on a spot check basis in sufficient proportion to assure himself that the Bureau's equal opportunity policy is being properly carried out. Where upon review the Regional Director does not concur in the findings of the field representative, he may order further investigation or such other action as may be necessary and appropriate.

(c) *Nonconformity findings.* Upon receipt of any finding of nonconformity by a field representative, the Regional Director shall notify the program sponsor in writing that such a finding has been made, of the facts on which the finding is based, and that the program will be deregistered unless the finding is set aside or appropriate corrective action taken. The program sponsor shall have 15 days from the date of receipt of the notification within which to file a written request for a hearing with the Regional Director.

(1) *Hearing not requested.* If the program sponsor does not request a hearing within 15 days, the Regional Director shall review the case. Where, upon review, the Regional Director concurs in the finding of noncompliance and failure to achieve satisfactory corrective action, he shall so notify the program sponsor and the complainant, if any, and shall forward the case file to the Administrator, stating his concurrence and his recommendations, if any. Where, upon review, the Regional Director does not concur in the finding of the field representative, he may order further investigation or such other action as may be necessary and appropriate.

(2) *Hearing procedure.* If the program sponsor within 15 days of receipt of the notice files a written request, the program sponsor shall be accorded a hearing before a hearing officer designated by the Under Secretary of Labor. The hearing shall be informally conducted. Every party shall have the right to counsel and a fair opportunity to present its case or defense, including a right of cross-examination. The hearing officer shall prepare a decision on the basis of the record before him, setting forth findings and conclusions on the question of noncompliance and recommendations, if any. Copies of the decision shall be furnished to the program sponsor, and the complainant, if any. The decision shall be final except that any program sponsor as to whom the decision is adverse may file exceptions with the Administrator within 15 days of its receipt. If exceptions are filed and if there is a complainant, a copy of the exceptions filed shall be furnished to him and he shall be given 15 days in which to file a reply with the Administrator. A copy of such reply shall be furnished to the program sponsor.

§ 30.11 Review by Administrator.

(a) *Voluntary corrective action.* Upon receipt of the Regional Director's concurrence in the finding of the field representative or of a decision of a hearing officer that a program is not in conformity, the Administrator shall so inform any private organization designated by the industry in question to assist in achieving equal opportunity and shall allow the organization a reasonable time, normally not to exceed 20 days, to achieve voluntary corrective action.

(b) *Final determination.* Following the receipt of exceptions and replies to be filed or the expiration of the time for action provided for in paragraph (a) of this section, the Administrator shall render a final decision in writing based on the file or the record as the case may be. If the decision is that the program is in nonconformity and that satisfactory action to achieve conformity has not been taken, the program shall be deregistered. The Administrator shall notify the Regional Director, the program sponsor, the complainant, if any, and any private organizations of the type described in paragraph (a) of this section. In each case in which deregistration is ordered the Administrator will make public notice of the order and will notify the President's Committee on Equal Employment Opportunity and the Solicitor of Labor.

§ 30.12 Complaint procedure.

(a) *Filing.* Any applicant or apprentice who believes that he has been discriminated against on the basis of race, creed, color, or national origin with regard to apprenticeship or that the equal opportunity standards have not been followed in his case may file a complaint with the Bureau or any field representative. The complaint shall be in writing and shall be signed by the complainant. It must include the name, address and the telephone number of the person allegedly discriminated against, the program sponsor involved and brief description of the circumstances of the alleged discrimination or failure to follow equal opportunity standards. Complaints received by the Bureau Headquarters Office will be transmitted to the field for processing. The complaint must be filed not later than 180 days from the date of the alleged discrimination or specified failure to follow equal opportunity standards; and in the case of complaints filed directly with private review bodies designated by program sponsors to review such complaints, any referral of such complaint by the complainant to the Bureau or any field representative must occur within the time limitation stated above or 30 days from the final decision of such body, whichever is later. The time may be extended by the Administrator for good cause shown. Local program sponsors should be immediately encouraged to establish, either individually or in an industry group, fair, speedy, and effective procedures for reviewing complaints of discrimination.

(b) *Processing of complaints.* Upon receipt of any complaint the field representative shall:

(1) Prepare and maintain a complete case file for each complaint received. It shall contain the original complaint, reports of investigations and visits, and correspondence with the employer, the program sponsor, and others regarding all phases of the case in chronological order, including recommendations made and final disposition of the case. This file shall be forwarded to the Regional Director for review upon local disposition of each complaint. A separate local office correspondence and reports file shall be maintained for essential internal records and correspondence regarding each case.

(2) When the program sponsor or an industry group has designated a body for reviewing complaints of discrimination, the field representative, upon receiving a complaint, shall establish a case file and direct the complainant to file his complaint with the representative of the review body. He shall give the complainant the name and address of this representative.

(3) No later than 60 days following the filing of a complaint with the review body by the complainant the field representative shall obtain reports from the complainant and the review body of the disposition of the complaint. If the complaint has been satisfactorily adjusted and there is no other indication of failure to apply equal opportunity standards, the case shall be closed and the parties appropriately informed.

(4) When a complaint has not been resolved through local review procedures within 60 days, where no local review procedure exists or where despite satisfactory resolution of the complaint, there is evidence that the equal opportunity practices of the program are not in accordance with these rules, the field representative shall notify the program sponsor of the complaint or such evidence, solicit a response from the program sponsor and conduct whatever other investigation is necessary to determine the facts, including where necessary, interrogation of the complainant, the employer and the other involved persons. The pertinent facts shall be recorded.

(5) Where the program is not operating in accordance with the equal opportunity standards, the field representative shall notify the program sponsor (even in group programs where it is an individual employer who is deficient) and indicate possible methods of providing equal opportunity in accordance with these regulations. For a reasonable time, not to exceed 15 days from the time the program sponsor is notified of the lack of equal opportunity, the field representative shall make every reasonable effort to encourage corrective action, recording the facts and information in the case report.

(6) From this point on, complaints shall be processed procedurally in the same manner as program reviews. (See §§ 30.10–11.)

§ 30.13 Adjustments in schedule for program review or complaint processing.

If, in the judgment of the Administrator, a particular situation warrants and requires special processing and either expedited or extended determination, he shall take the steps necessary to permit such determination if he finds that no person or party affected by such determination will be prejudiced by such special processing.

§ 30.14 Reinstatement of program registration.

Any program deregistered pursuant to these regulations may be reinstated upon presentation of adequate evidence to the Administrator that the program has established and is operating under a selection system based on qualifications alone and is in compliance with § 30.3(c).

§ 30.15 Quota system barred.

Nothing contained in this part shall be construed to require any program sponsor or employer to select or employ apprentices in the proportion which their race, color, religion, or national origin bears to the total population.

§ 30.16 State agencies.

(a)(1) Regional Directors shall encourage State Apprenticeship Council (SAC) States to adopt and implement the equal opportunity standards set forth in § 30.3 and to adopt effective procedures to implement the standards including program reviews, the processing of complaints, deregistration of noncomplying programs, and the consultation and cooperation with private organizations designated by the industry in question to assist in achieving equal opportunity in apprenticeship. Regional Directors shall submit the State equal opportunity programs to the Administrator for determination of their consistency with such equal opportunity standards.

(2) Where State programs are determined to be consistent with such equal opportunity standards, Regional Directors shall work out with SAC States a division of responsibilities between Federal and State personnel for carrying out the procedures adopted to implement the policy.

(3) When the Administrator determines that a State program is not consistent with such standards, he shall notify the Secretary of Labor that a question exists as to whether the Federal Government should continue to recognize, for Federal purposes, programs registered by the State agency.

(b) Regional Directors shall request that SAC State agencies notify them of any State deregistration. Regional Directors shall then notify the Administrator who will in turn notify the President's Committee on Equal Opportunity and the Solicitor of Labor.

(c) Regional Directors shall consult with State officials regarding methods of cooperation with State fair employment practices commissions and shall report the results of such consultations to the Administrator with recommendations for coordination of activities and for a division of responsibilities where appropriate.

Signed at Washington, D.C., this thirteenth of December 1963.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 63-13141; Filed, Dec. 17, 1963; 8:50 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

SUBCHAPTER F—ISLANDS UNDER NAVY JURISDICTION

PART 761—NAVAL DEFENSIVE SEA AREAS; NAVAL AIRSPACE RESERVATIONS, AREAS UNDER NAVY ADMINISTRATION, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS

Scope and purpose. Part 761 as revised conforms with OPNAV (Office of the Chief of Naval Operations) Instruction 5500.11C of November 12, 1963 and prescribes regulations, procedures, and criteria governing the issuance of authorizations to enter certain defense areas (as defined in § 761.5(a)), the entry of which is prohibited except as authorized by the Secretary of the Navy. This part is published as the primary source of information and guidance for persons seeking authorization to enter defense areas, and of authority for officers receiving and processing inquiries and applications relative to such authorizations. Letters or other correspondence issued as guides to persons responsible for administering Part 761 shall not be construed as changing this part. Any entry authorizations issued under the provisions of this part prior to the revision will remain effective until expired, cancelled or revoked.

AUTHORITY: §§ 761.1 to 761.20 issued under sec. R.S. 161, 2152, 62 Stat. 799, secs. 5031, 6011, 70A Stat. 278, 375, as amended; 5 U.S.C. 22, 10 U.S.C. 5031, 6011, 18 U.S.C. 2152. Interpret or apply sec. 21, 64 Stat. 1005, sec. 1501(a), 72 Stat. 809, sec. 133, 76 Stat. 517; 10 U.S.C. 133, 49 U.S.C. 1301 note, 50 U.S.C. 797. The text contains additional references, including Executive orders

Subpart A—Introduction

§ 761.1 Scope.

(a) This part provides regulations governing the entry of persons, ships, and aircraft into:

(1) Naval Defensive Sea Areas and Naval Airspace Reservations established by Executive order of the President (see § 761.3(a)).

(2) Areas placed under the Secretary of the Navy for administrative purposes by Executive order of the President (see § 761.3(b)).

(3) The Trust Territory of the Pacific Islands (see § 761.3(c)).

(4) The Bonin, Volcano, and Marcus Islands.

(b) In addition to the authorization required by this part, local clearance is required to enter military areas in the Trust Territory of the Pacific Islands and the Bonin, Volcano, and Marcus Islands. The entry authorizations issued under the authority of this part do not supersede or eliminate the need for visas or other clearances or permits required by other law or regulation.

§ 761.2 Background and general policy.

(a) Free entry into the defense areas, listed and defined in this part, and military installations contiguous to or within the boundaries of defense areas has been restricted by Executive order or by regulation for defense purposes because of the unique strategic nature of the areas and for the protection of the military and naval bases, facilities and other installations located therein and the personnel, property and equipment assigned to or located within such areas, bases, stations, facilities and other installations against destruction, loss or injury by accident or enemy action or by sabotage or other subversive actions. Persons, ships, and aircraft are excluded unless and until they qualify for admission under the Executive order or applicable regulation.

(b) The control of entry into or movement within defense areas by persons, ships, or aircraft will be exercised so as to fully protect the physical security of, and insure the full effectiveness of, bases, stations, facilities and other installations within or contiguous to defense areas. However, unnecessary interference with the free movement of persons, ships, and aircraft is to be avoided.

(c) This part will be administered so as to provide for the prompt processing of all applications and to insure uniformity of interpretation and application, insofar as changing conditions permit.

(d) In cases of doubt, the determination will be made in favor of the course of action which will best serve the interests of the United States and national defense as distinguished from the private interests of an individual or group.

§ 761.3 Authority.

(a) *Naval Defensive Sea Areas and Naval Airspace Reservations.* By Executive Orders, as amended, the President has reserved, set aside, and established the following Naval Defensive Sea Areas and Naval Airspace Reservations under the control of the Secretary of the Navy. Incorporated therein are provisions for the exercise of control by the Secretary over the entry of persons, ships, and aircraft into the areas so described. (See § 761.4(b) for delineation of areas where entry controls are suspended.)

(1) *Atlantic areas.* (i) Culebra Island Naval Defensive Sea Area; Culebra Island Naval Airspace Reservation: Executive Order 8684 of February 14, 1941 (6 F.R. 1016; 3 CFR, 1943 Cum. Supp., p. 895).

(ii) Guantanamo Bay Naval Defensive Sea Area; Guantanamo Bay Naval Airspace Reservation: Executive Order 8749 of May 1, 1941 (6 F.R. 2252; 3 CFR, 1943 Cum. Supp., p. 931).

(2) *Pacific areas.* (i) Honolulu Defensive Sea Area: Executive Order 8987 of December 20, 1941 (6 F.R. 6675; 3 CFR, 1943 Cum. Supp., p. 1048).

(ii) Kaneohe Bay Naval Defensive Sea Area; Kaneohe Bay Naval Airspace Reservation: Executive Order 8681 of February 14, 1941 (6 F.R. 1014; 3 CFR, 1943 Cum. Supp., p. 893).

(iii) Pearl Harbor Defensive Sea Area: Executive Order 8143 of May 26, 1939 (4 F.R. 2179; 3 CFR, 1943 Cum. Supp., p. 504).

(iv) Johnston Island Naval Defensive Sea Area; Johnston Island Naval Airspace Reservation: Executive Order 8682 of February 14, 1941 (6 F.R. 1015; 3 CFR, 1943 Cum. Supp., p. 894) as amended by Executive Order 8729 of April 2, 1941 (6 F.R. 1791; 3 CFR, 1943 Cum. Supp., p. 919) and Executive Order 9881 of August 4, 1947 (12 F.R. 5325; 3 CFR, 1943–1948 Comp., p. 662).

(v) Kingman Reef Naval Defensive Sea Area; Kingman Reef Naval Airspace Reservation: Executive Order 8682 of February 14, 1941 (6 F.R. 1015; 3 CFR, 1943 Cum. Supp., p. 894) as amended by Executive Order 8729 of April 2, 1941 (6 F.R. 1791; 3 CFR, 1943 Cum. Supp., p. 919) and Executive Order 9881 of August 4, 1947 (12 F.R. 5325; 3 CFR, 1943–1948 Comp., p. 662).

(vi) Midway Island Naval Defensive Sea Area; Midway Island Naval Airspace Reservation: Executive Order 8682 of February 14, 1941 (6 F.R. 1015; 3 CFR, 1943 Cum. Supp., p. 894) as amended by Executive Order 8729 of April 2, 1941 (6 F.R. 1791; 3 CFR, 1943 Cum. Supp., p. 919) and Executive Order 9881 of August 4, 1947 (12 F.R. 5325; 3 CFR, 1943–1948 Comp., p. 662).

(vii) Wake Island Naval Defensive Sea Area; Wake Island Naval Airspace Reservation: Executive Order 8682 of February 14, 1941 (6 F.R. 1015; 3 CFR, 1943 Cum. Supp., p. 894) as amended by Executive Order 8729 of April 2, 1941 (6 F.R. 1791; 3 CFR, 1943 Cum. Supp., p. 919) and Executive Order 9881 of August 4, 1917 (12 F.R. 5325; 3 CFR, 1943–1948 Comp., p. 662).

(viii) Kiska Island Naval Defensive Sea Area; Kiska Island Naval Airspace Reservation: Executive Order 8680 of February 14, 1941 (6 F.R. 1014; 3 CFR 1943 Cum. Supp., p. 892) as amended by Executive Order 8729 of April 2, 1941 (6 F.R. 1791; 3 CFR, 1943 Cum. Supp., p. 919).

(ix) Kodiak Naval Defensive Sea Area: Executive Order 8717 of March 22, 1941 (6 F.R. 1621; 3 CFR, 1943 Cum. Supp., p. 915). Kodiak Naval Airspace Reservation: Executive Order 8597 of November 18, 1940 (5 F.R. 4559; 3 CFR, 1943 Cum. Supp., p. 837) as amended by Executive Order 9720 of May 8, 1946 (11 F.R. 5105; 3 CFR, 1943–1948 Comp., p. 527).

(x) Unalaska Island Naval Defensive Sea Area; Unalaska Island Naval Airspace Reservation: Executive Order 8680 of February 14, 1941 (6 F.R. 1014; 3 CFR, 1943 Cum. Supp., p. 892) as amended by Executive Order 8729 of April 2, 1941 (6 F.R. 1791; 3 CFR, 1943 Cum. Supp., p. 919).

(b) *Administrative areas.* By Executive orders, as amended, the President has reserved, set aside, and placed under the control and jurisdiction of the Secretary of the Navy for administrative purposes the following named areas including their appurtenant reefs and territorial waters:

(1) Johnston Island—Executive Order 6935 of December 29, 1934 as amended by Executive Order 11048 of September 4, 1962 (27 F.R. 8851; 3 CFR, 1962 Supp., p. 241).

(2) Kingman Reef—Executive Order 6935 of December 29, 1934 as amended by Executive Order 11048 of September 4, 1962 (27 F.R. 8851; 3 CFR, 1962 Supp., p. 241).

(3) Midway Island—Executive Order 11048 of September 4, 1962 (27 F.R. 8851; 3 CFR, 1962 Supp., p. 241).

(4) Sand Island—Executive Order 6935 of December 29, 1934 as amended by Executive Order 11048 of September 4, 1962 (27 F.R. 8851; 3 CFR, 1962 Supp., p. 241).

(c) *Trust Territory of the Pacific Islands.* The Trust Territory of the Pacific Islands is a strategic area administered by the United States under the provisions of a Trusteeship Agreement with the United Nations. By Executive Order 11021 of May 7, 1962 (27 F.R. 4409; 3 CFR, 1962 Supp., p. 209), the Secretary of the Interior has been charged with the administrative responsibility for all of the Trust Territory of the Pacific Islands. Under an agreement between the Department of the Navy and the Department of the Interior effective July 1, 1963 the entry of all individuals, ships, and aircraft into the Trust Territory is subject to control. That control shall be exercised by the High Commissioner of the Trust Territory and the Department of the Navy as follows:

(1) Entry into Eniwetok and Bikini Atolls and any area hereafter closed for security reasons by the President, shall be controlled solely by the Department of the Navy with respect to all individuals, ships, and aircraft.

(2) Entry into areas now or hereinafter utilized by or under jurisdiction of the military for military purposes shall be controlled by the Department of the Navy with respect to all individuals, ships, and aircraft.

(3) *Entry of U.S. citizens and nationals and citizens of the Trust Territory,* into areas of the Trust Territory other than those set forth in subparagraphs (1) and (2) of this paragraph shall be controlled by the High Commissioner.

(4) *All other persons.* Applications for entry into the Trust Territory, except for those areas under military control, of all persons who are not U.S. citizens and nationals or who are not citizens of the Trust Territory shall be made to the High Commissioner for processing in accordance with the laws and regulations of the Trust Territory: *Provided,* That prior to the issuance of an authorization to enter the Trust Territory, the High Commissioner shall provide the Department of the Navy in all cases with information on the applicants for its consideration and comment, granting thereby the Department of the Navy the right to object to the issuance of an authorization.

(5) *Ships and aircraft.* (i) The entry of ships and aircraft, other than U.S. public ships and aircraft, documented under either the laws of the United States or the laws of the Trust Territory into areas of the Trust Territory other than those set forth in subparagraphs (1) and (2) of this paragraph shall be controlled solely by the High Commissioner.

(ii) Applications for entry into the Trust Territory, except for those areas under military control, of ships and aircraft not documented under the laws of the United States or the laws of the Trust Territory shall be made to the High Commissioner for processing in accordance with the laws and regulations of the Trust Territory: *Provided,* That prior to the issuance of an authorization to enter the Trust Territory, the High Commissioner shall provide the Department of the Navy in all cases with information on the applicants for its consideration and comment, granting thereby the right of the Department of the Navy to object to the issuance of an authorization.

(d) *Bonin, Volcano, and Marcus Islands.* The Bonin, Volcano, and Marcus Islands are administered by the Department of the Navy as a strategic area, under the provisions of the Peace Treaty with Japan. In addition to the requirements of this part, the Commander in Chief, U.S. Pacific Fleet as Military Governor of the Bonin-Volcano Islands and Marcus Island exercises local control over the entry of ships, planes, and persons into these islands, the territorial waters thereof and the airspace above.

(e) *Exercise of authority.* The authority of the Secretary of the Navy to control entry of ships, planes, and persons into the areas listed is exercised through the Chief of Naval Operations and certain of his subordinates as prescribed in this part.

(f) *Penalties.* Penalties are provided by law: (1) for violations of orders or regulations governing persons or ships within the limits of defensive sea areas (62 Stat. 799; 18 U.S.C. 2152); (2) for entering military, naval or Coast Guard property for prohibited purposes or after removal or exclusion therefrom by proper authority (62 Stat. 765; 18 U.S.C. 1382); (3) for violation of regulations imposed for the protection or security of military or naval aircraft, airports, air facilities, vessels, harbors, ports, piers, waterfront facilities, bases, forts, posts, laboratories, stations, vehicles, equipment, explosives, or other property or places subject to the jurisdiction, administration, or in the custody of the Department of Defense, any department or agency of which said department or agency consists, or any officer or employee of said department or agency (sec. 21 of the Internal Security Act of 1950 (50 U.S.C. 797) and Department of Defense Directive 5200.8 of 20 August 1954 (19 F.R. 5446)); and (4) for knowingly and willfully making a false or misleading statement or representation in any matter within the jurisdiction of any department or agency of the United States (18 U.S.C. 1001).

§ 761.4 Special provisions.

(a) *Restricted areas.* Special authorization is required for entry into the following restricted areas:

(1) *Eniwetok Atoll, Bikini Atoll and those islands in Kwajalein Atoll under military jurisdiction.* In addition to the controls covered by this part, entry into these areas and the territorial sea thereof is subject to local control by the Commanding Officer, Pacific Missile Range Facility.

(2) *Bonin, Volcano, and Marcus Islands.* In addition to the controls covered by this part, entry into these islands, the territorial sea thereof and airspace above is subject to local control by Commander in Chief, U.S. Pacific Fleet, as Military Governor.

(b) *Suspension of restrictions.* Restrictions imposed under the authority of the above cited Executive Orders on entry into the following Naval Defensive Sea Areas and Naval Airspace Reservations and Administrative Areas have been suspended subject to reinstatement without notice at any time when the purposes of national defense may require.

(1) All Naval Airspace Reservations, except:

(i) Guantanamo Bay Naval Airspace Reservation

(ii) Culebra Island Naval Airspace Reservation

(2) The Wake Island Naval Defensive Sea Area except for entry of foreign flag ships and foreign nationals.

(3) The portion of Kaneohe Defensive Sea Area lying beyond a 500 yard buffer zone around the perimeter of the Kaneohe Marine Corps Air Station (Mokapu Peninsula) and eastward therefrom to Kapoho Point, Oahu.

Suspension of restrictions on entry into a naval airspace reservation, naval defensive sea area, or naval administrative area, does not affect the authority of a commanding officer or other appropriate commander to control entry into or passage through any base, station, or other installation or area, including port or harbor facilities under Navy control.

§ 761.5 Definitions.

(a) *Defense area.* A naval defensive sea area, naval airspace reservation, or naval administrative area established by Executive order of the President, areas of the Trust Territory as defined in § 761.3(c), and the territorial sea thereof, and the Bonin, Volcano, and Marcus Islands and the territorial sea thereof.

(b) *Department of Defense.* The Department of Defense, including the Departments of the Army, Navy, and Air Force.

(c) *Entry authorization.* A document which authorizes a ship, aircraft, or person to enter a defense area.

(d) *Entry Control Commander.* A commander empowered to issue entry authorizations for one or more defense areas (see paragraph V.B.).

(e) *Excluded person.* A person who does not hold a currently valid entry authorization for the area concerned and who has been notified by an Entry Control Commander that authority for him to enter any defense area has been denied, suspended or revoked.

(f) *Foreign nationals.* Persons who are not citizens or nationals of the United States.

(g) *Military installation.* A military (Army, Navy, Air Force, Marine Corps, and/or Coast Guard) activity ashore, having a commanding officer, and located in an area having fixed boundaries, within which all persons are subject to military control and to the immediate authority of a commanding officer.

(h) *Public vessel or aircraft.* A ship or aircraft owned by or belonging to a government and not engaged in commercial activity.

(i) *Territorial sea*—(1) *Trust Territory.* In accordance with section 874(c) of the Code of the Trust Territory " * * * that part of the sea comprehended within the envelope of all arcs of circles having a radius of three marine miles drawn from all points of the barrier reef, fringing reef, or other reef system of the Trust Territory, measured from the low water line, or, in the absence of such reef system, the distance to be measured from the low water line of any island, islet, atoll, reef, or rocks within the jurisdiction of the Trust Territory."

(2) *Other areas.* That part of the sea included within the envelope of all arcs of circles having a radius of three marine miles with centers on the low water line of the coast. For the purpose of this definition, the term "coast" includes the coasts of islands, islets, rocks, atolls, reefs and other areas of land permanently above the high water mark.

(j) *Trust Territory Registry.* Registration of a ship or aircraft in accordance with the laws of the Trust Territory.

(k) *U.S. Registry.* Registration of a ship or aircraft in accordance with the laws and regulations of the United States.

(l) *U.S. Armed Forces.* Military personnel of the Department of Defense, the Departments of the Army, Navy, Air Force, and the United States Coast Guard.

Subpart B—Criteria and Basic Controls

§ 761.6 Criteria.

(a) *General.* (1) Entry authorizations may be issued only after an Entry Control Commander, or a duly authorized subordinate acting in his behalf, has determined that the presence of the person, ship, or aircraft will not, under existing or reasonably foreseeable future conditions, endanger, place an undue burden upon, or otherwise jeopardize the efficiency, capability or effectiveness of any military installation located within or contiguous to a defense area. Factors to be considered shall include, but not be limited to, the true purpose of the entry, the personal history, character and present or past associates of the individuals involved, the possible burdens or threats to the defense facilities which the presence of the ship, aircraft or the individual or individuals involved impose or might reasonably be expected to impose on the related base complex.

(2) Requests for entry authorizations will be evaluated and adjudged as to whether the entry at the time and for the purpose stated will or will not be inimical to the purposes of national defense.

(b) *Adverse.* Substantial evidence of any of the following shall preclude the granting of entry authorization except with the specific approval of the Chief of Naval Operations in each case:

(1) Prior noncompliance with entry control regulations or failure to observe terms under which any entry authorization may have been granted; [1]

(2) Willfully furnishing false, incomplete, or misleading information in an application for an entry authorization; [1]

(3) Advocacy of the overthrow or alteration of the Government of the United States by unconstitutional means;

(4) Commission of, or attempt or preparation to commit, an act of espionage, sabotage, sedition, or treason, or conspiring with or aiding or abetting another to commit such an act;

(5) Performing, or attempting to perform, duties, or otherwise acting so as to serve the interest of another government to the detriment of the United States;

(6) Deliberate unauthorized disclosure of classified defense information;

(7) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group or combination of persons, designated by the Attorney General pursuant to Executive Order 10450 of April 27, 1953 (18 F.R. 2489; 3 CFR, 1953 Supp., p. 72), as amended (see 5 U.S.C. 631 note; also 18 F.R. 2741; 19 F.R. 655; 20 F.R. 816, 2093, 7201, 8163; 22 F.R. 8069);

(8) Serious mental irresponsibility evidenced by having been adjudged insane, or mentally irresponsible, or an

[1] The criteria so marked are applicable only to those applications concerning entry into Eniwetok and Bikini Atolls and other areas under military cognizance.

incompetent, or a chronic alcoholic, or treated for serious mental or neurological disorders or for chronic alcoholism, without evidence of cure; [1]

(9) Conviction of any of the following offenses under circumstances indicative of a criminal tendency potentially dangerous to the security of a strategic area containing military establishments: arson, unlawful trafficking in drugs, murder, kidnaping, blackmail, or sex offenses involving minors or perversion.

(10) Chronic alcoholism or addiction to the use of narcotic drugs without adequate evidence of rehabilitation; [1]

(11) Illegal presence in the United States, its territories or possessions, having been finally subject to deportation order, or voluntary departure in lieu of deportation order, by the United States Immigration and Naturalization Service; [1]

(12) Being the subject of proceedings for deportation or voluntary departure in lieu of deportation for any reasons which have not been determined in the applicant's favor; [1]

(13) Conviction of larceny of property of the United States, willful injury to or destruction of property of the United States, fraudulent enlistment, impersonation of a commissioned officer of the United States or any state or territory thereof, or any offense involving moral turpitude, except offenses, which, in the jurisdiction within which the conviction was obtained, are punishable by imprisonment for not more than one year or a fine of not more than one thousand dollars.[1]

(c) *Aliens.* (1) Entry of aliens for employment or residence in an area entirely within the borders of a defense area is not authorized except when such entry would serve the interests of National Defense, and then only for specified periods and under prescribed conditions.

(2) Entry of aliens for any purpose into areas over which the United States exercises sovereignty is further subject to requirements imposed by law for the obtaining of a United States visa. Naval authorization for entry into areas covered by this part will not be issued to foreign nationals for purposes, places, or periods of time in excess of those stipulated in the visa.

(3) Alien spouses and bona fide dependents of U.S. citizen employees of the United States may, if otherwise qualified, be granted entry authorization so long as the U.S. citizen sponsor or principal remains on duty or resident within the defense area.

(d) *Renewals.* Entry authorizations having been granted and utilized may be extended or renewed upon request at the expiration of the period for which the entry was originally authorized or extended, provided the justification for remaining in the area or for making a reentry meets the criteria set forth in this part. It shall be the responsibility of every applicant to depart the defense area for which entry was authorized upon expiration of the time prescribed in the authorization, unless such authorization has been extended or renewed. Failure to comply herewith will be considered as evidence of violation of this part and may result in denial of future authorizations.

[1] See footnote to § 761.6.

§ 761.7 Basic controls.

(a) *General.* Except for such persons, ship, or aircraft as are issued an authorization to enter by an Entry Control Commander:

(1) No person, except persons aboard public vessels or aircraft of the United States, shall enter any defense area.

(2) No vessel or other craft, except public vessels of the United States shall enter any naval defensive sea area or other defense area.

(3) No aircraft, except public aircraft of the United States, shall be navigated within any naval airspace reservation of the airspace over other defense areas.

(b) *Excluded persons*—(1) *Entry prohibited.* Excluded persons, as defined in § 761.5(e), are prohibited from entering any defense area. In a bona fide emergency which requires an excluded person's presence in or transit through a military installation which is also a defense area, the commanding officer of the installation may grant permission to enter or transit subject to such restrictions as may be imposed by regulation or which may, in his discretion, be required.

(2) *Carrying prohibited.* Except in a bona fide emergency and after being authorized by the appropriate local authority, no vessel or aircraft, except public vessels and aircraft of the United States, shall enter into or be navigated within any defense area while carrying any excluded person, as defined in this part, as passenger, officer or crew member.

(c) *Control of violators.* No commanding officer of a military installation shall permit any ship or aircraft which has entered the limits of his command by passing through a defense area without authorization to land, except in emergency, or, if permitted to land, to disembark passengers or cargo except as authorized by the appropriate Entry Control Commander. Commanding officers will take appropriate action to apprehend violators who come within their jurisdiction and request disposition instructions from the appropriate Entry Control Commander.

(d) *Trust Territory.* An authorization from the High Commissioner is required for all persons desiring to enter the Trust Territory, except into Eniwetok and Bikini Atolls and those areas under military jurisdiction all of which are exclusively controlled by the Department of the Navy.

(e) *Military areas.* Entries authorized under this Instruction do not affect the authority of a commanding officer or other appropriate commander to impose and enforce proper regulations pertaining to movement into or within naval stations or other military installations.

(f) *Waiver prohibited.* No officer of the U.S. Armed Forces, except as authorized in writing by the Chief of Naval Operations, has authority to waive the requirements of this part, and any waiver must be in writing and signed by an authorized person.

Subpart C—Entry Authorization

§ 761.8 General.

(a) As indicated in § 761.7(a), certain persons, ships, and aircraft must be specifically authorized under the provisions of this part to enter defense areas.

(b) When entering or transiting a defense area each person, ship, or aircraft must have a valid authorization or satisfactory evidence thereof.

§ 761.9 Entry Control Commanders.

The following commanders are designated Entry Control Commanders with authority to approve or disapprove individual entry authorizations for persons, ships, or aircraft as indicated:

(a) *Chief of Naval Operations.* Authorization for all persons, ships, or aircraft to enter all defense areas.

(b) *Commander in Chief, U.S. Atlantic Fleet.* Authorization for all persons, ships, or aircraft to enter defense areas in the Atlantic.

(c) *Commander in Chief, U.S. Pacific Fleet.* Authorization for all persons, ships, or aircraft to enter defense areas in the Pacific.

(d) *Commander Caribbean Sea Frontier.* Authorization for all persons, ships, and aircraft to enter the Guantanamo Bay Naval Defensive Sea Area and the Guantanamo Naval Airspace Reservation, and for all persons and U.S. registered private and Canadian public vessels to enter the Culebra Island Naval Defensive Sea Area and Culebra Island Naval Airspace Reservation.

(e) *Commander U.S. Naval Base, Guantanamo Bay.* Authorization for all persons, ships, and aircraft to enter the Guantanamo Bay Naval Defensive Sea Area and the Guantanamo Naval Airspace Reservation.

(f) *Commander Alaskan Sea Frontier.* Authorization for all persons and U.S. registered private and Canadian public vessels to enter Kodiak Naval Defensive Sea Area, Kiska Island Naval Defensive Sea Area, and Unalaska (Dutch Harbor) Naval Defensive Sea Area.

(g) *Commander Hawaiian Sea Frontier.* Authorization for U.S. citizens and U.S. registered private vessels to enter Johnston Island, Midway Island, Kingman Reef, Kaneohe Bay Naval Defensive Sea Area, Pearl Harbor Defensive Sea Area, and military areas in that portion of the Trust Territory east of 160 degrees east longitude, and Filipino workers employed by U.S. contractors to enter Wake Island (see also paragraph (j) of this section).

(h) *Commander U.S. Naval Forces Marianas.* Authorization for U.S. citizens and U.S. registered private vessels to enter the Bonin, Volcano, and Marcus Islands, and military areas in that portion of the Trust Territory west of 160 degrees east longitude, and in conjunction with the High Commissioner for non-U.S. citizens and ships or aircraft documented under laws other than those of the United States or the Trust Territory to enter those portions of the Trust Territory not under military jurisdiction or control.

(i) *Senior Naval Commander in Defense Area.* Emergency authorization for persons, ships, or aircraft in cases of emergency or distress. In all cases the Chief of Naval Operations, and as appropriate, the Commander in Chief, U.S. Atlantic Fleet or the Commander in Chief, U.S. Pacific Fleet, and other interested commands, shall be informed immediately of the nature of the emergency, and action taken.

(j) *U.S. Coast Guard.* The U.S. Coast Guard regulates the movement of shipping within the Honolulu Harbor under the authority of Executive Orders 10173 of October 18, 1950 (15 F.R. 7005, 3 CFR, 1950 Supp., p. 140) and 10289 of September 17, 1951 (16 F.R. 9499; 3 CFR, 1951 Supp., p. 469); such shipping is considered to be under U.S. authorized supervision within the meaning of Executive Order 8987 of December 20, 1941 (6 F.R. 6675; 3 CFR, 1943 Cum. Supp., p. 1048). The Commandant, Fourteenth Naval District, as representative of the Secretary of the Navy, retains responsibility for security of the Honolulu Defensive Sea Area, as required by naval interest, and, as such, issues amplifying instructions relating to the Honolulu Defensive Sea Area.

§ 761.10 Persons; group authorizations.

Persons in the following categories, except those persons who have been denied individual authorization or have had a prior authorization revoked, may enter the defense areas indicated without individual authorization:

(a) Persons aboard U.S. public vessels or aircraft entering a Naval Defensive Sea Area or a Naval Airspace Reservation.

(b) Military members of the U.S. Armed Forces or U.S. civil service employees of the Department of Defense when traveling on official orders.

(c) U.S. ambassadors, cabinet members, elected U.S. Government officers and U.S. citizen civil service employees of the U.S. Government traveling on official orders on U.S. Government business may enter defense areas as required by their orders.

(d) Dependents of military members of the U.S. Armed Forces and U.S. citizen dependents of U.S. civil service employees traveling on official orders and entering for purposes of joining a principal permanently stationed in an area covered by this part.

(e) U.S. Navy Technicians, U.S. Army Contract Technicians, or U.S. Air Force Contract Technicians, who are traveling on official (does not include invitational) travel orders on U.S. Government business, may enter defense areas as specifically required by such orders.

(f) Persons domiciled and currently residing in the Bonin Islands and traveling on a Bonin Island travel document may enter the Bonin Islands.

(g) Individuals on board any foreign public vessel or aircraft which has been granted diplomatic or other official U.S. Government authorization to enter an area covered by this part.

(h) Through passengers and bona fide regularly employed crew members, unless otherwise excluded, on nonpublic vessels authorized to enter areas covered by this part. This does not include an authorization to disembark at a port contiguous to or within the areas covered in this part. Application for authorization to disembark may be submitted to an Entry Control Commander having jurisdiction over the particular port.

(i) Through passengers and bona fide regularly employed crew members, unless otherwise excluded, on nonpublic aircraft authorized to enter areas covered by this part. Such persons are subject to local regulations governing entry into or movement within military air stations or facilities. Application for authorization to disembark may be submitted to an Entry Control Commander having jurisdiction over the air facility.

(j) U.S. citizen news correspondents and photographers when properly accredited by the Department of Defense to enter areas covered by this part except that special authorization is required to enter the restricted areas listed in § 761.4(a).

§ 761.11 Persons: individual authorizations.

(a) *Application; filing.* Applications for authorization to enter defense areas shall be filed with one of the following:

(1) Chief of Naval Operations.

(2) Commander in Chief, U.S. Atlantic Fleet.

(3) Commander in Chief, U.S. Pacific Fleet.

(4) Any Naval Sea Frontier Commander.

(5) Any Naval Fleet or Force Commander.

(6) Any Naval District Commandant.

(7) Any Naval Attache.

The Commander or Attache with whom the application is filed is responsible for taking such action on the application as he may be empowered to do or for forwarding the application to the nearest Entry Control Commander authorized by this part to take action thereon. Applications received in the United States and those received indicating that the applicant his resided in the United States for the major portion of ten years immediately prior to date of request will normally be forwarded to the Chief of Naval Operations for action. In all cases where the forwarding activity has information regarding the applicant or his employer, appropriate comment and/or recommendation for disposition will be included in the forwarding letter. The processing of applications of persons residing in the United States (other than Alaska and Hawaii) will be expedited if they are mailed direct to the Chief of Naval Operations.

(b) *Form.* (1) Applications for entry authorizations will be made on the standard form Statement of Personal History, DD 398, which is available at most military installations. In addition to the information required by the form, an entry application shall include the following additional information under Item 20, "Remarks":

"21. Purpose of proposed visit: (Detailed statement including names of principal persons, firms, or establishments to be visited)

"22. Proposed duration of visit:

"23. Estimated date of arrival:

"24. Address to which authorization should be mailed:"

In the event that a DD 398 form is not available, a locally produced form containing identical information including the certification and signature of applicant and witness may be utilized.

(2) Incomplete forms will be returned for completion.

(3) When time is of the essence, emergency applications may be forwarded by message to the appropriate Entry Control Commander. Such messages shall include the following:

(i) Name of applicant.

(ii) Date and place of birth.

(iii) Citizenship.

(iv) Residence for last ten (10) years.

(v) Employers and their addresses for last ten (10) years.

(vi) Results of Local Agency Check, if pertinent.

(vii) Place to be entered and date of entry.

(viii) Purpose of entry and duration of stay.

(ix) Comments and/or recommendations of forwarding officer as appropriate.

(x) A statement that a completed DD 398 or appropriate substitute has been mailed prior to the sending of the message.

(c) *Processing.* The Entry Control Commander empowered to issue entry authorizations shall upon receipt of an application take the following action:

(1) Initiate or conduct such investigation as may be required to establish facts upon which to make a determination that the entry of the applicant at the time and for the purpose indicated is or is not in accordance with the criteria set forth in § 761.6.

(2) Request additional information from the applicant if required, or

(3) Issue an entry authorization as requested or modified as circumstances require, or

(4) Deny the request and advise the applicant of his right to appeal, or,

(5) Forward the application to the next superior in command together with a statement of the investigation conducted and the reason for forwarding and comments or recommendations as appropriate.

(d) *Authorizations.* Entry authorizations will state the purpose for which the entry is authorized and such other information and conditions as are pertinent to the particular authorization. Authorizations to enter and re-enter may be issued to resident U.S. citizens and be valid for a specified time not to exceed two years. Authorizations may be issued to U.S. citizens residing abroad and to aliens to enter and re-enter for a specified period of time required to accomplish the purpose for which the authorization was issued not to exceed one year.

§ 761.12 Ships: group authorizations.

Ships or other craft in the following categories, except those ships which have been denied individual authorization or have had a prior authorization revoked, may enter the defense areas indicated without individual authorizations:

(a) U.S. public vessels, to enter all defense areas.

(b) U.S. private vessels which are: (1) under charter to the Department of Defense (including the Military Sea Transportation Service), or (2) operating under a contract or charter with the Department of Defense providing for the employment of such vessels, or (3) routed by a Naval Control of Shipping Office, or (4) employed exclusively in support of and in connection with a Department of Defense construction, maintenance, or repair contract and whose crews carry individual entry clearances, to enter defense areas as authorized by controlling Defense Department agency.

(c) Ships or craft registered and licensed in the Bonin Islands and manned by U.S. citizens or residents of the Bonin Islands to enter the Bonin Islands.

(d) Privately owned local craft, registered with and licensed by appropriate local U.S. Government authorities, and owned and operated by local inhabitants who have been granted an authorization to enter the local defense area at the discretion of the local commanders.

(e) Foreign flag ships traveling on diplomatic or other special clearance or for which special arrangements have been made under international agreements or treaties.

(f) Ships operating under a group authorization issued by the Chief of Naval Operations.

(g) Ships in distress, subject to local clearances and control by senior officer present.

§ 761.13 Ships: individual authorizations.

(a) *Applications; form; filing.* Applications for authorization to navigate ships within the limits of defense areas shall be filed with the cognizant Entry Control Commander by letter or telegram including the following information and any additional information that may be relative to the proposed operation:

(1) Name of ship.

(2) Place of registry and registry number.

(3) Name, nationality and address of operator.

(4) Name, nationality and address of owner.

(5) Gross tonnage of ship.

(6) Nationality and numbers of officers and crew (include crewlist when practicable).

(7) Number of passengers (include list when practicable).

(8) Last port of call prior to entry into area for which clearance is requested.

(9) Purpose of visit.

(10) Proposed date of entry and estimated duration of stay.

(b) *Processing.* Authorization for single entries or for multiple entries for a period not to exceed one year may be granted or denied by an Entry Control Commander. Authorizations for multiple entries for a period to exceed one year or for special group entries must be forwarded to the Chief of Naval Operations with appropriate comments and recommendations.

§ 761.14 Aircraft: group authorizations.

Aircraft in the following categories, except those aircraft which have been denied individual authorization or have had a prior authorization revoked, may enter the defense areas indicated without individual authorization:

(a) U.S. public aircraft to enter all defense areas.

(b) U.S. private aircraft which are under charter to the Department of Defense (including the Military Air Transport Service), or operating under a contract with the Department of Defense providing for the employment of such aircraft to overfly U.S. island positions and to land when proper authorization has been obtained from the Chief of Naval Operations for use of naval aviation facilities, to enter defense areas as authorized by controlling Defense Department agency.

(c) Foreign flag aircraft for which special arrangements have been made under international agreements or treaties.

(d) Aircraft operated by companies authorized by the Chief of Naval Operations to utilize naval facilities in defense areas for regular commercial activity, to enter defense areas associated therewith.

(e) Any aircraft in distress, subject to local clearance and control by senior officer present.

§ 761.15 Aircraft: individual authorizations.

(a) *Special procedures.* In addition to the entry authorization to enter or navigate within the defense area concerned, certain special procedures must be followed by aircraft:

(1) If U.S. Navy aviation facilities are to be used, prior authorization must be obtained from the Chief of Naval Operations.

(2) If U.S. Air Force aviation facilities are to be used, prior authorization must be obtained from the appropriate Air Force Commander.

(3) Foreign public aircraft must obtain diplomatic clearance or clearance under applicable special agreements or treaties.

(b) *Application; Form; Filing.* Applications for authorization to navigate aircraft within the limits of defense areas shall be made by letter or telegram addressed to the Commander in Chief, U.S. Atlantic Fleet or the Commander in Chief, U.S. Pacific Fleet, as appropriate. Copies of application letter shall be sent to the Chief of Naval Operations and the local commanders who are known to be concerned. Applications shall include the following information:

(1) Type and serial number of aircraft (the number of aircraft in flight if a mass movement is involved), nationality and name of registered owner.

(2) Name and rank of senior pilot.

(3) Number in crew.[2]

(4) Number of passengers and whether military or civilian; include name (and rank) of distinguished passengers.[2]

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[2] Information on these items need not be reported when the aircraft will only overfly the areas covered by this part.

(5) Purpose of flight.

(6) Plan of flight route, including:

(a) Point of origin of flight and its destination;

(b) Estimated date and times of arrival and departure at all airspaces covered by this Instruction including stops within the Trust Territory, when pertinent.

(7) Radio call signs of aircraft and radio frequencies available.

(8) Whether cameras are to be carried and whether they will be used.

(9) Whether arms are to be carried.[2]

(10) Whether authorization to land as indicated in § 761.15(a) has been obtained.[2]

(c) *Processing.* Authorization for individual entries or for multiple entries for a period not to exceed three months may be granted by an Entry Control Commander. Authorizations for multiple entries over a period to exceed three months and applications for group authorizations must be forwarded to the Chief of Naval Operations with appropriate comments and recommendations.

§ 761.16 Notice of action.

All applicants will be kept advised of action being taken relative to the processing of applications. Individuals whose applications cannot be processed promptly (usually within ten working days) or whose applications must be forwarded to another office for processing will be notified of the anticipated delay and advised of the approximate time when action may be expected to be taken. Under no circumstances will a notice of disapproval include a statement of the reason therefor. Copies of all notices will be distributed to commands and Entry Control Commanders concerned. Copies of all notices of disapproval will be mailed to the Chief of Naval Operations concurrently with the mailing to the applicant.

§ 761.17 Revocation.

Entry authorizations will be revoked only by an Entry Control Commander upon being advised of the discovery of information which would have been ground for denial of the initial request. Such a revocation will be confirmed in writing to the holder of an entry authorization. No reason for revocation of the entry authorization will be given. When an entry authorization is revoked, a one-way permit will be issued as appropriate, to permit the ship, aircraft, or person to transit the defense area in order to depart from a contiguous area.

§ 761.18 Appeals.

(a) Appeals may be filed with the Entry Control Commander who issued the denial or revocation. It shall contain a complete statement of the purpose of the proposed entry and a statement of reasons why the entry should be authorized, including a showing that the entry will be consistent with the purposes of national defense.

(b) Appeal letters shall be forwarded promptly to the next superior Entry Control Commander with an endorsement setting forth the reasons for the denial or revocation and a recommendation as to the action to be taken by the superior.

(c) The superior may act on the appeal and notify the applicant of the decision, or he may forward the appeal to the next superior and notify the applicant of this referral.

(d) Final review may be had in cases involving Naval Defensive Sea Areas in accordance with the procedures set forth in OPNAV (Office of the Chief of Naval Operations) Instruction 5420.18 of September 4, 1956.

Subpart D—Additional Instructions

§ 761.19 Inspection and search of vessels and other craft.

The clearance of all vessels or other craft, other than public vessels of the United States, will be granted only on the condition that their owners, charterers, operators or masters:

(a) Consent to inspection and search of all vessels or other craft whenever the local naval commander considers such action necessary for military security of the area.

(b) Execute a "hold harmless" agreement under which no liability shall be incurred by the Navy Department, its agents or representatives for damage to vessels or other craft, their cargo, or for any demurrage charges which may arise out of or in connection with any inspection or search while in the exercise of due care.

§ 761.20 Additional regulations governing persons and vessels in Naval Defensive Sea Areas.

(a) By virtue of the authority vested in the President by section 44 of the United States Criminal Code, as amended and reenacted in 18 U.S.C. 2152, the President has prescribed the following additional regulations in Executive Order 9275 of November 23, 1942 (7 F.R. 9767; 1943 Cum. Supp. p. 1227) to govern persons and vessels within the limits of defensive sea areas theretofore or thereafter established:

(1) No person shall have in his possession within the limits of any defensive sea area, any camera or other device for taking pictures, or any film, plate or other device upon or out of which a photographic imprint, negative or positive, can be made, except in the performance of official duty or employment in connection with the national defense, or when authorized pursuant to the provisions of the Act approved June 25, 1942 (Public Law 627, 77th Congress) as amended (50 U.S.C. App. 781–785), and the regulations promulgated thereunder (7 F.R. 7307; 32 CFR 765.19(b)).

(2) It shall be the duty of the master or officer in charge of any vessel to take custody of and safeguard all cameras or other devices for taking pictures, or film, plate or other device upon or out of which a photographic imprint, positive or negative, can be made, the possession of which is prohibited by Executive Order 9275, from any person, prior to the time any vessel enters any defensive sea area or upon the boarding by any person of any vessel while within a defensive sea area, and to retain custody thereof until such vessel is outside the defensive sea area or the person is about to disembark.

(3) There shall be prominently displayed on board all vessels, except public war vessels of the United States manned by personnel in the naval service, a printed notice containing the regulations prescribed in Executive Order 9275.

(4) Any person violating section 1 of Executive Order 9275 (restated in subparagraph (1) of this paragraph) shall be liable to prosecution as provided in section 44 of the Criminal Code as amended and reenacted in 18 U.S.C. 2152.

(b) The regulations stated in paragraph (a) of this section are not a limitation on prosecution under any other statute that may have been violated by acts or omissions prohibited by Executive Order 9275.

Dated: December 11, 1963.

By direction of the Secretary of the Navy.

ROBERT D. POWERS, Jr.,
Rear Admiral, U.S. Navy, Acting Judge Advocate General of the Navy.

[F.R. Doc. 63-13108; Filed, Dec. 17, 1963; 8:49 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 202—ANCHORAGE REGULATIONS

PART 204—DANGER ZONE REGULATIONS

PART 207—NAVIGATION REGULATIONS

Miscellaneous Amendments

1. Pursuant to the provisions of Section 7 of the River and Harbor Act approved March 4, 1915 (38 Stat. 1053; 33 U.S.C. 471), § 202.155 establishing and governing the use of anchorage areas in the Port of New York is hereby amended with respect to paragraphs (b)(3) and (c)(2) by making minor revisions in the descriptions of Anchorages No. 8 and 17, and paragraph (c)(5) by revoking subdivision (i) of Anchorage No. 19, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 202.155 Port of New York.

* * * * *

(b) *East River.* * * *

(3) *Anchorage No. 8.* North of a line bearing 259° between the north tower of the Bronx-Whitestone Bridge at Old Ferry Point and a point at latitude 40°47′57″, longitude 73°52′16″; thence east of a line bearing 0° to latitude 40°48′06″; thence southeast of a line parallel to the bulkhead extending northeasterly to latitude 40°48′20″; thence north of a line bearing 296° to shore.

* * * * *

(c) *Hudson River.* * * *

(2) *Anchorage No. 17.* North of a line bearing 66° from shore to a point at latitude 40°51′34″, longitude 73°56′54″; thence west of a line bearing 29° to latitude 40°52′27″, longitude 73°56′16″; thence 20° to latitude 40°54′17″, longitude 73°55′23″; thence 15° to latitude 40°56′20″, longitude 73°54′39″; thence south of a line bearing 284° to shore.

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(5) *Anchorage No. 19 (for naval vessels).* * * *

(i) [Revoked]

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[Regs., 2 December 1963, 1507-32 (East and Hudson Rivers, N.Y.) ENGCW-ON] (Sec. 7, 38 Stat. 1053; 10 U.S.C. 471)

2. Pursuant to the provisions of Chapter XIX of the Army Appropriations Act of July 9, 1918 (40 Stat. 892; 33 U.S.C. 3), § 204.25 governing the use of a danger zone in the Atlantic Ocean, Delaware, is hereby amended revoking the note under paragraph (b)(2) effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 204.25 Atlantic Ocean off Delaware Coast; antiaircraft artillery firing area, Second Army.

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(b) *The regulations.* * * *

(2) * * *

NOTE: [Revoked].

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[Regs., 4 December 1963, 1507-32 (Atlantic Ocean, Del.) ENGCW-ON] (Chap. XIX, 40 Stat. 892; 33 U.S.C. 3)

3. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), §207.613b is hereby prescribed to govern the use and navigation of waters of the entrance channel to Camp Pendleton Boat Basin, Camp Pendleton, California, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 207.613b Pacific Ocean, Camp Pendleton Boat Basin, U.S. Marine Corps Base, Camp Pendleton, Calif.; restricted area.

(a) *The area.* All of the waters of Camp Pendleton Boat Basin entrance channel lying northerly of a line between a light on the north Camp Pendleton jetty at latitude 33°12′22″, longitude 117°24′07″, and a light on the north Oceanside Harbor groin at latitude 33°12′29″, longitude 117°23′55″.

(b) *The regulations.* (1) The area is reserved exclusively for use by vessels owned or operated by the Federal Government. Permission to enter the area must be obtained from the enforcing agency.

(2) The regulations in this section shall be enforced by the Commanding