transferred cotton allotment acreage is equal to or less than the row and small grain permitted acreage, the adjustment payment shall remain unchanged.

(Sec. 16(e), 76 Stat. 606, 16 U.S.C. 590p(e))

Effective date: Date of signature.

Signed at Washington, D.C., on October 14, 1966.

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

[F.R. Doc. 66-11438; Filed, Oct. 19, 1966; 8:49 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Rev. 3, Amdt. 3]

PART 1475—EMERGENCY FEED PROGRAM

Subpart—Livestock Feed Program

MISCELLANEOUS AMENDMENTS

The regulations issued by the Commodity Credit Corporation published in 29 F.R. 13475, 30 F.R. 2854, and 30 F.R. 6909 which contain specific requirements for the continuing Livestock Feed Program are amended as follows:

1. Section 1475.201 is revised to read:

§ 1475.201 General statement.

The regulations in this subpart contain the terms and conditions of a Livestock Feed Program formulated under Public Law 86-299, and sections 407 and 421 of the Agricultural Act of 1949 as amended. The objective of the program is to give assistance to eligible livestock owners in designated emergency areas through sales of feed grain at 90 percent of the county base price (as defined in § 1475.208) to provide feed for foundation herds and at 115 percent of such county base price to provide feed for other eligible livestock. The program shall be in effect in those designated emergency areas where the Secretary determines there is a shortage of feed because of flood, drought, fire, hurricane, storm, tornado, earthquake, disease, insect infestation, or other catastrophe.

2. In § 1475.205, subparagraph (2) of paragraph (d) is amended to read:

§ 1475.205 Application and approval.

* * * * *

(d) * * *

(2) The feed grain gross allowance for the authorized period shall not exceed 5 pounds per day per animal unit (or whatever lesser quantity is established by the State committee or county committee), times the number of days in the authorized period.

* * * * *

3. Section 1475.208 is revised to read:

§ 1475.208 Pricing of grains.

(a) *Price for primary livestock.* The sale price of feed grain approved for primary livestock shall be 90 percent of the applicable county base price. Such price for grain other than farm stored grain shall be f.o.b. purchaser's conveyance at point of delivery.

(b) *Price for secondary livestock.* The sale price of feed grain approved for secondary livestock shall be 115 percent of the applicable county base price. Such price for grain other than farm stored grain shall be f.o.b. purchaser's conveyance at point of delivery.

(c) *Base price.* (1) The county base price shall be the total of the basic support rate for loans on and purchases of the feed grain by CCC for the county in which the grain is delivered as set forth in the applicable CCC Price Support Bulletin plus: 13 cents per bushel for barley; 19 cents per bushel for corn; and 34 cents per hundredweight for grain sorghums.

(2) If no such county basic support rate for loans on and purchases of the feed grain is set forth in the Bulletin, it shall be a comparable rate as determined by DASCO. Notwithstanding the foregoing, in cases where it results in savings of delivery costs to CCC and it is determined to be necessary to effectuate the purposes of the program, DASCO may authorize delivery of grain in a county other than the county in which the application is filed using the base price for the county in which the application is filed.

(d) *Inadvertent overdeliveries.* Inadvertent overdelivery of the properly determined total approved quantity stated in the application which is delivered to an owner from a binsite under § 1475.210(b), carrier's conveyance under § 1475.210(d), or because of an error on the part of CCC, shall be settled between the owner and CCC at the larger of the county base price, or the price charged the buyer on the delivery order or other document on which the overdelivery occurred. Overdeliveries in excess of such total approved quantity by warehouses, handlers or dealers not due to error by CCC shall be settled between them and the owner.

(Secs. 1-4, 73 Stat. 574 as amended; secs. 407 421, 63 Stat. 1055 as amended; secs. 4, 5, 62 Stat. 1070 as amended; 7 U.S.C. 1427; 15 U.S.C. 714 b and c)

Effective date: Upon filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on October 12, 1966.

H. D. GODFREY,
Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 66-11388; Filed, Oct. 19, 1966; 8:45 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 22 (Rev. 3)]

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Collection or Compromise of Licensee's Indebtedness

Pursuant to authority contained in section 308 of the Small Business Investment Act of 1958, Public Law 85-699, 72 Stat. 694, as amended, there is amended, as set forth below, Part 107 of Subchapter B, Chapter I, of Title 13 of the Code of Federal Regulations, as revised in 29 F.R. 16946-16961, and amended in 30 F.R. 534, 1187, 2652, 2653, 2654, 3635, 3856, 7597, 7651, 8775, 8900, 11960, 13005, 14095, 14850, 14851, and 31 F.R. 2815, 4954-4955, 9720, and 10114, by adding a new § 107.404.

Information and effective date. The present amendment adds a new § 107.404 to the SBIC Regulation, declaring that the Administrator may collect or compromise (1) all obligations assigned to or held by him pursuant to sections 302 and 303 of the Act and (2) all legal or equitable rights accruing to him in connection with such obligations.

Section 5(b)(2) of the Small Business Act authorizes the Administrator to "collect or compromise" all obligations and legal or equitable rights arising in connection with loans made by SBA under the provisions of that Act. Section 201 of the Small Business Investment Act incorporates by reference and extends to the SBIC program all of the Administrator's powers, duties, and functions under the Small Business Act. Accordingly, the Administrator may provide, by regulation, for the collection or compromise of all obligations and attendant legal or equitable rights acquired as a result of loans made by SBA pursuant to sections 302 and 303 of the Small Business Investment Act.

Notice and public rule-making procedure are unnecessary since the present amendment merely constitutes an interpretative rule which is declaratory of the Administrator's statutory authority relating to public property and loans. Furthermore, in view of the determination made by the Administration that it is in public interest that the amendment be promptly applied to the SBIC program, it shall become effective upon publication in the FEDERAL REGISTER.

The Regulations Governing Small Business Investment Companies are hereby amended by adding a new § 107.404, which shall read as follows:

§ 107.404 Collection or compromise of licensee's indebtedness.

SBA may, in its discretion, and upon such terms and conditions and for such consideraiton as it shall deem reasonable,

collect or compromise all obligations assigned to or held by it under section 302 and section 303 of the Act and all legal and equitable rights accruing to it in connection with such obligations.

Dated: October 10, 1966.

BERNARD L. BOUTIN,
Administrator.

[F.R. Doc. 66-11409; Filed, Oct. 19, 1966; 8:47 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart C—Canons of Ethics

PREAMBLE

Commission action. In order to conform its existing Canons of Ethics for Members of the Securities and Exchange Commission to the recent revision of its Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission which were adopted as Subpart M of this part, the Commission has amended its Canons of Ethics set forth in Subpart C of this part in the following respects:

I. Paragraph (b) of § 200.53 is amended by deleting all of the language following the second sentence thereof, and by making certain minor editorial changes therein.

II. Paragraph (c) of § 200.53 is amended by making certain minor editorial changes therein.

As so amended, the affected portions of § 200.53 read as follows:

§ 200.53 Preamble.

* * * * *

(b) It is imperative that the members of this Commission continue to conduct themselves in their official and personal relationships in a manner which commands the respect and confidence of their fellow citizens. Members of this Commission shall continue to be mindful of, and strictly abide by, the standards of personal conduct set forth in its Regulation regarding Conduct of Members and Employees and Former Members and Employees of the Commission, which is set forth in Subpart M of this Part 200, most of which has been in effect for many years, and which was originally codified in 1953.

(c) However, in addition to the continued observance of those principles of personal conduct, it is fitting and proper for the members of the Commission to restate and resubscribe to the standards of conduct applicable to its executive, legislative and judicial responsibilities.

(Secs. 19, 23, 48 Stat. 85, 901, as amended, 15 U.S.C. 77s, 78w; sec. 20, 49 Stat. 833, 15 U.S.C 79t; sec. 319, 53 Stat. 1173, 15 U.S.C. 77sss; secs. 38, 211, 54 Stat. 841, 855, 15 U.S.C. 80a-37, 80b-11)

Since the foregoing amendments affecting members of the Commission relate solely to the Commission's internal management and personnel, the Commission finds that the procedures specified in section 4 of the Administrative Procedure Act are unnecessary.

Effective date. The foregoing amendments shall become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

OCTOBER 14, 1966.

[F.R. Doc. 66-11428; Filed, Oct. 19, 1966; 8:48 a.m.]

Title 20—EMPLOYEES' BENEFITS

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

[Reg. No. 4, further amended]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950–)

Subpart D—Special Payments at Age 72 to Certain Uninsured Individuals

Regulations No. 4 of the Social Security Administration, as amended (20 CFR 404.1 et seq.), are further amended to read as follows:

1. New §§ 404.374, 404.375, 404.376, 404.377, 404.378, 404.379, and 404.380 are added to read as follows:

§ 404.374 Special payments at age 72 to certain uninsured individuals.

(a) *Requirements for entitlement.* An individual is entitled under section 228 of the Act to special payments at age 72 if such individual:

(1) (i) Attained age 72 before 1968 (no quarters of coverage required), or

(ii) Attained age 72 after 1967, and has not less than 3 quarters of coverage (see § 404.103), including compensation quarters of coverage as defined in § 404.1412, whenever acquired, for each calendar year elapsing after 1966 and before the year in which he attained age 72;

(2) Has filed application for special payments under section 228, as provided in paragraphs (b) and (c) of this section; and

(3) Is a resident of one of the 50 States or the District of Columbia and is:

(i) A citizen of the United States; or

(ii) An alien lawfully admitted for permanent residence who has resided in the United States (as defined in sec. 210(i) of the Act, i.e., the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa) continuously during the 5 years immediately preceding the month in which he files application for special payments under section 228.

(b) *Applications; general.* Except as provided in paragraph (c) of this section, an application which is filed by an individual more than 3 months before the first month in which he meets the requirements of paragraph (a) of this section is not regarded as an application for purposes of entitlement to special payments under section 228. No special payments under section 228 may be made to an individual for any month before the month in which he filed application therefor.

(c) *Application for hospital insurance entitlement by uninsured individuals.* An application for hospital insurance entitlement filed by an uninsured individual before July 1966 in accordance with the provisions of § 404.371 is regarded as an application for special payments under section 228 and is deemed to have been filed in July 1966, unless the person by whom or on whose behalf such application was filed notifies the Secretary that he does not want such application so regarded.

§ 404.375 Duration of entitlement to payments under section 228.

An individual is entitled to special payments under section 228 for each month beginning with the first month after September 1966 in which he meets the requirements of § 404.374(a) and ending with the month preceding the month in which he dies.

§ 404.376 Amount of special payments under section 228.

(a) *General.* Except as provided in paragraph (b) of this section, the special payment under section 228 to which an individual is entitled for any month is $35.

(b) *Husband and wife both entitled.* If both husband and wife are entitled (or upon application would be entitled) to special payments under section 228 for any month, the amount of the special payment to the husband for such month is $35 and the amount of the special payment to the wife for such month is $17.50. For purposes of this paragraph, the determination of whether an individual has the relationship of husband or wife to another individual is made in accordance with the provisions of § 404.1101 without regard to the provisions of § 404.1103 or § 404.1106.

§ 404.377 Reduction of special payments under section 228 for governmental pension system benefits.

(a) *General.* The special payment to which an individual is entitled for any month is reduced (but not below zero) by the amount of any periodic benefit under a governmental pension system (as defined in paragraph (i) of this section) for which he is eligible for such month. The term "periodic benefit" includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

(b) *Husband or wife entitled.* In the case of a husband and wife, if one of such individuals, but not the other, is

entitled to a special payment under section 228 for any month, the special payment, after any reduction under paragraph (a) of this section, is further reduced (but not below zero) by the excess (if any) of (1) the total amount of any periodic benefits under governmental pension systems for which the entitled individual's spouse is eligible for such month, over (2) $17.50.

(c) *Husband and wife entitled.* In the case of a husband and wife both of whom are entitled to a special payment under section 228 for any month:

(1) The special payment of the wife, after any reduction under paragraph (a) of this section, is further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the husband is eligible for such month, over (ii) $35, and

(2) The special payment of the husband, after any reduction under paragraph (a) of this section, is further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the wife is eligible for such month, over (ii) $17.50.

(d) *Determining whether individual is eligible for periodic benefits.* For purposes of this section, in determining whether an individual is eligible for periodic benefits under a governmental pension system:

(1) Such individual is deemed to have filed application for such benefits,

(2) To the extent that entitlement depends on an application by such individual's spouse, such spouse is deemed to have filed application, and

(3) To the extent that entitlement depends on such individual or his spouse having retired, such individual and his spouse are deemed to have retired before the month for which the determination of eligibility is being made.

(e) *Periodic benefit payable on basis other than calendar month.* For purposes of this section, if any periodic benefit is payable on any basis other than a calendar month, the amount of such benefit is allocated to the appropriate calendar months.

(f) *Amount payable less than $1.* If, under this section, the amount payable for any month is less than $1, such amount is reduced to zero. In the case of a husband and wife both of whom are entitled to a special payment under section 228 for the month, the preceding sentence is applied with respect to the aggregate amount payable. Thus, if the aggregate amount payable is less than $1, such amount is reduced to zero. However, if the aggregate amount payable to a husband and wife is $1 or more it is not so reduced.

(g) *Special payment not a multiple of $0.10.* If any special payment computed under the foregoing provisions of this section is not a multiple of $0.10, it is raised to the next higher multiple of $0.10.

(h) *Special payments of less than $5.* If, under this section, special payments due an individual (or aggregate payments in the case of a husband and wife) amount to less than $5, such special payments may be accumulated until they equal or exceed $5.

(i) *"Governmental pension system" defined.* The term "governmental pension system" means the insurance system established by title II of the Social Security Act or any other system or fund established by the United States, a State, any political subdivision of a State, or any wholly owned instrumentality of any one or more of the foregoing which provides for payment of (1) pensions, (2) retirement or retired pay, or (3) annuities or similar amounts payable on account of personal services performed by any individual (not including any payment under any workmen's compensation law or any payment by the Veterans' Administration as compensation for service-connected disability or death).

§ 404.378 Nonpayment of special payments under section 228 for months in which cash payments are made under public assistance.

(a) *General.* Except as provided in paragraph (b) of this section, no special payment under section 228 may be paid to an individual for any month if:

(1) Such individual receives aid or assistance in the form of money payments in such month under a State plan approved under title I, IV, X, XIV, or XVI of the Social Security Act (which titles relate to (i) old-age assistance and medical assistance for the aged, (ii) aid to dependent children, (iii) aid to the blind, (iv) aid to the permanently and totally disabled, and (v) aid to the aged, blind, or disabled, or for such aid and medical assistance for the aged, respectively), or

(2) Such individual's husband or wife receives such aid or assistance in such month, and under the State plan the needs of such individual were taken into account in determining eligibility for (or amount of) such aid or assistance.

(b) *State agency notification of termination of aid or assistance.* No special payment with respect to which paragraph (a) of this section applies may be paid for a month in the absence of receipt by the Social Security Administration of a notice from the State agency administering or supervising the administration of the applicable State plan that the aid or assistance referred to in such paragraph (a) has been or will be terminated with the payment or payments made in such month. To be effective for this purpose the notice shall identify the name of the individual age 72 or over on whose behalf aid or assistance was paid, his social security account number, and the last month in which the aid or assistance was or will be paid to him or on his behalf. The notice also should show the individual's date of birth or age, his current address, that the notice is being filed in compliance with section 228(d) of the Act as amended, and, where the State agency has the information, whether the individual has filed an application for social security benefits. To permit prompt payment of the special payments under section 228, such notice should be filed as soon as it is determined that the pertinent aid or assistance will be terminated. The notice should be sent to the social security district office servicing the area in which the individual age 72 or over resides. The special payment under section 228 may be paid for the last month in which the aid or assistance was paid.

§ 404.379 Suspension where individual is residing outside the United States.

No special payment under section 228 for any month may be paid if, during such month, the individual entitled to such special payment is not a resident of one of the 50 States or the District of Columbia.

§ 404.380 When special payment treated as monthly insurance benefits.

A special payment under section 228 is treated as a monthly insurance benefit payable under section 202 of the Act for purposes of section 202(t) of the Act, relating to suspension of benefits of aliens who are outside the United States, for purposes of section 202(u) of the Act, relating to conviction of subversive activities and other offenses, and for purposes of section 1840 of the Act, relating to payment of premiums of individuals enrolled under Part B of title XVIII of the Act. However, a special payment under section 228 is not treated as a monthly insurance benefit under section 202 of the Act for purposes of entitlement to hospital insurance benefits under Part A of title XVIII of the Act (see § 404.367), for purposes of section 202(m) of the Act, relating to minimum benefits, or for purposes of section 1843(b) or section 1843(d)(3)(B) of the Act pertaining to State agreements for coverage under Part B of title XVIII of the Act of certain public assistance recipients.

2. The foregoing amendments shall become effective on the date of publication in the FEDERAL REGISTER.

(Secs. 205, 228, and 1102, 53 Stat. 1368, as amended, 80 Stat. 67, 49 Stat. 647, as amended; sec. 5 of Reorg. Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 405, 428, and 1302)

Dated: October 4, 1966.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

Approved: October 11, 1966.

WILBUR J. COHEN,
Acting Secretary of Health, Education, and Welfare.

[F.R. Doc. 66-11424; Filed, Oct. 19, 1966; 8:48 a.m.]

[Reg. 5]

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

Subpart C—Exclusions, Recovery of Overpayment, and Liability of a Certifying Officer

1. Chapter III, Title 20, is amended by adding thereto Subpart C of new Part 405 to read as follows:

AUTHORITY: The provisions of this Subpart C issued under secs. 1102, 1842, 1862, 1870, 1871, 49 Stat. 647, as amended, 79 Stat. 309, 79 Stat. 325, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.

§ 405.301 Scope of subpart.

Sections 405.310 to 405.320 describe certain exclusions from coverage applicable to hospital insurance benefits (Part A of title XVIII) and supplementary medical insurance benefits (Part B of title XVIII). The exclusions in this subpart are applicable in addition to any other conditions and limitations in this Part 405 and in title XVIII of the Act. Sections 405.350 to 405.359 relate to the adjustment or recovery of an incorrect payment, or a payment made under section 1814(e) of the Health Insurance for the Aged Act.

§ 405.310 Types of expenses not covered.

Notwithstanding any other provisions of this Part 405, no payment may be made for any expenses incurred for the following items or services:

(a) Routine physical checkups—such as examinations performed not for the purpose of treatment or diagnosis of a specific illness, symptom, complaint, or injury, or examinations required by third parties, such as insurance companies;

(b) Eyeglasses or contact lenses for refractive error only—however, payment may be made for postsurgical eyeglasses customarily used during convalescence from eye surgery, or prosthetic lenses for aphakic patients;

(c) Eye examinations for the purpose of prescribing, fitting, or changing eyeglasses or contact lenses for refractive error only (however, examinations in conjunction with eye diseases, such as glaucoma or cataracts, are covered);

(d) Hearing aids or examinations for the purpose of prescribing, fitting, or changing hearing aids;

(e) Immunizations—no payment is made for vaccinations or innoculations unless directly related to the treatment of an injury or direct exposure such as antirabies treatment, tetanus antitoxin or booster vaccine, botulin antitoxin, antivenom sera, or immune globulin;

(f) Orthopedic shoes or other supportive devices for the feet—except when shoes are integral parts of leg braces;

(g) Custodial care;

(h) Cosmetic surgery, or in connection therewith, except as required for the prompt repair of accidental injury or for the improvement of the functioning of a malformed body member;

(i) Routine dental services in connection with the care, treatment, filling, removal, or replacement of teeth, or structures directly supporting the teeth;

(j) Personal comfort items and services (for example, a television set, or telephone service, etc.);

(k) Which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member (thus, payment could not be made for the rental of a special hospital bed to be used by an individual in his home if it was not a reasonable and necessary part of the individual's treatment).

§ 405.311 Nonreimbursable expenses; individual has no legal obligation to pay for items or services.

Payment may not be made under title XVIII of the Act for expenses incurred for items or services for which the individual who is furnished such items or services has no legal obligation to pay, and which no other person (by reason of the individual's membership in a prepayment plan or otherwise) has a legal obligation to provide or pay for. For example, no payment may be made for items or services, such as a chest X-ray, that are rendered free of charge by health organizations without regard for the individual's ability to pay. This exclusion does not prevent payment for items or services furnished by a group health prepayment plan to a member of the plan. Neither does it apply to items or services paid for by a governmental entity (with respect to such items or services, see § 405.312).

§ 405.312 Nonreimbursable expenses; items or services paid for by governmental entity.

Payment may not be made under title XVIII of the Act for expenses incurred for items or services that are paid for directly or indirectly by a governmental entity, except:

(a) Payment may be made for items or services furnished under a health insurance plan established for employees of the governmental entity.

(b) Payment may be made for items or services furnished an individual under a program based on one of the titles of the Social Security Act.

(c) Payment may be made for items and services furnished an individual in or by a participating hospital operated by a State or local governmental entity, where such hospital is a general or special hospital serving the general community, including a mental or tuberculosis hospital or a hospital for treatment of infectious disease.

(d) Payment may be made for items and services paid for by a State or local governmental entity and furnished an individual as a means of controlling infectious diseases or because of the individual's medical indigency, whether or not such services are furnished in a hospital.

(e) Payment may be made to a participating Federal hospital for items and services which it furnishes to the general public as a community institution or agency, but not for any items or services which it is required to furnish at public expense under a law of, or contract with, the United States.

(f) Payment may be made in other cases as specified by the Secretary under authority of section 1862(a)(3) of the Act.

§ 405.313 Nonreimbursable expenses; items or services not provided in United States.

Payment may not be made under title XVIII of the Act for expenses incurred for items or services which are not provided within the United States (that is, the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa), except for emergency inpatient hospital services furnished in accordance with the provisions of section 1814(f) of the Act.

§ 405.314 Nonreimbursable expenses; items or services required as a result of war.

Payment may not be made under title XVIII of the Act for expenses incurred for items or services which are required as a result of war, or of an act of war, occurring after the effective date of such individual's current coverage for hospital insurance benefits or supplementary medical insurance benefits.

§ 405.315 Nonreimbursable expenses; charges imposed by immediate relatives or members of beneficiaries' household.

Payment may not be made under title XVIII of the Act for expenses which constitute charges imposed by immediate relatives of the individual or members of his household.

(a) The term "immediate relatives" means spouse, father, mother, son, daughter, brother, or sister—by blood, marriage or adoption.

(b) The term "members of his household" means those persons sharing a common abode as part of a single family unit, including those related by blood,

marriage, or adoption as well as domestic employees and others who live together as part of this family unit, but not including a mere roomer or boarder.

(c) The exclusion refers to the person imposing the charges, who might not be the person rendering the services. For example, where the charges are imposed by a:

(1) Physician or other practitioner in practice by himself, the exclusion would apply if the physician or other practitioner has the excluded relationship to the beneficiary.

(2) Partnership, the exclusion would apply only if all of the partners have the excluded relationship to the beneficiary.

(3) Corporation, the exclusion would not apply, regardless of the beneficiary's relationship to the directors, officers, stockholders of the corporation, or person rendering the services.

(4) Individual proprietorship, the exclusion applies if the individual who owns and operates the business has the excluded relationship to the beneficiary.

§ 405.316 Nonreimbursable expenses; payment for services made under workmen's compensation law.

(a) Payment may not be made under title XVIII of the Act with respect to any item or service to the extent that payment has been made, or can reasonably be expected to be made, under a workmen's compensation law or plan of the United States or a State.

(b) Any payment under title XVIII of the Act with respect to any item or service shall be made on the condition that repayment will be made to the appropriate fund if information is received that a workmen's compensation payment for the item or service has been made.

(c) For purposes of this exclusion, a workmen's compensation plan or system of the United States includes the workmen's compensation plans of the 50 States, the District of Columbia, and Puerto Rico, as well as the systems provided under the Federal Employees' Compensation Act and the Longshoremen's and Harbor Workers' Compensation Act.

§ 405.317 Effect of workmen's compensation payment.

(a) *Spell of illness.* Even though inpatient hospital or extended care services received by an individual are (or are expected to be) completely paid for under a workmen's compensation plan, rather than under title XVIII because of the provisions described in § 405.316(a), the services will be considered in determining whether a spell of illness (see sec. 1861 (a) of the Act) has started.

(b) *Expenses paid in full by workmen's compensation.* Where an injury or illness is covered under a workmen's compensation plan that pays all hospital and medical expenses, the services so paid for in full are not counted towards:

(1) The 90-day limitation on inpatient hospital services in each spell of illness (see § 405.110(c)).

(2) The 100-day limitation on post-hospital extended care services in each spell of illness (see § 405.120(b)).

(3) The 190-day lifetime limitation for inpatient psychiatric hospital services (see § 405.110(d)).

(4) The 100 home health visits limitation under Part A or Part B of title XVIII (see § 405.130).

(5) Determining the first day for which payment for inpatient hospital or extended care services is reduced by the applicable coinsurance amount (see §§ 405.115 and 405.124).

(c) *Limited workmen's compensation payments.* Certain workmen's compensation plans specify limits on the number of days of hospitalization for which payment may be made or the total amount that can be paid under workmen's compensation. Services provided after these limits have been exhausted may be paid for under title XVIII, but the days of service or home health visits so paid for under title XVIII are included in applying the respective limitations under title XVIII.

(d) *Deductibles and coinsurance.* Payments made under workmen's compensation cannot be counted toward the deductibles or coinsurance provisions of title XVIII. Thus, if an individual is hospitalized twice in the same spell of illness and the first hospitalization is completely paid for under workmen's compensation, the inpatient hospital deductible would apply to the second hospitalization. In the same way, medical expenses otherwise reimbursable under Part B must first be reduced by any workmen's compensation payment before applying the deductible and coinsurance provisions.

§ 405.318 Responsibility of the individual concerning workmen's compensation payments.

The individual is responsible for taking whatever action is necessary to obtain payment under workmen's compensation where payment under that system can reasonably be expected. Failure to take proper and timely action under such circumstances will preclude payment under title XVIII to the extent that payment could have been made under workmen's compensation if such action had been taken. Thus, so long as the facts indicate a reasonable expectation that payment may be made under a workmen's compensation statute, the individual must exhaust his administrative remedies under that system before any payment may be made under title XVIII. Where the time limit for taking action under workmen's compensation has expired and the intermediary determines payment could reasonably have been expected if timely action had been taken, payment under title XVIII will be denied to the extent that payment could have been made under workmen's compensation.

§ 405.319 Responsibility of intermediary concerning workmen's compensation payments.

Since title XVIII payments are precluded not only where payments have been made under workmen's compensation but also where they can reasonably be expected to be made, it is the responsibility of the intermediary to determine that neither of these conditions apply before making payment where there is possible workmen's compensation involvement. Where the intermediary has information that a claim may be work related (either directly or from the nature of the injury or illness), and where the injury is of a type compensable under pertinent State or Federal law, the intermediary will immediately ascertain whether a workmen's compensation claim has been filed. Where such a claim has been filed, the claimant will be notified that no payment can be made under title XVIII until a determination as to liability under workmen's compensation is made.

§ 405.320 Effect of lump-sum workmen's compensation settlement.

Where a lump sum is awarded as payment of a workmen's compensation claim, payment for hospital and medical expenses may or may not be included in such a settlement. It is not necessary, however, to examine the settlement to determine what items or services for which payment has been made. Since in these cases an award has in fact been made, no payment may be made under title XVIII for items and services for which payment could have reasonably been expected to be made. Thus, in those States where there is no limitation on payment for hospital and medical expenses, no payment may be made for such services.

§ 405.350 Individual's liability for payments made to providers and other persons for items and services furnished the individual.

Any payment made under title XVIII of the Act to any provider of services or other person with respect to any item or service furnished an individual shall be regarded as a payment to the individual, and adjustment shall be made pursuant to § 405.352, where:

(a) More than the correct amount is paid to a provider of services or other person and the Secretary determines, that within a reasonable period of time, the excess over the correct amount cannot be recouped from the provider of services or other person, or

(b) A payment has been made under the provisions described in section 1814 (e) of the Act, to a provider of services or other person for items and services furnished the individual.

§ 405.351 Incorrect payments for which the individual is not liable.

Where an incorrect payment has been made to a provider of services or other person, the individual is liable only to the extent that he has benefited from such payment.

§ 405.352 Adjustment of title XVIII overpayments.

Where an individual is liable for an overpayment (as described in § 405.350 (a)) or a payment (as described in § 405.-

350(b)) adjustment is made (to the extent of such liability) by:

(a) Decreasing any payment under title II of the Act, or under the Railroad Retirement Act of 1937, to which the individual is entitled; or

(b) In the event of the individual's death before adjustment is completed, by decreasing any payment under title II of the Act, or under the Railroad Retirement Act of 1937 payable to the estate of the individual or to any other person, that are based on the individual's earnings record (or compensation).

§ 405.353 Certification of amount that will be adjusted against individual title II or railroad retirement benefits.

As soon as practicable after any adjustment is determined to be necessary, the Secretary, for purposes of this subpart, shall certify the amount of the overpayment or payment (see § 405.350) with respect to which the adjustment is to be made. If the adjustment is to be made by decreasing subsequent payments under the Railroad Retirement Act of 1937, such certification shall be made to the Railroad Retirement Board.

§ 405.355 Waiver of adjustment or recovery.

The provisions of § 405.352, may not be applied and there may be no adjustment or recovery of an overpayment (§ 405.350 (a)) or payment (§ 405.350(b)) in any case where the overpayment has been made with respect to an individual who is without fault, and where such adjustment or recovery would defeat the purpose of title II of the Act, or of the Railroad Retirement Act of 1937, or would be against equity and good conscience.

§ 405.359 Liability of certifying or disbursing officer.

No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any provider of services or other person:

(a) Where the adjustment or recovery of such amount is waived (see § 405.355); or

(b) Where adjustment (see § 405.352) or recovery is not completed prior to the death of all persons against whose benefits such adjustment is authorized.

2. *Effective date.* The addition of Subpart C to Part 405 of Chapter III, Title 20, shall become effective on the date of publication in the FEDERAL REGISTER.

Dated: October 4, 1966.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

Approved: October 11, 1966.

WILBUR J. COHEN,
Acting Secretary of Health, Education, and Welfare.

[F.R. Doc. 66-11423; Filed, Oct. 19, 1966; 8:48 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Oral Prenatal Drugs Containing Fluorides for Human Use

A number of vitamin-mineral preparations containing fluorides for prenatal use and intended or represented to be beneficial to tooth development in the fetus or in the prevention of dental caries in the offspring have appeared on the market in the last few years. These preparations and any other fluoride-containing drugs offered for the same uses are not generally recognized as effective for these purposes by experts qualified by scientific training and experience to evaluate the effectiveness of drugs.

Accordingly, under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 502 (a), (f), 505, 701(a), 52 Stat. 1050, 1051, 1052, as amended, 1055; 21 U.S.C. 352 (a), (f), 355, 371(a)) and delegated by him to the Commissioner of Food and Drugs (21 CFR 2.120; 31 F.R. 3008), Part 3 is amended by adding thereto a new statement of policy, as follows:

§ 3.53 Oral prenatal drugs containing fluorides intended for human use.

(a) The Food and Drug Administration finds that there is neither substantial evidence of effectiveness nor a general recognition by qualified experts that prenatal drug preparations containing fluorides are beneficial to tooth development in the fetus or in the prevention of dental caries in the offspring.

(b) Any such drug preparation that is so labeled, represented, or advertised will be regarded as misbranded and subject to regulatory proceedings unless such recommendations are covered by a new-drug application, including substantial evidence of effectivenes, approved pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act.

(c) A completed and signed "Notice of Claimed Investigational Exemption for a New Drug," Form FD-1571 set forth in § 130.3 of this chapter, must be submitted to cover clinical investigations to obtain evidence that such preparations are effective for such uses.

(d) Regulatory proceedings may be initiated with respect to drug preparations labeled contrary to the provisions of this statement and shipped within the jurisdiction of the act after 60 days from the date of publication of this statement in the FEDERAL REGISTER.

(Secs. 502 (a), (f), 505, 701(a); 52 Stat. 1050, 1051, 1052, as amended, 1055; 21 U.S.C. 352 (a), (f), 355, 371(a))

Dated: October 12, 1966.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 66-11422; Filed, Oct. 19, 1966; 8:48 a.m.]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

SUBCHAPTER F—NATIONALITY AND PASSPORTS

[Departmental Reg. 108.541]

REVISION OF SUBCHAPTER

By the authority of Executive Order 11295 and Presidential Proclamation 3004 I hereby revoke the present regulations appearing as Part 50, Nationality Procedures under the Immigration and Nationality Act; Part 51, Passports; Part 52, Births and Marriages; and Part 53, Travel Control of Citizens and Nationals in Time of War or National Emergency. I prescribe the following regulations on these subjects:

PART 50—NATIONALITY PROCEDURES

Sec.
50.1 Definitions.

Subpart A—Procedures for Determination of United States Nationality of a Person Abroad

50.2 Determination of U.S. nationality of persons abroad.
50.3 Application for registration.
50.4 Application for passport.
50.5 Application for registration of birth abroad.
50.6 Registration at the Department of birth abroad.
50.7 Report of birth.
50.8 Certification of birth.
50.9 Certificate of identity and registration.
50.10 Certificate of nationality.
50.11 Certificate of identity for travel to the United States to apply for admission.

Subpart B—Retention and Resumption of Nationality

50.20 Retention of nationality.
50.30 Resumption of nationality.

Subpart C—Loss of Nationality

50.40 Revocation of naturalization under section 340(d).
50.41 Certification of loss of United States nationality.
50.42 Determination of loss of nationality abroad in connection with application for passport in the United States.
50.50 Renunciation of nationality.
50.51 Certification of expatriation.

Subpart D—Board of Review on Loss of Nationality

50.60 Appeal by nationality claimant.
50.61 Organization of the Board of Review on Loss of Nationality.
50.62 Chairman.
50.63 Functions of the Board.
50.64 Scope of review on appeal.