

by delays in unloading such cars at ports under existing tariff provisions, thus impeding the use, control, supply, movement, distribution, exchange, interchange, and return of such cars. In the opinion of the Commission an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 95.976 Unloading boxcars and covered hopper cars at ports.

(a) No common carrier by railroad subject to the Interstate Commerce Act shall allow, grant or permit more than a maximum of five (5) days' free time on any boxcar or covered hopper car held for unloading. The provisions of this paragraph shall not be construed to require or permit the increase of any free time published in tariffs lawfully on file with this Commission, and in effect on the effective date of this order.

(b) Computation of free time: (1) All Saturdays, Sundays, and holidays listed in Item 25 of Agent H. R. Hinsch's Demurrage Tariff 4-G, ICC H-17 and subsequent issues thereof shall be excluded in computing the free time provided in paragraph (a) of this section.

(2) The free time provided in paragraph (a) of this section shall be computed from the first 7 a.m., after:

(i) Actual placement on industrial interchange tracks or on other-than-public-delivery tracks serving the consignee.

(ii) Actual placement on public delivery tracks, accompanied or preceded by proper notice of arrival.

(iii) Constructive placement notice, given in writing, when actual placement is prevented by any condition attributable to the consignee, whether cars are held at destination or short of destination.

(c) Definition of boxcars and covered hopper cars: The term "boxcars" as used herein means freight equipment having a mechanical designation prefixed by X; the term "covered hopper cars" as used herein means freight equipment having the mechanical designation "LO" in the Official Railway Equipment Register, I.C.C. R.E.R. No. 358, issued by E. J. McFarland, or successive issues thereof.

(d) Application: The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(e) Regulations suspended—announcement required: The operation of all rules and regulations insofar as they conflict with the provisions of this order is hereby suspended and each railroad subject to this order, or its agent, shall publish, file and post a supplement to each of its tariffs affected hereby, in substantial accordance with the provisions of Rule 9(k) of the Commission's Tariff Circular No. 20, announcing such suspension.

(f) Effective date: This order shall become effective at 12:01 a.m., March 24, 1966.

(g) Expiration date: This order shall expire at 11:59 p.m., December 31, 1966, unless otherwise modified, changed or suspended by order of the Commission.

(h) This order shall not change Demurrage Rule 8 of Tariff I.C.C. H-17, issued by H. R. Hinsch, as amended or as reissued, or similar rules in other tariffs adjusting, cancelling, or refunding demurrage charges arising from the unusual conditions or circumstances described in said Rule 8 or similar rules in other tariffs.

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

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

By the Commission.

[SEAL]

H. NEIL GARSON,
Secretary.

[F.R. Doc. 66-3207; Filed, Mar. 24, 1966;
8:48 a.m.]

[Rev. S.O. 978]

PART 95—CAR SERVICE

**Interstate Commerce Commission
Car Service Rules**

At a general session of the Interstate Commerce Commission, held in Washington, D.C., on the 22d day of March A.D. 1966.

Upon further consideration of the matter involved in Service Order No. 978:

It is ordered, That the effective date of Service Order No. 978 is hereby postponed until further order of the Commission.

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

By the Commission.

[SEAL]

H. NEIL GARSON,
Secretary.

[F.R. Doc. 66-3208; Filed, Mar. 24, 1966;
8:48 a.m.]

**Title 50—WILDLIFE AND
FISHERIES**

**Chapter I—Bureau of Sport Fisheries
and Wildlife, Fish and Wildlife
Service, Department of the Interior
PART 28—PUBLIC ACCESS, USE, AND
RECREATION**

**Brigantine National Wildlife Refuge,
N.J.**

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

**§ 28.28 Special regulations: recreation;
for the individual wildlife refuge
areas.**

Entrance by walking or driving on the Holgate Unit of the refuge is permitted for the purpose of birdwatching, photography, nature study, hiking, swimming, sunbathing, surfboarding, picnicking, and fishing during daylight hours. Dogs are permitted on a leash not exceeding 10 feet in length. Fires are permitted on the beach.

Entrance by walking on Little Beach Island is permitted for the purpose of birdwatching, photography, nature study, hiking, sunbathing, picnicking and fishing during daylight hours. Dogs are permitted on a leash not exceeding 10 feet in length.

Entrance to the mainland portion of the refuge by motor vehicle or by walking is permitted for the purpose of birdwatching, photography, nature study, hiking, picnicking and fishing during daylight hours. Dogs are permitted on a leash not exceeding 10 feet in length.

The refuge areas, comprising more than 15,000 acres, are delineated on maps available at refuge headquarters and from the Office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office and Courthouse, Boston, Mass., 02109.

The provisions of this special regulation supplement the regulations governing recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1966.

EUGENE E. CRAWFORD,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

MARCH 16, 1966.

[F.R. Doc. 66-3160; Filed, Mar. 24, 1966;
8:46 a.m.]

**PART 28—PUBLIC ACCESS, USE, AND
RECREATION**

**Monomoy National Wildlife Refuge,
Mass.**

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

**§ 28.28 Special regulations: recreation;
for individual wildlife refuge areas.**

Entrance by walking on the refuge area is permitted for the purpose of

birdwatching, photography, nature study, hiking, swimming, sunbathing, picnicking, and fishing during daylight hours. Dogs are permitted on a leash not exceeding 10 feet in length. Fires are permitted on the beach.

The refuge, comprising 2,696 acres, is delineated on a map available at refuge headquarters and from the Office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office and Courthouse, Boston, Mass., 02109.

The provisions of this special regulation supplement the regulations governing recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1966.

EUGENE E. CRAWFORD,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

MARCH 16, 1966.

[F.R. Doc. 66-3161; Filed, Mar. 24, 1966; 8:46 a.m.]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Elizabeth Alexandra Morton National Wildlife Refuge, N.Y.

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

§ 28.28 Special regulations: recreation; for individual wildlife refuge areas.

Entry to the refuge area is permitted for the purpose of birdwatching, photography, nature study, hiking, sunbathing, picnicking, and fishing during daylight hours. Dogs are permitted on leash not exceeding 10 feet in length.

The refuge, comprising 187 acres, is delineated on a map available at refuge headquarters and from the Office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office and Courthouse, Boston, Mass., 02109.

The provisions of this special regulation supplement the regulations governing recreation on wildlife refuge areas

generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1966.

EUGENE E. CRAWFORD,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

MARCH 16, 1966.

[F.R. Doc. 66-3162; Filed, Mar. 24, 1966; 8:46 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 1—GENERAL PROVISIONS

Flag of United States for Burial Purposes

In § 1.10, paragraphs (a) and (b) (3) are amended to read as follows:

§ 1.10 Eligibility for and disposition of the U.S. flag for burial purposes.

(a) *Eligibility for burial flags*—(1) *Persons eligible*. (i) A veteran of any war, of Mexican border service, or of service after January 31, 1955, discharged or released from active duty under conditions other than dishonorable. (For the purpose of this section, the term "Mexican border service" means active military, naval, or air service during the period beginning on January 1, 1911, and ending on April 5, 1917, in Mexico, on the borders thereof, or in the waters adjacent thereto.)

(ii) A peacetime veteran discharged or released, before June 27, 1950, from the active military, naval, or air service, under conditions other than dishonorable, after serving at least one enlistment, or for a disability incurred or aggravated in line of duty.

(iii) Any person who has died while in military or naval service of the United States after May 27, 1941. This subdivision authorizes and requires the furnishing of a flag only where the military

or naval service does not furnish a flag immediately. The only cases wherein a flag is not supplied immediately are those of persons whose remains are interred outside the continental limits of the United States, or whose remains are not recovered or are recovered and not identified.

(iv) Any person who served in the organized military forces of the Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President of the United States, dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, and who dies after separation from such service under conditions other than dishonorable, on or after April 25, 1951 (38 U.S.C. 107(a)).

(b) *Disposition of burial flags*. * * *

(3) The phrase "close friend or associate" for the purpose of disposing of the burial flag means any person who because of his relationship with the deceased veteran arranged for the burial or assisted in the burial arrangements. In the absence of a person falling in either of these categories, any person who establishes by evidence that he was a close friend or associate of the veteran may be furnished the burial flag. Where more than one request for the burial flag is received and each is accompanied by satisfactory evidence of relationship or association, the head of the field station having jurisdiction of the burial flag quota will determine which applicant is the one most equitably entitled to the burial flag.

(72 Stat. 1114; 38 U.S.C. 210)

This VA regulation is effective March 3, 1966.

Approved: March 18, 1966.

By direction of the Administrator.

[SEAL] CYRIL F. BRICKFIELD,
Deputy Administrator.

[F.R. Doc. 66-3157; Filed, Mar. 24, 1966; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Office of the Secretary

[31 CFR Part 10]

PRACTICE BEFORE INTERNAL REVENUE SERVICE

Notice of Proposed Rule Making

Notice is hereby given pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003) that it is proposed that Part 10 of Title 31, Code of Federal Regulations, dealing with practice before the Internal Revenue Service, be revised as set forth below.

Consideration will be given to any relevant data, views, or arguments pertaining to the proposed revision which are submitted by interested persons within 60 days of the publication of this notice in the FEDERAL REGISTER. Such submissions should be made in writing in duplicate to the General Counsel, Department of the Treasury, Washington, D.C., 20220.

In addition, all interested persons will be given an opportunity to be heard on June 13, 1966, at 10 a.m., with regard to the proposed revision. The hearing will be held in Room 4121 of the Main Treasury Building, 15th Street and Pennsylvania Avenue NW., Washington, D.C.

Any person desiring to be heard should notify the undersigned, in writing, as soon as possible. Any such person should prepare his statement, in writing, and three copies of it should be supplied at the time of the hearing. The hearing will be conducted pursuant to such rulings as the presiding officer shall make in the interests of fairness and expedition.

The proposed revision is to be issued pursuant to Public Law 89-332, 79 Stat. 1281, and under the authority of R.S. 161, sec. 3, 23 Stat. 258, sections 2-12, 60 Stat. 237, et seq.; 5 U.S.C. 22, 261, 1001-1011; 26 U.S.C. 7805; Reorg. Plan No. 26 of 1950, 15 F.R. 4935, 64 Stat. 1280, 3 CFR, 1949-1953 Comp., except as otherwise noted.

[SEAL] FRED B. SMITH,
Acting General Counsel.

MARCH 22, 1966.

PART 10—PRACTICE BEFORE THE INTERNAL REVENUE SERVICE

Sec.
10.0 Scope of part.

Subpart A—Rules Governing Authority To Practice

- 10.1 Director of Practice.
- 10.2 Definitions.
- 10.3 Who may practice.
- 10.4 Eligibility for enrollment.
- 10.5 Application for enrollment.
- 10.6 Enrollment.
- 10.7 Practice without enrollment.
- 10.8 Customhouse brokers.

Subpart B—Duties and Restrictions Relating to Practice Before the Internal Revenue Service

- 10.20 Information to be furnished.
- 10.21 Knowledge of client's omission.
- 10.22 Diligence as to accuracy.
- 10.23 Prompt disposition of pending matters.
- 10.24 Assistance from disbarred or suspended persons.
- 10.25 Practice by partners of Government employees.
- 10.26 Practice by former Government employees.
- 10.27 Notaries.
- 10.28 Fees.
- 10.29 Conflicting interests.

Subpart C—Rules Applicable to Disciplinary Proceedings

- 10.50 Authority to disbar or suspend.
- 10.51 Disreputable conduct.
- 10.52 Violation of regulations.
- 10.53 Receipt of information concerning attorneys, certified public accountants, and enrolled agents.
- 10.54 Institution of proceeding.
- 10.55 Conferences.
- 10.56 Contents of complaint.
- 10.57 Service of complaint and other papers.
- 10.58 Answer.
- 10.59 Supplemental charges.
- 10.60 Reply to answer.
- 10.61 Proof; variance; amendment of pleadings.
- 10.62 Motions and requests.
- 10.63 Representation.
- 10.64 Examiner.
- 10.65 Hearings.
- 10.66 Evidence.
- 10.67 Depositions.
- 10.68 Transcript.
- 10.69 Proposed findings and conclusions.
- 10.70 Decision of the Examiner.
- 10.71 Appeal to the Secretary.
- 10.72 Decision of the Secretary.
- 10.73 Effect of disbarment or suspension; surrender of card.
- 10.74 Notice of disbarment or suspension.
- 10.75 Petition for reinstatement.

Subpart D—General Provisions

- 10.90 Official records.
- 10.91 Information, requests, and submissions.
- 10.92 Effective date of regulations.
- 10.93 Saving clause.
- 10.94 Special orders.

AUTHORITY: The provisions of this Part 10 issued under R.S. 161, sec. 3, 23 Stat. 258, secs. 2-12, 60 Stat. 237 et seq.; 5 U.S.C. 22, 261, 1001-1011, Reorg. Plan No. 26 of 1950, 15 F.R. 4935, 64 Stat. 1280, 3 CFR, 1949-1953 Comp., except as otherwise noted.

SOURCE: The provisions of this Part 10 contained in Department Circular 230, Revised, 29 F.R. 9647, July 17, 1964, unless otherwise noted.

§ 10.0 Scope of part.

This part contains rules governing the recognition of attorneys, certified public accountants, enrolled agents and other persons representing clients before the Internal Revenue Service. Subpart A of this part sets forth rules relating to authority to practice before the Internal Revenue Service. Subpart B of this part

prescribes the duties and restrictions relating to such practice. Subpart C of this part contains rules relating to disciplinary proceedings. Subpart D of this part contains general provisions, including provisions relating to availability of official records.

Subpart A—Rules Governing Authority To Practice

§ 10.1 Director of practice.

(a) *Establishment of office.* There is established in the Office of the Secretary of the Treasury the office of Director of Practice. The Director of Practice shall be appointed by the Secretary of the Treasury.

(b) *Duties.* The Director of Practice shall act upon appeals from decisions of the Commissioner of Internal Revenue denying enrollment to practice as agents before the Internal Revenue Service; institute and provide for the conduct of disciplinary proceedings relating to attorneys, certified public accountants and enrolled agents; make inquiries with respect to matters under his jurisdiction; and perform such other duties as are necessary or appropriate to carry out his functions under this part or as are prescribed by the Secretary of the Treasury.

(c) *Acting Director.* The Secretary of the Treasury will designate an officer or employee of the Treasury Department to act as Director of Practice in the event of the absence of the director or of a vacancy in that office.

§ 10.2 Definitions.

As used in this part, except where the context clearly indicates otherwise, the term:

(a) "Practice before the Internal Revenue Service" comprehends all matters connected with presentations to the Internal Revenue Service or any of its officers or employees relating to a client's rights, privileges or liabilities under laws or regulations administered by the Internal Revenue Service. Such presentations include the preparation and filing of necessary documents, correspondence with the communications to the Internal Revenue Service, and the representation of a client at conferences, hearings, and meetings. Neither the preparation of a tax return, nor the appearance of an individual as a witness for the taxpayer, nor the furnishing of information at the request of the Internal Revenue Service or any of its officers or employees is considered practice before the Service.

(b) "Attorney" means any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia.

§ 10.3 Who may practice.

(a) *Attorneys.* Any person, who is a member in good standing of the bar of

the highest court of any State, possession, territory, Commonwealth, or the District of Columbia, and who is not currently under suspension or disbarment from practice before the Internal Revenue Service, may practice before the Service upon filing with the Service a written declaration that he is currently qualified as provided by this paragraph and is authorized to represent the particular party on whose behalf he acts. An enrollment card issued to such person before the effective date of this part shall be invalid and may not be used in lieu of such written declaration.¹

(b) *Certified public accountants.* Any person who is duly qualified to practice as a certified public accountant in any State, possession, territory, Commonwealth, or the District of Columbia, and who is not currently under suspension or disbarment from practice before the Internal Revenue Service, may practice before the Service upon filing with the Service a written declaration that he is currently qualified as provided by this paragraph and is authorized to represent the particular party on whose behalf he acts. An enrollment card issued to such person before the effective date of this part shall be invalid and may not be used in lieu of such written declaration.¹

(c) *Enrolled agents.* Any person enrolled as an agent pursuant to this part may practice before the Internal Revenue Service.

(d) *Others.* Any person qualifying under § 10.7 or § 10.5(c) may practice before the Internal Revenue Service.

(e) *Government officers and employees; judges; others.* Officers and employees of the United States or of the District of Columbia, including judges of the Tax Court or of any court of record (unless such judges are permitted by law to practice their profession) may not practice before the Internal Revenue Service. No Member of Congress or a Delegate or Resident Commissioner thereto may practice before the Service in connection with any matter for which he directly or indirectly receives or agrees to receive, or asks, demands, solicits, or seeks, any compensation. Officers and employees of any State, or subdivision thereof, whose duties require them to pass upon, investigate, or deal with tax matters of such State or subdivision, may not practice before the Service, if such State employment may disclose facts or information applicable to Federal tax matters. 18 U.S.C. 203, 205.

§ 10.4 Eligibility for enrollment.

(a) *Enrollment upon examination.* The Commissioner of Internal Revenue may grant enrollment to an applicant who demonstrates special competence in tax matters by written examination administered by the Internal Revenue Service and who at the time of application is

not guilty of any misconduct justifying suspension or disbarment under the provisions of this part.

(b) *Enrollment of former Internal Revenue Service employees.* The Commissioner of Internal Revenue may grant enrollment to an applicant who at the time of application is not guilty of any misconduct justifying suspension or disbarment under the provisions of this part and who, by virtue of his past service and technical experience in the Internal Revenue Service has qualified for such enrollment, as follows:

(1) Application for enrollment on account of former employment in the Internal Revenue Service shall be made to the Commissioner of Internal Revenue. Each applicant will be supplied a form by the Commissioner, which shall indicate the information required respecting the applicant's qualifications. In addition to the applicant's name, address, citizenship, age, educational experience, etc., such information shall specifically include a detailed account of the applicant's employment in the Internal Revenue Service, which account shall show (i) positions held, (ii) date of each appointment and termination thereof, (iii) nature of services rendered in each position, with particular reference to the degree of technical experience involved, and (iv) name of supervisor in such positions, together with such other information regarding the experience and training of the applicant as may be relevant.

(2) Upon receipt of each such application, it shall be transmitted to the appropriate officer of the Internal Revenue Service with the request that a detailed report of the nature and rating of the applicant's services in the Internal Revenue Service, accompanied by the recommendation of the superior officer in the particular unit or division of the Internal Revenue Service that such employment does or does not qualify the applicant technically or otherwise for the desired authorization, be furnished to the Commissioner.

(3) In examining the qualifications of an applicant for enrollment on account of employment in the Internal Revenue Service, the Commissioner will be governed by the following policies:

(i) Enrollment on account of such employment may be of unlimited scope or may be limited to permit the presentation of matters only of the particular class or only before the particular unit or division of the Internal Revenue Service for which his former employment in the Internal Revenue Service has qualified the applicant.

(ii) In the case of employees separated from employment in the Internal Revenue Service, application for enrollment on account of such employment must be made within 3 years after the termination thereof.

(iii) It shall be requisite for enrollment on account of such employment that the applicant shall have had a minimum of 7 years continuous employment in the Service during at least 5 years of which service he shall have been regularly engaged in applying and interpreting the provisions of the Internal

Revenue Code and the regulations thereunder relating to income, estate, gift, employment, or excise taxes.

(iv) For the purposes of subdivision (iii) of this subparagraph, an aggregate of 10 or more years of employment, at least 3 of which occurred within the 5 years preceding the date of application, shall be deemed the equivalent of 7 years continuous employment.

(c) *Citizens; natural persons.* Enrollment to practice may be granted only to natural persons who are citizens of the United States and who are over the age of 21 years.

(d) *Oath of allegiance.* No person shall be enrolled to practice if he is unable for any reason to take the oath of allegiance, and to support the Constitution of the United States, as required of persons prosecuting claims against the United States by section 3478 of the Revised Statutes (31 U.S.C. 204).

(e) *Attorneys; certified public accountants.* Enrollment is not available to persons who qualify to practice under § 10.3 (a) or (b).

§ 10.5 Application for enrollment.

(a) *Form; fee.* An applicant for enrollment shall file with the Commissioner of Internal Revenue an application on Form 23, properly executed under oath or affirmation. Such application shall be accompanied by a check or money order in the amount of \$25.00, payable to the Internal Revenue Service, which amount shall constitute a fee which shall be charged to each applicant for enrollment. The fee shall be retained by the United States whether or not the applicant is granted enrollment.

(b) *Additional information; examination.* The Commissioner of Internal Revenue, as a condition to consideration of an application for enrollment, may require the applicant to file additional information and to submit to any written or oral examination under oath or otherwise. The Commissioner of Internal Revenue shall grant a hearing on an application at the applicant's written request.

(c) *Temporary recognition.* Upon receipt of a properly executed application, the Commissioner of Internal Revenue may grant the applicant temporary recognition to practice pending a determination as to whether enrollment to practice should be granted. Such temporary recognition shall not be granted if the application is not regular on its face; if the information stated therein, if true, is not sufficient to warrant enrollment to practice; if there is any information before the Commissioner which indicates that the statements in the application are untrue; or which indicates that the applicant would not otherwise qualify for enrollment. Issuance of temporary recognition shall not constitute enrollment to practice or a finding of eligibility for enrollment, and the temporary recognition may be withdrawn at any time by the Commissioner of Internal Revenue.

(d) *Appeal from denial of application.* (1) The Commissioner of Internal Revenue, in denying an application for

¹ This supersedes the provision contained in a notice of interim course of action published in the FEDERAL REGISTER, November 16, 1965 (30 F.R. 14331) which permitted attorneys and certified public accountants, who were enrolled as of November 8, 1965, to continue to use their enrollment cards as evidence of authority to practice before the Service.

enrollment, shall inform the applicant as to the reason(s) therefor. The applicant may, within 30 days after receipt of the notice of denial, file a written appeal therefrom, together with his reasons in support thereof, to the Director of Practice. A decision on the appeal will be rendered by the Director of Practice as soon as practicable.

(2) A decision of the Director of Practice in sustaining a denial of enrollment may be appealed to the Secretary of the Treasury within 30 days after receipt of the decision of the Director.

(Sec. 501, 65 Stat. 290; 5 U.S.C. 140)

§ 10.6 Enrollment.

(a) *Roster.* The Commissioner of Internal Revenue shall maintain rosters of all agents who are enrolled to practice, of all attorneys, certified public accountants and agents who have been disbarred or suspended from practice before the Internal Revenue Service, and of persons whose applications for enrollment have been denied.

(b) *Enrollment card.* (1) The Commissioner of Internal Revenue shall issue an enrollment card to each agent who is enrolled to practice before the Internal Revenue Service after the effective date of this part. Each such enrollment card shall be valid so long as the holder shall remain enrolled and in good standing before the Service. Unless advised to the contrary by the Commissioner, any officer or employee of the Internal Revenue Service may consider the holder of a valid enrollment card to be duly authorized to practice before the Service.

(2) An enrollment card issued prior to the effective date of this part to a person who continues to qualify for enrollment under the provisions of this part shall by its terms remain valid for a period of 5 years after the date of issuance.

(c) *Application for permanent enrollment card.* Application for a permanent enrollment card may be made at any time during a 24-month period commencing 12 months before ending 12 months after the expiration of an enrollment card. Such application shall be filed on Form 23A at such place or places as may be designated by the Commissioner of Internal Revenue and there shall be annexed thereto the outstanding enrollment card. Copies of Form 23A may be obtained from the Commissioner of Internal Revenue and at the offices of District Directors of Internal Revenue. Each application shall be accompanied by a check or money order in the amount of \$5.00, payable to the Internal Revenue Service, which amount shall constitute a fee which shall be charged each person who applies for issuance of a permanent enrollment card pursuant to the provisions of this paragraph.

(Sec. 501, 65 Stat. 290; 5 U.S.C. 140)

(d) *Termination of enrollment.* (1) Unless application for a permanent enrollment card is filed with the Commissioner of Internal Revenue within 12 months after the expiration date of an enrollment card, the enrollment of the

holder of the card shall automatically terminate, his name shall be stricken from the roster of enrollees, and he shall not be authorized to practice before the Internal Revenue Service except by filing a new application for enrollment, as provided by § 10.5, and obtaining authority to practice from the Commissioner of Internal Revenue. (2) The enrollment of any agent to whom an enrollment card is issued after the effective date of this part shall terminate at such time as such agent may become eligible to practice without enrollment under § 10.3 (a) or (b), and such agent shall forthwith return his enrollment card to the Commissioner of Internal Revenue for cancellation.

§ 10.7 Practice without enrollment.

(a) *In general.* Individuals may appear on their own behalf, and may otherwise appear without enrollment, provided they present satisfactory identification, in the following classes of cases:

(1) An individual who is his regular full-time employer, may represent a partnership of which he is a member or a regular full-time employee, or may represent without compensation a member of his immediate family.

(2) Corporations (including parents, subsidiaries or affiliated corporations), trusts, estates, associations, or organized groups may be represented by bona fide officers or regular full-time employees.

(3) Trusts, receiverships, guardianships, or estates may be represented by their trustees, receivers, guardians, administrators or executors or their regular full-time employees.

(4) Any governmental unit, agency, or authority may be represented by an officer or regular employee in the course of his official duties.

(5) Unenrolled persons may participate in rule making as provided by section 4 of the Administrative Procedure Act, 60 Stat. 238 (5 U.S.C. 1003).

(6) Enrollment is not required for representation outside of the United States before personnel of the Internal Revenue Service.

(7) Any person, who is not under disbarment or suspension from practice before the Internal Revenue Service or from practice of his profession by any other authority (in the case of attorneys, certified public accountants, and public accountants) and who signs a return as having prepared it for the taxpayer, may appear without enrollment as the taxpayer's representative with or without the taxpayer, before revenue agents and examining officers of the Audit Division in the offices of District Directors (but not at the District Conference in a District Director's office) with respect to the tax liability of the taxpayer for the taxable year or period covered by that return. Proper authorization from the taxpayer will be required. Any person who prepared a return with respect to which the instructions or regulations do not require that it be signed by the person who prepared the return for the taxpayer may likewise appear as the taxpayer's representative when prop-

erly authorized. Unless the taxpayer is present, such persons must present satisfactory identification. All such persons will be subject to such rules regarding standards of conduct, the extent of their authority, and other matters as the Commissioner of Internal Revenue shall prescribe. Such persons will be permitted to represent taxpayers within those limits without enrollment.

(b) *Special appearance.* The Commissioner of Internal Revenue, subject to such conditions as he deems appropriate, may authorize any person to represent another without enrollment for the purpose of a particular matter.

§ 10.8 Customhouse brokers.

Nothing contained in the regulations in this part shall be deemed to affect or limit the right of a customhouse broker, licensed as such by the Commissioner of Customs in accordance with the regulations prescribed therefor, in any customs district in which he is so licensed, at the Office of the District Director of Internal Revenue or before the National Office of the Internal Revenue Service, to act as a representative in respect to any matters relating specifically to the importation or exportation of merchandise under the customs or internal revenue laws, for any person for whom he has acted as a customhouse broker.

Subpart B—Duties and Restrictions Relating to Practice Before the Internal Revenue Service

§ 10.20 Information to be furnished.

(a) *To the Internal Revenue Service generally.* No attorney, certified public accountant or enrolled agent shall neglect or refuse promptly to submit records or information in any matter before the Internal Revenue Service, upon proper and lawful request by a duly authorized officer or employee of the Internal Revenue Service, unless the information or testimony is privileged or he has reasonable grounds to believe and does believe that the said demand is of doubtful legality; and no such attorney, certified public accountant or enrolled agent shall interfere, or attempt to interfere, with any proper and lawful efforts by the Internal Revenue Service or its officers or employees to obtain information relative to any matter before the Internal Revenue Service.

(b) *To the Director of Practice.* It shall be the duty of an attorney or certified public accountant, who practices before the Internal Revenue Service, or enrolled agent, when requested by the Director of Practice, to provide the Director with any information he may have concerning violation of the regulations in this part by any person, and to testify thereto in any proceeding instituted under this part for the disbarment or suspension of an attorney, certified public accountant or enrolled agent, unless such information is privileged.

§ 10.21 Knowledge of client's omission.

Each attorney, certified public accountant or enrolled agent who knows that a client has not complied with the

revenue laws of the United States, or has made an error in or omission from any return, document, affidavit, or other paper which the client is required by law to execute in connection with any matter administered by the Internal Revenue Service, shall advise the client promptly of the fact of such noncompliance, error, or omission.

§ 10.22 Diligence as to accuracy.

Each attorney, certified public accountant or enrolled agent shall exercise due diligence in preparing or assisting in the preparation of, approving, and filing returns, documents, affidavits, and other papers relating to Internal Revenue Service matters, in determining the correctness of representations made by him to the Internal Revenue Service, and in determining the correctness of representations made by him to clients with reference to any matter administered by the Internal Revenue Service.

§ 10.23 Prompt disposition of pending matters.

No attorney, certified public accountant or enrolled agent shall unreasonably delay the prompt disposition of any matter before the Internal Revenue Service.

§ 10.24 Assistance from disbarred or suspended persons.

No attorney, certified public accountant or enrolled agent shall in any Internal Revenue Service matter knowingly and directly or indirectly:

(a) Employ or accept assistance from any person who is under disbarment or suspension from practice before the Internal Revenue Service, or who to the knowledge of the attorney, certified public accountant or enrolled agent solicits business, obtains clients, or otherwise conducts his practice in a manner forbidden under the regulations in this part; or

(b) Accept employment as associate, correspondent, or subagent from, or share fees with, any such person.

§ 10.25 Practice by partners of Government employees.

No partner of an officer or employee of the executive branch of the U.S. Government, of any independent agency of the United States, or of the District of Columbia, shall represent anyone in any matter administered by the Internal Revenue Service in which such officer or employee of the Government participates or has participated personally and substantially as a Government employee or which is the subject of his official responsibility (18 U.S.C. 207(c)).

§ 10.26 Practice by former Government employees.

(a) *In general.* No former officer or employee of the U.S. Government, of any independent agency of the United States, or of the District of Columbia, shall represent anyone in any matter administered by the Internal Revenue Service if the representation would violate any of the laws of the United States.

(b) *Personal and substantial participation.* No former officer or employee

of the executive branch of the U.S. Government, of any independent agency of the United States, or of the District of Columbia, shall represent anyone in any matter administered by the Internal Revenue Service, involving a specific party or parties, in which he participated personally and substantially as an officer or employee. See 18 U.S.C. 207(a).

(c) *Official responsibility.* No former officer or employee of the executive branch of the U.S. Government, of any independent agency of the United States, or of the District of Columbia, shall, within 1 year after his employment has ceased, appear personally as agent or attorney for anyone before the Internal Revenue Service in any matter administered by the Internal Revenue Service, involving a specific party or parties, which was under his official responsibility as an officer or employee of the Government at any time within a period of 1 year prior to the termination of such responsibility. See 18 U.S.C. 207(b).

§ 10.27 Notaries.

No attorney, certified public accountant or enrolled agent as notary public shall with respect to any matter administered by the Internal Revenue Service take acknowledgments, administer oaths, certify papers, or perform any official act in connection with matters in which he is employed as counsel, attorney, or agent, or in which he may be in any way interested before the Internal Revenue Service (26 Op. Atty. Gen. 236).

§ 10.28 Fees.

No attorney, certified public accountant or enrolled agent shall charge an unreasonable fee for representation of a client in any matter before the Internal Revenue Service.

§ 10.29 Conflicting interests.

No attorney, certified public accountant or enrolled agent shall represent conflicting interests in his practice before the Internal Revenue Service, except by express consent of all directly interested parties after full disclosure has been made.

Subpart C—Rules Applicable to Disciplinary Proceedings

§ 10.50 Authority to disbar or suspend

Pursuant to section 3 of the Act of July 7, 1884, 23 Stat. 258 (5 U.S.C. 261), the Secretary of the Treasury, after due notice and opportunity for hearing, may suspend or disbar from practice before the Internal Revenue Service any attorney, certified public accountant or enrolled agent shown to be incompetent, disreputable or who refuses to comply with the rules and regulations in this part or who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant, by word, circular, letter, or by advertisement.

§ 10.51 Disreputable conduct.

(a) *Categories.* Disreputable conduct for which an attorney, certified public accountant, or enrolled agent may be dis-

barred or suspended from practice before the Internal Revenue Service includes, but is not limited to:

(1) Conviction of any criminal offense under the revenue laws of the United States.

(2) Giving false or misleading information, or participating in any way in the giving of false or misleading information, to the Internal Revenue Service or any officer or employee thereof, or to any tribunal authorized to pass upon Federal tax matters, in connection with any matter pending or likely to be pending before them, knowing such information to be false or misleading. Facts or other matters contained in testimony, Federal tax returns, financial statements, applications for enrollment, affidavits, declarations or any other document or statement, written or oral, are included in the term "information."

(3) Improper solicitation of employment in any matter relating to practice before the Internal Revenue Service, including the use of false or misleading representations with intent to deceive a client or a prospective client in order to procure employment, or the use of signs, printing or other written matter indicating some past or present connection with, or relationship to, the Internal Revenue Service or otherwise intimating that the practitioner is able improperly to obtain special consideration or action from the Internal Revenue Service or officer or employee thereof.

(4) Willfully failing to make a Federal tax return in violation of the revenue laws of the United States, or evading, attempting to evade, or participating in any way in evading or attempting to evade any Federal tax or payment thereof, knowingly counseling or suggesting to a client or prospective client an illegal plan to evade Federal taxes or payment thereof, or concealing assets of himself or another to evade Federal taxes or payment thereof.

(5) Misappropriation of, or failure properly and promptly to remit funds received from a client for the purpose of payment of taxes or other obligations due the United States.

(6) Directly or indirectly attempting to influence, or offering or agreeing to attempt to influence, the official action of any officer or employee of the Internal Revenue Service by the use of threats, false accusations, duress or coercion, by the offer of any special inducement or promise of advantage or by the bestowing of any gift, favor, or thing of value.

(7) Disbarment or suspension from practice as an attorney, certified public accountant, or public accountant by any duly constituted authority of any State, possession, territory, Commonwealth, or the District of Columbia.

(8) Knowingly aiding and abetting another person to practice before the Internal Revenue Service during a period of suspension or disbarment of such other person. Maintaining a partnership for the practice of law, accountancy, or other related professional service with a person who is under disbarment from practice before the Service shall be presumed to be a violation of this provision.

(9) Contemptuous conduct in connection with practice before the Internal Revenue Service, including the use of intemperate or abusive language, making false accusations and statements knowing them to be false, or circulating or publishing malicious or libelous matter.

(b) *Enrolled agents.* In addition to the categories of disreputable conduct enumerated above, conviction of any criminal offense involving dishonesty or a breach of trust by an enrolled agent may be considered grounds for disbarment or suspension from practice before the Internal Revenue Service.

§ 10.52 Violation of regulations.

Any attorney, certified public accountant or enrolled agent may be disbarred or suspended from practice before the Internal Revenue Service for willful violation of any of the regulations contained in this part.

§ 10.53 Receipt of information concerning attorneys, certified public accountants, and enrolled agents.

If an officer or employee of the Internal Revenue Service has reason to believe that an attorney, certified public accountant or enrolled agent has violated any provision of this part, or if any such officer or employee receives information to that effect, he shall promptly make a written report thereof, which report or a copy thereof shall be forwarded to the Director of Practice. If any other person has information of such violations, he may make a report thereof to the Director of Practice or to any officer or employee of the Internal Revenue Service.

§ 10.54 Institution of proceeding.

Whenever the Director of Practice has reason to believe that any attorney, certified public accountant, or enrolled agent has violated any provision of the laws or regulations governing practice before the Internal Revenue Service, he may reprimand such person or institute a proceeding for disbarment or suspension of such person. The proceeding shall be instituted by a complaint which names the respondent and is signed by the Director of Practice and filed in his office. Except in cases of willfulness, or where time, the nature of the proceeding, or the public interest does not permit, a proceeding will not be instituted under this section until facts or conduct which may warrant such action have been called to the attention of the proposed respondent in writing and he has been accorded opportunity to demonstrate or achieve compliance with all lawful requirements.

§ 10.55 Conferences.

(a) *In general.* The Director of Practice may confer with an attorney, certified public accountant, or enrolled agent concerning allegations of misconduct irrespective of whether a proceeding for disbarment or suspension has been instituted against him. If such conference results in a stipulation in connection with a proceeding in which such person is the respondent, the stipulation

may be entered in the record at the instance of either party to the proceeding.

(b) *Resignation or voluntary suspension.* An attorney, certified public accountant, or enrolled agent, in order to avoid the institution or conclusion of a disbarment or suspension proceeding, may consent to suspension from practice before the Internal Revenue Service. An enrolled agent may also offer his resignation. The Director of Practice, in his discretion, may accept the offered resignation of an enrolled agent and may suspend an attorney, certified public accountant, or enrolled agent in accordance with the consent given.

§ 10.56 Contents of complaint.

(a) *Charges.* A complaint shall give a plain and concise description of the allegations which constitute the basis for the proceeding. A complaint shall be deemed sufficient if it fairly informs the respondent of the charges against him so that he is able to prepare his defense.

(b) *Demand for answer.* In the complaint, or in a separate paper attached to the complaint, notification shall be given to the place and time within which the respondent shall file his answer, which time shall not be less than 15 days from the date of service of the complaint, and notice shall be given that a decision by default will be rendered against the respondent in the event he fails to file his answer as required.

§ 10.57 Service of complaint and other papers.

(a) *Complaint.* The complaint or a copy thereof may be served upon the respondent by certified mail, or first-class mail as hereinafter provided; by delivering it to the respondent or his attorney or agent of record either in person or by leaving it at the office or place of business of the respondent, attorney or agent; or in any other manner which has been agreed to by the respondent. Where the service is by certified mail, the return post office receipt duly signed by or on behalf of the respondent shall be proof of service. If the certified matter is not claimed or accepted by the respondent and is returned undelivered, complete service may be made upon the respondent by mailing the complaint to him by first-class mail, addressed to him at the address under which he is enrolled or at last address known to the Director of Practice. If service is made upon the respondent or his attorney or agent of record in person or by leaving the complaint at the office or place of business of the respondent, attorney, or agent, the verified return by the person making service, setting forth the manner of service, shall be proof of such service.

§ 10.58 Answer.

(a) *Filing.* The respondent's answer shall be filed in writing within the time specified in the complaint or notice of institution of the proceeding, unless on application the time is extended by the Director of Practice or the Examiner.

The answer shall be filed in duplicate with the Director of Practice.

(b) *Contents.* The answer shall contain a statement of facts which constitute the grounds of defense, and it shall specifically admit or deny each allegation set forth in the complaint, except that the respondent shall not deny a material allegation in the complaint which he knows to be true, or state that he is without sufficient information to form a belief when in fact he possesses such information. The respondent may also state affirmatively special matters of defense.

(c) *Failure to deny or answer allegations in the complaint.* Every allegation in the complaint which is not denied in the answer shall be deemed to be admitted and may be considered as proved, and no further evidence in respect of such allegation need be adduced at a hearing. Failure to file an answer within the time prescribed in the notice to the respondent, except as the time for answer is extended by the Director of Practice or the Examiner, shall constitute an admission of the allegations of the complaint and a waiver of hearing, and the Examiner may make his decision by default without a hearing or further procedure.

§ 10.59 Supplemental charges.

If it appears that the respondent in his answer, falsely or in bad faith, denies a material allegation of fact in the complaint or states that the respondent has no knowledge sufficient to form a belief, when he in fact possesses such information, or if it appears that the respondent has knowingly introduced false testimony during proceedings for his disbarment or suspension, the Director of Practice may thereupon file supplemental charges against the respondent. Such supplemental charges may be tried with other charges in the case, provided the respondent is given due notice thereof and is afforded an opportunity to prepare a defense thereto.

§ 10.60 Reply to answer.

No reply to the respondent's answer shall be required, and new matter in the answer shall be deemed to be denied, but the Director of Practice may file a reply in his discretion or at the request of the Examiner.

§ 10.61 Proof; variance; amendment of pleadings.

In the case of a variance between the allegations in a pleading and the evidence adduced in support of the pleading, the Examiner may order or authorize amendment of the pleading to conform to the evidence: *Provided*, That the party who would otherwise be prejudiced by the amendment is given reasonable opportunity to meet the allegations of the pleading as amended; and the Examiner shall make findings on any issue presented by the pleadings, as so amended.

§ 10.62 Motions and requests.

Motions and requests may be filed with the Director of Practice or with the Examiner.

§ 10.63 Representation.

A respondent or proposed respondent may appear in person or he may be represented by counsel or other representative who need not be enrolled to practice before the Internal Revenue Service. The Director may be represented by an attorney or other employee of the Internal Revenue Service.

§ 10.64 Examiner.

(a) *Appointment.* An Examiner, appointed as provided by section 11 of the Administrative Procedure Act, 60 Stat. 244 (5 U.S.C. 1010), shall conduct proceedings upon complaints for the disbarment or suspension of attorneys, certified public accountants or enrolled agents.

(b) *Powers of Examiner.* Among other powers, the Examiner shall have authority, in connection with any disbarment or suspension proceeding assigned or referred to him, to do the following:

- (1) Administer oaths and affirmations;
- (2) Make rulings upon motions and requests, which rulings may not be appealed from prior to the close of a hearing except, at the discretion of the Examiner, in extraordinary circumstances;
- (3) Determine the time and place of hearing and regulate its course and conduct;
- (4) Adopt rules of procedure and modify the same from time to time as occasion requires for the orderly disposition of proceedings;
- (5) Rule upon offers of proof, receive relevant evidence, and examine witnesses;
- (6) Take or authorize the taking of depositions;
- (7) Receive and consider oral or written argument on facts or law;
- (8) Hold or provide for the holding of conferences for the settlement or simplification of the issues by consent of the parties;
- (9) Perform such acts and take such measures as are necessary or appropriate to the efficient conduct of any proceeding; and
- (10) Make initial decisions.

§ 10.65 Hearings.

(a) *In general.* The Examiner shall preside at the hearing on a complaint for the disbarment or suspension of an attorney, certified public accountant, or enrolled agent. Hearings shall be stenographically recorded and transcribed and the testimony of witnesses shall be taken under oath or affirmation. Hearings will be conducted pursuant to section 7 of the Administrative Procedure Act, 60 Stat. 241 (5 U.S.C. 1006).

(b) *Failure to appear.* If either party to the proceeding fails to appear at the hearing, after due notice thereof has been sent to him, he shall be deemed to have waived the right to a hearing and the Examiner may make his decision against the absent party by default.

§ 10.66 Evidence.

(a) *In general.* The rules of evidence prevailing in courts of law and equity are not controlling in hearings on com-

plaints for the disbarment or suspension of attorneys, certified public accountants, and enrolled agents. However, the Examiner shall exclude evidence which is irrelevant, immaterial, or unduly repetitious, and he may exclude evidence which is not of the kind which would affect reasonable and fair-minded men in the conduct of their daily affairs.

(b) *Depositions.* The deposition of any witness taken pursuant to § 10.67 may be admitted.

(c) *Proof of documents.* Official documents, records, and papers of the Internal Revenue Service shall be admissible in evidence without the production of an officer or employee to authenticate them. Any such documents, records, and papers may be evidenced by a copy attested or identified by an officer or employee of the Internal Revenue Service.

(d) *Exhibits.* If any document, record, or other paper is introduced in evidence as an exhibit, the Examiner may authorize the withdrawal of the exhibit subject to any conditions which he deems proper.

(e) *Objections.* Objections to evidence shall be in short form, stating the grounds of objection relied upon, and the record shall not include argument thereon, except as ordered by the Examiner. Rulings on such objections shall be a part of the record. No exception to the ruling is necessary to preserve the rights of the parties.

§ 10.67 Depositions.

Depositions for use at a hearing may, with the written approval of the Examiner, be taken by either the Director of Practice or the respondent or their duly authorized representatives. Depositions may be taken upon oral or written interrogatories, upon not less than 10 days' written notice to the other party before any officer duly authorized to administer an oath for general purposes or before an officer or employee of the Internal Revenue Service who is authorized to administer an oath in internal revenue matters. Such notice shall state the names of the witnesses and the time and place where the depositions are to be taken. The requirement of 10 days' notice may be waived by the parties in writing, and depositions may then be taken from the persons and at the times and places mutually agreed to by the parties. When a deposition is taken upon written interrogatories, any cross-examination shall be upon written interrogatories. Copies of such written interrogatories shall be served upon the other party with the notice, and copies of any written cross-interrogatories shall be mailed or delivered to the opposing party at least 5 days before the date of taking the depositions, unless the parties mutually agree otherwise. A party upon whose behalf a deposition is taken must file it with the Examiner and serve one copy upon the opposing party. Expenses in the reporting of depositions shall be borne by the party at whose instance the deposition is taken.

§ 10.68 Transcript.

In cases where the hearing is stenographically reported by a government

contract reporter, copies of the transcript may be obtained from the reporter at rates not to exceed the maximum rates fixed by contract between the Government and the reporter. Where the hearing is stenographically reported by a regular employee of the Internal Revenue Service, a copy thereof will be supplied to the respondent either without charge or upon the payment of a reasonable fee. Neither of the parties shall have the right to receive any copies of exhibits introduced at the hearing or at the taking of depositions, but they shall have the right to examine all exhibits.

§ 10.69 Proposed findings and conclusions.

Except in cases where the respondent has failed to answer the complaint or where a party has failed to appear at the hearing, the Examiner, prior to making his decision, shall afford the parties a reasonable opportunity to submit proposed findings and conclusions and supporting reasons therefor.

§ 10.70 Decision of the Examiner.

As soon as practicable after the conclusion of a hearing and the receipt of any proposed findings and conclusions timely submitted by the parties, the Examiner shall make the initial decision in the case. The decision shall include (a) a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and (b) an order of disbarment, suspension, or reprimand or an order of dismissal of the complaint. The Examiner shall file the decision with the Director of Practice and shall transmit a copy thereof to the respondent or his attorney of record. In the absence of an appeal to the Secretary of the Treasury, or review of the decision upon motion of the Secretary, the decision of the Examiner shall without further proceedings become the decision of the Secretary of the Treasury 30 days from the date of the Examiner's decision.

§ 10.71 Appeal to the Secretary.

Within 30 days from the date of the Examiner's decision, either party may appeal to the Secretary of the Treasury. The appeal shall be filed with the Director of Practice in duplicate and shall include exceptions to the decision of the Examiner and supporting reasons for such exceptions. If an appeal is filed by the Director of Practice, he shall transmit a copy thereof to the respondent. Within 15 days after receipt of an appeal or copy thereof, the other party may file a reply brief in duplicate with the Director of Practice. If the reply brief is filed by the Director, he shall transmit a copy of it to the respondent. Upon the filing of an appeal and a reply brief, if any, the Director of Practice shall transmit the entire record to the Secretary of the Treasury.

§ 10.72 Decision of the Secretary.

On appeal from or review of the initial decision of the Examiner, the Secretary of the Treasury will make the agency decision. In making his decision the Sec-

retary of the Treasury will review the record or such portions thereof as may be cited by the parties to permit limiting of the issues. A copy of the Secretary's decision shall be transmitted to the respondent by the Director of Practice.

§ 10.73 Effect of disbarment or suspension; surrender of card.

In case the final order against the respondent is for disbarment, the respondent shall not thereafter be permitted to practice before the Internal Revenue Service unless and until authorized to do so by the Director of Practice pursuant to § 10.75. In case the final order against the respondent is for suspension, the respondent shall not thereafter be permitted to practice before the Internal Revenue Service during the period of suspension. If an enrolled agent is disbarred or suspended, he shall surrender his enrollment card to the Director of Practice for cancellation, in the case of disbarment, or for retention during the period of suspension.

§ 10.74 Notice of disbarment or suspension.

Upon the issuance of a final order disbarring or suspending an attorney, certified public accountant or enrolled agent, the Director of Practice shall give notice thereof to appropriate officers and employees of the Internal Revenue Service and to interested departments and agencies of the Federal Government. Notice in such manner as the Director of Practice may determine may be given to the proper authorities of the State by which the disbarred or suspended person was licensed to practice as an attorney or accountant.

§ 10.75 Petition for reinstatement.

The Director of Practice may entertain a petition for reinstatement from any person disbarred from practice before the Internal Revenue Service after the expiration of two years following such disbarment. Reinstatement may not be granted unless the Director of Practice is satisfied that the petitioner, thereafter, is not likely to conduct himself contrary to the regulations in this part, and that granting such reinstatement would not be contrary to the public interest.

Subpart D—General Provisions

§ 10.90 Official records.

(a) *Availability.* There are made available to public inspection at the office of the Commissioner of Internal Revenue the roster of all persons enrolled to practice and the roster of all persons disbarred or suspended from practice.

(b) *Direct interest.* Matters of official record pertaining to the enrollment of persons to practice are available at the office of the Commissioner of Internal Revenue to persons properly and directly concerned.

(c) *Confidential records.* There are held confidential the official records of the investigation of applicants for enrollment, of proceedings to suspend or disbar, and of the grounds for suspension or disbarment. Publication is capable of

injuring enrollees and former enrollees without furthering the public interest. Much of the information is elicited without the aid of the subpoena power on the assurance that the sources will be protected. Much of the information contained in these official records is subject to the secrecy statutes pertaining to tax returns.

(Sec. 3, 60 Stat. 238, 5 U.S.C. 1002)

§ 10.91 Information, requests, and submittals.

The public may secure information from, or make submittals or request to, the Commissioner, Internal Revenue Service, Washington, D.C. Requests for information contained in official records of the Office of the Commissioner of Internal Revenue should be addressed to the Commissioner in writing, should clearly state the information desired, and should set forth the interest of the applicant in the subject matter and the purpose for which the information is desired. If the applicant is an attorney or agent acting for another, he should attach to the application evidence of his authority to act for his principal.

§ 10.92 Effective date of regulations.

The regulations in this part shall become effective on the 31st day after the date of publication in the FEDERAL REGISTER and shall supersede all prior regulations related to practice before the Internal Revenue Service.

§ 10.93 Saving clause.

Publication of the regulations in this part in the FEDERAL REGISTER shall not affect any proceeding for the disbarment or suspension of any attorney, certified public accountant or enrolled agent instituted prior to the date of such publication.

§ 10.94 Special orders.

The Secretary of the Treasury reserves the power to issue such special orders as he may deem proper in any cases within the purview of this part.

[F.R. Doc. 66-3166; Filed, Mar. 24, 1966; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1061, 1964]

[Docket Nos. AO 327-A8-RO 1, AO 23-A28-RO 1]

MILK IN ST. JOSEPH, MO., AND GREATER KANSAS CITY MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of

marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the St. Joseph, Mo., and Greater Kansas City marketing areas. Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C., 20250, by the third day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was conducted at Kansas City, Mo., on November 22-24, 1965, pursuant to notices thereof issued September 30, 1965 (30 F.R. 12487), and October 13, 1965 (30 F.R. 13015), and on March 15, 1966, pursuant to a notice of reopening thereof issued March 3, 1966 (31 F.R. 4148).

The material issues on the record of the hearing relate to:

1. Merger of the two orders and expansion of the marketing area.
2. Pool plant requirements.
3. Class I price and location differentials.
4. Class II and III prices.
5. Butterfat differentials.
6. Cooperative as a handler on bulk tank milk.
7. Base and excess plan.
8. Producer milk diversions.
9. Administrative and miscellaneous changes.

At the reopened session of the hearing, additional evidence was received with respect to issue No. 4. This decision deals only with issue No. 4 as it applies to Class III prices and to persons regulated under the aforesaid orders as now constituted and the need for emergency action.

Findings and conclusions. The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

Class II and III prices. The need for emergency action with respect to the Class II prices established under the respective orders was not established on the record. Hence, that issue is reserved for a recommended decision along with the other issues before the hearing.

Prompt action is necessary with respect to the Class III prices established under the aforesaid orders. Hence, this issue is being dealt with separately and the time for filing exceptions is limited to 3 days in order to permit an early decision in this matter.

The pricing formula proposed herein should be made effective as soon as possible. Prompt action to revise the Class