(c) * * *

Settlement areas by factories within States	1960–66 average sugar content (percent)
Idaho, Oregon, Washington:	
Nyssa-Nampa, including beets delivered from Grandview and Murphy Flats Stations in Owyhee County, Idaho	15.16
Toppenish, Moses Lake	15.20
Utah:	
North and South Utah area (Centerfield, Garland, Layton, West Jordan)	15.59
Wyoming, Montana:	
Worland	16.01
Hardin	16.17
Sidney	15.94
Billings-Lovell	16.36
Great Lakes States:	
Alma	15.36
Caro	15.61
Carrollton	14.80
Croswell	15.10
Sebewaing	15.40

Statement of bases and considerations. The purpose of this amendment of section 831.14 is to establish rates for determining amounts of sugar commercially recoverable from sugar beets, applicable to new or changed settlement areas within the States of Idaho and Utah, and because of changes in contractual agreement between processors and growers in the State of Michigan, effective for the 1967 crop of sugar beets. The regulation is issued in accordance with and subject to the provisions of § 831.4 of this title.

The Amalgamated Sugar Co. has established two new contracting areas in Idaho, the Elmore area and the Owyhee area. Producers of sugar beets in Elmore County, Idaho, will deliver their beets to receiving stations at Reverse, Hammette, and Glenns Ferry. These beets will be processed at the company's Rupert (Mini Cassia) factory. Producers of sugar beets in Owyhee County, Idaho, will deliver their beets to receiving stations at Grandview and Murphy Flats. These beets will be processed at the company's Nampa factory. Separate factory cossette tests will be made on these beets and will be the basis for processor-payments to growers in the Elmore and Owyhee areas. Inasmuch as no historical data exists on which to base Sugar Act payments, it is determined that the 7-year (1960–66) factory cossette average to be used in computing such payments shall be that of the factory where such beets will be processed. Thus, the Elmore area has been assigned a 1960–66 average sugar content of 16.41 and a rate of commercially recoverable sugar 2.966, the same as that for Rupert (Mini Cassia), Twin Falls. The Owyhee area has been assigned a 1960–66 average sugar content of 15.16, the same as that for Nyssa-Nampa.

Producers of sugar beets in southern Michigan formerly contracted with the Buckeye Sugar Co., the beets being processed at the company's factory in Ottawa, Ohio. Currently, these growers have contracted with the Michigan Sugar Co. to process the 1967 crop of sugar beets. The sugar beets will be processed at one of the company's factories in Michigan. Inasmuch as there is no separate historical data for beets produced in this area and since the producers in the area contributed to the historical data for the Ottawa area, it is determined that the data to be used in computing Sugar Act payments for these producers shall be that used in computing payments for producers in the Ottawa area.

Heretofore, Centerfield, Garland, Layton, and West Jordan in Utah were separate settlement areas. For the 1967 crop, the Utah-Idaho Sugar Co. has combined the four areas into a single settlement area, called the "North and South Utah Area". This amendment makes this combination for Sugar Act payment purposes. A 7-year factory cossette average of 15.59 percent was determined for the new area on the basis of the weighted cossette test averages of all beets processed in the Centerfield, Garland, Layton, and West Jordan areas for the 1960–66 crops.

The amendment also establishes a new rate of commercially recoverable sugar for the Bay City, Mich., settlement area. The change from 2.755 cwt. to 2.768 cwt. resulted from an increase in the 1960–66 average sugar content for the area from 15.09 percent to 15.16 percent. This increase was due to revised 1966-crop data for the area.

Accordingly, I hereby find and conclude that the foregoing amendment will effectuate the applicable provisions of the Act.

(Sec. 403, 61 Stat. 932, 7 U.S.C. 1153; secs. 302, 303, 304, 61 Stat. 930, as amended, 931; 7 U.S.C. 1132, 1133, 1134)

Effective date: Date of publication.

Signed at Washington, D.C., on September 25, 1967.

CHAS. M. COX,
Acting Deputy Administrator, State and County Operations.

[F.R. Doc. 67-11474; Filed, Sept. 28, 1967; 8:49 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Administrative Instructions Prescribing Commuted Travel Time Allowances

Pursuant to the authority conferred upon the Director of the Animal Health Division by § 97.1 of the regulations concerning overtime services relating to imports and exports, effective July 31, 1966 (9 CFR 97.1), administrative instructions (9 CFR 97.2) effective July 30, 1963, as amended May 18, 1964 (29 F.R. 6318), December 7, 1964 (29 F.R. 16316), April 12, 1965 (30 F.R. 4609), June 18, 1965 (30 F.R. 7893), June 7, 1966 (31 F.R. 8020), October 11, 1966 (31 F.R. 13114), November 1, 1966 (31 F.R. 13939), November 23, 1966 (31 F.R. 14826), February 14, 1967 (32 F.R. 2843), April 15, 1967 (32 F.R. 6021), and August 26, 1967 (32 F.R. 12441), prescribing the commuted travel time that shall be included in each period of overtime or holiday duty, are hereby amended by adding to or deleting from the respective "lists" therein, as follows:

WITHIN METROPOLITAN AREAS
ONE HOUR

Beltsville, Md.

This commuted travel time period has been established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which the employee performs such overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal Health Division.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these instructions are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making these instructions effective less than 30 days after publication in the FEDERAL REGISTER.

(64 Stat. 561)

These revised administrative instructions shall be effective upon publication in the FEDERAL REGISTER.

Done at Hyattsville, Md., this 20th day of September 1967.

R. E. OMOHUNDRO,
Acting Director, Animal Health Division, Agricultural Research Service.

[F.R. Doc. 67-11475; Filed, Sept. 28, 1967; 8:49 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 0—CONDUCT OF EMPLOYEES

Miscellaneous Amendments

Part 0 is amended as follows:

Section 0.735–24(d) is amended to make reference to chapter 41 of title 5, United States Code, pertaining to acceptance of contributions, awards, or other expenses for training; § 0.735–28(a), Annex B and Annex C are amended to restrict the requirement relative to reporting employment and financial interests to those employees in positions in which the possibility of conflicts-of-interest is clear; § 0.735–28(c) is amended to provide that for Headquarters employees their respective reviewing officials instead of the Assistant General Manager for Administration shall notify employees of the requirement for submitting statements; § 0.735–28(d) (4) and (5) are amended to exclude the reporting of remote and inconsequential interests and, for regular Government

employees, to eliminate quarterly supplementary statements; § 0.735–28(f) is amended to insure the confidentiality of statements submitted; § 0.735–28(h) is amended to add the positions of the Chairman, Atomic Safety and Licensing Board Panel and Director, Office of Safeguards and Materials Management, to those positions reporting to the Commission and the General Manager, respectively, to conform to organizational changes; § 0.735–28(i) is added to evidence the availability of an agency's grievance procedure for review of a complaint by an employee concerning the applicability of the reporting requirement; § 0.735–30 is amended to correct statutory references made obsolete by the codification of title 5, United States Code; § 0.735–40(e) is amended to make reference to section 4111 of title 5, United States Code; § 0.735–40(g) is amended to show that its provisions do not apply to non-Government reimbursement when proscribed by Decision B–128527 of the Comptroller General dated March 7, 1967; § 0.735–42(d) is amended to indicate the circumstances under which a gift to an official superior may be allowed; § 0.735–42(e) is added to include reference to Public Law 89–673, 80 Stat. 952, authorizing the acceptance of souvenirs from a foreign government under certain circumstances; and § 0.735–49a is transferred from former § 0.735–42(d). These amendments to Part 0 were approved by the Civil Service Commission on September 19, 1967, and are effective upon publication in the FEDERAL REGISTER.

Part 0 is amended as set out below:

§ 0.735–24 Receiving salary from source other than the U.S. Government (based on 18 U.S.C. 209).

* * * * *

(d) Paragraph (a) of this section does not prohibit acceptance of contributions, awards, or other expenses for training or to attend meetings under the terms of chapter 41 of title 5, United States Code. See AEC Appendix 4150.

§ 0.735–28 Confidential statements of employment and financial interests.[1]

(a) *Categories of employees required to submit statements.*[2] The following employees shall submit statements of employment and financial interests, prepared in accordance with paragraph (d) of this section:

(1) Employees paid at a level of the Executive Schedule in subchapter II of chapter 53 of title V, United States Code.

(2) Employees in positions or categories of positions regardless of their official titles, identified in Annex B to this part.

(3) All consultants (including advisers and experts) (see AEC Manual Chapter 4139) and special Government employees. (A special Government employee who is not a consultant is not required to submit a statement of employment and financial interests when the operating (appointing) official finds that the duties of the position held by the special Government employee are of a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For this purpose, "consultant" and "expert" have the meaning given those terms by Chapter 304 of the Federal Personnel Manual but do not include a physician, dentist, or allied medical specialist whose services are procured to provide care and service to the patients.)

* * * * *

(c) *Notice to employees of time and place to submit statements.* Regular Government employees required to submit statements shall be notified in writing of that fact by their respective reviewing officials (see paragraph (h)), or by persons designated by them. The notice shall be accompanied by three copies of the statement form. By copy of the notification, the counselor or appropriate deputy counselor shall be informed by reviewing officials of those employees required to submit statements. Each employee notified hereunder shall submit his statement to his reviewing official not later than:

(1) 90 days after the effective date of the regulations in this part if employed on or before that effective date; or

(2) 30 days after his entrance on duty but not earlier than 90 days after the effective date of the regulations in this part, if appointed after that effective date.

Statements of special Government employees other than consultants (including experts and advisers) shall be submitted in accordance with the foregoing. Notice to such individuals shall also be in accordance with the foregoing. Statements of consultants (including experts and advisers) shall be submitted prior to appointment, and notice to same shall be in accordance with AEC Manual Chapter 4139.

(d) *Preparation of statement.* Statements shall be prepared in accordance with the following:

* * * * *

(4) *Information not required to be submitted.* This section does not require an employee to submit on a statement or supplementary statement the following:

(i) Any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement.

(ii) Precise amounts of financial interests, indebtedness, or value of real property. The employee may, however, at a later time be required to reveal precise amounts if the AEC needs that information in order to carry out its responsibilities under applicable laws and regulations.

(iii) Remote or inconsequential financial interests, as set forth in § 0.735–21(c).

(iv) For special Government employees: Those financial interests which are determined by the official responsible for such employee's appointment as not to be related either directly or indirectly to the duties and responsibilities of said employee.

(5) *Supplementary statements.* Changes in, or additions to, the information contained in a regular Government employee's statement shall be reported by the employee in a supplementary statement as of June 30 each year, filed within 10 days thereof. Changes in, or additions to, the information contained in a special Government employee's statement shall be reported by the special Government employee in a supplementary statement within 10 days following the end of the calendar quarter in which the changes occur. Quarters end March 31, June 30, September 30, and December 31. The forms prescribed in subparagraph (1) of this paragraph shall be used for this purpose and plainly marked "Supplementary". The changes and additions shall be identified in terms of the specific part(s) of the statement being modified. All changes or additions occurring during the reporting period are to be reported, not merely employment and financial interests status as of the reporting date. If there are no changes in or additions to a special Government employee's statement, a negative quarterly report is not required. However, for the purpose of annual review, a supplementary statement by regular and special Government employees, negative or otherwise, is required as of June 30 of each year. The employee shall submit his supplementary statement to the official who would be the recipient of an initial statement from the employee, as identified in paragraph (h) of this section. Notwithstanding the filing of the report(s) required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of title 18, United States Code, or this Part 0.

* * * * *

(f) *Confidentiality of employees' statements.* AEC shall hold each statement of employment and financial interests, and each supplementary statement, in confidence. To insure this confidentiality only the AEC counselor,

[1] Section 401 of Executive Order 11222 establishes separate reporting requirements for an agency head, a Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in that Office, and a full-time member of a committee, board, or commission appointed by the President.

[2] As used in § 0.735–28, the term "employee", except as otherwise indicated, includes regular Government employees, special Government employees, and members of the Uniformed Services and employees of other Government agencies assigned or detailed to the AEC.

deputy counselor(s), and those officials to whom reports are to be submitted under paragraph (h) of this section (including those employees specifically designated by them to assist in the review as may be necessary) are authorized to review the statements as provided in this section. The foregoing employees are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this part. AEC shall not disclose information from a statement except in accordance with procedures set forth in paragraph (e) of this section, or as the General Manager, or the Director of Regulation, as appropriate, or the Civil Service Commission shall determine for good cause shown.

* * * * *

(h) *To whom statements are to be submitted.* Submission of required statements shall be in accordance with the following:

(1) Submitted to the Commission:

(i) The General Manager.

(ii) The Deputy General Manager.

(iii) The Director of Regulation.

(iv) The Deputy Director of Regulation.

(v) The Secretary.

(vi) The Chairman, Atomic Safety and Licensing Board Panel.

(vii) The Chairman, Contract Appeals Board.

(viii) The General Counsel.

(ix) Director, Division of Inspection.

(2) Submitted to the Individual Commissioners: Special Assistants.

(3) Submitted to the General Manager:

(i) Members of his immediate staff.

(ii) Assistant General Managers.

(iii) Director, Division of Military Application.

(iv) Managers of Operations Offices.

(v) The Controller.

(vi) Director, Office of Safeguards and Materials Management.

(4) Submitted to the Assistant General Managers and the Director of Regulation:

(i) Members of their immediate staffs.

(ii) Heads of Divisions and Offices, Headquarters, reporting directly to them.

(5) Submitted to the Assistant General Manager: Heads of Divisions and Offices, Headquarters, not reporting directly to an Assistant General Manager.

(6) Submitted to Managers of Field Offices and Heads of Divisions and Offices, Headquarters; Employees under their respective jurisdiction.

(7) Submitted to officials responsible for their appointments: Special Government employees, including consultants, experts, and advisers.

(i) *Availability of review.* Any employee who believes that his position has been improperly included under this section as one requiring the submission of a statement of employment and financial interests may utilize the grievance procedure in AEC Manual, Chapter 4157, for review of his complaint.

Subpart C—Other Restrictions Imposed by Statute on Conduct of Employees

§ 0.735–30 Description of statutory provisions.

Each employee has a positive duty to acquaint himself with each statute that relates to his ethical and other conduct as an employee of the AFC and of the Government. Certain of these statutes are referred to in §§ 0.735–21—0.735–27. Attention of employees is also directed to the following statutory provisions:

(a) The prohibitions contained in the following sections of the Atomic Energy Act of 1954, as amended: Section 222, "Violation of Specific Sections"; Section 223, "Violation of Sections Generally"; Section 224, "Communication of Restricted Data"; Section 225, "Receipt of Restricted Data"; Section 226, "Tampering With Restricted Data"; and Section 227, "Disclosure of Restricted Data" (42 U.S.C. 2272 through 2277).

(b) The prohibitions against the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783).

(c) The prohibition against the disclosure of confidential information (18 U.S.C. 1905).

(d) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).

(e) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(f) The prohibition against proscribed political activities in subchapter III of chapter 73 of title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608. (See AEC Manual Chapter 4122, "Political Activity.")

(g) The prohibition against bribery of public officials and witnesses (18 U.S.C. 201).

(h) The prohibition against acceptance or solicitation to obtain appointive public office (18 U.S.C. 211).

(i) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918). (See also AEC Manual Chapter 4121, "Oath of Office" and AEC Manual Chapter 4166, "Employee-Management Cooperation.")

(j) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(k) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)). (See also AEC Manual Chapter 5142, "Motor Vehicle and Aircraft Management.")

(l) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(m) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(n) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(o) The prohibition against multilating or destroying a public record (18 U.S.C. 2071). (See also AEC Appendix 0230, "Records Disposition.")

(p) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(q) The prohibition against embezzlement of Government money or property (18 U.S.C. 641). (See also AEC Manual Chapter 5101, "Personal Property and Supply Management.")

(r) The prohibition against failing to account for public money (18 U.S.C. 643).

(s) The prohibition against an employee's private use of public money (18 U.S.C. 653).

(t) The prohibition against embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(u) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(v) The prohibition against making false entries in official records with intent to defraud or making false reports concerning moneys and securities with such intent (18 U.S.C. 2073).

(w) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(x) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B 12, the "Code of Ethics for Government Service."

§ 0.735–40 Outside employment and other outside activity.

* * * * *

(e) Except as allowed for training or to attend meetings under section 4111 of title 5, United States Code, and Executive Order 10800, no employee shall accept a fee from an outside source on account of a public appearance, a speech, or lecture, if the public appearance or the preparation or delivery of the speech or lecture was a part of the official duties of the employee, if the public appearance, the speech, or the lecture was made during official working hours, or if travel for the purpose of the public appearance, speech, or lecture was made at Government expense. In addition, no employee shall accept a fee for the preparation, publication, or review of an article, story, or book if it was prepared during official working hours and/or was a part of the official duties of the employee.

* * * * *

(g) An employee is not precluded by this § 0.735–40 or § 0.735–42 from:

(1) Receipt of bona fide reimbursement for expenses of travel and such other necessary subsistence for which no Government payment or reimbursement is made except when reimbursement from a person for travel on official business under AEC orders is proscribed by Decision B–128527 of the Comptroller General dated March 7, 1967, or otherwise prohibited by law. Questions concerning application of the Comptroller General's decision should be referred to the counselor or appropriate deputy counselor. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits.

(2) Participation in the activities of political parties not proscribed by law.

(3) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

§ 0.735–42 Gifts, entertainment, and favors.

* * * * *

(d) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(e) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in Public Law 89–673, 80 Stat. 952.

§ 0.735–49a Other proscribed actions.

An employee shall avoid any action, whether or not specifically prohibited by this Part 0, which might result in, or create the appearance of:

(a) Using a public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government.

ANNEX B—POSITION CATEGORIES REQUIRING STATEMENTS OF EMPLOYMENT AND FINANCIAL INTERESTS BY INCUMBENTS

(1) Heads of Divisions and Offices, Headquarters, and Managers of Field Offices;

(2) Contracting officers (GS–13 and above);

(3) Contract administrators (GS–13 and above);

(4) Procurement officers (GS–13 and above);

(5) Auditors (GS–14 and above);

(6) Attorneys, including patent attorneys (GS–15 and above);

(7) Positions (in grades GS–13 and above unless otherwise indicated), the incumbents of which are responsible for making decisions or taking actions (not merely recommending a decision or action) in regard to:

(a) Evaluation, appraisal, or selection of contractors or subcontractors, prospective contractors or prospective subcontractors, proposals of such contractors or subcontractors, the activities performed by such contractors or subcontractors, or determination of the extent of compliance of such contractors or subcontractors with contract provisions.

(b) Negotiation, modification, or approval of contracts of subcontracts.

(c) Evaluation, appraisal, or selection of prospective project sites, or locations of work or activities, including real property proposed for acquisition by purchase or otherwise.

(d) Inspection and quality assurance of material, products or components for acceptability.

(e) Review or approval of applications for access permits.

(f) Engineering planning and design which involves preparation of specifications and technical requirements.

(g) Negotiation of agreements for cooperation or implementing arrangements with foreign countries.

(h) Analysis, evaluation, or review of licensees' and prospective licensees' compliance with AEC regulations and requirements.

(i) Analysis, evaluation, or review of license applications.

(j) Utilization or disposal of excess or surplus property.

(k) Procurement of materials, services, supplies, or equipment.

(l) Authorization or monitoring of grants to educational institutions or other non-Federal enterprises.

(m) Audit of financial transactions.

(n) Promulgation of safety standards, procedures and hazards evaluation systems.

(o) Nuclear materials management.

(p) Activities, other than those covered above, where the decision or action has an economic impact on the interests of any non-Federal enterprise.

Positions in the above-enumerated categories (1–7) may be excluded when it is determined by the Commission, the General Manager, the Director of Regulation or Field Office Manager, as appropriate, that: (a) The duties of a position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote; or (b) the duties of a position are at such a level of responsibility that the submission of a statement is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government.

ANNEX C—CRITERIA FOR DETERMINING POSITIONS OR CATEGORIES OF POSITIONS LISTED IN ANNEX B

Annex B shall be maintained and changes therein made by the Atomic Energy Commission in accordance with the following criteria:

1. Positions shall be included, the basic duties and responsibilities of which require the incumbent to make a Government decision or take a Government action in regard to:

a. Contracting or procurement;

b. Administering or monitoring grants or subsidies;

c. Regulating or auditing private or other non-Federal enterprise; or

d. Other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise.

Generally, such duties and responsibilities will have been spelled out in local statements of delegation of authority and responsibility and the degree of responsibility for decisions will be reflected in the Position Evaluation records under the factor "Decisions". Inclusion of positions classified below GS–13 which meet the criteria of this paragraph 1 or paragraph 3 below must be specifically justified by the AEC in writing to the Civil Service Commission as an exception that is essential to protect the integrity of the Government and avoid employee involvement in a possible conflict-of-interest situation.

2. Positions in 1., above, may be excluded when:

a. The duties of a position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote; and

b. The duties are at such a level of responsibility that the submission of a statement is not necessary because of the degree of supervision and review over the incumbent and the remote and inconsequential effect on the integrity of the Government.

3. In addition to 1., above, those positions classified GS–13 or above shall be included which are determined by the Atomic Energy Commission as requiring the incumbents to report employment and financial interests in order to avoid involvement in a possible conflict-of-interest situation and to carry out the purpose of law, Executive Order 11222, and Civil Service Commission and AEC regulations.

(E.O. 11222 of May 8, 1965, 30 F.R. 6469, 3 CFR, 1965 Supp.; 5 CFR 735.104)

Dated at Germantown, Md., this 25th day of September 1967.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary.

[F.R. Doc. 67–11458; Filed, Sept. 28, 1967; 8:47 a.m.]

Title 20—EMPLOYEES' BENEFITS

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

[Regs. 22]

PART 422—ORGANIZATION AND PROCEDURES

To comply with the provisions of section 552 of title 5, United States Code, as amended by Public Law 90–23, Part 422 of Chapter III of Title 20 of the Code of Federal Regulations, Statements of Procedure (Regulations No. 22 of the Social Security Administration) is amended to read as follows:

Subpart A—Organization and Functions of the Social Security Administration

Sec.

422.1 Organization and functions.
422.5 District offices and branch offices.

Subpart B—General Procedures

422.101 Material included in this subpart.
422.103 Social Security numbers for employees and self-employed persons.
422.105 Individual's request for change in records.
422.110 Employer identification numbers.
422.115 Earnings reported without a number.
422.120 Earnings reported under incorrect name or number.
422.125 Statements of earnings; resolving earnings discrepancies.
422.130 Claims procedure.
422.135 Reports by beneficiaries.
422.140 Reconsideration of initial determination.

Subpart C—Procedures of the Bureau of Hearings and Appeals

422.201 Material included in this subpart.
422.203 Hearing before hearing examiner.
422.205 Review by Appeals Council.
422.210 Court review.

Subpart D [Reserved]

Subpart E [Reserved]

Subpart F [Reserved]

AUTHORITY: The provisions of this Part 422 issued under secs. 205, 218, 221, 1102, 1869, and 1871, 53 Stat. 1368, as amended, 64 Stat. 514, as amended, 68 Stat. 1081, as amended, 49 Stat. 647, as amended, 79 Stat. 330, 331; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 405, 418, 421, 1302, 1395ff, and 1395hh.

Subpart A—Organization and Functions of the Social Security Administration

§ 422.1 Organization and functions.

(a) Pursuant to Public Law 90–23, the Public Information Act, there was published in the FEDERAL REGISTER of July 15, 1967 (32 F.R. 10458), a statement of the organization and functions of the Social Security Administration together with a description of the organization and functions of each of its bureaus and other components. Included in the statement is a listing of all district offices and branch offices within the organization of the Bureau of District Office Operations and a listing of field offices within the organization of the Bureau of Hearings and Appeals where the public may secure information, make submittals or requests, or obtain decisions. Such description is incorporated herein by reference.

(b) The description of the organization and functions of the Social Security Administration is also published in the Department Staff Manual on Organization, Department of Health, Education, and Welfare, Part 8, Chapter 8–000, a copy of which is maintained in each district office and branch office of the Social Security Administration.

§ 422.5 District offices and branch offices.

There are over 700 social security district offices and branch offices located in the principal cities and other urban areas or towns of the United States. In addition, there are over 3,300 contact stations, located in population and trading centers, which are visited on a regularly, recurring, preannounced basis. A schedule of these visits can be obtained from the nearest district office or branch office. The address of the nearest district office or branch office can be obtained from the local telephone directory or from the post office. Each district office and branch office has a list of all district offices and branch offices throughout the country and their addresses. The principal officer in each district office is the manager. The principal officer in each branch office is the officer-in-charge. Each district office and branch office also has a list of field offices of the Bureau of Hearings and Appeals and their addresses. The administrative hearing examiner is the principal officer in each field office. For procedures relating to claims see § 422.130, Subpart J of Part 404 of this chapter, and § 404.1520 of this chapter (the latter relating to disability determinations). For procedures on request for hearing by hearing examiner and review by the Appeals Council see Subpart C of this Part 422.

Subpart B—General Procedures

§ 422.101 Material included in this subpart.

This subpart describes the procedures relating to applications for and assignment of social security numbers, maintenance of earnings records of individuals by the Social Security Administration, requests for statements of earnings or for revision of earnings records, and general claims procedures, including filing of applications, submission of evidence, determinations, and reconsideration of initial determinations.

§ 422.103 Social Security numbers for employees and self-employed persons.

(a) *General.* The Social Security Administration maintains a record of the earnings reported for each individual. (When an individual obtains a social security card, a social security earnings record (or account) is set up for him.) The individual's name, together with the number on his card, identifies his account so that the wages or self-employment income reported for or by him can be properly posted to his record. Additional procedures concerning social security numbers may be found in 26 CFR 31.6011(b)–2.

(b) *Applying for numbers.* Any person who is required to have a social security number may apply for one by filing Treasury Department Form SS–5, "Application for Social Security Number," at any social security district office or branch office, or, if the individual is in the Philippines, at the Veterans' Administration Regional Office, Manila, Philippines. The Form SS–5 may be obtained at any social security district office or branch office, the Bureau of Data Processing and Accounts of the Social Security Administration, Baltimore, Md. 21235, offices of District Directors of Internal Revenue, post offices (except the main post office in cities having a social security district office or branch office), offices of the U.S. Employment Service in cities which do not have a social security district office or branch office, and the Veterans' Administration Regional Office, Manila, Philippines. Upon request, the social security district office or branch office will distribute a quantity of Forms SS–5 to labor unions, employers, or other representative organizations.

(c) *Assignment of number.* Upon receipt of a completed Form SS–5, the district office or branch office assigns a social security number to the applicant, and prepares and gives to him a Form OA–702, "Account Number Card." However, if it appears that a number may have been assigned to him previously, his application is forwarded to the Bureau of Data Processing and Accounts of the Social Security Administration in Baltimore, Md., for checking against the Administration's central files. In such case, if the applicant states that he needs a social security card immediately the district office or branch office, pending the check of the central files, prepares and gives to him a temporary unnumbered card (Form OAAN–5028), to be used as proof that he has applied for a number. If the investigation discloses a previously assigned number, the district office or branch office prepares and delivers to the applicant a Form OA–702.1, "Duplicate Account Number Card." If the investigation does not disclose a previously assigned number, a number is assigned to him. The social security card, whether it is an original or a duplicate shows the applicant's name and the number of his social security account. The applicant should keep the lower portion of the card (or "stub") in a safe place so that it will be available in case of loss of the card. If the application for a number is filed at the Veterans' Administration Regional Office, Manila, Philippines, that office forwards the Form SS–5 to the Bureau of Data Processing and Accounts of the Social Security Administration in Baltimore, Md., for assignment of the number, or for preparation of a duplicate card, whichever is appropriate.

(d) *Use of Form SS–5 and carbon copy of Form OA–702.* The Bureau of Data Processing and Accounts uses the Forms SS–5 and the carbon copies of the Form OA–702 to establish the necessary records for the maintenance of individual records of earnings. The Forms SS–5 are retained by the Bureau of Data Processing and Accounts for use in identifying the individuals to whom the numbers are assigned.

(e) *Where individual alleges loss of or damage to social security card.* When an individual loses his social security card, or his card becomes damaged, he may obtain at once a duplicate card (Form OA–702.1) bearing the same number from any social security district office or branch office, upon presentation of the lower portion of the social security card previously issued to him, or upon presentation of the damaged card, if it is still legible. If an individual does not have the lower portion of the social security card previously issued to him or the card itself in legible condition, he may request a duplicate social security card by submitting a properly completed Form SS–5, "Application for Social Security Number," to any social security district office or branch office. The Social Security Administration will attempt to locate his number on the basis of the identifying information he has furnished. If the number is located, the district office or branch office will issue a duplicate card to the individual. If the number cannot be located on the basis of the information furnished, the district office or branch office will question the individual in an attempt to ascertain and resolve any possible differences between the identifying information furnished on the current Form SS–5 and information he may have furnished on a previous application. If the Social Security Administration is still unable to locate a previously assigned number, or if it is found that the individual was mistaken in his belief that he had applied previously for a social security number, the district office or branch office will then assign a number to him. If an individual in the Philippines

requests a duplicate social security card through the Veterans' Administration Regional Office, Manila, Philippines, that office will forward the request to the Bureau of Data Processing and Accounts for appropriate processing.

§ 422.105 Individual's request for change in records.

Form OAAN–7003, "Request for Change in Social Security Records," should be completed by any person who wishes to change the name or other personal identifying information he submitted previously. This form may be obtained from any social security district office or branch office, from the Bureau of Data Processing and Accounts, Social Security Administration, Baltimore, Md. 21235, or from one of the sources noted in § 422.103(b). The completed request for change in records may be submitted to any office of the Social Security Administration, or, if the individual is in the Philippines, to the Veterans' Administration Regional Office, Manila, Philippines. If the request is for a change in name a new social security card will be issued to the person making the request bearing the same number previously assigned to him. After the requested change has been made in the Social Security Administration's records, the Form OAAN–7003 is retained in the Bureau of Data Processing and Accounts along with the Form SS–5.

§ 422.110 Employer identification numbers.

(a) *State and local governments.*

(1) In the case of a State which enters into an agreement with the Secretary of Health, Education, and Welfare under section 218 of the Social Security Act, the Bureau of Data Processing and Accounts, in conformance with § 404.1240 of this chapter, will assign an identification number to the State (if State employees are covered under the agreement) and to each political subdivision included in the agreement. Similarly, in the case of such an agreement with an instrumentality of two or more States (interstate instrumentality), the Bureau of Data Processing and Accounts will assign an identification number to such interstate instrumentality. The Bureau of Data Processing and Accounts sends to the appropriate official of the State or instrumentality a Form OAR–S14, "Notice of Identifying Number Assigned Under Agreement Made Pursuant to Section 218 of the Social Security Act," for each number assigned.

(2) If wages for covered transportation service (as determined under section 210(k) of the Social Security Act, as amended) are paid by a State or political subdivision of a State, which are subject to tax under the Federal Insurance Contributions Act, the Internal Revenue Service Center will assign an identification number to such State or political subdivision for the purpose of reporting such wages. In these cases the procedures for issuance of identification numbers by Internal Revenue Service Centers to State or political subdivisions are the same as the procedures for issuing identification numbers to employers other than State and local governments. See paragraph (b) of this section for the reference to such procedures.

(b) *Employers other than State and local governments.* In the case of all employers and other entities who are required to have an identification number, other than States, political subdivisions, or interstate instrumentalities, such numbers are issued by Internal Revenue Service Centers. The appropriate procedures for issuance of identification numbers may be found in 26 CFR 31.6011(b)–1.

§ 422.115 Earnings reported without a number.

If an employer reports an employee's wages without a social security number, the Bureau of Data Processing and Accounts writes to the employer regarding each of the incompletely reported wage items. The employer is asked to furnish the missing number or other identifying information. When an employer is unable to furnish the employee's number or satisfactory identifying information and does furnish an address for the employee, the Bureau of Data Processing and Accounts writes to the employee and requests him to furnish the necessary information so that the earnings reported may be properly posted to his account. If self-employment income is reported without a number, the Bureau of Data Processing and Accounts writes to the self-employed individual to obtain the missing number. In some cases, at the request of the Bureau of Data Processing and Accounts, the district office or branch office contacts the employer or self-employed person to obtain the account number or other identifying information and to inform him of the importance of using the number when reporting wages or self-employment income. Where wages are involved the district office or branch office may also need to contact the employee. Earnings items which are not identified are maintained in file and are available for crediting to the proper accounts upon receipt of correct identifying information.

§ 422.120 Earnings reported under incorrect name or number.

If an employer reports an employee's wages under a social security number or name different from that shown on the employee's social security card and the Bureau of Data Processing and Accounts is unable to identify the employee from its records, the Bureau of Data Processing and Accounts writes to the employer regarding such unidentified wage items. Where an employer is unable to furnish the correct information but does furnish an address for the employee, the Bureau of Data Processing and Accounts writes to the employee requesting him to furnish the necessary information so that the earnings reported may be properly posted to his account. Where a self-employed individual reports his self-employment income under an incorrect name or number and the Bureau of Data Processing and Accounts is unable to associate such report with an account in its records, the Bureau of Data Processing and Accounts writes to the self-employed individual to obtain the necessary identifying information. In some cases, at the request of the Bureau of Data Processing and Accounts, the district office or branch office contacts the employer or self-employed person to obtain the correct name or number and to inform him of the importance of using the correct name or number when reporting wages or self-employment income. Where wages are involved the district office or branch office may also need to contact the employee. Earnings items which are not identified are maintained in file and are available for crediting to the proper accounts upon receipt of correct identifying information.

§ 422.125 Statements of earnings; resolving earnings discrepancies.

(a) *Requesting a statement of earnings.* An individual may obtain a statement of earnings recorded in his social security account by mailing to the Social Security Administration, Post Office Box 57, Baltimore, Md. 21203, a completed Form OAR–7004, "Request for Statement of Earnings," or in lieu of a Form OAR–7004, a signed written request showing his social security number and date of birth.

(b) *Statement of earnings, Form OAR–7014.* Upon receipt of such request or Form OAR–7004, the Administration will forward to the individual, without charge, a Form OAR–7014, "Statement of Earnings Recorded in Your Old-Age and Survivors Insurance Account," containing the requested information. The Form OAR–7014 will show the total of earnings credited to date, the total for each of the last 3 complete calendar years, the total credited since the last complete year, and the total credited for each of the periods of 1937 through 1950, and 1951 through the year preceding the first year for which an annual total is shown. See paragraph (e) of this section for information regarding a more detailed earnings statement.

(c) *Insured Status Reply, Form OAR–7014a.* Where the individual asks for a statement as to his insured status, the Administration will forward a Form OAR–7014a, "Insured Status Reply." The Form OAR–7014a shows the same earnings information as the Form OAR–7014 and, in addition, contains a statement as to the insured status of the individual based on the earnings information recorded in his account. Where the individual is not fully insured for retirement benefits, according to such information, the Form OAR–7014a shows the number of quarters of coverage he requires and the number of quarters of coverage he has acquired.

(d) *Earnings information for recent periods.* Because of the time it takes to receive and record reports, and because earnings are reported quarterly, semiannually, or annually, pursuant to the reporting procedures governing the particular reporting entities, the total earnings credited to an individual's account

may not include all he has earned in recent months or, in some cases, in the current and preceding calendar years.

(e) *Detailed earnings statements.* (1) A more detailed statement of earnings will be furnished upon request, without charge, where it is required for a purpose related to title II of the Social Security Act.

(2) If the more detailed statement of earnings is requested for a purpose not related to title II of the Social Security Act, there will be a charge according to the following schedule of fees:

Type I—Earnings, period of employment or self-employment, and the names and addresses of reporting employers:	
First calendar year or any part thereof requested	$3.25
Each additional calendar year or any part thereof requested	2.25
Type II—Yearly totals only:	
First calendar year requested	2.50
Each additional year requested	.25
Type III—Calendar quarter of first employment with a specified employer	3.25

If the individual requests that the information be certified by the custodian of the records there will be an additional charge of $5.

(f) *Request for revision of earnings records.* If an individual disagrees with a statement of earnings credited to his social security account, he may request a revision by writing to the Bureau of Data Processing and Accounts, Social Security Administration, Baltimore, Md. 21235, or by calling at or writing to any social security district office or branch office or, if the individual is in the Philippines, by calling at or writing to the Veterans' Administration Regional Office, Manila, Philippines. Upon receipt of a request for revision, the Social Security Administration will initiate an investigation of the individual's record of earnings. Form OAR–7008, "Statement of Employment for Wages and Self-Employment," is used by the Social Security Administration for obtaining information from the individual requesting a revision to aid the Administration in the investigation. These forms are available at any of the sources listed in this paragraph. If an individual receives a form OAR–7008 from the Bureau of Data Processing and Accounts, the completed form should be returned to that office. In the course of the investigation the district office or branch office, where appropriate, contacts the employer and the employee or the self-employed individual, whichever is applicable, for the purpose of obtaining the information and evidence necessary to reconcile any discrepancy between the allegations of the individual and the records of the Administration. See Subpart I of Part 404 of this chapter for requirements for filing requests for revision, and for limitation on the revision of records of earnings.

(g) *Notice to individual of determination.* After the investigation has been completed and a determination affecting the individual's earnings record has been made, the Social Security Administration will notify the individual in writing of the status of his earnings record and inform him at the same time of the determination made in his case and of his right to a reconsideration if he is dissatisfied with such determination (see § 422.140).

(h) *Notice to individual of adverse adjustment of his account.* Written notice is given to an individual or his survivor in any case where the Social Security Administration adversely adjusts the individual's self-employment income. Where, subsequent to the issuance of a statement of earnings to an individual, an adverse adjustment is made of an amount of wages included in the statement, written notice of the adverse adjustment is given to the individual or his survivor. Written notice of the adverse adjustment is also given to the survivor if the statement of earnings had been given to such survivor. The individual or his survivor is requested to notify the Social Security Administration promptly if he disagrees, and he is informed that the adjustment will become final unless he notifies the Administration of his disagreement (if any) within 6 months from the date of the letter, or within 3 years, 3 months, and 15 days after the year to which the adjustment relates, whichever is later.

§ 422.130 Claim procedure.

(a) *General.* The Social Security Administration provides facilities for the public to file claims and to obtain assistance in completing them. An appropriate application form and related forms for use in filing a claim for monthly benefits, the establishment of a period of disability, a lump-sum death payment, or entitlement to hospital insurance benefits or supplementary medical insurance benefits can be obtained from any district office, branch office, contact station, or resident station of the Social Security Administration, from the Division of Foreign Claims, Post Office Box 1756, Baltimore, Md. 21203, or from the Veteran's Administration Regional Office, Manila, Philippines. See § 404.608 of this chapter for offices at which applications may be filed. See § 405.102 of this chapter for conditions for entitlement to hospital insurance benefits and §405.202 et seq. of this chapter for information relating to enrollment under the supplementary medical insurance benefits program.

(b) *Submission of evidence.* An individual who files an application for monthly benefits, the establishment of a period of disability, a lump-sum death payment, or entitlement to hospital insurance benefits or supplementary medical insurance benefits, either on his own behalf or on behalf of another, must establish by satisfactory evidence the material allegations in his application, except as to earnings shown in the Social Security Administration's records (see Subpart H of Part 404 of this chapter for evidence requirements in nondisability cases and Subpart P of Part 404 of this chapter for evidence requirements in disability cases). Instructions, report forms, and forms for the various proofs necessary are available to the public in district offices, branch offices, contact stations, and resident stations of the Social Security Administration, and the Veteran's Administration Regional Office, Manila, Philippines. These offices assist individuals in preparing their applications and in obtaining the proofs required in support of their applications.

(c) *Determinations and notice to individuals.* In the case of an application for benefits, the establishment of a period of disability, a lump-sum death payment, a recomputation of a primary insurance amount, or entitlement to hospital insurance benefits or supplementary medical insurance benefits, the Social Security Administration, after obtaining the necessary evidence, will make a determination as to the entitlement of the individual claiming or for whom is claimed such benefits, and will notify the applicant of the determination and of his right to a reconsideration if he is dissatisfied with the determination (see § 422.140). Also see § 404.1520 of this chapter for a discussion of the respective roles of State agencies and the Administration in the making of disability determinations and § 404.1521 of this chapter for information regarding initial determinations as to entitlement or termination of entitlement in disability cases. See section 1869(a) of the Social Security Act for determinations under the health insurance for the aged program and sections 1816 and 1842 of the Act for the role of intermediaries, carriers, and State agencies in performing certain functions under such program, e.g., payment of claims pursuant to an agreement with the Social Security Administration.

§ 422.135 Reports by beneficiaries.

(a) A recipient of monthly benefits and a person for whom a period of disability has been established are obligated to report to the Social Security Administration the occurrence of certain events which may suspend or terminate benefits or which may cause a cessation of a period of disability. (See §§ 404.419 et seq. and 404.1531 of this chapter.)

(b) A person who files an application for benefits receives oral and written instructions about events which may cause a suspension or termination, and also appropriate forms and instruction cards for reporting such events. Pursuant to section 203(h)(1)(A) of the Act, under certain conditions a beneficiary must, within 3 months and 15 days after the close of a taxable year, submit to the Social Security Administration an annual report of his earnings and of any substantial services in self-employment performed during such taxable year. The purpose of the annual report is to furnish the Social Security Administration with information for making final adjustments in the payment of benefits for that year. An individual may also be requested to submit other reports to the Social Security Administration from time to time.

§ 422.140 Reconsideration of initial determination.

Any party who is dissatisfied with an initial determination with respect to entitlement to monthly benefits, a lump-sum death payment, a period of disability, a revision of an earnings record, with respect to any other right under title II

of the Social Security Act, or with respect to entitlement to hospital insurance benefits or supplementary medical insurance benefits, or the amount of hospital insurance benefits, may request that the Social Security Administration reconsider such determination. The information in § 404.1520 of this chapter as to the respective roles of State agencies and the Social Security Administration in the making of disability determinations is also applicable to the reconsideration of initial determinations involving disability. After such initial determination has been reconsidered, the Social Security Administration will mail to each of the parties written notice of the reconsidered determination and inform him of his right to a hearing (see § 422.201). Regulations relating to the details of reconsideration of initial determinations with respect to rights under title II of the Act or with respect to entitlement to hospital insurance benefits or supplementary medical insurance benefits may be found in §§ 404.909–404.916 of this chapter.

Subpart C—Procedures of the Bureau of Hearings and Appeals

§ 422.201 Material included in this subpart.

This subpart describes in general the procedures relating to hearings before a hearing examiner, review by the Appeals Council of hearing examiner's decision or dismissal, and court review. It also describes the procedures for requesting such hearing or Appeals Council review, and for instituting a civil action for court review.

§ 422.203 Hearing before hearing examiner.

After (a) a reconsidered or a revised determination of a claim for benefits or any other right under title II or title XVIII of the Social Security Act (for there to be a right to a hearing as to the amount of benefits for hospital, extended care, or home health services, or outpatient hospital diagnostic services under Part A of title XVIII the matter in controversy must be $100 or more), or (b) a reconsidered or revised determination on an application for certification as a provider of services, or (c) a determination terminating certification as a provider of services, or (d) a reconsidered or revised determination that an independent laboratory does not meet the conditions for coverage of its services or a determination that an independent laboratory no longer meets such conditions has been made, any party to one of such determinations may, pursuant to section 205, 221, or 1869 of the Act, as applicable, file a written request for a hearing on the subject claim. (For proper parties to a hearing see §§ 404.919 and 404.920 of this chapter.) A request for a hearing under title II or section 1869 of title XVIII of the Act may be made on Form HA–501, "Request for Hearing," or by any other writing requesting a hearing. The request shall be filed at an office of the Social Security Administration, usually a district office or a branch office, or at the Veterans' Administration Regional Office in the Philippines, or with a hearing examiner or the Appeals Council. Form HA–501 may be obtained from any social security district office or branch office, from the Bureau of Hearings and Appeals, SSA, Washington, D.C. 20203, or from any other office where a request for a hearing may be filed. (See § 404.918 of this chapter.) The hearing examiner will either decide the case after hearing (unless hearing is waived) or, if appropriate, dismiss the request for hearing. (See §§ 404.921–404.938 of this chapter.) Hearing examiner decisions must be based on the evidence of record, under applicable provisions of the law and regulations and appropriate precedents. (For detailed information about the right to a hearing, the time and place for filing a request for a hearing, and the rights of parties to a hearing, see §§ 404.917–404.940 of this chapter.)

§ 422.205 Review by Appeals Council.

Any party to a hearing examiner's decision or dismissal may request a review of such action by the Appeals Council. This request may be made on Form HA–520, "Request for Review of Hearing Examiner's Action," or by any other writing specifically requesting review. Form HA–520 may be obtained from any social security district office or branch office, from the Bureau of Hearings and Appeals, SSA, Washington, D.C. 20203, or at any other office where a request for a hearing may be filed.

(a) Whenever the Appeals Council reviews a hearing examiner's decision in accordance with § 404.947 of this chapter and the claimant does not appear personally or through representation before the Council in Washington, D.C., such review will be conducted by a panel of not less than two members of the Council designated in the manner prescribed by the Chairman or Deputy Chairman of the Council. In the event of disagreement between a panel composed of only two members, the Chairman or Deputy Chairman, or his delegate, who must be a member of the Council, shall participate as a third member of the panel. When the claimant appears in person or through representation before the Council in Washington, D.C., the review will be conducted by a panel of not less than three members of the Council designated in the manner prescribed by the Chairman or Deputy Chairman. Concurrence of a majority of a panel shall constitute the decision of the Appeals Council unless the case is considered as provided under paragraph (d) of this section.

(b) The denial or dismissal of a request for review or the refusal of a request to reopen a hearing examiner's or Appeals Council's decision concerning individual entitlement to benefits as provided by §§ 404.947 and 404.952 of this chapter shall be by such member or members of the Appeals Council as may be designated in the manner prescribed by the Chairman or Deputy Chairman.

(c) A review or a denial of review of a hearing examiner's decision or a dismissal of a request for review with respect to (1) denial of certification or termination of an agreement of a provider of services, or (2) whether an independent laboratory does not meet or no longer meets the conditions for coverage of its services under Title XVIII will be conducted by a panel of at least two members of the Appeals Council designated by the Chairman or Deputy Chairman and one person from the U.S. Public Health Service designated by the Surgeon General, Public Health Service, Department of Health, Education, and Welfare, or his delegate. Concurrence of a majority of the panel shall constitute the decision of the Appeals Council unless the case is considered as provided under paragraph (d) of this section.

(d) On call of the Chairman, or upon request of any of its members approved by the Chairman or Deputy Chairman, the Council may consider any case arising under paragraph (a), (b), or (c) of this section en banc. A majority vote of the Appeals Council members present and voting is required for disposition of any case considered by the entire Council.

(e) For detailed information about the time and place for filing a request for review, the functions of the Appeals Council and the rights of parties to the review, see §§ 404.938, 404.941–404.952, 404.954, and 404.955 of this chapter.

§ 422.210 Court review.

A claimant may obtain a court review of a decision by a hearing examiner if the Appeals Council has denied the claimant's request for review, or of a decision by the Appeals Council when that is the final decision of the Secretary. (For court review as to the amount of benefits for hospital, extended care, or home health services, or outpatient hospital diagnostic services under Part A of title XVIII of the Social Security Act the amount in controversy must be $1,000 or more, as provided under section 1869(b) of the Act.) An institution or agency may obtain a court review of a decision by the Appeals Council that it is not a provider of services or with a decision by the Appeals Council terminating an agreement entered into by the institution or agency with the Secretary (see § 1866(b)(2) of the Act). (The Social Security Act does not provide for a right to court review of a final decision of the Secretary regarding the status of an independent laboratory.) The civil action must be instituted in the district court of the United States for the judicial district in which the claimant resides or where such individual or institution or agency has his principal place of business, or if he does not reside, or if such individual or institution or agency does not have his principal place of business within any such judicial district, in the District Court of the United States for the District of Columbia. Such action must be filed within 60 days after the mailing of the Appeals Council's notice of denial of request for review of the hearing examiner's decision or notice of the decision by the Appeals Council, except that this time may be extended by the Appeals Council upon a showing of good cause. Where such civil action is instituted, the person holding the office of

Secretary of Health, Education, and Welfare shall, in his official capacity, be the proper defendant. Any such civil action properly instituted shall survive notwithstanding any change of the person holding the office of Secretary or any vacancy in such office. If the complaint is erroneously filed against the United States or any agency, officer, or employee of the United States, instead of against the Secretary, the plaintiff will be notified that he has named an incorrect defendant and will be granted 60 days from the date of mailing of such notice to commence the action against the correct defendant, the Secretary. (See sections 205(g) and 1869 (b) and (c) of the Act and §§ 404.931, 404.940, 404.951, and 404.954 of this chapter.)

Effective date. The foregoing regulations shall become effective upon publication in the FEDERAL REGISTER.

Dated: August 31, 1967.

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

Approved: September 23, 1967.

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

[F.R. Doc. 67-11463; Filed, Sept. 28, 1967; 8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER B—CLAIMS AND ACCOUNTS

PART 536—CLAIMS AGAINST THE UNITED STATES

Claims Incident to Use of Government Vehicles and Other Property of the United States Not Cognizable Under Other Law

Sections 536.161, 536.162, 536.163, 536.164, 536.167, and 536.169 are revised, § 536.170 is redesignated as 536.171, and a new § 536.170 is added, as follows:

§ 536.161 Statutory authority.

The statutory authority for §§ 536.161–536.171 is contained in the act of October 9, 1962 (76 Stat. 767, 10 U.S.C. 2737), commonly known as the "Non-Scope of Employment Claims Act."

§ 536.162 Definitions.

The definitions of terms set forth in § 536.3 of this part are applicable to §§ 536.161–536.171 unless otherwise defined herein:

(a) *Government installation.* A U.S. Government facility having fixed boundaries owned or controlled by the Government.

(b) *Vehicle.* Includes every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation on land (1 U.S.C. 4).

§ 536.163 Scope.

Sections 536.161–536.171 have been approved by the Secretary of Defense pursuant to title 10, United States Code, section 2737(h), and prescribes the substantive bases and special procedural requirements for the administrative settlement and payment, in an amount not more than $1,000, of any claim against the United States not cognizable under any other provision of law for damage to, or loss of, property, or for personal injury or death, caused by a member of the Army or a civilian official or employee of the Department of the Army, or of the Army, incident to the use of a vehicle of the United States at any place or incident to the use of other property of the United States on a Government installation.

§ 536.164 Claims payable.

(a) *General.* A claim for personal injury, death, or damage to or loss of property, real or personal, is payabye under §§ 536.161–536.171 when—

(1) Caused by the act or omission, negligent, wrongful, or otherwise involving fault, of a member of the Army, or the Army National Guard, or a civilian employee of the Department of the Army, the Army, or the Army National Guard—

(i) Incident to the use of a vehicle of the United States at any place.

(ii) Incident to the use of any other property of the United States on a Government installation.

(2) The claim may not be approved under any other claims statute and claims regulation available to the Department of the Army for the administrative settlement of claims.

(3) The claim has been determined to be meritorious, and the approving or settlement authority has obtained a settlement agreement in an amount not in excess of $1,000 in full satisfiaction of the claim prior to approval of the claim for payment.

(b) *Personal injury or death.* A claim for personal injury or death is allowable only for the cost of reasonable medical, hospital, and burial expenses actually incurred and not otherwise furnished or paid by the United States.

§ 536.167 Procedures.

So far as not inconsistent with this regulation the procedures for the investigation and processing of claims contained in AR 27-20 will be followed.

§ 536.169 Delegation of authority.

(a) *Settlement authority.* (1) Subject to such limitations as may be imposed by the Judge Advocate General, the Chief, U.S. Army Claims Service, and all officers of the Judge Advocate General's Corps assigned to the U.S. Army Claims Service, subject to such limitations as may be imposed by the Chief of that Service, are delegated authority under §§ 536.161–536.171 to pay up to $1,000 in settlement of claims, and to disapprove claims regardless of the amount claimed.

(2) Subject to such limitations as may be imposed by the Judge Advocate General, the commander, or the staff judge advocate, of each of the following commands is delegated authority to:

(i) Approve and pay in full or in part, or disapprove, claims presented for $1,000 or less, and

(ii) Pay claims regardless of the amount claimed provided an award of $1,000 or less is accepted by claimant in full satisfaction and final settlement of the claim:

(*a*) Each of the numbered Armies within the continental United States.

(*b*) Military District of Washington, U.S. Army.

(*c*) U.S. Army Forces, Southern Command.

(*d*) U.S. Army, Alaska.

(*e*) U.S. Army, Pacific.

(*f*) U.S. Army, Europe.

(3) *Delegation of authority.* The Judge Advocate General may delegate claims approving or settlement authority to other commands where the need for such authority can be demonstrated. Requests for delegation of authority will be forwarded to the Judge Advocate General, Attention: Chief, U.S. Army Claims Service, Fort Holabird, Md. 21219, through command channels, with justification and recommendations.

(b) *Approving authority.* (1) Each of the following is delegated authority to:

(i) Approve and pay in full claims presented for $1,000 or less.

(ii) Pay claims regardless of the amount claimed provided an award of $1,000, or less, is accepted by claimant in full satisfaction and final settlement of the claim.

(*a*) The commander, or the staff judge advocate, of any command authorized to exercise general courts-martial jurisdiction.

(*b*) An officer of the Judge Advocate General's Corps assigned to a maneuver claims service or a disaster claims office when designated by the commander of a command listed in § 536.4a of this part, and subject to such limitation as the designating commander may prescribe.

(*c*) Officers of the Judge Advocate General's Corps assigned to the U.S. Claims Office, France, subject to such limitations as the Commanding Officer, U.S. Claims Office, France may prescribe.

(*d*) Officers of the Judge Advocate General's Corps assigned to the U.S. Army Claims Office, Germany, subject to such limitations as the Commanding Officer, U.S. Army Claims Office, Germany, may prescribe.

(*e*) Officers of the Judge Advocate General's Corps assigned to the U.S. Armed Forces Claims Service, Korea, subject to such limitations as the Chief, U.S. Armed Forces Claims Service, Korea, may prescribe.

(*f*) The chief of a command claims service established pursuant to § 536.4b of this part.

(*g*) A district or division engineer, Corps of Engineers, or the Chief of Engineers.

(2) The commanding officer of a command not authorized to exercise general courts-martial jurisdiction, but having a judge advocate assigned to his staff, or his judge advocate, is delegated authority to: