the code letter "A," "B," "C," or "M" following the Export Control Commodity Number on the Commodity Control List (§ 399.1 of this subchapter), included on the U.S. Munitions List (see Supplement No. 2 to Part 370 of this subchapter), or subject to the Atomic Energy Act (§ 370.10(e) of this subchapter) are carried on board the vessel or aircraft and destined directly or indirectly to any point under the control of North Vietnam or North Korea. If the answer is in the affirmative, indicate where such commodities will be discharged.

* * * * *

[FR Doc.71-6805 Filed 5-14-71;8:48 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Releases Nos. 33-5147, 34-9164, 35-17121, 39-293, IC-6512, IAA-285]

PART 201—RULES OF PRACTICE

Suspension or Disbarment From Appearance or Practice Before the Commission

The Securities and Exchange Commission has amended Rule 2(e) of the Commission's rules of practice, 17 CFR 201.2 (e), to provide for the suspension from appearing or practicing before it of any attorney, accountant, engineer, or other professional or expert who by name (1) has been permanently enjoined by any court of competent jurisdiction by reason of his misconduct in an action brought by the Commission from violating or aiding and abetting the violation of any provision of the federal securities laws (15 U.S.C. secs. 77a to 80b-20) or the rules and regulations adopted by the Commission thereunder, or (2) has been found by any court of competent jurisdiction in an action brought by the Commission to which he is a party, or by this Commission in any administrative proceeding to which such person is a party, to have violated or to have aided and abetted the violation of any such provision, rule or regulation, unless the violation was expressly found not to have been willful. Under the amendment, a temporary suspension effected by order of the Commission will become permanent after 30 days unless a petition to lift the suspension is filed within that time; when a petition is filed, the Commission may lift the suspension or, after prompt opportunity for hearing, may censure the petitioner or may temporarily or permanently suspend him from appearing or practicing before the Commission. In any hearing that may be conducted, after the Commission's staff has demonstrated that an injunction has been entered or findings have been made, which make the amendment applicable, the burden will be upon the petitioner to show cause why he should not be censured or temporarily or permanently disqualified, and he will not be permitted to litigate factual questions that he litigated or, but for his consent, might have litigated in the earlier judicial or administrative proceeding. Moreover, a person will be presumed to have been enjoined by reason of misconduct alleged in the complaint where he has consented to entry of an injunction without making any admission.

In Securities Act Release No. 5088[1] the Commission gave notice that it had under consideration a proposal to amend Rule 2(e) to restrict practice before the Commission by persons found to have violated or to have participated in violations of the securities laws and by persons who have been permanently enjoined from violating the securities laws, whether or not a finding of past violation has been made; public coment on the proposal was invited.[2] After review of the comments received and after reconsideration of the question when and how suspension of professionals and experts should be effected, the Commission has decided to adopt the amendment in a form somewhat different from that originally proposed.

As noted above, under the amendment adopted today a permanent injunction against securities-laws violations or a finding of securities-laws violations will provide a basis upon which the Commission may initiate proceedings to censure or temporarily or permanently disqualify an attorney, accountant, engineer, or other professional or expert from appearing and practicing before the Commission. For this purpose no distinction will be made between injunctions and findings which have been contested and those which have been entered upon consent. Consequently, it will be incumbent upon any person who may be affected by the amended Rule who does not wish to waive a hearing on the question of misconduct to avail himself of the opportunity for hearing provided in the action or proceeding in which a securities-laws injunction has been sought or in which securities-laws violations have for other purposes been alleged; the Commission will afford a hearing only to consider mitigating or other factors why neither censure nor temporary or permanent disqualification should be imposed.

The rule applies only to attorneys, accountants, engineers, and other professionals or experts who are "by name" enjoined or the subject of a finding and not to partnerships (or corporations) of which they might be members, although a firm may itself be enjoined "by name" and thus come within the terms of the rule. Partners of a disqualified individual may not permit such person to participate to any extent in matters coming before the Commission, to participate in profits from their Commission business or to hold himself out as entitled to practice before the Commission. Partners and associates of a disqualified firm, of course, may not practice before the Commission so long as they remain members of or associated with the firm.

The amendment also adds a new subparagraph (4) to Rule 2(e), relating to applications for reinstatement. The provisions formerly contained in subparagraph (2)(ii), which afford a hearing to persons suspended by operation of what is now subparagraph (2) (formerly subparagraph (2)(i)), have in a slightly modified form, been joined with a new provision relating to applications with respect to suspensions under subparagraph (1) and new subparagraph (3), which permits a hearing before the Commission on the question of reinstatement only in the Commission's discretion.

The overall purpose of the new amendment is to prevent situations in which the investing public places its trust in, or reliance upon, attorneys, accountants, engineers, and other professionals or experts who have demonstrated an unwillingness or inability to comply with the requirements of the Federal securities laws, while assuring that such professionals and experts will have a fair opportunity to show why the interests of the investing public will not materially be jeopardized if they are permitted to continue to appear and practice before the Commission.

The new amendments are contained in subparagraphs designated (3), (4), and (7) of Rule 2(e); the subparagraphs of the Rule that were previously designated as subparagraphs (3) and (4) have been renumbered as subparagraphs (5) and (6).

Commission action. Pursuant to authority contained in section 19(a) of the Securities Act of 1933, section 23(a) of the Securities Exchange Act of 1934, section 20 of the Public Utility Holding Company Act of 1935, section 319 of the Trust Indenture Act of 1939, section 38 of the Investment Company Act of 1940 and section 211 of the Investment Advisers Act of 1940, the Securities and Exchange Commission hereby amends paragraph (e) of § 201.2 of Chapter II of Title 17 of the Code of Federal Regulations as set forth below:

§ 201.2 Appearance and practice before the Commission.

* * * * *

(e) *Suspension and disbarment.* (1) The Commission may deny, temporarily

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[1] Issued also as Securities Exchange Act Release No. 8983, Public Utility Holding Company Act Release No. 16836, Trust Indenture Act Release No. 280, Investment Company Act Release No. 6192, and Investment Advisers Act Release No. 273 (35 F.R. 15440, Oct. 3, 1970).

[2] In addition to giving notice of these further amendments, in Securities Act Release No. 5088 the Commission also amended Rule 2(e) to provide for the automatic suspension from appearance or practice before the Commission of any person who (1) has had his license to practice suspended or revoked by any State, Territory, District, Commonwealth, or Possession or (2) has been convicted of any felony, or misdemeanor involving moral turpitude, or (3) has been suspended or disbarred by a court of the United States or in any State, Territory, District, Commonwealth, or Possession.

or permanently, the privilege of appearing or practicing before it in any way to any person who is found by the Commission after notice of and opportunity for hearing in the matter (i) not to possess the requisite qualifications to represent others, or (ii) to be lacking in character or integrity or to have engaged in unethical or improper professional conduct, or (iii) to have willfully violated, or willfully aided and abetted the violation of any provision of the Federal securities laws (15 U.S.C. secs. 77a to 80b–20), or the rules and regulations thereunder.

(2) Any attorney who has been suspended or disbarred by a Court of the United States or in any State, Territory, District, Commonwealth, or Possession, or any person whose license to practice as an accountant, engineer or other expert has been revoked or suspended in any State, Territory, District, Commonwealth, or Possession, or any person who has been convicted of a felony, or of a misdemeanor involving moral turpitude, shall be forthwith suspended from appearing or practicing before the Commission. A disbarment, suspension, revocation or conviction within the meaning of this subparagraph (2) shall be deemed to have occurred when the disbarring, suspending, revoking or convicting agency or tribunal enters its judgment or order, regardless of whether appeal is pending or could be taken, and includes a judgment or order on a plea of nolo contendere.

(3) (i) The Commission, with due regard to the public interest and without preliminary hearing, may by order temporarily suspend from appearing or practicing before it any attorney, accountant, engineer, or other professional or expert who, on or after July 1, 1971, has been by name:

(*a*) Permanently enjoined by any court of competent jurisdiction by reason of his misconduct in an action brought by the Commission from violation or aiding and abetting the violation of any provision of the Federal securities laws (15 U.S.C. secs. 77a to 80b–20) or of the rules and regulations thereunder; or

(*b*) Found by any court of competent jurisdiction in an action brought by the Commission to which he is a party or found by this Commission in any administrative proceeding to which he is a party to have violated or aided and abetted the violation of any provision of the Federal securities laws (15 U.S.C. secs. 77a to 80b–20) or of the rules and regulations thereunder (unless the violation was found not to have been willful).

An order of temporary suspension shall become effective when served by certified or registered mail directed to the last known business or residence address of the person involved. No order of temporary suspension shall be entered by the Commission pursuant to this subdivision (i) more than three months after the final judgment or order entered in a judicial or administrative proceeding described in (*a*) or (*b*) of this subdivision (i) has become effective upon completion of review or appeal procedures or because further review or appeal procedures are no longer available.

(ii) Any person temporarily suspended from appearing and practicing before the Commission in accordance with subdivision (i) of this subparagraph (3) may, within thirty days after service upon him of the order of temporary suspension, petition the Commission to lift the temporary suspension. If no petition has been received by the Commission within 30 days after service of the order by mail the suspension shall become permanent.

(iii) Within 30 days after the filing of a petition in accordance with subdivision (ii) of this subparagraph (3), the Commission shall either lift the temporary suspension or set the matter down for hearing at a time and place to be designated by the Commission or both, and after opportunity for hearing, may censure the petitioner or may disqualify the petitioner from appearing or practicing before the Commission for a period of time or permanently. In every case in which the temporary suspension has not been lifted, every hearing held and other action taken pursuant to this subparagraph (3) shall be expedited in every way consistent with the Commission's other responsibilities.

(iv) In any hearing held on a petition filed in accordance with subdivision (ii) of this subparagraph (3), the staff of the Commission shall show either that the petitioner has been enjoined as described in subdivision (i) (*a*) of this subparagraph or that the petitioner has been found to have committed or aided and abetted violations as described in subdivision (i) (*b*) of this subparagraph and that showing, without more, may be the basis for censure or disqualification; that showing having been made, the burden shall be upon the petitioner to show cause why he should not be censured or temporarily or permanently disqualified from appearing and practicing before the Commission. In any such hearing the petitioner shall not be heard to contest any findings made against him or facts admitted by him in the judicial or administrative proceeding upon which the proceeding under this subparagraph (3) is predicated, as provided in subdivision (i) of this subparagraph. A person who has consented to the entry of a permanent injunction as described in subdivision (i) (*a*) of this subparagraph (3) without admitting the facts set forth in the complaint shall be presumed for all purposes under this subparagraph (3) to have been enjoined by reason of the misconduct alleged in the complaint.

(4) (i) An application for reinstatement of a person permanently suspended or disqualified under subparagraph (1) or (3) of this paragraph (e) may be made at any time, and the applicant may, in the Commission's discretion, be afforded a hearing; however, the suspension or disqualification shall continue unless and until the applicant has been reinstated by the Commission for good cause shown.

(ii) Any person suspended under subparagraph (2) of this paragraph (e) shall be reinstated by the Commission, upon appropriate application, if all the grounds for application of the provisions of that subparagraph are subsequently removed by a reversal of the conviction or termination of the suspension, disbarment or revocation. An application for reinstatement on any other grounds by any person suspended under subparagraph (2) of this paragraph (e) may be filed at any time and the applicant shall be accorded an opportunity for a hearing in the matter; however, such suspension shall continue unless and until the applicant has been reinstated by order of the Commission for good cause shown.

(5) Any person appearing or practicing before the Commission who has been the subject of an order, judgment, decree, or finding as set forth above shall promptly file with the Secretary of the Commission a copy thereof (together with any related opinion or statement of the agency or tribunal involved). Failure to file any such paper shall not impair the operation of any other provision of this paragraph (e).

(6) Any proceeding brought under any of the above subparagraphs shall not preclude a proceeding under any other subparagraph.

(7) All hearings held under this paragraph (e) shall be nonpublic unless the Commission on its own motion or the request of a party otherwise directs.

* * * * *

The foregoing revision of Rule 2(e) of the Commission's rules of practice is adopted pursuant to section 23(a) of the Securities Exchange Act of 1934, 15 U.S.C. section 78w(a), which provides in pertinent part that the Commission shall have "power to make such rules and regulations as may be necessary for the execution of the functions invested in [it] * * * by this title." Similar power to make and amend rules and regulations is contained in the other statutes administered by the Commission. See, section 19(a) of the Securities Act of 1933, 15 U.S.C. section 77s(a), section 38(a) of the Investment Company Act of 1940, 15 U.S.C. section 80a–37(a). The foregoing action shall be effective on July 1, 1971.

(Sec. 19(a), 48 Stat. 85, sec. 209, 48 Stat. 908, 15 U.S.C. 77s; sec. 23(a), 48 Stat. 901, sec. 8, 49 Stat. 1379, 15 U.S.C. 78w; sec. 20, 49 Stat. 833, 15 U.S.C. 79t; sec. 319, 53 Stat. 1173, 15 U.S.C. 77sss; sec. 38, 54 Stat. 841, 15 U.S.C. 80a–37; sec. 211, 54 Stat. 855, sec. 14, 74 Stat. 888, 15 U.S.C. 80b–11)

By the Commission, May 10, 1971.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71–6815 Filed 5–14–71;8:49 am]

[Releases Nos. 33-5145, 34-9151]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Size of Type Used in Prospectuses and Other Documents

The Securities and Exchange Commission has adopted certain amendments to its rules under the Securities Act of 1933 and the Securities Exchange Act of 1934. Notice of the proposed amendments was published November 23, 1970, in Securities Act Release No. 5112 (35 F.R. 18679) together with a statement of the reasons for the proposed action.

The amendments provide that notes to financial statements and other tabular data shall be set forth in 10-point type, which is the size of type prescribed for the body of prospectuses, proxy statements and other documents filed with the Commission or sent to security holders. The amendments leave unchanged the provision that financial statements and other tabular data, including tabular data in notes, may be set forth in 8-point type.

It should be noted that the amended rules require that printed material filed with the Commission or sent to security holders pursuant to the Commission's rules must be in type at least as large and as legible as roman (not italic), modern type of the size specified. Thus the rules do not specify a particular type face so long as the one used meets the standards set forth in the rules. This enables issuers to choose from a variety of type faces in deciding which one to use for a particular type of document.

The following rules are the ones affected by the amendments:

Rule 256(d) of Regulation A (17 CFR 230.256(d)) under the Securities Act of 1933 establishes requirements for the size of type to be used in printed offering circulars filed with the Commission pursuant to the provisions of that regulation.

Rule 420 (17 CFR 230.420) under the Securities Act of 1933 specifies the size of type to be used in printed prospectuses relating to securities registered under that Act.

Rule 12b-12(c) of Regulation 12B (17 CFR 240.12b-12(c)) under the Securities Exchange Act of 1934 specifies the size of type to be used in printed registration statements and reports filed pursuant to section 12, 13, or 15(d) of that Act.

Rule 14a-3(b) of Regulation 14A (17 CFR 240.14a-3(b)) under the Securities Exchange Act of 1934 specifies the requirements for financial statements included in the annual reports required to be sent to security holders pursuant to that rule.

Rule 14a-5(d) of Regulation 14A (17 CFR 240.14a-5(d)) and Rule 14c-4(c) of Regulation 14C (17 CFR 240.14c-14(c)) specify the size of the type to be used in proxy and information statements filed pursuant to those regulations.

Commission action. Parts 230 and 240 of Chapter II of Title 17 of the Code of Federal Regulations have been amended as indicated below:

I. Paragraph (d) of § 230.256 is amended to read as follows:

§ 230.256 Filing and use of the offering circular.

* * * * *

(d) The offering circular may be printed, mimeographed, lithographed, or typewritten or prepared by any similar process which will result in clearly legible copies. If printed, the body of the offering circular and all notes to financial statements and other tabular data included therein shall be in roman type at least as large and as legible as 10-point modern type. However, to the extent necessary for convenient presentation, financial statements and other tabular data, including tabular data in notes, may be set in type at least as large and as legible as 8-point modern type. All such type shall be leaded at least 2 points.

* * * * *

II. Section 230.420 is amended to read as follows:

§ 230.420 Legibility of prospectuses.

The body of all printed prospectuses and all notes to financial statements and other tabular data included therein shall be in roman type at least as large and as legible as 10-point modern type. However, to the extent necessary for convenient presentation, financial statements and other tabular data, including tabular data in notes, may be in roman type at least as large and as legible as 8-point modern type. All such type shall be leaded at least 2 points.

III. Paragraph (c) of § 240.12b-12 is amended to read as follows:

§ 240.12b-12 Requirements as to paper, printing, and language.

* * * * *

(c) The body of all printed statements and reports and all notes to financial statements and other tabular data included therein shall be in roman type at least as large and as legible as 10-point modern type. However, to the extent necessary for convenient presentation, financial statements and other tabular data, including tabular data in notes, may be in roman type at least as large and as legible as 8-point modern type. All such type shall be leaded at least 2 points.

* * * * *

IV. Paragraph (b)(1) of § 240.14a-3 is amended to read as follows:

§ 240.14a-3 Information to be furnished to security holders.

* * * * *

(b) If the solicitation is made on behalf of the management of the issuer and relates to an annual meeting of security holders at which directors are to be elected, each proxy statement furnished pursuant to paragraph (a) of this section shall be accompanied or preceded by an annual report to such security holders as follows:

(1) The report shall contain, in comparative columar form, such financial statements for the last 2 fiscal years, prepared on a consistent basis, as will in the opinion of the management adequately reflect the financial position of the issuer at the end of each such year and the results of operations for each such year: *Provided, however,* That investment companies registered under the Investment Company Act of 1940 need include such financial statements only for the last fiscal year. Consolidated financial statements of the issuer and its subsidiaries shall be included in the report if they are necessary to reflect adequately the financial position and results of operations of the issuer and its subsidiaries, but in such case the individual statements of the issuer may be omitted even though they are required to be included in reports to the Commission. Such financial statements, other than the notes thereto, shall be in roman type at least as large and as legible as 8-point modern type. All notes to such financial statements shall be in roman type at least as large and as legible as 10-point modern type. All such type shall be leaded at least 2 points. The Commission may upon the request of the issuer, permit the omission of financial statements for the earlier of such 2 fiscal years upon a showing of good cause therefor.

* * * * *

V. Paragraph (d) of § 240.14a-5 is amended to read as follows:

§ 240.14a-5 Presentation of information in proxy statement.

* * * * *

(d) All printed proxy statements shall be in roman type at least as large and as legible as 10-point modern type, except that to the extent necessary for convenient presentation financial statements and other tabular data, but not the notes thereto, may be in roman type at least as large and as legible as 8-point modern type. All such type shall be leading at least 2 points.

VI. Paragraph (c) of § 240.14c-4 is amended to read as follows:

§ 240.14c-4 Presentation of information in information statement.

* * * * *

(c) All printed information statements shall be in roman type at least as large and as legible as 10-point modern type except that to the extent necessary for convenient presentation financial statements and other tabular data, but not the notes thereto, may be in roman type at least as large and as legible as 8-point modern type. All such type shall be leaded at least 2 points.

The foregoing action has been taken pursuant to the Securities Act of 1933, particularly sections 6, 7, 10, and 19(a) thereof, and the Securities Exchange Act of 1934, particularly sections 12, 13, 14, 15(d), and 23(a) thereof.

The foregoing action shall be effective with respect to any of the abovementioned printed matter filed with the Commission or sent to security holders on or after July 1, 1971.

(Secs. 6, 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685, 15 U.S.C. 77f, 77g, 77j, 77s(a); secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 2, 52 Stat. 1075; sec. 202, 68 Stat. 686; sec. 3, 4, 5, 6, 10, 78 Stat. 565, 569, 570, 580; secs. 1, 2, 3, 82 Stat. 454, 456; secs. 1, 2, 3, 4, 5, Public Law 91-567, 15 U.S.C. 78*l*, 78m, 78n, 78o(d), 78w(a))

By the Commission, April 30, 1971.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-6816 Filed 5-14-71;8:49 am]

Title 20—EMPLOYEES' BENEFITS

Chapter I—Bureau of Employees' Compensation, Department of Labor

PART 1—CLAIMS FOR COMPENSATION AND ADMINISTRATIVE PROCEDURE

PART 2—FURNISHING OF MEDICAL TREATMENT

Miscellaneous Amendments

Parts 1 and 2 of Subchapter B of Title 20, Code of Federal Regulations, are hereby amended in the manner indicated below.

The provisions of 5 U.S.C. 553 which require notice of proposed rule making, opportunity for public participation, and delay in the effective date are not applicable because these rules relate to agency personnel matters. Further, I do not believe such procedures would serve a useful purpose here. Accordingly, the amendments shall become effective immediately.

The provisions of these Parts 1 and 2 are issued under section 32, 39 Stat. 749, as amended; 5 U.S.C. 8145, 8149; 1946 Reorg. Plan No. 2, section 3, 3 CFR 1943-1948 Comp., page 1064; 60 Stat. 1095; 1950 Reorg. Plan No. 19, section 1, 3 CFR, 1949-1953 Comp., page 1010; 64 Stat. 1271.

Title 20, Code of Federal Regulations, is amended as follows:

1. Paragraph (c) of § 1.1 is revised and a new paragraph (f) is added to said section as follows:

§ 1.1 General provisions; definitions.

* * * * *

(c) All employees of the United States and other persons who may claim or be entitled to claim benefits under the said act, and the official superiors of all such persons, shall be bound by the regulations in this subchapter and shall conform to the procedure prescribed in said act and in the regulations under this subchapter. The term "official superior," as used in this subchapter, includes all officers and employees having responsible supervision, direction or control of civil employees, others employed in the service of the Federal Government or the government of the District of Columbia, and other persons performing service for the United States within the purview of said act and all acts in amendments, substitution or extension thereof. For the purposes of the regulations in this subchapter the term "employee" as used in this subchapter shall include all civil officers and employees of all branches of the Government of the United States (including officers and employees of instrumentalities of the United States wholly owned by the United States), employees of the government of the District of Columbia (except members of the Police and Fire Departments of the District of Columbia), members of the Reserve Officers' Training Corps, an individual appointed to the staff of a former President, Civil Air Patrol volunteers, Peace Corps volunteers, Job Corps enrollees, Youth Conservation Corps enrollees, Volunteers in Service to America, members of the National Teachers' Corps, members of the Neighborhood Youth Corps, student employees as defined in 5 U.S.C. 5351, employees of the Canal Zone and the Alaskan Railroad, law enforcement officers not employees of the United States killed or injured under certain circumstances involving a crime against the United States, and other persons performing service for the United States within the purview of said act and all acts in amendments, substitution or extension thereof.

* * * * *

(f) In the case of employees of the Canal Zone Government and the Panama Canal Company, the Federal Employees' Compensation Act is administered by the Governor of the Canal Zone; and inquiries pertaining to such coverage and eligibility should be directed to the Governor of the Canal Zone.

2. Section 1.2 is revised in heading and text as follows:

§ 1.2 Notice of injury.

(a) Whenever any injury is sustained by an employee of the United States while in the performance of his duty, he shall immediately give written notice to his official superior. If the injured employee is unable to give such notice, it may be given by someone in his behalf. Form CA-1 and 2 (Front), Employee's Notice of Injury and Occupational Disease, is provided by the Bureau for this purpose. Unless written notice of injury is given within 48 hours or unless the immediate superior has actual knowledge of the injury within that time, compensation may be refused. For reasonable cause the Bureau may accept written notice of injury given later than 48 hours, but not later than 1 year after the injury. (See § 1.13 for waiver of limitation provision.)

(b) Whenever such an injury comes to the knowledge of the injured employee's official superior, a record of the cause, nature, and extent of the injury shall be made by the official superior, who shall call to the attention of the employee or his immediate family (if the employee is unable to do so) the necessity of submitting, within 48 hours, or as soon after injury as practicable, a Notice of Injury or Occupational Disease on Form CA-1 and 2 (Front). The official superior shall complete the receipt on the bottom of the instruction sheet attached to the Form CA-1 and 2, and give the receipt to the employee. He also shall secure the signed statements of witnesses to the occurrence and shall retain the Form CA-1 and 2 until the injury is reported to the Bureau as required in § 1.3.

3. Section 1.3 is revised in heading and text as follows:

§ 1.3 Reports by official superiors and physicians.

(a) The official superior is required to promptly submit to the Bureau a written report of every injury or occupational disease when it is likely to (1) result in a medical charge against the Bureau, (2) result in disability for work beyond the day of injury, (3) require prolonged treatment, (4) result in future disability, or (5) result in permanent disability. Form CA-1 and 2 (Back), Official Superior's Report of Injury, is provided for this purpose. The report may be withheld until the employee returns to work when it appears he will not be absent for more than 3 days. The official superior shall also furnish the Bureau with a report of any investigation made and any other statements or data which may properly relate to the circumstances of the injury. If the injury need not be reported to the Bureau, the Form CA-1 and 2 shall be retained as a permanent record in the employee's personnel folder.

(b) In all cases reported, the Bureau shall be furnished with an immediate medical report from the attending physician. This report may be made: (1) On Part B of Form CA-16, Revised; (2) on Form CA-20, Attending Physician's Report; or (3) by narrative report on the physician's letterhead stationery.

(c) Other reports shall be submitted by the official superior and attending physician as described elsewhere in this part or at other times as may be required by the Bureau.

4. Section 1.4 is revised as follows:

§ 1.4 Claim for compensation for disability.

(a) Compensation for disability will not be paid unless written claim therefor is made by the employee or by someone in his behalf within the time limit prescribed by the Act. If such claim is not submitted within 60 days after the injury, an explanation of the delay must accompany the claim. For any reasonable cause shown the Bureau may allow claim for compensation for disability to be made at any time within 1 year. (For further waiver of limitation provision see § 1.13.) For purposes of this subsection, a claim means any written document containing, or purporting to contain, words indicating an intent to claim

compensation benefits under this Act. Claim may be filed by delivering it to the offices of the Bureau, or to any person designated by the Bureau to receive it. The employee's official superior is so designated to receive claims on behalf of the Bureau, and the injured employee should submit his claim to him for transmission to the Bureau unless special circumstances require a different procedure.

(b) Notwithstanding the filing of any document provided for by paragraph (a) of this section, no disability compensation shall be payable unless the employee completes the front of a Form CA–4 and submits it to his official superior. The employee and his official superior shall complete the Form CA–4. The official superior also shall complete items 1–4 on the front of the attached Form CA–20 and insert the appropriate Bureau office address on the back thereof, and then detach the Form CA–20 and send it to the attending physician for completion and submission to the Bureau. The official superior shall promptly forward the completed Form CA–4 to the appropriate Bureau office. Unless otherwise specified, the appropriate Bureau office is that to which the Form CA–1 and 2 was submitted pursuant to § 1.2 and 1.3.

(c) Whenever an employee, as a result of an injury in the performance of duty, is disabled with loss of pay for more than 3 days his official superior shall furnish to him Form CA–4 for the purpose of claiming compensation, and shall advise him of his rights under the Act.

(d) Claims for compensation for permanent disability which involve the loss, or loss of use, of a member or function of the body as listed in 5 U.S.C. 8107, shall be filed on Form CA–4 which the official superior shall furnish.

(e) Claims for serious disfigurement of the face, head, or neck shall be made on Form CA–4 (which shall be furnished by the official superior) and supplemented by Form CA–4B (which shall be furnished by the Bureau). If any compensation has been paid or is payable for any such prior disfigurement the date of such prior injury, the amount of compensation and the source thereof shall be stated in the said CA–4, or as supplemented by Form CA–4B.

(f) Form CA–4 shall be filed with the Bureau upon termination of disability if the duration of disability should be less than 10 days, or at the expiration of 10 days from the date pay stops if disability continues beyond that date.

(g) A valid claim for disability compensation may be filed within the time limit specified by the Act by someone acting on behalf of the employee or his estate.

(h) An employee may decide to take sick and/or annual leave in order to avoid possible interruption of income. If he does and his claim for compensation on Form CA–4 is subsequently approved, he may arrange with his employing establishment to "buy back" the leave used and have it reinstated to his account. The compensation to which he is entitled would pay a part of the "buy back" cost and the employee would have to pay the balance. The amount the employee will be required to pay will depend on several factors such as length of the period of disability and the amount of Federal income tax which is withheld from his leave pay. The establishment can help the employee determine how much the "buy back" cost will be in his case. If an employee uses leave and decides to buy it back, he may file a claim for compensation on Form CA–4 while still in leave status. In the interim, the Bureau will consider and resolve any points at issue. No compensation payments may be paid, however, while the employee is still in leave status. Arrangements to "buy back" leave must be made with the employing establishment. The establishment may make arrangements to have compensation paid directly to its account for the part of the "buy back" cost which is covered.

5. Paragraph (a) of § 1.5 is revised as follows:

§ 1.5 Application for augmented compensation for disability.

(a) While the disabled employee has one or more dependents as defined in 5 U.S.C. 8110, his basic compensation for disability shall be augmented as provided in said section. The Bureau's Form CA–4 includes an application for such augmented compensation.

* * * * *

6. Section 1.6 is revised as follows:

§ 1.6 Report of termination of disability or return to work.

In all cases reported to the Bureau the official superior is required to notify the Bureau immediately when the injured employee returns to work or when his disability ceases. Form CA–3, Report of Termination of Total or Partial Disability, is provided for this purpose. It shall be used unless a report of termination of disability is made to the Bureau on Form CA–1 and 2, or CA–4, or in some other manner.

7. Section 1.7 is revised as follows:

§ 1.7 Recurrence of disability for work.

(a) The official superior shall notify the Bureau if, after the employee returns to work, the same injury causes him to stop work again. This report shall be made on Form CA–2a, Notice of Recurrence of Disability. If the injured employee does not return to duty prior to the date this form is submitted to the Bureau, an additional report shall be made on Form CA–3 or in a similar manner when he either returns to work or his disability ceases.

(b) If the employee wishes to claim compensation as a result of the recurrence, a Form CA–4 is required, whether or not one was submitted following the original injury. All parts of the Form CA–4, plus a medical report on Form CA–20 (or in narrative form), must be completed.

8. Section 1.8 is revised in heading and text as follows:

§ 1.8 Claims for continued compensation for disability.

Form CA–8, Claim for Continuance of Compensation on Account of Disability, is provided to claim compensation for additional periods of time after Form CA–4 is submitted to the Bureau. While disability continues, claim on this form shall be submitted every 2 weeks until the employee is otherwise instructed by the Bureau. The injured employee shall complete and sign the face of the form and his attending physician shall complete the medical certificate on the reverse side of the form. The form must then be delivered to the official superior who will complete the Certificate of Employee's Official Superior which also appears on the reverse side of the form. The form shall then be sent to the Bureau.

9. Section 1.10 is revised as follows:

§ 1.10 Affidavit or report by employee of employment and earnings.

The Bureau may require a partially disabled employee to submit an affidavit or other report as to his earnings either from employment or self-employment. If such individual, when required, fails to submit such affidavit or report or if in such affidavit or report the employee knowingly omits or understates any part of such earnings or remuneration he shall forfeit his right to compensation with respect to any period for which such affidavit or report was required to be made, and any compensation already paid may be recovered by deducting the amount thereof from compensation payable to him or otherwise according to law. Earnings from employment referred to in this section or elsewhere in this part means gross earnings or wages before any deductions whatsoever have been taken out of such wages, and include the value of subsistence, quarters, or other advantages received in kind as part of the wage or remuneration.

10. Section 1.12 is revised as follows:

§ 1.12 Report of death.

When an employee dies because of a personal injury sustained while in the performance of duty or disease contracted as a result of the employment, the official superior shall immediately report the fact to the Bureau by telegraph or telephone. Also, the official superior shall promptly send the Bureau a Report of Death on Form CA–3 (see lower portion of that form). This shall be accompanied by the Official Superior's Report of Injury on Form CA–1 and 2 (Back) if that report was not previously submitted. The official superior shall also complete items 1 through 6 on the front of Form CA–1 and 2 to insure identification of the decedent.

§ 1.20 [Revoked]

11. Section 1.20 is revoked in its entirety.

12. Section 2.1 is revised as follows:

§ 2.1 Medical treatment, hospital services, transportation, etc.

(a) All medical services, appliances, drugs, and supplies which in the opinion of the Bureau of Employees' Compensation (hereinafter referred to as the Bureau) are necessary for treatment of an injury as provided by 5 U.S.C. 8103 shall be furnished to employees of the United States and to others entitled by law to medical and other benefits by or upon the order of U.S. medical officers and hospitals, when available and practicable, for injuries sustained while in the performance of duty, including diseases proximately caused by the conditions of employment, whether resulting in loss of time or not, as well as the necessary means of transportation incident to the securing of such services, appliances, drugs, and supplies. An injured employee will be furnished transportation or be reimbursed for transportation expense, and shall be reimbursed for expenses incident to the securing of services, appliances and supplies necessary in the treatment of an injury related condition, when authorized by the Bureau or by his official superior. If there should be no U.S. medical officer or hospital available, medical services shall be furnished by private physicians designated by the Bureau.

(b) The Bureau's Pamphlet BEC–576, Medical Facilities, lists the U.S. medical officers and hospitals and designated physicians normally available for the care of BEC beneficiaries. Also, the medical facilities of the Army, Navy, Air Force, and Veterans Administration may be used when previous arrangements have been made on a case-by-case basis with the director of the hospital or clinic.

(c) Federal health service units or other occupational health service facilities established under the provisions of the Act of August 8, 1946, as amended (5 U.S.C. 7901), are not U.S. medical officers and hospitals as used in this part. Under criteria established by the Bureau of the Budget (now Office of Management and Budget) in Circular No. A–72 of June 18, 1965, these health service units or occupational health service facilities can only provide emergency diagnosis and first (initial) treatment of injury or illness that become necessary during working hours and that are within the competence of the professional staff and facilities of the health service unit or facility [see paragraph 4.a of OMB Circular]. Any other treatment and medical care by these units or facilities in instances of injury or illness sustained in the performance of duty must be specifically authorized by a physician providing medical care under the specific authorization of the Bureau of Employees' Compensation [see paragraph 4.d of OMB Circular].

(d) In localities where there are no U.S. medical officers and hospitals available, or their use is not practicable, the injured employee shall be referred to one of the designated physicians in the locality as listed in Pamphlet BEC–576 (when authorizing the services of a designated physician the official superior shall give the injured employee an opportunity to select the designated physician to whom he wishes to be referred). In localities where U.S. medical officers and hospitals or designated physicians are not available or their use is not practicable, or in medical emergencies, any qualified physician in the area shall be authorized to provide medical care as appropriate. Mere convenience or personal preference of the injured employee may not be considered sufficient explanation for the selection of nondesignated physicians in those localities where U.S. medical officers and hospitals and/or designated physicians are available.

(e) The attending physician shall arrange for necessary hospital care at semiprivate rates (unless the nature of the case requires care in a private room), special nursing services, X-ray examinations, and consultations by specialists. In cases of an emergency nature or cases involving unusual circumstances the Bureau may in the exercise of its discretion authorize treatment otherwise than as provided for in this part, or it may approve payment for medical expenses incurred otherwise than as authorized in this part.

(f) The term "physician" includes surgeons and osteopathic physicians within the scope of their practice as defined by State law. Chiropractors, naturopaths, podiatrists (chiropodists), psychologists, optometrists, faith healers, and other practitioners of the healing arts are not recognized as physicians as used in this part.

(g) The term "medical, surgical, and hospital services and supplies" as used in this part includes services and supplies by osteopathic physicians and hospitals within the scope of their practice as defined by State law.

13. Section 2.2 is revised in heading and text as follows:

§ 2.2 Official authorization for treatment.

(a) When an employee sustains an injury by accident under circumstances entitling him to compensation or medical treatment, his official superior shall promptly issue to him a request for examination and/or treatment on Form CA–16. The employee shall carry the Form CA–16, where practical for him to do so, from his place of employment to the medical officer or physician. Form CA–16 shall be used solely for an injury sustained by accident. In all instances of disease or illness, the official superior shall contact the proper office of the Bureau for instructions on authorizing treatment. In emergency situations, the office should be contacted by telephone.

(b) An injured employee does not have authority to issue an authorization for examination and/or treatment on his own behalf.

14. Section 2.3 is revised in heading and text as follows:

§ 2.3 Emergency treatment.

In cases of injury by accident where emergency treatment is necessary any qualified local physician may render initial treatment. If oral authorization for such treatment is given by the official superior, Form CA–16 shall be issued within 48 hours thereafter. Animal bites and eye injuries are considered medical emergencies and medical care by the nearest qualified physician is permissible. Further treatment, is necessary, shall be obtained as soon as practicable from a U.S. medical officer or hospital or local designated physician, if available. It is the duty of the official superior to authorize initial medical treatment for acute injuries, exclusive of disease or illness, and to transfer the employee to the care of a local U.S. medical officer or hospital or designated physician, when available, for any subsequent treatment needed. If unable to comply promptly with this requirement, the official superior shall communicate with the appropriate district office of the Bureau for instructions.

15. Section 2.4 is revised as follows:

§ 2.4 Medical treatment for recurrence of disability.

If an injured employee complains of a recurrence of disability (whether or not he is disabled for work), after having recently been discharged from medical treatment, on account of an injury by accident recognized as compensable by the Bureau, under circumstances from which it may reasonably be inferred that such disability is the result of such injury, and the place of employment is the same as at the time of such injury, the official superior in his discretion may issue a Form CA–16 as provided by §§ 2.1 and 2.2: *Provided*, That not more than 6 months shall have elapsed since the final action of the Bureau upon the case. In any case in which the employee complains of a recurrence of disability with respect to which there may be doubt that the disability is the result of the injury or in any case in which the final action of the Bureau shall have been taken more than 6 months prior to complaint, the official superior shall communicate with the Bureau and request instructions, stating all of the pertinent facts in his communication. In all other cases the employee shall communicate with the Bureau and request such treatment.

16. Section 2.10 is revised as follows:

§ 2.10 Recording and submission of medical reports.

(a) Medical officers, designated physicians, other physicians and hospitals shall keep adequate records of all cases treated by them sufficient to supply the Bureau with a history of the employee's accident, the exact description, nature, location, and extent of injury, the X-ray findings if X-ray examination has been made, the nature of the treatment rendered, and the degree of impairment arising from the injury.

(b) Form CA–16 provides for the furnishing of the initial medical report. Form CA–20 may also be used for the initial report and for subsequent report. The medical report on the back of Form

CA-8 is to be utilized in instances where continued compensation is claimed on such form. These reports shall be forwarded promptly to the Bureau.

(c) Detailed supplementary reports in narrative form shall be made by the physician at approximately monthly intervals in all cases of serious injury, especially injuries of the head and back, and including all cases requiring hospital treatment or prolonged care. The supplementary report shall show the date the employee was first examined or treated, the patient's complaint, the condition found on examination, the diagnosis, medical opinion as to any relationship between the impairment and the injury alleged, report as to any other impairments found not due to injury, the treatment given or recommended for the injury alleged, the extent of impairment affecting the employment as a result of the injury, the actual degree of loss of active or passive motion of an injured member, the amount of atrophy or deformity in a member, the decrease, if any, in strength, the disturbance of sensation, the prognosis for recovery, and all other material facts. If the services of a specialist are required in the examination or treatment of the employee, a report of his findings upon examination, his diagnosis, his opinion as to the relationship between the impairment and the injury, the medical rationale for his opinion, the treatment recommended by him, a statement of the extent of impairment as a result of the injury and the prognosis shall be forwarded to the Bureau for consideration in conjunction with other reports. The requirement of this section or of any section in this part with respect to the form of medical, dental, hospital or other reports may be waived by the Bureau.

(5 U.S.C. 8145, 8149)

Signed at Washington, D.C., this 11th day of May 1971.

JOHN M. EKEBERG,
Director,
Bureau of Employees' Compensation.

[FR Doc.71-6787 Filed 5-14-71;8:46 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Use of Impact-Resistant Lenses in Eyeglasses and Sunglasses

In the FEDERAL REGISTER of October 2, 1970 (35 F.R. 15402), a notice was published in which the Commissioner of Food and Drugs proposed that Part 3 be amended by adding a statement of general policy regarding the use of impact-resistant lenses in eyeglasses and sunglasses. The notice provided for the filing of comments within 30 days, and this time period was extended to January 30, 1971, by a document published in the FEDERAL REGISTER of November 3, 1970 (35 F.R. 16937). An announcement was published in the FEDERAL REGISTER of November 6, 1970 (35 F.R. 17116), advising interested parties that the effective date of the proposal when adopted would be December 31, 1971.

Comments were received from more than 600 representatives of the ophthalmic community and from interested individuals, principally as follows:

A. The American Committee on Optics and Visual Physiology, American Optometric Association, Defense Medical Material Board, Guild of Prescription Opticians of America, National Society for the Prevention of Blindness, Optical Wholesalers Association, Optical Manufacturers Association, and the Sunglass Association of America recommend jointly that:

1. Any heat-treating of prescription lenses to impart impact resistance should be permitted to be accomplished after all grinding, edging, and polishing is completed. This could be done in certain instances at the wholesale level and in certain instances at the retail level. It is presently technically impossible to accomplish such heat treating of prescription lenses at the manufacturing level. This is not the case with sunglasses and ready-made eyeglasses as the heat treating of these glasses is done at the manufacturing level.

2. Any FDA regulation should incorporate the American National Standards Institute standards, rather than set forth a specific test. By incorporating the American National Standards Institute's standards, FDA will permit the professions and industry to continue efforts to develop new and better materials and testing procedures to the benefit of the consuming public.

3. It is essential that the government, the ophthalmic professions, and industry insure that any regulation that may be promulgated does not imply to the public that impact-resistant lenses are shatterproof, break-proof, or provide an unbreakable shield against eye injury.

B. In addition to the joint comments described under A above, the American Optometric Association commented that:

1. The proposed statement of policy should be modified to eliminate all aspects of the policy with respect to prescription eyewear dispensed by optometrists or physicians or dispensed on prescriptions written by optometrists or physicians.

2. Patients should not be deprived of the benefits of ordinary glass lenses, and optometrists should be permitted to prescribe them without any restrictions being imposed by FDA.

3. They agree that a lens should be as impact-resistant as possible. The FDA noted that only 25 percent of the prescription lenses being dispensed are plastic or heat-treated glass; the American Optometric Association believes that the trend toward a wider use of impact-resistant lenses needs to be encouraged. However, the American Optometric Association believes that a proper emphasis on safety can be achieved without governmental regulation on prescription lenses.

4. To accelerate the trend toward a wider use of impact-resistant lenses, the American Optometric Association proposes that dispensors of prescription spectacles certify to each patient the impact resistance level of the lenses supplied. Furthermore, to relieve optical laboratories and dispensing opticians of the responsibility of making decisions about impact resistance, the prescribing optometrist or ophthalmologist could specify the impact resistance level to be used in filling a prescription.

5. The American Optometric Association believes claims of serious eye injuries caused by prescription lens breakage are grossly exaggerated and that these allegations ignore the basic impact resistance protection provided by prescription lenses. Furthermore, they feel the claims of superiority of impact-resistant lenses over ordinary glass lenses are also exaggerated.

6. The American Optometric Association is concerned with the effect the proposed regulation would have on research and development of new lenses which could be superior to any existing impact-resistant lenses. More emphasis should be given to high priority programs for further development of spectacle lenses with optimum impact resistance. Research and development is urgently needed in procedures for testing impact-resistant lenses with emphasis on protection against primary missiles to which eyes are exposed and which can produce injury.

C. In addition to the joint comments described under A above, the Sunglass Association of America, Inc., commented that:

1. There are three primary factors influencing the resistance of glass lenses to impact: Glass formulation, heat treating, and thickness. Much work has been done by manufacturers to increase the effectiveness of the first two. Recent developments have increased the effectiveness of the first two. Recent developments have increased the effectiveness of heat treating. This enables plano lenses 1.2–1.7 millimeters thick to withstand an impact which a lens 2 millimeters thick, treated by methods which are not as effective, could not withstand. Thus, a minimum thickness requirement would prevent the use of a superior lens by limiting one of the variable factors in impact resistance without considering the ultimate impact resistance of the lens. It is submitted that, if impact resistance is to be regulated, it should be done in a manner which will permit the manufacturer to achieve the necessary degree of impact resistance by any means possible, whether it be by glass formulation, by heat-treating, or by thickness.

2. As many prescription and nonprescription lenses differ markedly in the extent to which heat treating effects their resistance to impact and in their production, marketing, and use, it is strongly urged that prescription and

nonprescription lenses be treated as separate products for the purposes of any Federal regulation.

3. To provide a basis for an informed decision on a regulation in this area, additional studies are needed on the nature and cause of eye injuries as well as on the ability of various lenses to prevent them.

4. Additional factors which must be considered in any decision on regulations to be adopted are the cost to the consumer and the results of an increase in cost.

D. In addition to the joint comments described under A above, the National Society for the Prevention of Blindness, Inc., commented that:

1. They are of the opinion that the Food and Drug Administration proposal is one of the most important advances in the promotion of eye safety to date.

2. The finalization of this proposal would definitely augment the reduction of eye injuries among the thousands of people in this country who wear prescription glasses or sunglasses.

E. The National Association of Optometrist and Opticians Inc., commented that:

1. There is a lack of available data in this field. They recommend that a full investigation be conducted before making a final decision.

2. The collective best interests of consumers would not seem to require that all of them need impact-resistant lenses.

F. The American Association of Ophthalmology commented that:

1. They are in accord with the concept of preventing eye injuries through the wearing of impact-resistant lenses, regardless of the type of lens material used to provide impact resistance.

2. Although preventable ocular injuries occur through the shattering of ordinary optical glass lenses, the true rate and incidence of ocular injuries to individuals wearing various types of lenses is unknown. The American Association of Ophthalmology is undertaking a survey of 9,500 ophthalmologists in the United States in an effort to provide the FDA with more valid statistics regarding the rate and incidence of ocular injuries than are presently available. Developing these statistics will require a period of several months.

3. In the event that the FDA should issue a regulation regarding impact-resistant lenses prior to receiving this information, the Association would recommend that eyeglasses and sunglasses delivered to the public be fitted with impact-resistant lenses made of any material which meets the definitions, specifications, test procedures, and tolerances for impact resistance and any exceptions provided for in the American National Standards Institute's industry standards, as amended, except in those cases where a physician prescribes otherwise.

G. The Committee on Conservation of Vision, Oregon Medical Association, commented that:

1. A person wearing a standard glass lens has more eye protection than a person with no lens at all.

2. The hazard of the standard glass lens as presented to FDA has apparently been grossly exaggerated.

3. Impact-resistant lenses are definitely indicated for many persons, and their increased use in appropriate circumstances should be encouraged.

4. Impact-resistant lenses do have serious disadvantages for some persons.

5. In overall use impact-resistant lenses cost much more than the simple cost of hardening a lens. For example, changing and reedging of the lens to fit another frame cannot be done on a tempered lens.

6. Plastic lens sources, at least in this area, are inadequate to handle the demand that would be required by this regulation.

7. If the need to improve eye safety demands action, there is as much reason to require all citizens to wear impact-resistant lenses as to require this of people who wear prescription glasses and sunglasses.

H. The Utah Optometric Association, Inc., commented that:

1. The public would have to understand that tempered lenses will still break.

2. Additional research needs to be done to see if injuries from eyeglasses can be avoided simply by heat treating lenses.

3. Visual care will be more expensive if this regulation is finalized.

4. The decision to use tempered or plastic lenses should be left to the discretion of the optometrist or physician and the patient involved.

I. New York State Optical Retailers Association, Inc., commented that:

1. All of the available scientific information indicates that heat-treated lenses offer inferior protection when contrasted with unhardened lenses. Although the lenses described in the proposed statement of policy must meet a performance test, there has been no demonstrated relationship between the ability of the lenses to withstand that test and their ability to offer protection against the more common missiles causing eye injury.

2. The data on the incidence of preventable traumatic eye injury is at best sparse and not subject to any scientific or statistical evaluation.

3. The Association raises the jurisdictional question as to whether the Food and Drug Administration has the statutory authority to proceed with the proposed statement of policy affecting the manufacture and sale of eyeglass lenses.

J. The National Research Council, Committee on Vision, commented that:

1. There are important gaps in our knowledge that must be filled before the safety characteristics of spectacle lenses intended for general use can be adequately specified. The committee therefore recommends strongly that research on this problem be supported.

2. More definitive data are needed on ocular injuries and lens breakage that injures eyes so that protection criteria can be made relevant to actual situations.

3. Determination of the validity of the dropped-ball test and ballistic test as a definition of the safety afforded by lenses is required and must necessarily parallel the understanding of failure characteristics of lenses as they vary with power, thickness, and curvature.

4. The committee recognizes that new materials and new technology may result in a lens which provides more ideal safety features for eyewear.

K. The Ophthalmic Optics Branch Committee of the European Federation of Optical and Precision Mechanics Industries commented that:

1. The committee agrees with the necessity of public protection but cannot agree with the requirements of the proposed statement of policy which specifies a minimum thickness of 2 millimeters for sunglass lenses. In the field of sunglass heat treatment, today's technology makes it possible to heat treat lenses less than 2 millimeters thick and still meet the required impact test.

2. It is essential that a sufficient period of time be allowed to dispose of existing inventories and to set up heat-treating equipment.

L. Letters endorsing the proposal were received from over 500 individuals, most of whom are engaged in occupations dealing with industrial or public safety.

M. Letters endorsing the proposal were received from 20 physicians including seven heads of Departments of Ophthalmology at medical schools and the editor of "American Journal of Ophthalmology."

N. Over 75 requests for an additional 1- to 5-year delay of the effective date were received primarily from individuals engaged in the manufacture or distribution of sunglasses.

The Commissioner of Food and Drugs, having considered the comments, finds that:

1. Examination of the available data on the safety characteristics of eyeglass and sunglass lenses serves only to illustrate the need for further research in this area. However, based on the weight of opinion expressed by the ophthalmic community, it is clear that requiring lenses to meet the standards of the impact resistance test as described in the proposal will afford greater protection to the average wearer of eyeglasses and sunglasses than is currently being provided.

2. The Food and Drug Administration's policy in this area is based on present American National Standards Institute specifications. It is intended that the policy will be appropriately revised in accordance with the Institute's standards when such standards are amended: *Provided*, That the amendments are in the best interest of the public.

3. The goal of this policy statement is to establish certain standards of performance. Therefore, we see no need for the establishment of a minimum thickness requirement as long as it can be demonstrated that the lenses will meet the impact resistance test described in the statement of policy. To accomplish this it will be necessary to subject each

finished impact-resistant glass lens (including each impact-resistant laminated glass lens) for prescription use to the impact test. To demonstrate that all other types of impact-resistant lenses are capable of withstanding the impact test, the manufacturer of such lenses shall be required to subject to the impact test a statistically significant sampling of lenses from each production batch as set forth below in the statement of policy being added to Part 3 (21 CFR Part 3) by this order.

4. The proposed statement of policy has been revised:

(a) To include other methods of improving the impact resistance of glass as well as heat tempering.

(b) To include the weight of the ⅝-inch steel ball (approximately 0.56 ounce) to be used in the impact resistance test and to include a more detailed description of the test procedure.

(c) To permit the use of other methods of testing impact resistance, provided it can be shown that the alternate method is equal to or superior to the prescribed method.

(d) To eliminate the minimum thickness requirement.

(e) To include records and inspections provisions and lens production batch identification requirements.

5. The Food and Drug Administration recognizes the necessity of informing the public that impact-resistent lenses are not shatterproof or break-proof. The eyeglass wearer must be informed that impact-resistant lenses meeting the requirements of this statement of policy will afford him greater protection than is currently being provided but will not provide an unbreakable shield against eye injury. The Food and Drug Administration is requesting assistance from the ophthalmic community, the National Safety Council, and the National Society for the Prevention of Blindness in bringing this message to the public.

6. The Food and Drug Administration agrees that the ophthalmic community should take steps to accelerate the trend toward wider use of impact-resistant lenses. However the FDA does not agree that this can be accomplished effectively without the promulgation of this statement of policy. This proposal has already served to stimulate interest in the use of impact-resistant lenses and in the development of safer eyewear. The FDA believes that the finalization of the proposal will have a further stimulating effect.

7. The Food and Drug Administration recognizes the necessity for allowing an adequate amount of time for the industry to shift to impact-resistant lenses. The statement of policy provides for an adequate period of time to permit an orderly transition.

8. A public hearing on this proposal is unnecessary and would serve only to delay the implementation of this policy. Essentially all of the objectors agree with the basic concept of the proposal, i.e., the prevention of eye injuries through the wearing of impact-resistant lenses. The only issue is how best to assure the use of impact-resistant lenses. This statement of policy provides for a means of insuring a necessary measure of protection and will be revised when necessary to keep abreast with technological improvements.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502(j), 701(a), 52 Stat. 1051, 1055; 21 U.S.C. 352(j), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 3 is amended by adding thereto the following new section:

§ 3.84 Use of impact-resistant lenses in eyeglasses and sunglasses.

(a) Examination of data available on the frequency of eye injuries resulting from the shattering of ordinary crown glass lenses indicate that the use of such lenses constitutes an avoidable hazard to the eye of the wearer.

(b) The consensus of the ophthalmic community is that the number of eye injuries would be substantially reduced by the use in eyeglasses and sunglasses of either plastic lenses, heat-treated crown glass lenses, or lenses made impact-resistant by other methods.

(c) To protect the public more adequately from potential eye injury, eyeglasses and sunglasses must be fitted with impact-resistant lenses, except in those cases where the physician or optometrist finds that such lenses will not fulfill the visual requirements of the particular patient, directs in writing the use of other lenses, and gives written notification thereof to the patient.

(d) The physician or optometrist shall have the option of ordering heat-treated glass lenses, plastic lenses, laminated glass lenses, or glass lenses made impact resistant by other methods; however, all such lenses must be capable of withstanding an impact test in which a ⅝-inch steel ball weighing approximately 0.56 ounce is dropped from a height of 50 inches upon the horizontal upper surface of the lens. The ball shall strike within a ⅝-inch diameter circle located at the geometric center of the lens. The ball may be guided, but not restricted, in its fall by being dropped through a tube extending to within approximately 4 inches of the lens. In order to pass the test, the lens must not fracture (for the purpose of this section, a lens will be considered to have fractured if it cracks through its entire thickness and across a complete diameter into two or more separate pieces or if any lens material visible to the naked eye becomes detached from the ocular surface). The test shall be conducted with the lens supported by a tube (1-inch inside diameter, 1¼-inch outside diameter, and approximately 1-inch high) affixed to a rigid iron or steel base plate. The tube shall be made of rigid acrylic plastic, steel, or other suitable substance and shall have on the top edge a ⅛- by ⅛-inch neoprene gasket having a hardness of 40±5, as determined by ASTM Method D 1415; a minimum tensile strength of 1,200 pounds, as determined by ASTM Method D 412; and a minimum ultimate elongation of 400 percent, as determined by ASTM Method D 412. The diameter and/or contour of the lens support may be modified as necessary so that the ⅛- by ⅛-inch neoprene gasket supports the lens at its periphery. Each finished impact-resistant glass lens (including each impact-resistant laminated glass lens) for prescription use shall be subjected to the impact test prescribed by this paragraph. To demonstrate that all other types of impact-resistant lenses are capable of withstanding this impact test, the manufacturer of such lenses shall subject to the impact test a statistically significant sampling of lenses from each production batch, and the lenses so tested shall be representative of the finished forms as worn by the wearer (including finished forms that are of minimal lens thickness and that have been subjected to any treatment used to impart impact resistance). This statement of policy will be appropriately amended to provide for use of alternate methods of testing the impact resistance of lenses if it can be shown that the alternate method is equal to or superior to the method prescribed in this paragraph.

(e) In addition to the invoice(s) and shipping document(s), all packages and/or shipping containers of impact-resistant lenses, other than impact-resistant glass lenses (including impact-resistant laminated glass lenses) for prescription use, shall bear a code or mark in a form or manner that will permit future identification of any given production batch by the manufacturer.

(f) The manufacturer of the lenses shall make, keep, and maintain for 3 years records of sale, distribution, and the results of tests conducted in accordance with paragraph (d) of this section. The manufacturer shall make such records available upon request at all reasonable hours by any officer or employee of the Food and Drug Administration or by any other officer or employee acting on behalf of the Secretary of Health, Education, and Welfare and shall permit such officer or employee to inspect and copy such records, to make such inventories of stock as he deems necessary, and otherwise to check the correctness of such inventories.

(g) For the purpose of this section, the term "manufacturer" includes an importer for resale. Such importer may have the tests required by paragraph (d) of this section conducted in the country of origin; however, such importer of impact-resistant lenses is subject to and must comply with the records and inspections provisions of paragraph (f) of this section.

(h) The transition to impact-resistant lenses must start immediately and be completed as promptly as possible; however, to provide for the development of an adequate supply of impact-resistant lenses and to facilitate an orderly change over to these lenses, the effective date of this statement of policy will be December 31, 1971. After that date eyeglasses and sunglasses must be fitted with impact-resistant lenses, except when the physician or optometrist finds that

impact-resistant lenses will not fulfill the visual requirements of a particular patient.

(i) This statement of policy does not apply to contact lenses.

(Secs. 502(j), 701(a), 52 Stat. 1051, 1055; 21 U.S.C. 352(j), 371(a))

Dated: May 11, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-6802 Filed 5-14-71;8:47 am]

Title 24—HOUSING AND HOUSING CREDIT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development

PART 7—EQUAL EMPLOYMENT OPPORTUNITY; POLICY AND PROCEDURES

Appeals and Grievances

These amendments are made to conform Part 7 to amendments which the Civil Service Commission has promulgated to its Equal Opportunity regulations in 5 CFR Part 713 (35 F.R. 14917). The amendments to Part 7 provide that if an allegation of discrimination is made in the course of an appeal under Subpart B of 5 CFR Part 771—Administrative Appeals, it shall be processed under that subpart and appropriate Department procedures, and if an allegation of discrimination is made in the course of a grievance under Subpart C of 5 CFR Part 771—Employee Grievances, it shall be processed under Subpart A of Part 7 and HUD Handbook 771.2, Employee Grievances.

Since these amendments relate to Department personnel and procedures, notice and public procedure and a deferred effective date are unnecessary. These amendments shall therefore be made effective April 1, 1971, the effective date of the amendments to 5 CFR Part 713.

1. Section 7.33(a) is amended to read as follows:

§ 7.33 Acceptability.

(a) The EEO Officer shall determine whether the complaint comes within the purview of this subpart and shall advise the complainant and his representative in writing of the acceptance, rejection, or cancellation of his complaint. A complaint may be rejected, with the concurrence of the Director or Deputy Director of EEO, because it was not filed within the required time limits or because it is not within the purview of this subpart. It may be canceled because of a failure of the complainant to prosecute the complaint or because of a separation of the complainant from the Department for reasons not related to his complaint.

* * * * *

2. Section 7.37 is revised to read as follows:

§ 7.37 Relationship to other HUD appellate procedures.

(a) Except as provided in paragraphs (b) and (c) of this section, when a complainant makes a written allegation of discrimination because of race, color, religion, sex, or national origin in connection with an action that would otherwise be processed under the grievance or appeals procedure of the Department, the Department may process the allegation of discrimination under its grievance or appeals procedure when that procedure meets the prniciples and requirements in §§ 7.25 through 7.38. However, with regard to the issue of discrimination (as distinguished from other aspects of the action), the Director or Deputy Director of EEO shall make the decision of the Department as provided in § 7.39. That decision shall be incorporated in and become a part of the decision on the grievance or the appeal.

(b) An allegation of discrimination made in connection with an appeal under Subpart B of 5 CFR Part 771 and appropriate Department procedures shall be processed under that subpart and said procedures.

(c) An allegation of discrimination made in connection with a grievance under Subpart C of 5 CFR Part 771 and HUD Handbook 771.2, Employee Grievances, shall be processed under this subpart.

3. Section 7.38(a) is amended to read as follows:

§ 7.38 Avoidance of delay.

(a) The complaint shall be resolved promptly. To this end, both the complainant and the Department shall proceed with the complaint without undue delay so that the complaint is resolved, except in unusual circumstances, within 60 calendar days after its receipt by the appropriate EEO officer, exclusive of time spent in the processing of the complaint by the appeals examiner. When the complaint has not been resolved within this time limit, the complainant may appeal to the Civil Service Commission for a review of the reasons for the delay. Upon review of this appeal, the Commission may require the Department to take special measures to insure the prompt processing of the complaint, or the Commission may accept the appeal for consideration pursuant to §§ 7.45 through 7.49.

* * * * *

(Sec. 7(d), 79 Stat. 670; 42 U.S.C. 3535(d); E.O. 11478, Aug. 8, 1969, 34 F.R. 12985; 42 U.S.C. 2000e note; 5 CFR Part 713)

Effective date. These amendments are effective April 1, 1971.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[FR Doc.71-6838 Filed 5-14-71;8:51 am]

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

Correction

In F.R. Doc. 71-6362 appearing at page 8566 in the issue of Saturday, May 8, 1971, the "Effective date of identification of areas which have special flood hazards" for Treasure Island, Fla., now reading "June 27, 1971" should read "June 27, 1970".

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Clarence Cannon National Wildlife Refuge, Mo.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (5-15-71).

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

MISSOURI

CLARENCE CANNON NATIONAL WILDLIFE REFUGE

Public hunting of squirrels on the Clarence Cannon National Wildlife Refuge is permitted only on the area designated by signs as open to hunting. This open area, comprising 3,746 acres, is delineated on a map available from the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111. Hunting shall be in accordance with all applicable State regulations concerning the hunting of squirrels subject to the following conditions:

(1) The open season for hunting squirrels on the refuge is from May 30, 1971, through September 30, 1971, inclusively.

The provision of this special regulation supplements the regulations which govern hunting on wildlife refuges generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through September 30, 1971.

JAMES F. GILLETT,
Refuge Manager, Clarence Cannon National Wildlife Refuge, Annada, Mo.

MAY 10, 1971.

[FR Doc.71-6782 Filed 5-14-71;8:46 am]