

Morley's Sporting Goods, 52-54 Division Street, Amsterdam, NY 12010.
 Avoca Pharmacy, 12 Main Street, Avoca, NY 14809.
 Johnny Jo Stores, Inc., Camillus Plaza, Camillus, N.Y. 13031.
 Owego-Murray Co., Inc., 181 Front Street, Owego, NY 13827.
 Ray's Gun Shop, Rural Delivery 3, Route 22, Plattsburgh, N.Y. 12901.
 Marjax Enterprises, Inc., 2720 West Henrietta Road, Rochester, NY 14620.
 Badgley & Wheeler Hardware, Main Street, Schoharie, N.Y. 12157.
 Dom's Sports Shop, 2467 Niagara Falls Boulevard, Tonawanda, N.Y. 14150.
 Albert Coppotelli, 2103 Genesee Street, Utica, NY 13501.
 Sportsman's Supply Co., 600 North Cherry Street, Winston-Salem, NC 27100.
 Dakota Firearms, 24 North Main, Minot, ND 58701.
 F & G Police Equipment Co., 860 Broad Road, Bedford, OH 44146.
 Southern Ohio Distributors, 3700 Redbank Road, Cincinnati, OH 45200.
 Sunset Sporting Goods, 4625 North Detroit Avenue, Toledo, OH 43612.
 Thomson Hardware & Sporting Goods, 116 North Main, Altus, OK 73521.
 Hales Sporting Goods, Post Office Box 693, Blackwell, OK 74631.
 Lampus Co., 2656 Northeast Union, Portland, OR 97212.
 Don Williams Hardware Co., Post Office Box 193, Dallas, OR 97058.
 M. C. Ebbecke Hardware Co., Inc., 606 Hamilton Street, Allentown, PA 18100.
 S. L. Spotto, 804 West Crawford, Connelville, PA 15425.
 Mike Sahlaney Estate, Inc., Main Street, Houtzdale, PA 16851.
 Froff's Fishing Equipment, 62 Landis Avenue, Millersville, PA 17551.
 Jerrys Sport Center, Rural Delivery No. 1, Route 347, Olyphant, PA 18447.
 Nulls General Store, Rural Delivery 2, Route 15, South Gettysburg, PA 17325.
 Lenny's Sports Center, 15 West Third Street, Williamsport, PA 17701.
 Royal Arms, 846 Pine, Abilene, TX 79600.
 Bargain Fair of Denton, Inc., 1620 University Drive, Denton, TX 76201.
 Don's Tackle Box, 333 Highway 64, Henderson, TX 75652.
 Texas Gun Clinic, 3450 Gulf Freeway, Houston, TX 77004.
 Stewart Hardware, North Side Square, Kaufman, TX 75142.
 The Gift House, 120 25th Street, Ogden, UT, Village Barber & Sport Shop, 2603 West Albany, Kennewick, WA 99336.
 Al Kreideman, 548 Janich Circle West, Stevens Point, WI 54481.

[FR Doc. 71-9393 Filed 7-1-71; 8:45 am]

[Docket C-1927]

PART 13—PROHIBITED TRADE PRACTICES

Radigan Brothers, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.71 *Financing*: 13.71-10 *Truth in Lending Act*; § 13.73 *Formal regulatory and statutory requirements*: 13.73-92 *Truth in Lending Act*; § 13.155 *Prices*: § 13.155-95 *Terms and conditions*: 13.155-95(a) *Truth in Lending Act*. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements*: 13.1623-95 *Truth in Lending Act*; Mis-

representing oneself and goods—Prices: § 13.1823 *Terms and conditions*: 13.1823-20 *Truth in Lending Act*. Subpart—Neglecting, unfairly, or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements*: 13.1852-75 *Truth in Lending Act*; § 13.1905 *Terms and conditions*: 13.1905-60 *Truth in Lending Act*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Radigan Brothers, Incorporated, et al., Gary, Ind., Docket C-1927, June 1, 1971]

In the Matter of Radigan Brothers, Inc., a Corporation and John B. Radigan, William J. Radigan, Joseph B. Radigan, Individually and as Officers of Said Corporation

Consent order requiring a Gary, Ind., retailer of furniture to cease violating the Truth in Lending Act by failing to disclose in its credit transactions the annual percentage rate, the total of payments, the cash price, the cash downpayment, the unpaid balance, the amount financed, the deferred payment price, and other disclosures required by Regulation Z of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Radigan Brothers, Inc., a corporation, and its officers, and respondents John B. Radigan, William J. Radigan, and Joseph B. Radigan, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with any extension of consumer credit or any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.) do forthwith cease and desist from:

1. Failing to disclose the terms "Finance Charge" and "Annual Percentage Rate," where required to be used, more conspicuously than other required terminology, as required by § 226.6(a) of Regulation Z.

2. Failing to use the term "Total of Payments" to describe the sum of payments scheduled to repay the indebtedness, or failing to disclose the number, amount, and due dates of periods of payments scheduled to repay the indebtedness, as required by § 226.8(b)(3) of Regulation Z.

3. Failing to use the term "Cash Price" to describe the price of the goods and services which are the subject of the transaction, as required by § 226.8(c)(1) of Regulation Z.

4. Failing to use the terms "Cash Down Payment," "Trade-In" and "Total Down Payment," to describe any down payment in money, any down payment in property and the sum of these two

items, respectively, as required by § 226.8(c)(2) of Regulation Z.

5. Failing to use the term "Unpaid Balance of Cash Price" to describe the difference between the cash price and the total down payment, as required by § 226.8(c)(8)(ii) of Regulation Z.

6. Failing to use the term "Amount Financed," to describe the amount of credit extended, as required by § 226.8(c)(7) of Regulation Z.

7. Failing to use the term "Deferred Payment Price" to describe the sum of the cash price, the finance charge, and all other charges, as required by § 226.8(c)(8)(ii) of Regulation Z.

8. Failing to disclose the Annual Percentage Rate with an accuracy at least to the nearest quarter of one percent, computed in accordance with § 226.5 of Regulation Z, as required by § 226.8(b)(2) of Regulation Z.

9. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with § 226.4 and § 226.5 of Regulation Z, in the manner, form and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered, That respondents shall deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondents' products or services, and shall secure from each such salesman or other person a signed statement acknowledging receipt of a copy of this order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: June 1, 1971.

By the Commission.

[SEAL]

CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-9394 Filed 7-1-71; 8:45 am]

[Docket No. C-1928]

PART 13—PROHIBITED TRADE PRACTICES

John Mullins & Sons, Inc., and Irving Sable

Subpart—Advertising falsely or misleadingly: § 13.71 *Financing*: 13.71-10 *Truth in Lending Act*; § 13.73 *Formal regulatory and statutory requirements*: 13.73-92 *Truth in Lending Act*; § 13.155 *Prices*: 13.155-95 *Terms and conditions*:

13.155-95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 Formal regulatory and statutory requirements: 13.1623-95 Truth in Lending Act: Misrepresenting oneself and goods—Prices: § 13.1823 Terms and conditions: 13.1823-20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 Formal regulatory and statutory requirements: 13.1852-75 Truth in Lending Act. § 13.1905 Terms and conditions: 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, John Mullins & Sons, Inc., et al., Brooklyn, N.Y., Docket No. C-1928, June 2, 1971]

In the Matter of John Mullins & Sons, Inc., a Corporation, and Irving Sable, Individually and as an Officer of Said Corporation

Consent order requiring a Brooklyn, N.Y., corporation selling furniture, electrical appliances and other merchandise to cease violating the Truth in Lending Act by failing to use in installment contracts the terms, finance charge, annual percentage rate, cash price, cash downpayment, unpaid balance of cash price, deferred payment price, total of payments, amount financed, and failing to make other disclosures required by Regulation Z of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents John Mullins & Sons, Inc., a corporation, and its officers, and Irving Sable, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with any extension of consumer credit or any advertisement to aid, promote, or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (P.L. 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to use the term "finance charge" to disclose and describe the cost of credit, as required by § 226.8(c) (8) (i) of Regulation Z, in more prominent print than the other prescribed terminology, as required by § 226.6(a) of Regulation Z.

2. Failing to use the term "annual percentage rate" to disclose and describe the annual rate of the finance charge, as required by § 226.8(b) (2) of Regulation Z, in more prominent print than the other prescribed terminology, as required by § 226.6(a) of Regulation Z.

3. Failing to use the term "cash price" to disclose and describe the price at which the respondents offer, in the ordinary course of business, to sell for cash the property or services, which are the subject of consumer credit transactions, as required by § 226.8(c) (1) of Regulation Z.

4. Failing to use the term "cash downpayment" to disclose and describe the downpayment in money, as required by § 226.8(c) (2) of Regulation Z.

5. Failing to use the term "unpaid balance of cash price" to disclose and describe the difference between the cash price and the cash downpayment, trade-in or total downpayment, as required by § 226.8(c) (3) of Regulation Z.

6. Failing to use the term "deferred payment price" to disclose and describe the sum of the cash price, all the other charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, as required by § 226.8(c) (8) (ii) of Regulation Z.

7. Failing to use the term "total of payments" to disclose and describe the sum of the payments scheduled to repay the indebtedness, as required by § 226.8 (b) (3) of Regulation Z.

8. Failing to use the term "amount financed" to disclose and describe the amount of credit which the customer has the actual use of, as required by § 226.8(c) (7) of Regulation Z.

9. Failing to render consumer credit cost disclosure statements before the transactions are consummated, as required by § 226.8(a) of Regulation Z.

10. Failing to render consumer credit cost disclosure statements to mail order and telephone customers not later than the date the first payment is due, as required by § 226.8(g) (1) of Regulation Z.

11. Failing to disclose the annual percentage rate with an accuracy at least to the nearest quarter of 1 percent, in accordance with § 226.5 of Regulation Z, as required by § 226.8(b) (2) of Regulation Z.

12. Failing, in any consumer credit transaction or advertisement, to make all disclosures determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That each respondent shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have com-

plied with the order to cease and desist contained herein.

Issued: June 2, 1971.

By the Commission.

[SEAL]

CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-9395 Filed 7-1-71; 8:45 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs

[T.D. 71-109]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Customs Forms and Procedures Relating to the Arrival and Departure of Vessels

On April 1, 1970, a notice of proposed rulemaking to implement the Convention on Facilitation of International Maritime Traffic ratified by the United States on March 17, 1967 (18 U.S.T. 411, TIAS 6251) was published in the FEDERAL REGISTER (35 F.R. 5405). The proposal was to amend the Customs Regulations to substitute standardized model forms developed by the Intergovernmental Maritime Consultative Organization (IMCO) for certain Customs forms presently used in connection with the arrival and departure of vessels in foreign trade, with modifications required by existing law, and to provide for the use of the new forms. Due consideration has been given to all relevant matter presented in response to that notice and it has been determined that three of the proposed new forms may be adopted at this time. The three forms and the forms they will replace are as follows:

Proposed Form	Replaces
Customs Form 1301, "General Declaration"	Customs Form 1385, "Permit to Proceed."
Customs Form 1303, "Ship's Stores Declaration"	No printed form— declaration required to be furnished by master.
Customs Form 1304, "Crew's Effects Declaration"	No printed form— declaration required to be furnished by master.

Because the model forms do not provide for the oath of the master required by statute in certain circumstances, a form of "Master's Oath on Entry of Vessel in Foreign Trade," to be designated Customs Form 1300, was also proposed. The form will replace Customs Form 3251, "Master's Oath on Entry of Vessel from Foreign Port," and the oaths presently found on Customs Forms 1374 and 1385. The new forms may be purchased from District Directors of Customs at \$1.05 per 100 forms. The format and use of the proposed "Cargo Declaration" requires further study and it will not be adopted at this time.

It has been decided to modify the proposed amendments to adopt certain of the suggestions made. Accordingly, Part 4

of the Customs Regulations is amended as follows:

Section 4.7 is amended to read:

§ 4.7 Inward foreign manifest; production on demand; contents and form.

(a) The master of every vessel arriving in the United States and required to make entry shall have on board his vessel a manifest, as required by section 431, Tariff Act of 1930 (19 U.S.C. 1431),¹⁴ and by this section. The manifest shall be legible and complete; and if in a foreign language, a translation in English shall be furnished with the original and with any required copies. The manifest shall consist of a General Declaration, Customs Form 1301, and the following documents: (1) U.S. Customs Inward Foreign Manifest, Customs Form 7527-A (a District Director of Customs may permit the use of Inward Foreign Manifest forms, Customs Form 7527-B, in his district in lieu of Customs Form 7527-A, to such extent as it will meet his requirements), (2) Ship's Stores Declaration, Customs Form 1303, (3) Crew's Effects Declaration, Customs Form 1304, or, optionally, a copy of the Crew List, Customs and Immigration Form I-418, to which are attached crewmember's declarations on Customs Form 5129, (4) Crew List, Customs and Immigration Form I-418, and (5) Passenger List, Customs and Immigration Form I-418. Any document which is not required may be omitted from the manifest provided the word "None" is inserted in items 17-22 of the General Declaration, as appropriate.

(b) The original and one copy of the manifest shall be ready for production on demand.¹⁵ The master shall deliver the original and one copy of the manifest to the boarding officer.¹⁶ If the vessel is to proceed from the port of arrival to other United States ports with residue foreign cargo or passengers, an additional copy of the manifest shall be available for certification as a traveling manifest (see § 4.85). The district director may require an additional copy or additional copies of the manifest, but a reasonable time shall be allowed for the preparation of any copy which may be required in addition to the original and one copy.

(c) No Passenger List or Crew List shall be required in the case of a vessel arriving from Canada, otherwise than by sea, at a port on the Great Lakes or their connecting or tributary waters.^{16a}

(d) (1) The master of a vessel documented under the laws of the United States to engage in the foreign or coasting trade, or intended to be employed in such trade, at the port of first arrival from a foreign country shall declare on Customs Form 3415 any equipment, repair parts, or material purchased for the vessel, or any expense for repairs incurred, in a foreign country,^{16b} within the purview of section 466, Tariff Act of 1930, as amended (19 U.S.C. 257). If no equipment has been purchased or repairs made, a declaration to that effect shall be made on Customs Form 3415.

(2) If the vessel is of more than 500 gross tons, the declaration shall include a statement that no work in the nature of a rebuilding or alteration which might give rise to a reasonable belief that the vessel may have been rebuilt within the meaning of the second proviso to section 27, Merchant Marine Act, 1920, as amended (46 U.S.C. 883), has been effected which has not been either previously reported or separately reported simultaneously with the filing of such declaration.

(3) The declaration shall be ready for production on demand and for inspection by the boarding officer and shall be presented as part of the original manifest when formal entry of the vessel is made.

(4) The district director shall notify the U.S. Coast Guard vessel documentation officer at the home port of the vessel of any work in the nature of a rebuilding or alteration, including the construction of any major component of the hull or superstructure of the vessel, which comes to his attention.

(Secs. 431, 439, 465, 581(a), 584, 46 Stat. 710, as amended, 712, as amended, 718, 747, as amended, 748, as amended, secs. 2, 3, 70 Stat. 544, as amended; 19 U.S.C. 1431, 1439, 1465, 1581(a), 1583, 46 U.S.C. 883a, 883b)

Part 4 is amended to add a new § 4.7a reading as follows:

§ 4.7a Inward foreign manifest; information required; alternative forms.

The forms designated by § 4.7(a) as comprising the inward foreign manifest shall be completed as follows:

(a) Ship's Stores Declaration. Articles to be retained aboard as sea or ship's stores, required by section 432, Tariff Act of 1930,¹⁷ to be separately specified shall be listed on the Ship's Stores Declaration, Customs Form 1303. Less than whole packages of sea or ship's stores may be described as "sundry small and broken stores."

(b) (1) Crew's Effects Declaration. The serial number of the Declaration and Entry of Crewmember for Imported Articles, Customs Form 5123, prepared and signed by any officer or crewmember who intends to land articles in the United States, or the word "None," shall be shown in item No. 7 opposite the respective crewmember's name.

(2) If the crewmembers' declarations are on Customs Form 5129, the master, in lieu of describing the articles on Customs Form 1304, shall furnish a Crew List, Customs and Immigration Form I-418, endorsed as follows:

I certify that this list, with its supporting crewmembers' declarations, is a true and complete manifest of all articles on board the vessel acquired abroad by myself and the officers and crewmembers of this vessel, other than articles exclusively for use on the voyage or which have been duly cleared through Customs in the United States.

(Master.)

The Crew List on Form I-418 shall show, opposite the crewmember's name, his shipping article number and, in column

5, the declaration number. If the crewmember has nothing to declare, the word "None" shall be placed opposite his name instead of a declaration number.

(3) For requirements concerning the preparation of Customs Forms 5123 and 5129, see, respectively, §§ 23.4(a) and 10.22(a) and (b) of this chapter.

(d) Crew List. The Crew List shall be completed in accordance with the requirements of the Immigration and Naturalization Service, United States Department of Justice (8 CFR Part 251).

(e) Passenger List. (1) The Passenger List shall be completed in accordance with § 4.50 and with the requirements of the Immigration and Naturalization Service, United States Department of Justice (8 CFR Part 231), and the following certification shall be placed on its last page:

I certify that Customs baggage declaration requirements have been made known to incoming passengers; that any required Customs baggage declarations have been or will simultaneously herewith be filed as required by law and regulation with the proper Customs Officer; and that the responsibilities developing upon this vessel in connection therewith, if any, have been or will be discharged as required by law or regulation before the proper Customs Officer. I further certify that there are no steerage passengers on board this vessel (46 U.S.C. 151-163).

(Master.)

(2) If the vessel is carrying steerage passengers, the reference to steerage passengers shall be deleted from the certification, and the master shall comply with the requirements of § 4.50.

(3) If there are no steerage passengers aboard upon arrival, the listing of the passengers may be in the form of a vessel "souvenir passenger list," or similar list, in which the names of the passengers are listed alphabetically and to which the certificate referred to in subparagraph (1) of this paragraph is attached.

(Sections 431, 432, 439, 463, 465, 497, 498, 584, 46 Stat. 710, as amended, 712, as amended, 716, 718, 728, as amended, 748, as amended, sec. 9, 22 Stat. 189, as amended, R.S. 4573; 19 U.S.C. 1431, 1432, 1439, 1453, 1465, 1497, 1498, 1584, 46 U.S.C. 158, 674)

Section 4.8 is amended to read:

§ 4.8 Preliminary entry.

If it is desired that any vessel having on board inward foreign cargo, passengers, or baggage shall discharge or take on cargo, passengers, or baggage before the vessel has been formally entered, preliminary entry shall be made by compliance with § 4.30 and execution by the master of the Master's Certificate on Preliminary Entry on Customs Form 1300.¹⁸

(Sections 448, 486, 46 Stat. 714, 725, as amended; 19 U.S.C. 1448, 1486)

Section 4.9 is amended to read:

§ 4.9 Formal entry.

(a) The formal entry of an American vessel from a foreign port or place shall be in accordance with section 434, Tariff Act of 1930 (19 U.S.C. 1434).¹⁹ The formal

entry of a foreign vessel arriving within the limits of any Customs collection district shall be in accordance with section 435, Tariff Act of 1930 (19 U.S.C. 1435).²⁰ The required oath on entry shall be executed on Customs Form 1300.

(b) Upon the entry of an American vessel, the master shall present to the District Director of Customs, in addition to the Crew Lists required under § 4.7(a), the certified copy of the Crew List on Customs and Immigration Form I-418 obtained, in accordance with the provisions of § 4.68(a), upon the last previous clearance outward from the United States. The master shall deposit the vessel's document with the district director before or at the time of entry. The document may be returned upon request to the master of a vessel of less than 100 gross tons engaged in taking out fishing parties.

(c) The master of any foreign vessel shall exhibit the vessel's document to the district director on or before the entry of the vessel. After the net tonnage has been noted, the master may deliver it to the consul of the nation to which such vessel belongs, in which event he shall file with the district director the certificate required by section 435 of the Tariff Act. If not delivered to the consul, the document shall be deposited in the customhouse.²¹

(d) The master of every vessel required to make entry shall present on entry the pratique required by the pertinent regulations of the United States Public Health Service and shall pay all required fees and penalties incurred.

(e) The master, licensed deck officer, or purser may appear in person at the customhouse to enter the vessel; or the required oaths, related documents, and other papers properly executed by the master or other proper officer may be delivered at the customhouse by the vessel agent or other personal representatives of the master.

(Secs. 434, 435, 46 Stat. 711, as amended, sec. 305, 58 Stat. 705, R.S. 4576, as amended; 19 U.S.C. 1434, 1435, 42 U.S.C. 269, 46 U.S.C. 677)

In § 4.14, paragraph (a) is amended to read:

§ 4.14 Equipment and repairs to American vessels.

(a) The master's declaration on Customs Form 3415 required by § 4.7(d) (1), covering equipment, repair parts, or material acquired, or expense for repairs incurred, in a foreign country,²² within the purview of section 466, Tariff Act of 1930, as amended,²³ shall be filed, whether or not the items, or any of them, may be exempt from entry as stated in paragraph (b) (1) of this section.

In § 4.20, paragraph (f) is amended to read:

§ 4.20 Tonnage taxes.

(f) For the purpose of computing tonnage tax, the net tonnage of a vessel stated in the vessel's marine document

shall be accepted unless (1) such statement is manifestly wrong, in which case the net tonnage shall be estimated, pending admeasurement of the vessel, or the tonnage reported for her by any recognized classification society may be accepted, or (2) an appendix is attached to the marine document showing a net tonnage ascertained under the so-called "British rules" or the rules of any foreign country which have been accepted as substantially in accord with the rules of the United States, in which case the tonnage so shown may be accepted and the date the appendix was issued shall be noted on the tonnage tax certificate, Customs Form 1002, and on the master's oath, Customs Form 1300. For the purpose of computing tonnage tax on a vessel with a tonnage mark and dual tonnages, the higher of the net tonnages stated in the vessel's marine document or tonnage certificate shall be used unless the Customs Officer concerned is satisfied by report of the boarding officer, statement or certificate of the master, or otherwise that the tonnage mark was not submerged at the time of arrival. Whether the vessel has a tonnage mark, and if so, whether the mark was submerged on arrival, shall be noted on Customs Form 1300 by the boarding officer.

In § 4.34, paragraph (e) is amended and paragraph (f) is deleted to read:

§ 4.34 Prematurely discharged, overcarried, and undelivered cargo.

(e) One copy of the inward foreign manifest shall be certified by Customs for use as a substitute traveling manifest for the prematurely landed or overcarried cargo being forwarded as residue cargo, whether or not the forwarding vessel is also carrying other residue cargo. If the application for forwarding is made on the manifest, the new substitute traveling manifest shall be stamped to show the approval of the application. If the application is on a separate document, a copy thereof stamped to show its approval shall be attached to the substitute traveling manifest. An appropriate cross-reference shall be placed on the original traveling manifest to show that the vessel has one or more substitute traveling manifests. A permit to proceed endorsed on Customs Form 1301 issued to the vessel transporting to destination the prematurely landed or overcarried cargo shall make reference to the nature of such cargo, identifying it with the importing vessel.

(f) [Deleted]

§ 4.50 [Amended]

In § 4.50, paragraph (a) is amended by substituting "4.7(a)" for "4.7(c)."

In § 4.61, paragraph (a) is amended to read:

§ 4.61 Requirements for clearance.

(a) Application for clearance for a vessel intending to depart for a foreign

port shall be made by filing the oath; Customs Form 1300, and a General Declaration, Customs Form 1301, by or on behalf of the master at the customhouse. The master, licensed deck officer, or purser may appear in person to clear the vessel, or the required oaths, related documents, and other papers properly executed by the master or other proper officer may be delivered at the customhouse by the vessel agent or other personal representative of the master. Clearance shall be granted on Customs Form 1378.

Section 4.63 is amended to read:

§ 4.63 Outward cargo declaration; shipper's export declarations.

(a) No vessel shall be cleared directly for a foreign port, or for a foreign port by way of another domestic port or other domestic ports (see § 4.87(b)), unless (1) there has been filed with the district director at the port from which clearance is being obtained an outward foreign manifest on Customs Form 1374 (the master's oath printed on that form need not be completed) covering all the cargo laden aboard the vessel at that port, together with the master's oath (see paragraph (e) of this section) and such export declarations as are required by pertinent regulations of the Bureau of the Census, Department of Commerce, or (2) unless the vessel is cleared on the basis of an incomplete manifest as provided for in § 4.75.

(b) Except as hereafter stated, the number of the export declaration covering each shipment for which an authenticated export declaration is required shall be shown on the outward foreign manifest in the marginal column headed "Number of Export Declaration." If an export declaration is not required for a shipment, a notation shall be made on the manifest describing the basis for the exemption with a reference to the number of the section in the Census Regulations (see §§ 30.39 and 30.50-30.57, title 15, Code of Federal Regulations) where the particular exemption is provided (however, where shipments are exempt on the basis of value and destination, the appearance of the value and destination on a bill of lading or other commercial form is acceptable as evidence of the exemption and reference to the applicable section in the Census Regulations is not required).

(c) The list of cargo may be shown on bills of lading, cargo lists, or other commercial forms, provided the manifest is completely executed on Customs Form 1374, except for particulars as to cargo; and provided also that the commercial forms are securely attached to the Customs form in such manner as to constitute one document; that they are incorporated by suitable reference on the face of the form such as "Cargo as per attached commercial forms;" and that there is shown on the face of each such commercial form the information required by Customs Form 1374 for the cargo covered by that form.

(d) For each shipment to be exported under an entry or withdrawal for exportation or for transportation and exportation, the outward manifest or commercial document attached to the manifest and made a part thereof in accordance with paragraph (c) of this section shall clearly show for such shipment the number, date, and class of such customs entry or withdrawal (i.e., T. & E., Wd. T. & E., I.E., Wd. Ex., or Wd. T., as applicable) and the name of the port where the entry or withdrawal was filed if other than the port where the merchandise is laden for exportation.

(e) The master's oath shall be properly executed on Customs Form 1300 before the manifest is accepted. (R.S. 4197, as amended, 4199, 4198, 46 U.S.C. 91, 93, 94.)

Section 4.75 is amended to read:

§ 4.75 Incomplete cargo declaration; incomplete export declarations; bond.

(a) If a master desiring to clear his vessel for a foreign port does not have available for filing with the district director a complete outward foreign manifest¹³⁰ or all required shippers' export declarations,¹³¹ the district director may accept in lieu thereof an incomplete manifest on Customs Form 1374 (the master's oath printed on that form need not be completed) if there is on file in his office a bond on Customs Form 7567 or 7569 executed by the vessel owner or some other person as attorney in fact of the vessel owner. The form shall be appropriately modified to indicate that it is an incomplete manifest and the oath on clearance on Customs Form 1300 (see § 4.63(e)) shall be required to be executed.

(b) Not later than the fourth business day after clearance¹³² from each port in the vessel's itinerary, the master, or the vessel's agent on behalf of the master, shall deliver to the district director at each port a complete manifest (Customs Form 1374) of the cargo laden at such port together with duplicate copies of all required shippers' export declarations for such cargo. The oath of the master or agent on Customs Form 1300 (see § 4.63(e)) shall be properly executed before acceptance.

(c) During any period covered by a finding by the President under section 1 of the Act of June 15, 1917, as amended (50 U.S.C. 191), that the security of the United States is endangered by reason of actual or threatened war, or invasion, or insurrection, or subversive activity, or of disturbance or threatened disturbances of the international relations of the United States, no vessel shall be cleared for a foreign port until a complete outward foreign manifest and all required export declarations have been filed with the district director, unless clearance in accordance with paragraphs (a) and (b) of this section is authorized by the Commissioner of Customs.¹³³ (R.S. 4197, as amended; 46 U.S.C. 91.)

In § 4.81, paragraphs (d) and (e) are amended to read:

§ 4.81 Reports of arrivals and departures in coastwise trade.

(d) The traveling Crew's Effects Declaration, Customs Form 1304, or Customs and Immigration Form I-418 with attached Customs Form 5129, referred to in § 4.85 (b), (c), and (e) shall be deposited with the district director upon arrival at each port in the United States and finally surrendered to the boarding officer or district director at the port where the vessel first departs directly for a foreign port.

(e) Before any foreign vessel shall depart in ballast, or solely with articles to be transported in accordance with § 4.93, from any port in the United States for any other such port, the master shall apply to the district director for a permit to proceed by filing a General Declaration, Customs Form 1301, in duplicate. Articles to be transported in accordance with § 4.93 shall be manifested on an inward foreign manifest, Customs Form 7527-B, as required by § 4.93(c). Although the title of the form is Inward Foreign Manifest, it will be considered a coastwise manifest when used in accordance with the preceding sentence. Three copies of the manifest in such case shall be filed with the district director. The required oath shall be executed on Customs Form 1300 (see § 4.63(e)). When the district director grants the permit by making an appropriate endorsement on the General Declaration, Customs Form 1301 (see § 4.85(b)), the duplicate copy, together with two copies of any coastwise manifest, Customs Form 7527-B covering articles to be transported in accordance with § 4.93, shall be returned to the master. The traveling Crew's Effects Declaration and all unused crewmembers' declarations on Customs Form 5123 or 5129 shall be placed in a sealed envelope addressed to the Customs boarding officer at the next intended domestic port and returned to the master for delivery. The master shall execute a receipt for all unused crewmembers' declarations which are returned to him. Within 24 hours after arrival at the next U.S. port the master shall report his arrival to the district director. He shall make entry within 48 hours by filing with the district director the permit to proceed on Customs Form 1301 received at the previous port, a newly executed General Declaration, a Crew's Effects Declaration of all unentered articles acquired abroad by crewmembers which are still on board, a Ship's Stores Declaration in duplicate of the stores remaining on board, both copies of the coastwise manifest covering articles transported in accordance with § 4.93, and the document of the vessel. The required oath shall be executed on Customs Form 1300 (see § 4.63(e)). The traveling Crew's Effects Declaration and all unused crewmembers' declarations on Customs Form 5123 or 5129 returned at the prior port to the master shall be delivered by him to the boarding officer.

§ 4.84 [Amended]

In § 4.84, paragraph (a) is amended by substituting "1301" for "1385."

Section 4.85 is amended to read:

§ 4.85 Vessels with residue cargo for domestic ports.

(a) Any foreign vessel or vessel of the United States under register or frontier enrollment and license, arriving from a foreign port with cargo or passengers manifested for ports in the United States other than the port of first arrival, may proceed with such cargo or passengers from port to port, provided a vessel bond (Customs Form 7567 or 7569) in a suitable amount is on file with the district director at the port of first entry.¹³⁴ No additional bond shall be required at subsequent ports of entry. Before the vessel departs from the port of first arrival, the master shall obtain from the district director a certified copy of the complete inward foreign manifest (hereinafter referred to as the traveling manifest).¹³⁵ The certified copy shall have a legend similar to the following endorsed on the General Declaration, Customs Form 1301:

Port	Date
Certified to be a true copy of the original inward foreign manifest.	

Signature and title

(b) Before a vessel proceeds from one domestic port to another with cargo or passengers on board as described in paragraph (a) of this section, the master shall present to the district director at such port of departure an application in triplicate on Customs Form 1301 for a permit to proceed to the next port. The required oath shall be executed on Customs Form 1300 (see § 4.63(e)). When a district director grants the permit on Customs Form 1301, the following legend shall be endorsed on the form:

Port	Date
Permission is granted to proceed to the port named in item 6.	

Signature and title

The duplicate shall be attached to the traveling manifest and the triplicate (the permit to proceed to be delivered at the next port) shall be returned to the master, together with the traveling manifest¹³⁶ and the vessel's document, if on deposit. If no inward foreign cargo or passengers are to be discharged at the next port, that fact shall be indicated on Customs Form 1301 by inserting "To load only" in parentheses after the name of the port to which the vessel is to proceed. The traveling Crew's Effects Declaration covering articles acquired abroad by officers and members of the crew, together with the unused crewmembers' declarations prepared for such articles, shall be placed in a sealed envelope addressed to the Customs boarding officer at the next port and given to the master for delivery.

(c) Upon the arrival of a vessel at the next and each succeeding domestic port with inward foreign cargo or passengers still on board, the master shall report arrival and make entry within 24 hours. To make such entry, he shall deliver to the district director the vessel's document, the permit to proceed, the traveling manifest,¹ and the traveling Crew's Effects Declaration, together with the crewmembers' declarations received on departure from the previous port. The master shall also present an abstract manifest consisting of (1) a newly executed General Declaration, (2) an inward foreign manifest and a Passenger List, in such number of copies as may be required for local Customs purposes, of any cargo or passengers on board manifested for discharge at that port, (3) a Crew's Effects Declaration in duplicate of all unentered articles acquired abroad by officers and crewmembers which are still on board, (4) a Ship's Stores List in duplicate of the sea or ship's stores remaining on board, and (5) if applicable, the manifest required by § 4.86. If no inward foreign cargo or passengers are to be discharged the manifest or Passenger List may be omitted from the abstract manifest, and the following legend shall be placed on the General Declaration:

Vessel on an inward foreign voyage with residue cargo/passengers for -----
No cargo or passengers for discharge at this port.

The required oath shall be executed on Customs Form 1300 (see § 4.63(e)). The traveling manifest, together with a copy of the newly executed General Declaration, shall serve the purpose of a copy of an abstract manifest at the port where it is finally surrendered.

(d) If preliminary entry is desired, the abstract manifest described in paragraph (c) of this section shall be ready for presentation to the boarding officer, and preliminary entry shall be made in accordance with § 4.8.

(e) The traveling manifest shall be surrendered to the district director at the final domestic port of discharge of the cargo, except that if residue foreign cargo remains on board for discharge at a foreign port or ports, the traveling manifest shall be surrendered at the final port of departure from the United States. However, it shall not be surrendered at the port from which the vessel departs for another United States port, via an intermediate foreign port, under § 4.89 if residue foreign cargo remains on board for discharge at a subsequent U.S. port. The traveling Crew's Effects Declaration shall be finally surrendered to the district director at any port from which the vessel will depart directly for a foreign port.

(Secs. 439, 442, 443, 444, 623, 46 Stat. 712, as amended, 713, 759, as amended; 19 U.S.C. 1439, 1442, 1443, 1444, 1623)

Section 4.87 is amended to read:

§ 4.87 Vessels proceeding foreign via domestic ports.

(a) Any foreign vessel or vessel of the United States under register or frontier

enrollment and license may proceed from port to port in the United States to land cargo or passengers for foreign ports.

(b) When applying for a clearance from the first and each succeeding port of lading, the master shall present to the district director a General Declaration (Customs Form 1301) in duplicate and a manifest on Customs Form 1374 of all the cargo laden for export at that port. The General Declaration shall clearly indicate all previous ports of lading. The required oath shall be executed on Customs Form 1300 (see § 4.63(e)).

(c) Upon compliance with the applicable provisions of § 4.61, the district director shall grant the permit to proceed by making the endorsement prescribed by § 4.85(b) on the General Declaration. One copy shall be returned to the master, together with the vessel's document if on deposit. The traveling Crew's Effects Declaration, together with any unused crewmembers' declarations, shall be placed in a sealed envelope addressed to the Customs boarding officer at the next domestic port and returned to the master.

(d) On arrival at the next and each succeeding domestic port, the master shall report arrival within 24 hours. He shall also make entry within 48 hours by presenting the vessel's document, the permit to proceed on Customs Form 1301 received by him upon departure from the last port a Crew's Effects Declaration in duplicate listing all unentered articles acquired abroad by officers and crew of the vessel which are still retained on board, and a Ship's Stores Declaration in duplicate of the stores remaining aboard. The master shall also execute a General Declaration. The required oath shall be on Customs Form 1300 (see § 4.63(e)). The traveling Crew's Effects Declaration, together with any unused crewmembers' declarations returned to the master at the prior port, shall be delivered by him to the district director.

(e) Clearance shall be granted at the final port of departure from the United States in accordance with § 4.61.

(f) If a complete manifest and all required shipper's export declarations are not available for filing before departure of a vessel from any port, clearance on Customs Form 1301 (Customs Form 1378 at the last port) may be granted in accordance with § 4.75, subject to the limitation specified in paragraph (c) of that section.

(g) When the procedure outlined in paragraph (f) of this section is followed at any port, the owner or agent of the vessel shall deliver to the district director at that port within 4 business days after the vessel's clearance² a manifest on Customs Form 1374, an oath on Customs Form 1300, and the export declarations to cover the cargo laden for export at that port.

(Secs. 433, 435, 437, 439, 442, 443, 444, 46 Stat. 711, 712, as amended, 713, R.S. 4197, as amended, 4367, 4368; 19 U.S.C. 1433, 1435, 1437, 1439, 1442, 1443, 1444, 46 U.S.C. 91, 313, 314)

In § 4.90, paragraph (b) is amended to read:

§ 4.90 Simultaneous vessel transactions.

(b) When a vessel is engaged simultaneously in two or more such transactions, the master shall indicate each type of transaction in which the vessel is engaged in his application for clearance on Customs Form 1301. The master shall conform simultaneously to all requirements of these regulations with respect to each transaction in which the vessel is engaged.

Section 4.91 is amended to read:

§ 4.91 Diversion of vessel; transshipment of cargo.

(a) If any vessel granted a permit to proceed from one port in the United States for another such port as provided for in §§ 4.81(e), 4.85, 4.87, or 4.88, is, while en route, diverted to a port in the United States other than the one specified in the permit to proceed (Customs Form 1301),³ the owner or agent of the vessel immediately shall give notice of the diversion to the district director who granted the permit, informing him of the new destination of the vessel and requesting him to notify the district director at the latter port. Such notification by the district director shall constitute an amendment of the permit previously granted, shall authorize the vessel to proceed to the new destination, and shall be filed by the district director at the latter port with the Form 1301 submitted on entry of the vessel.

(b) If any vessel cleared from a port in the United States for a foreign port as provided for in § 4.60 is diverted, while en route, to a port in the United States other than that from which it was cleared, the owner or agent of the vessel immediately shall give notice of the diversion to the district director who granted the clearance, informing him of the new destination of the vessel and requesting him to notify the district director at the latter port. Such notification by the district director shall constitute a permit to proceed coastwise, and shall authorize the vessel to proceed to the new destination. On arrival at the new destination, the master shall report arrival within 24 hours. He shall also make entry within 48 hours by presenting (1) the vessel's document, (2) the foreign clearance on Form 1378 granted by the district director at the port of departure, (3) a certificate that when the vessel was cleared from the last previous port in the United States there were on board cargo and/or passengers for the ports named in the foreign clearance certificate only and that additional cargo or passengers (have) (have not) been taken on board or discharged since such clearance was granted (specifying the particulars if any passengers or cargo were taken on board or discharged), (4) a Crew's Effects Declaration in duplicate of all unentered articles acquired abroad by the officers and crew of the vessel which are still

retained on board, and (5) a Ship's Stores Declaration in duplicate of the stores on board.

(c) In a case of necessity, a district director may grant an application on Customs Form 3171 of the owner or agent of an established line for permission to transshipsm all cargo and passengers from one vessel of the United States to another such vessel under Customs supervision, if the first vessel is transporting residue cargo for domestic or foreign ports or is on an outward foreign voyage or a voyage to noncontiguous territory of the United States, and is following the procedure prescribed in §§ 4.85, 4.87, or 4.88. When inward foreign cargo or passengers are so transshipped to another vessel, a separate traveling manifest (a General Declaration and either an inward foreign manifest or a Passenger List) shall be used for the transshipped cargo or passengers, whether or not the forwarding vessel is also carrying other residue cargo or passengers. An appropriate cross-reference shall be made on the separate traveling manifest to show whether any other traveling manifest is being carried forward on the same vessel.

In § 4.93, paragraph (c) is amended to read:

§ 4.93 Coastwise transportation of containers by certain vessel; procedures.

(c) Any manifest required to be filed under this part by any foreign vessel shall describe any article mentioned in paragraph (a) of this section laden aboard and transported from one U.S. port to another, giving its identifying number or symbols, if any, or such other identifying data as may be appropriate; the names of the shipper and consignee, and the destination. The manifest shall include a statement (1) that the articles specified in subparagraph (1) of paragraph (a) is owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade; or (2) that the stevedoring equipment and material (subparagraph (2) of paragraph (a) is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for use in the handling of cargo in foreign trade.

(Sec. 27, 41 Stat. 999, as amended; 46 U.S.C. 883)

Part 4 is amended to add a new § 4.99 reading as follows:

§ 4.99 Forms; substitution.

Customs Forms 1300, 1301, 1303, and 1304 printed by private parties or foreign governments shall be accepted provided the forms so printed conform to the official Customs forms in size (except that such forms may be up to 14 inches in length), wording, arrangement, style, size of type, and paper specifications. If

instructions are printed on the reverse of any of the official Customs forms, such instructions may be omitted (although such instructions must be followed).

(80 Stat. 379, R.S. 251; 5 U.S.C. 301, 19 U.S.C. 66)

Effective date. These amendments shall become effective on the date of their publication in the *Federal Register* (7-2-71). However, Customs Form 1385, now used in accordance with existing provisions of the Customs Regulations, may be used in accordance with those regulations for a period of 6 months from the aforesaid date of publication in lieu of the new forms and procedures.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: June 23, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

[FR Doc. 71-9422 Filed 7-1-71; 8:51 am]

Title 20—EMPLOYEES' BENEFITS

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

[Reg. No. 5, further amended]

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

Subpart D—Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians

INPATIENT ROUTINE NURSING SALARY COST DIFFERENTIAL

On August 1, 1970, there was published in the *Federal Register* (35 F.R. 12346) a Notice of Proposed Rule making with proposed amendments to Subpart D, Regulations No. 5 which set forth interim principles for determining the inpatient routine nursing salary cost differential as an element of reimbursable cost under the Hospital Insurance program. All comments submitted with respect to the proposed amendments were considered. As a result of comments received, various editorial changes were made in the interest of greater clarity. In addition, the factor by which title XVIII reimbursement is increased (under application of § 405.430) is defined as the "inpatient routine nursing salary cost differential adjustment factor." Also a new subparagraph has been added to § 405.430(e) describing a technique for verifying the correctness of the differential adjustment factor for determining the additional reimbursement authorized by these amendments. Accordingly, the amendments are, with the abovementioned changes, adopted.

(Secs. 1102, 1814(b), 1861(v), 1871, 49 Stat. 647 as amended, 79 Stat. 296, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.)

Dated: March 30, 1971.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: June 28, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health,
Education, and Welfare.

Subpart D of Regulations No. 5 (20 CFR 405.401 et seq.) is amended as follows:

1. Paragraphs (b) and (c) of § 405.404 are revised to read as follows:

§ 405.404 Methods of apportionment under title XVIII.

(b) The first alternative is to apply the beneficiaries' share of total charges on a departmental basis, to total costs for each respective department, taking into account, to the extent pertinent, for inpatient routine services provided after June 30, 1969, an inpatient routine nursing salary cost differential. Use of this department-by-department method will involve determination, by cost-finding methods, of the total costs for each of the institution's departments that are revenue-producing; i.e., departments providing services to patients for which charges are made.

(c) The second alternative is a combination method. Under this method, as applied to inpatient care, that part of a provider's total allowable cost which is attributable to routine services (room, board, nursing services) is to be apportioned on the basis of the relative number of patient days for beneficiaries and for other patients; taking into account, to the extent pertinent, for inpatient routine services provided after June 30, 1969, an inpatient routine nursing salary cost differential. The residual part of the provider's allowable cost, attributable to nonroutine or ancillary services, is to be apportioned on the basis of the beneficiaries' share of the total charges to patients by the provider for nonroutine or ancillary services. The amounts computed to be the program's share of the two parts of the provider's allowable costs are then combined in determining the amount of reimbursement under the program. Use of the combination method will necessitate cost finding to determine the division of the provider's total allowable costs into the two parts, although it would be less involved than for the first alternative, the department-by-department method.

2. A new § 405.430 is added to read as follows:

§ 405.430 Inpatient routine nursing salary cost differential.

(a) **Principle.** In recognition of the above average cost of inpatient routine

nursing care furnished to aged patients, an inpatient routine nursing salary cost differential is allowable as a reimbursable cost of the provider. The differential applicable to such inpatient routine nursing salary costs of aged patients is established effective July 1, 1969, and until a redetermined rate is made effective, at the rate of 8½ percent. The differential shall be redetermined as described in § 405.430(c)(1). Program recognition of the differential shall be accomplished through an inpatient routine nursing salary cost differential adjustment factor as defined in § 405.430(b)(8).

(b) *Definitions*—(1) *Aged day*. Aged day means a day of care rendered to an inpatient 65 years of age or older.

(2) *Pediatric day*. Pediatric day means a day of care rendered to an inpatient less than age 14 who is not occupying a bassinet for the newborn in the nursery.

(3) *Maternity day*. Maternity day means a day of care rendered to a female inpatient admitted for delivery of a child.

(4) *Nursery day*. Nursery day means a day of care rendered to an inpatient occupying a bassinet for the newborn in the nursery.

(5) *Inpatient day*. Inpatient day means a day of care rendered to any inpatient (except an individual occupying a bassinet for the newborn in the nursery).

(6) *Inpatient routine nursing salary cost*. Inpatient routine nursing salary cost includes only the gross salaries and wages of nurses and other personnel for nursing activities performed in nursing units not associated with the nursery and not associated with services for which a separate charge is customarily made. This cost includes gross salaries and wages of head nurses, registered nurses, licensed practical and vocational nurses, aides, orderlies, and ward clerks. It does not include salaries and wages of administrative nursing personnel assigned to the departmental office or nursing personnel who perform their work in surgery, central supply, recovery units, emergency units, delivery rooms, nurseries, employee health service, or any other areas not providing general inpatient care, nor does it include the salaries and wages of personnel performing maintenance or other activities that do not directly relate to the care of patients.

(7) *Adjusted inpatient routine nursing salary cost*. The adjusted inpatient routine nursing salary cost attributable to title XVIII beneficiaries is determined on a per diem basis and is arrived at by dividing (A) total inpatient routine nursing service salary costs for all patients (excluding nursery patients), plus 8½ percent thereof, by (B) total inpatient days (excluding nursery days), plus 8½ percent of aged, pediatric, and maternity days. This quotient is the adjusted average per diem inpatient routine nursing salary (excluding nursery salary) cost.

Adjusted per diem inpatient routine nursing salary (excluding nursery salary) cost =

Inpatient routine nursing salary (excluding nursery salary) costs × 1.085

Total inpatient days (excluding nursery days) less aged, pediatric, and maternity days ÷ Aged, pediatric, and maternity days × 1.085

(8) *Inpatient routine nursing salary cost differential adjustment factor*. The inpatient routine nursing salary cost differential adjustment factor is determined on a per diem basis and is the difference between the adjusted per diem inpatient routine nursing salary (excluding nursery salary) cost and the average per diem inpatient routine nursing salary (excluding nursery salary) cost for all patients. It includes that portion of the total differential applicable

to title XVIII beneficiaries that is not otherwise included in computing the cost of routine services, and is illustrated in paragraph (e) of this section. The amount of the differential adjustment factor included in the provider's reimbursable costs is computed by multiplying the per diem differential adjustment factor by the number of covered health insurance days during the reporting period.

Per diem differential adjustment factor = Adjusted per diem inpatient routine nursing salary (excluding nursery salary) cost minus Average per diem inpatient routine nursing salary (excluding nursery salary) cost

(c) *Application*. (1) Studies have indicated that aged patients (both program beneficiaries and nonbeneficiaries), on the average, receive inpatient routine nursing care that is more costly on an average per day basis than the average of the remainder of the adult nonmaternity patient population. It is appropriate that the greater costs of providing these services, which are attributable to caring for title XVIII beneficiaries and which are sufficiently supported by such studies, be recognized by the program in its reimbursement. In order to determine the greater cost of providing these services to program beneficiaries with a minimum of additional cost finding, the cost of nursing services in maternity and pediatric areas is being equated with the cost of nursing services provided to the aged. In the determination of health insurance inpatient routine service costs the rate of 8½ percent has been established, until the effective date of a redetermination, as the inpatient routine nursing salary cost differential for aged, pediatric, and maternity patients. However, further studies will be conducted periodically: (i) To determine the amount of an inpatient routine nursing salary cost differential for the aged that is appropriate in the future; (ii) to ascertain what variations in differentials should be established for such classes of providers as may be found appropriate, and (iii) to obtain other pertinent data including data on nursing care costs for maternity, pediatric, geriatric, and general medical and surgical patients.

(2) Although the inpatient routine nursing salary cost differential under the health insurance program is established at a rate of 8½ percent, the effect of the differential on reimbursement to a particular provider is also a function of the relationship that total aged, pediatric, and maternity patient days of service bears to total patient days of service (excluding nursery days) rendered by that provider.

(d) *Effective dates*—(1) *Cost reporting period beginning after June 30, 1969*. With respect to any cost reporting period beginning after June 30, 1969, the inpatient routine nursing salary cost differential adjustment factor, as defined in paragraph (b)(8) of this section, shall be applicable for the entire reporting period as an element in the computation of the provider's reimbursable cost.

(2) *Cost reporting period ending before July 1, 1969*. With respect to any cost reporting period ending before July 1, 1969, there shall not be included as an element in the computation of the provider's reimbursable costs any inpatient routine nursing salary cost differential adjustment factor.

(3) *Cost reporting period beginning before July 1, 1969, and ending after June 30, 1969*. With respect to any cost reporting period beginning before July 1, 1969, and ending after June 30, 1969, an inpatient routine nursing salary cost differential adjustment factor shall be computed in accordance with the provisions of paragraph (b)(8) of this section; but only the portion of the inpatient routine nursing salary cost differential adjustment factor equivalent to the part of the cost reporting period falling after June 30, 1969, shall be included as an element of reimbursable cost. The amount of the differential adjustment factor included in the provider's reimbursable costs is computed by multiplying the per diem differential adjustment factor by the number of covered health insurance days during the reporting period and apportioning this amount by applying a fraction whose numerator is the number of months after June 30, 1969, in the reporting period and whose denominator is the total number of months in the reporting period. (Where a cost reporting period ends on a day other than the last day of the month, the days after June 30, 1969, in the reporting period shall be included in the numerator and the total

days in the reporting period shall be included in the denominator.)

(e) *Examples*—(1) *Illustration of calculation of differential adjustment factor for a cost reporting period beginning after June 30, 1969.*

Inpatient routine nursing salary costs (excluding nursery costs)	\$160,000
Total inpatient days	12,800
Total inpatient days applicable to beneficiaries	3,840
Total aged, pediatric, and maternity days	5,120
Adjusted per diem inpatient routine nursing salary (excluding nursery salary) cost	\$13.12

(12,800 - 5,120) ÷ (5,120 × 1.085)	
Average per diem routine nursing salary (excluding nursery salary) cost (\$160,000 ÷ 12,800)	-12.50
Per diem differential adjustment factor62
Allowable routine nursing salary cost differential adjustment factor applicable to beneficiaries for the reporting period $0.62 \times 3,840$	2,381

(2) *Verification of differential adjustment factor computation as calculated in the illustration in (e) (1).* Using data in the illustration in (e) (1) the computation of the differential adjustment factor may be verified as follows:

(i) Adjusted per diem inpatient routine nursing salary cost per computation in (e) (1)	\$13.12
(ii) Total adjusted inpatient routine nursing salary cost for these patients $(5,120 \times \$13.12)$	\$67,174.40
(iii) Total inpatient routine nursing salary cost for the remainder of the adult patient population $(\$160,000 - \$67,174.40)$	\$92,825.60
(iv) Per diem inpatient routine nursing salary cost for the remaining adult patient population	\$12.09
Total patient days	12,800
Aged, pediatric, and maternity days	-5,120
Remaining adult patient days	7,680
$\frac{\$92,825.60}{7,680} = \12.09	

(v) Difference between adjusted per diem inpatient routine nursing salary cost and per diem inpatient routine nursing salary cost for the remainder of the adult patient population (i) less (iv)	\$1.03
(vi) $\$1.03 \div \$12.09 = 8.5$ percent	
(vii) Average per diem routine nursing salary cost included in basic computation of cost of routine services $(\$160,000 \div 12,800)$	\$12.50
(viii) Inpatient routine nursing salary cost differential adjustment factor to be reimbursed in addition to average per diem routine nursing salary cost $(\$13.12 - \$12.50)$	\$0.62
(ix) Portion of the per diem inpatient routine nursing salary cost differential included in the cost of routine service $(\$12.50 - \$12.09)$	\$0.41

(3) *Illustration of differential adjustment factor for a cost reporting period beginning before July 1, 1969 and ending after June 30, 1969.* Assume the same statistical and financial data in para-

graph (e) (1) of this section and that the provider's cost reporting period was for a 12-month period ending March 31, 1970.

Potential routine nursing salary cost differential adjustment factor applicable to beneficiaries for the reporting period	\$2,381
Allowable routine nursing salary cost differential adjustment factor applicable to beneficiaries for the reporting period $9/12 \times \$2,381 =$	\$1,786

3. Paragraph (a) of § 405.452 is revised to read as follows:

§ 405.452 Determination of cost of services to beneficiaries.

(a) *Principle.* Total allowable costs of a provider shall be apportioned between program beneficiaries and other patients so that the share borne by the program is based upon actual services received by program beneficiaries. To accomplish this apportionment, the provider shall have the option of either of the two following methods:

(1) *Departmental method.* The ratio of beneficiary charges to total patient charges for the services of each department is applied to the cost of the department, taking into account, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential. (See § 405.430 for definition and application of this differential.)

(2) *Combination method.* The cost of "routine services" for program beneficiaries is determined on the basis of average cost per diem of these services, taking into account, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential (see § 405.430 for definition and application of this differential). To this amount is added the cost of ancillary services used by beneficiaries, determined by apportioning the total cost of ancillary services on the basis of the ratio of beneficiary charges for ancillary services to total patient charges for such services.

4. In § 405.452(c) (2), the last sentence, reading "The total reimbursement for services rendered by the provider to the beneficiaries would be \$235,000," is revised to read: "To the total shown in the illustration is added, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential adjustment factor as defined and illustrated in § 405.430."

5. Paragraph (c) (3) (i) of § 405.452 is revised to read as follows:

(c) Application. * * *

(3) *Combination method*—(i) *Using cost finding.* A provider may, at its option, elect to be reimbursed for the cost of routine services on the basis of the average cost per diem, taking into account, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential (as defined and illustrated in § 405.430). To this amount is added the cost of the ancillary services rendered to beneficiaries of the program determined by computing the ratio of total inpatient charges for ancillary services

to beneficiaries to the total inpatient ancillary charges to all patients and applying this ratio to the total allowable cost of inpatient ancillary services.

COMBINATION METHOD EMPLOYED BY HOSPITAL B

Statistical and financial data:	
Total inpatient days for all patients	30,000
Inpatient days applicable to beneficiaries	7,500
Inpatient routine services—total allowable cost	\$600,000
Inpatient ancillary services—total allowable cost	\$320,000
Inpatient ancillary services—total charges	\$400,000
Inpatient ancillary services—charges for services to beneficiaries	\$80,000

Computation of cost applicable to program:

Average cost per diem for routine services:	
$\$600,000 \div 30,000 \text{ days} =$	\$20 per diem.
Cost of routine services (exclusive of any inpatient routine nursing salary cost differential adjustment factor pertinent for services provided after June 30, 1969) rendered to beneficiaries:	
$\$20 \text{ per diem} \times 7,500 \text{ days} =$	\$150,000
Ratio of beneficiary charges to total charges for all ancillary services:	
$\$80,000 \div \$400,000 = 20$ percent	
Cost of ancillary services rendered to beneficiaries: 20 percent $\times \$320,000 =$	\$64,000

Total cost (exclusive of any inpatient routine nursing salary cost differential adjustment factor pertinent for services provided after June 30, 1969) of beneficiary services	\$214,000
--	-----------

To the cost of routine services and total cost shown in the above illustration are added, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential adjustment factor as defined and illustrated in § 405.430.

[FR Doc. 71-9397 Filed 7-1-71; 8:49 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Recodification of Certain New Animal Drug Regulations; Correction

In F.R. Doc. 71-5496 appearing at page 7647 in the issue of April 23, 1971, the table in § 135b.6d(d) is corrected by replacing the word "implantation" with the word "injection" in both the table