

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: November 21, 1972.

SAM D. FINE,
Associate Commissioner for
Compliance.

[FR Doc. 72-20459 Filed 11-28-72; 8:49 am]

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Chorionic Gonadotropin Suspension, Veterinary

The Commissioner of Food and Drugs has evaluated a new animal drug application (47-353V) filed by Elanco Products Co., Post Office Box 1750, Indianapolis, IN 46206, proposing the safe and effective use of chorionic gonadotropin suspension for use as an aid in increasing the pregnancy rate of estrus synchronized and normal cycling heifers. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under the authority delegated to the Commissioner (21 CFR 2.120), § 135b.50 is revised to read as follows:

§ 135b.50 Chorionic gonadotropin for injection, veterinary; Chorionic gonadotropin suspension, veterinary.

(a)(1) *Specifications.* Chorionic gonadotropin for injection, veterinary, when reconstituted with appropriate diluent, provides 1,000 U.S.P. units of chorionic gonadotropin per milliliter.

(2) *Sponsor.* See code No. 035 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) The drug is intended for parenteral use in the treatment of cows for nymphomania (frequent or constant heat) due to cystic ovaries.

(ii) It is administered at a recommended dose of 10,000 U.S.P. units by deep intramuscular injection or 2,500 to 5,000 U.S.P. units intravenously or by intrafollicular injection of 500 to 2,500 U.S.P. units. Dosage may be repeated in 14 days if necessary.

(iii) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(b)(1) *Specifications.* Chorionic gonadotropin suspension, veterinary contains in each milliliter, 750 I.U. of chorionic gonadotropin suspended in white wax and sesame oil.

(2) *Sponsor.* See code No. 014 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) The drug is used as an aid in increasing pregnancy rate of estrus synchronized and normal cycling heifers.

(ii) It is administered at the rate of 2 milliliters (1,500 I.U.) subcutaneously at the time of insemination in the neck or shoulder region.

(iii) The drug is not to be used to induce multiple ovulations. Doses higher than recommended may reduce pregnancy rate.

(iv) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11-29-72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: November 20, 1972.

C. D. VAN HOUWELING,
Director, Bureau of
Veterinary Medicine.

[FR Doc. 72-20460 Filed 11-28-72; 8:49 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter II—Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration)

[Docket No. R-72-208]

FHA REQUIREMENT OF FLOOD INSURANCE IN SPECIAL FLOOD HAZARD AREAS

A proposal was published on August 15, 1972 (37 F.R. 16505) to amend Title 24 of the Code of Federal Regulations to require flood insurance coverage on one- to four-family dwellings financed with a mortgage insured by the Department, if the property is located in a special flood hazard area, as designated by the Secretary of HUD, and if the first-floor elevation of the dwelling is less than 1 foot above the specified maximum elevation of the special flood hazard area. To carry out this policy the proposed regulations would require the collection by the mortgagee and the payment of flood insurance premiums by the mortgagor, when such insurance is required.

Interested persons were given an opportunity to participate in the rule making through submission of comments. The comments received reflected a general concern that elevation information within a flood hazard area will not be readily available to the housing industry; that homes built in an area, after it has been designated as a special flood hazard area, will be subject to a very high flood insurance premium; and that the proposed rule would encourage, rather than restrict, the development of housing within flood hazard areas.

Special flood hazard areas will be mapped and information as to the areas and elevations included within these areas will be obtainable from the Federal Insurance Administration. However, we recognize that this information would not be adequate for determining the exact elevation of a particular property

in relation to the 100-year flood level. This could only be accomplished by a special survey and engineering study of the particular parcel.

Flood insurance will be available on an actuarial basis for homes built in an area after it has been designated as a special flood hazard area. The actuarial premium is related to the elevation of the first floor of the dwelling and the premium will not be excessive for property meeting HUD/FHA eligibility standards. These standards require that the first-floor elevation of the dwelling be at or above the 100-year frequency flood elevation. It should be clearly understood that the requirement for flood insurance will not be substituted for compliance with the HUD/FHA flood hazard exposure standards for mortgage insurance eligibility.

The flood insurance requirement is intended to and will discourage the development of new housing within a special flood hazard area at elevations involving a high risk of flooding. High flood insurance premiums, at the actuarial rate, will be charged on housing subject to such high risk. Housing that complies with HUD/FHA's flood hazard exposure standards will involve a lower risk; and insurance on such housing will be available at lower actuarial rates.

On the basis of the comments received and after a further review of the matter, the Department is adopting a provision that will require flood insurance coverage, where available under the National Flood Insurance Program, on all one- to four-family dwellings financed with a HUD/FHA-insured mortgage, if the property is located in a designated special flood hazard area or is otherwise determined by HUD/FHA to be subject to a significant flood hazard. It is recognized that this all inclusive type of requirement could result in arbitrarily requiring flood insurance coverage in a few isolated instances, where property is located at such a high elevation as to make it inappropriate to require the flood insurance. To take care of these few cases, a provision is included under which the Secretary may exclude a property located in a special flood hazard area from the requirements for flood insurance, if he determines the property is located at such a high elevation that there is no risk of flooding.

The new provision eliminates the condition included in the original proposal that would have limited the requirement for flood insurance to dwellings where the first floor level is less than 1 foot above the specified maximum elevation of the special flood hazard area. This condition would have imposed an unnecessary burden and expense on property owners, in some cases, where it would have been necessary to make a special survey and engineering study to determine the level of a particular parcel in relation to the 100-year flood level.

Accordingly, Parts 203, 213, and 222 of Subchapter B of Chapter II of Title 24 of the Code of Federal Regulations is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

1. In the table of sections, the following new section is added in proper alphabetical sequence:

Sec.

§ 203.16a Mortgagor and mortgagee requirement for maintaining flood insurance coverage

2. A new § 203.16a is added, to read as follows:

§ 203.16a Mortgagor and mortgagee requirement for maintaining flood insurance coverage.

(a) If the mortgage is to cover property that (1) is located in an area designated by the Secretary as a flood plain area having special flood hazards or (2) is otherwise determined by the Commissioner to be subject to a flood hazard; and if flood insurance under the National Flood Insurance Program (NFIP) is available with respect to such property, the mortgagor and mortgagee shall be obligated, by a special condition to be included in the mortgage insurance commitment, to obtain and to maintain NFIP flood insurance coverage on the property during such time as the mortgage is insured. The flood insurance to be maintained shall be in an amount at least equal to either the outstanding balance of the mortgage or the maximum amount of NFIP insurance available with respect to the property, whichever is less.

(b) The Secretary may exclude a property located in a special flood hazard area from the requirements for flood insurance, specified in paragraph (a) of this section, if he determines the property is located at such a high elevation that there is no risk of flooding.

3. Section 203.23(a) is revised to read as follows:

§ 203.23 Mortgagor's payments to include other charges.

(a) The mortgage shall provide for such equal monthly payments by the mortgagor to the mortgagee as will amortize: (1) The ground rents, if any; (2) the estimated amount of all taxes; (3) special assessments, if any; (4) flood insurance premiums, if flood insurance is required by the Commissioner; and (5) fire and other hazard insurance premiums, if any, within a period ending 1 month prior to the dates on which the same become delinquent. The mortgage shall further provide that such payments shall be held by the mortgagee in a manner satisfactory to the Commissioner for the purpose of paying such ground rents, taxes, assessments, and insurance premiums before the same become delinquent, for the benefit and account of the mortgagor. The mortgage must also

make provisions for adjustments in case the estimated amount of such taxes, assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor.

4. Section 203.24(a)(2) is revised to read as follows:

§ 203.24 Application of payments.

(a) * * *
(2) Ground rents, taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums.

5. Section 203.26 is amended to read as follows:

§ 203.26 Mortgagor's payments when mortgage is executed.

The mortgagor must pay to the mortgagee, upon the execution of the mortgage, a sum that will be sufficient to pay the ground rents, if any, the estimated taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums for the period beginning on the date to which such ground rents, taxes, assessments, and insurance premiums were last paid and ending on the date of the first monthly payment under the mortgage plus an amount sufficient to pay the mortgage insurance premium from the date of closing the loan to the date of the first monthly payment.

(Sec. 203 National Housing Act; 12 U.S.C. 1709)

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage

1. Section 213.514(a) is amended to read as follows:

§ 213.514 Payments to include other charges.

(a) The mortgage shall provide for such equal monthly payments by the mortgagor to the mortgagee as will amortize: (1) The ground rents, if any; (2) the estimated amount of all taxes; (3) special assessments, if any; (4) flood insurance premiums, if flood insurance is required by the Commissioner; and (5) fire and other hazard insurance premiums, within a period ending 1 month prior to the dates on which the same become delinquent. The mortgage shall further provide that such payments shall be held by the mortgagee in a manner satisfactory to the Commissioner, for the purpose of paying such ground rents, taxes, assessments, and insurance premiums, before the same become delinquent, for the benefit and account of the mortgagor. The mortgage must also make provision for adjustments in case

the estimated amount of such taxes, assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor.

2. Section 213.515(b) is revised to read as follows:

§ 213.515 Payments, how applied.

(b) Ground rents, taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums.

3. Section 213.517 is amended to read as follows:

§ 213.517 Payments upon execution of mortgage.

The mortgagor must pay to the mortgagee upon the execution of the mortgage a sum that will be sufficient to pay the ground rents, if any, and the estimated taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums for the period beginning on the date to which such ground rents, taxes, assessments, and insurance premiums were last paid and ending on the date of the first monthly payment under the mortgage, and may be required to pay a further sum equal to the first annual mortgage insurance premium, plus an amount sufficient to pay the mortgage insurance premium from the date of closing the loan to the date of the first monthly payment.

(Sec. 213, National Housing Act; 12 U.S.C. 1715e)

PART 222—SERVICEMEN'S MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

4. Section 222.6(a)(1) is revised to read as follows:

§ 222.6 Application of payments.

(a) * * *
(1) Ground rents, taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums:

(Sec. 222, National Housing Act; 12 U.S.C. 1715m)

Effective date: These amendments shall become effective with respect to commitments for mortgage insurance issued pursuant to applications filed on and after January 1, 1973.

Issued at Washington, D.C. November 20, 1972.

JOHN L. GANLEY,
Deputy Assistant Secretary for
Housing Production and
Mortgage Credit.

[FR Doc.72-20482 Filed 11-28-72;8:51 am]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 58—RULES OF PRACTICE OF THE NATIONAL REVIEW PANEL, WORK INCENTIVE PROGRAM

There is added to Title 29, Code of Federal Regulations, a new Part 58, Rules of Practice of the National Review Panel, Work Incentive Program, which sets up procedures for appeals at the National level arising out of the Work Incentive Program.

As this part is procedural in character, notice of proposed rulemaking is not required by 5 U.S.C. 553. Delay in the effective date is contrary to the public interest as appeals should not be delayed 30 days for lack of a procedure. Accordingly, this Part 58 shall be effective upon publication.

The new Part 58 reads as follows:

- Sec.
- 58.1 Definitions.
 - 58.2 Appeals where a State does not provide for an appellate procedure.
 - 58.3 Appeals from State appellate bodies.
 - 58.4 Request for NRP to accept certification.
 - 58.5 Review by NRP of cases certified at its request.
 - 58.6 Consideration by and decisions of the NRP.
 - 58.7 Service and filing of papers.
 - 58.8 Motions.
 - 58.9 Intervention.
 - 58.10 Amicus curiae.
 - 58.11 Representation.
 - 58.12 Right to examine transcripts.
 - 58.13 Finality of decisions.

AUTHORITY: The provisions of this Part 58 issued under 5 U.S.C. 301; 42 U.S.C. 633(g); Secretary's Order No. 24-72.

§ 58.1 Definitions.

As used in these rules and regulations:

(a) "Act" means title IV of the Social Security Act as amended by Public Law 92-223, December 28, 1971.

(b) "AFDC" (Aid to Families with Dependent Children) means a program authorized by title IV of the Social Security Act to provide financial assistance and social services to needy families with children.

(c) "DOL" means the U.S. Department of Labor.

(d) "Exempt" means an AFDC recipient who is not legally required to register for employment or training under the WIN program.

(e) "NRP" means National Review Panel which is comprised of the DOL Chief Administrative Law Judge and eight (8) Administrative Law Judges appointed pursuant to Administrative Procedure Act requirements and designated by the Chief Judge to serve as members of the panel.

(f) "Participant" means a registrant who has been appraised and for whom an employability plan has been initiated by local WIN project and Separate Administrative Unit staff.

(g) "Registrant" means an AFDC recipient who has registered for manpower services, training, and employment as provided by the Act.

(h) "Registration" means the process whereby an AFDC applicant or recipient signs a completed registration card.

(i) "Secretary" means the Secretary of Labor.

(j) "State agency administering hearings in that State" means that State agency which is responsible for the hearings conducted by State hearing officers, State welfare hearing officers, and the State appellate body.

(k) "State appellate body" means the body provided by the State WIN sponsor or State welfare agency to review decisions of the hearing officer.

(l) "State hearing officer" means the hearing officer provided by the State WIN sponsor to hear and decide disputes arising out of (1) registrants'/participants' refusal or failure to accept employment or to participate in a work incentive program without good cause and (2) of exemption redeterminations of previously registered individuals.

(m) "State welfare hearing officer" means the hearing officer provided by the State welfare agency, as agent of DOL, to hear and decide disputes arising out of initial registration and nonexemption determinations under section 402 (a) (19) (A) of the Act.

(n) "WIN" means the Work Incentive Program.

(o) "WIN sponsor" means the State Employment Service or other public or nonprofit private agency with which the Regional Manpower Administrator for the DOL contracts to administer the WIN program at the State or local level.

§ 58.2 Appeals where State does not provide for an appellate procedure.

Pursuant to §§ 57.8 and 57.9(c) (1) of this subtitle the NRP shall consider and decide appeals from State hearing officer or State welfare hearing officer decisions filed directly with it by aggrieved individuals, WIN project sponsors, or State welfare agencies where the State does not provide for an appellate procedure.

(a) *Who may appeal.* Any individual who is a party to the proceeding and is adversely affected by the decision, WIN project sponsors, or State welfare agencies may appeal from State hearing officer decisions where the dispute arises out of a refusal or failure to accept employment or to participate in a work incentive program without good cause or out of an exemption redetermination. The same parties may appeal from State welfare hearing officer decisions concerning disputes arising out of initial registration and exemption determinations under section 402(a) (19) (A) of the Act.

(b) *Contents of the appeal.* The appeal must be in writing and may be in the form of a letter addressed to the National Review Panel or may be submitted on forms supplied with the State hearing officer or State welfare officer decision. It should contain a statement of reasons in support of the appeal. While

such statement may be brief, it must be more than a mere statement that appellant disagrees with the hearing officer's decision. The hearing officer's decision should be attached to the appeal.

(c) *Time of filing.* The appeal must be filed within fifteen (15) days following the date of service of the hearing officer's written decision. An appeal filed by persons residing in the Commonwealth of Puerto Rico, the Virgin Islands, or Guam shall be filed within thirty (30) days following the date of service of the hearing officer's written decision.

(d) *Place of filing and number of copies.* The appeal from the hearing officer's decision shall be sent to the National Review Panel, U.S. Department of Labor, Washington, D.C. 20210. Whenever possible, a copy of the appeal should be sent or delivered to all other parties to the proceeding, including the State agency administering hearings in that State, and the appeal should list the names and addresses of the persons to whom copies were sent or delivered.

(e) *Response to appeal.* Any other party to the proceeding who wishes to respond to the appeal or comment thereon may send a response to the National Review Panel, U.S. Department of Labor, Washington, DC 20210, in support of or in opposition to the appeal. The response must be sent within seven (7) days after having received notification that an appeal has been filed. The response should contain a full statement of reasons in support of the position taken by the party filing the response. Whenever possible a copy of the response should be sent to all other parties to the proceeding, including the State agency administering hearings in that State.

(f) *Certification of the record.* Within fifteen (15) days of the filing of an appeal, the State agency administering hearings shall certify and file with the NRP the transcript of the hearing in writing together with all documents and exhibits and a copy of the hearing officer's decision. The State agency shall prepare and include an index of the documents transmitted and shall immediately serve a copy of the index on all parties to the proceeding.

§ 58.3 Appeals from State appellate bodies.

Pursuant to § 57.9(c) (4) of this subtitle the NRP at its discretion may consider and decide appeals from decisions of State appellate bodies. The NRP will grant an application that it review such decisions only where compelling reasons exist, including, but not limited to, situations where the case raises novel or substantial issues of law or policy.

(a) *Who may request review.* Any individual who is a party to the proceeding and is adversely affected by the decision; the WIN project sponsor; or, the State welfare agency may file a request for review of decisions of State appellate bodies.

(b) *Contents of the request for review.* The request that the National Review Panel review the decision of a State

appellate body must be in writing and should contain a statement of reasons in support of the request for review. While such statement may be brief, it must be more than a mere statement that appellant disagrees with the State appeals decision. A copy of the hearing officer's decision and the State appeals decision should be attached to the request for review.

(c) *Time of filing.* The request for review must be filed within fifteen (15) days following the date of service of the State appellate body's written decision. A request for review filed by persons residing in the Commonwealth of Puerto Rico, the Virgin Islands, or Guam shall be filed within thirty (30) days following the date of service of the appellate body's written decision.

(d) *Place of filing and number of copies.* The request for review should be sent to the National Review Panel, U.S. Department of Labor, Washington, DC 20210. Whenever possible a copy of the request for review should be sent or delivered to all other parties to the proceeding, including the State agency administering hearings in that State, and the appeal should list the names and addresses of the persons to whom copies were sent and delivered.

(e) *Response to request for review.* Any other party to the proceeding who wishes to respond to the request for review or to comment thereon may file a response with the National Review Panel, U.S. Department of Labor, Washington, DC 20210, in support of or in opposition to the request for review. The response must be sent within seven (7) days after having received notification that a request for review has been filed. The response should contain a full statement of reasons in support of the position taken by the party filing the response. Whenever possible, a copy of the response should be sent to all other parties to the proceeding, including the State agency administering hearings in that State.

(f) *Certification of record.* Upon written request to it from the NRP the State appellate body, within fifteen (15) days of the receipt of the request, shall certify and file with the NRP a complete record of the proceedings below including the transcript in writing of the hearing before the hearing officer together with all documents and exhibits; a copy of the hearing officer's decision; a copy of the decision of the State appellate body; and, any other papers and documents relevant to the proceedings. The State appellate body shall prepare and include an index of the documents transmitted and shall serve immediately a copy of said index on every other party to the proceeding before the State appellate body.

§ 58.4 Request for NRP to accept certification.

Pursuant to § 57.9(c) (2) of this subtitle the NRP, at its discretion, may consider and decide cases certified to it by State appellate bodies, or in the absence of a

State appellate body, by the State hearing officer or State welfare hearing officer, because the case involves novel questions of law or policy.

(a) *Who may request the NRP to accept certification.* The State appellate body, or, in the absence of a State appellate body, the State hearing officer or State welfare hearing officer may file a request that the NRP accept certification of a case.

(b) *Contents of request for certification.* The request must contain the following:

(1) A concise statement of the novel question of law or policy which is the basis for the request to accept certification;

(2) A brief summary of the relevant facts and evidence;

(3) Pertinent rulings, conclusions, and decisions by the hearing officer and/or the appellate body, as the case may be; and

(4) All reasons and arguments in support of the request, including citation of applicable laws and case decisions.

A copy of any written decisions by the hearing officer or appellate body must be attached to the request.

(c) *Time of filing.* A request for the NRP to accept certification shall be filed as follows:

(1) By the State appellate body within five (5) days following issuance of its written decision.

(2) In the absence of a State appellate body, by the State hearing officer or State welfare hearing officer within five (5) days after issuance of his written decision.

(d) *Place of filing and number of copies.* The party filing a request to the NRP to accept certification of a case shall file the original and three (3) copies with the NRP, the National Review Panel, U.S. Department of Labor, Washington, DC 20210, and simultaneously shall serve copies on every other party to the proceeding, including the State agency administering hearings in that State.

(e) *Response to request that NRP accept certification.* Any party to the proceeding who wishes to respond to the request or to comment thereon may file a response with the NRP in support of or in opposition to the request. The response should contain a statement of all reasons in support of the position taken by the party filing the response and should be sent to the National Review Panel, U.S. Department of Labor, Washington, DC 20210, within seven (7) days following service of a request that the NRP accept certification. Whenever possible, a copy of the response shall be served on all parties to the proceeding, including the State agency administering hearings in that State.

(f) *Certification of the record.* Upon receipt of written notice from the NRP that it has accepted certification of the case the State appellate body or the hearing officer, whichever is applicable, within fifteen (15) days of receipt of the notification, shall certify and file with

the NRP a complete record of the proceedings below including the transcript in writing of the hearing before the hearing officer together with all documents and exhibits; a copy of the hearing officer's decision; where appropriate, a copy of the decision of the State appellate body; and, any other papers and documents relevant to the proceedings. The State appellate body or hearing officer, whichever is applicable, shall prepare and include an index of the documents transmitted and shall serve immediately a copy of said index on every party to the proceeding.

§ 58.5 Review by NRP of cases certified at its request.

Pursuant to § 57.9(c) (3) of this subtitle the NRP may consider and decide cases which it, on its own motion, has requested a State appellate body, or in the absence of a State appellate body, the State hearing officer or State welfare hearing officer after he had issued his decision, to certify to it.

(a) *Basis of request to certify.* When the NRP considers a case to raise novel or substantial issues of law or policy or that it be in the interest of justice to do so, it may request that a case be certified to it.

(b) *Contents of request and time for filing.* Requests by the NRP for certification of a case to it shall be made no later than thirty (30) days after issuance of a written decision by the State appellate body or hearing officer, whichever is applicable. The request to certify shall be in writing and shall be served on the State appellate body or hearing officer, whichever is applicable, on the State agency administering hearings in that State, and on all parties to the proceeding.

(c) *Briefs.* In all cases, any party to a proceeding may file briefs with the NRP in support of its position. The NRP, if it deems it necessary to its consideration of a particular case, may request briefs from all the parties.

(d) *Time for briefs.* Briefs should be filed within ten (10) days from the date of service by the NRP of its request that a case be certified to it. However, in cases where the NRP itself requests briefs, a different time limit may be established by the NRP. Wherever possible, an original and three (3) copies of the brief should be filed with the National Review Panel, U.S. Department of Labor, Washington, DC 20210. At the same time, one (1) copy of the brief should be served on all parties to the proceeding, including the State agency administering hearings in that State.

(e) *Certification of record.* Within fifteen (15) days of receipt of the request to certify a case to the NRP, the State appellate body or hearing officer, whichever is applicable, shall certify and file with the NRP a complete record of the proceedings below and including the transcript in writing of the hearing before the hearing officer together with all documents and exhibits; a copy of the hearing officer's decision; a copy of the

decision of the State appellate body, where applicable; and, any other papers and documents relevant to the proceedings. The State appellate body or hearing officer, whichever is applicable, shall prepare and include an index of the documents transmitted and immediately shall serve a copy of said index on all parties to the proceedings.

§ 58.6 Consideration by and decisions of the NRP.

In considering appeals before it, the NRP may sit in panels of three members. The Chief Administrative Law Judge, DOL, may designate any Administrative Law Judge employed by DOL to review or hear a particular case and to submit his findings and recommendations to the NRP or any duly designated panel thereof.

(a) In considering appeals before it the NRP, a duly designated panel thereof, or the designated Administrative Law Judge may request the parties to submit additional written statements of position, hear oral argument or hold additional hearings where deemed necessary in the interests of justice.

(b) Hearing or oral presentation.

(1) Any party to an appeal may make application in writing for a hearing or oral presentation before the NRP. Such application shall set forth the reasons in support thereof and be made within five (5) days of:

(i) Service of notification of the filing of an appeal from the decision of a State hearing officer where the State does not provide for an appellate body; or

(ii) Service of notification that the NRP at its discretion has accepted an appeal from the decision of a State appellate body; or

(iii) Service of notification that the NRP has accepted certification of a case whether at its request or upon the application of a State appellate body or hearing officer.

(2) If a hearing or oral argument is directed, the notice thereof shall state the date, time, place, nature, and purpose of the hearing or oral argument. Such notice shall be served on the appellant and all other parties to the proceeding.

(3) At any hearing or oral argument so ordered, the NRP, the designated NRP panel, or the designated Administrative Law Judge may require or direct any party or person to appear to testify or produce evidence.

(4) Any party to the proceeding may appear personally or be represented by an attorney or agent.

(5) If a hearing is directed before an Administrative Law Judge, the findings and recommendations of the Administrative Law Judge designated to conduct the hearing shall be served on the appellant and all other parties to the proceeding. All parties may file with the NRP written exceptions and brief in support thereof within ten (10) days of service of the Administrative Law Judge's findings and recommendations

and shall at the same time serve copies of such exceptions and brief on all other parties to the proceeding. Any exceptions filed shall refer to specific findings and recommendations of the Administrative Law Judge.

(c) *Decisions by the National Review Panel.* The NRP shall prepare as expeditiously as possible a written decision setting forth its findings, the reasons for its conclusions, and an appropriate order. The decision shall be based on the record below and any additional evidence submitted to or obtained by the NRP. The decision may consist of affirmance, reversal, remand for further development of the evidence, or other appropriate action. Copies of NRP decisions, including notification that the NRP has denied a request that it review a decision of a State appellate body and notification that NRP has accepted certification of a case, shall be served on all parties to the proceeding and such other persons as may be appropriate.

§ 58.7 Service and filing of papers.

In promulgating these rules of practice, the National Review Panel has attempted to protect the rights of those appellants who may be unable, for financial reasons or otherwise, to comply with the normal requirements of serving multiple copies of documents on the NRP and parties to the proceeding. It is with this in mind that the phrase "wherever possible" is used throughout these rules of practice when referring to service of copies. The speedy administration of justice will be assisted immeasurably, however, if all parties to these proceedings adhere to the service requirements set forth herein.

(a) *Manner of service.* All papers and documents, including appeals, requests for review, requests for NRP to accept certification, motions, briefs, exceptions, responses, NRP decisions, rulings and notices, may be served in the following manner: Personally; by registered mail; by certified mail; by telegraph; by leaving a copy thereof at the principal office, place of business, or residence, of the person to be served; or in any manner provided for the service of papers in the State in which the proceeding arose. Of the foregoing, service by registered mail is generally preferable. However, service by regular mail also shall be deemed acceptable, absent a showing of prejudice by any other party, and where the timeliness of mailing is not a material issue.

(b) *Date of service.* The date of service shall be the day when the material served is deposited in the United States mail or is delivered in person, as the case may be. In computing the time from such date, the provisions of paragraph (e) of this section apply.

(c) *Proof of service.* When service is made by certified or registered mail, the return post office receipt shall be proof of service. When service is made in another manner provided by State law, proof of service shall be made in accordance with such State law. The person or party serving documents on other parties

in conformance herewith shall submit with the document a written statement of service thereof to the NRP stating the names of the parties served and the date and manner of service. Such proof of service shall be required by the NRP only if subsequent to the receipt of the statement of service a question is raised with respect to proper service. Failure to make proof of service does not affect the validity of the service.

(d) *Service on attorneys and representatives.* Whenever these rules require or permit the service of any papers upon a party, a copy shall also be served on any attorney or other representative of the party who has entered a written appearance in the proceeding on behalf of the party. If a party is represented by more than one attorney or representative, service upon any one of such persons in addition to the party shall satisfy this requirement.

(e) *Computation of time; additional time after service by mail or by telegraph.* The computation of periods of time is based on "calendar" days and not "workdays," unless otherwise stated.

(1) In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so provided is to be included unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day, which is neither a Saturday, Sunday nor a legal holiday.

(2) When the period of time provided is less than seven (7) days, intermediate Saturdays, Sundays, and holidays shall be excluded from the computation.

(3) Whenever a period of time is provided herein to take some action following service of a notice or some other paper and the notice or paper is served by mail or by telegraph, three (3) days shall be added to the prescribed period.

(4) All documents to be served on the NRP, including appeals, requests for review, requests for NRP to accept certification of a case, motions, briefs, exceptions, or other papers in any proceeding, must be received by the NRP or its agent designated to receive such matter before the close of business of the last day of the time limit provided.

§ 58.8 Motions.

All motions shall be in writing and filed with the National Review Panel, U.S. Department of Labor, Washington, DC 20210. Whenever possible, a copy of the motion should be filed with all other parties to the proceeding.

§ 58.9 Intervention.

Any person desiring to intervene in any proceeding shall file a motion in writing with the National Review Panel, U.S. Department of Labor, Washington, DC 20210, within seven (7) days of the date on which the NRP has notified the parties of receipt of an appeal, request for review, or request for certification, or has notified the parties that the NRP

itself has requested certification. The request for intervention must state the grounds upon which such person claims an interest. The NRP may permit intervention in person or by counsel or other representative to such extent and upon such terms as it may deem proper.

§ 58.10 Amicus curiae.

The NRP, upon petition of an interested person and as it deems appropriate, may grant permission for the filing of a brief and/or oral argument by an amicus curiae and the parties shall be notified of such action by the NRP.

§ 58.11 Representation.

An individual may represent himself or be represented upon satisfactory proof of authorization, by legal counsel or by other spokesmen of his choice in any proceeding arising out of section 402(a) (19) (A) or part C of the Act.

§ 58.12 Right to examine transcripts.

Testimony at hearings conducted by State agencies shall be mechanically recorded. It shall be transcribed only as needed or when the hearing officer's decision is to be reviewed by an appellate body in the State or by the NRP. Parties shall have the right to examine, upon request, a copy of the transcript during normal working hours at the local office of the WIN agency, if it has a copy, or at a place designated by the agency conducting these hearings in the State.

§ 58.13 Finality of decisions.

The National Review Panel is the highest level of administrative appeal and its decision shall be the final decision of the Secretary in all cases considered and received by it. Final decisions of the Secretary shall be binding on all affected parties as to the subject matter reviewed and shall not be subject to review by any other Federal or State agency, or hearing officer.

Signed at Washington, D.C., this 17th day of November 1972.

H. STEPHAN GORDON,
Chairman, National Review
Panel Work Incentive Program.

[FR Doc.72-20478 Filed 11-28-72; 8:51 am]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 16, Amdt. 99-5]

PART 99—EMPLOYEE RESPONSIBILITIES

List of Persons Required To File Financial Statements

The purpose of this amendment to Part 99 is to revise Appendix C—List of Employees Required to Submit Statements of Employment and Financial Interest, Under § 99.735-31, to add to the list the position of Motor Carrier Safety Investigator, GS-9/12.

Motor carrier safety investigators of the Federal Highway Administration are vested with the authority to place defective vehicles out of service. Such action by the investigators, often working without individual supervision, can result in a substantial economic impact on the motor carrier and driver. Ordinarily no employee below the grade of GS-13 is required to submit a statement of employment and financial interest. Because of the special nature of the investigators' functions, the requirement is being applied to them. Since this is a deviation from past practice, however, the Department will review the situation within one year to determine whether the statements required from the investigators are serving to prevent or correct any problems.

Part 99 was issued to implement Executive Order 11222 and Part 735 of the Civil Service Commission regulations and each amendment must be approved by the Commission before issuance. This amendment was approved by the Civil Service Commission on September 13, 1972.

Since this amendment relates to Departmental management, procedures, and practices, notice and public procedure thereon are not required, and it may be effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 99 of Title 49 of the Code of Federal Regulations is amended, effective November 22, 1972, by revising Appendix C to add to the list under "IV. Federal Highway Administration, Field Installations", the following:

Motor Carrier Safety Investigator, GS-9/12.
(Executive Order 11222 (30 F.R. 6469), sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

Issued in Washington, D.C., on November 22, 1972.

JAMES M. BEGGS,
Acting Secretary of Transportation.

NOVEMBER 22, 1972.

[FR Doc.72-20442 Filed 11-28-72; 8:47 am]

Chapter I—Department of Transportation

SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM-96; Amdts. 172-17, 173-67]

PART 172—COMMODITY LIST OF HAZARDOUS MATERIALS CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 170-189 OF THIS CHAPTER

PART 173—SHIPPERS

Etiologic Agents; Postponement of Effective Date

On September 30, 1972, the Hazardous Materials Regulations Board published Amendments 172-17 and 173-67 in Docket No. HM-96 establishing require-

ments for the shipment of etiologic agents (37 F.R. 20554).

Numerous petitions for reconsideration have been received by the Board because the regulation does not permit the shipment of cultures of etiologic agents on passenger-carrying aircraft. The Board has reviewed these petitions, and on the basis of the arguments for change presented to it, has proposed a modification of the regulations. See page 25243 of this FEDERAL REGISTER for the text of the Board's proposed change.

Since the Board's action cannot be completed by December 30, 1972, the previously specified effective date of the subject regulation, the Board has changed the mandatory effective date for Amendments 172-17 and 173-67 from December 30, 1972 to March 31, 1973. However, voluntary compliance continues to be authorized.

Issued in Washington, D.C., on November 24, 1972.

ALAN I. ROBERTS,
Secretary.

[FR Doc.72-20476 Filed 11-28-72; 8:50 am]

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 71-21; Notice 4]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices and Associated Equipment

This notice amends 49 CFR 571.108, Standard No. 108; Lamps, Reflective Devices, and Associated Equipment, to specify minimum photometric-candlepower requirements for motorcycle turn signal lamps.

Standard No. 108 was amended on October 7, 1972 (37 F.R. 21328), effective January 1, 1973, to specify, in part, that turn signal lamps are not required to meet the minimum photometric values at each test point specified in table 2 of SAE Standard J575d, "Tests for Motor Vehicle Lighting Devices and Components," if the sum of the candlepower measured at the test points within the groups listed in figure 1 is not less than the sum of the candlepower values for such test points specified in J575d. Effective January 1, 1973, Class B turn signal lamps are required on motorcycles, and the minimum photometric candlepower values for such lamps are one-half those required for Class A turn signals. The amendment failed to make this distinction, and this notice corrects the omission.

In consideration of the foregoing, paragraph S4.1.1.12 of 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, is amended to read as follows:

S4.1.1.12 A tail lamp, stop lamp, or turn signal lamp is not required to meet the minimum photometric values at each test point specified in Table 2 of SAE Standard J575d, "Tests for Motor Vehicle Lighting Devices and Components," if