In the Matter of Michael Yaccarino, an Individual Doing Business as Reno's Auto Sales

Consent order requiring a Neptune, N.J., seller and distributor of used automobiles, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act. Respondent is further required to provide his customers who speak and read only Spanish with contracts and credit cost disclosures printed in Spanish.

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

I. *It is ordered,* That respondent Michael Yaccarino, an individual doing business as Reno's Auto Sales, and respondent's agents, representatives, employees, successors, and assigns, directly or through any corporate or other device or under any other name in connection with any consumer credit sale, as "consumer credit" and "credit sale" are defined in Regulation Z (12 CFR Part 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 use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as required by § 226.8(c)(2) of Regulation Z.

2. Failing to use the term "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment as required by § 226.8(c)(3) of Regulation Z.

3. Failing to use the term "amount financed" to describe the amount of credit extended as required by § 226.8(c)(7) of Regulation Z.

4. Failing in some instances to use the term "finance charge" to describe the sum of all charges required by § 226.4 of Regulation Z to be included therein, as required by § 226.8(c)(8)(i) of Regulation Z.

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

6. Failing in some instances to use the term "annual percentage rate" to express the rate of finance charge as required by § 226.8(b)(2) of Regulation Z.

7. Failing to disclose the annual percentage rate computed in accordance with § 226.8(b)(2) of Regulation Z.

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

9. Failing to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by § 226.8(b)(7) of Regulation Z.

10. Failing to make full disclosure before the transaction is consummated and to furnish the customers with a duplicate of the instrument or a statement by which the required disclosures are made, as required by § 226.8(a) of Regulation Z.

11. Failing to print the term "finance charge" more conspicuously than other terminology where such term is required to be used, as required by § 226.6(a) of Regulation Z.

12. Failing to: (a) Obtain a specific dated and separately signed affirmative written indication of the customer's desire for credit life insurance to be written in connection with its credit sale, and (b) disclose the cost of such insurance to the customer in the insurance authorization signed by the customer, as required by § 226.4(a)(5) of Regulation Z.

13. Failing to furnish a clear, conspicuous, and specific statement in writing setting forth: (a) The cost of insurance against loss or damage to the property purchased which is written in connection with the credit transaction, and (b) the privilege of the customer to choose the person through whom the insurance is to be obtained, as required by § 226.4(a)(6) of Regulation Z.

14. Failing to properly identify the creditor as required by § 226.8(a) of Regulation Z.

15. Failing to comply with § 226.6(k) of Regulation Z by continuing to use printed retail in stallment contract forms subsequent to December 31, 1969, which did not conform to the specific disclosure requirements of Regulation Z.

16. 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 respondent prominently displayed no less than two signs on the premises which will clearly and conspicuously state that a customer must receive a complete copy of the consumer credit cost disclosures, as required by the Truth In Lending Act, in any transaction consummated.

ORDER

II. *It is further ordered,* That respondent, Michael Yaccarino, an individual doing business as Reno's Auto Sales, and respondent's agents, representatives and employees, and their successors and assigns, directly or through any corporate or other device or under any other name or names, in connection with the advertising, offering for sale, sale and distribution of used automobiles in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to provide customers who speak and read only Spanish with contracts and credit cost disclosures printed in Spanish.

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

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That respondents notify the Commission at least 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 respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

Issued: February 1, 1973.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.73-4223 Filed 3-5-73;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5373, 34-10006, 35-17882, 40-7673, AS-141]

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

Interpretations and Minor Amendments Applicable to Certain Revisions of Regulation S-X

The Commission adopted amendments to Regulation S-X (17 CFR Part 210) in Accounting Series Release Nos. 125 (June 23, 1972) (37 FR 14591) and 128 (September 20, 1972) (37 FR 20235) in which various sections of the regulation were extensively revised. The amendments were made effective with respect to financial statements for periods ending on or after December 31, 1972.[1]

Subsequent to the issuance of the releases a number of inquiries have been received by the staff regarding the meaning or interpretation of new terms, instructions or rules in the revised

[1] The effective date of the requirement for compensating balance disclosure was deferred to cover periods beginning on or after Dec. 30, 1972 (Accounting Series Release No. 136) (38 FR 1733).

regulations. Interpretations of such items on the basis of the questions raised are given in Part A of this release. In Part B, a number of minor amendments have been adopted to correct errors of a typographical or editorial nature which have been noted or to clarify certain items.

PART A—INTERPRETATIONS

General. Financial statements, notes and schedules filed for fiscal periods ending before December 31, 1972, the effective date specified in Accounting Series Release Nos. 125 and 128, need not, but may if a registrant prefers, be conformed to the amendments to Regulation S-X adopted in those releases.

In instances where, because of the new test for a significant subsidiary, the separate financial statements of additional subsidiaries are required in filings which had not been required in prior filings on the basis of the old tests of significance, the requirements in the filing forms for audited financial statements of such subsidiaries for earlier periods will be applicable. However, a request for waiver of the audit requirement for the financial statements for the earlier periods will be considered if such requirement is impracticable or would cause undue hardship.

Section 210.1-02.—Definitions of terms used in regulation S-X. In making the tests for significance called for in the definition of "significant subsidiary" in this rule the proportionate share of the assets or sales of the subsidiary after intercompany eliminations would be compared to the consolidated assets or sales after normal intercompany eliminations but without elimination of the investments and advances to subsidiaries and 50 percent or less owned persons. With respect to application of the test to unconsolidated subsidiaries or other persons who also have equity interests in other subsidiaries or other persons, the proportionate share of the assets (in lieu of the investment and advances) or of sales of such other subsidiary or other persons should not be added to the assets or sales of the unconsolidated subsidiary or 50 percent or less owned person for the purpose of this test.

Section 210.3-16(i).—Commitments and contingent liabilities. The disclosure regarding noncancelable leases specified in part (2) of this rule may be limited to such leases which have a noncancelable term of 1 year or longer.

Section 210.3-16 (j) and (n). The term "key employees" used in those rules is interpreted in the sense of "selected employees" or the employees to which a bonus plan or plan for the sale of stock is applicable when such plan is not available to all employees on a pro rata basis.

Section 210.3-16(o).—Income tax expense. With regard to the separate disclosure of other income taxes specified in this rule, state and foreign income taxes should be reported separately if either item amounts to 5 percent of the component.

Section 210.4-03.—Group financial statements of subsidiaries not consolidated and 50 percent or less owned persons. Under this rule, significant majority-owned unconsolidated subsidiaries may not be combined with 50 percent or less owned persons and significant 50 percent or less owned persons may not be combined with majority-owned unconsolidated subsidiaries. However, if all such persons are not significant individually or as a group, they may be combined in one statement.

Section 210.4-07.—Consolidation of financial statements of a registrant and its subsidiaries engaged in diverse financial activities. With regard to the separate audited financial statements for each significant financial subsidiary or each significant group of financial subsidiaries required under part (a) of this rule, different types of insurance companies (e.g., life; fire, and casualty) may not be considered together as one group of financial subsidiaries.

With regard to whether specific subsidiaries are financial or nonfinancial activities for purposes of part (b) of this rule, the circumstances in each case would have to be considered. For example, it is considered that a leasing subsidiary with both financing and nonfinancing types of leases is a financial activity; an investment banking subsidiary or a broker-dealer subsidiary is a financial activity; and a real estate subsidiary whose primary business is holding mortgage loans would be considered a financial activity, while such subsidiary whose primary business is constructing homes or developing land would be a nonfinancial activity. Other examples of nonfinancial activities are subsidiaries which sell mutual fund securities or are advisers to mutual funds or to real estate companies which are not related to the parent or its subsidiaries.

In the determination of whether an activity is principally for the benefit of the operations of the major group as specified in part (b) of this rule, if 50 percent or more of the activity benefits or supports the major group all of the activity would be so classified.

Section 210.5-02-6.—Inventories. In the determination of replacement or current cost for the purpose of disclosing the excess of that amount over the stated LIFO value, any inventory method may be used (such as FIFO or average cost) which derives a figure approximately current cost.

Section 210.5-02-39—Other stockholders' equity. In providing the disclosure regarding the undistributed earnings of unconsolidated subsidiaries and 50 percent or less owned persons as specified in part (b) of this rule, the amount to be disclosed would be the difference between the cumulative equity in earnings of the unconsolidated persons reflected in consolidated retained earnings and the cumulative dividends received from such persons by the consolidated group. Dividends paid to shareholders of the consolidated group should not be considered in the calculation since they are not relevant to the undistributed earnings of such persons.

Section 210.9-05—Financial statements and schedules of banks.—When Schedule VIII, specified in part (b) (4) of this rule, is filed with the consolidated financial statements of a registrant bank holding company, the directors, officers, and principal holders of equity securities of the registrant and its affiliates shall be considered as persons in those relationships with the registrant bank holding company and each bank and other affiliate, and the amounts to be reported shall be aggregate indebtedness of each of those persons to all companies in the consolidated group. Write-offs of any such indebtedness during the period being reported on shall be separately disclosed. Information need not be reported concerning indebtedness to the consolidated group from an otherwise unaffiliated person in which one or more of the persons in the categories specified above are directors, officers or principal holders of equity securities of the otherwise unaffiliated persons or its affiliates.

In connection with unconsolidated financial statements of a parent bank holding company, the schedule requirements of Rule 5-04 (17 CFR 210.5-04) are applicable and the schedule prescribed by Rule 12 03 (17 CFR 210.12-03) shall be filed.

Section 210.12-16—Supplementary income statement information. The totals shown in this schedule should be the amounts described by each caption which are included in the income statement for the period covered.

The rents applicable to leased personal property to be included under Item 5 of Rule 12-16 (17 CFR 210.12-16), in accordance with Instruction 4, would be rents for personal property which is used for an extended period of time (generally more than 1 year) and which the company elects to rent or lease rather than to buy such as postage meters, computers, and trucks. The expected period of use of the asset rather than the legal term of the lease should govern. Temporary rentals such as a daily car rental or the rental of display space at a convention would be excluded.

Instruction 5 explaining "Advertising Costs" calls for the inclusion of "all costs related to advertising the company's name, products, or services in newspapers, periodicals, or other advertising media." Such costs would include the indirect costs expended in support of advertising such as the cost of an advertising department, a market research group which specializes in evaluation of advertising and promotional efforts (but not all market research), a media buying department, or a graphic arts department that specializes in the preparation of advertising copy, as well as the direct costs of advertising space. In addition, the cost of "other advertising media" would generally include expenditures for preparing and mailing sales brochures and direct mail advertising materials. In cases where a company or division is primarily in the mail-order business, however, the costs of preparing a catalog would be a selling cost similar to that of a salesman in most industrial concerns,

and such catalog costs should not be included in "advertising costs." The cost of employing salesmen, preparing product display signs, printing price list, and standard product catalogs, and reports to stockholders should also not be considered advertising costs for purposes of this rule.

It is recognized that the distinction between advertising costs and other selling expenses is frequently not clear cut. Where the guidance set forth herein is not sufficient to enable the registrant to determine the appropriateness of including or excluding certain classifications of significant costs, disclosure of the type of costs included or excluded from the caption will be a satisfactory solution.

Under Item 8, research and development costs, all costs charged to expense as incurred in the current period for the benefit of the company in these account classifications should be reported. These would include company sponsored projects of pure and practical research as well as the development of new products or services or new or better production machinery and equipment and for the improvement of existing products and services. The amortization of deferred research and development costs should not be included herein since this amount is described in Item 3 of the schedule.

PART B—CORRECTIONS, CLARIFICATIONS, AND EDITORIAL CHANGES

Commission action. The Commission hereby amends the following sections of Part 210 of Chapter II of Title 17 of the Code of Federal Regulations, and, as so amended, they shall read as shown in the attached text of the amendments.

The amendments to Regulation S–X are adopted pursuant to authority conferred on the Securities and Exchange Commission by the Securities Act of 1933, particularly sections 6, 7, 8, 10, and 19(a) thereof; the Securities Exchange Act of 1934, particularly sections 12, 13, 15(d), and 23(a) thereof; the Public Utility Holding Company Act of 1935, particularly sections 5(b), 14, and 20(a) thereof; and the Investment Company Act of 1940, particularly sections 8, 30, 31(c), and 38(a) thereof.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85, secs. 205, 209, 48 Stat. 906, 908, sec. 8, 68 Stat. 685, 15 U.S.C. 77f, 77g, 77h, 77j, 77s; secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901, secs. 3, 8, 49 Stat. 1377, 1379, secs. 3, 4, 6, 10, 78 Stat. 565, 569, 570, 580, secs. 1, 2, 84 Stat. 1497, 15 U.S.C. 78l, 78m, 78o(d), 78w; secs. 5(b), 14, 20(a), 49 Stat. 812, 827, 833, 15 U.S.C. 79e, 79n, 79t; secs. 8, 30, 31(c), 38(a), 54 Stat. 803, 836, 838, 841, sec. 3(c), 84 Stat. 1415, 15 U.S.C. 80a–8, 80a–29, 80a–30(c), 80a–37(a))

The text of the amendments is attached to this release.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

FEBRUARY 15, 1973.

AMENDMENTS OF REGULATION S–X [PART 210 OF THIS CHAPTER]

1. Section 210.1–02(g)(2) is amended to read as follows:

§ 210.1–02 Definitions of terms used in Regulation S–X (Part 210 of this chapter).

* * * * *

(q) *Promoter.* The term "promoter" includes—

* * * * *

(2) Any person who, in connection with the founding and organizing of the business or enterprise of an issuer, directly or indirectly receives in consideration of services or property, or both services and property, 10 percent or more of any class of securities of the issuer or 10 percent or more of the proceeds from the sale of any class of securities. However, a person who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter within the meaning of this paragraph if such person does not otherwise take part in founding and organizing the enterprise.

* * * * *

2. Sections 210.3–15 is amended to read as follows:

§ 210.3–15 Discount on capital shares.

Discount on capital shares, or any unamortized balance thereof, shall be shown separately as a deduction from capital shares or from other stockholders' equity as circumstances require.

3. Paragraph 23 of § 210.5–02 is amended to read as follows:

§ 210.5–02 Balance sheets.

* * * * *

23. Deferred commissions and expense on capital shares. State, in a note referred to herein, the policy for deferral and amortization. These items may be shown as deductions from other stockholders' equity.

* * * * *

4. Paragraph (a)(1) and Schedule X of § 210.5–04 are amended to read as follows:

§ 210.5–04 What schedules are to be filed.

(a) * * *

(1) The schedules specified below in this section as Schedules I, IX, XI, XIII, XIV, XV, XVII, XVIII, and XIX shall be filed as of the dates of the most recent audited balance sheet and any subsequent unaudited balance sheet being filed for each person or group: *Provided,* That any such schedule (other than Schedules I, XIII, XVII, XVIII, and XIX) may be omitted if both of the following conditions exist:

* * * * *

Schedule X—Indebtedness to affiliates and other persons; not current. The schedule prescribed by § 210.12–11 shall be filed in support of Caption 31 of each balance sheet; however, the required information may be presented separately on Schedule III or Schedule IV. This schedule may be omitted if: (1) Neither the sum of Captions 10 and 11 in the related balance sheet nor the amount of Caption 31 in such balance sheet exceeds 5 percent of total assets as shown by the related balance sheet at either the beginning or end of the period, or (2) there have been no material changes in the information required to be filed from that last previously reported.

* * * * *

5. Paragraph (b)(4) of § 210.9–05 is amended to read as follows:

§ 210.9–05 Financial statements and schedules of banks.

* * * * *

(b) * * *

(4) *Schedule VIII.* Amounts receivable from directors, officers, and principal holders (other than affiliates) of equity securities of the person and its affiliates. A schedule in the format prescribed by § 210.12–03 shall be filed showing the aggregate amounts of indebtedness of more than $20,000 or 1 percent of total assets, whichever is less, of each director, officer, or principal holder (other than affiliates) of equity securities of the person and its affiliates that are receivable or were receivable at any time during the period for which related income statements are required to be filed. It shall not be necessary to disclose a loan or extension of credit to any person made in the ordinary course of business that (i) was made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons, and (ii) did not involve more than normal risk of collectibility or present other unfavorable features. Notwithstanding the foregoing, disclosure shall be made if at any time during the period for which related income statements are required to be filed there existed—

* * * * *

6. Sections 210.12–02, 210.12–04, 210.12–06, 210.12–16, 210.12–42, and 210.12–43 are revised to read as follows.

§ 210.12–02 Marketable securities—other security investments.

Column A	Column B	Column C	Column D[3]
Name of issuer and title of each issue.[1]	Number of shares or units—principal amount of bonds and notes.	Amount at which shown in the balance sheet.[2]	Value based on market quotations at balance sheet date.

[1] (a) Each issue shall be stated separately, except that reasonable groupings, without enumeration, may be made of (1) securities issued or guaranteed by municipalities, states, the U.S. Government or agencies thereof and (2) securities issued by others for which the amounts shown in column C in the aggregate are not more than 2 percent of total assets.

(b) In the case of bank holding companies group separately (1) securities of banks and (2) other securities, and in column C show totals for each group.

[2] State the basis of determining the amounts in column C. Column C shall be totaled to correspond to the respective balance sheet captions.

[3] This column may be omitted if all amounts that would be shown are the same as those shown in column C.

§ 210.12–04 Investments in, equity in earnings of, and dividends received from affiliates and other persons.

Column A	Column B		Column C		Column D		Column E		Column F
	Balance at beginning of period		Additions		Deductions		Balance at end of period		
	(1)	(2)	(1)	(2)	(1)	(2)	(1)	(2)	
Name of issuer and description of investment [1]	Number of shares or units [2] Principal amount of bonds and notes	Amount in dollars.	Equity taken up in earnings (losses) of affiliates and other persons for the period [3]	Other [4]	Distribution of earnings by persons in which earnings (losses) were taken up [5]	Other [6]	Number of shares or units.[2] Principal amount of bonds and notes	Amount in dollars [7]	Dividends received during the period from investments not accounted for by the equity method. [8]

[1] (a) Group separately securities of (1) subsidiaries consolidated, (2) subsidiaries not consolidated, (3) other affiliates, and (4) other persons, the investments in which are accounted for by the equity method, showing shares and bonds separately in each case. Investments in individual affiliates which, when considered with related advances, exceed 2 percent of total assets shall be stated separately. Dividends from (1) marketable securities and (2) other security investments shall also be included and may be shown in separate aggregate amounts.

(b) Those foreign investments, the enumeration of which would be detrimental to the registrant, may be grouped.

[2] Disclose, in the column or in a note hereto, the percentage of ownership interest represented by the shares or units, if material.

[3] The total of column C(1) shall be reconciled with the amount of the related income statement caption.

[4] Briefly describe each item in column C(2); if the cost thereof represents other than a cash expenditure, explain. If acquired from an affiliate (and not an original issue of that affiliate) at other than cost to the affiliate, show such cost, provided the acquisition by the affiliate was within 2 years prior to the acquisition by the person for which the statement is filed.

[5] As to any dividends other than cash, state the basis on which they have been taken up in the accounts, and the justification for such action. If any such dividends received from affiliates have been credited in the accounts in an amount differing from that charged to retained earnings by the disbursing company, state the amount of such difference and explain.

[6] Briefly describe each item in column D(2) and state; (a) Cost of items sold and how determined; (b) amount received (if other than cash, explain); and (c) disposition of resulting profit or loss.

[7] The total (or a sub-total) of column E(2) shall be reconciled with the amount reported under caption 10 of the related balance sheet.

§ 210.12–06 Property, plant and equipment.[1]

Column A	Column B	Column C	Column D	Column E	Column F
Classification [2]	Balance at beginning of period [3]	Additions at cost [4]	Retirements [5]	Other changes—add (deduct)—describe [6]	Balance at end of period

[1] Comment briefly on any significant and unusual additions, abandonments, of retirements, or any significant and unusual changes in the general character and location, of principal plants and other important units, which may have occurred within the period.

[2] (a) Show by major classifications, such as land, buildings, machinery, and equipment, leaseholds, or functional grouping. If such classification is not present or practicable, this may be stated in one amount. The additions included in column C shall, however, be segregated in accordance with an appropriate classification. If property, plant and equipment abandoned is carried at other than a nominal amount indicate, if practicable, the amount thereof and state the reasons for such treatment. Items of minor importance may be included under a miscellaneous caption.

(b) *Public utility companies.* A public utility company shall, to the extent practicable, classify utility plant by the type of service rendered (such as electric, gas, transportation and water) and shall state separately under each of such service classifications the major subclassifications of utility plant accounts.

(c) *Mining companies using §§ 210.5a–01 to 210.5a–07.* Such mining companies shall include herein only depreciable mine property, plant and equipment at dollar amounts required by the instructions set forth under caption 13, property, plant and equipment of §§ 210.5a–01 to 210.5a–07. A mining company falling into this category shall also, to the extent practicable, observe the other instructions set forth under this rule.

[3] If neither the total additions nor total deductions during any of the periods covered by the schedules amount to more than 10 percent of the ending balance of that period and a statement to that effect is made, the information required by columns B, C, D, and E may be omitted for that period, provided that the totals of columns C and D are given in a note hereto and provided further than any information required by instructions 4, 5, and 6 shall be given and may be in summary form.

[4] For each change in accounts in column C that represents anything other than an addition from acquisition, and for each change in that column that is in excess of 2 percent of total assets, at either the beginning or end of the period, state clearly the nature of the change and the other accounts affected. If cost of property additions represents other than cash expenditures, explain. If acquired from an affiliate at other than cost to the affiliate, show such cost, provided the acquisition by the affiliate was within 2 years prior to the acquisition by the person for which the statement is filed.

[5] If changes in column D are stated at other than cost, explain if practicable.

[6] State clearly the nature of the changes and the other accounts affected. If provision for depreciation, depletion and amortization of property, plant and equipment is credited in the books directly to the asset accounts, the amounts shall be stated in column E with explanations, including the accounts to which charged.

§ 210.12–16 Supplementary income and statement information.[1]

Column A Item	Column B[2] Charged to costs and expenses
1. Maintenance and repairs	
2. Depreciation, depletion and amortization of property, plant and equipment	
3. Depreciation and amortization of intangible assets, deferred research and development expenses, preoperating costs and similar deferrals[3]	
4. Taxes, other than income taxes[3]	
5. Rents[4]	
6. Royalties	
7. Advertising costs[5]	
8. Research and development costs (excluding amortization of deferred costs	

[1] State, for each of the items noted in column A which exceeds 1 percent of total sales and revenues as reported in the related income statement, the amount called for in column B.

[2] Totals may be stated in column B without further designation of the accounts to which charged.

[3] State separately each category of tax which exceeds 1 percent of total sales and revenues.

[4] Include rents applicable to leased personal property.

[5] This item shall include all costs related to advertising the company's name, products or services in newspapers; periodicals or other advertising media.

[6] State separately each category of cost amortized.

§ 210.12–42 Real estate and accumulated depreciation.[1]

(For Certain Real Estate Companies)

Column A	Column B	Column C		Column D		Column E			Column F	Column G	Column H	Column I
		Initial cost to company		Cost capitalized subsequent to acquisition		Gross amount at which carried at close of period[3,4,5,7]						
Description[2]	Encumbrances	Land	Buildings and improvements	Improvements	Carrying costs	Land	Buildings and improvements	Total	Accumulated depreciation	Date of construction	Date acquired	Life on which depreciation in latest income statements is computed

[1] All money columns shall be totaled.

[2] The description for each property should include type of property (e.g., unimproved land, shopping center, garden apartments, etc.) and the geographical location.

[3] The required information is to be given as to each individual investment included in column E except that an amount not exceeding 5 percent of the total of column E may be listed in one amount as "miscellaneous investments."

[4] In a note to this schedule, furnish a reconciliation, in the following form, of the total amount at which real estate was carried at the beginning of each period for which income statements are required, with the total amount shown in column E:

Balance at beginning of period ..... $.....
Additions during period:
Acquisitions through foreclosure ..... $.....
Other acquisitions .....
Improvements, etc. .....
Other (describe) .....
$.....
Deductions during period:
Cost of real estate sold ..... $.....
Other (describe) .....
$.....
Balance at close of period ..... $.....

If additions, except acquisitions through foreclosure, represent other than cash expenditures, explain. If any of the changes during the period result from transactions, directly or indirectly with affiliates, explain the bases of such transactions and state the amounts involved.

A similar reconciliation shall be furnished for the accumulated depreciation.

[5] If any item of real estate investments has been written down or reserved against, describe the item and explain the basis for the write-down or reserve.

[6] State in a note to column E the aggregate cost for Federal income tax purposes.

[7] The amount of all intercompany profits included in the total of column E shall be stated if material.

§ 210.12–43 Mortgage loans on real estate.[1]

(FOR CERTAIN REAL ESTATE COMPANIES)

Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H
Description [2,3,4]	Interest rate	Final maturity date	Periodic Payment Terms [5]	Prior liens	Face amount of mortgages	Carrying amount of mortgages [2,6,7,8,9]	Principal amount of loans subject to delinquent principal or interest [10]

[1] All money columns shall be totaled.

[2] The required information is to be given for each individual mortgage loan which exceeds three percent of the total of column G.

[3] If the portfolio includes large numbers of mortgages most of which are less than three percent of column G, the mortgages not required to be reported separately should be grouped by classifications that will indicate the dispersion of the portfolio, i.e., for a portfolio of mortgages on single family residential housing. The description should also include number of loans by original loan amounts (e.g., over $100,000, $50,000–$99,999, $20,000–$49,000, under $20,000) and type loan (e.g., VA, FHA, Conventional). Interest rates and maturity dates may be stated in terms of ranges. Data required by columns D, E and F may be omitted for mortgages not required to be reported individually.

[4] Loans should be grouped by categories, e.g., first mortgage, second mortgage, construction loans, etc., and for each loan the type of property, e.g., shopping center, high rise apartments, etc., and its geographic location should be stated.

[5] State whether principal and interest is payable at level amount over life to maturity or at varying amounts over life to maturity. State amount of balloon payment at maturity, if any. Also state prepayment penalty terms, if any.

[6] In a note to this schedule, furnish a reconciliation, in the following form, of the carrying amount of mortgage loans at the beginning of each period for which income statements are required, with the total amount shown in column G:

Balance at beginning of period		$
Additions during period:		
New mortgage loans	$	
Other (describe)		
		$
Deductions during period:		
Collections of principal	$	
Foreclosures		
Cost of mortgages sold		
Amortization of premium		
Other (describe)		
		[7]
Balance at close of period		$ [7]

If additions represent other than cash expenditures, explain. If any of the changes during the period result from transactions, directly or indirectly with affiliates, explain the bases of such transactions, and state the amounts involved. State the aggregate mortgages (a) renewed and (b) extended. If the carrying amount of new mortgages is in excess of the unpaid amount of the extended mortgages, explain.

[7] If any item of mortgage loans on real estate investments has been written down or reserved against, describe the item and explain the basis for the write-down or reserve.

[8] State in a note to column G the aggregate cost for Federal income tax purposes.

[9] The amount of all intercompany profits in the total of column G shall be stated, if material.

[10] (a) Interest in arrears for less than 3 months may be disregarded in computing the total amount of principal subject to delinquent interest.

(b) Of the total principal amount, state the amount acquired from controlled and other affiliates.

[FR Doc.73-4063 Filed 3-5-73;8:45 am]

Title 19—Customs Bureau

CHAPTER I—BUREAU OF CUSTOMS, DEPARTMENT OF THE TREASURY

[T.D. 73-64]

PART 1—GENERAL PROVISIONS

Designation of National Holidays

Executive Order No. 11582, effective January 1, 1971 (34 FR 2957; 3 CFR Ch. II), implemented 5 U.S.C. 6103 which increases the number of national holidays from eight to nine and restated the dates for their celebration. The cited Executive order revoked Executive Orders No. 10358 of June 9, 1952, No. 11226 of May 27, 1965, and No. 11272 of February 23, 1966.

Accordingly, to conform the Customs regulations to Executive Order No. 11582, footnote 10 of § 1.7(a), is amended to read as follows:

§ 1.7 Hours of business.

(a) * * *[10]

(E.O. No. 11582, January 1, 1971; 34 FR 2957; 3 CFR Ch. II; R.S. 251, as amended, sec. 624, 46 Stat. 759; 5 U.S.C. 301; 19 U.S.C. 66, 1624)

[10] The national holidays are the first day of January, the third Monday of February, the last Monday of May, the fourth day of July, the first Monday of September, the second Monday of October, the fourth Monday of October, the fourth Thursday of November, the 25th of December, or any other calendar day designated as a holiday by Federal statute or Executive order. If a holiday falls on Saturday, the day immediately preceding such Saturday will be observed (5 U.S.C. 6103(b)(1)). If a holiday falls on Sunday, the following day will be observed.

This amendment deals with administrative matters relating to agency management and therefore notice and public procedure thereon is found to be unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. This amendment shall be effective March 6, 1973.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved: January 31, 1973.

EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[FR Doc.73-4203 Filed 3-5-73;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 5-73-02 R]

PART 127—SECURITY ZONES

Hampton Roads, Elizabeth River, Norfolk, Va.

This amendment to the Coast Guard's Security Zone Regulations establishes the waters of the Elizabeth River and Hampton Roads between the Norfolk and Portsmouth Beltline Railroad Bridge on the southern branch of the Elizabeth River and Elizabeth River Channel Lighted Horn Buoy 1, LL 2939, as a security zone. This security zone is established to prevent interference with the sailing of the U.S.S. *Independence* from the Norfolk Naval Shipyard, Portsmouth, Va.

This amendment is issued without publication of a notice of proposed rule making; and this amendment is effective in less than 30 days from the date of publication, because this security zone involves a military function of the United States.

In consideration of the foregoing, Part 127 of Title 33 of the Code of Federal Regulations is amended by adding § 127.500 to read as follows:

§ 127.500 Hampton Roads—Elizabeth River—Norfolk, Va.

The waters of the Elizabeth River, Norfolk, Va., are a security zone: from the Norfolk-Portsmouth Beltline Railroad Bridge on the southern branch of the Elizabeth River, at position 36°48'42" N. latitude, 76°17'26" W. longitude; to a line between position 36°59'12" N. latitude, 76°18'10" W. longitude (Fort Wool Light); and position 37°00'06" N. latitude, 76°18'24" W. longitude (Old Point Comfort Light).

(46 Stat. 220, as amended, § 1, 63 Stat. 503, § 6(b), 80 Stat. 937; 50 U.S.C. § 191, 14 U.S.C. § 91, 49 U.S.C. § 1655(b); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR, 1949–1953 Comp. 356, 778, 873, 3 CFR, 1964–1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.46(b))

Effective date. This amendment is effective from 1000R to 1230R, March 6, 1973.

H. E. STEEL,
Captain, United States Coast Guard, Captain of the Port, Hampton Roads Area.

[FR Doc.73-4379 Filed 3-5-73;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Certain Inert Ingredients in Pesticide Formulations Applied to Animals

Correction

In FR Doc. 73-2635 appearing at page 4330 in the issue of Tuesday, February 13, 1973, in the table in the second column on page 4331, the second entry should read as follows:

Poly (oxypropylene) block polymer with poly(oxyethylene); molecular weight 1,800-9,000.	Surfactants, related adjuvants of surfactants.

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 2-10; Notice 5]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Bus Window Retention and Release

The purpose of this notice is to amend Motor Vehicle Safety Standard No. 217, Bus Window Retention and Release, 49 CFR 571.217, in response to petitions received. Several minor amendments for purposes of clarification have also been made. The standard was published initially on May 10, 1972 (37 FR 9394), and amended September 6, 1972 (37 FR 18034).

Wayne Corp. has petitioned that the torque limit of 20 inch-pounds for the actuation of rotary emergency exit releases in S5.3.2(a)(3) of the standard is impractical. The Blue Bird Body Co. also objected to the requirement, requesting that the limit be raised to 225 inch-pounds in order to avoid inadvertent openings. The NHTSA has decided, based on these petitions, that a maximum torque requirement is redundant, since the force magnitude generally is limited in S5.3.2 to not more than 20 pounds. Accordingly the torque requirement is deleted from the rule.

Blue Bird also requested that Figure 3A, which depicts access regions for roof and side emergency exits without adjacent seats in both an upright and overturned bus, be made more explicit.

In response to this request, Figure 3A is being replaced by two figures, one of which depicts a side emergency exit (Figure 3A), and the other a roof emergency exit (Figure 3B). Existing Figure 3B, depicting access regions for a rear exit with a rear shelf or other obstruction behind the rearmost seat, becomes Figure 3C. A new Figure 3D is added to depict rear seat access regions in buses not having a rear shelf or other obstruction behind the rearmost seat, a configuration common to school buses. Paragraph S5.2.1, regarding provision of emergency exits, is amended to make it clear that a required rear exit must meet the requirements of S5.3 through S5.5 when the bus is overturned on either side, with the occupant standing facing the exit, as well as when the bus is upright.

In consideration of the above, Standard No. 217, Bus Window Retention and Release, 49 CFR 571.217, is amended as follows:

1. S5.2.1 is amended to read:

S5.2.1 *Buses with GVWR of more than 10,000 pounds.* Except as provided in S5.2.1.1, buses with a GVWR of more than 10,000 pounds shall meet the unobstructed openings requirements by providing side exits and at least one rear exit that conforms to S5.3 through S5.5. The rear exit shall meet the requirements when the bus is upright and when the bus is overturned on either side, with the occupant standing facing the exit. When the bus configuration precludes installation of an accessible rear exit, a roof exit that meets the requirements of S5.3 through S5.5 when the bus is overturned on either side, with the occupant standing facing the exit, shall be provided in the rear half of the bus.

2. S5.3.1 is amended to read:

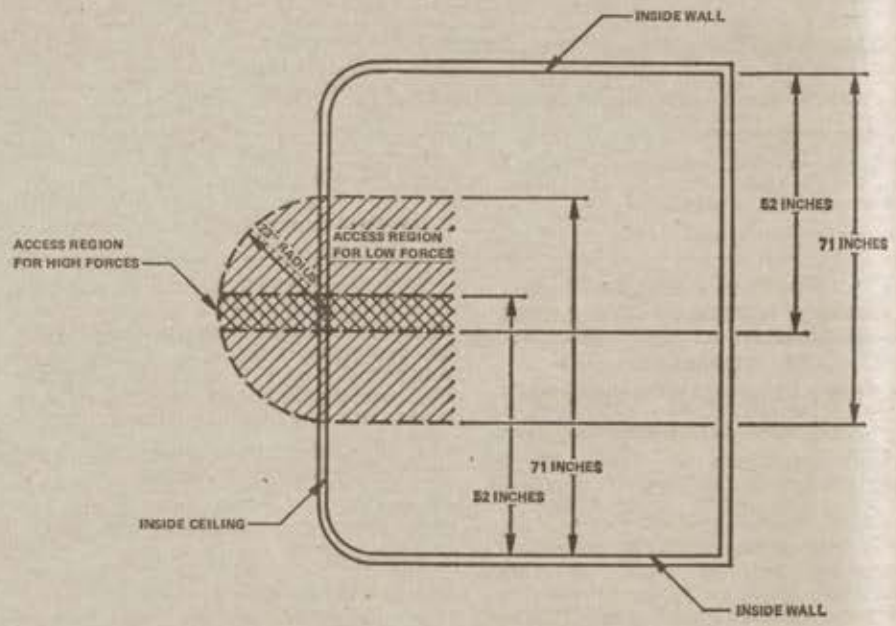
S5.3.1 Each push-out window or other emergency exit shall have a release mechanism located within the regions specified in Figure 1, Figure 2, or Figure 3. The lower edge of the region in Figure 1, and Region B in Figure 2, shall be located 5 inches above the adjacent seat, or 2 inches above the armrest, if any, whichever is higher.

3. S5.3.2(a) is amended to read:

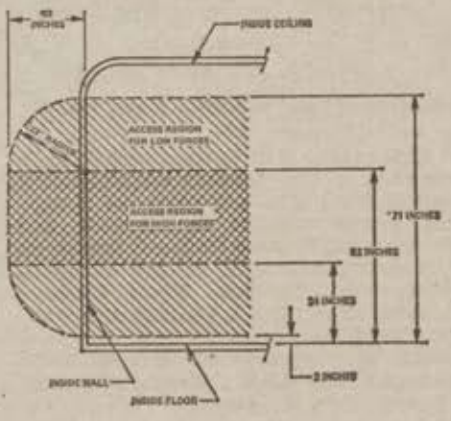
(a) * * *

Magnitude: Not more than 20 pounds.

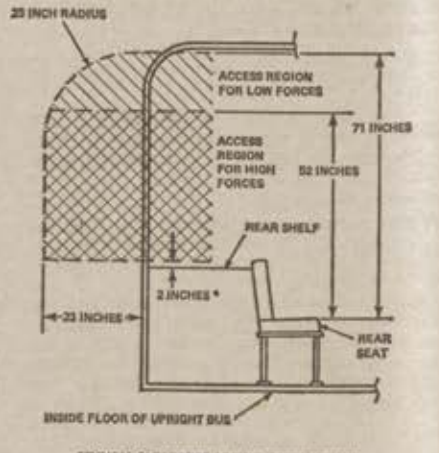
4. Figure 3 is amended to appear as follows:



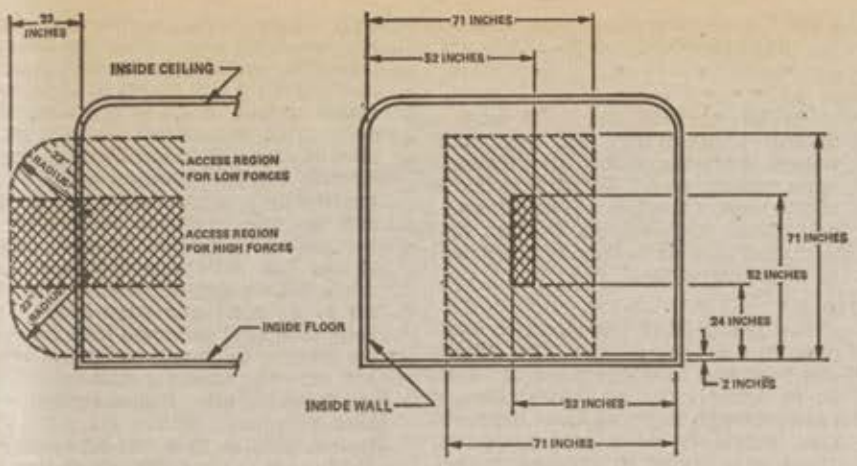
3A. SIDE EMERGENCY EXIT



3B. ROOF EMERGENCY EXIT



3C. REAR EMERGENCY EXIT WITH REAR OBSTRUCTION



30. REAR EMERGENCY EXIT WITHOUT REAR OBSTRUCTION

FIGURE 3 LOW AND HIGH-FORCE ACCESS REGIONS FOR EMERGENCY EXITS WITHOUT ADJACENT SEATS

Effective date: September 1, 1973.

(Secs. 103, 112, 119, Public Law 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1401, 1407; delegation of authority, 49 CFR 1.51.)

Issued on February 28, 1973.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.73-4257 Filed 3-5-73;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 12—AREAS CLOSED TO HUNTING

PART 32—HUNTING

Miscellaneous Amendments

Redesignation of Part 12—Areas Closed To Hunting.

Present 50 CFR Part 12, Areas Closed to Hunting, is redesignated § 32.4 Areas closed to hunting and is added to Part 32—Hunting. Part 12 is reserved to allow for expansion.

A new section is added in the table of contents for Part 32 to read:

Sec.
32.4 Areas closed to hunting.

This revision redesignates an existing regulation, does not impose any new requirements, restrictions, or procedures. Accordingly, notice and public procedure thereon are impracticable, unnecessary, and contrary to the public interest and this redesignation is effective on March 16, 1973.

(33 Stat. 614, 16 U.S.C. 685; 43 Stat. 651, 16 U.S.C. 725; 45 Stat. 449, 16 U.S.C. 690d; 45 Stat. 1224, 16 U.S.C. 715l; 48 Stat 402, 16 U.S.C. 664; 48 Stat. 451, 16 U.S.C. 718d; 48 Stat. 1270, 43 U.S.C. 315a; 76 Stat. 653, 16 U.S.C. 460k; 80 Stat. 926, 16 U.S.C. 668bb)

E. V. SCHMIDT,
Deputy Director, Bureau of Sport Fisheries and Wildlife.

FEBRUARY 28, 1973.

[FR Doc.73-4213 Filed 3-5-73;8:45 am]

CHAPTER II—DEPARTMENT OF COMMERCE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, NATIONAL MARINE FISHERIES SERVICE

SUBCHAPTER H—EASTERN PACIFIC TUNA FISHERIES

PART 280—YELLOWFIN TUNA

Miscellaneous Amendments

A notice of proposed rule making was published January 15, 1973 (38 FR 1521), to amend Part 280, Title 50, Code of Federal Regulations, which are regulations governing the eastern Pacific yellowfin tuna fisheries.

Interested persons were given the opportunity to participate through a public hearing at San Diego on January 24, 1973, and through submission of written material.

There was no adverse comment concerning the Inter-American Tropical Tuna Commission's recommendation that, for 1973 only, restrictions be removed from part of the regulatory area to encourage exploratory fishing. The area to be opened up lies south and west of the Galapagos Islands.

The proposed rule making announced that the Commission's resolution for 1973, as in 1972, allows vessels of 400 short tons carrying capacity or less to fish for yellowfin tuna within the regulatory area during the closed season under such restrictions as may be necessary to limit the catch of yellowfin by such vessels to 6,000 tons during 1973. The proposed rule making also stated that, in the experience of the National Marine Fisheries Service, as much as 700 short tons of yellowfin may be available from the unused portion of the overall country 15 percent incidental catch. Thus, the yellowfin tuna to be allotted to the vessels under 400 short tons carrying capacity would be 6,000 short tons, plus approximately 700 short tons which is expected to be available from the unused portion of the 15 percent incidental catch. In regard to the allocation of the total 6,700 short tons, the National Marine Fisheries Service invited comments upon the desirability of combining the seiners of 300 short tons carrying capacity or less and the seiners of 301–400 short tons carrying capacity into one allotment group.

The proposed rule making further stated that in the absence of general interest or a workable plan to combine the two groups of small seiners, or any interest in a redistribution of the allotments to the three categories of small vessels, the allotments and incidental catch rates for 1973 would remain the same as in 1972, namely:

(1) Purse seiners of 301–400 short tons carrying capacity: 900 short tons, with an incidental catch rate of 40 percent by round weight of each vessel's total catch.

(2) Purse seiners of 300 short tons carrying capacity or less: 3,500 short tons, with an incidental catch rate of 50 percent by round weight of each vessel's total catch.

(3) Bait and jig boats: 2,300 short tons, with an incidental catch rate of 50 percent by round weight of each vessel's established short ton carrying capacity.

Some industry testimony, both oral and written, favored combining the two categories of small seiners, and suggested certain incidental closed season catch rates for each of the two vessel categories while harvesting the allotment. Other industry testimony, while arguing against combining the two vessel categories, indicated that the combination would be acceptable if certain incidental yellowfin catch rates were adopted for each category. Testimony was received both for and against increasing the closed season allotment to bait and jig boats.

Careful consideration has been given to all testimony received, both oral and written. As a result of this testimony, the two small seiner categories are to be combined and the revised distribution of tonnage among vessel categories is adopted as follows:

(1) Purse seiners of 400 short tons carrying capacity or less: 4,400 short tons.

(2) Bait and jig boats: 2,300 short tons.

The revised yellowfin tuna incidental catch limitation for each vessel category is adopted as follows:

(1) Purse seiners of 301–400 short tons carrying capacity: 40 percent by round weight of each vessel's total catch: *Provided*, That vessels which are on a fishing voyage longer than 70 days may land 20 percent by round weight of each vessel's established short ton carrying capacity.

(2) Purse seiners of 300 short tons carrying capacity or less: 60 percent by round weight of each vessel's total catch: *Provided*, That vessels which are on a fishing voyage longer than 50 days may land 25 percent by round weight of each vessel's established short ton carrying capacity.

(3) Bait and jig boats: 50 percent by round weight of each vessel's established short ton carrying capacity.

Accordingly Part 280 is amended as follows:

1. Paragraph (g) of § 280.1 is amended to read as follows:

§ 280.1 Definitions.

* * * * *

(g) *Regulatory area.* All waters of the eastern Pacific Ocean bounded by the mainland of the Americas and the following lines: Beginning at a point on the mainland where the parallel of 40° north latitude intersects the coast; thence due west to the meridian of 125° west longitude; thence due south to the parallel of 20° north latitude; thence due east to the meridian of 120° west longitude; thence due south to the parallel of 5° north latitude; thence due east to the meridian of 110° west longitude; thence due south to the parallel of 10° south latitude; thence due east to the meridian of 90° west longitude; thence due south to the parallel of 30° south latitude; thence due east to a point on the mainland where the parallel of 30° south latitude intersects the coast. Except that for 1973 only, the area encompassed by a line drawn starting at 110° west longitude and 3° north latitude extending east along 3° north latitude to 95° west longitude; thence south along 95° west longitude to 3° south latitude; thence east along 3° south latitude to 90° west longitude; thence south along 90° west longitude to 10° south latitude; thence west along 10° south latitude to 110° west longitude; thence north along 110° west longitude to 3° north latitude shall be excluded from the regulatory area to encourage exploratory fishing.

* * * * *

2. Paragraph (b) of § 280.6 is amended as follows:

§ 280.6 Open season restrictions applicable to fishing vessels.

* * * * *

(b) During the open yellowfin tuna season, every fishing vessel operating in the Pacific Ocean, but outside the regulatory area, shall transmit daily a message between 0800 and 1000 hours local California time. This requirement will also apply, for 1973 only, to every fishing vessel operating in the area described in the second sentence of paragraph (g) of § 280.1. The message shall be transmitted directly to Coast Guard Radio New Orleans (NMG) on frequency 16,565.2, 12,421.0, or 8,281.2 KHz and shall state: "This message is being transmitted in compliance with the U.S. eastern tropical Pacific yellowfin tuna regulations, and confirms that the vessel (name of reporting vessel) is fishing in the Pacific Ocean, but outside the regulatory area as of this date (give date)." After a date to be announced by the Service Director through publication of a notice in the FEDERAL REGISTER, transmissions required under paragraph (b) of this section shall be sent to Coast Guard Radio San Francisco (NMC) on frequency 16,565.0, 12,421.0, or 8,281.2 KHz.

3. Paragraphs (a)(1), (b)(2), (3), (4), (5), and (d) of § 280.7 are amended as follows:

§ 280.7 Closed season restrictions applicable to fishing vessels.

* * * * *

(a) * * *

(1) In addition, for 1973 only, any fishing vessel which has completed a voyage in the regulatory area during the open season; and is in port on the date of the season closure, will be allowed one additional unrestricted fishing voyage provided that departure is made within 30 days thereafter.

* * * * *

(b) Any fishing vessel which departs port on a fishing voyage after closure of the yellowfin season, except as provided in paragraph (a) of this section, may land yellowfin tuna captured from within the regulatory area in limited quantities as provided in subparagraphs (1) to (3) of this paragraph as an incident to fishing for species with which yellowfin may be mingled. The Service Director may, however, through publication of a notice in the FEDERAL REGISTER adjust the incidental catch limitations to assure that the special allotments designated for vessels of 400 short tons carrying capacity or less are not underutilized and the 15 percent overall incidental catch for the entire tuna fleet is not exceeded. Any quantity of yellowfin tuna landed in excess of the limitations provided in subparagraphs (1) to (3) of this paragraph shall be subject to seizure and forfeiture pursuant to the Tuna Conventions Act of 1950, as amended (16 U.S.C. 951–961).

* * * * *

(2) Purse seiners of 400 short tons carrying capacity or less may land in any U.S. port, yellowfin tuna captured from within the regulatory area as an incident to fishing for species with which yellowfin may be mingled, but in no event shall any vessel of 301–400 short tons carrying capacity be permitted to land yellowfin tuna in excess of 40 percent by round weight of its total catch: *Provided, however,* That any vessel of 301–400 short tons carrying capacity which is on a fishing voyage longer than 70 days may land 20 percent yellowfin tuna by round weight of its established short ton carrying capacity. Nor shall any purse seiner of 300 short tons carrying capacity or less be permitted to land yellowfin tuna in excess of 60 percent by round weight of its total catch: *Provided, however,* That any such vessel that is at sea longer than 50 days may land 25 percent yellowfin tuna by round weight of its established short ton carrying capacity. That local wet fish seiners may accumulate the 60 percent allowance by weight for the separate period from the date of closure of the yellowfin fishing season until the end of that month, and for each separate period consisting of 1 calendar month thereafter provided such vessels have not landed any yellowfin tuna during the open season and make deliveries only on a daily basis. When the catch of yellowfin tuna by purse seiners of 400 short tons carrying capacity or less reaches 4,400 short tons, the amount of yellowfin tuna which any such vessel may lawfully land will revert to 15 percent by round weight of its total catch. After a date to be announced through publication of a notice in the FEDERAL REGISTER by the Service Director, any vessel departing on a fishing voyage shall be subject to this reversion limitation of 15 percent. (3) Bait and jig boats may land in any U.S. port, yellowfin tuna captured from within the regulatory area, but in no event shall any such vessel be permitted to land yellowfin tuna in excess of 50 percent by round weight of its short ton carrying capacity once established in accordance with subparagraph (4) of this paragraph. When the catch of yellowfin tuna by bait and jig boats collectively reaches 2,300 short tons, the amount of yellowfin tuna which any such vessel may lawfully land will revert to 15 percent by round weight of its total catch. After a date to be announced through publication of a notice in the FEDERAL REGISTER, by the Service Director, any vessel departing on a fishing voyage shall be subject to this reversion limitation of 15 percent.

(4) The short ton capacity of vessels will be determined from tables prepared by the Commission which relate carrying capacity to registered tonnages and from official unloading records available to the National Marine Fisheries Service.

(i) Managing owners of purse seine vessels of 400 short tons carrying capacity or less will be notified by registered mail that their vessel is in this category and is subject to the provisions of subparagraph (2) of this paragraph.

(ii) Except as provided below for bait and jig boats, managing owners not receiving notification by registered mail can assume that their vessel is over 400 short tons carrying capacity and is subject to the provisions of subparagraph (1) of this paragraph.

(iii) To qualify for the bait and jig boat yellowfin allocation, managing owners of such vessels shall supply the Regional Director documentation concerning the gross and net tonnage of their vessels together with records of prior unloadings. This information will be used by the Regional Director to establish the short ton carrying capacity of each vessel. Failure to comply shall result in each such vessel being limited to 15 percent yellowfin tuna by round weight of its total catch. This 15 percent limitation shall remain in effect until the aforesaid documentation is furnished by the vessel's managing owner.

(5) The tonnage limitations specified in subparagraphs (2) and (3) of this paragraph are subject to adjustment upward or downward. Any such adjustment will be based upon the estimated use of the incidental catch allowance, and shall be apportioned as determined by the Service Director. Announcement of such

adjustment shall be made by publication of a notice in the FEDERAL REGISTER by the Service Director.

* * * * *

(d) Any fishing vessel electing to fish exclusively in the Pacific Ocean, but outside the regulatory area, shall report to the Regional Director, within 48 hours before leaving port, giving the name of the reporting vessel and the port of departure; within 24 hours before leaving the regulatory area, giving the latitude of departure and the approximate time of departure; and within 24 hours before returning to the regulatory area, giving the latitude of reentry, the approximate time of reentry and the tonnage by species of fish aboard. For 1973 only, the area described in the second sentence of paragraph (g) of § 280.1 is considered to be outside the regulatory area. Therefore, all requirements for vessels fishing in the area described above will be precisely the same as for those vessels fishing in the Pacific Ocean but outside the regulatory area.

* * * * *

Effective date. These regulations are effective March 6, 1973.

Issued at Washington, D.C., and dated March 1, 1973.

ROBERT W. SCHONING,
Acting Director, National Marine Fisheries Service.

[FR Doc.73-4209 Filed 3-5-73;8:45 am]

Proposed Rule Making

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 145]

POTENCY OF ANTIBIOTIC-CONTAINING DRUGS AT TIME OF CERTIFICATION

Withdrawal of Proposed Statement of Policy

In the FEDERAL REGISTER of January 11, 1972 (37 FR 336), the Commissioner of Food and Drugs issued a notice proposing that Subpart B of 21 CFR Part 145 be amended by adding a statement of policy stating that no preparation containing antibiotic drugs would be certified unless the batch contained at least 100 percent of the declared potency (or a higher amount if so specified in the regulations) at the time of certification. The proposal also provided that a batch which showed minor deviations from 100 percent of the declared potency could be certified if the Commissioner of Food and Drugs, in light of other factors, deemed such minor deviations acceptable. The notice invited interested persons to file comments within 30 days after its publication; this time period for filing comments was extended to March 11, 1972 by a notice published in the FEDERAL REGISTER on January 29, 1972 (37 FR 1477).

Comments regarding the proposed statements of policy were received from the Pharmaceutical Manufacturers Association (PMA) and 20 manufacturers of antibiotic-containing drugs. The comments indicated an agreement in principle with the objective of the proposal to assure that antibiotic-containing drugs would have the appropriate strength or potency when dispensed and administered to patients throughout the expiration dating period. However, these comments emphasized that, due to the vagaries of the essay procedures, some batches would not be certified even though they had been formulated with the intent to contain 100 percent of the declared potency. Those who commented noted that in order to assure that a batch would assay at least 100 percent of the declared potency at the time of certification, it would be necessary to formulate the batch with an excess of the antibiotic beyond that required for good manufacturing practices; they also noted that such an unwarranted excess could result in increased cost of the drug to the consumer and create problems of superpotency. In addition, those who commented noted that the provisions of the proposal which allow for the certification of a batch which shows minor deviations from 100 percent of the declared potency are so vague that the manufacturer is placed in a position of not knowing precisely the level of acceptance for certification.

In general, the comments suggested that the proposal be revised so as to require that each batch of antibiotic-containing drug be formulated with the intent to provide not less than 100 percent of the declared amount of the antibiotic.

The Commissioner having considered the comments received and other relevant material, has concluded that there are valid reasons why the proposed statement of policy should not be published as a final order. The Commissioner has determined that, because of the inherent vagaries of the assay procedures, it would be difficult to enforce a requirement that there be a minimum level of 100 percent of the declared potency without anticipating that many firms would add an excess of the antibiotic which may in turn result in problems of superpotency. In addition, the Commissioner concludes that the problems of defining the "minor deviations" from 100 percent of potency which would be acceptable for certification are so great that any attempt to define precisely such deviations would be impractical. The Commissioner agrees with the comment that unless such deviations are defined, manufacturers are denied the right of knowing precisely the level of acceptance for certification.

The Commissioner sees no benefit at this time in publishing a statement of policy, as proposed in the comments, requiring that antibiotic-containing drugs be formulated with the intent to provide at least 100 percent of the declared strength or potency. This is already the current policy of the Food and Drug Administration (FDA) and also of both the National Formulary and the U.S. Pharmacopeia; it is recognized in the industry as a good manufacturing practice. The "Guidelines for Manufacturing and Controls for IND's and NDA's" developed jointly by the FDA and the PMA also contains a statement that "* * * the formulation should be prepared with the intent to provide not less than 100 percent of the formula amount of the active ingredient."

If there becomes apparent a need to formalize this current policy regarding formulation with the intent to provide at least 100 percent of the declared strength or potency, the Commissioner will consider a revision of the current good manufacturing practice regulations (21 CFR Part 133) to include such a requirement.

Where the FDA encounters manufacturers apparently aiming for a potency level significantly below 100 percent of the declared strength or potency but yet above the minimum level as established by antibiotic regulations, warning letters will be sent to these manufacturers and inspections of them will be made. If such a practice continues, these manufacturers will be notified that the FDA will not certify batches that barely meet the minimum level of potency.

The Commissioner concludes that the proposed statement of policy should be withdrawn.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 507, 701(a), 52 Stat. 1055, 59 Stat. 463 as amended; 21 U.S.C. 357, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), the notice of proposed rule making published in the FEDERAL REGISTER of January 11, 1972 (37 FR 336) concerning a statement of policy regarding the potency of antibiotic-containing drugs at the time of certification is hereby withdrawn.

Dated: February 26, 1973.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 73-4188 Filed 3-5-73;8:45 am]

[21 CFR Part 295]

CERTAIN LIQUID PAINT SOLVENT PREPARATION CONTAINING PETROLEUM DISTILLATES, BENZENE, TOLUENE, XYLENE, OR COMBINATIONS THEREOF

Proposed Child Protection Packaging Standards

Correction

In FR Doc. 73-2527 appearing at page 3989 of the issue for Friday, February 9, 1973, the following changes should be made:

1. On page 3989 in the third column, in the second line of paragraph 2 of the commissioner's findings, "moderate" should read "modern".

2. On page 3990 in the second column, in the paragraph beginning "Interested persons" the phrase "on or after April 10, 1973," should read "on or before April 10, 1973,".