

to the periodic reporting requirements of the federal securities laws to comply with those requirements. The reporting requirements, which are designed to provide public investors with the financial and other information necessary to make informed investment decisions, are among the most important elements of the full disclosure policy of the federal securities laws.

The Commission believes that strict compliance with these requirements is essential to the maintenance of fair and orderly trading markets. For this reason, the Commission has directed its staff to monitor closely compliance with these reporting provisions. In appropriate instances, the Commission will consider temporarily suspending trading in securities of delinquent issuers, in order to alert the public to the lack of adequate, accurate and current information concerning such issuers. Brokers and dealers are reminded that no quotation may be entered at the conclusion of such a temporary suspension without strict compliance with the provisions of Securities Exchange Act Rule 15c2-11 (17 CFR 240-15c2-11) requiring the availability of specified financial and other information. In addition, the Commission may institute court actions or administrative proceedings to compel the filing of delinquent reports and/or to enjoin future violations of the reporting requirements. Further, the Commission may refer appropriate cases to the Department of Justice for criminal prosecution.

The Commission reminds issuers that reports are deemed filed with the Commission upon receipt at the Commission's headquarters in Washington, D.C. In order to assist the Commission in processing these reports, it is requested that they be delivered or mailed to Room 130, 500 North Capitol Street, NW, Washington, D.C. 20549, which is the Commission's central receiving facility.

The Commission also reminds issuers that there are provisions under the federal securities laws relating to requests for extensions of time within which to file reports. Issuers having questions relating to requests for such extensions of time should communicate with the Commission's Division of Corporation Finance.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

JUNE 11, 1973.

[FR Doc. 73-13895 Filed 7-9-73; 8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

POLYSORBATE 60; CORRECTION

In FR Doc. 73-10278, appearing on page 13556 in the issue of Wednesday, May 23, 1973, the following correction

is made: In the left column of page 13557, that portion of lines 4 and 5 and the last line of § 121.1030(c)(14) reading "0.05 percent on a dry weight basis," are corrected to read "0.05 percent in the finished product."

Dated: June 27, 1973.

SAM D. FINE,
Associate Commissioner for
Compliance.

[FR Doc. 73-13884 Filed 7-9-73; 8:45 am]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

COPOLYMER CONDENSATES OF ETHYLENE OXIDE AND PROPYLENE OXIDE

The Commissioner of Food and Drugs, having evaluated data in a petition (FAP 1A2608), filed by Wyandotte Chemicals Corp., 1609 Biddle Ave., Wyandotte, MI 48192, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use of α -Hydro-*omega*-hydroxy-poly (oxyethylene) / (oxypropylene) (minimum 15 moles) / poly(oxyethylene) block copolymer, having a minimum average molecular weight of 1900 and a minimum cloud point of 9° C.-12° C. in 10 percent aqueous solution, as a surfactant and defoaming agent in poultry scald baths.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.1235 is amended in paragraphs (a) by adding a new subparagraph (3) thereto, and in paragraph (b) by adding a new subparagraph (3) thereto, to read as follows:

§ 121.1235 Copolymer condensates of ethylene oxide and propylene oxide.

(a) *

(3) α -Hydro-*omega*-hydroxy-poly (oxyethylene) / poly(oxypropylene) (minimum 15 moles) / poly(oxyethylene) block copolymer, having a minimum average molecular weight of 1900 and a minimum cloud point of 9° C.-12° C. in 10 percent aqueous solution.

(b) *

(3) The additive identified in paragraph (a)(3) of this section is used as a surfactant and defoaming agent, at levels not to exceed 0.05 percent by weight, in scald baths for poultry defeathering, followed by potable water rinse. The temperatures of the scald baths shall be not less than 125° F.

Any person who will be adversely affected by the foregoing order may at any time on or before August 9, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a

hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective July 10, 1973.

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

Dated: June 27, 1973.

SAM D. FINE,
Associate Commissioner for
Compliance.

[FR Doc. 73-13883 Filed 7-9-73; 8:45 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ADHESIVES

In the FEDERAL REGISTER of April 11, 1973 (38 FR 9176), notice was given that a petition (FAP 3B2893) had been filed by Alcolac, Inc., 3440 Fairfield Rd., Baltimore, MD 21226, proposing that § 121.2520 Adhesives (21 CFR 121.2520) be amended to provide for the safe use of polyethylene glycol mono(hydrogen sulfate) dodecyl ether, ammonium salt, as a component of adhesives intended for use in food-contact articles.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of the above-named additive under the preferred chemical nomenclature set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2520(c)(5) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2520 Adhesives.

(c) *

(5) *

COMPONENTS OF ADHESIVES

Substances	Limitations
***	***

α -Sulfo-*omega*-
(dodecyloxy) poly
(oxyethylene),
ammonium salt.

Any person who will be adversely affected by the foregoing order may at any time on or before August 9, 1973, file with the Hearing Clerk, Department

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of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on July 10, 1973.

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

Dated: June 27, 1973.

SAM D. FINE,
Associate Commissioner for
Compliance.

[FR Doc. 73-13885 Filed 7-9-73; 8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 1—ADMINISTRATION OF FEDERAL AID FOR HIGHWAYS

Federal Participation in Costs Incurred

The purpose of this amendment is to incorporate in Part 1 of Title 23, Code of Federal Regulations, material contained in Instructional Memorandum 21-3-64. The amendment provides that the Administrator may allow Federal participation in costs not incurred in accordance with certain administrative requirements when he finds among other things, that such action is in the public interest and will not increase the cost to the Federal Government.

In consideration of the foregoing, § 1.9 of Title 23, Code of Federal Regulations, is amended by designating the first paragraph of § 1.9 as (a) and deleting the word "part" and inserting the word "title" as it appears in paragraph (a), and by adding new paragraphs (b) and (c) as follows:

§ 1.9 Limitation on Federal participation.

(a) Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable Federal and State law, the regulations in this title, and policies and procedures prescribed by the Administrator. Federal funds shall not be paid on account of any cost incurred prior to authorization by the Administrator to the State highway department to proceed with the project or part thereof involving such cost.

(b) Notwithstanding the provisions of paragraph (a) of this section the Administrator may, upon the request of a State highway department, approve the participation of Federal-aid funds in a previously incurred cost if he finds:

(1) That his approval will not adversely affect the public.

(2) That the State highway department has acted in good faith, and that there has been no willful violation of Federal requirements.

(3) That there has been substantial compliance with all other requirements prescribed by the Administrator, and full compliance with requirements mandated by Federal statute.

(4) That the cost to the United States will not be in excess of the cost which it would have incurred had there been full compliance, and

(5) That the quality of work undertaken has not been impaired.

(c) Any request submitted under paragraph (b) of this section shall be accompanied by a detailed description of the relevant circumstances and facts, and shall explain the necessity for incurring the costs in question.

(23 U.S.C. 315, delegations of authority in, 49 CFR 1.48(b))

Issued on July 3, 1973.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc. 73-13966 Filed 7-9-73; 8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER C—EMPLOYMENT TAXES

[T.D. 7280]

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

Elective Social Security Coverage for Vow-of-Poverty Members of Religious Orders

By a notice of proposed rule making appearing in the *FEDERAL REGISTER* on March 19, 1973 (38 FR 7230), and corrected in the *FEDERAL REGISTER* for March 23, 1973 (38 FR 7570), amendments to the Employment Tax Regulations (26 CFR Part 31) were proposed in order to conform such regulations to the provisions of section 123 of the Social Security Amendments of 1972 (86 Stat. 1354) was published in the *FEDERAL REGISTER* (38 FR 7230). On March 23, 1973, a notice of correction of such notice of proposed rulemaking was published in the *FEDERAL REGISTER* (38 FR 7570). After consideration of all relevant matter presented by interested persons regarding the proposed rules, the amendment of the Employment Tax Regulations under section 3121 is hereby adopted, subject to the following changes:

PARAGRAPH 1. Section 31.3121(b)(8)-1, as set forth in paragraph 3 of the appendix to the notice of proposed rule making, is amended by revising paragraph (a) thereof to read as set forth below.

PARAGRAPH 2. Section 31.3121(i)-4, as set forth in paragraph 6 of the appendix to the notice of proposed rule making, is amended by revising so much thereof as precedes example (1), and by revising examples (4) and (5) thereof, to read as set forth below.

PARAGRAPH 3. Section 31.3121(r)-1, as set forth in paragraph 7 of the appendix to the notice of proposed rule making, is amended by revising paragraphs (a)

bers subject to a vow of poverty, and if the order also makes an irrevocable election (or makes irrevocable a previous election) to cover its lay employees. The election may be made retroactive for up to 20 calendar quarters preceding the quarter in which the certificate of election is filed.

The regulations as proposed have been revised to make it clear that services performed by a member of a religious order, or a subdivision of a religious order, which has elected coverage under section 3121(r) are included in employment and are subject to social security coverage even though they are performed for an employer other than the religious order or subdivision. The proposals have also been revised to clarify that cash received from an outside employer and not required to be remitted to the religious order or subdivision is included in "wages".

The final regulations contain a revised definition of an autonomous subdivision of a religious order. This revision takes account of the fact that some such groups elect their religious superiors while other groups have them appointed by higher authority.

Under the proposed rules, an electing religious order or subdivision which determines that a member has retired must submit with its employment tax return a summary of the facts upon which the determination has been made. The final regulations specify that each such summary shall contain the name and social security number of each such retired member as well as the date of his retirement.

Adoption of amendments to the regulations. On March 19, 1973, a notice of proposed rule making with respect to the Employment Tax Regulations (26 CFR Part 31) under section 3121 of the Internal Revenue Code of 1954 to conform such regulations to section 123 of the Social Security Amendments of 1972 (86 Stat. 1354) was published in the *FEDERAL REGISTER* (38 FR 7230). On March 23, 1973, a notice of correction of such notice of proposed rulemaking was published in the *FEDERAL REGISTER* (38 FR 7570). After consideration of all relevant matter presented by interested persons regarding the proposed rules, the amendment of the Employment Tax Regulations under section 3121 is hereby adopted, subject to the following changes:

PARAGRAPH 1. Section 31.3121(b)(8)-1, as set forth in paragraph 3 of the appendix to the notice of proposed rule making, is amended by revising paragraph (a) thereof to read as set forth below.

PARAGRAPH 2. Section 31.3121(i)-4, as set forth in paragraph 6 of the appendix to the notice of proposed rule making, is amended by revising so much thereof as precedes example (1), and by revising examples (4) and (5) thereof, to read as set forth below.

PARAGRAPH 3. Section 31.3121(r)-1, as set forth in paragraph 7 of the appendix to the notice of proposed rule making, is amended by revising paragraphs (a)

and (b) (4) thereof to read as set forth below.

(Sec. 7805, Internal Revenue Code of 1954, 68 Stat. 917; 26 U.S.C. 7805)

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved July 3, 1973.

JOHN H. HALL,
Deputy Assistant Secretary of the
Treasury.

In order to conform the Employment Tax Regulations (26 CFR Part 31) under section 3121 of the Internal Revenue Code of 1954 to the provisions of section 123 of the Social Security Amendments of 1972 (86 Stat. 1354), such regulations are amended as follows:

PARAGRAPH 1. Paragraph (a)(5) of § 31.0-2 is amended by adding subdivision (viii) at the end thereof to read as follows:

§ 31.0-2 General definitions and use of terms.

(a) *In general.* As used in the regulations in this part, unless otherwise expressly indicated—

(5) * * *

(viii) The Social Security Amendments of 1972 means the act approved October 30, 1972 (86 Stat. 1329).

PAR. 2. Section 31.3121(b)(8) is amended by revising § 31.3121(b)(8)(A) and the historical note to read as follows:

§ 31.3121(b)(8) Statutory provisions; definitions; employment; services performed by a minister of a church or a member of a religious order; services in employ of religious, charitable, educational, or certain other organizations exempt from income tax.

SEC. 3121. Definitions. * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * *; except that * * * such term shall not include—

(8) (A) Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, except that this subparagraph shall not apply to service performed by a member of such an order in the exercise of such duties, if an election of coverage under subsection (r) is in effect with respect to such order, or with respect to the autonomous subdivision thereof to which such member belongs;

[Paragraph (9), sec. 3121(b) redesignated paragraph (8) by sec. 205(b), Social Security Amendments 1954; as amended by sec. 405 (b), Social Security Amendments 1958; sec. 123(a) (2), Social Security Amendments 1972]

PAR. 3. Section 31.3121(b)(8)-1 is amended by revising paragraph (a) thereof to read as follows:

§ 31.3121(b)(8)-1 Services performed by a minister of a church or a member of a religious order.

(a) *In general.* Services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, or by a member of a religious order in the exercise of his duties required by such order, are excluded from employment, except that services performed by a member of such an order in the exercise of such duties (whether performed for the order or for another employer) are included in employment if an election of coverage under section 3121(r) and § 31.3121(r)-1 is in effect with respect to such order or with respect to the autonomous subdivision thereof to which such member belongs. For provisions relating to the election available to certain ministers and members of religious orders with respect to the extension of the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act to certain services performed by them, see Part 1 of this chapter (Income Tax Regulations).

PAR. 4. Section 31.3121(b)(8)-2 is amended by revising paragraph (a) thereof to read as follows:

§ 31.3121(b)(8)-2 Services in employ of religious, charitable, educational, or certain other organizations exempt from income tax.

(a) Services performed by an employee in the employ of a religious, charitable, educational, or other organization described in section 501(c)(3) which is exempt from income tax under section 501(a) are excepted from employment. However, this exception does not apply to services with respect to which a certificate, filed pursuant to section 3121 (k) or (r), or section 1426(l) of the Internal Revenue Code of 1939, is in effect. For provisions relating to the services with respect to which such a certificate is in effect, see §§ 31.3121(k)-1 and 31.3121(r)-1.

PAR. 5. Section 31.3121(l) is amended by adding a new paragraph (4) to the end thereof and by revising the historical note. These added and revised provisions read as follows:

§ 31.3121(l) Statutory provisions; definitions; computation of wages in certain cases.

SEC. 3121. Definitions. * * *

(1) *Computation of wages in certain cases.* * * *

(4) *Service performed by certain members of religious orders.* For purposes of this chapter, in any case where an individual is a member of a religious order (as defined in subsection (r)(2)) performing service in the exercise of duties required by such order, and an election of coverage under subsection (r) is in effect with respect to such order or with respect to the autonomous subdivision thereof to which such member belongs, the term "wagee" shall, subject to the provisions of subsection (a)(1), include as such individual's remuneration for such service the fair market value of any board, lodging, clothing, and other perquisites furnished to such member by such order or subdivision or by any other person or organization pursuant to an agreement with such order or subdivision, except that the amount included as such individual's remuneration under this paragraph shall not be less than \$100 a month.

[Sec. 3121(l) as amended by sec. 410, Servicemen's and Veterans' Survivor Benefits Act (70 Stat. 878); sec. 202(a)(1), Peace Corps Act (75 Stat. 626); sec. 123(c)(2), Social Security Amendments 1972]

PAR. 6. There is inserted immediately after § 31.3121(l)-3 a new § 31.3121(l)-4 to read as follows:

§ 31.3121(l)-4 Computation of remuneration for service performed by certain members of religious orders.

In any case where an individual is a member of a religious order (as defined in section 3121(r)(2) and paragraph (b) of § 31.3121(r)-1) performing service in the exercise of duties required by such order, and an election of coverage under section 3121(r) and § 31.3121(r)-1 is in effect with respect to such order or the autonomous subdivision thereof to which such member belongs, the term "wages" shall, subject to the provisions of section 3121(a)(1) (relating to definition of wages), include as such individual's remuneration for such service the fair market value of any board, lodging, clothing, and other perquisites furnished to such member by such order or subdivision or by any other person or organization pursuant to an agreement (whether written or oral) with such order or subdivision. Such other perquisites shall include any cash either paid by such order or subdivision or paid by another employer and not required by such order or subdivision to be remitted to it. For purposes of this section, perquisites shall be considered to be furnished over the period during which the member receives the benefit of them. (See example (4) of this section.) In no case shall the amount included as such individual's remuneration under this paragraph be less than \$100 a month. All relevant facts and elements of value shall be considered in every case. Where the fair market value of any board, lodging, clothing, and other perquisites furnished to all members of an electing religious order or autonomous subdivision (or to all in a group of members) does not vary significantly, such order or subdivision may treat all of its members (or all in such group of members) as having a uniform wage. The provisions of this section may be illustrated by the following examples of the treatment of particular perquisites:

Example (1). M is a religious order which requires its members to take a vow of poverty and which has made an election under section 3121(r). Under section 3121(l)(4), M must include in the wages of its members the fair market value of the clothing it provides for its members. M and several other religious orders using essentially the same type of religious habit purchase clothing for

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their members from either of two suppliers in arms-length transactions. The fair market value of such clothing (*i.e.*, the price at which such items would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell) is determined by reference to the actual sales price of these suppliers to the religious orders.

Example (2). N is a religious order which requires its members to take a vow of poverty and which has made an election under section 3121(r). N operates a seminary adjacent to a university. Students at the university obtain lodging and board on campus from the university for its fair market value of \$2,000 for the school year. Such lodging and board is essentially the same as that provided by N at its seminary to N's members subject to a vow of poverty. Accordingly, the amount to be included in the "wages" of such members with respect to lodging and board for the same period of time is \$2,000.

Example (3). O is a religious order which requires its members to take a vow of poverty and to observe silence, and which has made an election under section 3121(r). O operates a monastery in a remote rural area. Under section 3121(i)(4), O must include in the wages of its members assigned to this monastery the fair market value of the board and lodging furnished to them. In making a determination of the fair market value of such board and lodging, the remoteness of the monastery, as well as the smallness of the rooms and the simplicity of their furnishings, affect this determination. However, the facts that the facility is used by a religious order as a monastery and that the order's members maintain silence do not affect the fair market value of such items.

Example (4). P is a religious order which requires its members to take a vow of poverty and which has made an election under section 3121(r). Several of P's members are attending a university on a full-time basis. The fair market value of the board and lodging of each of such members at the university is \$1,000 per semester. P pays the university \$1,000 at the beginning of each semester for the board and lodging of each of such members. In addition, P gives each such member a \$400 cash advance to cover his miscellaneous expenses during the semester. Under section 3121(i)(4), P must prorate the fair market value of such members' board and lodging, as well as the miscellaneous items, over the semester and include such value in the determination of "wages".

Example (5). Q is a religious order which is a corporation organized under the laws of Wisconsin, which requires its members to take a vow of poverty, and which has made an election under section 3121(r). Q has convents in rural South America and in suburbs and central city areas of the United States. Characteristically, in the United States its suburban convents provide somewhat larger and newer rooms for its members than do its convents in city areas. Moreover, its suburban convents have more extensive grounds and somewhat more elaborate facilities than do its older convents in city areas. However, both types of convents limit resident members to a single, plainly furnished room and provide them meals which are comparable. Q's members in South America live in extremely primitive dwellings and otherwise have extremely modest perquisites. Under section 3121(i)(4), Q may report a uniform wage for its members who live in suburban convents and city convents in the United States, as the board, lodging, and perquisites furnished these members do not vary significantly from one convent to the other. Q may report another uniform wage (but not less than \$100 per month apiece) for its members who are citizens of the United States and who reside in South

America based on the fair market value of the perquisites furnished these individuals, as the fair market value of the perquisites furnished these individuals varies significantly from that of those furnished its members who live in its domestic convents but does not vary significantly among members in South America whose wages are subject to tax.

PAR. 7. Immediately after § 31.3121(q)-1 there are inserted the following new sections:

§ 31.3121(r) Statutory provisions; definitions; election of coverage by religious orders.

Sec. 3121. Definitions. * * *

(r) **Election of coverage by religious orders**—(1) **Certificate of election by order.** A religious order whose members are required to take a vow of poverty, or any autonomous subdivision of such order, may file a certificate (in such form and manner, and with such official, as may be prescribed by regulations under this chapter) electing to have the insurance system established by title II of the Social Security Act extended to services performed by its members in the exercise of duties required by such order or such subdivision thereof. Such certificate of election shall provide that—

(A) Such election of coverage by such order or subdivision shall be irrevocable;

(B) Such election shall apply to all current and future members of such order, or in the case of a subdivision thereof to all current and future members of such order who belong to such subdivision;

(C) All services performed by a member of such an order or subdivision in the exercise of duties required by such order or subdivision shall be deemed to have been performed by such member as an employee of such order or subdivision; and

(D) The wages of each member, upon which such order or subdivision shall pay the taxes imposed by sections 3101 and 3111, will be determined as provided in subsection (1)(4).

(2) **Definition of member.** For purposes of this subsection, a member of a religious order means any individual who is subject to a vow of poverty as a member of such order and who performs tasks usually required (and to the extent usually required) of an active member of such order and who is not considered retired because of old age or total disability.

(3) **Effective date for election.** (A) A certificate of election of coverage shall be in effect, for purposes of subsection (b)(8)(A) and for purposes of section 210(a)(8)(A) of the Social Security Act, for the period beginning with whichever of the following may be designated by the order or subdivision thereof:

(i) The first day of the calendar quarter in which the certificate is filed;

(ii) The first day of the calendar quarter succeeding such quarter, or

(iii) The first day of any calendar quarter preceding the calendar quarter in which the certificate is filed, except that such date may not be earlier than the first day of the twentieth calendar quarter preceding the quarter in which such certificate is filed.

Whenever a date is designated under clause (iii), the election shall apply to services performed before the quarter in which the certificate is filed only if the member performing such services was a member at the time such services were performed and is living on the first day of the quarter in which such certificate is filed.

(B) If a certificate of election filed pursuant to this subsection is effective for one or more calendar quarters prior to the quarter in which such certificate is filed, then—

(i) For the purposes of computing interest and for purposes of section 6651 (relating to addition to tax for failure to file tax return), the due date for the return and payment of the tax for such prior calendar quarters resulting from the filing of such certificate shall be the last day of the calendar month following the calendar quarter in which the certificate is filed; and

(ii) The statutory period for the assessment of such tax shall not expire before the expiration of 3 years from such due date.

(4) **Coordination with coverage of lay employees.** Notwithstanding the preceding provisions of this subsection, no certificate of election shall become effective with respect to an order or subdivision thereof, unless—

(A) If at the time the certificate of election is filed a certificate of waiver of exemption under subsection (k) is in effect with respect to such order or subdivision, such order or subdivision amends such certificate of waiver of exemption (in such form and manner as may be prescribed by regulations made under this chapter) to provide that it may not be revoked, or

(B) If at the time the certificate of election is filed a certificate of waiver of exemption under such subsection is not in effect with respect to such order or subdivision, such order or subdivision files such certificate of waiver of exemption under the provisions of such subsection except that such certificate of waiver of exemption cannot become effective at a later date than the certificate of election and such certificate of waiver of exemption must specify that such certificate of waiver of exemption may not be revoked. The certificate of waiver of exemption required under this subparagraph shall be filed notwithstanding the provisions of subsection (k)(3).

[Sec. 3121(r) as added by sec. 123(b), Social Security Amendments 1972]

§ 31.3121(r)-1 Election of coverage by religious orders.

(a) **In general.** A religious order whose members are required to take a vow of poverty, or any autonomous subdivision of such an order, may elect to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to services performed by its members in the exercise of duties required by such order or subdivision. See section 3121(i)(4) and § 31.3121(i)-4 for provisions relating to the computation of the amount of remuneration of such members. For purposes of this section, a subdivision of a religious order is autonomous if it directs and governs its members, if it is responsible for its members' care and maintenance, if it is responsible for the members' support and maintenance in retirement, and if the members live under the authority of a religious superior who is elected by them or appointed by higher authority.

(b) **Definition of member**—(1) **In general.** For purposes of section 3121(r) and this section, a member of a religious order means any individual who is subject to a vow of poverty as a member of such order, who performs tasks usually required (and to the extent usually required) of an active member of such order, and who is not considered retired because of old age or total disability.

(2) **Retirement because of old age**—(i) **In general.** For purposes of section

3121(r)(2) and this paragraph, an individual is considered retired because of old age if (A) in view of all the services performed by the individual and the surrounding circumstances it is reasonable to consider him to be retired, and (B) his retirement occurred by reason of old age. Even though an individual performs some services in the exercise of duties required by the religious order, the first test (the retirement test) is met where it is reasonable to consider the individual to be retired.

(ii) *Factors to be considered.* In determining whether it is reasonable to consider an individual to be retired, consideration is first to be given to all of the following factors:

(A) *Nature of services.* Consideration is given to the nature of the services performed by the individual in the exercise of duties required by his religious order. The more highly skilled and valuable such services are, the more likely the individual rendering such services is not reasonably considered retired. Also, whether such services are of a type performed principally by retired members of the individual's religious order may be significant.

(B) *Amount of time.* Consideration is also given to the amount of time the individual devotes to the performance of services in the exercise of duties required by his religious order. This time includes all the time spent by him in any activity in connection with services which might appropriately be performed in the exercise of duties required of active members by the order. Normally, an individual who, solely by reason of his advanced age, performs services of less than 45 hours per month shall be considered retired. In no event shall an individual who, solely by reason of his advanced age, performs services of less than 15 hours per month not be considered retired.

(C) *Comparison of services rendered before and after retirement.* In addition, consideration is given to the nature and extent of the services rendered by the individual before he "retired," as compared with the services performed thereafter. A large reduction in the importance or amount of services performed by the individual in the exercise of duties required by his religious order tends to show that the individual is retired; absence of such reduction tends to show that the individual is not retired. Normally, an individual who reduces by at least 75 percent the amount of services performed shall be considered retired.

Where consideration of the factors described in paragraph (b)(2)(ii) of this section does not establish whether an individual is or is not reasonably considered retired, all other factors are considered.

(iii) *Examples.* The rules of this subparagraph may be illustrated by the following examples:

Example (1) A is a member of a religious order who is subject to a vow of poverty. A's religious order is principally engaged in providing nursing services, and A has been fully trained in the nursing profession. In accordance with the practices of her order, upon attaining the age of 65, A is relieved of her

nursing duties by reason of her age, and is assigned to a mother house where she is required to perform only such duties as light housekeeping and ordinary gardening. A is reasonably considered retired since the services she is performing are simple in nature, are markedly less skilled than those professional services which she previously performed, are of a type performed principally by retired members of her order, and are performed at a location to which members frequently retire.

Example (2). Assume the same facts as in example (1) except that A is not reassigned to a mother house. Instead, she is reassigned to full-time duties in a hospital not utilizing her nursing skills. Whether A has met the retirement test requires consideration of the nature of her work. If A's new duties are almost entirely of a make-work nature primarily to occupy her body and mind, she is reasonably considered retired. However, if they are essential to the operation of the hospital, she is not reasonably considered retired.

Example (3). B is a member of a religious order who is subject to a vow of poverty. As such, he provides supportive services to his order, such as housekeeping, cooking, and gardening. By reason of having attained the age of 62, he reduces the number of hours spent per day in these services from 8 hours to 2 hours. B is reasonably considered retired in view of the large reduction in the amount of time he devotes to his duties.

Example (4). C is a member of a religious order who is subject to a vow of poverty. In his capacity as a member of the order, he performs duties as president of a university. Upon attaining the age of 65, C is relieved of his duties as president of the university and instead becomes a member of its faculty, teaching two courses whereas full-time members of the faculty normally teach four comparable courses. Although C's duties are no longer as demanding as those he previously performed, and although the amount of his time required for them is less than full time, he is nonetheless performing duties requiring a high degree of skill for a substantial amount of time. Accordingly, C is not reasonably considered retired.

Example (5). Assume the same facts as in example (4), except that C teaches only one course upon being relieved of his position as president by reason of age. C is reasonably considered retired.

Example (6). D is a member of a contemplative order who is subject to a vow of poverty. In accordance with the practices of his order, upon attaining the age of 70, D reduces by 50 percent the amount of time spent performing the normal duties of active members of his order. D is not reasonably considered retired.

Example (7). Assume the same facts as in example (6), except that because of his age D no longer participates in the more rigorous liturgical services of the order and that the amount of time which he spends in all duties which might appropriately be performed by active members of his order is reduced by 75 percent. D is reasonably considered retired in view of the large reduction in his participation in the usual devotional routine of his order.

(3) *Retirement because of total disability.* For purposes of section 3121(r)(2) and this paragraph, an individual is considered retired because of total disability (i) if he is unable, by reason of a medically determinable physical or mental impairment, to perform the tasks usually required of an active member of his order to the extent necessary to maintain his status as an active member, and (ii) if such impairment is reasonably expected to prevent his resumption of the performance of such tasks to such extent. A physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques. Statements of the individual, including his own description of his impairment (symptoms), are, alone, insufficient to establish the presence of a physical or mental impairment.

(4) *Evidentiary requirements with respect to retirement.* There shall be attached to the return of taxes paid pursuant to an election under section 3121(r) a summary of the facts upon which any determination has been made by the religious order or autonomous subdivision that one or more of its members retired during the period covered by such return. Each summary shall contain the name and social security number of each such retired member as well as the date of his retirement. Such order or subdivision shall maintain records of the details relating to each such "retirement" sufficient to show whether or not such member or members has in fact retired.

(c) *Certificates of election—(1) In general.* A religious order or an autonomous subdivision of such an order desiring to make an election of coverage pursuant to section 3121(r) and this section shall file a certificate of election on Form SS-16 in accordance with the instructions thereto. However, in the case of an election made before August 9, 1973, a document other than Form SS-16 shall constitute a certificate of election if it purports to be a binding election of coverage and if it is filed with an appropriate official of the Internal Revenue Service. Such a document shall be given the effect it would have if it were a certificate of election containing the provisions required by subparagraph (2) of this paragraph. However, it should subsequently be supplemented by a Form SS-16.

(2) *Provisions of certificates.* Each certificate of election shall provide that—

(i) Such election of coverage by such order or subdivision shall be irrevocable.

(ii) Such election shall apply to all current and future members of such order, or in the case of a subdivision thereof to all current and future members of such order who belong to such subdivision.

(iii) All services performed by a member of such order or subdivision in the exercise of duties required by such order or subdivision shall be deemed to have been performed by such member as an employee of such order or subdivision, and

(iv) The wages of each member, upon which such order or subdivision shall pay the taxes imposed on employees and employers by sections 3101 and 3111, will be determined as provided in section 3121(1)(4).

(d) *Effective date of election—(1) In general.* Except as provided in paragraph (e) of this section, a certificate of election of coverage filed by a religious order or its subdivision pursuant to section

RULES AND REGULATIONS

3121(r) and this section shall be in effect, for purposes of section 3121(b) (8)(A) and for purposes of section 210 (a)(8)(A) of the Social Security Act, for the period beginning with whichever of the following may be designated by the electing religious order or subdivision:

(i) The first day of the calendar quarter in which the certificate is filed.

(ii) The first day of the calendar quarter immediately following the quarter in which the certificate is filed, or

(iii) The first day of any calendar quarter preceding the calendar quarter in which the certificate is filed, except that such date may not be earlier than the first day of the 20th calendar quarter preceding the quarter in which such certificate is filed.

(2) *Retroactive elections.* Whenever a date is designated as provided in paragraph (d)(1)(iii) of this section, the election shall apply to services performed before the quarter in which the certificate is filed only if the member performing such services was a member at the time such services were performed and is living on the first day of the quarter in which such certificate is filed. Thus, the election applies to an individual who is no longer a member of a religious order on the first day of such quarter if he performed services as a member at any time on or after the date so designated and is living on the first day of the quarter in which such certificate is filed. For purposes of computing interest and for purposes of section 6651 (relating to additions to tax for failure to file tax return or to pay tax), in any case in which such a date is designated the due date for the return and payment of the tax, for calendar quarters prior to the quarter in which the certificate is filed, resulting from the filing of such certificate shall be the last day of the calendar month following the calendar quarter in which the certificate is filed. The statutory period for the assessment of the tax for such prior calendar quarters shall not expire before the expiration of 3 years from such due date.

(e) *Coordination with coverage of lay employees.* If at the time the certificate of election of coverage is filed by a religious order or autonomous subdivision, a certificate of waiver of exemption under section 3121(k) (extending coverage to any lay employees) is not in effect, the certificate of election shall not become effective unless the order or subdivision files a Form SS-15, and a Form SS-15a to accompany the certificate on Form SS-15, as provided by section 3121(k) and §§ 31.3121(k)-1 through 31.3121(k)-3. The preceding sentence applies even though an order or subdivision has no lay employees at the time it files a certificate of election of coverage. The effective date of the certificate of waiver of exemption must be no later than the date on which the certificate of election becomes effective, and it must be specified on the certificate of waiver of exemption that such certificate is irrevocable. The certificate of waiver of exemption required under this paragraph shall be filed notwithstanding the provisions of section

3121(k)(3) (relating to no renewal of the waiver of exemption) which otherwise would prohibit the filing of a waiver of exemption if an earlier waiver of exemption had previously been terminated. If at the time the certificate of election of coverage is filed a certificate of waiver of exemption is in effect with respect to the electing religious order or autonomous subdivision, the filing of the certificate of election shall constitute an amendment of the certificate of waiver of exemption making the latter certificate irrevocable.

[FR Doc.73-13995 Filed 7-9-73;8:45 am]

Title 31—Money and Finance: Treasury

**CHAPTER II—FISCAL SERVICE,
DEPARTMENT OF THE TREASURY**

SUBCHAPTER A—BUREAU OF ACCOUNTS

**PART 260—SHIPMENT OF VALUABLES
PURSUANT TO THE GOVERNMENT
LOSSES IN SHIPMENT ACT**

Revocation

The Department of the Treasury has determined to revoke its regulations governing the Shipment of Valuables Pursuant to the Government Losses in Shipment Act, at 31 CFR Part 260 (also appearing as Treasury Department Circular 576, as amended), which were stated to be provisional upon their 1937 promulgation. The regulations are now in part inconsistent with the act, as amended, and have caused confusion as a result. Further, regulations properly reflecting the current meaning and intent of the Government Losses in Shipment Act appear at 31 CFR Parts 261 and 262.

31 CFR 260.2, the only substantive provision, will be restated as 31 CFR 261.2.

Since the revocation concerns matters which are at this date essentially intragovernmental and have minimal public effect, notice and public procedure respecting this action is neither appropriate nor needed. Accordingly, Subchapter A, Chapter II of Title 31 of the Code of Federal Regulations is hereby amended by revoking Part 260.

(50 Stat. 479, 480; 40 U.S.C. 721, 728)

[SEAL] **JOHN K. CARLOCK,**
Fiscal Assistant Secretary.

Dated: July 2, 1973.

[FR Doc.73-13981 Filed 7-9-73;8:45 am]

**PART 261—CLAIMS FOR REPLACEMENT
OF VALUABLES, OR THE VALUE
THEREOF, SHIPPED PURSUANT TO THE
GOVERNMENT LOSSES IN SHIPMENT
ACT**

Shipping Procedure

The Department of the Treasury finds it necessary to amend its regulations governing Claims for Replacement of Valuables, or the Value Thereof, Shipped Pursuant to the Government Losses in Shipment Act, at 31 CFR Part 261 (also appearing as Treasury Department Circular 577, as supplemented), by (1) revoking § 261.2 because Part 260, referred to therein, has been revoked, and (2) by adding a new § 261.2, a restatement of the revoked § 260.2.

Since the amendments concern matters which are at this date essentially intragovernmental and have minimal public effect, notice and public procedure respecting this action is neither appropriate nor needed. Accordingly, Subchapter A, Chapter II of Title 31 of the Code of Federal Regulations is hereby amended by revoking the present § 261.2, and by adding a new 261.2 to read:

§ 261.2 Shipping procedure.

Shipments of valuables shall be made in such manner and at such time consonant with the greatest possible protection against risk of loss and destruction of and damage to such valuables as the respective heads of the various executive departments, independent establishments, agencies and wholly-owned corporations of the United States may from time to time direct, after notice to the Secretary of the Treasury.

(50 Stat. 480; 40 U.S.C. 728)

Dated: July 2, 1973.

[SEAL] **JOHN K. CARLOCK,**
Fiscal Assistant Secretary.

[FR Doc.73-13982 Filed 7-9-73;8:45 am]

Title 32—National Defense

**CHAPTER XVIII—DEFENSE CIVIL
PREPAREDNESS AGENCY**

**PART 1812—FEDERALLY ASSISTED
CONSTRUCTION**

Corrective Amendment

Section 1812.3 of Part 1812 of Chapter XVIII of Title 32 of the Code of Federal Regulations is amended by substituting, in the first sentence thereof, "OMB Circular A-102" in place of "OMB Circular A-120."

(Sec. 401(g), 201(i) 205, 64 Stat. 1245-1257, 50 U.S.C. App. 2251-2297; Reorganization Plan No. 1 of 1958, 72 Stat. 1799; Executive Order 10952, "Assigning Civil Defense Responsibilities to the Secretary of Defense and Others," July 20, 1961; order of the Secretary of Defense establishing the Defense Civil Preparedness Agency as an agency of the Department of Defense, FR Doc. 72-15636, filed September 13, 1972, 37 FR 18636.)

Effective date. This corrective amendment is effective immediately.

Dated: June 29, 1973.

[SEAL] **JOHN E. DAVIS,**
Director,

Defense Civil Preparedness Agency.

[FR Doc.73-13894 Filed 7-9-73;8:45 am]

**Title 33—Navigation and Navigable
Waters**

**CHAPTER I—COAST GUARD,
DEPARTMENT OF TRANSPORTATION**

SUBCHAPTER I—ANCHORAGES

[CGD 72-232 R]

PART 110—ANCHORAGE REGULATIONS

Subpart B—Anchorages Grounds

**HAMPTON ROADS, VA. AND ADJACENT
WATERS**

This amendment to the anchorage regulations applicable to Hampton Roads, Virginia, and adjacent waters reduces