

as are dealt in by mail order houses and retail stores and in connection therewith, such equipment, material, and supplies as are used in the conduct of such business between points in Minnesota, Wisconsin, and Iowa, Fargo and Grand Forks, N. Dak. and Sioux Falls, S. Dak., for 180 days. (This is a nonradial authority.) Supporting shipper: Sears, Roebuck & Co., 5437 West 26th Street, Cicero, Ill. 60650. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 139067 TA, filed September 6, 1973. Applicant: MADISON LINES, INC., P.O. Box 847, Madison, Nebr. 68748. Applicant's representative: Richard A. Peterson, Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packing-houses* (except hides and commodities in bulk, in tank vehicles), from the plant-site and storage facilities of Madison Foods, Inc., at or near Madison, Nebr., to points in the United States (except Nebraska, Alaska, and Hawaii). Supporting shipper: Donald A. Chute, Manager, Transportation and Distribution, Fresh Meats Division, Armour and Co., Greyhound Tower, Phoenix, Ariz. 85077. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Building, Omaha, Nebr. 68102.

No. MC 139061 TA, filed September 5, 1973. Applicant: B & V CARTAGE, INC., 4102 Elmhurst Drive, Toledo, Ohio 43612. Applicant's representative: Edward R. Kirk, Suite 1660, 88 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Toys, games, models, childrens' novelties, hobby kits, and hobby supplies*, from the warehouse of The Elmex Corp. at Cincinnati, Ohio, to points in Michigan and those in Indiana on and north of U.S. Highway 6, and (2) *return of rejected shipments*, from the destination area described in (1) above, to the warehouse of The Elmex Corp. at Cincinnati, Ohio, for 180 days. Supporting shipper: Elmex Corp., 9901 Princeton Road, Cincinnati, Ohio 45214. Send protests to: District Supervisor Keith D. Warner, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 73-20516 Filed 9-25-73; 8:45 am]

[Notice 128]
**MOTOR CARRIER TEMPORARY
AUTHORITY APPLICATIONS**

SEPTEMBER 19, 1973.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of assigned original and six copies.

A copy of the application is on file, and can be examined at the office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 106644 (sub-No. 159 TA), filed August 30, 1973. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., P.O. Box 916 (Box Zip 30301), Atlanta, Ga. 30321. Applicant's representative: W. Randall Tye, 1500 Candler Building, Atlanta, Ga. 30303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Heating, cooling, humidifying, and dehumidifying machinery and equipment along with parts, attachments, and accessories*, for use in the installation and operation of the above named commodities, with the commodities and accessories having a combined weight in excess of 15,000 pounds, from the plant-site of Temperature Control, Inc., at or near Norcross, Ga., to the plant-site of Pepperidge Farms, Inc., at or near Richmond, Utah, for 180 days. Supporting shipper: Temperature Control, Inc., 2409 Warren Place, Norcross, Ga. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 111545 (sub-No. 189 TA), filed September 4, 1973. Applicant: HOME

TRANSPORTATION COMPANY, INC., 1425 Franklin Road SE., P.O. Box 6426, Marietta, Ga. 30060. Applicant's representative: Gilbert T. Jones (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Boat docks, ramps, materials, supplies, fixtures, and accessories incidental to completion, erection and installation thereof*, from Galesburg, Ill., to points in and east of Montana, Wyoming, Colorado, and New Mexico, for 180 days. Supporting shipper: Koppers Co., Inc., Pittsburgh, Pa. 15219. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 125162 (sub-No. 6 TA), filed September 11, 1973. Applicant: CROWN TRUCK LINE, INC., 3811 Broadway, Macon, Ga. 31206. Applicant's representative: Paul M. Daniell, Suite 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Bricks, blocks, tile, and masonry products, and materials and supplies used in the manufacture and installation thereof*, between the plantsites and warehouse facilities of Certain-Teed Products Corp. near Lithonia, De Kalb County, Ga., and near Lake Park, Lowndes County, Ga., on the one hand, and, on the other, points in Alabama, Florida, North Carolina, South Carolina, and Tennessee, restricted to traffic originating at or destined to the plantsites and warehouse facilities of Certain-Teed Products Corp., for 180 days. Supporting shipper: Certain-Teed Products Corp. Shelter Materials Group, P.O. Box 860, Valley Forge, Pa. 19482. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 107515 (sub-No. 871 TA), filed August 24, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road SE., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Paul Daniell, Suite 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and packing-house products* (except commodities in bulk and hides), as described in section A of appendix I, to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Madison, Nebr., to points in Arkansas, Louisiana, Alabama, Mississippi, Tennessee, Kentucky, Indiana, Michigan, Ohio, Florida, Georgia, South Carolina, North Caro-

lina, Virginia, West Virginia, Maryland, the District of Columbia, Delaware, Pennsylvania, New York, Vermont, Connecticut, Massachusetts, New Hampshire, and Maine, for 180 days. Supporting shipper: Armour and Co., Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 107515 (sub-No. 872 TA), filed August 24, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road SE., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Paul Daniell, Suite 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Canned goods, from Aspers, Pa.; Hamlin and Williamson, N.Y., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shipper: Duffy-Mott Co., Inc., 370 Lexington Avenue, New York, N.Y. 10017. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 107515 (sub-No. 873 TA), filed September 7, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road SE., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Paul Daniell, Suite 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Synthetic carpet yarn, from Rome and Aragon, Ga., to Louisa, Ky., for 180 days. Supporting shipper: Integrated Products, Inc., P.O. Box 1548, Rome, Ga. 30161. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 139064 TA, filed September 6, 1973. Applicant: BRADBERRY FARMS, INC., 192 East Main Street, Piggott, Ark. 72454. Applicant's representative: Lance L. Hanshaw, 1433 Donaghey Building, Little Rock, Ark. 72201. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Meat, feather meal, meat and bone meal, fish meal, urea, gluten products, soybean meal, rice and rice byproducts, and dried bakery waste, and products, (1) from Memphis, Tenn.; Clarksdale, Miss.; and Evadale, Ark., to Peoria, Lincoln, Mendota, Rock Falls, Joplin, Pittsfield, Fairbury, Greenfield, Effingham, Springfield, Beardstown, Danville, Monmouth, and Vandalia, Ill.; Ottumwa, West Branch, Clinton, Olin, and Iowa City, Iowa; New Paris, Plymouth, Indianapolis, and Napanee, Ind.; Jamesville and Madison, Wis.; and Dexter, Mo.; (2) from Gulfport, Pascagoula,

Moss Point, Greenwood, Greenville, Clarksdale, Minter City, Jonestown, and Marks, Miss.; Osceola, Helena, West Memphis, Little Rock, Siloam Springs, Springdale and Nashville, Ark.; Kennett, Springfield, and Joplin, Mo.; Memphis, Tenn.; Empire and Cammeron, La.; and Decatur, Ill., to Montgomery, Ala.; Nashville, Ark.; Athens and Tifton, Ga.; Gibson City, Ill.; Decatur, Ind.; Belmont, Des Moines, and Muscatine, Iowa; Abilene and Hutchinson, Kans.; Portland, Mich.; Kansas City, Moberly, and Springfield, Mo.; Hastings, Nebr.; Monroe and Wilson, N.C.; Marion and Ravenna, Ohio; Orangeburg, S.C.; Chattanooga and Memphis, Tenn.; and Madison, Wis., and (3) from Chicago, Ill., to points in Arkansas, for 180 days. Supporting shippers: Wilbur-Ellis Co., 47th Street at Second Avenue, New York, N.Y. 10017; I. H. French & Co., P.O. Box 249, Champaign, Ill. 61820; and Central Soya, Fort Wayne, Ind. 46802. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 139068 TA, filed August 17, 1973. Applicant: ROAD RUNNER TRANSPORTATION, INC., 1024 Topaz Lane, Villa Rica, Ga. 30180. Applicant's representative: Virgil H. Smith, 1587 Phoenix Boulevard, Suite 12, Atlanta, Ga. 30329. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Electric aluminum cable, cable clamps or joints, circuit breakers or switches or parts, transformers and transformer parts, pulley blocks, capstans, winches, or windlasses, pole line construction material, and plastic products, (A) from the plantsite of Western Power Products, Inc., at Portland, Oreg., to the plantsite of Western Power Products, Inc., at Villa Rica, Ga. and (B) from the plantsite of Western Power Products, Inc. at Villa Rica, Ga., to points in the United States on and east of U.S. Highway 85 including all points in the States of New Mexico, North Dakota, and South Dakota, for 180 days. Restriction: The authority granted herein will not apply on articles requiring heavy or specialized equipment. Supporting shipper: Western Power Products, Inc., Atlanta Division, P.O. Box 605, Villa Rica, Ga. 30180. Send Protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.
[FR Doc.73-20517 Filed 9-25-73; 8:45 am]

[Notice 129]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 20, 1973.

The following are notices of filing of application, except as otherwise specified,

each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 730 (sub-No. 353 TA), filed September 10, 1973. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 1417 Clay Street, P.O. Box 958, Oakland, Calif. 94612. Applicant's representative: R. N. Cooledge (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Sulphuric acid, in bulk, in tank vehicles, from points in Arizona, to points in California located on and south of Interstate Route 80, for 180 days. Supporting shipper: Allied Chemical Corp., P.O. Box 1139R District, Columbia Road and Park Avenue, Morristown, N.J. 07960. Send protests to: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 3018 (sub-No. 28 TA), filed June 6, 1973. Applicant: McKEOWN TRANSPORTATION COMPANY, 10448 South Western Avenue, Chicago, Ill. 60643. Applicant's representative: Gregory J. Scheurich, 111 West Wabington Street, Chicago, Ill. 60602. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Liquefied hydrogen, in shipper-owned containers, from McCook, Ill., to points in Alabama, Florida, and Texas, for 180 days. Supporting shipper: Ralph K. Brechter, Traffic Assistant, Union Carbide Corp., 270 Park Avenue, New York, N.Y. 10017. Send protests to: Robert Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 20841 (sub-No. 9 TA), filed September 12, 1973. Applicant: MARATHON FREIGHT LINES, INC., 2400 83d Street, North Bergen, N.J. 07047. Appli-

cant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are used by, or sold in, grocery, discount, department, drug stores, candy and tobacco jobbers (except commodities in bulk and furniture), between the plantsite of Atlantic Distribution Center, Inc., Jersey City, N.J., on the one hand, and, on the other, points in New York, N.Y.; Connecticut, New Jersey; Rockland, Orange, Westchester, Nassau, and Suffolk Counties, N.Y., for 180 days. Supporting shipper: Atlantic Distribution Center, Inc., 200 Industrial Drive, Jersey City, N.J. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.*

No. MC 29910 (sub-No. 133 TA), filed September 10, 1973. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, Ark. 72901. Applicant's representative: Gary D. Bronson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials, composition shingles, rolled roofing, roofing compounds, and accessories, from the plantsite of the Elk Roofing Co., located at Stephens, Ark., to points in Alabama, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas, for 180 days.*

NOTE.—Applicant does intend to tack with MC 29910 and subs thereto. Supporting shipper: Elk Roofing Co., Stephens, Ark. 71764. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 84444 (sub-No. 7 TA), September 10, 1973. Applicant: McCORMICK'S EXPRESS, Third and Winslow Streets, Camden, N.J. 08104. Applicant's representative: Alan Kahn, Two Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paperboard, wallboard, fire extinguishing materials, waste paper, licorice root, licorice mass, powdered licorice, syrup, and woodpulp (except liquids in tank vehicles), from Camden, N.J., to points in Delaware, those in Maryland in and east of Frederick County, and those in Pennsylvania in and east of Bradford, Sullivan, Columbia, Montour, Northumberland, Dauphin, and York Counties, Pa.; and (2) waste paper and such supplies and equipment as are used by a licorice and paperboard manufacturer (except liquids in tank vehicles), from the destination points described above, to Camden, N.J., and (3) paperboard, wallboard, fire extinguishing materials, waste paper, licorice root, licorice mass, powdered licorice, syrup, woodpulp, micronutrients, and supplies and equipment used in the manufacture of licorice*

(except commodities in bulk, in tank vehicles), between Camden, N.J., on the one hand, and, on the other, points in Suffolk, Nassau, Orange, Westchester, and Putnam Counties, N.Y., and points in Fairfield County and Weston, Conn., for 90 days. Restriction: The operations authorized above are limited to a transportation service to be performed, under a continuing contract, or contracts, with MacAndrews & Forbes Co., Camden, N.J., and Kaiser Gypsum Co., Inc., Oakland, Calif.

NOTE.—This application has been filed for the purpose of adding shipper Kaiser Gypsum Co., Inc., of Oakland, Calif., to applicant's existing authority. Supporting shipper: Kaiser Gypsum Co., Inc., 300 Lakeside Drive, Oakland, Calif. 94606. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 99780 (sub-No. 28 TA), filed September 5, 1973. Applicant: CHIPPER CARTAGE COMPANY, INC., 1327 Northeast Bond Street, Malling, P.O. Box 1341 (Box Zip 61601), Peoria, Ill. 61603. Applicant's representative: John R. Zang (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Garment hangers, dry cleaners, and laundry supplies, fly swatters, springs and miscellaneous wire products, from the plantsite of Laidlaw Corp. at Monticello, Wis., to points in Minnesota, Iowa, Illinois, Indiana, Ohio, Michigan, and Wisconsin and from the plantsite of Laidlaw Corp. at Peoria, Ill., to the plantsite of Laidlaw Corp. at Monticello, Wis., for 180 days. Supporting shipper: James G. Lester, Traffic Manager, Laidlaw Corp., 217 Industrial Street, Peoria, Ill. 61607. Send protests to: District Supervisor Richard K. Shulaw, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.*

No. MC 100300 (sub-No. 9 TA), filed September 10, 1973. Applicant: H. B. NELSON AND SONS, INC., 2510 Broadway, P.O. Box 241, Alexandria, Minn. 56308. Applicant's representative: Robert D. Givold, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials, with empties on return, from La Crosse, Wis., to Grand Forks, N. Dak., for 180 days. Supporting shipper: Nodak Sales Co., 715 Lewis Boulevard, Grand Forks, N. Dak. 58201. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.*

No. MC 108884 (sub-No. 26 TA), filed September 12, 1973. Applicant: ROGERS TRANSFER, INC., Route 46, P.O. Box 175, Great Meadows, N.J. 07838. Applicant's representative: Bert Collins, Suite

6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen onion rings, in mixed shipments with exempt commodities, from Boston, Mass., to New York, N.Y.; points in Nassau, Suffolk, Orange, Westchester, Rockland, and Broome Counties, N.Y.; points in Bergen, Essex, Hudson, Union, Morris, Warren, Passaic, Middlesex, Somerset, Monmouth, Ocean, Mercer, and Atlantic Counties, N.J.; and points in that part of Pennsylvania on and east of U.S. Highway 15; and returned and damaged shipments of the above-specified commodities, for 180 days. Supporting shipper: Boston Bonnie, Inc., Trilling Way, Boston, Mass. 02210. Send protests to: District Supervisor Joel Morricks, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.*

No. MC 110541 (sub-No. 10 TA), filed September 12, 1973. Applicant: MARK E. YODER, INC., 41 Parkway, Schuylkill Haven, Pa. 17972. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum coke, from the refinery of Getty Oil Co. at Delaware City, Del., to the plantsite of Pennsylvania Power & Light Co. at Holtwood, Lancaster County, Pa., for 90 days. Supporting shipper: Hecla Machinery & Equipment Co., R.D. #1, New Ringgold, Pa. 17960. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.*

No. MC 112822 (sub-No. 290 TA), filed September 10, 1973. Applicant: BRAY LINES, INC., 1401 North Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and warehouse facilities of Kraft Foods at or near Springfield, Mo., to points in California, Colorado, and New Mexico, restricted to points named as origins and destined to points in named destinations, for 180 days. Supporting shipper: Kraft Foods Div. of Kraftco Corp., J. N. Boren, Regional T.M., 2340 Forest Lane, Garland, Tex. 75040. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, room 240—Old P.O. Building, 215 Northwest Third, Oklahoma City, Okla. 73102.*

No. MC 114055 (sub-No. 4 TA), filed September 12, 1973. Applicant: RAY KOLNIK, doing business as RAY KOLNIK TRUCKING, Prairie View Road, Walworth, Wis. 53184. Applicant's representative: P. W. Liegols, 925 South Third Street, LaCrosse, Wis. 54601. Au-

thority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and incidental advertising material* when shipped in connection with malt beverages, from LaCrosse and Sheboygan, Wis., to James P. Paulus Co., Skokie, Ill., for 180 days. Supporting shipper: James P. Paulus Co., 8230 Lincoln Avenue, Skokie, Ill. 60076 (J. P. Paulus, president). Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street—room 807, Milwaukee, Wis. 53203.

No. MC 114492 (Sub-No. 13 TA), filed September 7, 1973. Applicant: TRANSPORT TRUCKING CO. OF TEXAS, 1400 Wheeler Avenue, Texico, N. Mex. 88135. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passenger automobiles and trucks* (three-quarter or less), in secondary movements, in truckaway service, between points in Texas, on and west of U.S. Highway 83, on the one hand, and, on the other, points in Colorado, for 180 days. Restriction: Restricted against the transportation of used automobiles and used trucks (three-quarter ton or less), from Amarillo and Lubbock, Tex., to points in Colorado. Supporting shippers: There are approximately 10 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copy thereof which may be examined at the field office named below. Send protests to: William R. Murdoch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, N. Mex. 87101.

No. MC 119340 (sub-No. 3 TA), filed September 11, 1973. Applicant: CENTRAL COAST TRUCK SERVICE, INC., P.O. Box A. D., Watsonville, Calif. 95076. Applicant's representative: Roland R. Schmidt (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and other commodities*, other than in bulk, manufactured and/or owned by Amstar Corporation, between points in California, Oregon, and Washington, for 180 days. Supporting shipper: Amstar Corp., 50 California St., San Francisco, Calif. 94111. Send protests to: District Supervisor Claude W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Ave., Box 36004, San Francisco, Calif. 94102.

No. MC 126276 (sub-No. 84 TA), filed September 11, 1973. Applicant: FAST MOTOR SERVICE, INC., 12855 Ponderosa Drive, Palos Heights, Ill. 60463. Applicant's representative: James C. Harman, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting:

Plastic knives, forks and spoons, from Federalsburg, Md., to Three Rivers, Mich., for 180 days. Supporting shipper: David G. Kelly, Continental Can Co., Inc., 150 South Wacker Dr., Chicago, Ill. Send protests to: Robert Anderson, transportation specialist, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, room 1086, Chicago, Ill. 60604.

No. MC 134477 (sub-No. 40 TA), filed September 11, 1973. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Thomas Fischbach (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and frozen potato products*, from Caribou and Presque Isle, Maine, to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Nebraska, Minnesota, New York, Ohio, Oklahoma, Pennsylvania, South Dakota, Texas, West Virginia, and Wisconsin, for 180 days. Supporting shipper: Potato Service, Inc., P.O. Box 809, Presque Isle, Maine 04769. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 134599 (sub-No. 89 TA), filed September 5, 1973. Applicant: INTERSTATE CONTRACT CARRIER CORP., Mail: P.O. Box 748 (Box ZIP 84110) Office: 265 West 2700 South, Salt Lake City, Utah 84115. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Neb. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aquariums and aquarium accessories, household pet cages, supplies and equipment, and brine shrimp*, dried. (1) from points in Los Angeles County, Calif.; Menlo Park and Mountain View, Calif., to points in Colorado, Washington, Oregon, Arizona, New Mexico, Utah, Idaho, Wyoming, Montana, Texas, Oklahoma, Louisiana, Missouri, Kansas, Illinois, Minnesota, Wisconsin, and Iowa and (2) between points in Los Angeles County, Calif.; Menlo Park and Mountain View, Calif., on the one hand, and, on the other, East Paterson, Maywood, and Lodi, N.J., under continuing contract with Mattel, Inc., for 180 days. Supporting shipper: Mattel, Inc., 5150 Rosecrans Avenue, Hawthorne, Calif. 90250. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 134631 (sub-No. 17 TA) (correction), filed August 15, 1973, published in the FEDERAL REGISTER issue of September 5, 1973, and republished as corrected this issue. Applicant: SCHULTZ TRANSPORT, INC., 323 East Bridge Street, P.O. Box 406, Winona, Minn. 55987. Appli-

cant's representative: Eugene A. Schultz (same address as above).

NOTE.—The purpose of this partial republication is to indicate the origin points as Red Wing and Winona, Minn., in lieu of Red Wing and Minn., which was published in the FEDERAL REGISTER in error. The rest of the application remains the same.

No. MC 135610 (sub-No. 2 TA), filed September 10, 1973. Applicant: JEAN CHARLES VOYER, Riviere a Pierre, County of Portneuf, Quebec, Canada. Applicant's representative: Robert Therrien (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Granite*, from Riviere a Pierre, Co. Portneuf, Province of Quebec, Canada, to points in New York, Vermont, New Hampshire, and Massachusetts, via Port of Entry on the International Boundary Line between the United States and Canada at or near Alexandria Bay and Roosevelttown, N.Y., and Beecher Falls, Vt., for 180 days. Supporting shipper: Dumas & Voyer, Riviere a Pierre, County of Portneuf, Province of Quebec, Canada. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Federal Building, Post Office and Courthouse, 87 State Street, Montpelier, Vt. 05602.

No. MC 136786 (sub-No. 30 TA), filed September 11, 1973. Applicant: ROBCO TRANSPORTATION, INC., 3033 Excelsior Boulevard, Room 205, Minneapolis, Minn. 55416. Applicant's representative: K. O. Petrick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and potato products* from Grand Forks, N. Dak., to points in Arkansas, Tennessee, Kentucky, West Virginia, Virginia, North Carolina, South Carolina, Georgia and Florida, for 150 days. Supporting shipper: Western Potato Service, Inc., P.O. Box 1391, Grand Forks, N. Dak. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building & U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

By The Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 73-20618 Filed 9-25-73; 8:45 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

SEPTEMBER 21, 1973.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a) (6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the Fed-

ERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. A 53972, filed August 31, 1973. Applicant: AIR CARTAGE ASSOCIATES, INC., 1332 Marsden Road, Burlingame, Calif. 94040. Applicant's representative: Philip J. Bovero, 1181 Old Oakland Road, San Jose, Calif. 95112. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of general commodities, except as herein-after provided, between all points and places in and within 5 miles of points in the San Francisco territory, which is described as follows: San Francisco territory includes all the city of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Co. right-of-way at Arastradero Road; southeasterly along the Southern Pacific Co. right-of-way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to East Parr Avenue; easterly along East Parr Avenue to the Southern Pacific Co. right-of-way; southerly along the Southern Pacific Co. right-of-way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive,

Harbor Drive, and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Oakland-Berkeley boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the city of Richmond; southwesterly along the highway extending from the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Except that applicant shall not transport any shipments of: (1) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A; (2) Automobiles, trucks, and buses, viz.: New and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) Livestock, viz.: Bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags, or swine; (4) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers, or a combination of such highway vehicles; (5) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (7) Cement; (8) Logs; (9) Trailer coaches and campers, including integral parts and contents are within the trailer coach or camper; (10) Dangerous articles; (11) Shipments, in vehicles equipped with mechanical refrigeration systems, requiring temperature control service; and (12) Commodities of unusual or extraordinary value.

HEARING.—Date, time, and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

California Docket No. 54298, filed September 4, 1973. Applicant: CABS UNLIMITED INC., 997 West Dana Street, Mountain View, Calif. 94042. Applicant's representative: Philip J. Bovero, 1181 Old Oakland Road, San Jose, Calif. 95112.

Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of general commodities, except as herein-after provided, between all points and places in and within 5 miles of points in the San Francisco territory, which is described as follows: San Francisco territory includes all the city of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Co. right-of-way at Arastradero Road; southeasterly along the Southern Pacific Co. right-of-way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to East Parr Avenue; easterly along East Parr Avenue to Southern Pacific Co. right-of-way; southerly along the Southern Pacific Co. right-of-way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbor Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Oakland-Berkeley boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the city of Richmond; southwesterly along the highway extending from the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco

waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Except that applicant shall not transport any shipments of: (1) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A; (2) Automobiles, trucks and buses, viz.: New and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) Livestock, viz.: Bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine; (4) Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers, or a combination of such highway vehicles; (5) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (7) Cement; (8) Logs; (9) Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper; (10) Dangerous articles; (11) Shipments in vehicles equipped with mechanical refrigeration systems; (12) Commodities of unusual or extraordinary value; (13) Radiopharmaceuticals and radioactive chemicals; (14) Live animals; and (15) Diagnostic kits.

HEARING.—Date, time, and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

Michigan Docket No. C-239, filed May 30, 1973. Applicant: INTER-CITY

TRUCKING SERVICE, INC., 14333 Goddard Street, Detroit, Mich. 48212. Applicant's representative: E. W. Klein, 14333 Goddard Street, Detroit, Mich. 48212. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of empty equipment, over the following routes: I. Between Flint and Lansing via M-78; II. Between Lansing and Jackson via U.S. 127; and III. Between junction of I-96 and M-59 (near Howell), and junction of M-59 with U.S. 23, via M-59.

Hearing: October 17, 1973, at the Michigan Public Service Commission, Transportation Division, Suite 15, 1000 Long Commerce Park, Lansing, Mich., at 9:30 a.m. Requests for procedural information should be addressed to the Michigan Public Service Commission, Transportation Division, Suite 15, 1000 Long Commerce Park, Lansing, Mich. 48913, and should not be directed to the Interstate Commerce Commission.

Michigan Docket No. L-15147, filed May 15, 1973. Applicant: LIPIN-ROBINSON WAREHOUSE, INC., 22150 Trolley Industrial Drive, Taylor, Mich. 48180. Applicant's representative: Frank J. Kerwin, Jr., 1961 Guardian Building, Detroit, Mich. 48225. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of hospital supplies and such commodities as are dealt in by retail department stores, from Detroit, Mich., and its commercial zone to various Michigan points with return of refused, damaged or overstocked merchandise, restricted to movement to or from the Lipin-Robinson Warehouse at or near Taylor, Mich., over irregular routes.

HEARING.—October 3, 1973, at the Michigan Public Service Commission, Transportation Division, Suite 1000 Long Commerce Park, Lansing, Mich., at 9:30 a.m. Requests for procedural information should be addressed to Michigan Public Service Commission, Transportation Division, Suite 1000 Long Commerce Park, Lansing, Mich. 48913, and should not be directed to the Interstate Commerce Commission. By the Commission

Oklahoma Docket No. MC 29362 (sub-No. 2), filed September 6, 1973. Applicant: WESTERN MOTOR FREIGHT, INC., 1430 West Sheridan, Oklahoma City, Okla. 73106. Applicant's representative: Rufus H. Lawson, 2400 Northwest 23d Street, P.O. Box 75124, Oklahoma City, Okla. 73107. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of General Commodities (except classes A and B explosives), between Oklahoma City, Okla., and Snyder, Okla., serving the intermediate points of Cache and Indianola, Okla.; from Oklahoma City, Okla., via U.S. 62 and H. E. Bailey Turnpike to Lawton, Okla., thence U.S. 62 to Snyder, Okla., and return over the same route; between Oklahoma City, Okla., and Frederick, Okla., serving the intermediate points of Faxon and Chattanooga, Okla., and the off-route points of Grandfield, Follister, Manitou, Tipton, and Davidson, Okla.; from Oklahoma City, Okla., via U.S. 62 and H. E. Bailey Turnpike to its intersection with S. H. 36, thence via S. H. 36 to its intersection with S. H. 5, thence via S. H. 5 to Frederick, Okla., and return over the same route; between Oklahoma City, Okla., and Hobart, Okla., serving the intermediate points of Fort Cobb, Carnegie, Mountain View, and Gotebo, Okla., and the off-route point of Cooperton, Okla.; from Oklahoma City, Okla., via U.S. 62 and H. E. Bailey Turnpike to Chickasha, Okla., thence via S. H. 9 and S. H. 9-A to Hobart, Okla., and return over the same route.

HEARING.—October 22, 1973, at 300 Jim Thorpe Office Building, Oklahoma City, Okla., at 9 a.m. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Oklahoma Corporation Commission, 300 Jim Thorpe Office Building, Oklahoma City, Okla. 73105, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc. 73-20512 Filed 9-25-73; 8:45 am]

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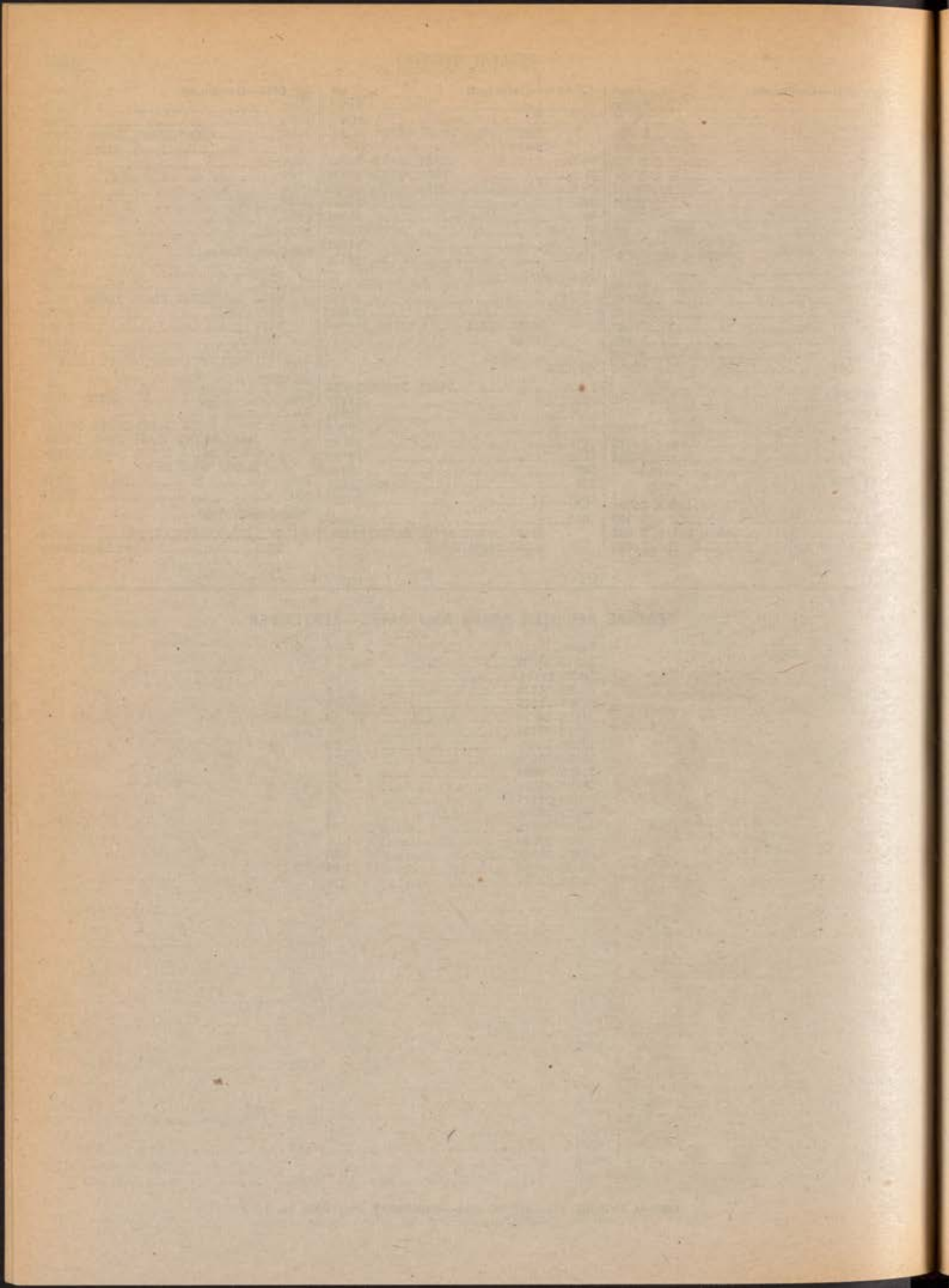
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PART II



DEPARTMENT OF LABOR

Employment Standards
Administration



LONGSHOREMEN'S AND HARBOR
WORKERS' COMPENSATION ACT
AND RELATED STATUTES

Title 20—Employees' Benefits

CHAPTER VI—EMPLOYMENT STANDARDS
ADMINISTRATION, DEPARTMENT OF
LABORSUBCHAPTER A—LONGSHOREMEN'S AND HAR-
BOR WORKERS' COMPENSATION ACT AND
RELATED STATUTES

On January 26, 1973, at 38 FR 2650 et seq., the Secretary of Labor promulgated as Subchapter A of 20 CFR Ch. VI his regulations governing the administration of the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. 901 et seq., as amended by Public Law 92-576, 86 Stat. 1261. For the reasons set forth at 38 FR 2650, the regulations were published in final form, the provisions of 5 U.S.C. 553 for notice, public procedure and delayed effective date being found inapplicable.

Notwithstanding such publication in final form, comments, arguments, and suggestions were invited. In response thereto, many comments and suggestions were received. After careful consideration, it was determined that a number of changes were desirable. Subchapter A of Chapter VI of Title 20, Code of Federal Regulations, is accordingly revised as set forth below.

The most significant change is in §§ 702.301 through 702.319, governing adjudication of claims by the deputy commissioners. As changed, the procedure is much more informal, and is in keeping with the manner in which such problems have actually been handled over the years. Several other sections were changed to conform technically to that change. Another change of significance is that with respect to appeals, § 702.391 et seq. Since the initial publication of these regulations, new regulations of the Benefits Review Board were published in Part 802 of this title. Section 702.391 et seq., are changed to conform thereto. Otherwise, typographical errors were corrected, definitions of certain terms were added, and minor editorial changes were made.

These amendments shall be effective September 26, 1973.

As revised, Subchapter A of Chapter VI, 20 CFR, reads as follows:

PART 701—GENERAL; ADMINISTERING
AGENCY; DEFINITIONS AND USE OF
TERMS

RULES IN THIS SUBCHAPTER

- Sec
701.101 Scope of this subchapter and Subchapter B.
701.102 Organization of this subchapter.

OFFICE OF WORKMEN'S COMPENSATION
PROGRAMS

- 701.201 Establishment of Office of Workmen's Compensation Programs.
701.202 Transfer of functions.
701.203 Historical background.

TERMS USED IN THIS SUBCHAPTER

- 701.301 Definitions and use of terms.

AUTHORITY: 5 U.S.C. 301; Reorganization plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; 33 U.S.C. 939; 36 D.C. Code 501; 42 U.S.C. 1651; 43 U.S.C. 1331; 5 U.S.C. 8171; Secretary's Order No. 13-71, 36 FR 8755.

RULES IN THIS SUBCHAPTER

§ 701.101 Scope of this subchapter and
Subchapter B.

This subchapter contains the regulations governing the administration of the Longshoremen's and Harbor Workers' Compensation Act (LHWCA) and its direct extensions, the Defense Base Act (DBA), the District of Columbia Workmen's Compensation Act (DCCA), the Outer Continental Shelf Lands Act (OCSLA), and the Nonappropriated Fund Instrumentalities Act (NFIA), and such other amendments and extensions as may hereinafter be enacted. The regulations governing administration of the Black Lung Benefits Program are in Subchapter B of this chapter.

§ 701.102 Organization of this subchapter.

This Part 701 is intended to provide a general description of the regulations in this subchapter, information as to the persons and agencies within the Department of Labor authorized by the Secretary of Labor to administer the Longshoremen's and Harbor Workers' Compensation Act and its extensions, and guidance as to the meaning and use of specific terms in the several parts of this subchapter. Part 702 of this subchapter contains the general administrative regulations governing claims filed under the LHWCA, and Part 703 of this subchapter contains the regulations governing authorization of insurance carriers, authorization of self-insurers, and issuance of certificates of compliance with said insurance regulations, as required by sections 32 and 37 of the LHWCA, 33 U.S.C. 932, 937. Inasmuch as the extensions of the LHWCA (see § 701.101) incorporate by reference nearly all of the provisions of the LHWCA, such that the regulations governing the latter apply to the extensions with very few exceptions, it has been determined that no useful purpose would be served by repeating the same provisions for each of the extensions. Accordingly, the regulations in Parts 702 and 703 shall apply to the administration of the extensions (DBA, DCCA, OCSLA, and NFIA), unless otherwise noted. The exceptions to the general applicability of Parts 702 and 703 are set forth in succeeding parts in this subchapter. Part 704 contains the exceptions for the DBA, the DCCA, the OCSLA, and the NFIA.

OFFICE OF WORKMEN'S COMPENSATION
PROGRAMS§ 701.201 Establishment of Office of
Workmen's Compensation Programs.

The Assistant Secretary of Labor for Employment Standards, by authority vested in him by the Secretary of Labor in Secretary's Order No. 13-71, 36 FR 8755, has established in the Employment Standards Administration (ESA) an Office of Workmen's Compensation Programs (OWCP). The Assistant Secretary has further designated as the head there-

of a Director who, under the general supervision of the Deputy Assistant Secretary for Employment Standards/Wage-Hour Administrator and the Deputy Administrator, shall administer the programs assigned to that office by the Assistant Secretary.

§ 701.202 Transfer of functions.

Pursuant to the authority vested in him by the Secretary of Labor, the Assistant Secretary for Employment Standards has transferred from the Bureau of Employees' Compensation to the Office of Workmen's Compensation Programs all functions of the Department of Labor with respect to the administration of benefits programs under the following statutes:

- The Longshoremen's and Harbor Workers' Compensation Act, as amended and extended, 33 U.S.C. 901 et seq.;
- Defense Base Act, 42 U.S.C. 1651 et seq.;
- District of Columbia Workmen's Compensation Act, 36 D.C. Code 501 et seq.;
- Outer Continental Shelf Lands Act, 43 U.S.C. 1331;
- Nonappropriated Fund Instrumentalities Act, 5 U.S.C. 8171 et seq.;
- Title IV of the Federal Coal Mine Health and Safety Act, 83 Stat. 742, as amended by the Black Lung Benefits Act of 1972, 86 Stat. 150.

§ 701.203 Historical background.

Administration of the Longshoremen's and Harbor Workers' Compensation Act (and the Federal Employees' Compensation Act, formerly known as the U.S. Employees' Compensation Act), was initially vested in an independent establishment known as the U.S. Employees' Compensation Commission. By Reorganization Plan No. 2 of 1946 (3 CFR 1943-1949 Comp., p. 1064; 60 Stat. 1095, effective July 16, 1946), the Commission was abolished and its functions were transferred to the Federal Security Agency to be performed by a newly created Bureau of Employees' Compensation within such Agency. By Reorganization Plan No. 19 of 1950 (15 FR 3178, 64 Stat. 1263) said Bureau was transferred to the Department of Labor, and the authority formerly vested in the Administrator, Federal Security Agency, was vested in the Secretary of Labor. By Reorganization Plan No. 6 of 1950 (15 FR 3174, 64 Stat. 1263), the Secretary of Labor was authorized to make from time to time such provisions as he shall deem appropriate, authorizing the performance of any of his functions by any other officer, agency or employee of the Department of Labor.

TERMS USED IN THIS SUBCHAPTER

§ 701.301 Definitions and use of terms.

(a) As used in this subchapter, except where the context clearly indicates otherwise:

(1) "Act" means the Longshoremen's and Harbor Workers' Compensation Act, as amended (33 U.S.C. 901 et seq.), also referred to in this subchapter as LHWCA,

and includes the provisions of any statutory extension of such Act (see § 701.101) pursuant to which compensation on account of an injury is sought.

(2) "Secretary" means the Secretary of Labor, United States Department of Labor, or his authorized representative.

(3) "Employment Standards Administration" means the Employment Standards Administration in the United States Department of Labor, headed by the Assistant Secretary of Labor for Employment Standards.

(4) "Administrator" means the Deputy Assistant Secretary for Employment Standards in the Employment Standards Administration who also is Administrator of the Wage and Hour Division, and includes the Deputy Administrator for Wage and Compensation Programs.

(5) "Office of Workmen's Compensation Programs", or "OWCP", or "the Office", means the Office of Workmen's Compensation Programs in the Department of Labor, described in § 701.201 of this part.

(6) "Director" means the Director, OWCP, or his authorized representative.

(7) "Deputy Commissioner" means a person appointed as provided in sections 39 and 40 of the LHWCA or his designee, authorized by the Director to perform functions with respect to the processing and determination of claims for compensation under such Act and its extensions as provided therein and in this subchapter.

(8) "Administrative Law Judge" means an administrative law judge appointed as provided in 5 U.S.C. 3105 and Subpart B of 5 CFR Part 930 (see 37 FR 16737), who is qualified to preside at hearings under 5 U.S.C. 557 and is empowered by the Secretary to conduct formal hearings whenever necessary in respect of any claim for compensation arising under the LHWCA and its extensions.

(9) "Chief Administrative Law Judge" means the Chief Judge of the Office of Administrative Law Judges, United States Department of Labor.

(10) "Board" or "Benefits Review Board" means the Benefits Review Board established by section 21 of the LHWCA (33 U.S.C. 921) as amended and constituted and functioning pursuant to the provisions of Chapter VII of this Title 20 and Secretary of Labor's Order No. 38-72 (38 FR 90).

(11) "Department" means the United States Department of Labor.

(12) "Employee" includes any employee to whom an injury, as defined in section 2(3) of the LHWCA, may be the basis for a compensation claim under the LHWCA as amended, or any of its extensions.

(13) "Employer" includes any employer who may be obligated as an employer under the provisions of the LHWCA as amended or any of its extensions to pay and secure compensation as provided therein.

(14) "Carrier" means an insurance carrier or self-insurer meeting the requirements of section 32 of the LHWCA as amended and of this subchapter with respect to authorization to provide in-

surance fulfilling the obligation of an employer to secure the payment of compensation due his employees under the LHWCA as amended or a statutory extension thereof.

(15) The terms "wages", "national average weekly wage", "injury", "disability", "death", and "compensation" shall have the meanings set forth in section 2 of the LHWCA.

(16) "Claimant" includes any person claiming compensation or benefits under the provisions of the LHWCA as amended or a statutory extension thereof on account of the injury or death of an employee.

(b) The definitions contained in paragraph (a) of this section shall not be considered to derogate from any definitions or delimitations of terms in the LHWCA as amended or any of its statutory extensions in any case where such statutory definitions or delimitations would be applicable.

(c) As used in this subchapter, the singular includes plural and the masculine includes the feminine.

PART 702—ADMINISTRATION AND PROCEDURES

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AUTHORITY: 5 U.S.C. 301; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; 33 U.S.C. 939; 42 U.S.C. 1651 et seq.; 36 D.C. Code 501 et seq.; 43 U.S.C. 1331; 5 U.S.C. 8171 et seq.; Secretary of Labor's Order No. 13-71, 36 FR 8755.

Subpart A—General Provisions

ADMINISTRATION

§ 702.101 Establishment of compensation districts.

Pursuant to section 39(b) of the Longshoremen's and Harbor Workers' Compensation Act, the following compensation districts have been established:

- District No. 1. Comprises the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut; with headquarters at Boston, Massachusetts.
District No. 2. Comprises the States of New York and New Jersey; with headquarters at New York, N.Y.
District No. 3. Comprises the States of Pennsylvania, Delaware, and West Virginia; with headquarters at Philadelphia, Pennsylvania.
District No. 4. Comprises the State of Maryland and the District of Columbia; with headquarters at Baltimore, Maryland.
District No. 5. Comprises the State of Virginia; with headquarters at Norfolk, Virginia.
District No. 6. Comprises the States of North Carolina, Kentucky, Tennessee, South Carolina, Georgia, Florida; Alabama, except that part of the State south of 31° north latitude; and Mississippi, except that part of the State south of 31° north latitude; with headquarters at Jacksonville, Florida.
District No. 7. Comprises the States of Arkansas, Louisiana, that part of the State of Alabama south of 31° north latitude, and that part of the State of Mississippi south of 31° north latitude; with headquarters at New Orleans, Louisiana.
District No. 8. Comprises the States of Texas, Oklahoma, and New Mexico; with headquarters at Galveston, Tex.

District No. 9. Comprises the States of Ohio, Indiana, and Michigan; with headquarters at Cleveland, Ohio.

District No. 10. Comprises the States of Illinois, Missouri, Kansas, Nebraska, Iowa, Minnesota, and Wisconsin; with headquarters at Chicago, Ill.

District No. 13. Comprises the States of California, Arizona, and Nevada; with headquarters at San Francisco, Calif.

District No. 14. Comprises the States of Washington, Oregon, Alaska, Idaho, Montana, Wyoming, Utah, Colorado, North Dakota, and South Dakota; with headquarters at Seattle, Wash.

District No. 15. Comprises the State of Hawaii; with headquarters at Honolulu, Hawaii.

§ 702.102 Establishment of suboffices and jurisdictional areas.

(a) As administrative exigencies from time to time may require, the Director may, by administrative order, establish special areas outside the continental United States, Alaska, and Hawaii, or change or modify any areas so established, notwithstanding their inclusion within an established compensation district. Such areas shall be designated "jurisdictional areas." The Director shall also designate which of his deputy commissioners shall be in charge thereof.

(b) To further aid in the efficient administration of the OWCP, the Director may from time to time establish suboffices within compensation districts or jurisdictional areas, and shall designate a person to be in charge thereof.

§ 702.103 Effect of establishment of suboffices and jurisdictional areas.

Whenever the Director establishes a suboffice or jurisdictional area, those reports, records, or other documents with respect to processing of claims that are required to be filed with the deputy commissioner of the compensation district in which the injury or death occurred, may instead be required to be filed at the suboffice, or office established for the jurisdictional area.

§ 702.104 Transfer of individual cases.

At any time after a claim is filed, the deputy commissioner having jurisdiction thereof may, with the prior or subsequent approval of the Director, transfer such case to the deputy commissioner in another compensation district for the purpose of taking such action as may be necessary or appropriate to further develop the claim. The deputy commissioner making the transfer may by letter to the deputy commissioner to whom the case is transferred give advice, comments, suggestions, or directions if appropriate to the particular case. The transfer of cases shall be by registered or certified mail.

RECORDS

§ 702.111 Employer's records.

Every employer shall maintain adequate records of injury sustained by employees while in his employ, and which shall also contain information of disease, other impairments or disabilities, or death relating to said injury. Such records shall be available for inspection by the OWCP or by any State authority.

§ 702.112 Records of the OWCP.

All reports, records, or other documents filed with the OWCP with respect to claims are the records of the OWCP. The Director shall be the official custodian of those records maintained by the OWCP at its national office, and the deputy commissioner shall be the official custodian of those records maintained at the headquarters office in each compensation district.

§ 702.113 Inspection of records of the OWCP.

Any party in interest may be permitted to examine the record of the case in which he is interested. The official custodian of the record sought to be inspected shall permit or deny inspection in accordance with the Department of Labor's regulations pertaining thereto (see 29 CFR Part 70). The original record in any such case shall not be removed from the office of the custodian for such inspection. The custodian may, in his discretion, deny inspection of any record or part thereof which is of a character specified in 5 U.S.C. 552(b) if in his opinion such inspection may result in damage, harm, or harassment to the beneficiary or to any other person. For special provisions concerning release of information regarding injured employees undergoing vocational rehabilitation, see § 702.508.

§ 702.114 Copying of records of OWCP.

Any party in interest may request copies of records he has been permitted to inspect. Such requests shall be addressed to the official custodian of the records sought to be copied. The official custodian shall provide the requested copies under the terms and conditions specified in the Department of Labor's regulations relating thereto (see 29 CFR Part 70).

FORMS

§ 702.121 Forms.

The Director may from time to time prescribe, and require the use of, forms for the reporting of any information required to be reported by the regulations in this subchapter, or by the Act or any of its extensions.

REPRESENTATION

§ 702.131 Representation of parties in interest.

Claimants, employers and insurance carriers may be represented in any proceeding under the Act by an attorney or other person previously authorized in writing by such claimant, employer or carrier to so act.

§ 702.132 Fees for services.

An attorney or other representative seeking a fee for services performed on behalf of a claimant with respect to claims filed under the Act shall make application thereof to the persons, administrative body, or court before whom the services were performed (see 33 U.S.C. 928(c)). The application shall be supported by a complete statement of the extent and character of the necessary

work done. Any fee approved shall be reasonably commensurate with the actual necessary work performed, and shall take into account the capacity in which the representative has appeared, the amount of benefits involved and the financial circumstances of the claimant. No contract for a stipulated fee or for a fee on a contingent basis shall be recognized.

§ 702.133 Unapproved fees; solicitation of claimants; penalties.

Under the provisions of section 28(e) of the Act, 33 U.S.C. 928(e), any person who receives any fees, other consideration, or any gratuity on account of services rendered as a representative of a claimant, unless such consideration or gratuity is approved under § 702.132, or who makes it a business to solicit employment for an attorney, or for himself in respect of any claim under the Act, shall upon conviction thereof, for each offense be punished by a fine of not more than \$1,000 or by imprisonment for not more than 1 year, or by both fine and imprisonment.

§ 702.134 Payment of claimant's attorney's fees in disputed claims.

(a) If the employer or carrier declines to pay any compensation on or before the 30th day after receiving written notice from the deputy commissioner of a claim for compensation having been filed, on the ground that there is no liability for compensation within the provisions of this Act, and the person seeking benefits shall thereafter have utilized the services of an attorney at law in the successful prosecution of his claim, there shall be awarded, in addition to the award of compensation, in a compensation order, a reasonable attorney's fee against the employer or carrier in an amount approved by the person, administrative body or court before whom the service was performed, which shall be paid directly by the employer or carrier to the attorney for the claimant in a lump sum after the compensation order becomes final (Act, section 28(a)).

(b) If the employer or carrier pays or tenders payment of compensation without an award pursuant to § 702.231 and section 14 (a) and (b) of this Act, and thereafter a controversy develops over the amount of additional compensation, if any, to which the employee may be entitled, the deputy commissioner, administrative law judge, or Board shall set the matter for an informal conference and following such conference the deputy commissioner, administrative law judge, or Board shall recommend in writing a disposition of the controversy. If the employer or carrier refuses to accept such written recommendation, within 14 days after its receipt by them, they shall pay or tender to the employee in writing the additional compensation, if any, to which they believe the employee is entitled. If the employee refuses to accept such payment or tender of compensation, and thereafter utilizes the services of an attorney at law, and if the compensation thereafter awarded

is greater than the amount paid or tendered by the employer or carrier, a reasonable attorney's fee based solely upon the difference between the amount awarded and the amount tendered or paid shall be awarded in addition to the amount of compensation. The foregoing sentence shall not apply if the controversy relates to degree or length of disability, and if the employer or carrier offers to submit the case for evaluation by physicians employed or selected by the deputy commissioner, as authorized by section 7(e) of the Act and § 702.408, and offers to tender an amount of compensation based upon the degree or length of disability found by the independent medical report at such time as an evaluation of disability can be made. If the claimant is successful in review proceedings before the Board or court in any such case an award may be made in favor of the claimant and against the employer or carrier for a reasonable attorney's fee for claimant's counsel in accord with the above provisions. In all other cases any claim for legal services shall not be assessed against the employer or carrier (see Act, section 28(b)).

§ 702.135 Payment of claimant's witness fees and mileage in disputed claims.

In cases where an attorney's fee is awarded against an employer or carrier there may be further assessed against such employer or carrier as costs, fees and mileage for necessary witnesses attending the hearing at the instance of claimant. Both the necessity for the witness and the reasonableness of the fees of expert witnesses must be approved by the hearing officer, the Board, or the court, as the case may be. The amounts awarded against an employer or carrier as attorney's fees, costs, fees and mileage for witnesses shall not in any respect affect or diminish the compensation payable under this Act (see Act, section 28(d)).

INFORMATION AND ASSISTANCE FOR CLAIMANTS

§ 702.136 Requests for information and assistance.

(a) *General assistance.* The Director shall, upon request, provide persons covered by the Act with information and assistance relating to the Act's coverage and compensation and the procedures for obtaining such compensation including assistance in processing a claim.

(b) *Legal assistance to claimants.* The Secretary may, upon request, provide a claimant with legal assistance in processing a claim under the Act. Such assistance may be made available to a claimant in the discretion of the Solicitor of Labor or his designee at any time prior to or during which the claim is being processed and shall be furnished without charge to the claimant. Legal representation of the claimant in adjudicatory proceedings may be furnished in cases in which the Secretary's interest in the case is not adverse to that of the claimant.

(c) *Other assistance.* The deputy commissioners and their staff, as designees of the Director, shall promptly and fully comply with the request of a claimant receiving compensation for information about, and assistance in obtaining, medical, manpower, and vocational rehabilitation services (see also Subparts D and E of this part).

COMMUTATION OF PAYMENTS AND SPECIAL FUND

§ 702.141 Commutation of payments; generally.

(a) Pursuant to section 14(j) of the Act, 33 U.S.C. 914(j), the deputy commissioner may determine that, in the interest of justice, the liability of the employer for compensation, or any part thereof, may be discharged by the payment of a lump sum equal to the present value of future payments commuted, computed at 4 per centum true discount compounded annually.

(b) Applications for commutation of future benefits shall be made to the deputy commissioner, on a form prescribed by the Director, OWCP, for that purpose. Applications shall be supported with a statement of the reasons for such application, together with such pertinent data as may lend support thereto.

(c) Applications for commutation of payments in disability cases will be accepted only when a compensation order has been filed in which the quality of the disability is found to be permanent and the duration of such disability is fixed by said order. Applications for commutation of payments in death cases will be approved only when it is shown that the rights of all probable and potential beneficiaries have been determined and after a compensation order has been filed fixing the rights of the beneficiary making the application or on whose behalf such commutation is sought.

(d) Commutations of payments shall be considered by the deputy commissioner, but no final action shall be taken in any case without the prior approval of the Director, OWCP.

(e) The probability of the happening of any contingency of any nature whatsoever affecting the amount of duration of compensation to be commuted shall not be considered excepting:

(1) The probability of the death of the injured employee or other person entitled to compensation before the expiration of the period during which he is entitled to compensation shall be determined in accordance with the American Experience Table of Mortality; and

(2) The probability of the remarriage of the surviving wife shall be determined in accordance with the remarriage tables of the Dutch Royal Insurance Institution.

§ 702.142 Commutation of payments; aliens not residents or about to become nonresidents.

(a) Pursuant to section 9(g) of the Act, 33 U.S.C. 909(g), compensation paid to aliens not residents, or about to become nonresidents, of the United States

or Canada shall be in the same amount as provided for residents except that dependents in any foreign country shall be limited to surviving wife and child or children, or if there be no surviving wife or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of 1 year prior to the date of injury, and except that the Director, OWCP, may, at his option, or upon the application of the insurance carrier he shall, commute all future installments of compensation to be paid to such aliens by paying or causing to be paid to them one-half of the commuted amount of such future installments of compensation as determined by the Director.

(b) Applications for commutation under this section shall be made in writing to the deputy commissioner having jurisdiction, and forwarded by the deputy commissioner to the Director, for final action.

(c) Applications for commutations shall be made effective, if approved by the Director, on the date received by the deputy commissioner, or on a later date if shown to be appropriate on the application.

(d) Commutations shall not be made with respect to a person journeying abroad for a visit who has previously declared an intention to return and has stated a time for returning, nor shall any commutation be made except upon the basis of a compensation order fixing the right of the beneficiary to compensation.

§ 702.143 Establishment of special fund.

Congress, by section 44 of the Act, 33 U.S.C. 944, established in the U.S. Treasury a special fund, to be administered by the Secretary. The Treasurer of the United States is the custodian of such fund, and all monies and securities in such fund shall be held in trust by the Treasurer and shall not be money or property of the United States. The Treasurer shall make disbursements from such funds only upon the order of the Director, OWCP, as delegate of the Secretary. The Act requires that the Treasurer give bond, in an amount to be fixed and with securities to be approved by the Secretary of the Treasury and the Comptroller General of the United States, conditioned upon the faithful performance of his duty as custodian of such fund.

§ 702.144 Purpose of the special fund.

This special fund was established to give effect to a congressional policy determination that, under certain circumstances, the employer of a particular employee should not be required to bear the entire burden of paying for the compensation benefits due that employee under the Act. Instead, a substantial portion of such burden should be borne by the industry generally. Section 702.145 describes this special circumstance under which the particular employer is relieved of some of his burden. Section 702.146 describes the manner and circumstances of the input into the fund.

§ 702.145 Use of the special fund.

(a) *Under section 10 of the Act.* This section provides for initial and subsequent annual adjustments in compensation and continuing payments to beneficiaries in cases of permanent total disability or death which commenced or occurred prior to enactment of the 1972 Amendments to this Act (Public Law 92-576, approved Oct. 27, 1972). At the discretion of the Director, such payments may be paid directly by him to eligible beneficiaries as the obligation accrues, one-half from the special fund and one-half from appropriations, or he may require insurance carriers or self-insured employers already making payments to such beneficiaries to pay such additional compensation as the amended Act requires. In the latter case such carriers and self-insurers shall be reimbursed by the Director for such additional amounts paid, in the proportion of one-half the amount from the special fund and one-half the amount from appropriations. To obtain reimbursement, the carriers and self-insurers shall submit claims for payments made by them during previous periods at intervals of not less than 6 months. A form has been prescribed for such purpose and shall be used. No administrative claims service expense incurred by the carrier or self-insurer shall be included in the claim and no such expense shall be allowed. The amounts reimbursed to such carrier or self-insurer shall be limited to amounts actually due and previously paid to beneficiaries.

(b) *Under section 8(f) of the Act (Second Injuries).* In any case in which an employee having an existing permanent partial disability suffers injury, the employer shall provide compensation for such disability as is found to be attributable to that injury, based upon the average weekly wages of the employee at the time of injury. If, following an injury falling within the provisions of section 8(c) (1)-(20), the employee with the pre-existing permanent partial disability becomes permanently and totally disabled after the second injury, but such total disability is found not to be due solely to his second injury, the employer (or carrier) shall be liable for compensation as provided by the provisions of section 8(c) (1)-(20) of the Act, 33 U.S.C. 908 (c) (1)-(20), or for 104 weeks, whichever is greater. In all other cases of a second injury causing permanent total disability (or death), wherein it is found that such disability (or death) is not due solely to the second injury, and wherein the employee had a preexisting permanent partial disability, the employer (or carrier) shall first pay compensation under section 8 (b) or (e) of the Act, 33 U.S.C. 908 (b) or (e), if any is payable thereunder, and shall then pay 104 weeks compensation for such total disability or death, and none otherwise. If the second injury results in permanent partial disability, and if such disability is compensable under section 8(c) (1)-(20) of the Act, 33 U.S.C. 908(c) (1)-(20), but the disability so compensable did not result solely from such second injury, and the disability so compensable is materi-

ally and substantially greater than that which would have resulted from the second injury alone, then the employer (or carrier) shall only be liable for the amount of compensation provided for in section 8(c) (1)-(20) that is attributable to such second injury, or for 104 weeks, whichever is greater. In all other cases wherein the employee is permanently and partially disabled following a second injury, and wherein such disability is not attributable solely to that second injury, and wherein such disability is materially and substantially greater than that which would have resulted from the second injury alone, and wherein such disability following the second injury is not compensable under section 8(c) (1)-(20) of the Act, then the employer (or carrier) shall be liable for such compensation as may be appropriate under section 8 (b) or (e) of the Act, 33 U.S.C. 908 (b) or (e), if any, to be followed by a payment of compensation for 104 weeks, and none other. The term "compensation" herein means money benefits only, and does not include medical benefits. The procedure for determining the extent of the employer's (or carrier's) liability under this paragraph shall be as provided for in the adjudication of claims in Subpart C of this Part 702. Thereafter, upon cessation of payments which the employer is required to make under this paragraph, if any additional compensation is payable in the case, the deputy commissioner shall forward such case to the Director for consideration of an award to the person or persons entitled thereto out of the special fund. Any such award from the special fund shall be by order of the Director or Acting Director.

(c) *Under sections 8(g) and 39(c) (2) of the Act.* These sections, 33 U.S.C. 908 (g) and 939(c) (2), respectively, provide for vocational rehabilitation of disabled employees, and authorize, under appropriate circumstances, a maintenance allowance for the employee (not to exceed \$25 a week) in addition to other compensation benefits otherwise payable for his injury-related disability. Awards under these sections are made from the special fund upon order of the Director or his designee. The deputy commissioners may be required to make investigations with respect to any case and forward to the Director their recommendations as to the propriety and need for such maintenance.

(d) *Under section 39(c) (2) of the Act.* In addition to the maintenance allowance for the employee discussed in paragraph (c), the Director is further authorized to use the fund in such amounts as may be necessary to procure the vocational training services.

(e) *Under section 7(e) of the Act.* This provision, 33 U.S.C. 907(e), authorizes payment by the Director from the special fund for special medical examinations, i.e., those obtained from impartial specialists to resolve disputes, when such special examinations are deemed necessary under that statutory provision. The Director has the discretionary power, however, to charge the cost of such ex-

amination to the insurance carrier or self-insured employer.

(f) *Under section 18(b) of the Act.* This section, 33 U.S.C. 918(b), provides a source for payment of compensation benefits in cases where the employer is insolvent, or other circumstances preclude the payment of benefits due in any case. In such situations, the deputy commissioner shall forward the case to the Director for consideration of an award from the special fund, together with evidence with respect to the employer's insolvency or other reasons for nonpayment of benefits due. Benefits, as herein used, means medical care or supplies within the meaning of section 7 of the Act, 33 U.S.C. 907, and Subpart D of Part 702 of these regulations, as well as monetary benefits. Upon receipt of the case, the Director shall promptly determine whether an award from the special fund is appropriate and advisable in the case, having due regard for all other current commitments from the special fund. If such an award is made, the employer shall be liable for the repayment into the fund of the amounts paid therefrom, as provided in 33 U.S.C. 918(b).

§ 702.146 Sources of the special fund.

(a) All amounts collected as fines and penalties under the several provisions of the Act shall be paid into the special fund (Act, section 44(c) (3)). Civil penalties provided for in the Act shall be collected by civil suits brought by, and in the name of, the Secretary of Labor.

(b) Whenever an employee dies under circumstances creating a liability on an employer to pay death benefits to the employee's beneficiaries, and whenever there are no such beneficiaries entitled to such payments, the employer shall pay \$5,000 into the special fund (Act, section 44(c) (1)). In such cases, the compensation order entered in the case shall specifically find that there is such liability and that there are no beneficiaries entitled to death benefits, and shall order payment by the employer into the fund. Compensation orders shall be made and filed in accordance with the regulations in Subpart C of this Part 702, except that for this purpose the deputy commissioner settling the case under § 702.315 shall formalize the memorandum of conference in a compensation order, and shall file such order as provided for in § 702.349.

(c) The Director annually shall assess an amount against insurance carriers and self-insured employers authorized under the Act and Part 703 of this subchapter to replenish the fund. The total amount to be charged all carriers and self-insurers to be assessed shall be based upon his estimate of the probable expenses of the fund during the calendar year. The assessment against each carrier and self-insurer shall be based upon the amount each paid during the prior calendar year, for compensation and medical benefits, in relation to the amount all such authorized carriers or self-insurers paid during that period for compensation and medical benefits. If no amount was paid during the prior year, no assessment shall be made. The result-

ing percentage each paid out for such benefits the prior year shall be the percentage each shall pay into the fund under the current assessment (see Act, section 44(c) (2)). The Director may, in his discretion, condition renewal of authorization under Part 703 of this subchapter upon prompt payment of the assessment. However, no action suspending or revoking such authorization shall be taken without affording such carrier or self-insurer a hearing before the Director or his designee.

§ 702.147 Enforcement of special fund provisions.

(a) As provided in section 44(d) (1) of the Act, 33 U.S.C. 944(d) (1), for the purpose of making rules, regulations, and determinations under the special fund provisions in section 44 and for providing enforcement thereof, the Director may investigate and gather appropriate data from each carrier and self-insured employer, and may enter and inspect such places and records (and make such transcriptions of records), question such employees, and investigate such facts, conditions, practices, or other matters as he may deem necessary or appropriate.

(b) Pursuant to section 44(d) (3) of the Act, 33 U.S.C. 944(d) (3), for the purpose of any hearing or investigation related to determinations or the enforcement of the provisions of section 44 with respect to the special fund, the provisions of 15 U.S.C. 49 and 50 as amended (the Federal Trade Commission Act provisions relating to attendance of witnesses and the production of books, papers, and documents) are made applicable to the jurisdiction, powers, and duties of the Director, OWCP, as the Secretary's delegate.

§ 702.148 Insurance carriers' and self-insured employers' responsibility.

Each carrier and self-insured employer shall make, keep, and preserve such records, and make such reports and provide such additional information as the Director prescribes or orders, which he considers necessary or appropriate to effectively carry out his responsibilities.

LIENS ON COMPENSATION

§ 702.161 Liens on compensation authorized under special circumstances.

Pursuant to section 17(b) of the Act, 33 U.S.C. 917(b), where a trust fund which complies with section 302(c) of the Labor-Management Relations Act of 1947 (29 U.S.C. 186(c)) established pursuant to a collective bargaining agreement in effect between an employer and an employee entitled to compensation under this Act has paid disability benefits to an employee which the employee is legally obligated to repay by reasons of his entitlement to compensation under this Act, the Director or his designee may authorize a lien on such compensation in favor of the trust fund for the amount of such payments.

Subpart B—Claims Procedures

EMPLOYER'S REPORTS

§ 702.201 Reports from employers of employee's injury or death.

Within 10 days from the date of an employee's injury or death, or 10 days from the date an employer has knowledge of an employee's injury or death, including any disease or death proximately caused by the employment, the employer shall furnish a report thereof to the deputy commissioner for the compensation district in which the injury or death occurred, and shall thereafter furnish such additional or supplemental reports as the deputy commissioner may request.

§ 702.202 Employer's report: form and contents.

The employer's report of an employee's injury or death shall be in writing and on a form prescribed by the Director for this purpose, and shall contain:

- The name, address, and business of the employer;
- The name, address, and occupation of the employee;
- The cause, nature, and other relevant circumstances of the injury or death;
- The year, month, day, and hour when, and the particular locality where, the injury or death occurred;
- Such other information as the Director may require.

§ 702.203 Employer's report: how given.

The employer's report, an original and one copy, may be furnished by delivering it to the appropriate office of the deputy commissioner, or by mailing it to said office.

§ 702.204 Employer's report: penalty for failure to furnish.

Any employer who fails or refuses to furnish any report required by § 702.201 shall be subject to a civil penalty not to exceed \$500 for each such failure or refusal, 33 U.S.C. 930(e).

§ 702.205 Employer's report: effect of failure to report upon time limitations.

Where the employer, or agent in charge of the business, or carrier has been given notice or has knowledge of an employee's injury or death, and fails, neglects, or refuses to file a report thereof as required by § 702.201, the time limitations provisions with respect to the filing of claims for compensation for disability or death (33 U.S.C. 913(a), and see § 702.212) shall not begin to run until such report shall have been furnished as required herein.

NOTICE

§ 702.206 Notice of employee's injury or death.

Every person claiming compensation under this Act shall first notify the deputy commissioner for the compensation district in which the injury or death occurred, and the injured or deceased employee's employer, of the fact of such in-

jury or death. If the employer is a partnership, notice may be given to any partner, or if a corporation, to any authorized agent or officer thereof, or to the person in charge of the business at the place where the injury occurred.

§ 702.207 Notice: when given.

Notice shall be given within 30 days after the date of the injury or death, or within 30 days after the date the employee or beneficiary is aware, or in the exercise of reasonable diligence should have been aware, of a relationship between the injury or death and the employee's employment.

§ 702.208 Notice: by whom given.

Notice shall be given by the injured employee or someone on his behalf, or in the case of death, by the deceased employee's beneficiary or someone on his behalf.

§ 702.209 Notice: form and contents.

Notice shall be in writing on a form prescribed by the Director for this purpose; such form shall be made available to the employee or beneficiary by the employer. The notice shall be signed by the person authorized to give notice, and shall contain the name and address of the employee and a statement of the time, place, nature and cause of the injury or death.

§ 702.210 Notice: how given.

Notice shall be given by delivering it to the deputy commissioner and the employer, or by sending it by mail.

§ 702.211 Effect of failure to give notice.

Failure to give timely notice shall not bar any claim for compensation if: (a) The employer or carrier had knowledge of the injury or death and the deputy commissioner determines that the employer or carrier was not prejudiced thereby; or (b) the deputy commissioner excuses such failure on the ground that for some satisfactory reason such notice could not be given. The employer or carrier may not raise as a defense to a claim the failure to file a timely notice unless such defense is raised at the first hearing held on the claim.

CLAIMS

§ 702.212 Claims for compensation: time limitations.

Claims for compensation for disability or death shall be in writing and shall be filed with the deputy commissioner in the compensation district in which the injury or death occurred. Such claims may be filed anytime after the first 7 days of disability following an injury, or at anytime after death. However, the right to such compensation shall be barred unless a claim therefor is filed within 1 year of such injury or death.

§ 702.213 Claims: time limitations; exceptions.

(a) Where the claim is founded on a causal relationship between the disease or death and the employment, the 1-year time limitation specified in § 702.212 shall

not begin to run until the employee or beneficiary is aware, or in the exercise of reasonable diligence should have been aware, of such relationship.

(b) Where payments of compensation have been made without an award on account of such injury or death, a claim shall be timely if filed within 1 year after the date of the last payment.

(c) Where a person entitled to compensation under the Act is mentally incompetent or a minor, the time limitation provision of § 702.212 shall not apply to a mentally incompetent person so long as such person has no guardian or other authorized representative, but § 702.212 shall be applicable from the date of appointment of such guardian or other representative. In the case of a minor who has no guardian before he becomes of age, time begins to run from the date he becomes of age.

(d) Where a person brings a suit at law or in admiralty to recover damages in respect of an injury or death, and recovery is denied plaintiff because he was an employee and defendant was an employer within the meaning of the Act, and such employer had secured compensation to such employee under the Act, the 1-year time limitation in § 702.212 shall not begin to run until the date of termination of such suit.

§ 702.214 Claims: time limitations; time to object.

Notwithstanding the requirements of § 702.212, failure to file a claim within the period prescribed in such section shall not be a bar to such right unless objection to such failure is made at the first hearing of such claim in which all parties in interest are given reasonable notice and opportunity to be heard.

§ 702.215 Claims: notification of employer of filing by employee.

Within 10 days after the filing of a claim for compensation for injury or death under the Act, the deputy commissioner shall give written notice thereof to the employer or carrier, served personally or by certified mail.

§ 702.216 Withdrawal of a claim.

(a) *Before adjudication of claim.* A claimant (or an individual who is authorized to execute a claim on his behalf) may withdraw his previously filed claim provided that:

(1) He files with the deputy commissioner with whom the claim was filed a written request stating the reasons for withdrawal;

(2) The claimant is alive at the time his request for withdrawal is filed;

(3) The deputy commissioner approves the request for withdrawal as being for a proper purpose and in the claimant's best interest; and

(4) The request for withdrawal is filed on or before the date the OWCP makes a determination on the claim.

(b) *After adjudication of claim.* A claim for benefits may be withdrawn by a written request filed after the date the OWCP makes a determination on the claim, provided that:

(1) The conditions enumerated in paragraph (a) (1) through (3) of this section are met; and

(2) There is repayment of the amount of benefits previously paid because of the claim that is being withdrawn or it can be established to the satisfaction of the Office that repayment of any such amount is assured.

(c) *Effect of withdrawal of claim.* Where a request for withdrawal of a claim is filed and such request for withdrawal is approved, such withdrawal shall be without prejudice to the filing of another claim, subject to the time limitation provisions of section 13 of the Act and of the regulations in this part.

NONCONTROVERTED CLAIMS

§ 702.231 Noncontroverted claims; payment of compensation without an award.

Unless the employer controverts his liability to pay compensation under the Act, he shall pay periodically, promptly, and directly to the person entitled thereto the benefits prescribed by the Act.

§ 702.232 Payments without an award; when; how paid.

The first installment of compensation shall become due on the 14th day after the employer has knowledge of the injury or death, on which date all compensation then due shall be paid. Compensation shall thereafter be paid in semimonthly installments, unless the deputy commissioner determines otherwise.

§ 702.233 Penalty for failure to pay without an award.

If any installment of compensation payable without an award is not paid within 14 days after it becomes due, there shall be added to such unpaid installment an amount equal to 10 per centum thereof which shall be paid at the same time as, but in addition to, such installment unless the employer files notice of controversion in accordance with § 702.261, or unless such nonpayment is excused by the deputy commissioner after a showing by the employer that owing to conditions over which he had no control such installment could not be paid within the period prescribed for the payment.

§ 702.234 Report by employer of commencement and suspension of payments.

Immediately upon making the first payment of compensation, and upon the suspension of payments once begun, the employer shall notify the deputy commissioner having jurisdiction over the place where the injury or death occurred of the commencement or suspension of payments, as the case may be.

§ 702.235 Report by employer of termination of payments.

Within 16 days after the final payment of compensation has been made, the employer shall notify the deputy commissioner in writing thereof, stating that such final payment has been made, the

total amount of compensation paid, the name and address of the person to whom payments were made, the date of the injury or death and the name of the injured or deceased employee, and the dates during which compensation was paid.

§ 702.236 Penalty for failure to report termination of payments.

Any employer failing to notify the deputy commissioner of termination of payments in accordance with § 702.235 shall be assessed a civil penalty in the amount of \$100.

AGREED SETTLEMENTS

§ 702.241 Agreed settlements; monetary benefits.

(a) Whenever the deputy commissioner determines that it is for the best interests of an injured employee entitled to compensation he may approve agreed settlements of the interested parties discharging the liability of the employer for such compensation notwithstanding the provisions of section 15(b) and section 16 of the Act, 33 U.S.C. 915(b) and 916. If the employee should die from causes other than the injury after the deputy commissioner has approved an agreed settlement, the sum so approved shall be payable in the manner herein prescribed, to and for the benefit of the persons enumerated in section 8(d) of the Act, 33 U.S.C. 908(d).

(b) Application for approval of an agreed settlement under section 8(i) of the Act, 33 U.S.C. 908(i), shall be made in writing to the deputy commissioner by the parties in interest. The application shall set forth fully all facts necessary to disclose the status of the case and the reason for seeking approval of an agreed settlement under said section of the Act as well as the specific terms of such agreed settlement, and shall be accompanied by a medical report of examination of the employee, if a recent report is not of record in the office of the deputy commissioner.

(c) If the deputy commissioner determines that the injured employee is entitled to compensation and that the proposed agreed settlement according to such application is for the best interests of such employee, he shall file a compensation order making necessary findings of fact relative to the character and quality of disability and the effect of same with respect to the employee's wage-earning capacity prior to approving such settlement and discharging the employer's liability for compensation payments. If such course is not practical the deputy commissioner shall determine the probable character and quality of disability according to the most recent evidence received. With such determination the deputy commissioner shall consider such other information as he may have upon the advisability of approving the agreed settlement and thereupon make his decision.

(d) This section is not intended to furnish generally a basis for the settlement of claims or as a mere convenience in disposing of cases.

§ 702.242 Agreed settlement; medical benefits.

(a) Whenever the Director or his designee determines that it is for the best interests of an injured employee entitled to medical benefits he may approve agreed settlements of the interested parties discharging the liability of the employer for such medical benefits, notwithstanding the provisions of section 16 of the Act, 33 U.S.C. 916. If the employee should die from causes other than the injury after an agreed settlement has been approved, the sum so approved shall be payable in the manner herein prescribed to, and for the benefit of, the persons enumerated in section 8(d) of the Act, 33 U.S.C. 908(d).

(b) Applications for approval of an agreed settlement with respect to medical benefits shall be made in writing and shall be submitted to the deputy commissioner by the parties in interest. The application shall set forth fully all facts necessary to disclose the status of the case and the reason for seeking approval of an agreed settlement, as well as the specific terms of the agreed settlement. Such application shall be accompanied by a report of a recent medical examination pertaining to the employee's condition and to his future need for medical attention relating to the injury. Applications, including all supporting papers, shall be submitted in duplicate.

(c) Upon receipt of such application, the deputy commissioner, after appropriate consultation with the interested parties, shall forward such application, together with his comments and recommendations, as to the character and quality of disability and such other information as may be pertinent to the appropriateness of approving the agreed settlement, to the Director, OWCP, for such action as the Director considers appropriate including the entry of a compensation order if it is deemed to be in the best interest of the injured employee.

CONTROVERTED CLAIMS

§ 702.251 Employer's controversion of the right to compensation.

Where the employer controverts the right to compensation after notice or knowledge of the injury or death, or after receipt of a written claim, he shall give notice thereof, stating the reasons for controverting the right to compensation, using the form prescribed by the Director. Such notice, or answer to the claim, shall be filed with the deputy commissioner within 14 days from the date the employer receives notice or has knowledge of the injury or death. The original notice shall be sent to the deputy commissioner having jurisdiction, and a copy thereof shall be given or mailed to the claimant.

§ 702.252 Action by deputy commissioner upon receipt of notice of controversion.

Upon receiving the employer's notice of controversion, the deputy commissioner shall forthwith commence proceedings for the adjudication of the

claim in accordance with the procedures set forth in Subpart C of this part.

CONTESTED CLAIMS

§ 702.261 Claimant's contest of actions taken by employer or carrier with respect to the claim.

Where the claimant contests an action by the employer or carrier reducing, suspending, or terminating benefits, including medical care, he should immediately notify the office of the deputy commissioner having jurisdiction, in person or in writing, and set forth the facts pertinent to his complaint.

§ 702.262 Action by deputy commissioner upon receipt of notice of contest.

Upon receipt of the claimant's notice of contest, the deputy commissioner shall forthwith commence proceedings for adjudication of the claim in accordance with the procedures set forth in Subpart C of this part.

Subpart C—Adjudication Procedures

GENERAL

§ 702.301 Scope of this subpart.

The regulations in this subpart govern the adjudication of claims in which the employer has filed a notice of controversy under § 702.251, or the employee has filed notice of contest under § 702.261. In the vast majority of cases, the problem giving rise to the controversy results from misunderstandings, clerical or mechanical errors, or mistakes of fact or law. Such problems seldom require resolution through formal hearings, with the attendant production of expert witnesses. Accordingly, by § 702.311 et seq., the deputy commissioners are empowered to amicably and promptly resolve such problems by informal procedures. Where there is a genuine dispute of fact or law which cannot be so disposed of informally, resort must be had to the formal hearing procedures as set forth beginning at § 702.331. Supplementary compensation orders, modifications, and interlocutory matters are governed by regulations beginning with § 702.371. Thereafter, appeals from compensation orders are discussed beginning with § 702.391 (the regulations of the Benefits Review Board are set forth in full in Part 802 of this title).

ACTION BY DEPUTY COMMISSIONERS

§ 702.311 Handling of claims matters by deputy commissioners; informal conferences.

The deputy commissioner is empowered to resolve disputes with respect to claims in a manner designed to protect the rights of the parties and also to resolve such disputes at the earliest practicable date. This will generally be accomplished by informal discussions by telephone or by conferences at the deputy commissioner's office. Some cases will be handled by written correspondence. The regulations governing informal conferences at the deputy commissioner's office with all parties present are set forth

below. When handling claims by telephone, or at the office with only one of the parties, the deputy commissioner and his staff shall make certain that a full written record be made of the matters discussed and that such record be placed in the administrative file. When claims are handled by correspondence, copies of all communications shall constitute the administrative file.

§ 702.312 Informal conferences; called by and held before whom.

Informal conferences shall be called by the deputy commissioner or his designee assigned or reassigned the case and held before that same person, unless such person is absent or unavailable. When so assigned, the designee shall perform the duties set forth below assigned to the deputy commissioner.

§ 702.313 Informal conferences; how called; when called.

Informal conferences may be called upon not less than 10 days' notice to the parties, unless the parties agree to meet at an earlier date. The notice may be given by telephone, but shall be confirmed by use of a written notice on a form prescribed by the Director. The notice shall indicate the date, time and place of the conference, and shall also specify the matters to be discussed. For good cause shown conferences may be rescheduled. A copy of such notice shall be placed in the administrative file.

§ 702.314 Informal conferences; how conducted; where held.

(a) No stenographic report shall be taken at informal conferences and no witnesses shall be called. The deputy commissioner shall guide the discussion toward the achievement of the purpose of such conference, recommending courses of action where there are disputed issues, and giving the parties the benefit of his experience and specialized knowledge in the field of workmen's compensation.

(b) Conferences generally shall be held at the deputy commissioner's office. However, such conferences may be held at any place which, in the opinion of the deputy commissioner, will be of greater convenience to the parties or to their representatives.

§ 702.315 Conclusion of conference; agreement on all matters with respect to the claim.

(a) Following an informal conference at which agreement is reached on all issues, the deputy commissioner shall embody the agreement in a formal compensation order, to be filed and mailed in accordance with § 702.349. Where the problem was of such nature that it was resolved by discussion by telephone or by exchange of written correspondence, the parties shall be notified by the same means that agreement was reached and then the deputy commissioner shall proceed to prepare, file and mail the formal compensation order. In either instance, when the employer or carrier has agreed to pay, reinstate or increase monetary

compensation benefits, or to restore or appropriately change medical care benefits, such action shall be commenced immediately upon becoming aware of the agreement, and without regard to the receipt of the formal compensation order.

(b) Where there are several conferences or discussions, the provisions of paragraph (a) of this section do not apply until the last conference. The deputy commissioner shall, however, prepare and place in his administrative file a short, succinct memorandum of each preceding conference or discussion.

§ 702.316 Conclusion of conference; no agreement on all matters with respect to the claim.

When it becomes apparent during the course of the informal conference that agreement on all issues cannot be reached, the deputy commissioner shall bring the conference to a close and afterward prepare a memorandum of conference setting forth only the issue or issues in dispute, such pertinent background as may be appropriate thereto, and his recommendations for resolution of the dispute. Copies of this memorandum shall then be sent by certified mail to each of the parties or their representatives, who shall then have 14 days in which to signify in writing to the deputy commissioner whether they agree or disagree with his recommendations. If they agree, the deputy commissioner shall proceed as in § 702.315(a). If they disagree (Caution: See § 702.134(b)), then the deputy commissioner may schedule such further conference or conferences as, in his opinion, may bring about agreement or, if he is satisfied that any further conference would be unproductive or if any party has requested a hearing, he shall prepare the case for transfer to the Office of the Chief Administrative Law Judge (see § 702.331 et seq.).

§ 702.317 Preparation and transfer of the case for hearing.

The case is prepared for transfer by the preparation by the deputy commissioner of a separate memorandum in which he shall set forth those facts pertinent to the claim that are not in dispute, those issues upon which the parties agree, and then those facts, if any, in dispute as well as the issue or issues of law in dispute. The deputy commissioner shall briefly restate the position of the parties with respect to the matters in dispute, but he shall not in this transmittal indicate or suggest his opinions or recommendations previously offered with respect thereto. This memorandum shall then be forwarded to the Office of the Chief Administrative Law Judge.

§ 702.318 The record; what constitutes; nontransferability of the administrative file.

For the purpose of any further proceedings under the Act, the formal record of proceedings shall consist of the hearing record made before the administrative law judge (see § 702.344). When transferring the case for hearing pursuant to § 702.317, the deputy commis-

sioner shall not transfer the administrative file under any circumstances.

§ 702.319 Obtaining documents from the administrative file for reintroduction at formal hearings.

Whenever any party considers any document in the administrative file essential to any further proceedings under the Act, it is the responsibility of such party to obtain such document from the deputy commissioner and reintroduce it for the record before the administrative law judge. The type of document that may be obtained shall be limited to documents previously submitted to the deputy commissioner, including documents or forms with respect to notices, claims, controversies, contests, progress reports, medical services or supplies, etc. The work products of the deputy commissioner or his staff shall not be subject to retrieval. The procedure for obtaining documents shall be for the requesting party to inform the deputy commissioner in writing of the documents he wishes to obtain, specifying them with particularity. Upon receipt, the deputy commissioner shall cause copies of the requested documents to be made and then: (1) Place the copies in the file together with the letter of request, and (2) promptly forward the originals to the requesting party. The handling of multiple requests for the same document shall be within the discretion of the deputy commissioner and with the cooperation of the requesting parties.

FORMAL HEARINGS

§ 702.331 Formal hearings; procedure initiating.

Formal hearings are initiated by transmitting to the Office of the Chief Administrative Law Judge the memorandum from the deputy commissioner as provided for in § 702.317.

§ 702.332 Formal hearings; how conducted.

Formal hearings shall be conducted by the administrative law judge assigned the case by the Office of the Chief Administrative Law Judge in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. 554 et seq. All hearings shall be transcribed.

§ 702.333 Formal hearings; parties.

(a) The necessary parties for a formal hearing are the claimant and the employer or insurance carrier, and the administrative law judge assigned the case.

(b) The Solicitor of Labor or his designee may appear and participate in any formal hearing held pursuant to these regulations on behalf of the Director as an interested party.

§ 702.334 Formal hearings; representatives of parties.

The claimant and the employer or carrier may be represented by persons of their choice.

§ 702.335 Formal hearings; notice.

The Office of the Chief Administrative Law Judge shall notify, on a form pre-

scribed for this purpose, the parties (see § 702.333) of the scheduling of a formal hearing not less than 10 days in advance thereof. The notice shall specify the time and place at which the hearing is to be conducted. Attached thereto shall be a copy of the deputy commissioner's memorandum listing the issues to be resolved.

§ 702.336 Formal hearings; new issues.

(a) If, during the course of the formal hearing, the evidence presented warrants consideration of an issue not previously considered, the hearing shall be expanded to include such new issue. The parties shall, however, be given a reasonable time in which to prepare for such new issue.

(b) At any time prior to the filing of the compensation order in the case, the administrative law judge may in his discretion, upon the application of a party or upon his own motion, give notice that he will consider any new issue. The parties shall be given not less than 10 days' notice of the hearing on such new issue. The parties may stipulate that the issue may be heard at an earlier time and shall proceed to a hearing on the new issue in the same manner as on an issue initially considered.

§ 702.337 Formal hearings; change of time or place for hearings; postponements.

The Chief Administrative Law Judge or the administrative law judge assigned the case may change the time and place for the hearings, or postpone or temporarily adjourn a hearing, on his own motion or for good cause shown by a party. The parties shall be given not less than 10 days' notice of the new time and place of the hearing, unless the parties agree to such change without such notice. The Chief Administrative Law Judge may also reassign a case to another administrative law judge by reason of changes of time and place for the hearing, or by reason of postponements, or for other good cause.

§ 702.338 Formal hearings; general procedures.

All hearings shall be attended by the parties or their representatives and such other persons as the administrative law judge deems necessary and proper. The administrative law judge shall inquire fully into the matters at issue and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to such matters. If the administrative law judge believes that there is relevant and material evidence available which has not been presented at the hearing, he may adjourn the hearing or, at any time, prior to the filing of the compensation order, reopen the hearing for the receipt of such evidence. The order in which evidence and allegations shall be presented and the procedures at the hearing generally, except as these regulations otherwise expressly provide, shall be in the discretion of the administrative law judge and of such nature as to afford the parties a reasonable opportunity for a fair hearing.

§ 702.339 Formal hearings; evidence.

In making an investigation or inquiry, or conducting a hearing, the administrative law judge shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by 5 U.S.C. 554 and these regulations; but may make such investigation or inquiry or conduct such hearing in such a manner as to best ascertain the rights of the parties.

§ 702.340 Formal hearings; witnesses.

(a) Witnesses at the hearing shall testify under oath or affirmation. The administrative law judge may examine the witnesses and shall allow the parties or their representatives to do so.

(b) No person shall be required to attend as a witness in any proceeding before an administrative law judge at a place more than 100 miles from his place of residence, unless his lawful mileage and fees for one day's attendance shall be paid or tendered to him in advance of the hearing date.

§ 702.341 Formal hearings; depositions; interrogatories.

The testimony of any witness may be taken by deposition or interrogatory according to the rules of practice of the Federal District Court for the judicial district in which the case is pending.

§ 702.342 Formal hearings; witness fees.

Witnesses summoned in a formal hearing before an administrative law judge or whose depositions are taken shall receive the same fees and mileage as witnesses in courts of the United States (33 U.S.C. 925).

§ 702.343 Formal hearings; oral argument and written allegations.

The parties, upon their request, shall be allowed a reasonable time for the presentation of oral argument or for the filing of briefs or other written statements of allegations as to facts or law. Copies of any brief or other written statement shall be filed with the administrative law judge and served on all parties in interest by the party submitting the statement.

§ 702.344 Formal hearings; record of hearing.

All formal hearings shall be open to the public and shall be stenographically reported. All evidence upon which the administrative law judge relies for his final decision shall be contained in the transcript of testimony either directly or by appropriate reference. All medical reports, exhibits, and any other pertinent document or record, in whole or in material part, shall be incorporated into the record either by reference or as an appendix.

§ 702.345 Formal hearings; consolidated issues; consolidated cases.

(a) When one or more additional issues are raised by the administrative law judge pursuant to § 702.336, such issues may, in the discretion of the administrative law judge, be consolidated for hear-

ing and decision with other issues pending before him.

(b) When two or more cases are transferred for formal hearings and have common questions of law or which arose out of a common accident, the Chief Administrative Law Judge may consolidate such cases for hearing.

§ 702.346 Formal hearings; waiver of right to appear.

If all parties waive their right to appear before the administrative law judge or to present evidence or argument personally or by representative, it shall not be necessary for the administrative law judge to give notice of and conduct an oral hearing. A waiver of the right to appear and present evidence and allegations as to facts and law shall be made in writing and filed with the Chief Administrative Law Judge or the administrative law judge. Where such a waiver has been filed by all parties, and they do not appear before the administrative law judge personally or by representative, the administrative law judge shall make a record of the relevant written evidence submitted by the parties, together with any pleadings they may submit with respect to the issues in the case. Such documents shall be considered as all of the evidence in the case and the decision shall be based on them.

§ 702.347 Formal hearings; termination.

Formal hearings are officially terminated when all the evidence has been received, witnesses heard, pleadings and briefs submitted to the administrative law judge, and the transcript of the proceedings has been printed and delivered to the administrative law judge.

§ 702.348 Formal hearings; preparation of final decision and order; content.

Within 20 days after the official termination of the hearing as defined by § 702.347, the administrative law judge shall have prepared a final decision and order, in the form of a compensation order, with respect to the claim, making an award to the claimant or rejecting the claim. The compensation order shall contain appropriate findings of facts and conclusions of law with respect thereto, and shall be concluded with one or more paragraphs containing the order of the administrative law judge, his signature, and the date of issuance.

§ 702.349 Formal hearings; filing and mailing of compensation orders; disposition of transcripts.

The administrative law judge shall, within 20 days after the official termination of the hearing, deliver by mail, or otherwise, to the office of the deputy commissioner having original jurisdiction, the transcript of the hearing, other documents or pleadings filed with him with respect to the claim, together with his signed compensation order. Upon receipt thereof, the deputy commissioner, being the official custodian of all records with respect to such claims within his jurisdiction, shall formally date and file the

transcript, pleadings, and compensation order (original) in his office. Such filing shall be accomplished by the close of business on the next succeeding working day, and the deputy commissioner shall, on the same day as the filing was accomplished, send by certified mail a copy of the compensation order to the parties and to representatives of the parties, if any. Appended to each such copy shall be a paragraph entitled "proof of service" containing the certification of the deputy commissioner that the copies were mailed on the date stated, to each of the parties and their representatives, as shown in such paragraph.

§ 702.350 Finality of compensation order.

Compensation orders shall become effective when filed in the office of the deputy commissioner, and unless proceedings for suspension or setting aside of such orders are instituted within 30 days of such filing, shall become final at the expiration of the 30th day after such filing, as provided in section 21 of the Act 33 U.S.C. 921. If any compensation payable under the terms of such order is not paid within 10 days after it becomes due, section 14(f) of the Act requires that there be added to such unpaid compensation an amount equal to 20 percent thereof which shall be paid at the same time as, but in addition to, such compensation unless review of the compensation order is had as provided in such section 21 and an order staying payment has been issued by the Benefits Review Board or the reviewing court.

§ 702.351 Withdrawal of controversion of issues set for formal hearing; effect.

Whenever a party withdraws his controversion of the issues set for a formal hearing, the administrative law judge shall halt the proceedings upon receipt from said party of a signed statement to that effect and forthwith notify the deputy commissioner who shall then proceed to dispose of the case as provided for in § 702.315.

INTERLOCUTORY MATTERS, SUPPLEMENTARY ORDERS, AND MODIFICATIONS

§ 702.371 Interlocutory matters.

Compensation orders shall not be made or filed with respect to interlocutory matters of a procedural nature arising during the pendency of a compensation case.

§ 702.372 Supplementary compensation orders.

(a) In any case in which the employer or insurance carrier is in default in the payment of compensation due under any award of compensation, for a period of 30 days after the compensation is due and payable, the person to whom such compensation is payable may, within 1 year after such default, apply in writing to the deputy commissioner for a supplementary compensation order declaring the amount of the default. Upon receipt of such application, the deputy commissioner shall institute proceedings

with respect to such application as if such application were an original claim for compensation, and the matter shall be disposed of as provided for in § 702.315, or if agreement on the issue is not reached, then as in § 702.316 et seq.

(b) If, after disposition of the application as provided for in paragraph (a) of this section, a supplementary compensation order is entered declaring the amount of the default, which amount may be the whole of the award notwithstanding that only one or more installments is in default, a copy of such supplementary order shall be forthwith sent by certified mail to each of the parties and their representatives. Thereafter, the applicant may obtain and file with the clerk of the Federal district court for the judicial district where the injury occurred or the district in which the employed has his principal place of business or maintains an office, a certified copy of said order and may seek enforcement thereof as provided for by section 18 of the Act, 33 U.S.C. 918.

§ 702.373 Modification of awards.

(a) Upon his own initiative, or upon application of any party in interest, the deputy commissioner may review any compensation case in accordance with the procedure in Subpart C of this part, and after such review of the case under § 702.315, or review at formal hearings under the regulations governing formal hearings in Subpart C of this part, file a new compensation order terminating, continuing, reinstating, increasing or decreasing such compensation, or awarding compensation. Such new order shall not affect any compensation previously paid, except that an award increasing the compensation rate may be made retroactive from the date of injury, and if any part of the compensation due or to become due is unpaid, an award decreasing the compensation rate may be made effective from the date of the injury, and any payment made prior thereto in excess of such decreased rate shall be deducted from any unpaid compensation, in such manner and by such method as may be determined by the deputy commissioner or the administrative law judge.

(b) Review of a compensation case under this section may be made at any time prior to 1 year after the date of the last payment of compensation, whether or not a compensation order has been issued, or at any time prior to 1 year after the rejection of a claim.

(c) Review of a compensation case may be had only for the reason that there is a change in conditions or that there was a mistake in the determination of facts.

APPEALS

§ 702.391 Appeals; where.

Appeals may be taken to the Benefits Review Board, U.S. Department of Labor, Washington, D.C. 20210, by filing a notice of appeals with the office of the deputy commissioner for the compensation district in which the decision or order ap-

pealed from was filed and by submitting to the Board a petition for review of such decision or order, in accordance with the provisions of Part 802 of this Title 20.

§ 702.392 Appeals; what may be appealed.

An appeal raising a substantial question of law or fact may be taken from a decision with respect to a claim under the Act. Such appeals may be taken from compensation orders when they have been filed as provided for in § 702.349.

§ 702.393 Appeals; time limitations.

The notice of appeal (see § 702.391) shall be filed with the deputy commissioner within 30 days of the filing of the decision or order complained of, as defined and described in § 802.205 and § 802.206 of this title. A petition for review of the decision or order is required to be filed within 30 days after receipt of the Board's acknowledgment of the notice of appeal, as provided in 20 CFR 802.210.

§ 702.394 Appeals; procedure.

The procedure for appeals to the Benefits Review Board shall be as provided by the Board in its Rules of Practice and Procedure, set forth in Part 802 of this title.

Subpart D—Medical Care and Supervision

§ 702.401 Medical care defined.

Medical care shall include medical, surgical, and other attendance or treatment, nursing and hospital services, laboratory, X-ray and other technical services, medicines, crutches, or other apparatus and prosthetic devices, and any other medical service or supply, including the reasonable and necessary cost of travel incident thereto, which is recognized as appropriate by the medical profession for the care and treatment of the injury or disease.

§ 702.402 Employer's duty to furnish; duration.

It is the duty of the employer to furnish appropriate medical care for the employee's injury, and for such period as the nature of the injury or the process of recovery may require.

§ 702.403 Employee's right to choose physician; limitation.

The employee shall have the right to choose his attending physician from among those authorized by the Director, OWCP, to furnish such care and treatment. However, unless authorized by the deputy commissioner having jurisdiction, the employee's choice shall be limited to those physicians having offices within 25 miles of the employee's home or principal place of work. This exception shall not apply when the employee is hospitalized and the physician is on the staff of, or has privileges at, such hospital.

§ 702.404 Physician defined.

The term physician shall mean all duly qualified physicians, to include surgeons and osteopaths within the scope

of their practice as defined by State law. Chiropractors, naturopaths, podiatrists (chiropractists), psychologists, optometrists, faith healers, and other practitioners of the healing arts are not recognized as physicians as that term is used in this part.

§ 702.405 Selection of physician; emergencies.

Whenever the nature of the injury is such that immediate medical care is required and the injured employee is unable to select a physician, the employer shall select a physician. Thereafter the employee may change physicians when he is able to make a selection. Such changes shall be made upon obtaining written authorization from the employer or, if consent is withheld, from the deputy commissioner.

§ 702.406 Change of physicians; non-emergencies.

Whenever the employee has made his initial, free choice of an attending physician, he may not thereafter change physicians without the prior written consent of the employer (or carrier) or the deputy commissioner. Such consent shall be given in cases where an employee's initial choice was not of a specialist whose services are necessary for, and appropriate to, the proper care and treatment of the compensable injury or disease. In all other cases, consent may be given upon a showing of good cause for change.

§ 702.407 Supervision of medical care.

The Director, OWCP, through the deputy commissioners and their designees, shall actively supervise the medical care of an injured employee covered by the Act. Such supervision shall include:

(a) The requirement that periodic reports on the medical care being rendered be filed in the office of the deputy commissioner, the frequency thereof being determined by order of the deputy commissioner or sound judgment of the attending physician as the nature of the injury may dictate;

(b) The determination of the necessity, character and sufficiency of any medical care furnished or to be furnished the employee;

(c) The determination of whether a change of physicians, hospitals or other persons or locales providing treatment should be made or is necessary;

(d) The further evaluation of medical questions arising in any case under the Act, with respect to the nature and extent of the covered injury, and the medical care required therefor.

§ 702.408 Evaluation of medical questions; impartial specialists.

In any case in which medical questions arise with respect to the appropriate diagnosis, extent, effect of, appropriate treatment, and the duration of any such care or treatment, for an injury covered by the Act, the Director, OWCP, through the deputy commissioners having jurisdiction, shall have the power to evalu-

ate such questions by appointing one or more especially qualified physicians to examine the employee, or in the case of death to make such inquiry as may be appropriate to the facts and circumstances of the case. The physician or physicians, including appropriate consultants, should report their findings with respect to the questions raised as expeditiously as possible. Upon receipt of such report, action appropriate therewith shall be taken.

§ 702.409 Evaluation of medical questions; results disputed.

Any party who is dissatisfied with such report may request a review or reexamination of the employee by one or more different physicians employed by or selected by the Director, and such review or reexamination shall be granted unless it is found that it is clearly unwarranted. Such review shall be completed within 2 weeks from the date ordered unless it is impossible to complete the review and render a report thereon within such time period. Upon receipt of the report of this additional review and reexamination, such action as may be appropriate shall forthwith be taken.

§ 702.410 Duties of employees with respect to special examinations.

For any special examination required of an employee by §§ 702.408 and 702.409, the employee shall submit to such examination at such place as is designated in the order to report, but the place so selected shall be reasonably convenient for the employee. Failure to submit to such lawfully ordered examinations shall result in the suspension of proceedings, and no compensation otherwise payable shall be paid for any period during which the employee may refuse to submit to such examination.

§ 702.411 Special examinations; nature of impartiality of specialists.

(a) The special examinations required by § 702.408 shall be accomplished in a manner designed to preclude prejudgment by the impartial examiner. No physician previously connected with the case shall be present, nor may any other physician selected by the employer, carrier, or employee be present. The impartial examiner shall not have been made aware, by any party or by the OWCP, of the opinions, reports, or conclusions of any prior examining physician with respect to the nature and extent of the impairment, its cause, or its effect upon the wage-earning capacity of the injured employee, unless the deputy commissioner determines that, for good cause, such opinions, reports, or conclusions should be made available. In the event the latter exception is invoked, the name of the examining physician, and any material in the text which could identify the examining physician offering such opinion, report, or conclusion, shall first be removed.

(b) The impartiality of the specialists shall not be considered to have been compromised if the deputy commissioner deems it advisable to, and does, apprise the specialist by memorandum of those

undisputed facts pertaining to the nature of the employee's employment, of the nature of the injury, of the post-injury employment activity, if any, and of any other facts which are not disputed and are deemed pertinent to the type of injury and/or the type of examination being conducted.

(c) No physician selected to perform impartial examinations shall be, or shall have been for a period of 2 years prior to the examination, an employee of an insurance carrier or self-insured employer, or who has accepted or participated in any fee from an insurance carrier or self-insured employer, unless the parties in interest agree thereto.

§ 702.412 Special examinations; costs chargeable to employer or carrier.

The Director or his designee ordering the special examination shall have the power, in the exercise of his discretion, to charge the cost of the examination or review to the employer, to the insurance carrier, or to the special fund established by section 44 of the Act, 33 U.S.C. 944.

§ 702.413 Fees for medical services; prevailing community charges.

All fees charged by physicians for the care of persons covered by this Act, or any other charges for medical treatment or supplies within the purview of this Act, shall be limited to such charges for similar treatment, services or supplies as prevail in the community in which the physician, medical facility or supplier is located.

§ 702.414 Fees for medical services; unresolved disputes on prevailing charges.

The Director or his designee may, or upon the written complaint of an employer or carrier shall, investigate any fee for medical treatment, services or supplies that appears to be not in line with prevailing community charges for similar treatment, services or supplies. If, upon appropriate investigation, the Director or his designee determines that the fee or cost of service or supplies does not conform to prevailing community charges, the person claiming the fee or cost charge shall be informed of the discrepancy and given the opportunity to adjust the fee or cost charge within permissible limits.

§ 702.415 Fees for medical services; unresolved disputes on charges; procedure.

If, after investigation and ascertainment under § 702.414 that a fee or charge is not in accordance with prevailing community charges and the person claiming the fee or cost charge refuses to make the necessary adjustment, the matter shall then be referred by the Director to the Office of the Chief Administrative Law Judge for formal hearing in accordance with the procedures in Subpart C of this part.

§ 702.416 Fees for medical services; disputes; hearings; necessary parties.

At formal hearings held pursuant to § 702.415, the necessary parties shall be

the person whose fee or cost charge is in question and the Director, or their representatives. The employer or carrier may also be represented, and other parties, or associations having an interest in the proceedings, may be heard, in the discretion of the administrative law judge.

§ 702.417 Fees for medical services; disputes; effect of adverse decision.

If the final decision and order upholds the finding of the Director that the fee or charge in dispute was not in accordance with prevailing community charges, the person claiming such fee or cost charge shall be given 30 days after filing of such decision and order to make the necessary adjustment. If such person still refuses to make the required readjustment, such person shall not be authorized to conduct any further treatments or examinations (if a physician) or to provide any other services or supplies (if by other than a physician). Any fee or cost charge subsequently incurred for services performed or supplies furnished shall not be a reimbursable medical expense under this subpart. This prohibition shall apply notwithstanding the fact that the services performed or supplies furnished were in all other respects necessary and appropriate within the provision of these regulations. Further, this prohibition shall extend to all other cases arising under this Act and shall not be limited to the case which gave rise to the adverse decision. Such debarred person shall remain debarred until such time as there is demonstrated to the satisfaction of the Director that fees will be charged in accordance with the prevailing community standards.

MEDICAL PROCEDURES

§ 702.418 Procedure for requesting medical care; employee's duty to notify employer.

As soon as practicable, but within 30 days after occurrence of an injury covered by the Act, or within 30 days after an employee becomes aware, or in the exercise of reasonable diligence should be aware, of the relationship between an injury or disease and his employment, the injured employee or someone on his behalf shall give written notice thereof to the deputy commissioner having jurisdiction over the place where the injury occurred and to the employer. If a form has been prescribed for such purpose it shall be used, if available and practicable under the circumstances. Notices filed under Subpart B of this part, if on the form prescribed by the Director for such purpose, satisfy the written notice requirements of this subpart.

§ 702.419 Action by employer upon acquiring knowledge or being given notice of injury.

Whenever an employer acquires knowledge of an employee's injury, through receipt of a written notice or otherwise, said employer shall forthwith authorize, in writing, appropriate medical care. If a form is prescribed for this purpose it shall be used whenever practicable.

§ 702.420 Issuance of authorization; binding effect upon insurance carrier.

The issuance of an authorization for treatment by the employer shall bind his insurance carrier to furnish and pay for such care and services.

§ 702.421 Effect of failure to obtain initial authorization.

An employee shall not be entitled to recover for medical services and supplies unless he shall have first requested authorization from his employer therefor. This prohibition shall not apply in emergency situations, nor shall it apply in cases where the employer (including the superintendent, foreman, or other person having charge of the work and having knowledge of the injury) refuses or neglects to authorize such care when requested by the employee.

§ 702.422 Effect of failure to report on medical care after initial authorization.

(a) Notwithstanding that medical care is properly obtained in accordance with these regulations, the employer and his insurance carrier shall not be liable for the expense thereof unless the physician rendering such initial care or services furnishes a report thereon to the employer and to the deputy commissioner having jurisdiction. The report required by this section shall be furnished within 10 days following the date of first treatment. The report shall be upon a form prescribed by the Director for such purpose.

(b) For good cause shown, the deputy commissioner or administrative law judge may excuse the failure to file the report within 10 days, and further, may make an award for the reasonable value of such medical care.

Subpart E—Vocational Rehabilitation

§ 702.501 Vocational rehabilitation; objective.

The objective of vocational rehabilitation is the return of permanently disabled persons to gainful employment commensurate with their physical or mental impairments, or both, through a program of reevaluation or redirection of their abilities, or retraining in another occupation, or selective job placement assistance.

§ 702.502 Vocational rehabilitation; action by deputy commissioners.

All injury cases which are likely to result in, or have resulted in, permanent disability, and which are of a character likely to require review by a vocational rehabilitation adviser on the staff of the Director, shall promptly be referred to such adviser by the deputy commissioner or his designee having charge of the case. A form has been prescribed for such purpose and shall be used. Medical data and other pertinent information shall accompany the referral.

§ 702.503 Vocational rehabilitation; action by adviser.

The vocational rehabilitation adviser, upon receipt of the referral, shall promptly consider the feasibility of a

vocational referral or request for cooperative services from available resources or facilities, to include counseling, vocational survey, selective job placement assistance, and retraining. Public or private agencies may be utilized in arranging necessary vocational rehabilitation services under the Federal Vocational Rehabilitation Act, 29 U.S.C. 31 et seq.

§ 702.504 Vocational rehabilitation; referrals to State Employment Agencies.

Vocational rehabilitation advisers will arrange referral procedures with State Employment Service units within their assigned geographical districts for the purpose of securing employment counseling, job classification, and selective placement assistance. Referrals shall be made to State Employment Offices based upon the following:

(a) Vocational rehabilitation advisers will screen cases so as to refer only those disabled employees who are considered to have employment potential;

(b) Only employees will be referred who have permanent, compensable disabilities resulting in a significant vocational handicap and loss of wage earning capacity;

(c) Disabled employees, whose initial referral to former private employers did not result in a job reassignment or in a job retention, shall be referred for employment counseling and/or selective placement unless retraining services consideration is requested;

(d) The vocational rehabilitation advisers shall arrange for employees' referrals if it is ascertained that they may benefit from registering with the State Employment Service;

(e) Referrals will be made to appropriate State Employment Offices by letter, including all necessary information and a request for a report on the services provided the employee when he registers;

(f) The injured employee shall be advised of available job counseling services and informed that he is being referred for employment and selective placement;

(g) A followup shall be made within 60 days on all referrals to assure uniform reporting by State agencies on cases referred for a vocational survey.

§ 702.505 Vocational rehabilitation; referrals to other public and private agencies.

Referrals to such other public and private agencies providing assistance to disabled persons such as public welfare agencies, Public Health Services facilities, social services units of the Veterans Administration, the Social Security Administration, and other such agencies, shall be made by the vocational rehabilitation adviser, where appropriate, on an individual basis when requested by disabled employees. Such referrals do not provide for a service cost reimbursement by the Department of Labor.

§ 702.506 Vocational rehabilitation; training.

Vocational rehabilitation training shall be planned in anticipation of a short,

realistic, attainable vocational objective terminating in remunerable employment, and in restoring wage-earning capacity or increasing it materially. The following procedures shall apply in arranging for or providing training:

(a) The vocational rehabilitation adviser shall arrange for and develop all vocational training programs;

(b) Training programs shall be developed to meet the varying needs of eligible beneficiaries, and may include courses at colleges, technical schools, training at rehabilitation centers, on-the-job training, or tutorial courses. The course shall be pertinent to the occupation for which the employee is being trained.

(c) Training may be terminated if the injured employee fails to cooperate with the Department of Labor or with the agency supervising his course of training. The employee shall be counseled before training is terminated.

(d) Reports shall be required at periodic intervals on all persons in approved training programs.

§ 702.507 Vocational rehabilitation; maintenance allowance.

(a) An injured employee who, as a result of injury, is or may be expected to be totally or partially incapacitated for a remunerative occupation and who, under the direction of the Director is being rendered fit to engage in a remunerative occupation, shall be paid additional compensation necessary for this maintenance, not exceeding \$25 a week. The expense shall be paid out of the special fund established in section 44 of the Act, 33 U.S.C. 944. The maximum maintenance allowance shall not be provided on an automatic basis, but shall be based on the recommendation of a State agency that a claimant is unable to meet additional costs by reason of being in training.

(b) When required by reason of personal illness or hardship, limited periods of absence from training may be allowed without terminating the maintenance allowance. A maintenance allowance shall be terminated when it is shown to the satisfaction of the Director that a trainee is not complying reasonably with the terms of the training plan or is absents himself without good cause from training so as to materially interfere with the accomplishment of the training objective.

§ 702.508 Vocational rehabilitation; confidentiality of information.

The following safeguards will be observed to protect the confidential character of information released regarding an individual undergoing rehabilitation:

(a) Information will be released to other agencies from which an injured employee has requested services only if such agencies have established regulations assuring that such information will be considered confidential and will be used only for the purpose for which it is provided;

(b) Interested persons and agencies have been advised that any information concerning rehabilitation program employees is to be held confidential;

(c) A rehabilitation employee's written consent is secured for release of information regarding disability to a person, agency, or establishment seeking the information for purposes other than the approved rehabilitation planning with such employee.

PART 703—INSURANCE REGULATIONS

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703.312 Revocation of privilege of self-insurance.

ISSUANCE OF CERTIFICATES OF COMPLIANCE

703.501 Issuance of certificates of compliance.

703.502 Same; employer operating temporarily in another compensation district.

703.503 Return of certificates of compliance.

AUTHORITY: 5 U.S.C. 301; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; 33 U.S.C. 932, 937, 939; 42 U.S.C. 1651 et seq.; 36 D.C. Code 501 et seq.; 43 U.S.C. 1331; 5 U.S.C. 8171 et seq.; Secretary of Labor's Order No. 13-71, 36 FR 8755.

§ 703.001 Scope of part.

This Part 703 contains the regulations of the OWCP governing the authorization of insurance carriers, the authorization of self-insurers, and the issuance of certificates of compliance. Such provisions are required by the LHWCA, but in almost every instance apply, and hereby are applied, to the extensions of the LHWCA. In those few instances where a separate provision is required, tailored to meet the specific requirements of one of the extended acts, such separate provisions are placed in the succeeding parts of this subchapter.

§ 703.002 Forms.

Any information required by the regulations in this part to be submitted to the OWCP shall be submitted on such forms as the Director may deem appropriate and may authorize from time to time for such purpose.

AUTHORIZATION OF INSURANCE CARRIERS

§ 703.101 Types of companies which may be authorized by the OWCP.

The OWCP will consider for the granting of authority to write insurance under the Longshoremen's and Harbor Workers' Compensation Act and its extensions the application of any stock company, mutual company or association, or any other person or fund, while authorized under the laws of the United States or of any State to insure workmen's compensation. The term "carrier" as used in this part means any person or fund duly authorized to insure workmen's compensation benefits under said Act, or its extensions.

§ 703.102 Applications for authority to write insurance; how filed; evidence to be submitted; other requirements.

An application for authority to write insurance under this Act shall be made in writing, signed by an officer of the applicant duly authorized to make such application, and transmitted to the Office of Workmen's Compensation Programs, U.S. Department of Labor, Washington, D.C. 20211. Such application shall be accompanied by full and complete information regarding the history and experience of such applicant in the writing of workmen's compensation insurance, together with evidence that it has authority in its charter or form of organization to write such insurance, and evidence that the applicant is currently authorized to

insure workmen's compensation liability under the laws of the United States or of any State. The statements of fact in each application and in the supporting evidence shall be verified by the oath of the officer of the applicant who signs such application. Each applicant shall state in its application the area or areas in which it intends to do business. In connection with any such application the following shall be submitted, the Office reserving the right to call for such additional information as it may deem necessary in any particular case:

(a) A copy of the last annual report made by the applicant to the insurance department or other authority of the State in which it is incorporated, or the State in which its principal business is done.

(b) A certified copy from the proper State authorities of the paper purporting to show the action taken upon such report, or such other evidence as the applicant desires to submit in respect of such report, which may obviate delay caused by an inquiry of the OWCP of the State authorities relative to the standing and responsibility of the applicant.

(c) A full and complete statement of its financial condition, if not otherwise shown, and, if a stock company, shall show specifically its capital stock and surplus.

(d) A copy of its charter or other formal outline of its organization, its rules, its bylaws, and other documents, writings, or agreements by and under which it does business, and such other evidence as it may deem proper to make a full exposition of its affairs and financial condition.

§ 703.103 Stock companies holding Treasury certificates of authority.

A stock company furnishing evidence that it is authorized to write workmen's compensation insurance under the laws of the United States or of any State, which holds a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds, unless requested to do so, need not transmit to the Office with its application copies of such financial reports as are on file in the Department of the Treasury. The acceptance by that Department of such a company will be considered by the Office in conjunction with the application of such company, provided there has been compliance with the other requirements of the regulations in this part.

§ 703.104 Applicants currently authorized to write insurance under the extensions of the LHWCA.

Any applicant currently authorized by the Office to write insurance under any extension of the LHWCA need not support its application under the LHWCA or any other LHWCA extension with the evidence required by the regulations in this part, except the form of policy and endorsement which it proposes to use, unless specifically requested by the Office, but instead its application may refer to the fact that it has been so authorized.

§ 703.105 Copies of forms of policies to be submitted with application.

With each application for authority to write insurance there shall be submitted for the approval of the Office copies of the forms of policies which the applicant proposes to issue in writing insurance under the LHWCA, or its extensions, to which shall be attached the appropriate endorsement to be used in connection therewith.

§ 703.106 Certificate of authority to write insurance.

No corporation, company, association, person, or fund shall write insurance under this Act without first having received from the OWCP a certificate of authority to write such insurance. Any such certificate issued by the Office, after application therefor in accordance with these regulations, may authorize the applicant to write such insurance in a limited territory as determined by the Office. Any such certificate may be suspended or revoked by the Office prior to its expiration for good cause shown, but no suspension or revocation shall affect the liability of any carrier already incurred. Good cause shall include, without limitation, the failure to maintain in such limited territory a regular business office with full authority to act on all matters falling within the Act, and the failure to promptly and properly perform the carrier's responsibilities under the Act and these regulations, with special emphasis upon lack of promptness in making payments when due, upon failure to furnish appropriate medical care, and upon attempts to offer to, or urge upon, claimants inequitable settlements. A hearing may be requested by the aggrieved party and shall be held before the Director or his representative prior to the taking of any adverse action under this section.

§ 703.107 Period of certificate of authority.

No certificate of authority to write insurance under said Act and the regulations in this part shall be issued by the Office for a period in excess of 18 months. The expiration date which shall be stated in the certificate of authority, shall fall on the 30th day of June.

§ 703.108 Applications for reauthorization.

Any carrier holding an unexpired certificate of authority and desiring reauthorization to write insurance for the period of a year from the expiration of such certificate shall apply to the OWCP by letter over the signature of an authorized officer for such a certificate of authority. No evidence of the financial condition of such carrier need be furnished unless requested by the Office after the application is received. The Office may require such carrier to submit, for Office consideration in connection with such reauthorization, evidence or explanation relating to the experience and practice of such carrier in the conduct of its affairs with respect to the said Act, or with reference to the fidelity and punctuality

of the performance by such carrier of its past or current obligations under the law. Such application, to avoid a break in the period of authorization of the carrier to write such insurance, should be filed with the Office not later than June 1 of each year.

§ 703.109 Longshoremen's endorsement; see succeeding parts for endorsements for extensions.

(a) The following form of endorsement applicable to the standard workmen's compensation and employer's liability policy, shall be used, if required by the OWCP, with the form of policy approved by the Office for use by an authorized carrier:

For attachment to Policy No.
The obligations of the policy include the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. 901 et seq., and all laws amendatory thereof or supplementary thereto which may be or become effective while this policy is in force.

The company will be subject to the provisions of 33 U.S.C. 935. Insolvency or bankruptcy of the employer and/or discharge therein shall not relieve the company from payment of compensation and other benefits lawfully due for disability or death sustained by an employee during the life of the policy.

The company agrees to abide by all the provisions of this Act, and all lawful rules, regulations, orders, and decisions of the Office of Workmen's Compensation Programs, U.S. Department of Labor, unless and until set aside, modified, or reversed by appropriate appellate authority as provided for by said Act.

This endorsement shall not be cancelled prior to the date specified in this policy for its expiration until at least 30 days have elapsed after a notice of cancellation has been sent to the Deputy Commissioner and to this employer.

All terms, conditions, requirements, and obligations, expressed in this policy or in any other endorsement attached thereto which are not inconsistent with or inapplicable to the provisions of this endorsement are hereby made a part of this endorsement as fully and completely as if wholly written herein.

§ 703.110 Other forms of endorsement and policies.

Where the form of endorsement prescribed by § 703.109 is not appropriate when used in conjunction with a form of policy approved for use by the Office no modification thereof shall be used unless specifically approved by the Office. Where the form of policy is designed to include therein the obligations of the insurer under said Act without the use of the appropriate endorsements, the policy shall contain the provisions required to be included in any of the endorsements. Such a policy, however, shall not be used until expressly approved by the Office.

§ 703.111 Submission of new forms of policies for approval; other endorsements.

No new forms of policies or modification of existing forms of policies shall be used by an insurer authorized by the Office under the regulations in this part to write insurance under said Act except after submission to and approval by the

Office. No endorsement altering any provisions of a policy approved by the Office shall be used except after submission to and approval by the Office.

§ 703.112 Terms of policies.

A policy or contract of insurance shall be issued for the term of not less than 1 year from the date that it becomes effective, but if such insurance be not needed except for a particular contract or operation, the term of the policy may be limited to the period of such contract or operation.

§ 703.113 Marine insurance contracts.

A longshoremen's policy, or the longshoremen's endorsement provided for by § 703.109 for attachment to a marine policy, may specify the particular vessel or vessels in respect of which the policy applies and the address of the employer at the home port thereof. The report of the issuance of a policy or endorsement required by § 703.116 to be made by the carrier shall be made to the deputy commissioner for the compensation district in which the home port of such vessel or vessels is located, and such report shall show the name and address of the owner as well as the name or names of such vessel or vessels.

§ 703.114 Notice of cancellation.

Cancellation of a contract or policy of insurance issued under authority of said Act shall not become effective otherwise than as provided by 33 U.S.C. 936(b); and notice of a proposed cancellation shall be given to the deputy commissioner and to the employer in accordance with the provisions of 33 U.S.C. 912(c), 30 days before such cancellation is intended to be effective.

§ 703.115 Discharge by the carrier of obligations and duties of employer.

Every obligation and duty in respect of payment of compensation, the providing of medical and other treatment and care, the payment or furnishing of any other benefit required by said Act and in respect of the carrying out of the administrative procedure required or imposed by said Act or the regulations in this part upon an employer shall be discharged and carried out by the carrier except that the prescribed report of injury or death shall be sent by the employer to the deputy commissioner and to the insurance carrier as required by 33 U.S.C. 930. Such carrier shall be jointly responsible with the employer for the submission of all reports, notices, forms, and other administrative papers required by the deputy commissioner or the Office in the administration of said Act to be submitted by the employer, but any form or paper so submitted where required therein shall contain in addition to the name and address of the carrier, the full name and address of the employer on whose behalf it is submitted. Notice to or knowledge of an employer of the occurrence of the injury or death shall be notice to or knowledge of such carrier. Jurisdiction of the employer by a deputy commissioner, the Office, or appropriate

appellate authority under said Act shall be jurisdiction of such carrier. Any requirement under any compensation order, finding, or decision shall be binding upon such carrier in the same manner and to the same extent as upon the employer.

§ 703.116 Report by carrier of issuance of policy or endorsement.

Each carrier shall report to the deputy commissioner assigned to a compensation district each policy and endorsement issued by it to an employer who carries on operations in such compensation district. The report shall be made in such manner and on such form as the district or the Office may require.

§ 703.117 Report; by whom sent.

The report of issuance of a policy and endorsement provided for in § 703.116 shall be sent by the home office of the carrier, except that any carrier may authorize its agency or agencies in any compensation district to make such reports to the deputy commissioner, provided the carrier shall notify the deputy commissioner in such district of the agencies so duly authorized.

§ 703.118 Agreement to be bound by report.

Every applicant for authority to write insurance under the provisions of this Act, or for the renewal of that authority, shall be deemed to have included in its application an agreement that the acceptance by the deputy commissioner of a report of the issuance of a policy of insurance, as provided for by § 703.116, shall bind the carrier to full liability for the obligations under this Act of the employer named in said report, and every certificate of authority to write insurance under this Act shall be deemed to have been issued by the Office upon consideration of the carrier's agreement to become so bound. It shall be no defense to this agreement that the carrier failed or delayed to issue the policy to the employer covered by this report.

§ 703.119 Report by employer operating temporarily in another compensation district.

Where an employer having operations in one compensation district contemplates engaging in work subject to the Act in another compensation district, his carrier may submit to the deputy commissioner of such latter district a report pursuant to § 703.116 containing the address of the employer in the first mentioned district with the additional notation "No present address in compensation district. Certificate requested when address given."

§ 703.120 Name of one employer only shall be given in each report.

A separate report of the issuance of a policy and endorsement, provided for by § 703.116, shall be made for each employer covered by a policy. If a policy is issued insuring more than one employer, a separate report for each employer so covered shall be sent to the deputy com-

missioner concerned, with the name of only one employer on each such report.

AUTHORIZATION OF SELF-INSURERS

§ 703.301 Employers who may be authorized as self-insurers.

The Office will consider for the granting of authority to secure by self-insurance the payment of compensation under the Longshoremen's and Harbor Workers' Compensation Act, or its extensions, any employer who, pursuant to the regulations in this part, furnishes to the Office satisfactory proof of such employer's ability to pay compensation directly. The succeeding regulations relating to self-insurers require the deposit of security in the form either of an indemnity bond or negotiable securities (at the option of the employer) of a kind and in an amount determined by the Office, and prescribe the conditions under which such deposit shall be made. The term "self-insurer" as used in these regulations means any employer securing compensation in accordance with the provisions of 33 U.S.C. 932(a)(2) and with these regulations.

§ 703.302 Application for authority to become a self-insurer; how filed; information to be submitted; other requirements.

Application for authority to become a self-insurer may be made by any employer desiring such privilege and shall be addressed to the OWCP and be made on a form provided by the Office. Such application shall contain: (a) A statement of the employer's payroll report for the preceding 12 months; (b) a statement of the average number of employees engaged in employment within the purview of the LHWCA or any of its extensions for the preceding 12 months; (c) a statement of the number of injuries to such employees resulting in disability of more than 7 days' duration, or in death, during each of 3 years next preceding the date of the application; (d) an itemized statement of the assets and liabilities of the employer; (e) a description of the facilities maintained or the arrangements made for the medical and hospital care of injured employees; and (f) a statement describing the provisions and maximum amount of any excess or catastrophic insurance. The Office may in its discretion require the applicant to submit such further information or such evidence as the Office may deem necessary to have in order to enable it to give adequate consideration to such application. Such application shall be signed by the applicant over his typewritten name and if the applicant is not an individual, by an officer of the applicant duly authorized to make such application over his typewritten name and official designation and shall be sworn to by him. If the applicant is a corporation, the corporate seal shall be affixed. The application shall be filed with the OWCP national office in Washington, D.C. The regulations in this part shall be binding upon each applicant hereunder and the applicant's consent to be bound by all re-

quirements of the said regulations shall be deemed to be included in and a part of the application, as fully as though written therein.

§ 703.303 Decision upon application of employer; deposit of negotiable securities or indemnity bond.

The decision of the Office to grant an application of an employer for authority to pay compensation under said Act as a self-insurer will be transmitted to the applicant on a form prescribed by the Office. Such grant shall be conditioned upon a deposit of security in the form of an indemnity bond or of negotiable securities in an amount fixed by the Office, and the execution and filing of an agreement and undertaking in the form prescribed by the Office, as required by § 703.304.

§ 703.304 Filing of agreement and undertaking.

The applicant for the privilege of self-insurance shall as a condition precedent to receiving authorization to act as a self-insurer, execute and file with the Office an agreement and undertaking in a form prescribed and provided by the Office in which the applicant shall agree: (a) To pay when due, as required by the provisions of said Act, all compensation payable on account of injury or death of any of its employees injured within the purview of said Act; (b) in such cases to furnish medical, surgical, hospital, and other attendance, treatment and care as required by the provisions of said Act; (c) to deposit with the Office an indemnity bond in the amount which the Office shall fix, or to deposit negotiable securities as provided for by the regulations in this part in the amount which the Office shall fix, accordingly as elected in the application; (d) to authorize the Office to sell such negotiable securities so deposited or any part thereof and from the proceeds thereof to pay such compensation, medical, and other expenses and any accrued penalties imposed by law as it may find to be due and payable; and (e) to obtain and maintain, if required by the Office, excess or catastrophic insurance, in amounts to be determined by the Office.

§ 703.305 Decision upon application of employer; furnishing of indemnity bond or deposit of negotiable securities required.

The applicant for the privilege of self-insurance, as a condition precedent to receiving authorization to act as a self-insurer, shall give security for the payment of compensation and the discharge of all other obligations under the said Act, in the amount fixed by the Office, which may be in the form of an indemnity bond with sureties satisfactory to the Office, or of a deposit of negotiable securities as provided in the regulations in this part. The amount of such security so to be fixed and required by the Office shall be such as the Office shall deem to be necessary and sufficient to secure the performance by the applicant of all obligations imposed upon him as

an employer by the Act. In fixing the amount of such security the Office will take into account the financial standing of the employer, the nature of the work in which he is engaged, the hazard of the work in which the employees are employed, the payroll exposure, and the accident experience as shown in the application and the Office's records, and any other facts which the Office may deem pertinent. Additional security may be required at any time in the discretion of the Office. The indemnity bond which is required by these regulations shall be in such form, and shall contain such provisions, as the Office may prescribe: *Provided*, That only surety companies approved by the United States Treasury Department under the laws of the United States and the rules and regulations governing bonding companies may act as sureties on such indemnity bonds.

§ 703.306 Kinds of negotiable securities which may be deposited; conditions of deposit; acceptance of deposits.

An applicant for the privilege of self-insurance electing to deposit negotiable securities to secure his obligations under said Act in the amount fixed by the Office under the regulations in this part shall deposit any negotiable securities acceptable as security for the deposit of public monies of the United States under regulations issued by the Secretary of the Treasury. (See 31 CFR 203.7 and 203.8.) The approval, valuation, acceptance, and custody of such securities is hereby committed to the several Federal Reserve Banks and the Treasurer of the United States when authorized under the regulations in this part to receive deposits of such securities.

§ 703.307 Deposits of negotiable securities with Federal Reserve banks or the Treasurer of the United States; authority to sell such securities; interest thereon.

Deposits of securities provided for by the regulations in this part shall be made with any Federal Reserve bank or any branch of a Federal Reserve bank designated by the Office, or the Treasurer of the United States, and shall be held subject to the order of the Office with power in the Office, in its discretion in the event of default by the said self-insurer, to collect the interest and the principal as they may become due, to sell the securities or any of them as may be required to discharge the obligations of the self-insurer under said Act and to apply the proceeds to the payment of any compensation or medical expense for which the self-insurer may be liable. The Office may, however, whenever it deems it unnecessary to resort to such securities for the payment of compensation, authorize the self-insurer to collect interest on the securities deposited by him.

§ 703.308 Substitution and withdrawal of negotiable securities.

No substitution or withdrawal of negotiable securities deposited by a self-insurer shall be made except upon authorization by the Office. A self-insurer

discontinuing business, or discontinuing operations within the purview of said Act, or providing security for the payment of compensation by insurance under the provisions of said Act may apply to the Office for the withdrawal of securities deposited under the regulations in this part. With such application shall be filed a sworn statement setting forth: (a) A list of all outstanding cases in each compensation district in which compensation is being paid, with the names of the employees and other beneficiaries, giving a description of causes of injury or death, and a statement of the amount of compensation paid; (b) a similar list of all pending cases in which no compensation has as yet been paid; and (c) a similar list of all cases in which injury or death has occurred within 1 year prior to such application or in which the last payment of compensation was made within 1 year prior to such application. In such cases withdrawals may be authorized by the Office of such securities as in the opinion of the Office may not be necessary to provide adequate security for the payment of outstanding and potential liabilities of such self-insurer under said Act.

§ 703.309 Increase or reduction in the amount of indemnity bond or negotiable securities.

Whenever in the opinion of the Office the principal sum of the indemnity bond filed or the amount of negotiable securities deposited by a self-insurer is insufficient to afford adequate security for the payment of compensation and medical expenses under said Act, the self-insurer shall, upon demand by the Office, file such additional indemnity bond or deposit under the regulations in this part such additional amount of negotiable securities as the Office may require. At any time upon application of a self-insurer, or on the initiative of the Office, when in its opinion the facts warrant, the principal sum of an indemnity bond required to be given or the amount of negotiable securities required to be deposited may be reduced. A self-insurer seeking such reduction shall furnish such information as the Office may request relative to his current affairs, the nature and hazard of the work of his employees, the amount of the payroll of his employees engaged in maritime employment within the purview of the said Act, his financial condition, his accident experience, and such other evidence as may be deemed material, including a record of payments of compensation made by him.

§ 703.310 Reports required of self-insurers; examination of accounts of self-insurer.

At such times as the Office may require or prescribe, each self-insurer shall submit such of the following reports as may be requested:

(a) A sworn itemized statement of the self-insurer's assets and liabilities, or a balance sheet.

(b) A sworn statement showing by classifications the payroll of employees of the self-insurer who are engaged in

employment within the purview of the LHWCA or any of its extensions.

(c) A sworn statement covering the 6 months' period preceding the date of such report, listing by compensation districts all death and injury cases which have occurred during such period, together with a report of the status of all outstanding claims, showing the particulars of each case.

Whenever it deems it to be necessary, the Office may inspect or examine the books of account, records, and other papers of a self-insurer for the purpose of verifying any financial statement submitted to the Office by self-insurer or verifying any information furnished to the Office in any report required by this section, or any other section of the regulations in this part, and such self-insurer shall permit the Office or its duly authorized representative to make such an inspection or examination as the Office shall require. In lieu of this requirement the Office may in its discretion accept an adequate report of a certified public accountant.

§ 703.311 Period of authorization as self-insurer; renewals.

No initial authorization as a self-insurer shall be granted for a period in excess of 18 months, and the expiration date thereof shall fall on the 30th day of June. A self-insurer who has made an adequate deposit of negotiable securities as required by the Office under the regulations in this part will be reauthorized for the ensuing fiscal year without additional security if the Office finds that his experience as a self-insurer warrants such action. A self-insurer who currently has on file an indemnity bond, will receive from the Office on or about May 10 of each year a bond form for execution in contemplation of reauthorization, and the submission of such bond duly executed in the amount indicated by the Office will be deemed and treated as such self-insurer's application for reauthorization for the ensuing fiscal year; the privilege of such self-insurer will, however, terminate with the termination of his current authorization unless such duly executed indemnity bond be submitted not later than June 30.

§ 703.312 Revocation of privilege of self-insurance.

The Office may for good cause shown suspend or revoke the authorization of any self-insurer. Failure by a self-insurer to comply with any provision or requirement of law or of the regulations in this part, or with any lawful order or communication of the Office, or the failure or insolvency of the surety on his indemnity bond, or impairment of financial responsibility of such self-insurer, shall be deemed good cause for such suspension or revocation.

ISSUANCE OF CERTIFICATES OF COMPLIANCE

§ 703.501 Issuance of certificates of compliance.

Every employer who has secured the payment of compensation as required by 33 U.S.C. 932 and by the regulations in

this part may request a certificate from the deputy commissioner in the compensation district in which he has operations, and for which a certificate is required by 33 U.S.C. 937, showing that such employer has secured the payment of compensation. Only one such certificate will be issued to an employer in a compensation district, and it will be valid only during the period for which such employer has secured such payment. An employer so desiring may have photocopies of such a certificate made for use in different places within the compensation district. Two forms of such certificates have been provided by the Office, one form for use where the employer has obtained insurance generally under these regulations, and one for use where the employer has been authorized as a self-insurer.

§ 703.502 Same; employer operating temporarily in another compensation district.

A deputy commissioner receiving a report of the issuance of a policy of insurance with the notation authorized by § 703.119, will file such report until he receives from the insured employer named therein a request for certificate of compliance, giving the address of the employer within the compensation district of such deputy commissioner. Upon receipt of such a request the deputy commissioner will send the proper certificate of compliance to such employer at such address.

§ 703.503 Return of certificates of compliance.

Upon the termination by expiration, cancellation or otherwise, of a policy of insurance issued under the provisions of law and these regulations, or the revocation or termination of the privilege of self-insurance granted by the Office, all certificates of compliance issued on the basis of such insurance or self-insurance shall be void and shall be returned by the employer to the deputy commissioner issuing them with a statement of the reason for such return. An employer holding certificate of compliance under an insurance policy which has expired, pending renewal of such insurance need not return such certificate of compliance if such expired insurance is promptly replaced. An employer who has secured renewal of insurance upon the expiration of policy under said Act or whose self-insurance thereunder is reauthorized without a break in the continuity thereof need not return an expired certificate of compliance.

PART 704—SPECIAL PROVISIONS FOR LHWCA EXTENSIONS

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704.401 Administration; compensation districts.
704.451 NFIA endorsement.

AUTHORITY: 5 U.S.C. 301; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; 33 U.S.C. 939; 42 U.S.C. 1651 et seq.; 36 District of Columbia Code 501 et seq.; 43 U.S.C. 1331; 5 U.S.C. 8171 et seq.; Secretary of Labor's Order No. 13-71, 36 FR 8755.

§ 704.001 Extensions covered by this part.

- (a) Defense Base Act (DBA).
- (b) District of Columbia Workmen's Compensation Act (DCCA).
- (c) Outer Continental Shelf Lands Act (OCSLA).
- (d) Nonappropriated Fund Instrumentalities Act (NFIA).

§ 704.002 Scope of part.

The regulations governing the administration of the LHWCA as set forth in Parts 702 and 703 of this subchapter govern the administration of the LHWCA extensions (see § 704.001) in nearly every respect, and are not repeated in this Part 704. Such special provisions as are necessary to the proper administration of each of the extensions are set forth in this Part 704. To the extent of any inconsistency between regulations in Parts 702 and 703 of this subchapter and those in this Part 704, the latter supersedes those in Part 702 and 703 of this subchapter.

DEFENSE BASE ACT

§ 704.101 Administration; compensation districts.

For the purpose of administration of this Act areas assigned to the compensation districts established for administration of the Longshoremen's and Harbor Workers' Compensation Act as set forth in Part 702 of this subchapter shall be extended in the following manner to include:

- (a) Canada, east of the 75th degree west longitude, Newfoundland, and Greenland are assigned to District No. 1.
- (b) Canada, west of the 75th degree and east of the 110th degree west longitude, is assigned to District No. 10.
- (c) Canada, west of the 110th degree west longitude, and all areas in the Pacific Ocean north of the 45th degree north latitude are assigned to District No. 14.
- (d) All areas west of the continents of North and South America (except coastal islands) to the 60th degree east longitude, except for Iran, are assigned to District No. 15.
- (e) Mexico, Central and South America (including coastal islands); areas east of the continents of North and South America to the 60th degree east longitude, including Iran, and any other areas

or locations not covered under any other district office, are assigned to District No. 2.

§ 704.102 Commutation of payments to aliens and nonresidents.

Authority to commute payments to aliens and nonnationals who are not residents of the United States and Canada, section 2(b) of the Defense Base Act, 42 U.S.C. 1652(b), though separately stated in this Act, is identical in language to section 9(g) of the Longshoremen's Act. Thus, except for the different statutory citation, the LHWCA regulation at § 702.142 of this subchapter shall apply.

§ 704.103 Removal of certain minimums when computing or paying compensation.

The minimum limitation on weekly compensation for disability established by section 6 of the LHWCA, 33 U.S.C. 906, and the minimum limit on the average weekly wages on which death benefits are to be computed under section 9 of the LHWCA, 33 U.S.C. 909, shall not apply in computing compensation and death benefits under this Act; section 2(a), 42 U.S.C. 1652(a).

§ 704.151 DBA endorsement.

The following form of endorsement applicable to the standard workmen's compensation and employers' liability policy shall be used, if required by the OWCP, with the form of policy approved by the Office for use by an authorized carrier:

For attachment to Policy No. _____
The obligations of the policy include the Longshoremen's and Harbor Workers' Compensation Act, as extended by the provisions of the Defense Base Act, and all laws amendatory thereof or supplementary thereto which may be or become effective while this policy is in force.

The company will be subject to the provisions of 33 U.S.C. 935. Insolvency or bankruptcy of the employer and/or discharge therein shall not relieve the company from payment of compensation and other benefits lawfully due for disability or death sustained by an employee during the life of the policy.

The company agrees to abide by all the provisions of said Acts and all lawful rules, regulations, orders, and decisions of the Office of Workmen's Compensation Programs, Department of Labor, unless and until set aside, modified, or reversed by appropriate appellate authority as provided for by said Acts.

This endorsement shall not be canceled prior to the date specified in this policy for its expiration until at least 30 days have elapsed after a notice of cancellation has been sent to the Deputy Commissioner and to this employer.

All terms, conditions, requirements, and obligations expressed in this policy or in any other endorsement attached thereto which are not inconsistent with or inapplicable to the provisions of this endorsement are hereby made a part of this endorsement as fully and completely as if wholly written herein.

DISTRICT OF COLUMBIA WORKMEN'S
COMPENSATION ACT

§ 704.201 Administration; compensation districts.

For the purpose of administration of this Act, the District of Columbia shall be the compensation district and is designated as District No. 40.

§ 704.251 DCCA endorsement.

The following form of endorsement applicable to the standard workmen's compensation and employer's liability policy shall be used, if required by the OWCP, with the form of policy approved by the Office for use by an authorized carrier:

For attachment to Policy No. _____
The obligations of the policy include the District of Columbia Workmen's Compensation Act, and the applicable provisions of the Longshoremen's and Harbor Workers' Compensation Act, and all laws amendatory of either of said Acts or supplementary thereto which may be or become effective while this policy is in force.

The company will be subject to the provisions of 33 U.S.C. 935. Insolvency or bankruptcy of the employer and/or discharge therein shall not relieve the company from payment of compensation and other benefits lawfully due for disability or death sustained by an employee during the life of the policy.

The company agrees to abide by all the provisions of said District of Columbia Workmen's Compensation Act and all lawful rules, regulations, orders, and decisions of the Office of Workmen's Compensation Programs, Department of Labor, unless and until set aside, modified, or reversed by appropriate appellate authority as provided for by said Act.

This endorsement shall not be canceled prior to the date specified in this policy for its expiration until at least 30 days have elapsed after a notice of cancellation has been sent to the Deputy Commissioner for the District of Columbia and to this employer.

All terms, conditions, requirements, and obligations expressed in this policy or in any other endorsement attached thereto which are not inconsistent with or inapplicable to the provisions of this endorsement are hereby made a part of this endorsement as fully and completely as if wholly written herein.

OUTER CONTINENTAL SHELF LANDS ACT

§ 704.301 Administration; compensation districts.

For the purpose of administration of this Act, the compensation districts established under the Longshoremen's and Harbor Workers' Compensation Act as set forth in Part 702 of this subchapter shall administer this Act, and their jurisdiction for this purpose is extended, where appropriate, to include those parts of the Outer Continental Shelf adjacent to the State or States in such districts having adjacent shelf areas.

§ 704.351 OCSLA endorsement.

The following form of endorsement applicable to the standard workmen's compensation and employer's liability policy shall be used, if required by the OWCP, with the form of policy approved by the Office for use by an authorized carrier:

For attachment to Policy No. _____
The obligations of the policy include the Longshoremen's and Harbor Workers' Compensation Act, as extended by the Outer Continental Shelf Lands Act, and all the laws amendatory thereof or supplementary thereto which may be or become effective while this policy is in force.

The company will be subject to the provisions of 33 U.S.C. 935. Insolvency or bankruptcy of the employer and/or discharge therein shall not relieve the company from payment of compensation and other benefits lawfully due for disability or death sus-

tained by an employee during the life of the policy.

The company agrees to abide by all the provisions of said laws and all the lawful rules, regulations, orders and decisions of the Office of Workmen's Compensation Programs, Department of Labor, until set aside, modified, or reversed by appropriate appellate authority as provided for by said Acts.

This endorsement shall not be canceled prior to the date specified in this policy for its expiration until at least 30 days have elapsed after a notice of cancellation has been sent to the Deputy Commissioner and to his employer.

All terms, conditions, requirements, and obligations expressed in this policy or in any other endorsement attached thereto which are not inconsistent with or inapplicable to the provisions of this endorsement are hereby made a part of this endorsement as fully and completely as if wholly written herein.

NONAPPROPRIATED FUND INSTRUMENTALITIES ACT

§ 704.401 Administration; compensation districts.

For the purpose of administration of this Act within the continental United States, Hawaii, and Alaska, the compensation districts established for admin-

istration of the Longshoremen's and Harbor Workers' Compensation Act as set forth in Part 702 are established as the administrative districts under this Act. For the purpose of administration of this Act outside the continental United States, Alaska, and Hawaii, the compensation districts established for such overseas administration of the Defense Base Act as set forth in § 704.101 are established as the administrative districts under this Act.

§ 704.451 NFIA endorsement.

The following form of endorsement applicable to the standard workmen's compensation and employer's liability policy shall be used, if required by the OWCP, with the form of policy approved by the Office for use by an authorized carrier:

For attachment to Policy No. _____

The obligations of the policy include the Longshoremen's and Harbor Workers' Compensation Act, as extended by the Nonappropriated Fund Instrumentalities Act, and all the laws amendatory thereof or supplementary thereto which may be or become effective while this policy is in force.

The company will be subject to the provisions of 33 U.S.C. 935, Insolvency or bank-

ruptcy of the employer and/or discharge therein shall not relieve the company from payment of compensation and other benefits lawfully due for disability or death sustained by an employee during the life of the policy.

The company agrees to abide by all the provisions of said Acts and all the lawful rules, regulations, orders, and decisions of the Office of Workmen's Compensation Programs, Department of Labor, unless and until set aside, modified, or reversed by appropriate appellate authority as provided for by said Acts.

This endorsement shall not be canceled prior to the date specified in this policy for its expiration until at least 30 days have elapsed after a notice of cancellation has been sent to the Deputy Commissioner and to the within named employer.

All terms, conditions, requirements, and obligations expressed in this policy or in any other endorsement attached thereto which are not inconsistent with or inapplicable to the provisions of this endorsement are hereby made a part of this endorsement as fully and completely as if wholly written herein.

Signed at Washington, D.C. this 19th day of September 1973.

BERNARD E. DELURY,
Assistant Secretary for
Employment Standards.

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