slightly for purposes of clarity and flexibility.

The one other comment received was inconsistent with the law and not germane to the change in the law reflected by the amended regulations. Accordingly, the amendments as proposed are hereby adopted, subject to the following change:

In paragraph (a)(3) of § 405.1680 the words "or receives payment" are added after the words "the organization bills."

(Secs. 1102, 1842, and 1871, 49 Stat. 647, as amended, 79 Stat. 309, as amended; 42 U.S.C. 1302, 1395u, 1395hh)

Effective date. The proposed amendments are to be effective on January 31, 1974, with respect to claims for benefits filed after October 30, 1972.

(Catalog of Federal Domestic Assistance Program No. 13.801, Health Insurance for the Aged—Supplementary Medical Insurance)

Dated: January 8, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: January 25, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Subpart P of regulations No. 5 is amended as set forth below.

1. Section 405.1675 is amended by revising paragraph (a)(1) to read as follows:

§ 405.1675 Assignment of right to receive payment under the supplementary medical insurance benefits plan.

(a)(1) When an individual is furnished covered medical or other health services (other than physicians' and ambulance services furnished outside the United States and emergency outpatient services) for which he may receive direct payment of supplementary medical insurance benefits on the basis of reasonable charges (see § 405.1672(b)), he may assign the right to such payment to the physician or other person who furnished the services. (See § 405.1680 concerning payment of assigned benefits to an employer, facility, or health care delivery system with which the physician or other person furnishing the service has a contractual arrangement.) The claim must be completed in accordance with the instructions prescribed by the Social Security Administration (see § 405.1678). In accepting the assignment, the physician or other person who furnished the services agrees that the reasonable charge, as determined by the carrier or the Social Security Administration, as appropriate, shall be his full charge for the service and, aside from the benefit payment, he will not charge or collect from the individual or any other source an amount in excess of the applicable unmet deductible (see §§ 405.245 and 405.246) applied to the reasonable charge and 20 percent of the remaining reasonable charge.

* * * * *

2. Section 405.1680 is amended to read as follows:

§ 405.1680 Payment of assigned benefits.

(a) *General.*—Benefits payable under § 405.1675 or § 405.1684 may be paid only to the physician or other person who furnished the service, except that, subject to the conditions set forth in § 405.1675 or § 405.1684, as appropriate, payment may be made to the following:

(1) The employer of the person who furnished the service, if such person is required as a condition of his employment to turn over to his employer his fees for his services;

(2) The facility in which the service is provided if there is a contractual arrangement between the facility and the person furnishing the service under which the facility bills for such person's services; or

(3) A foundation, plan, or similar organization which furnishes health care through an organized health care delivery system if there is a contractual arrangement between the organization and the person furnishing the service under which the organization bills or receives payment for such persons services.

(b) *Meaning of terms.*—For purposes of this section, a facility is a hospital or other institution which makes provision for furnishing health care services to inpatients. A health care delivery system includes, but is not limited to, an organized medical group clinic and a group practice prepayment plan.

(c) *Effective date.*—The provisions of this section are effective with respect to claims for benefits filed after October 30, 1972.

[FR Doc.74-2607 Filed 1-30-74;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

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

KAOLIN-MODIFIED

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 1B2689) filed by Freeport Kaolin Co., Gordon, GA 31031, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use of kaolin modified by reaction with fatty acid titanates as a component of articles intended for use in contact with food.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended in Subpart F by adding the following new section:

§ 121.2624 Kaolin-modified.

Kaolin-modified, as identified in this section, may be safely used in olefin polymers as articles or components of articles intended for use in contact with food, subject to the provisions of this section.

(a) Kaolin-modified is produced by treating kaolin with a reaction product of isopropyl titanate and oleic acid in which 1 mole of isopropyl titanate is reacted with 1 to 2 moles of oleic acid. The reaction product will not exceed 8 percent of the modified kaolin. The oleic acid used shall meet the requirements specified in § 121.1070.

(b) The additive is used as a pigment, colorant, or opacifier in olefin polymers complying with § 121.2501 at levels not to exceed 40 percent by weight of the olefin polymer.

Any person who will be adversely affected by the foregoing order may at any time on or before March 4, 1974 file with the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective January 31, 1974.

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

Dated: January 24, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-2678 Filed 1-30-74;8:45 am]

SUBCHAPTER C—DRUGS

ANIMAL FEEDS

Revocation of Provisions for Use of Streptomycin Sulfate Medicated Premix

Based upon a notice of drug deemed adulterated (Docket No. FDC-D-657) appearing elsewhere in this issue of the FEDERAL REGISTER, certain corresponding regulations regarding the use of streptomycin and streptomycin in specified combinations are revoked since no applications are approved for use of the drug in said regulations.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 507, 512, 59 Stat. 463, as

amended, 82 Stat. 343–351; 21 U.S.C. 357, 360b) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 121, 135e, and 144 are amended as follows:

PART 121—FOOD ADDITIVES

§ 121.210 [Amended]

1. In § 121.210 *Amprolium*, by deleting items 1.1d, 2.11d, 3.3d, and 4.3d in Table 1 in paragraph (c).

§ 121.213 [Amended]

2. In § 121.213 *Hygromycin B*, by deleting item 1f in Table 1 in paragraph (d).

§ 121.220 [Amended]

3. In § 121.220 *Nystatin*, by deleting items 1d, 3d, 4d, and 6d in Table 1 in paragraph (d).

§ 121.225 [Amended]

4. In § 121.225 *Antibiotics for growth promotion and feed efficiency*, by deleting subdivision (i) from paragraph (e)(3).

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 135e.10 [Amended]

5. In § 135e.10 *Tylosin*, by deleting item 5 in the table in paragraph (f)(1).

PART 144—ANTIBIOTIC DRUGS; EXEMPTIONS FROM LABELING AND CERTIFICATION REQUIREMENTS

§ 144.26 [Amended]

6. In § 144.26 *Animal feeds bearing or containing new animal drugs subject to the provisions of section 512(n) of the act*, by deleting the word "streptomycin" from the first sentence in the introductory paragraph and substituting therefor the words "streptomycin in combination with penicillin," and by revoking paragraph (b)(58).

Any person who will be adversely affected by the foregoing order may at any time on or before March 4, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall be effective on March 12, 1974.

(Secs. 507, 512, 59 Stat. 463, as amended, 82 Stat. 343–351; 21 U.S.C. 357, 360b)

Dated: January 21, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-2495 Filed 1-30-74;8:45 am]

SUBCHAPTER C—DRUGS

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

Anhydrotetracyclines and 4-epianhydrotetracycline

A notice was published in the FEDERAL REGISTER of July 25, 1969 (34 FR 12286), proposing to establish a maximum limit for 4-epianhydrotetracycline in tetracycline, tetracycline hydrochloride, and tetracycline phosphate complex bulks, and in all oral and injectable dosage forms containing these tetracyclines. The proposal included a screening procedure for total anhydrotetracyclines and a determination of anhydrotetracyclines and 4-epianhydrotetracycline content. The notice afforded interested persons an opportunity to submit written comments on the proposal. Comments were received from two antibiotic drug manufacturers. These comments were concerned primarily with technical details of the procedures proposed.

1. One comment contained a request for an industry-wide collaborative study. This request was considered appropriate, and a collaborative study was undertaken with five manufacturers, including the two manufacturers that commented on the proposal. As a result of that study, all the objections pertaining to technical details have been resolved, and the test for determining the anhydrotetracyclines and 4-epianhydrotetracycline content of tetracyclines has been revised to incorporate the conclusions of the study.

2. One issue raised by a respondent was that the test should be performed at the time of expiration since 4-epianhydrotetracycline is a degradation product and therefore a function of time and examination of fresh material would only guard against the possibility of an error in the manufacturing process. The Commissioner agrees that 4-epianhydrotetracycline is a product of tetracycline degradation and that such degradation may occur in fresh material as a result of poor manufacturing practices or within the expiration period if the antibiotic drug has been subjected to improper storage and handling. If the test were performed on products only at the time of expiration, products could be marketed that exceed the limits for 4-epianhydrotetracycline content. Studies have shown that if the 4-epianhydrotetracycline content is within specified limits at the time of certification of the antibiotic drug product, and there is proper handling and storage of the product, then the 4-epianhydrotetracycline content will remain within the limits through the shelf life of the product. Therefore, the Commissioner concludes that it is in the best interests of the public to require this testing at the time of certification.

3. One manufacturer recommended the use of a thin layer chromatography test in lieu of the column chromatographic method specified in § 141.580(b). The Commissioner has no objections to the use of this method as long as the results obtained are equivalent to those obtained with the official method.

4. One comment requested a provision for determining the total anhydrotetracyclines content and 4-epianhydrotetracycline content by automated procedures. Since the proposal was published, the regulations have been amended to provide for determinations by automated techniques (§ 141.1a).

5. Comments from both manufacturers stated that the proposed tests were not suitable for several preparations; i.e., formulations containing phenazopyridine, and certain pharyngets, troches, and nasal suspensions. As a result of the implementation of the conclusions based on the recommendations of the National Academy of Sciences—National Research Council (NAS-NRC), Drug Efficacy Study Group, these products are no longer being marketed. Therefore, these comments are no longer of practical significance.

In addition to minor editorial and technical revisions, proposed § 141.580 (a) and (b) has been revised to include the 4-epianhydrotetracycline limits.

Since many of the antibiotic monographs are subject to change as a result of the Drug Efficacy Study (DESI), the individual regulation sections pertaining to tetracycline monographs are not being amended, at this time, to include the 4-epianhydrotetracycline limit. When that part of the Drug Efficacy Study dealing with the tetracyclines is completed, all the affected sections will be revised to establish this limit. In the meantime, the test is performed in our laboratories as part of the certification format.

After considering the comments and the results of the collaborative study, the Commissioner concludes that the antibiotic drug regulations should be amended as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Part 141 is amended by adding a new section as follows:

§ 141.580 Anhydrotetracyclines and 4-epianhydrotetracycline.

Determination of 4-epianhydrotetracycline and anhydrotetracyclines in tetracycline, tetracycline hydrochloride, tetracycline phosphate, and in dosage forms thereof is as follows:

(a) *Screening procedure for total anhydrotetracycline content*—(1) *Sample solution preparation*—(i) *Bulk packaged for repacking or for use in the manufacture of another drug.* Accurately weigh approximately 50 milligrams of the sample into a 50-milliliter volumetric flask and add 10 milliliters of 0.1*N* hydrochloric acid. Shake until sample is completely dissolved, and then dilute to volume with water.

(ii) *Sterile dispensing containers.* Proceed as directed in paragraph (a) (1) (i) of this section.

(iii) *Capsules.* Transfer a representative quantity of capsule contents equivalent to 250 milligrams of tetracycline hydrochloride to a 250-milliliter volumetric flask. Add 50 milliliters of 0.1*N* hydrochloric acid and shake on a mechanical shaker for 5 minutes. Dilute to volume with water and filter through a fluted filter paper. Discard the first 20 milliliters of filtrate and collect the next 20 milliliters.

(iv) *Tablets.* Grind a representative number of tablets to a fine powder. Transfer an amount of the powder equivalent to 250 milligrams of tetracycline hydrochloride to a 250-milliliter volumetric flask. Add 50 milliliters of 0.1*N* hydrochloric acid and shake on a mechanical shaker for 5 minutes. Dilute to volume with water and filter through a fluted filter paper. Discard the first 20 milliliters of filtrate and collect the next 20 milliliters.

(v) *Oral powders and suspensions.* Proceed as described in paragraph (b) of this section.

(2) *Test procedure.* Using a suitable spectrophotometer, determine the absorbance of the sample solution prepared as directed in subparagraph (1) of this paragraph at 430 millimicrons using 0.02*N* hydrochloric acid as a blank. Then accurately dilute 1.0 milliliter of the sample solution to 100 milliliters with 0.02*N* hydrochloric acid and determine the absorbance of this solution at 356 millimicrons, using 0.02*N* hydrochloric acid as a blank.

(3) *Calculations.*

$$\text{Percent anhydrotetracyclines} = \frac{[a430 - (a356 \times 0.0019)] \times 100}{180}$$

where:

$a430$ = Absorptivity (1%, 1 cm.) of sample at 430 millimicrons;

$$\text{For bulk, absorptivity} = \frac{\text{Absorbance} \times 50 \times 10;}{\text{Milligrams of sample}}$$

For sterile dispensing containers, capsules, and tablets; absorptivity = Absorbance × 10;

$a356$ = Absorptivity (1%, 1 cm.) of sample at 356 millimicrons;

$$\text{For bulk, absorptivity} = \frac{\text{Absorbance} \times 50 \times 1000;}{\text{Milligrams of sample}}$$

For sterile dispensing containers, capsules and tablets; absorptivity = Absorbance × 1,000;

0.0019 = Absorbance ratio ($A430/A356$) observed with tetracycline;

180 = Absorptivity (1%, 1 cm.) of anhydrotetracycline hydrochloride at 430 millimicrons.

(4) *Evaluation.* If the total anhydrotetracyclines content determined by the screening procedure described in paragraph (a) of this section exceeds 2 percent for bulks and 3 percent for injectables, tablets, and capsules, perform the determination for anhydrotetracyclines and 4-epianhydrotetracycline described in paragraph (b) of this section. If the results of the test described in paragraph (a) of this section for total anhydrotetracyclines content are within the required limits in the case of bulks, injectables, tablets, and capsules, these results may be submitted in lieu of the results of the test for 4-epianhydrotetracycline and that test as described in paragraph (b) of this section need not be performed.

(b) *Determination of anhydrotetracyclines content and 4-epianhydrotetracycline content*—(1) *Apparatus and reagents*—(i) Chromatographic tubes (15 millimeters ID x 170 millimeters long having an outlet tube 4 millimeters ID x 50 millimeters long).

(ii) pH meter standardized at pH 7.0 and at pH 10.0.

(iii) Diatomaceous earth, acid-washed (Celite 545 or equivalent).

(iv) EDTA buffer: Dissolve 0.1 mole ethylenediaminetetraacetic acid disodium salt in 800 milliliters of water. Adjust to pH 7.8 with ammonium hydroxide, reagent grade, and dilute to 1 liter with water.

(v) Chloroform, spectrophotometric grade.

(vi) Diluted ammonium hydroxide: Mix 1 volume of ammonium hydroxide, reagent grade, with 9 volumes of distilled water.

(vii) 0.1*N* hydrochloric acid.

(viii) 1.0*N* hydrochloric acid.

(2) *Preparation of support phase.* Add 5 milliliters of EDTA buffer to 10 grams of diatomaceous earth and mix until the diatomaceous earth is uniformly moistened. It will no longer be free-flowing.

(3) *Preparation of sample solutions.* Prepare the sample solutions as follows:

(i) *Tetracycline, tetracycline phosphate complex, and tetracycline hydrochloride bulk packaged for repacking or for use in the manufacture of another drug.* Place an amount of sample equivalent to 250 milligrams of tetracycline hydrochloride into a 50-milliliter beaker and dissolve in 10 milliliters of 0.1*N* hydrochloric acid. Immediately adjust the pH to 7.8 with the diluted ammonium hydroxide, and if necessary, with 1.0*N* hydrochloric acid and 0.1*N* hydrochloric acid. Quantitatively transfer this solution to a 50-milliliter volumetric flask by rinsing the beaker with EDTA buffer, fill to volume with EDTA buffer and shake well. Use this solution without delay to prepare a column as directed in subparagraph (4) of this paragraph.

(ii) *Capsules.* Proceed as directed in subparagraph (3) (i) of this paragraph, except pool the contents of a representative number of capsules and use an amount of the pooled capsule contents equivalent to 250 milligrams of tetracycline hydrochloride.

(iii) *Tablets.* Proceed as directed in subparagraph (3) (i) of this paragraph, except grind tablets to a powder in a small mortar and use an amount of powder equivalent to 250 milligrams of tetracycline hydrochloride.

(iv) *Oral suspension and pediatric drops.* Place 5 milliliters of oral suspension equivalent to 125 milligrams of tetracycline hydrochloride or 2 milliliters of pediatric drops equivalent to 200 milligrams of tetracycline hydrochloride into a 50-milliliter beaker and add sufficient 0.1*N* hydrochloric acid to make 10 milliliters. Quickly adjust the pH to 7.8 with the diluted ammonium hydroxide, and if necessary, with 1*N* hydrochloric acid and 0.1*N* hydrochloric acid. Quantitatively transfer this solution to a 25-milliliter flask by rinsing the beaker with EDTA buffer, fill to volume with EDTA buffer, and shake well. Use this solution without delay to prepare a column as directed in paragraph (b) (4) of this section.

(v) *Oral powders.* Reconstitute as directed in the labeling and proceed as directed in paragraph (b) (3) (iv) of this section.

(vi) *Sterile dispensing containers.* Proceed as directed in paragraph (b) (3) (i) of this section.

(4) *Column preparation.* Pack support phase into the chromatographic tube by increments and firmly tamp down each increment. Do not use any glass wool in the column outlet. Add enough support phase to the column to reach a height of 9 to 11 centimeters; then add 1 milliliter of sample solution to 1 gram of diatomaceous earth in a small beaker, and mix thoroughly. Pack the sample: diatomaceous earth mixture on top of the column. Dry wash the beaker with support phase and pack an additional 1-centimeter layer of support phase on top of the sample layer.

(5) *Column elution and fraction collection.* Within 30 minutes after preparing the column, elute with chloroform. Collect 5 successive fractions of 5 milliliters, 5 milliliters, 10 milliliters, 10 milliliters, and 5 milliliters. During elution, two clear separate yellow bands will appear on the column. The first band is anhydrotetracyclines and will almost always elute in the first 5-milliliter fraction, but occasionally in the first and second 5-milliliter fractions. The second band is 4-epianhydrotetracycline and will elute in the remaining fractions. Label the fraction or fractions containing the first yellow band anhydrotetracyclines. Label the fractions after the first yellow band 4-epianhydrotetracycline. Determine the absorbance of each fraction at a wavelength of 438 nanometers using a suitable spectrophotometer equipped with a 1.0-centimeter cell and chloroform as the blank. If necessary, make appropriate dilutions with choloroform to obtain a readable value.

(6) *Calculations*—(i) *Percent anhydrotetracyclines.* Calculate the percent anhydrotetracyclines as follows:

$$\text{Number of milligrams of anhydrotetracyclines in each fraction containing anhydrotetracyclines} = \frac{A \times b \times c}{20.28}$$

where:

A = Absorbance of the sample solution at 438 nanometers;
b = Volume of fraction in milliliters;
c = Dilution factor of the fraction (for example, if 2 milliliters of the fraction are diluted to 10 milliliters for reading, c will be 5).
20.28 = Absorptivity (1 milligram per milliliter, 1 centimeter) of anhydrotetracyclines in chloroform at 438 nanometers.

$$\text{Total weight of anhydrotetracyclines in the sample} = \text{Sum of weights of anhydrotetracyclines in the fractions labeled anhydrotetracyclines} \times \text{Number of milliliters in the sample solution}$$

$$\text{Percent anhydrotetracyclines in tetracycline, tetracycline hydrochloride, tetracycline phosphate complex bulk packaged for repacking or for use in the manufacture of another drug} = 100 \times \frac{\text{Total weight of anhydrotetracyclines in the sample}}{\text{Weight of the sample}}$$

$$\text{Percent anhydrotetracyclines in dosage forms} = 100 \times \frac{\text{Total weight of anhydrotetracyclines in the sample}}{\text{Labeled tetracycline content of the sample}}$$

(ii) *Percent 4-epianhydrotetracycline.* Calculate the percent 4-epianhydrotetracycline as follows:

$$\text{Number of milligrams of 4-epianhydrotetracycline in each fraction labeled 4-epianhydrotetracycline} = \frac{A \times b \times c}{20.08}$$

where:

A = Absorbance of the sample solution at 438 nanometers;
b = Volume of the fraction in milliliters;
c = Dilution factor of the fraction (for example, if 2 milliliters of the fraction are diluted to 10 milliliters for reading, c will be 5);
20.08 = Absorptivity (1 milligram per milliliter, 1 centimeter) of 4-epianhydrotetracycline in chloroform at 438 nanometers.

$$\text{Total weight of 4-epianhydrotetracycline in the sample} = \text{Sum of weights of 4-epianhydrotetracycline in the fractions labeled 4-epianhydrotetracycline} \times \text{Number of milliliters in the sample solution}$$

$$\text{Percent 4-epianhydrotetracycline in tetracycline, tetracycline hydrochloride, tetracycline phosphate complex bulk packaged for repacking or for use in the manufacture of another drug} = 100 \times \frac{\text{Total weight of 4-epianhydrotetracycline in the sample}}{\text{Weight of the sample}}$$

$$\text{Percent 4-epianhydrotetracycline in dosage forms} = 100 \times \frac{\text{Total weight of 4-epianhydrotetracycline in the sample}}{\text{Labeled tetracycline content of the sample}}$$

(7) *Limits for 4-epianhydrotetracycline.* The 4-epianhydrotetracycline content of tetracycline, tetracycline hydrochloride, and tetracycline phosphate complex bulk drugs and all oral and injectable dosage forms containing these tetracyclines shall not exceed 2 percent for bulk drugs, 3 percent for injectables, tablets, capsules and oral powders and 5 percent for oral suspension.

Effective date. This order shall become effective on March 4, 1974.

(Sec. 507, 59 Stat. 463; 21 U.S.C. 357.)

Dated: January 22, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-2417 Filed 1-30-74;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 658—SPEED LIMITS

The Federal Highway Administrator is amending 23 CFR Ch. I by adding a new Part 658. The new Part 658 implements section 2 of the Emergency Highway Energy Conservation Act, Pub. Law 93-239. Section 2 of the Act, which was enacted on January 2, 1974, requires the States to take certain actions with respect to their highway speed limits and prohibits the approval of any Federal-aid highway project in any State which has not taken the requisite action by the March 3, 1974 statutory deadline.

The most significant action required by the Act is the establishment of a national maximum speed limit of 55 miles per hour. The new rules require each State to furnish the Federal Highway Administration with a statement setting forth the actions it has taken to change its speed limit laws so that they comply with the statutory mandate. In addition, the State must change its speed limit signs to reflect the modifications of the speed limits. The Act specifies that a State shall be deemed to have complied with its provisions when the Governor or other appropriate official has taken lawful administrative action to bring the speed limits into compliance with the Federal requirements.

The Act also provides for the use of Federal-aid highway funds apportioned to the States to pay the entire cost of modifications of speed limit signs on Federal-aid highway systems which are made after November 1, 1973 in order to carry out the fuel-conservation purposes of the Act. Because of the short time frame within which States must act, the Administrator is authorizing simplified procedures for submission and approval of projects for sign modifications.

In consideration of the foregoing, 23 CFR Ch. I is amended by adding a new Part 658, reading as set forth below.

Since this amendment involves the administration of a program of public grants-in-aid, notice and public procedure thereon are unnecessary, and it is effective on the date of issuance set forth below.

This amendment is issued under the authority of section 2 of the Emergency Highway Energy Conservation Act, Pub. Law 93-239, 23 U.S.C. 315, and the delegation of authority by the Secretary of Transportation.

Issued on January 25, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

Sec.
658.1 Scope and purpose of the rules in this part.
658.3 Definitions.
658.5 Exceptions.
658.9 Statement of compliance.
658.11 Federal reimbursement for sign modifications.
658.13 Procedures for obtaining reimbursement for sign modification costs.
658.15 Termination of the rules in this part.

AUTHORITY: Sec. 2, Emergency Highway Energy Conservation Act, 87 Stat. 1046, 23 U.S.C. 315, delegation of authority by the Secretary of Transportation.

§ 658.1 Scope and purpose of the rules in this part.

(a) *Scope.* The rules in this part implement section 2 of the Emergency Highway Energy Conservation Act, Pub. Law 93-239, enacted January 2, 1974. Section 2 of the Act requires States to take certain actions with respect to their highway speed limits as a condition to participation in the Federal-aid highway program.

(b) *Purpose.* The purpose of the rules in this part is to conserve fuel during periods of fuel shortage through establishment of national maximum speed limits.

§ 658.3 Definitions.

(a) *Act.* The term "Act" means section 2 of the Emergency Highway Energy Conservation Act, Pub. Law 93-239.

(b) *Highway.* The term "highway" includes all streets, roads, or parkways under the jurisdiction of a State or any of its political subdivisions and open for use by the general public. The term "highway" includes toll roads.

(c) *Motor vehicle.* The term "motor vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.

(d) *State.* The term "State" means any one of the fifty States, the District of Columbia, and Puerto Rico.

§ 658.5 Compliance with the Act.

Except as provided in § 658.7, a State is in compliance with the Act if it has achieved the following objectives:

(a) The maximum speed limit on any highway in the State must be 55 miles per hour or less.

(b) The speed limit for all types of motor vehicles must be 55 miles per hour on any portion of a highway in the State which—

(1) has four or more traffic lanes; and

(2) has a physical barrier, other than pavement stripes or other markings, separating opposing lanes of traffic; and

(3) on November 1, 1973 had a speed limit of 55 miles per hour or more applicable to all types of motor vehicles.

If the speed limit on that portion of the highway for any type of vehicle or for all vehicles was less than 55 miles per hour on November 1, 1973, the speed limit may remain at that lower figure at the State's discretion.

(c) The speed limit on any portion of a highway in the State must be uniformly applicable to all types of motor vehicles if on November 1, 1973 that portion of a highway had a speed limit uniformly applicable to all types of motor vehicles. Nonuniform speed limits in existence on November 1, 1973 may remain in effect at the State's discretion so long as the maximum does not exceed 55 miles per hour.

§ 658.7 Exemptions.

(a) *Special permit vehicles.* Notwithstanding the provisions of paragraphs (a), (b), and (c) of § 658.5, a lower speed limit may be established for a motor vehicle operating under a special permit because of the weight or dimensions of the motor vehicle, including any load thereon.

(b) *Temporary hazardous conditions.* The rules in paragraphs (b) and (c) of § 658.5 do not apply to a portion of a highway during a time when the condition of the highway, weather, an accident, or other conditions (including construction or maintenance operations) create a temporary hazard to traffic safety.

(c) *Reduction of speed limits for safety.* After it has modified its speed limits in compliance with the rules in this part, a State may find that accident frequency or potential requires reduction of the speed limit on a specific section of a highway subject to the rules in § 658.5(b). The State may reduce the speed limit on that section of the highway if it submits its justification and recommendation for the change to the Federal Highway Administration Division Engineer and receives his written approval of the reduction.

(d) *Emergency and police vehicles.* The rules in § 658.5 do not prevent a State from authorizing the operation of emergency and police motor vehicles at a rate of speed higher than the speed limit for other motor vehicles when that operation is necessary to protect health or safety.

§ 658.9 Statement of compliance.

(a) *Contents of certificate.* Each State shall furnish the Federal Highway Administration Division Engineer with a statement that it has complied with the Act. The statement shall include—

(1) A description of the action taken by the Governor, State legislature, or other appropriate official or agency to implement the Act;

(2) an opinion of the State's legal counsel that the action taken is lawful in cases where the action is not based on a specific, cited provision of State statute or the State's constitution (such as the State's assent law); and

(3) a statement that speed limit signs have been changed when necessary to reflect modifications in speed limits required by the Act.

(b) *Effect of stated action.* Administrative action lawfully taken by a Governor or other appropriate State official in compliance with the Act and as specified in the State's statement shall be deemed to place the State in compliance with the Act.

(c) *Effect of failure to furnish statement.* After March 3, 1974, a Federal Highway Administration Division Engineer shall not approve plans, specifications, and estimates submitted by a State or authorize the State to advertise for bids for construction if the State has not furnished him with a statement that conforms to the rules in paragraph (a) of this section.

§ 658.11 Federal reimbursement for sign modifications.

(a) *Availability of funds.* Federal-aid highway funds apportioned to a State under 23 U.S.C. 104 are available to pay 100% of the eligible cost of modifying the signing on Federal-aid highway systems to carry out the intent of the Act.

(b) *Eligible costs.* Any costs incurred by a State after November 1, 1973 for modifying speed limit signs are eligible for participation even though the project was not programmed before the work was done. Eligible costs will normally be limited to the costs of changing the numerals on speed limit signs to reflect a new speed limit.

§ 658.13 Procedures for obtaining reimbursement for sign modification costs.

To simplify and expedite payment of the cost of modifying signs to carry out the Act, the following procedures for obtaining Federal-aid highway funds are authorized:

(a) States should submit a single statewide project for each Federal-aid system. The Federal Highway Administrator has found that it is in the public interest to permit sign modification work to carry out the Act to be performed by force account.

(b) A complete PS&E submission is not required. Each State must prepare and submit a cost estimate to permit the development of a project agreement.

(c) The Federal Highway Administration will accept simplified cost records. The development and use of an average cost-per-sign figure will be acceptable for cost reimbursement purposes.

§ 658.15 Termination of the rules in this part.

The rules in this part cease to be in effect on and after the date the President declares that there is no fuel shortage requiring the application of the Act or on and after June 30, 1975, whichever date first occurs.

[FR Doc.74-2574 Filed 1-30-74;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 1—GENERAL PROVISIONS

Schedule of Fees for Copies of Records and Papers

On page 34746 of the FEDERAL REGISTER of December 18, 1973, there was published a notice of proposed regulatory development to amend § 1.526 to update the schedule of fees established for copying, certification, and search of records which are furnished the public. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed amendment.

One comment was received. It is not considered pertinent as the correspondent erroneously assumed that the Veterans Administration is proposing to require veterans and their dependents to pay for copies of records from Veterans Administration files needed to obtain benefits to which they may be entitled.

Effective date. This VA Regulation is effective January 25, 1974.

Approved: January 25, 1974.

By direction of the Administrator.

[SEAL] R. L. ROUDEBUSH,
Deputy Administrator.

In § 1.526, paragraphs (g) and (i) (2), (4) and (6) (i) are amended to read as follows:

§ 1.526 Copies of records and papers.

* * * * *

(g) In those cases where it is determined that a fee shall be charged, the applicant will be advised to deposit the amount of the lawful charge for the copy desired. The amount of such charge will be determined in accordance with the schedule of fees prescribed in paragraph (i) of this section. The desired copy will not be delivered, except under court subpoena, until the full amount of the lawful charge is deposited. Any excess deposit of $1 or more over the lawful charge will be returned to the applicant. Excess deposits of less than $1 will be returned upon request. When a deposit is received with an application, such a deposit will be returned to the applicant should the application be denied.

* * * * *

(i) Schedule of fees:

* * * * *

(2) Photocopy reproductions from all types of copying processes.

(i) First reproduction image	$0.25
(ii) Each additional reproduction image	.10

* * * * *

(4) Searching, per hour (minimum charge one-half hour)	4.00

* * * * *

(6) Office handling of files under court subpoena.

(i) When the file is in the office served with the subpoena	5.00

* * * * *

[FR Doc. 74-2571 Filed 1-30-74;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT

Experimental Use of Sodium Cyanide in a Spring-Loaded Ejector Mechanism for Predator Control

Pursuant to the provisions of section 5 and 25(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (86 Stat. 938, 997), the following regulation relating to experimental use permits for the use of certain sodium cyanide products for predator control is hereby promulgated.

On March 9, 1972, this Agency suspended and canceled all registrations of pesticides containing sodium cyanide for use as predator controls (37 FR 5718). These pesticides involved the use of sodium cyanide in the form of shells in an explosive device triggered by an animal pulling at it. Sodium cyanide is not presently registered for use in any form for the purpose of predator control.

Since the time of the 1972 Order, this Agency has received several requests for the registration or use of sodium cyanide in a spring-loaded ejector unit. Although the active ingredient in this spring-loaded unit remains sodium cyanide, the delivery system differs significantly from the sodium cyanide delivery system in use prior to March 1972. Specifically, the human hazard associated with the spring-loaded mechanism appears to be signficantly less than that of the explosive type. Additionally, the spring-loaded sodium cyanide ejector unit, when properly placed and used by a trained applicator, appears to be more selective in targeting on coyotes than other chemical predator methods used prior to the 1972 Order.

The apparently improved characteristics of the spring-loaded ejector mechanism do not alter the fact stated in the 1972 Order, that cyanide has a very high potential human health and environmental risk. Also, as stated in the 1972 Opinion and order, "the burden of proof rests on the poison." The knowledge which would permit satisfactory evaluation of the sodium cyanide used in the spring loaded unit as a candidate for registration or for any widespread use is not yet available. There still exists a lack of reliable data, as there did in early 1972, in particular (insofar as the M-44 is concerned):

(1) Insufficient data on the amount of coyote control which can be achieved by the M-44 without causing unreasonable adverse effect on the environment;

(2) Insufficient data on the correlation between the number of sheep lost without the use of the M-44;

(3) Insufficnt data comparing the effectiveness and cost of the M-44 with non-chemical coyote control alternatives, including denning, shooting, trapping, and protective measures applied directly to sheep and lambs.

Data to resolve the above questions can be generated only under controlled field use. Accordingly, the Administrator has determined to give expedited, favorable consideration to applications for experimental use of the spring-loaded ejector device.

Under the FIFRA, experimental use may proceed so that the applicant can accumulate the field information necessary for registration. The Administrator will specify the terms and conditions under which use may be made and may limit the period of time for use. Permits may be revoked at any time either for violation of the provisions of the permits or to avoid deleterious effects on the environment. Experimental, controlled field use of the sodium cyanide spring-loaded ejector unit under a variety of conditions should lead to the acquisition of much of the data indicated as lacking in the 1972 Order. Specifically, data collection requirements should yield good efficacy and effects data upon which to base future decisions on registration or emergency exemptions.

Under normal procedures, this Agency would allow a thirty day comment period on a regulation of this type. However, because the lambing season has already begun in certain areas of the United States, a time when coyotes are allegedly very active as predators, the generation of meaningful data on the effects and efficacy of the spring-loaded unit requires that the experimental programs be initiated as soon as possible. Therefore, this Agency finds for good cause that it is impracticable and contrary to the public interest to follow normal notice and public procedure or to delay the effective date of the regulation for thirty days following publication.

The regulation which follows provides a mechanism for issuance of experimental permits for use of sodium cyanide in a spring-loaded unit. Although the regulation will be made effective February 1, 1974, public comment will be solicited upon the terms of any permit issued thereunder. Public notice of the issuance of any permit and a description of its terms and conditions will be published in the FEDERAL REGISTER at the time of issuance. Any permit issued will also be available for public inspection and copying at the Office of the Hearing Clerk, Environmental Protection Agency, Waterside Mall, Washington, D.C. 20460.

Effective on February 1, 1974, a new § 162.19 of the regulations for the enforcement of the Federal Insecticide, Fungicide and Rodenticide Act is promulgated to read as follows:

§ 162.19 Sodium cyanide products for use in a spring-loaded ejector device for predator control—experimental use program.

All persons who wish to undertake an experimental use program involving the use of sodium cyanide in a spring-loaded ejector unit as a predator control are required to apply for an experimental use permit pursuant to section 5 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (86 Stat. 983). Said permit will be issued only upon a determination that the applicant needs such permit in order to accumulate information necessary to support registration and will agree to the terms of the permit.

Dated: January 29, 1974.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.74-2740 Filed 1-30-74;8:53 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 21—COMMISSIONED OFFICERS

The present regulation provides for payment of up to $650 for burial expenses of an officer who dies while on active duty. This is less than would be paid by the Veterans Administration if his death occurs after separation from a service-connected disability. The amendment will provide for payment in the same amount allowed by the VA under Pub. Law 93-43. Public participation in this change was not solicited since the change involves only internal administration of the Commissioned Corps personnel system.

1. Section 21.331 of 42 CFR Part 21 is amended to read as follows:

§ 21.331 Commissioned officers.

Upon the death of a commissioned officer, the Secretary or his designee may pay the necessary expenses for those items enumerated in 10 U.S.C. 1482, in accordance with and subject to those limitations prescribed in said sections. Not more than the amount authorized to be paid under section 8134(a) of title 5 in the case of a Federal employee whose death occurs as the result of an injury sustained in the performance of duty shall be paid for the following:

(a) Preparation of remains for burial (including cremation of remains upon request of the person recognized as the one to direct the disposition of the remains);

(b) Casket or urn, with outside box;

(c) Hearse service; and

(d) Funeral director's services.

In addition, an amount not to exceed $150 shall be paid for the interment of the remains when the interment is in a cemetery other than a national cemetery.