§ 447.26 [Amended]

36. Section 447.26(b) (1) is amended by revising to read as follows:

(b) * * *

(1) Avoid the introduction of Mycoplasma gallisepticum or Mycoplasma synoviae infected poultry;

* * * * *

§ 447.43 [Amended]

37. Section 447.43(a) is amended by revising to read as follows:

(a) The General Conference Committee shall consist of the Assistant Secretary of Agriculture for Conservation, Research, and Education, or his designee, and one member to be elected, as provided in paragraph (b) of this section, from each of the following regions:

* * * * *

38. Section 447.43(d) (2) (iii) is amended by revising to read as follows:

(d) * * *

(2) * * *

(iii) Recommending to the Secretary of Agriculture such administrative changes in the requirements of the Plan as may be necessitated by unforeseen conditions when postponement until the next Conference would seriously impair the operation of the program. Such recommendations shall remain in effect only until confirmed or rejected by the next Plan Conference, or until sooner rescinded by the committee;

* * * * *

Except as otherwise provided, all amendments should be made effective as soon as possible to reflect the interests of the Conference and to effectuate the purpose of the statute (7 U.S.C. 429). Therefore, under the administrative procedure provisions in 5 U.S.C. 553, good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Except for the amendments set forth in §§ 445.23(a) and 445.43(f) which have delayed effective dates as indicated, the foregoing amendments shall become effective January 8, 1975.

Done at Washington, D.C., this 2nd day of January, 1975.

RALPH J. MCCRAKEN,
Acting Administrator,
Agricultural Research Service.

[FR Doc.75-508 Filed 1-7-75;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Miscellaneous Amendments

The Reserve Banks presently have delegated authority to approve, under certain standards, one-bank holding company formations, bank holding company formations involving more than one bank, bank acquisitions by existing bank holding companies, bank mergers, mergers of bank holding companies, and certain finance company, industrial bank, and insurance company acquisitions by bank holding companies. The Reserve Banks, however, may not exercise their authority in any such case when a significant policy issue is raised by the proposal as to which the Board has not expressed its view. In this light, the Board has, as a matter of general policy, determined that it would not be appropriate for a Reserve Bank to act on an application under section 3 or section 4 of the Bank Holding Company Act or section 18(c) of the Federal Deposit Insurance Act when a director or senior officer of (1) the holding company, (2) any subsidiary bank of the holding company, (3) the merging banks, or (4) the finance company, industrial bank, or insurance company to be acquired, as the case may be, is either a director of a Federal Reserve Bank or branch or a member of the Federal Advisory Council. The Board has, as a matter of general policy, also determined that a Reserve Bank should submit to the Board for its action any application for the formation of a bank holding company when an individual (or group of individuals) who is a principal in the holding company being formed is already a principal in another bank holding company. Since the only criterion preventing approval under delegated authority of the above applications and other applications which the Board may, as a general policy matter, from time to time determine should not be acted on by a Reserve Bank, is special policy situations involving a Reserve Bank, such as potential conflicts of interest, or policy issues which the Board believes call for special study by the Board's staff, the Board has decided to delegate to the Secretary of the Board, pursuant to sections 3(a) (1), 3(a) (3), 3(a) (5) and 4(c) (8) of the Bank Holding Company Act and section 18(c) of the Federal Deposit Insurance Act, the authority to approve such applications if all of the other relevant regulatory criteria for approval under delegated authority have been met, and all relevant divisions of the Board's staff recommend approval. Applications falling outside these standards will be submitted to the Board for further consideration.

Designated Board members presently have delegated authority under sections 25 and 25(a) of the Federal Reserve Act and Parts 211 and 213 of this chapter (Regulations K and M), (1) to approve the establishment of certain foreign branches or agencies by members banks, or corporations organized under section 25(a) of the Federal Reserve Act ("Edge" corporations) or operating under an agreement with the Board pursuant to section 25 of the Federal Reserve Act ("Agreement" corporations); (2) to grant specific consent, under certain standards, to the acquisition, either directly or indirectly, by a member bank or an Edge or Agreement corporation of the stock of certain companies and to approve any such acquisition that may exceed the limitations in section 25(a) of the Federal Reserve Act based on such a corporation's capital and surplus; (3) to permit an Edge or Agreement corporation to exceed the limitations in § 211.9 (b) and (c) of this chapter (Regulation K); and (4) to approve under certain standards, the issuance by an Edge or Agreement corporation or a subsidiary thereof of debentures, bonds, promissory notes (with a maturity of more than one year), or similar obligations under § 211.4 of this chapter (Regulation K). The Board has decided to delegate to the Secretary of the Board, in lieu of a designated Board member, the authority to take the foregoing actions, pursuant to sections 25 and 25(a) of the Federal Reserve Act and Parts 211 and 213 of this chapter (Regulations K and M). In so doing, the Board has set forth standards under which this authority may be exercised. Applications falling outside these standards will be submitted to the Board for further consideration.

The Board has also decided to delegate to the Secretary of the Board the authority to grant specific consent, pursuant to the provisions of section 4(c) (13) of the Bank Holding Company Act, to the acquisition, either directly or indirectly, by a bank holding company of a noncontrolling stock interest in certain foreign companies. The Board has set forth standards under which this authority may be exercised. Applications falling outside these standards will be submitted to the Board for further consideration.

The Board has also decided to change the name of The Committee on Organization, Compensation, and Building Plans to the "Committee on Federal Reserve Bank Activities". In addition, the Board has decided to delete the provision delegating to that Committee the power to approve, subject to certain conditions, the salary of any officer of a Federal Reserve Bank holding a position below that of First Vice President and to insert in lieu thereof a provision delegating to such Committee the power to approve, in connection with year-end salary reviews, the salary of any o.cer of a Federal Reserve Bank at the level of Senior Vice President (Salary Group A), excluding the Manager of the System Open Market Account and the Special Manager for Foreign Currency Operations for such Account, and the salary of any General Auditor of a Federal Reserve Bank.

1. Effective December 30, 1974, § 265.1a is amended by striking out all of paragraph (a) thereof, and by striking out "(b) The Committee on Organization, Compensation, and Building Plans, consisting of three members of the Board" in paragraph (b) thereof and inserting in lieu thereof "(a) The Committee on Federal Reserve Bank Activities, consisting of at least three members of the Board" and by striking clause (ii) of subparagraph (1) thereof, and inserting in lieu thereof "(ii) in connection with year-end salary reviews, the salary of any officer of a Federal Reserce Bank at the level of Senior Vice President (Salary Group A), excluding the Manager of the System Open Market Account and the Special Manager for Foreign Currency Operations for such Account, and the salary of any General Auditor of a Fed-

eral Reserve Ban." As so amended, § 265.-1a reads as follows:

§ 265.1a Specific Functions Delegated to Board Members.

(a) The Committee on Federal Reserve Bank Activities, consisting of at least three members of the Board designated by the Chairman, is authorized, pursuant to the twenty-second paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 307) and subject to such general guidelines as may be prescribed by the Board:

(1) To approve (i) changes in the salary structure for officers, other than the President and First Vice President, of each Federal Reserve Bank and branch thereof, and (ii) in connection with year-end salary reviews, the salary of any officer of a Federal Reserve Bank at the level of Senior Vice President (Salary Group A), excluding the Manager of the System Open Market Account and the Special Manager for Foreign Currency Operations for such Account, and the salary of any General Auditor of a Federal Reserve Bank.

(2) To approve (i) changes in maximum and minimum salaries for the respective grades of the salary structure for nonofficial employees of each Federal Reserve Bank and branch thereof, (ii) an increase in the special maximum salary for Grade 16 of such salary structure for each Reserve Bank or branch, and (iii) the payment of salary to any such employee in excess of the maximum or below the minimum for the grade in which the employee's position is classified.

(3) To approve (i) amendments to the authorization from the Board of Governors to the Federal Reserve Banks for the payment of separation allowances upon the involuntary termination of employment of any officer or employee of a Federal Reserve Bank or branch, and (ii) payment of such a separation allowance to any officer of a Reserve Bank or branch.

(4) To approve the payment of salary to any officer (other than the President or First Vice President) or employee of a Federal Reserve Bank whose services are retained for more than 90 days after attainment of normal retirement age.

(5) To approve amendments to the Guidelines and Objectives for Health Insurance prescribed by the Board of Governors for officers and employees of Federal Reserve Banks and their branches. In the exercise of any authority delegated under this paragraph (a), the Committee shall be guided by the objectives of promoting the efficiency of Reserve Bank operations and of maintaining the morale of Reserve Bank personnel and shall give appropriate attention to salary levels and employment practices in the relevant community but with due regard to the public character of the Federal Reserve System.

2. Effective December 30, 1974, § 265.2 (a) is amended by changing the comma following "authorized" to a colon, by making a new subparagraph (1) out of that part of paragraph (a) beginning with the word "under", and by adding new subparagraphs (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), and (12) to read as follows:

§ 265.2 Specific Functions Delegated to Board Employees and to Federal Reserve Banks.

(a) The Secretary of the Board (or, in his absence, the Acting Secretary) is authorized:

(1) Under the provisions of Part 261 of this chapter, to make available, upon request, information in the records of the Board.

(2) Under the provisions of section 3 (a)(1) of the Bank Holding Company Act (12 U.S.C. 1842), to approve the formation of a bank holding company through the acquisition by a company of a controlling interest in the voting shares of one or more banks, if all of the following conditions are met:

(i) The Reserve Bank could approve such formation under paragraph (f)(22) of this section, except for the fact that paragraph (f)(22)(iv) of this section has not been met because one of the following policy issues has been raised with respect to such formation:

(*a*) A director or senior officer of a bank which would become a subsidiary of the holding company proposed to be formed or a director or senior officer of the holding company proposed to be formed, is a director of a Federal Reserve Bank or branch.

(*b*) A director or senior officer of a bank which would become a subsidiary of the holding company proposed to be formed, or a director of senior officer of the holding company proposed to be formed, is a member of the Federal Advisory Council.

(*c*) An individual (or group of individuals) who is a principal in the holding company proposed to be formed is already a principal in another bank holding company.

(*d*) The Board has made a general determination that another policy issue raised by the proposal does not require Board consideration, but nevertheless makes it inappropriate for a Reserve Bank to approve the proposal.

(ii) All relevant divisions of the Board's staff recommend approval.

(3) Under the provisions of section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842), to approve the acquisition by a bank holding company of a controlling interest in the voting shares of an additional bank, if all of the following conditions are met:

(i) The Reserve Bank could approve such acquisition under paragraph (f) (24) of this section, except for the fact that paragraph (f)(24)(iv) of this section has not been met because one of the following policy issues has been raised with respect to such acquisition:

(*a*) A director or senior officer of the holding company, of any subsidiary bank of the holding company or of any bank sought to be acquired, is a director of a Federal Reserve Bank or branch.

(*b*) A director or senior officer of the holding company, of any subsidiary bank of the holding company or of any bank sought to be acquired, is a member of the Federal Advisory Council.

(*c*) The Board has made a general determination that another policy issue raised by the proposal does not require Board consideration, but nevertheless makes it inappropriate for a Reserve Bank to approve the proposal.

(ii) All relevant divisions of the Board's staff recommend approval.

(4) Under the provisions of section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), to approve a merger, consolidation, acquisition of assets or assumption of liabilities, where the resulting bank is a State member bank, if all of the following conditions are met:

(i) The Reserve Bank could approve such merger, consolidation, acquisition of assets or assumption of liabilities under paragraph (f)(28) of this section, except for the fact that paragraph (f)(28)(iv) of this section has not been met because one of the following policy issues has been raised with respect to such transaction:

(*a*) A director or senior officer of any bank involved in such transaction is a director of a Federal Reserve Bank or branch.

(*b*) A director or senior officer of any bank involved in such transaction is a member of the Federal Advisory Council.

(*c*) The Board has made a general determination that another policy issue raised by the proposal does not require Board consideration, but nevertheless makes it inappropriate for a Reserve Bank to approve the proposal.

(ii) All relevant divisions of the Board's staff recommend approval.

(5) Under the provisions of section 3 (a)(5) of the Bank Holding Company Act (12 U.S.C. 1842), to approve the merger or consolidation of a bank holding company with any other bank holding company, if all of the following conditions are met:

(i) The Reserve Bank could approve such merger or consolidation under paragraph (f)(30) of this section, except for the fact that paragraph (f)(30)(iv) of this section has not been met because one of the following policy issues has been raised with respect to such merger or consolidation:

(*a*) A director or senior officer of any of the holding companies or of any of the subsidiary banks of the holding companies involved in such merger or consolidation is a director of a Federal Reserve Bank or branch.

(*b*) A director or senior officer of any of the holding companies or of any of the subsidiary banks of the holding companies involved in such merger or consolidation is a member of the Federal Advisory Council.

(*c*) The Board has made a general determination that another policy issue raised by the proposal does not require Board consideration, but nevertheless makes it inappropriate for a Reserve Bank to approve the proposal.

(ii) All relevant divisions of the Board's staff recommend approval.

(6) Under the provisions of section 4(c)(8) of the Bank Holding Company

Act (12 U.S.C. 1843(c)(8)) and §§ 225.4 (a)(1), (2), (3) and (9)(ii) of Regulation Y (12 CFR 225.4(a)(1), (2), (3) and (9)(ii)) to approve the acquisition by a bank holding company of an interest in a finance company or an industrial bank, as such terms are respectively defined in paragraph (f), (31) of this section, whether by acquisition of shares or assets, if all of the following conditions are met:

(i) The Reserve Bank could approve such acquisition under paragraph (f)(31) of this section, except for the fact that paragraph (f)(31)(v) of this section has not been met because one of the following policy issues has been raised with respect to such acquisition:

(*a*) A director or senior officer of the holding company, of any subsidiary bank of the holding company or of the finance company or industrial bank to be acquired is a director of a Federal Reserve Bank or branch.

(*b*) A director or senior officer of the holding company, of any subsidiary bank of the holding company or of the finance company or industrial bank to be acquired is a member of the Federal Advisory Council.

(*c*) The Board has made a general determination that another policy issue raised by the proposal does not require Board consideration, but nevertheless makes it inappropriate for a Reserve Bank to approve the proposal.

(ii) All relevant divisions of the Board's staff recommend approval.

(7) Under the provisions of section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4 (a)(9)(iii)(a) of Regulation Y (12 CFR 225.4(a)(9)(iii)(a)) to approve the acquisition or, as an incident to a bank holding company formation pursuant to section 34a) (1) of the Act, the retention by a bank holding company of shares or assets of a company that acts as insurance agent or broker in offices at which the holding company or its subsidiaries are otherwise engaged in business (or in an office adjacent thereto) with respect to any insurance sold in a community that has a population not exceeding 5,000, if all of the following conditions are met:

(i) The Reserve Bank could approve such acquisition or retention under paragraph (f)(32) of this section, except for the fact that paragraph (f)(32)(iv) of this section has not been met because one of the following policy issues has been raised with respect to such acquisition or retention:

(*a*) A director or senior officer of the holding company, of any subsidiary bank of the holding company or of the company to be acquired or retained, is a director of a Federal Reserve Bank or branch.

(*b*) A director or senior officer of the holding company, of any subsidiary bank of the holding company or of the company to be acquired or retained, is a member of the Federal Advisory Council.

(*c*) The Board has made a general determination that another policy issue raised by the proposal does not require Board consideration, but nevertheless makes it inappropriate for a Reserve Bank to approve the proposal.

(ii) All relevant divisions of the Board's staff recommend approval.

(8) Under the provisions of sections 25 and 25(a) of the Federal Reserve Act and Parts 211 and 213 of this chapter (Regulations K and M), to approve the establishment, directly or indirectly, of a foreign branch or agency by a member bank or corporation organized under section 25(a) (an "Edge" corporation) or operating under an agreement with the Board pursuant to section 25 (an "Agreement" corporation) which has already established, or has been authorized to establish, branches in two or more foreign countries, if all of the following conditions are met:

(i) The appropriate Reserve Bank recommends approval.

(ii) All relevant divisions of the Board's staff recommend approval.

(iii) No significant policy issue is raised by the proposal as to which the Board has not expressed its view.

(9) Under the provisions of sections 25 and 25(a) of the Federal Reserve Act and Parts 211 and 213 of this chapter (Regulations K and M), to grant specific consent to the acquisition, either directly or indirectly, by a member bank or an Edge or Agreement corporation of stock of (i) a company chartered under the laws of a foreign country or (ii) a company chartered under the laws of a State of the United States that is organized and operated for the purpose of financing exports from the United States, and to approve any such acquisition that may exceed the limitations in section 25(a) of the Federal Reserve Act based on such a corporation's capital and surplus, if all of the following conditions are met:

(*a*) The appropriate Reserve Bank recommends approval.

(*b*) All relevant divisions of the Board's staff recommend approval.

(*c*) No significant policy issue is raised by the proposal as to which the Board has not expressed its view.

(*d*) Such acquisition does not result, either directly or indirectly, in the acquisition by such bank or corporation of effective control of any such company (other than a company performing nominee, fiduciary, or other banking services incidental to the activities of a foreign branch or affiliate of such bank or corporation).

(10) Under the provisions of sections 25 and 25(a) of the Federal Reserve Act and Parts 211 and 213 of this chapter (Regulations K and M), to permit an Edge or Agreement corporation to exceed the limitations in § 211.9 (b) and (c) of this chapter (Regulation K),[1] if all of the following conditions are met:

(i) The appropriate Reserve Bank recommends approval.

(ii) All relevant divisions of the Board's staff recommend approval.

(iii) No significant policy issue is raised by the proposal as to which the Board has not expressed its view.

(11) Under sections 25 and 25(a) of the Federal Reserve Act and Parts 211 and 213 of this chapter (Regulations K and M), to approve, under § 211.4 of this chapter (Regulation K), the issuance by an Edge or Agreement corporation or a subsidiary thereof of debentures, bonds, promissory notes (with a maturity of more than one year), or similar obligations, if all of the following conditions are met:

(i) The appropriate Reserve Bank recommends approval.

(ii) All relevant divisions of the Board's staff recommend approval.

(iii) No significant policy issue is raised by the proposal as to which the Board has not expressed its view.

(12) Under the provisions of section 4(c)(13) of the Bank Holding Company Act (12 U.S.C. 1843), and § 225.4(f) of Part 225 of this chapter (Regulation Y), to grant specific consent to the ownership or control, either directly or indirectly, by a bank holding company of voting shares of a company chartered under the laws of a foreign country, if all of the following conditions are met:

(i) The appropriate Reserve Bank recommends approval.

(ii) All relevant divisions of the Board's staff recommend approval.

(iii) No significant policy issue is raised by the proposal as to which the Board has not expressed its view.

(iv) Such acquisition does not result, either directly or indirectly, in the acquisition by such bank holding company of control of any such company (other than a company performing nominee, fiduciary, or other banking services incidental to the activities of a direct or indirect foreign subsidiary of such corporation).

* * * * *

By order of the Board of Governors, effective December 30, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-449 Filed 1-7-75;8:45 am]

[1] Subject, of course, to the limitations in section 25(a) relating to aggregate liabilities outstanding on debentures, bonds, and promissory notes.

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 73-SO-59]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On September 5, 1973, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (38 FR 23969), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Charleston, S.C., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to publication of the Notice, the geographic position of Johns Island RBN was refined to "lat. 32°42'-09" N., long. 80°00'10" W." It is necessary to amend the description to reflect this change. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 9:01 G.m.t., February 27, 1975, as hereinafter set forth.

In § 71.181 (40 FR 441), the Charleston, S.C., transition area is amended as follows:

* * * log. 80°00'00" W.) * * * is * * * long. 80°00'00" W.) * * *" is within 3 miles each side of the 280° bearing from Johns Island RBN (lat. 32°42'-09" N., long. 80°00'10" W.), extending from the 6.5-mile radius area to 8.5 miles west of the RBN * * * is substituted therefor.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655 (c)))

Issued in East Point, Ga., on December 26, 1974.

DUANE W. FREER,
Acting Director,
Southern Region.

[FR Doc.75-660 Filed 1-7-75;8:45 am]

[Airspace Docket No. 74-SO-122]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Redesignation of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to redesignate the Fort Stewart, Ga., control zone.

The Fort Stewart control zone is described in § 71.171 (40 FR 354) and is presently designated 24 hours daily. The U.S. Army has reduced the hours of operation of the airport traffic control tower from 24 hours daily to 7 a.m. to 11 p.m., local time, daily. It is necessary to amend the description to redesignate the control zone as part-time and publish the effective hours. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (40 FR 354), the Fort Stewart, Ga., control zone is amended as follows:

This control zone is effective from 0700 to 2300 hours, local time, daily, is added to the description.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in East Point, Ga., on December 27, 1974.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.75-662 Filed 1-7-75;8:45 am]

[Airspace Docket No. 73-SO-68]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On January 8, 1974, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (39 FR 1362), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Moncks Corner, S.C., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 9 a.m. G.m.t., February 27, 1975, as hereinafter set forth.

In § 71.181 (40 FR 441), the following transition area is added.

MONCKS CORNER, S.C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Moncks Corner Airport (latitude 33°11'30" N, longitude 80°02'00" W); within 3 miles each side of the 226° bearing from Moncks Corner RBN (latitude 33°11'35" N, longitude 80°01'34" W), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in East Point, Ga., on December 26, 1974.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.75-661 Filed 1-7-75;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regs. No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED (1974 ......)

Subpart M—Suspensions and Terminations

On April 2, 1974, a notice of proposed rulemaking was publishd in the FEDERAL REGISTER (39 FR 12027) relating to suspensions and terminations under the supplemental security income program. The proposed rules deal with events and circumstances for which payment under title XVI of the Act is precluded. The events and circumstances the occurrence of which result in a temporary suspension of payment and the events and circumstances the occurrence of which terminate an individual's eligibility under the program are described. The proposed rules also contain procedural provisions applicable to suspension or termination of eligibility or reduction of the amount of benefits occurring after the establishment of initial eligibility and amount of benefits.

The period for comments expired on May 2, 1974, and seven letters of comment were received from the public in response to the proposal. While comments were varied, the most significant ones pertained to the proposed effective dates for suspension of payment and to the situations in which it was proposed that no advance written notice of intent to reduce, suspend, or terminate an individual's payment be furnished prior to effectuating such action. There follows a discussion of the comments received from the public and the disposition thereof.

The proposed § 416.1325 provided for suspension of payment for any month for which a recipient is ineligible for payment because he is an inmate of a public institution throughout such month. One writer objected to the provision. However, section 1611(e)(1)(A) of the Social Security Act (42 U.S.C. 1382(e)(1)(A)) specifically provides that no individual shall be eligible for any month throughout which he is an inmate of a public institution.

Another writer commented on the proposed § 416.1323, which provides for suspension of payment due to ineligibility because an individual's "countable income" (as defined in § 416.1115) equals or exceeds the amount of benefits otherwise payable. The writer suggested that income should be counted only at the point at which it is physically received by the individual and not when it is merely promised to him. In fact, it is established policy not to count income which cannot be reliably anticipated by the recipient (e.g., earnings from sporadic employment) until such income is actually available to him. However, the suggestion does not take into consideration the fact that many individuals have income such as pensions, annuities, or earnings from steady employment which are received regularly and in fixed amounts. As such, the income can be reliably anticipated to be available to meet the recipient's needs and should be counted at the time the individual's eligibility and payment amount are determined. By doing so, the recipient's payment amount more accurately reflects his current circumstances; and once such income has been counted, the recipient then need report only changes in the amount or receipt of the income. To do as suggested with all types of income would impose unrealistic reporting requirements on the recipient, especially when the income is received as often as weekly or monthly. For these reasons, no change is being made in this provision.

In another comment the same writer objected to several of the proposed suspension effective dates on the premise that they resulted in a "retroactive" suspension of eligibility for months for which the recipient had already received payment. Two examples were cited: the proposed § 416.1326, which provides for suspension effective with the month in which the recipient fails to undergo treatment for drug addiction or alcoholism, and the proposed § 416.1328, which provides for suspension effective with the month in which the recipient refuses to accept vocational rehabilitation services. Because supplemental security income benefits are normally paid on the first day of the month for which they are due, it was pointed out that in both instances the recipient would have already received payment for the effective month of suspension. Thus, the suspension of eligibility would result in an overpayment to the recipient. To remedy this it was suggested that the proposed regulations be changed to provide that in every case, if a recipient is eligible for payment on the first day of the month, he would remain eligible for payment throughout that month. In most cases the Act does provide for ineligibility effective with the month after the month in which the pertinent event or change in the recipient's circumstances occurs. This is evident in the statutory provisions making ineligible for any month an individual who is outside the country or an inmate of a public institution "throughout such month". However, section 1611(e)(3)(A) of the Act merely conditions eligibility for any month upon the acceptance of appropriate available treatment for alcoholism or drug addiction, and, similarly, section 1615(c) provides for ineligibility upon the recipient's refusal without good cause to accept vocational rehabilitation services for which he has been referred. Because the statutory provisions relating to treatment for drug addiction or alcoholism and acceptance of vocational rehabilitation services could be defeated by expressing willingness to accept treatment or services for brief periods throughout the month, and because the statute does not contain the "throughout the month" concept, these rules are considered to be both necessary and justifiable and hence no change has been made.

Another writer commented that as a result of the proposed suspension effective dates overpayments would occur due to the fact that payment for a month is normally made on the first of the month. The writer was concerned that if these overpayments are withheld from a recipient's payment (presumably after the recipient had reestablished eligibility for payment), he would be left without any income and would be forced to apply for general assistance. To forestall this possibility, the writer suggested that if the proposed dates are adopted, greater use should be made of the provisions in proposed § 416.570 (Subpart E of Part 416) which permits the withholding of only a part of a recipient's payment to recover an overpayment. In fact, established policy permits partial withholding of a recipient's payment to recover an overpayment in virtually all instances in which the recipient's only income is his supplemental security income benefit. However, it is not considered necessary to set this out in Subpart M as § 416.570 of Subpart E of the regulations is being revised to reflect this policy.

A recipient is ineligible for payment and his benefits are suspended effective with the first full calendar month he is outside the fifty States and the District of Columbia. The proposed § 416.1327 provides for such suspension and further provides that if a recipient has been outside the fifty States and the District of Columbia for 30 consecutive days, he is, for purposes of reestablishing eligibility, considered as remaining there until he has returned to and remained in one of the fifty States or the District of Columbia for a period of 30 consecutive days. A writer objected to the requirement that the recipient must remain in one of the fifty States or the District of Columbia for 30 consecutive days before he may reestablish eligibility. However, such requirement is specifically provided in section 1611(f) of the Social Security Act and cannot be changed by regulation.

Another writer, in commenting on the same proposed regulation, stated that the provision discriminates against citizens who reside in Puerto Rico, Guam, and the Virgin Islands, and requested that the proposed rule be changed to permit payment of supplemental security income benefits to these individuals. However, Congress expressly provided in section 303(b) of Public Law 92-603 (86 Stat. 1484) that the statutory provision establishing the supplemental security income program and repealing the Federal grants for locally-administered public assistance programs provided in titles I, X, XIV, and XVI of the Social Security Act would not be effective with respect to Puerto Rico, Guam, and the Virgin Islands. For this reason, no change is being made in this provision.

Another writer questioned whether the resource limitations referred to in proposed § 416.1324(a), which provides for suspension of payment due to excess resources, also applied in the case of a recipient who was not receiving a Federal benefit under title XVI but who was receiving a State supplementary payment. As provided in the proposed § 416.2003(a) (38 FR 21188, August 6, 1973), such resource limitations do apply to any individual who is receiving a federally administered optional payment. Therefore, it is not considered necessary to include a similar stipulation in the proposed § 416.1324(a).

In the proposed § 416.1336, which provides that advance written notice of intent to reduce, suspend, or terminate payment must be furnished prior to effectuation of the action, four situations are described in which it is proposed that such notice will not be furnished. These are cases where: (1) The Social Security Administration has factual information confirming the death of the recipient; (2) amendments to Federal law or an increase in benefits payable under Federal law require automatic suspension, reduction, or termination of payment; (3) clerical or mechanical error has been made in effectuating a determination or decision; and (4) the facts on which a reduction, suspension, or termination action is based were supplied by the recipient, are complete, and the conclusions to be drawn from such facts are not subject to conflicting interpretations. Two writers objected to these exceptions to furnishing advance written notice. Both argued that the U.S. Supreme Court decision in *Goldberg* v. *Kelly*, 397 U.S. 254 (1970), would require that such a notice be sent in every case in which an action adverse to the recipient is taken and that failure to furnish such a notice would deprive recipients of their constitutional right to due process. The court, in *Goldberg* v. *Kelly*, made it clear that the purpose of furnishing advance notice of an adverse action is to prevent a termination of assistance pending resolution of a factual controversy. To thus deprive an eligible recipient of the means by which to live while the question of his eligibility was being resolved, the court found, would contravene the individual's right to due process. Thus, advance written notice affords the recipient an effective opportunity to prevent the adverse action from being taken while he challenges the determination by taking issue with the information on which it is based. It is believed that the proposed exceptions to furnishing the recipient advance written notice are valid and necessary, and that their application will not violate any recipient's right to due process as defined in *Goldberg*. In each of the situations in which it is proposed that advance notice is not required, the factual information on which a determination is based was either supplied by the recipient himself or is not of a nature that would be subject to dispute. For example, if a clerical or merchanical error had been made in effectuating a determination, the correction of the erroneous action does not introduce new facts and, as such, would not be the subject of a successful challenge by the recipient. Continuation of payment until there had been an opportunity to contest the required action in each of these instances could, in fact, actually work to the disadvantage of the recipient. To delay the action to reduce or stop a recipient's payment in these situations would only result in an overpayment for which the individual would be liable for repayment. Such a result would be extremely undesirable, particularly in any case where the recipient himself had conscientiously reported information because he understood that it would necessitate a reduction or stoppage of his payment.

The writers also stated that another reason for furnishing advance written notice in every case of reduction, suspension, or termination of payment was that if an error had been made in applying the facts in a recipient's case, the notice would alert him in time to have the error corrected before his payment was affected. However if this argument were carried to its logical conclusion, any action, including one favorable to the recipient, would require advance notice since any given action can be subject to error. Such an extreme measure would only be warranted in those cases where there is a real potential for disagreement or error so that the notice would serve to actually protect the recipients' interests rather than to work against them by delaying essential payment adjustment actions. These are the very cases to which the advance notice provisions of § 416.1336 apply.

Two changes have been made in the wording of certain sections for the purpose of clarity.

Accordingly, with these changes, the proposed amendments are adopted as set forth below.

(Secs. 1102, 1611–1615, and 1631 of the Social Security Act, as amended, 49 Stat. 647, as amended, 86 Stat. 1466–1477 (42 U.S.C. 1302, 1382–1382d, 1383.))

Effective date. These amendments shall become effective January 8, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Dated: November 18, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: December 30, 1974.

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

Part 416 of 20 CFR Chapter III is amended by adding thereto Subpart M to read as follows:

Sec.
416.1321 Suspensions; general.
416.1323 Suspension due to excess income.
416.1324 Suspension due to excess resources.
416.1325 Suspension due to status as an inmate of an institution.
416.1326 Suspension for failure to accept treatment for drug addiction or alcoholism.
416.1327 Suspension due to absence from the United States.
416.1328 Suspension due to refusal to accept vocational rehabilitation services.
416.1329 Suspension due to loss of United States residency, United States citizenship, or status as an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.
416.1330 Suspension due to failure to apply for and obtain other benefits.
416.1331 Termination due to cessation of blindness or disability.
416.1334 Termination due to death of recipient.
416.1335 Termination due to continuous suspension for ineligibility.
416.1336 Notice of proposed adverse action affecting recipient's payment status.

Subpart M—Suspensions and Terminations

§ 416.1321 Suspensions; general.

(a) *When suspension is proper*. Suspension of benefit payments is required when a recipient is alive but no longer meets the requirements of eligibility under title XVI of the Act (see Subpart B of this part) and termination in accordance with §§ 416.1331–416.1335 does not apply. (This subpart does not cover suspension of payments for administrative reasons, as, for example, when mail is returned as undeliverable by the Postal Service and the Administration does not have a valid mailing address for a recipient or when the representative payee dies and a search is underway for a substitute representative payee.)

(b) *Effect of suspension*. When payments are correctly suspended due to the ineligibility of a recipient, payments shall not be resumed until the individual again meets all requirements for eligibility except the filing of a new application. Such recipient, upon requesting reinstatement, shall be required to submit such evidence as may be necessary (except evidence of age, disability, or blindness) to establish that he again meets all requirements for eligibility under this part. Payments to such recipient shall be reinstated effective with the first month such recipient meets all requirements for eligibility except the filing of a new application.

(c) *Actions which are not suspensions*. Payments are not "suspended," but the claim is disallowed, when it is found that:

(1) The claimant was notified in accordance with § 416.230(c) at or about the time he filed application and before he received payment of a benefit that he should file a claim for a payment of the type discussed in § 416.1330 and such claimant has failed, without good cause (see § 416.230(d)), to take all appropriate steps within 30 days after receipt of such notice to file and prosecute an application for such payment;

(2) Upon initial application, payment of benefits was conditioned upon disposal of specified resources which exceeded the permitted amount and the claimant did not comply with the agreed-upon conditions;

(3) Payment was made to an individual faced with a financial emergency who was later found to have been not eligible for payment; or

(4) Payment was made to an individual presumed to be disabled and such disability is not established.

§ 416.1323 Suspension due to excess income.

(a) *Effective date*. Suspension of payments due to ineligibility for benefits because of excess income is effective with the first month in which "countable income" (see § 416.1115) equals or exceeds the amount of benefits otherwise payable for such month (see Subpart D of this part). This rule applies regardless of the month in which the income is received.

(b) *Claims filed late in quarter*. When a claim is filed in the second or third month of a calendar quarter, eligibility for benefits in the quarter of filing is determined on a monthly basis rather than on a quarterly basis. In such case, suspension of payments due to ineligibility for benefits because of excess income is effective with the month in which actual monthly countable income equals or exceeds the amount of the monthly benefit otherwise payable.

§ 416.1324 Suspension due to excess resources.

(a) *Effective date*. Except as specified in §§ 416.1240–416.1242, suspension of benefit payments because of excess resources is required effective with the month in which: (1) Ineligibility exists because countable resources (see § 416.1205) are in excess of:

(i) $1,500 for an eligible individual who has no spouse or who has an ineligible spouse who is not living with him, or

(ii) $2,250 for an eligible individual living with his spouse or for an eligible individual and eligible spouse, or

(iii) In the case of an eligible individual (and eligible spouse, if any) who for the month of December 1973 was a recipient of aid or assistance under a State plan approved under title I, X, XIV, or XVI of the Act, the maximum amount of resources specified in such State plan as in effect for October 1972, if greater than the amounts specified in paragraph (a)(1) (i) or (ii), as applicable, of this section; or

(2) After eligibility has been established, payment of benefits was conditioned upon disposal of specified resources which exceeded the permitted amount and the claimant did not comply with the agreed upon conditions. (3) The amount of an individual's or couple's countable resources is determined as of the first moment of each calendar quarter.

(b) *Claims filed late in quarter*. When a claim is filed in the second or third month of a calendar quarter, eligibility for benefits in the quarter of filing is determined on a monthly basis rather than on a quarterly basis. In such case, suspension of payments due to ineligibility for benefits because of excess resources is effective as of the first month in which countable resources exceed the allowable amount. When countable resources exceed the permitted amount as of such month, the beneficiary is ineligible for such month due to excess resources.

§ 416.1325 Suspension due to status as an inmate of an institution.

Except as provided in § 416.231(a)(2), a recipient is ineligible for benefits for the first full calendar month in which he defined in § 416.231(b)(3)) throughout is an inmate of a public institution (as the calendar month (as defined in §416.231(b)(4)), and his payments are suspended effective with such first full month. Such ineligibility continues for each full calendar month such individual is so institutionalized.

EXAMPLE: R entered a public hospital on May 5. The hospital did not receive title XIX payments (i.e., Medicaid) on his behalf. He remained in the hospital until July 29. R was ineligible for payments for June, and his payments were subject to suspension effective with that month. Such institutionalization would not preclude payment to R for July if he otherwise reestablishes his eligibility as of July.

§ 416.1326 Suspension for failure to accept treatment for drug addiction or alcoholism.

(a) *Suspension effective date.* A disabled recipient who is medically determined to be a drug addict or alcoholic is ineligible for benefits and his payments are subject to suspension effective with the first month in which he does not undergo treatment appropriate for his condition as a drug addict or alcoholic (as the case may be) at an institution or facility approved for such purpose by the Social Security Administration when such treatment is made available to him. In addition, such recipient is ineligible for benefits for any month, and his payments are suspended effective with such month, with respect to which it is determined that he is not complying with the terms, conditions, and requirements of the treatment provided or with the requirements established by the Social Security Administration to aid in remedying his condition. (See Subpart Q of this part for the treatment requirements.)

EXAMPLE: B had been medically determined to be an alcoholic, but he was in payment status because the approved facility did not have space to care for him. On June 4, B was notified that space had become available and that he was required to report for treatment on June 15. B did not respond and his payments were subject to suspension effective as of June.

(b) *Reestablishing eligibility.* When payments are suspended because a disabled recipient who is medically determined to be a drug addict or an alcoholic is not undergoing the required treatment, such ineligibility continues until he demonstrates compliance by actually undergoing the required treatment and such compliance is verified by the responsible authority at the institution or facility providing the treatment (see Subpart Q of this part). Reinstatement is effective with the first month in which the recipient complies with the required treatment or other direction, provided such compliance is first verified by the responsible official and provided the recipient otherwise establishes his eligibility for benefits for such month.

EXAMPLE: Payments to C, a drug addict, were suspended effective May because C failed to report for treatment. On June 25, C reported for treatment and otherwise established eligibility for benefits. The responsible State official reported on August 2 that C had reported June 25 and was complying with the required treatment. Payments may be resumed effective with June.

§ 416.1327 Suspension due to absence from the United States.

(a) *Suspension effective date.* A recipient is ineligible for benefits beginning with the first full calendar month he is outside the United States, and his payments are subject to suspension for such month. For purposes of this paragraph, "outside the United States" means outside the 50 States and the District of Columbia. After a recipient has been outside the United States for 30 consecutive calendar days, he is considered as remaining outside the United States until he has returned to and remained in the United States for a period of 30 consecutive days. Each calendar day consists of a full 24-hour day.

EXAMPLE 1: S left the United States on July 1 and returned July 31. S was not ineligible for payments based on his 29-day absence from the United States in July.

EXAMPLE 2: T left the United States on January 31 and returned to the United States on March 1. He was absent from the United States 28 full consecutive calendar days. T is ineligible for benefits for February because he was absent from the United States throughout the full calendar month.

EXAMPLE 3: V left the United States on March 1 and returned to the United States on April 1 where he remained. V was physically absent from the United States for 30 full consecutive calendar days; consequently, he is found to have remained outside the United States for 30 additional full consecutive calendar days (i.e., throughout April). V is eligible for the month of March, but not for the month of April. He may, however, reestablish eligibility beginning May if he otherwise is eligible for payment.

EXAMPLE 4: W left the United States on April 15. He returned to the United States on July 1. Since he was absent for more than 30 full consecutive calendar days, he is treated as being absent from the United States for an additional 30 full consecutive days. Thus, W is treated as having left the United States on April 15 and as having returned on July 31. W is ineligible for benefits for May and June; however, he may reestablish eligibility for benefits beginning July if he otherwise is eligible for benefits.

(b) *Reestablishing eligibility for benefits.* If a recipient submits evidence of his eligibility after he returns to and remains in the United States for 30 full consecutive calendar days, he may reestablish eligibility for benefit payments beginning with the first month in which he is considered as being in the United States on any day of such month.

§ 416.1328 Suspension due to refusal to accept vocational rehabilitation services.

(a) *Suspension effective date.* A recipient who is paid on account of blindness or disability is ineligible for benefits for the first month, and his payments are subject to suspension effective with such first month, in which he refuses, without good cause, to accept appropriate vocational rehabilitation services (see Subpart Q of this part).

(b) *Reestablishing eligibility for benefits.* Eligibility for benefits may be reestablished effective with the first month in which the blind or disabled recipient no longer refuses without good cause to accept vocational rehabilitation services, provided such individual otherwise establishes his eligibility for benefits.

§ 416.1329 Suspension due to loss of United States residency, United States citizenship, or status as an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

A recipient ceases to be an eligible individual or eligible spouse, under section 1614(a)(1)(B) of the Act, when he ceases to meet the requirements of § 416.202(b) with respect to United States residency, United States citizenship, or status as an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law. Payments are suspended effective with the first month after the last month in which a recipient meets the requirements of § 416.202(b) on one or more calendar days.

§ 416.1330 Suspension due to failure to apply for and obtain other benefits.

A recipient ceases to be an eligible individual or eligible spouse when, in the absence of a showing of incapacity to do so, or other good cause, he fails within 30 days after notice from the Social Security Administration of probable eligibility, to take all appropriate steps to apply for and, if eligible, to obtain payment of an annuity, pension, retirement, or disability benefit, including veterans' compensation and pension, workmen's compensation, old-age, survivors, and disability insurance benefit, railroad retirement annuity or pension, or unemployment insurance benefit. Benefit payments are suspended due to such ineligibility effective with the month in which the recipient was notified in writing of the requirement that he file and take all appropriate steps to receive the other benefits (see § 416.230(d)).

§ 416.1331 Termination due to cessation of blindness or disability.

Eligibility for payment of benefits to a recipient who is being paid supplemental security income payments on account of blindness (see § 416.901(d)) or disability (see § 416.901(b)), who is not age 65 or older and who ceases to be blind or to be disabled and, consequently, ceases to be an eligible individual or eligible spouse, ends with the second month after the month in which such blindness or disability ceases (if such blind or disabled recipient is otherwise eligible for payments during such 2-month period). Payments are terminated effective with the third month after the month in which such blindness or disability ceases. This section does not pertain to cessation of payments which were made on the basis of presumptive disability pending an initial determination of eligibility (see §§ 416.951–416.954).

§ 416.1334 Termination due to death of recipient.

Eligibility for benefits ends with the month in which the recipient dies. Payments are terminated effective with the month after the month of death.

§ 416.1335 Termination due to continuous suspension for ineligibility.

Eligibility for benefits is terminated when 12 calendar months have elapsed after suspension for ineligibility if the beneficiary has not reestablished eligibility for benefits.

§ 416.1336 Notice of proposed adverse action affecting recipient's payment status.

(a) Advance written notice of intent to discontinue payment because of an event requiring suspension, or to reduce (see Subpart D of this part), or terminate payments prior to effectuation of the action will be given in all cases except where:

(1) The Social Security Administration has factual information confirming the death of the recipient; or

(2) Amendments to Federal law or an increase in benefits payable under Federal law (other than benefits payable under this part) require automatic suspension, reduction, or termination of benefits under this part; or

(3) Clerical or mechanical error has been made in effectuation of a determination or decision under this part; or

(4) (i) The facts indicating such suspension, reduction, or termination action were supplied by the recipient; and

(ii) The conclusions to be drawn from such facts are not subject to conflicting interpretations; and

(iii) The facts are complete.

(b) Where (1) a suspension, reduction, or termination action is effectuated, and (2) in accordance with the criteria in paragraph (a)(4) of this section the recipient is not given advance notice of intent to effectuate such action, and (3) the recipient, within 30 days following receipt of notice that such action was effectuated (see paragraph (e) of this section) requests review of the determination upon which such action is based and presents information indicating that the criteria in paragraph (a)(4) of this section were not met, payments will be reinstated at that time (or restored to the rate before reduction) effective with the month such payments were suspended, reduced, or terminated and will be continued until such time as a reconsidered determination (or, where the issue upon which the initial determination was based is cessation of disability due to medical improvement, a hearing decision) is rendered and notice thereof is transmitted regarding the appeal to the recipient.

(c) The written notice of intent to suspend, reduce, or terminate payments will allow 30 days from the date of receipt of the notice for the recipient to request the appropriate administrative appellate review (see Subpart N of this part). Payments will be continued for the period of time allowed to request such review and if such review is requested, payments will continue until such time as a reconsidered determination (or, where the issue upon which the initial determination was based is cessation of disability due to medical improvement, a hearing decision) is rendered and notice thereof is transmitted regarding the appeal to the recipient.

(d) Notwithstanding any other provision of this section, the recipient, in order to avoid the possibility of an overpayment of benefits, may waive prior written notice and continuation of payment after having received a full explanation of his rights.

(e) Where advance written notice is not required in accordance with paragraph (a) of this section, notice in accordance with § 416.1404 will nevertheless be sent.

[FR Doc.75-242 Filed 1-7-75;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 450—ANTITUMOR ANTIBIOTIC DRUGS

Mithramycin for Injection

An amendment to the antibiotic regulations was published in the FEDERAL REGISTER of June 12, 1971 (36 FR 11434), which revised the requirements for certification of mithramycin for injection (formerly § 149v.2, now 450.240 (21 CFR 450.240) pursuant to recodification published in the FEDERAL REGISTER of May 30, 1974 (39 FR 18922)) by raising the upper limit of the LD_{50} test from 3.0 to 4.0 in paragraph (a)(1) of that section. At the same time, the amendment should have deleted the last sentence in paragraph (b)(4)(ii), which also specifies an LD_{50} range. Inadvertently, the sentence in paragraph (b)(4)(ii) was neither revised nor deleted, resulting in a discrepancy in the monograph. This amendment corrects that discrepancy.

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 450 is amended in § 450.240 *Mithramycin for injection* by deleting the last sentence in paragraph (b)(4)(ii).

Since the revised LD_{50} range has been effective since June 12, 1971, notice and public procedure are not prerequisite to this promulgation.

Effective date. This order shall be effective January 8, 1975.

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

Dated: January 2, 1975.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.75-519 Filed 1-7-75;8:45 am]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

SUBCHAPTER F—NATIONALITY AND PASSPORTS

PART 51—PASSPORTS

Subpart B—Application

By virtue of the authority vested in the Secretary of State by 22 U.S.C. 213, and authority delegated to me by the Secretary, paragraph (b)(4) of § 51.21 is amended to delete "A postal clerk designated by the Postmaster General" and substitute the following: "A postal employee designated by the postmaster at a post office which has been selected to accept passport applications."

Effective date. This amendment is effective as of November 12, 1974.

Compliance with the rulemaking provisions of 5 U.S.C. 553 is unnecessary because the amendment involves a matter relating to agency management as defined in 5 U.S.C. 553(a)(2). The amendment merely provides a more efficient procedure for authorizing and empowering designated postal employees to administer oaths for passport purposes.

(Sec. 1, 44 Stat. 887, Sec. 4, 63 Stat. 111, as amended; 22 U.S.C. 211a, 2658; E.O. 11295, 36 FR 10603; 3 CFR 1966-1970 Comp., page 507)

Dated: December 19, 1974.

BARBARA M. WATSON,
Administrator, Bureau of Security and Consular Affairs.

[FR Doc.75-545 Filed 1-7-75;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Kentucky Plan; Level of Federal Enforcement

1. *Background.* Part 1954 of Title 29, Code of Federal Regulations, sets out procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for the evaluation and monitoring of State plans which have been approved under section 18(c) of the Act and 29 CFR Part 1902. Section 1954.3 of this chapter provides guidelines and procedures for the exercise of discretionary Federal enforcement authority under section 18(e) of the Act with regard to Federal standards in issues covered under an approved State plan. In accordance with § 1954.3(b) of this chapter, Federal enforcement authority will not be exercised as to occupational safety and health issues covered under a State plan where a State is operational. A State is determined to be operational under § 1954.3(b) of this chapter when it has provided for the following requirements: enacted enabling legislation, approved State standards, a sufficient number of qualified enforcement