tion of § 981.442(a)(4). If a grower sells or ships inedible almonds to a person other than a handler, the grower would thereby become a handler and subject to all the requirements of § 981.442(a).

The Board also requested that the introductory paragraph of § 981.442(a) be changed to that it had proposed. The Board said this should be a "general statement which does not resolve later issues." However, the language which appeared in the notice is more appropriate in that it restates the guidelines set forth in § 981.42(a), which § 981.442 implements. Thus, the wording proposed in the notice should be adopted.

Therefore, after consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Board, the comment received, and other available information, it is found that to amend the administrative rules and regulations as herein set forth will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) These rules apply to 1976 crop almonds; (2) The delivery of the 1976 almond crop is well under way and the final details of the inedible determination and obligation are urgently needed; (3) Further delay would burden the field buying and processing activities of handlers; and (4) No useful purpose would be served by postponing its effective time beyond that hereinafter provided.

It is therefore, ordered, That Subpart—Administrative Rules and Regulations (7 CFR 981.441-981.481) be amended by adding a new § 981.442 reading as follows:

§ 981.442 Quality control.

(a) *Incoming*. Pursuant to § 981.42(a), the quantity of inedible kernels in each variety of almonds received by a handler, including almonds of his own production, shall be determined and disposed of in accordance with the provisions of this paragraph.

(1) *Sampling*. Each handler shall cause a representative sample of almonds to be drawn from each lot, except lots of Peerless variety designated as bleaching stock, of any variety received by him. The sample shall be drawn before inedible kernels are removed from the lot, or the lot is processed or stored by the handler. For receipts at premises with mechanical sampling equipment and under contracts providing for payment by the handler to the producer for sound meat content, samples shall be drawn by the handler in a manner acceptable to the Board and the inspection agency. The inspection agency shall make periodic checks of the mechanical sampling procedures. For all other receipts, including but not limited to field examination and purchase receipts, accumulations purchased for cash at the handler's door or from an accumulator, or almonds of the handler's own production, samples shall be drawn by or under the surveillance of the inspection agency. All samples shall be bagged and identified in a manner acceptable to the Board and the inspection agency. Each handler shall identify his receipts according to the method of acquisition. Each handler shall submit to the Board such reports of the quantity received by method of acquisition, as the Board may require.

(2) *Variety*. For the purpose of classifying receipts by variety to determine a handler's disposition obligation, "variety" shall mean that variety of almonds which constitutes at least 90 percent of a lot. If no variety constitutes at least 90 percent of the almonds in a lot, the lot shall be designated as "mixed". If the variety which constitutes at least 90 percent of the almonds in the lot is unknown, the lot shall be designated "unknown".

(3) *Analysis of sample*. Each sample shall be analyzed by or under the surveillance of the inspection agency to determine the kernel content and the proportion of inedible kernels in the sample. The inspection agency shall prepare a report for each handler showing, by variety, the total kernel weight received by the handler less any allowance for shellout loss as the Board may prescribe, and the inedible kernel weight. The report shall cover the handler's daily receipts or the handler's total receipts during a period not exceeding one month, and shall be submitted by the inspection agency to the Board and the handler.

(4) *Disposition obligation*. The weight of inedible kernels in excess of two percent of the kernel weight reported to the Board of any variety received by a handler shall constitute his disposition obligation. If a variety other than Peerless is used as bleaching stock, the weight so used may be reported to the Board and the disposition obligation for that variety reduced proportionately.

(5) *Meeting the disposition obligation*. Each handler shall meet his disposition obligation by delivering packer pickouts, kernels rejected in blanching, pieces of kernels, meal accumulated in manufacturing, or other material, to crushers, feed manufacturers, feeders, or dealers in nut wastes, on record with the Board as Accepted Users. Each disposition of such almond material shall be sampled and the almond meat content determined at the time of loading for delivery to the accepted user or at the user's destination by the inspection agency or the Board. The almond meat content of each delivery shall be reported to the Board and the handler and credited to the handler's disposition obligation. Deliveries containing less than 10 percent almond meat content shall not be credited against the disposition obligation. Each handler's disposition obligation shall be satisfied when the almond meat content of the material delivered to accepted users equals the disposition obligation, but no later than July 31 succeeding the crop year in which the obligation was incurred.

(6) *Partial waiver of obligation*. Any handler generating inedible kernels only in the form of pickouts after shelling, may petition the Board for a waiver of the difference between this inedible weight and his disposition obligation. The petition will be granted only if the handler certifies to the Secretary and the Board that (i) He did not engage in any blanching, cutting, chopping or other processing of almond kernels during the crop year, (ii) All almonds shelled by or for him were hand-picked on belts and the visibly inedible almonds removed, and (iii) That he did not place into trade channels any almonds with more than two percent of the handler's inedible disposition obligation.

(7) *Inedible almonds unfit for processing*. All lots received from growers as "inedible almonds unfit for processing," shall be exempt from the requirements of paragraphs (a)(1) and (3) of this section, but shall be disposed of in their entirety (other than as pickouts), as provided in paragraph (a)(5) of this section. Disposition of these lots shall not be credited toward the disposition obligation of paragraph (a)(4) of this section. If a grower sells or ships inedible almonds to a person other than a handler, the grower thereby becomes a handler and subject to all the requirements of this paragraph.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: January 12, 1977, to become effective January 17, 1977.

CHARLES R. BRADER,
Acting Director,
Fruit and Vegetable Division.

[FR Doc.77-1421 Filed 1-14-77;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 77-28]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Equipment Purchased in Foreign Ports

On February 27, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 8490), which proposed to amend § 4.15 of the Customs Regulations (19 CFR 4.15) pertaining to the dutiability under section 466, Tariff Act of 1930, as amended (19 U.S.C. 1466), of vessel equipment purchased in foreign ports by American fishing boats.

An American vessel licensed to engage in the fisheries is not considered to be engaged in foreign trade and therefore is not subject to duties arising under section 466 of the Tariff Act, except when such vessel exchanges its license for a registry or obtains a permit to touch and trade on Customs Form 1379 as required by § 4.15(a) of the Customs Regulations (19 CFR 4.15(a)), or does in fact engage in foreign trade. The United States Customs Service has ruled, as reflected in footnote 28 to § 4.15(a), that a vessel licensed for the fisheries which "puts into a foreign port or place and only obtains bunkers, stores, or supplies suitable for a fishing voyage" is not considered to have touched and traded there. Further-more, the Customs Service has not required American fishing vessels to obtain a clearance or a permit to touch and trade when they depart the United States with the intention of purchasing fish nets or netting or other vessel equipment outside of the United States. Consequently, fish nets or netting purchased in this manner by American fishing vessels has not been subject to the assessment of the 50% duty provided for in section 466, Tariff Act of 1930, as amended.

The United States Customs Service reviewed its position in this matter in light of the amendment to section 466 of the Tariff Act of 1930 by Public Law 91-654, January 5, 1971, and has determined that the term "vessel supplies," as used in footnote 28 to § 4.15 of the Customs Regulations, does not include fish nets or netting. Thus, American fishing vessels which depart the United States for foreign ports with the intent of purchasing fish nets or netting or other vessel equipment (other than equipment which was damaged or lost on the voyage) shall be required to obtain either a clearance for the foreign port (where the vessel holds a register) or a permit to touch and trade (where the vessel is merely licensed to engage in the fisheries), whether or not the vessel engages in fishing on that voyage.

The purpose of the amendments is to require the payment of duty under section 466 of the Tariff Act on fish nets or netting or other vessel equipment purchased and laden in foreign ports, including preordered equipment. Therefore, the amendments provide that equipment purchases are dutiable, whether intended or not, inasmuch as vessels making those purchases are considered to be engaged in the foreign trade. It is emphasized that the duty under section 466 on fish nets or netting or other vessel equipment purchased in a foreign port will be remitted if the purchases replace items that, having been aboard the vessel when it cleared the United States, were damaged during the course of the voyage as a result of stress of weather or other casualty.

Interested persons were given until April 28, 1976, to submit relevant data, views, or arguments regarding the proposal. After consideration of all comments received, the following modifications were made in the proposed amendments:

The second sentence of the amendment to § 4.15(a) has been reworded to clarify the circumstances under which the master must clear for a foreign port or obtain a permit to touch and trade. Those circumstances are when a fishing vessel departs from the United States and there is an intent to stop at a foreign port (1) to lade vessel equipment which was preordered, (2) to purchase and lade vessel equipment, or (3) to purchase and lade vessel equipment to replace existing vessel equipment.

Two new sentences are added at the end of § 4.15(a) to provide that purchases of fish nets or netting or other vessel equipment, whether intended at the time of departure or not, are subject to declaration, entry, and payment of duty pursuant to section 466 of the Tariff Act of 1930, as amended, and that the duty may be remitted if it is established that the purchases resulted from stress of weather or other casualty.

The words "Fish netting," used in the parenthetical statement in the amendment to footnote 28, are changed to "Fish nets and netting," in order to conform with the terms used in section 466 of the Tariff Act of 1930, as amended, and the parentheses are deleted.

Accordingly, § 4.15(a) of the Customs Regulations (19 CFR 4.15(a)) and the last paragraph of footnote 28 to § 4.15 (a), modified to include these changes, are adopted as set forth below.

Effective date. This amendment shall become effective 90 days after publication in the Customs Bulletin.

VERNON D. ACREE,
Commissioner of Customs.

Approved: January 14, 1977.

JERRY THOMAS,
Under Secretary of the Treasury.

1. Section 4.15(a) is amended to read as follows:

§ 4.15 Fishing vessels touching and trading at foreign places.

(a) Before any vessel enrolled and licensed or licensed to engage in the fisheries shall touch and trade at a foreign port or place, the master shall obtain from the district director a permit on Customs Form 1379 to touch and trade. When a fishing vessel departs from the United States and there is an intent to stop at a foreign port (1) to lade vessel equipment which was preordered, (2) to purchase and lade vessel equipment, or (3) to purchase and lade vessel equipment to replace existing vessel equipment, the master of the vessel must either clear for that foreign port or obtain a permit to touch and trade, whether or not the vessel will engage in fishing on that voyage.[28] Purchases of such equipment, whether intended at the time of departure or not, are subject to declaration, entry, and payment of duty pursuant to section 466 of the Tariff Act of 1930, as amended (19 U.S.C. 1466). The duty may be remitted if it is established that the purchases resulted from stress of weather or other casualty.

* * * * *

2. The last paragraph of footnote 28 to § 4.15(a) is amended to read as follows:

[28] * * *

* * * * *

If such a vessel puts into a foreign port or place and only obtains bunkers, stores, or supplies suitable for a fishing voyage, it is not considered to have touched and traded there. Fish nets and netting are considered vessel equipment and not vessel supplies.

(R.S. 251, as amended, R.S. 4364, secs. 466, 624, 46 Stat. 718, as amended, 759 (19 U.S.C. 66, 1466, 1624, 46 U.S.C. 310)).

[FR Doc.77-1441 Filed 1-14-77;8:45 am]

[T.D. 77-27]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

PART 172—LIQUIDATED DAMAGES

Entries of Merchandise Under Generalized System of Preferences

Treasury Decision 76-2, published in the FEDERAL REGISTER on December 31, 1975 (40 FR 60047), added §§ 10.171 through 10.178 to the Customs Regulations (19 CFR 10.171-178) to set forth a procedure for the duty-free entry of certain merchandise from designated beneficiary developing countries pursuant to the Generalized System of Preferences established by the President in accordance with Title V of the Trade Act of 1974 (Pub. L. 93-618, 88 Stat. 1978).

Under § 10.173(a) of the Customs Regulations, the importer or consignee of a shipment of eligible merchandise valued in excess of $250 is required to file with the district director of Customs at the time of entry a properly completed Certificate of Origin, Form A (or an acceptable duplicate thereof), as evidence of the country of origin. If a properly completed Certificate of Origin (or duplicate thereof) is not produced at the time of entry, the entry will still be accepted, if all other applicable requirements are met, provided the importer or consignee gives a bond on Customs Form 7551, 7553, or 7595 for the production of the required Certificate of Origin.

The bond is required to be given in the amount prescribed for that bond under § 113.14 of the Customs Regulations (19 CFR 113.14): in the case of the single entry bond, Customs Form 7551, the amount must be equal to the value of the merchandise as set forth in the entry, plus the estimated duty (including any taxes required by law to be treated as duties) and the estimated amount of any other taxes imposed upon or by reason of importation; in the case of the term bonds, Customs Forms 7553 and 7595, the required amounts are $10,000 and $100,000, respectively, or such larger amount as the district director may deem necessary.

In the event a properly completed Certificate of Origin (or duplicate thereof) is not delivered by the importer or consignee within 60 days after the entry, or such additional period as the district director may, for good cause, allow, § 10.173(a)(3) presently requires that liquidated damages be assessed in the full amount of the bond, if the bond was given on Customs Form 7551, or in the event the bond was given on Customs Form 7553 or 7595, in the amount that would have been demanded had bond been given on Customs Form 7551.

However, § 172.22(c) of the Customs Regulations (19 CFR 172.22(c)), provides, in part, that when free entry is dependent upon the production of a document which the importer fails to produce, the district director shall treat the claim for free entry as abandoned upon the assessment and payment of duty and may cancel the bond given for the production of the free entry document without the collection of liquidated damages.

In view of the conflict presently existing in these provisions with respect to the assessment of liquidated damages in the event of a failure to produce a document on which a claim for free entry depends, a reappraisal of the requirements in this regard presently set forth in § 10.173(a)(3) of the Customs Regulations has resulted in the conclusion that the assessment of liquidated damages in the manner prescribed by that section is unwarranted.

Therefore, it is considered desirable to amend § 10.173(a)(3) of the Customs Regulations to provide that, in the event the importer or consignee fails to deliver a properly completed Certificate of Origin to the district director within the time allowed, the district director shall treat the entry as dutiable and may cancel the bond (or the charge against the bond) given for the production of the Certificate of Origin in accordance with § 172.22(c) of the Customs Regulations.

Upon a reexamination of the wording of § 172.22(c) of the Customs Regulations, it is also considered necessary to amend that section to emphasize that, in the event a term bond is given to secure the production of a duty-free document, it is the charge against the bond (created by the failure to produce the document), and not the bond itself, which is subject to cancellation by the district director.

Accordingly, §§ 10.173(a)(3) and 172.22(c) of the Customs Regulations (19 CFR 10.173(a)(3), 172.22(c)) are amended in the following manner:

1. Paragraph (a)(3) of § 10.173 is amended by deleting the fourth and fifth sentences and adding in lieu thereof a new fourth sentence to read as follows:

§ 10.173 Evidence of the country of origin.

(a) * * *

(3) *Release under bond.* * * * If the Certificate of Origin is not delivered to the district director within 60 days of the date of entry or such additional period as the district director, for good cause, may allow, the district director shall treat the entry as dutiable and may cancel the bond or the charge against the bond, as appropriate, in accordance with § 172.22(c) of this chapter.

* * * * *

(R.S. 251, as amended, secs. 623, 624, 46 Stat. 759, as amended, sec. 503(b), 88 Stat. 2069 (19 U.S.C. 66, 1623, 1624, 2463(b)).)

2. Paragraph (c) of § 172.22 is amended to read as follows:

§ 172.22 Special cases acted on by District Director of Customs.

* * * * *

(c) *Nonproduction of free-entry or reduced-duty documents.* When free entry or the application of a reduced rate of duty is dependent upon the production of a document which the importer fails to produce, or when a conditionally-free or reduced duty provision claimed on entry is held to be inapplicable, the claim for free entry or reduced rate of duty shall be treated by the district director as abandoned upon the assessment and payment of duty and the bond (or, in the case of a term bond, the charge against the bond) given for the production of the free-entry or reduced-duty document may be cancelled without the collection of liquidated damages.

* * * * *

(R.S. 251, as amended, sec. 623, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624).)

Inasmuch as the foregoing amendments liberalize or clarify the present provisions of the Customs Regulations and place no affirmative duty or burden on the public, prior notice and public procedure thereon is unnecessary and good cause is found for dispensing with the delayed effective date provisions of 5 U.S.C. 553(d).

Effective date: This amendment shall be effective January 17, 1977.

VERNON D. ACREE,
Commissioner of Customs.

Approved: January 6, 1977.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.77-1440 Filed 1-14-77;8:45 am]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—MORTGAGE AND LOAN INSURANCE PROGRAMS UNDER NATIONAL HOUSING ACT

[Docket No. R-77-431]

PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES

Eligibility of Hospitals for Supplemental Loans

The following amendments are being made to §§ 241.110, 241.125, and 241.140 of Title 24 of the Code of Federal Regulations in order to implement Section 5 of the Housing Authorization Act of 1976, which amends Section 241 of the National Housing Act (12 U.S.C. 1715z-6) to clarify that hospitals insured under Section 242 of the National Housing Act (12 U.S.C. 1715z-7) are eligible for supplemental loans under Section 241. Inasmuch as the amendments to the regulations implement a statutory amendment which clarifies existing eligibility requirements to provide financing for needed additions to hospitals and will not adversely affect any present participant or any potential applicants in the Section 241 program, the Secretary has determined that advance publication, notice and public procedure are impracticable and unnecessary and good cause exists for making this amendment effective upon publication.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. The Finding of Inapplicability, in accordance with HUD's environmental procedures handbook (HUD Handbook 1390.1) is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C.

Accordingly, 24 CFR Part 241 is amended as follows:

1. Section 241.110 is amended to add a new subparagraph (4) to paragraph (b) as follows:

§ 241.110 Certificate of use for transient or hotel purposes.

* * * * *

(b) * * *

(4) In connection with a hospital covered by a mortgage insured under the provisions of §§ 242.1 et seq. of this chapter or by a mortgage held by the Secretary.

* * * * *

2. Section 241.125 is amended to read as follows:

§ 241.125 Use of loan proceeds.

The proceeds of the loan shall be used only to finance improvements or additions to a multifamily project, group practice facility or hospital which is subject to a mortgage insured under any section or title of the Act or covered by a mortgage held by the Secretary. The proceeds of a loan involving a nursing home, group practice facility or hospital may also be used in the operation of such nursing home, group practice facility or hospital.

3. Section 241.140(c) is amended to read as follows:

§ 241.140 Assurance of completion.

* * * * *

(c) Supplemental loans, incurred solely for the purpose of purchasing equipment in a nursing home, group practice facility or hospital, are exempt from the above assurance of completion requirements.

(Sec. 7(d), Department of HUD Act; (42 U.S.C. 3535(d)).)

NOTE: It is hereby certified that the economic and inflationary impacts of this final rule have been carefully evaluated in accordance with OMB Circular A-107.

Effective date. These amendments will be effective on January 17, 1977.

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing—Federal Housing Commission.

[FR Doc.77-1392 Filed 1-14-77;8:45 am]

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-367]

PART 1905—STATEWIDE "FAIR" PLANS

Assurance of Completion Requirements; Correction

The Notice published December 30, 1976, at 41 FR 56793 is corrected to read as follows: