

2. In § 51.5, paragraph (b) is amended to read:

§ 51.5 Identification of animals to be destroyed because of brucellosis.

(b) Cattle shall be identified by branding the letter "B" on the left jaw not less than 2 nor more than 3 inches high and by tagging with an approved metal tag bearing a serial number and inscription "U.S. Reactor" or a similar State reactor tag suitably attached to the left ear of each animal: *Provided, however,* That in lieu of branding with the letter "B" and tagging with an approved metal tag, cattle in herds scheduled for herd depopulation, may be identified by USDA-approved backtags and either accompanied directly to slaughter by a Veterinary Services or State representative or moved directly to slaughter in vehicles closed with official seals.

(Secs. 3, 4, 5, 11, and 13, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 3, 76 Stat. 130 (21 U.S.C. 111-113, 114, 114a, 114a-1, 120, 121, 125, 134b, 37 FR 28464, 28477; 38 FR 19141))

These amendments are necessary and must be issued immediately to reduce the risk of the spread of brucellosis and to relieve unnecessary restrictions.

Therefore, pursuant to the administrative procedures provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the *Federal Register*.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and the Secretary's Memorandum 1955. It has been determined by Paul Becton, Director, National Brucellosis Eradication Program, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 27th day of July 1979.

E. A. Schilf,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-23861 Filed 8-3-79; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 97

Overtime Services Relating to Imports and Exports; Commuted Traveltime Allowances

Correction

In FR Doc. 79-8366 appearing on page 17652 in the issue of Friday, March 23, 1979 make the following correction:

In the third column the list for "Outside Metropolitan Area," the listing for "One Hour" and "Two Hours" should have read as follows:

Outside Metropolitan Area

One Hour

Add: Brownsville and Brownsville International Airport, Texas (served from Harlingen and San Benito, Texas).

Add: Hidalgo, Texas (served from Edinburg, Mission and McAllen, Texas).

Two Hours

Add: Hidalgo, Texas (served from Rio Grande City, Texas).

BILLING CODE 1505-01-M

Food Safety and Quality Service

9 CFR Part 309

Ante-Mortem Inspection; Residue Program

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule with request for comments.

SUMMARY: This is to inform the public that in accordance with the requirements of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the U.S. Department of Agriculture intends to modify procedures employed in its monitoring and surveillance program to detect biological residues in the Nation's meat supply. The detection of these compounds generally requires the use of sophisticated equipment and laboratory analytical techniques, a process which can be both costly and time-consuming. Therefore, the Department is instituting a pilot "STOP" (Swab Test on Premises) program which will utilize implant screening procedures to detect the presence of these residues at levels which cause products to be considered adulterated under the FMIA.

The adoption of these procedures should serve to reduce delay and expense in this area and facilitate more effective monitoring for these types of violations.

The program will be implemented immediately on a trial basis in 19 States and will involve those facilities which engage in the slaughter of dairy cattle. The program is being initiated in these facilities because departmental data indicate that dairy cattle have a traditionally high rate of residue violations.

DATES: Effective date: August 3, 1979. Comments must be received on or before September 3, 1979.

ADDRESS: Comments must be sent in duplicate to the Executive Secretariat, Attn: Annie Johnson, Food Safety and Quality Service, Room 3807 South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Dr. John E. Spaulding, Acting Director, Residue Evaluation and Surveillance Division, Science, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447-2807.

SUPPLEMENTARY INFORMATION: Pursuant to section 4 of the FMIA (21 U.S.C. 604), the Secretary of Agriculture conducts post-mortem inspection of carcasses and parts of cattle, sheep, swine, goats, horses and other equines for the purposes of detecting adulterated products and preventing their use in commerce.

The inspection program has placed an increased emphasis on the monitoring of the meat supply to detect unlawful biological residues in response to increased public concern regarding the safety of such substances. The presence of such substances in meat in excess of prescribed tolerances, renders such products adulterated within the meaning of this statute and subjects them the condemnation.

The program currently utilizes USDA laboratories for the testing and analysis for such residues. When there is a basis to suspect that such products are adulterated because of the presence of such residues, the products are retained pending the receipt of test results on samples of the products. Despite various efforts to expedite the process, the use of such procedures is often costly and time-consuming. In order to improve these procedures, the Department has encouraged the development of rapid implant screening procedures which can be employed at the time of inspection to determine which products are suspected of being adulterated and should therefore be retained pending further

laboratory testing and which should be inspected and passed.

The Microbiology Division of the Science Program of FSQS has developed such an inplant screening procedure with respect to antibiotic residues. Inspectors utilizing this procedure will conduct a swab test designed to give a rapid indication of the presence of antibiotic residues. Positive test results will necessitate retention of the product pending laboratory testing, while those tests which are negative (no presence of antibiotic residues indicated) will be released. The adoption of these procedures should have the effect of increasing the program's ability to detect violations while at the same time facilitating the processing of wholesome product.¹

The program is to be implemented immediately in 19 States and will involve federally inspected facilities which engage in the slaughter of dairy cattle. The reason for initiating the procedure in these facilities is the fact that dairy cattle have traditionally been found to contain high levels of antibiotic residues.

Section 309.16(d) of the Federal meat inspection regulations (9 CFR 309.16(d)) is amended to indicate that such procedures will be utilized in the residue program. Results of the pilot program will be analyzed and evaluated to determine whether such procedures should be applied more widely throughout the Meat and Poultry Inspection Program.

Accordingly, § 309.16(d) of the Federal meat inspection regulations is amended by adding the following sentence at the end thereof to read:

§ 309.16 Livestock suspected of having biological residues.

(d) * * * Such analysis may include the use of inplant screening procedures designed to detect the presence of antibiotic residues in dairy cattle.

(Sections 4 and 21, 34 Stat. 1260, 1264, as amended, 21 U.S.C. 604, 621; 42 FR 35625, 35626, 35631)

This amendment is designed to benefit the public health and the meatpacking industry by improving and expediting

the procedures for detecting and eliminating illegal antibiotic residues from the meat supply, and should be made effective immediately in order to avoid unnecessary delay in the marketing of wholesome and otherwise unadulterated meat products.

This amendment has been designated "significant," and this final rulemaking is being published under emergency procedures as authorized by Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Dr. Donald L. Houston, Acting Administrator, FSQS, that the emergency nature of this amendment warrants publication without waiting for public comment. This amendment is scheduled for immediate review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Comments concerning this amendment are presently being sought as part of this review and must be received on or before September 3, 1979.

Interested persons are invited to submit written comments concerning this amendment. Comments must be sent in duplicate to the Executive Secretariat, Attn: Annie Johnson, Food Safety and Quality Service, Room 3807 South Building, U.S. Department of Agriculture, Washington, DC 20250. Comments should bear a reference to the date and page number of this issue of the *Federal Register*. All comments made pursuant to this document will be made available for public inspection in the office of the Executive Secretariat during regular hours of business.

An approved Final Impact Analysis Statement has been prepared and is available from Dr. John E. Spaulding, Acting Director, Residue Evaluation and Surveillance Division, Science, FSQS, U.S. Department of Agriculture, Washington, DC 20250 (202) 447-2807.

Therefore, pursuant to authority in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this amendment at this time are impracticable and contrary to the public interest and good cause is found for making this amendment effective on or before September 4, 1979.

Done at Washington, D.C., on: July 27, 1979.

Donald L. Houston,

Acting Administrator, Food Safety and Quality Service.

[FR Doc. 79-23901 Filed 8-2-79; 8:45 am]

BILLING CODE 3410-DM-M

9 CFR Parts 318, and 381

Substance for Use in Meat and Poultry Products

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Federal meat inspection regulations and the poultry products inspection regulations to permit the use of tertiary butylhydroquinone (TBHQ) as an approved antioxidant in the preparation of certain meat food products and poultry food products. This action will allow meat and poultry processors to use TBHQ as an antioxidant to retard rancidity in certain meat and poultry products under proper label declaration.

EFFECTIVE DATE: September 3, 1979

FOR FURTHER INFORMATION CONTACT: Mr. Irwin Fried, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION: On May 9, 1978, a notice of proposed rulemaking was published in the *Federal Register* (43 FR 19858-19860) indicating that the Administrator had been requested to approve tertiary butylhydroquinone (TBHQ) as an approved antioxidant to retard rancidity in the preparation of certain meat food products and poultry food products.

Because of inadvertent errors in the May 9, 1978, proposal, the Administrator published a second proposal in the *Federal Register* regarding the use of this substance on February 2, 1979 (44 FR 6735-6737). The new proposal also reflected corrections recommended by the four comments received to the original proposal. The February 2 proposal was commented on by one respondent who was in favor of adoption.

Since no written objections have been received, the proposed regulations published in the *Federal Register* of February 2, 1979, are hereby adopted without change and are set forth below.

This final rule has been reviewed under the USDA criteria established to

¹ Copies of the study concerning this procedure, "A New Screening Procedure for the Detection of Antibiotic Residues in Meat and Poultry Tissues," and copies of booklets outlining procedures for its implementation, "Performing the Swab Test (on Premises) for Antibiotic Residues," "Receiving, Modifying, and Stabilizing the S.T.O.P. Incubator," and "Receiving, Checking, and Storing S.T.O.P. Supplies," may be obtained from Dr. John E. Spaulding, Acting Director, Residue Evaluation and Surveillance Division, Science, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under these criteria. A Final Impact Statement has been prepared and is available from Mr. Irwin Fried, Acting Director, Meat and Poultry Standards and Labeling Division,

Compliance, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

Done at Washington, D.C., on July 30, 1979.
Donald L. Houston,
Acting Administrator, Food Safety and Quality Service.

§ 318.7 [Amended]

In § 318.7(c)(4), in that portion of the chart dealing with the "Class of Substance," "Antioxidants and oxygen interceptors," the following information is added to the appropriate columns in alphabetical order and the revised table is as shown:

Class of substance	Substance	Purpose	Products	Amount
Antioxidants and oxygen interceptors	BHA (butylated hydroxyanisole)	To retard rancidity.	Dry sausage	0.003 percent based on total weight. .006 percent in combination.
	BHT (butylated hydroxytoluene)	do	do	do
	Propyl gallate	do	do	do
	TBHQ (tertiary butylhydroquinone).	do	do	do
	BHA (butylated hydroxyanisole)	do	Rendered animal fat or a combination of such fat and vegetable fat.	0.01 percent 0.02 percent in combination.
	BHT (butylated hydroxytoluene)	do	do	do
	Glycine	do	do	do
	Propyl gallate	do	do	do
	Resin guaiac	do	do	do
	TBHQ (tertiary butylhydroquinone).	do	do	do
	Tocopherols	do	do	0.02 percent in combination only with BHA and/or BHT. A 30 percent concentration of tocopherols in vegetable oils shall be used when added as an antioxidant to products designated as "lard" or "rendered pork fat."
				0.03 percent
				0.02 percent in combination based on fat content.
Antioxidants and oxygen interceptors	BHA (butylated hydroxyanisole)	do	Fresh pork sausage, brown and serve sausages, Italian sausage products, pregrilled beef patties, and fresh sausage made from beef or beef and pork.	0.01 percent based on fat content. 0.02 percent in combination based on fat content.
	BHT (butylated hydroxytoluene)	do	do	do
	Propyl gallate	do	do	do
	TBHQ (tertiary butylhydroquinone).	do	do	do
	BHA (butylated hydroxyanisole)	do	Dried meats	0.01 percent based on total weight. 0.01 percent in combination.
	BHT (butylated hydroxytoluene)	do	do	do
	Propyl gallate	do	do	do
	TBHQ (tertiary butylhydroquinone).	do	do	do
				0.01 percent in combination only with BHA and/or BHT.
				0.02 percent in combination only with BHA and/or BHT based on fat content.
				0.01 percent in combination.
				0.01 percent in combination only with BHA and/or BHT.
				0.01 percent in combination only with BHA and/or BHT.

§ 381.147 [Amended]

In § 381.147(f)(3), in that portion of the table dealing with the "Class of Substance," "Antioxidants and oxygen interceptors," the following information is added to the appropriate columns in alphabetical order and the revised table is as shown:

Class of substance	Substance	Purpose	Products	Amount
Antioxidants and oxygen interceptors	BHA (butylated hydroxyanisole)	To retard rancidity.	Various	0.01 percent based on fat content. 0.02 percent in combination with any other antioxidant listed in this table based on fat content.
	BHT (butylated hydroxytoluene)	do	do	do
	Propyl gallate	do	do	do
	TBHQ (tertiary butylhydroquinone).	do	do	0.02 percent in combination with any other antioxidant listed in this table, except TBHQ, based on fat content.
TBHQ (tertiary butylhydroquinone).		do	do	0.02 percent in combination only with BHA and/or BHT based on fat content.
	Tocopherols	do	do	0.03 percent based on fat content. 0.02 percent in combination with any other antioxidant listed in this table, except TBHQ, based on fat content.

[FR Doc. 79-23882 Filed 8-2-79; 8:45 am]

BILLING CODE 3410-DM-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 715, 741, and 747

Suspension or Revocation of Charter, Involuntary Liquidation; Requirements for Insurance and Rules of Practice and Procedure; Correction

AGENCY: National Credit Union Administration.

ACTION: Final Rule; Correction.

SUMMARY: In FR Doc. 79-22230, appearing on page 41760 and published July 18, 1979, an error appeared in the first column on page 41761, under the heading "Effective Date." The error misstates the effective date of the final rule, by stating that such rule would be effective as of June 11, 1979. Although,

as noted on page 41762 the amendments made in this final rule were procedural in nature, and thus excepted from the provisions of 5 U.S.C. 553, such amendments cannot be effective before publication in the Federal Register. Accordingly, the effective date of this final rule is corrected to read July 18, 1979.

EFFECTIVE DATE: July 18, 1979.

FOR FURTHER INFORMATION CONTACT:
Jay C. Keithley, Office of the General Counsel, National Credit Union Administration, Washington, D.C. 20456. Telephone (202) 632-4870.

Lawrence Connell,
Chairman.

July 27, 1979.

[FR Doc. 79-23976 Filed 8-2-79; 8:45 am]

BILLING CODE 7535-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[Reg. PS-86; Amdt. No. 65]

Statements of General Policy; Payments for Non-Air Transportation Services for Air Cargo

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB issues a policy statement that it will not continue to prohibit the practice of payments made to shippers or to intermediaries by U.S. or foreign direct air carriers for non-air transportation services. The final rule is in response to a petition filed by the Air Freight Forwarders Association.

DATES: Effective: September 2, 1979.
Adopted: July 30, 1979.

FOR FURTHER INFORMATION CONTACT:
Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: Under the Act (section 403; 49 U.S.C. 1373), the payment of commissions to shippers to cargo intermediaries, such as freight forwarders or cooperative shippers associations, is considered a return to the user of the air transportation of part of the purchase price published in the air carrier's tariff: a prohibited rebate. The payment of fees for the performance of pre-transportation services has also been prohibited as a method that could disguise rebates. Cargo agents, on the other hand, have always been permitted to receive commissions from the carrier, based on the dollar amount of the shipment, for acceptance of the shipment on behalf of the carrier. A forwarder has also been permitted to receive a commission on an individual shipment when acting as the agent of the carrier. A forwarder has not been

allowed, however, to receive a commission when tendering a shipment on its own behalf, since the forwarder itself is using the carrier's transportation, and not merely acting as the arm of the carrier in the transaction.

The Board has in the past varied in its approach as to what constitutes a rebate, or what should be prohibited as a preventive measure. In view of the recent statutory and competitive changes in the air transportation industry, especially in the cargo sector, the public interest is best served by a flexible approach, and by not prohibiting practices merely because of the possibility that they might make it easier for rebating to occur. For this reason, we are issuing a statement of policy to make clear that we do not consider fees for ancillary pre-transportation services to be in connection with air transportation, and therefore that they should not be prohibited.

This statement of policy is based on a rulemaking proceeding that began in response to a petition filed by the Air Freight Forwarder Association, asking that the Board permit either commissions or "ready-for-carriage" fees to forwarders on international consolidated shipments. The Board issued Advance Notice of Proposed Rulemaking EDR-330 (42 FR 38600, July 29, 1977), asking for comment on this question, and on the kinds of services performed by the various cargo intermediaries and individual shippers. After review of the comments received in response to the advance notice, the Board issued Notice of Proposed Rulemaking PSDR-54 (44 FR 3724, January 18, 1979), proposing a policy statement to the effect that "ready-for-carriage" payments are for services ancillary to air transportation, and are not prohibited.

Comments in response to PSDR-54 have been received from British Airways, The Flying Tiger Line, Behring International, the Pillsbury Company, 3M Corporation, the International Airforwarder and Agents Association, Trans World Airlines, Lufthansa German Airlines, the Air Freight Forwarder Association, Air Express International Corporation, Pan American World Airways, Scandinavian Airlines System, Airborne Freight Corporation, and American Airlines. The commenters opposing this action argued that contrary to the Board's interpretation, pre-

transportation service fees would be rebates. They asserted that there is no economic need for them, and that they would increase the dominance of air freight forwarders and raise the costs of carriers and small shippers. Several commenters, while supporting payments to forwarders, opposed permitting shippers who perform similar services to receive the same types of payments. For example, Lufthansa argued that shippers do not, and cannot, do such services as "accept a shipment" for the carriers, and therefore are not in the same position as the forwarder to be paid by the carrier. The proposal was, however, supported by several direct carriers, as well as by forwarders and shippers.

While it is true that a shipper may not be able to do all the services that are available through a forwarder, many shippers do make their own shipments ready for carriage before tendering them to the carrier. No sufficient reason has been presented for differences in eligibility for payments for such services based on the type of organization that performs them. These payments should be available to anyone performing such services. Also, allowing the shipper to receive the payments creates more of a competitive incentive for the forwarder to pass any cost benefits it receives on to its customers. Otherwise, shippers will prepare their own shipments and receive the payments from the carriers.

Since the start of this rulemaking, fundamental changes have taken place in domestic air cargo transportation. In 1977, the cargo deregulation amendments (Pub. L. 95-163) were enacted, deregulating domestic cargo route authority and limiting the Board's authority over tariffs. In 1978, the Airline Deregulation Act was passed, changing the policy guidance under which the Board works, expanding the Board's exemption power, and ending all Board jurisdiction over air transportation by 1985. In response to these statutory changes, the Board substantially deregulated domestic cargo transportation (see ER-1080, 43 FR 53628, November 16, 1978; ER-1094, 44 FR 6634, January 31, 1979). These two regulations among other things, relieved direct air carriers and air freight forwarders from the rule and tariff filing provisions of section 403. In view of these changes in the regulatory environment, the previous prohibition against making non-air transportation service payments, intended to prevent

disguised rebating, no longer has any place in domestic cargo transportation.

In international transportation there has been no similar deregulation, although the Board has relieved international air freight forwarders from the tariff filing provisions of section 403. Direct all-cargo carriers, however, remain subject to these requirements. It is not, however, in the interest of shippers, forwarders, or air carriers, in the international area, any more than it was for those in the domestic area, to prohibit practices because they might disguise rebating. Adequate protection can be provided in other ways with fewer anti-competitive effects. For example, in *General Mills, Inc. and Trans-Mark Services, Inc.* (Docket 32881, Order 79-2-92, February 15, 1979), the Board permitted an in-plant travel agency to pay the salary of a plant employee detailed to work for the agency, where there was an audit trail of the funds, and no danger of forced rebating.

Similar elements provide protection here. First, the money paid to the forwarder or shipper is to be based on specific services rendered, not their value, as in the case of a commission arrangement that may cover, among other things, general overhead and business expenses. The non-air transportation service payment is not related to the cost of the air transportation purchases by the forwarder or shipper. In adopting this statement of policy we are not requiring the carriers to make these payments. The carrier can choose whether to enter such an arrangement with a forwarder or shipper, and to determine at what level the payments will be set. Also, the true costs of such services performed can be checked to prevent an inflated service rate rebate. Further, since the payment of non-air transportation service fees by the carrier is to be for work done for itself, as in the GMI/Trans-Mark case, it is similar to the case of a carrier buying goods from an independent contractor that uses the carrier's air transportation. That type of an arrangement is not a rebate. For these reasons, we remain of the opinion, as expressed in PSDR-54, that commissions are rebates of filed tariffs when paid to the user of the transportation, and do not fall into the category of payments authorized in this statement of policy.

As stated in PSDR-54, the economic benefits of allowing these payments far outweigh the need to prevent the possibility of disguised rebating. With

the various statutory and regulatory changes, the domestic air freight industry is becoming more competitive. Although more slowly, international air travel will also move in the direction of, and be more responsive to, price competition. Last year the Board disapproved inter-carrier agreements setting fixed commission rates (Order 78-8-87, August 17, 1978). Removal of the prohibition against payment of non-air transportation service fees is one more step in our effort to sharpen price competition within the more restrictive atmosphere of international air transportation. This in turn will create competitive incentives to reduce unnecessary costs in shipment handling to the benefit of shippers, forwarders, and carriers alike.

Pan American World Airways (Pan Am), while supporting the concept of the proposal, made two suggestions, one of which we are denying, and the other, granting. Pan Am stated that payments made under this rule should be according to tariff filings with accompanying economic justification. That type of arrangement, however, would work against the intent of this rule. A tariff-inclusion scheme would be inflexible and artificial, and would force a regulatory decision about what specifically constitutes an eligible service. It would also encourage uniform fees and limit the carriers' options in offering a range of fee levels for a range of services. Definition of services and fee options are best left to individual negotiations within the market.

Pan Am's second suggestion was to avoid the term "ready-for-carriage" in describing the services for which these payments are to be made. Pan Am argued that the term is confusing and is based on usage not related to these services. We agree, and have changed the term from "ready-for-carriage" to "non-air transportation" service.

Another suggestion mentioned in several comments was that the services for which payment is eligible should be specified. One argument for specifying the services was to be sure that eligible services are confined to those benefiting, and normally performed by, the carrier, and are only to the extent of the cost, thus not disguising rebates. They further argued that the Board should make clear that fees may be paid for each individual shipment in a container, and that fees should be greater for heavier and larger shipments.

Again, definition of these services and of the terms of the contract by the Board would work against the intent of

allowing such payments. Since these payments are permissive, not required, the types of problems presented in the comments are best left to individual negotiations between the carrier, forwarder, and shipper. They allow the greatest flexibility, and increase the competitive impact of the payments.

The International Airforwarder and Agents Association (IAAA) suggested that the payments be made only according to a schedule filed under Part 253 (14 CFR 253), which requires that payments (commissions or other) made for the sale of air transportation conform to schedules filed with the Board. IAAA argued that if the schedules or formulas for these payments are not filed, Part 253 could easily be evaded by sweetheart contracts between large forwarders and carriers.

Historically, our primary means of enforcement against discriminatory rate practices and rebating has not been tariffs or posted schedules at the Board, but complaints by other shippers, forwarders, and carriers. We will monitor the operation of this practice for abuse. Any information needed by the Board can be collected *ad hoc* under section 407 of the Act. Also, in EDR-376 (44 FR 28670, May 16, 1979), we have proposed to eliminate Part 253. We stated there that advance disclosure of the type in Part 253 tends to restrict competition by creating a signalling device for a form of price leadership. This same reasoning applies here.

In response to a comment from British Airways, the policy statement is worded so as to make clear that foreign air carriers may also make such payments.

The Board therefore amends 14 CFR Part 399 to read as follows:

1. The Table of Contents is revised by adding new § 399.86 to Subpart G to read:

Subpart G—Policies Relating to Enforcement

* * *

Sec.

399.86 Payments for non-air transportation services for air cargo.

2. A new § 399.86 is added to Subpart G to read:

Subpart G—Policies Relating to Enforcement

§ 399.86 Payments for non-air transportation services for air cargo.

The Board considers that payments by air carriers and foreign air carriers to

shippers, indirect air carriers, or foreign indirect air carriers for non-air transportation preparation of air cargo shipments are for services ancillary to the air transportation, and are not prohibited under section 403 of the Act. (Secs. 102, 204, 403, and 404 of the Federal Aviation Act of 1958, as amended, 92 Stat. 1706, 72 Stat. 743, 758, 760; (49 U.S.C. 1302, 1324, 1373, 1374))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-23979 Filed 8-2-79; 8:45 am]

BILLING CODE 6320-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1203

Information Security Program

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule; correction.

SUMMARY: This amendment changes the Index of 14 CFR Part 1203, and corrects a reference related thereto.

DATE: June 18, 1979.

ADDRESS: Director, Security Division, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Arnold K. Daue, telephone (202) 755-3400.

SUPPLEMENTARY INFORMATION: This amendment corrects 14 CFR 1203 published in the Federal Register on June 18, 1979 (44 FR 34913-34922) by changing the title of § 1203.410 in the Index from "Identification and Marking" to "Prohibitions," and reserving § 1203.411.

PART 1203 [Amended]

1. 14 CFR 1203 is amended by changing the title of § 1203.410 in the Index from "Identification and Marking" to "Prohibitions," and reserving § 1203.411.

§ 1203.200 [Amended]

2. 14 CFR Part 1203 is amended by correcting the reference cited in § 1203.200(b)(5) from § 1203.411 to § 1203.410.

Joan E. Cavanaugh,

Federal Register Liaison Officer.

[FR Doc. 79-23906 Filed 8-2-79; 8:45 am]

BILLING CODE 7510-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 210

[Release Nos. 33-6097, 34-16047, 35-21163, IC-10797, AS-268]

Presentation in Financial Statements of "Redeemable Preferred Stocks"

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission hereby adopts rules, encompassing certain amendments to Regulation S-X, to modify the financial statement presentation of preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer. The rules adopted do not impact present reporting practices of registrants not having such securities outstanding. Registrants having such securities outstanding are required to present separately, in balance sheets, amounts applicable to the following three general classes of securities: (i) Preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer; (ii) preferred stocks which are not redeemable or are redeemable solely at the option of the issuer; and (iii) common stocks. A general heading, stockholders' equity, is not to be used and presentation of a combined total for equity securities, inclusive of redeemable preferred stocks, is prohibited. In addition, the rules required disclosure of redemption terms, five-year maturity data, and changes in redeemable preferred stocks in a separate note to the financial statements captioned "Redeemable Preferred Stocks."

There is a significant difference between a security with mandatory redemption requirements or whose redemption is outside the control of the issuer and conventional equity capital. The Commission believes that it is necessary to highlight the future cash obligations attached to this type of security so as to distinguish it from permanent capital. It is expected that the amended rules will provide more meaningful presentation of the financial obligations of those companies which finance operations through the use of such securities.

EFFECTIVE DATE: Effective for financial statements for fiscal periods ending on or after September 15, 1979.

FOR FURTHER INFORMATION CONTACT: Lawrence C. Best, Office of the Chief

Accountant, Securities and Exchange Commission, Washington, D. C. 20549 (202-472-3782).

SUPPLEMENTARY INFORMATION: In a release issued on November 28, 1978,¹ the Commission invited public comment on proposed amendments to Regulation S-X which would require all registrants to present separately in balance sheets filed with the Commission amounts applicable to three general classes of securities: (i) preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer (hereinafter referred to as "redeemable preferred stocks"); (ii) preferred stocks which are not redeemable or are redeemable solely at the option of the issuer; and (iii) common stocks. The proposed amendments would prohibit showing a combined total of amounts applicable to these three general classes of securities and the use of stockholders' equity as a general heading. Also, certain additional footnote disclosures were proposed.

These amendments were proposed as a result of the Commission noting an increase in the issuance, by registrants, of preferred stocks to finance operations, consummate mergers and acquisitions, or to restructure existing debt arrangements. Many of the preferred stock issues have included terms which require the issuer to redeem the stock at a fixed or determinable price on a fixed or determinable date. Other issues require the issuer to redeem the stock at the option of the holder or at the time certain prescribed conditions are met which are not necessarily within the control of the issuer, such as attainment of a specified level of earnings.

The Commission believes that redeemable preferred stocks are significantly different from conventional equity capital. Such securities have characteristics similar to debt and should, in the opinion of the Commission, be distinguished from permanent capital. The Commission believes that traditional financial reporting practices do not provide the most meaningful presentation of the financial obligations attached to these types of securities and that improvement in the financial statement presentation of redeemable preferred stocks is necessary.

A total of 67 letters of comment were received. The majority of the commentators were from industry and related interest groups (40), banking (11) and public accounting (10). Comments

¹ Release Nos. 33-6000, 34-15358, 35-20791, IC-10495 (November 28, 1978) [43 FR 57612, December 8, 1978].