

publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of avocados are now being made, (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable avocados handled during the aforesaid period, and (3) such period began on April 1, 1973, and said rate of assessment will automatically apply to all such avocados beginning with such date.

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

Dated June 20, 1973.

CHARLES R. BRADER,
Acting Deputy Director, Fruit
and Vegetable Division, Agri-
cultural Marketing Service.

[FR Doc. 73-12771 Filed 6-25-73; 8:45 am]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 308—RULES OF PRACTICE AND PROCEDURE

Executive Secretary of the Corporation;
Administrative Law Judges

Correction

In FR Doc. 73-10790 appearing at page 14263 in the issue of Thursday, May 31, 1973, the fifth line of amendatory paragraph 11, now reading "tary" each place it appears therein and", should read "tary in lieu thereof and by deleting the".

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMIN- ISTRATION, DEPARTMENT OF TRAN- SPORTATION

[Airspace Docket No. 73-RM-5]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CON- TROLLED AIRSPACE, AND REPORTING POINTS

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

On April 26, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 10275) stating that the Federal Aviation Administration (FAA) was considering amendments to parts 71 and 73 of the Federal Aviation Regulations that would alter R-6102 Badlands, S. Dak., by designating it a joint-use restricted area, changing its time of designation, and adding it to the list of restricted areas included in the continental control area.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. No comments were received.

In consideration of the foregoing, parts 71 and 73 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., September 13, 1973, as herein-after set forth.

1. In § 71.151 (38 FR 341) the follow-
ing restricted area is added.

R-6102 Badlands, S. Dak.

2. In § 73.61 (38 FR 668) R-6102 Bad-
lands, S. Dak., is amended to read as
follows:

R-6102 BADLANDS, S. DAK.

Boundaries.—Beginning at latitude 43°35'-00" N., longitude 102°05'00" W.; to latitude 43°35'00" N., longitude 102°25'00" W.; to latitude 43°42'00" N., longitude 102°25'00" W.; to latitude 43°42'00" N., longitude 102°05'00" W. to the point of beginning.

Designated altitudes.—Surface to 32,000 feet m.s.l.

Time of designation.—Continuous, March 1 through November 30 annually.

Controlling agency.—Federal Aviation Administration, Denver ARTC Center.

Using agency.—The Adjutant General, State of South Dakota (147th Artillery Group, South Dakota Army National Guard).

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

Issued in Washington, D.C., on June 18, 1973.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 73-12736 Filed 6-25-73; 8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-10209]

PART 241—INTERPRETATIVE RELEASE RELATING TO THE SECURITIES EX- CHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THERE- UNDER

Net Capital Treatment of Securities Posi- tions, Obligations and Transactions in Suspended Securities

The Commission today released the attached Division of Market Regulation letter to the National Association of Securities Dealers respecting the Division's interpretation of the net capital treatment to be given to securities position, transactions and obligations in suspended securities.

MR. FRANK J. WILSON,
Senior Vice President, National Association
of Securities Dealers, Inc., 1735 K Street
N.W., Washington, D.C. 20006.

DEAR MR. WILSON: Recently a number of questions have been raised regarding the net capital treatment which should be given to firm and customer obligations with respect to securities positions and securities transactions during a period in which trading in a particular security has been suspended by order of the Commission pursuant to section 15(c) (5) or section 19(a) (4) of the Securities Exchange Act of 1934.

The purpose of the net capital rule is to require a broker or dealer to have at all time sufficient liquid assets to cover its current indebtedness. The need for liquidity has long been recognized as vital to the public interest and for the protection of investors and is predicated on the belief that accounts are not opened and maintained with broker-dealers

in anticipation of relying upon suit, judgment, and execution to collect claims but rather that on reasonable demand one can liquidate his cash or securities positions. With this background the Division is of the view that for purposes of the net capital rule securities positions and securities transactions in which trading has been suspended should be treated as follows:

1. **Long proprietary positions.**—Where the broker-dealer is long in a proprietary account, whether a firm trading account or investment account, a partners account subject to an equity agreement pursuant to paragraph (c) (4) of rule 15c3-1, or securities which have been contributed as subordinated capital pursuant to paragraph (c) (7) of rule 15c3-1 and where such securities have been suspended by order of the Commission such positions should be treated as assets not readily convertible into cash which should be deducted in computing "net capital" for purposes of rule 15c3-1 under the Securities Exchange Act of 1934.

2. **Short proprietary positions.**—Where the broker-dealer is short a suspended security in a proprietary account, the broker-dealer shall value the position at the last sale price prior to the suspension and shall reduce net capital by the appropriate haircut on the presumed market value of the position. The Division does not believe it would be appropriate to value such short positions at zero as it may prove impossible to cover the short position at that price when the suspension is lifted.

3. **Fails to receive and uncompleted customers' sales transactions.**—Where the broker-dealer is failing to receive the security which has been suspended from another broker-dealer or where a customer has sold the securities prior to the suspension and has not yet made delivery to the broker-dealer, the related contract liability either to another broker-dealer or to the customer shall be included in computing aggregate indebtedness, except where such liability would be excluded under subparagraph (c) (1) (D) of rule 15c3-1.

4. **Fails to deliver.**—Absent a tender of delivery of the suspended securities to a purchasing broker-dealer there can be no assurance that the fail to deliver is collectible by the broker-dealer having an obligation to deliver. In numerous instances the broker will be unable to make such tender since he may not have possession of the securities needed to make delivery and he will be unable to determine the collectability of that receivable. The Division is therefore of the view that such fails to deliver should be treated as assets not readily convertible into cash and deducted in computing net capital until they are collected or the suspension is lifted.

5. **Customers' special cash accounts under section 4(c) of regulations T.**—When a customer purchases securities in a special cash account under section 4(c) of regulation T, he undertakes to make payment within 7 business days after the purchase. If payment is not made by the 7th business day and an extension is not obtained through a committee of a national securities exchange, the broker must cancel or otherwise liquidate the unsettled portion thereof. Since the customer generally has an obligation to make full cash payment within 7 business days it is appropriate for customer accounts which are long the suspended security to be treated as fully secured and collectible until the 7th business day following the purchase, however, if payment is not so received the customer's account must be considered unsecured and the full amount of the unsettled portion of the purchase price must be deducted in computing the broker-dealer's net capital unless the broker-dealer is otherwise secured. With respect to

transactions which are normally consummated on a c.o.d. basis payment may be delayed no longer than 10 business days after settlement date and if payment is delayed beyond that date the receivable should be deemed unsecured and deducted in computing net capital.

6. Transactions in a general account under section 3(a) of regulation T.—(a) Where a customer is long in a general account a security which has been suspended and where such suspension results in the security receiving no loan value and if as a result the customer's account becomes partially secured or unsecured, the deficiency shall be deducted in computing net capital.

(b) Where the customer is short in a margin account a security which has been suspended for purposes of the net capital rule the ledger credit balance continues to be included in aggregate indebtedness.

We hope this letter clarifies the treatment of positions and obligations of broker-dealers in suspended securities. If we may be of any further assistance, please do not hesitate to contact us.

Sincerely,

LEE A. PICKARD,
Director.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

JUNE 8, 1973.

[FR Doc. 73-12810 Filed 6-25-73; 8:45 am]

Title 32—National Defense
CHAPTER XVIII—DEFENSE CIVIL
PREPAREDNESS AGENCY
PART 1800—DEFINITIONS

PART 1804—FINANCIAL ASSISTANCE
FROM RECONSTRUCTION FINANCE
CORPORATION FOR CIVIL DEFENSE
PURPOSES

PART 1812—EQUAL OPPORTUNITY FOR
EMPLOYMENT IN FEDERALLY AS-
SISTED CONSTRUCTION

Change in Agency Name and Deletion of
Parts

The following changes are made pursuant to the order of the Secretary of Defense disestablishing the Office of Civil Defense within the Office of the Secretary of the Army, and establishing the Defense Civil Preparedness Agency (DCPA) as an agency of the Department of Defense (FR Doc. 72-15636, filed 9-13-72, 37 FR 18636). Part 1800, "Definitions," is duplicative of material in other parts of chapter XVIII of title 32. Part 1804, "Financial Assistance from Reconstruction Finance Corporation for Civil Defense," is obsolete and certifications thereunder are no longer issued. The Equal Employment Opportunity provisions issued pursuant to rules and regulations of the Secretary of Labor, 41 CFR chapter 60, and applicable to DCPA projects involving federally assisted construction appear in subpart H, part 12, subchapter A, chapter I of title 32 of the Code of Federal Regulations. Due to their editorial nature, I do not deem it appropriate for the amendments set forth herein to be processed under the provisions of OMB Cir. No. A-85 or other consultation procedures.

Chapter XVIII of title 32 of the Code of Federal Regulations, including the chapter heading, is amended as follows:

1. Delete, wherever appearing, the name "Office of Civil Defense, Office of the Secretary of the Army" and "Office of Civil Defense" and substitute in place thereof the name "Defense Civil Preparedness Agency."

2. Delete, wherever appearing, the abbreviation "OCD" and substitute in place thereof the abbreviation "DCPA."

3. Delete, wherever appearing, the name "Director of Civil Defense" and substitute in place thereof the name "Director."

4. Part 1800 is deleted from chapter XVIII of title 32 of the Code of Federal Regulations, and reserved.

5. Part 1804 is deleted from chapter XVIII of title 32 of the Code of Federal Regulations, and reserved.

6. Part 1812 is deleted from chapter XVIII of title 32 of the Code of Federal Regulations, and reserved.

(64 Stat. 1245-1257, 50 U.S.C. app. 2251-2297; reorganization plan No. 1 of 1958, 72 Stat. 1799; Executive Order 10952, "Assigning Civil Defense Responsibilities to the Secretary of Defense and Others," July 20, 1961.)

Effective date.—This amendment shall be effective on June 26, 1973.

Dated June 20, 1973.

JOHN E. DAVIS,
Director,
Defense Civil Preparedness Agency.
[FR Doc. 73-12779 Filed 6-25-73; 8:45 am]

PART 1801—CONTRIBUTIONS FOR CIVIL
DEFENSE EQUIPMENT

PART 1812—FEDERALLY ASSISTED
CONSTRUCTION

In order to better accommodate the application of certain Federal requirements pertaining to State and local government construction projects assisted under Defense Civil Preparedness Agency financial contributions programs, chapter XVIII of title 32 of the Code of Federal Regulations is amended as set forth below. Being in the nature of a compendium of existing requirements, processing under advance consultation procedures is not deemed appropriate.

§ 1801.12 [Deleted]

Section 1801.12 "Construction" is deleted.

Former provisions having been deleted, new part 1812 is issued, reading as follows:

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| Sec. | |
| 1812.1 | Applicability. |
| 1812.2 | Preapplication. |
| 1812.3 | Application. |
| 1812.4 | Facility selection. |
| 1812.5 | Environmental considerations. |
| 1812.6 | Title to site. |
| 1812.7 | Real property acquisition. |
| 1812.8 | Flood hazards. |
| 1812.9 | Historic sites. |
| 1812.10 | Access by the handicapped. |
| 1812.11 | Labor standards. |
| 1812.12 | Equal employment opportunity. |
| 1812.13 | Award of contracts. |
| 1812.14 | Bonds. |
| 1812.15 | Clean air. |
| 1812.16 | Records retention and inspection. |

AUTHORITY.—Sec. 401(g), 201(l), 205, 64 Stat. 1245-1257, 50 U.S.C. App. 2251-2297; Reorganization Plan No. 1 of 1958, 72 Stat. 1799; Executive Order 10952, "Assigning Civil Defense Responsibilities to the Secretary of Defense and Others," July 20, 1961; order of the Secretary of Defense establishing the Defense Civil Preparedness Agency as an agency of the Department of Defense, FR Doc. 72-15636, filed Sept. 13, 1972, 37 FR 18636.

§ 1812.1 Applicability.

This part concerns federally assisted contracts and projects which pertain solely or principally to construction work.

§ 1812.2 Preapplication.

For each construction project for which the need for Federal funding exceeds \$100,000, preapplication shall be made on standard form Preapplication for Federal Assistance, set forth as exhibit M-1 of Office of Management and Budget (OMB) Circular A-102.

§ 1812.3 Application.

The standard form Application for Federal Assistance (for construction programs) set forth as exhibit M-4 of OMB Circular A-120 shall be used. The project application includes, as a part thereof, certain enumerated assurances and certifications together with an assurance and certification by the applicant that it will comply with the regulations, policies, guidelines, and requirements, including OMB Circulars Nos. A-87, A-95, and A-102, as they relate to the application, acceptance and use of Federal funds for the federally assisted project.

§ 1812.4 Facility selection.

When feasible, the State or political subdivision, in providing for civil defense needs must make use of (a) existing facilities, or (b) a facility which is to be acquired or constructed for a principal function other than civil defense (e.g., municipal office building, courthouse, police, or fire station). The Defense Civil Preparedness Agency (DCPA) may contribute toward such of the planning, design, construction, and equipment costs as it determines to be directly attributable to use of a portion of the facility for civil defense functions (e.g., inclusion of an emergency operating center in the basement area of a courthouse). When neither of these two alternatives can be effected, DCPA will consider requests for financial contributions toward the costs of planning, designing, constructing, and equipping a facility which is determined by DCPA to be required principally for civil defense functions.

§ 1812.5 Environmental considerations.

DCPA contributions toward the costs of planning, designing, constructing, and equipping a facility which it determines to be required principally for civil defense functions are subject to the requirements of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332) including the requirement of section 102(2)(C) of NEPA for a detailed environmental statement where the action is a major action significantly affecting the quality of the human environment. Before making the final selection of a site for a facility which is