section, the Administrator of Veterans' Affairs, upon determining that approximately one acre out of said triangular tract is no longer to be used for the purpose and on the condition for which the same was donated to the United States, is authorized to execute a quitclaim deed to the heirs of the grantors conveying such one acre, the heirs of the grantors having expressed a desire to give said one acre to the city of Allen Park for a fire station site. Such quitclaim deed shall also contain covenants by said heirs that the one-acre parcel shall be conveyed by them to the city of Allen Park for use as a site for a fire station and shall be used in a manner that will not, in the judgment of the Administrator of Veterans' Affairs, or his designate, interfere with the care and treatment of patients in the nearby Veterans' Administration Hospital, Dearborn, Michigan; a condition that if it ever ceases to be so used, the title to said property shall immediately revert to the United States for the use of the Veterans' Administration; a provision that such covenants and conditions shall run with the land and be binding on the grantees, their heirs, successors, grantees and assigns; and such instrument shall further contain such additional terms and conditions as the Administrator shall deem appropriate to protect the interests of the United States.

"(b) The exact legal description of said one acre (located at the corner of Outer Drive and Snow Road) shall be determined by the Administrator. The Administrator shall not execute and deliver the quitclaim deed authorized in subsection (a) of this section until said heirs shall have, at their own expense, caused the property to be surveyed and made arrangements, satisfactory to the Administrator, for the erection of a boundary line fence, nor until said heirs shall have executed and delivered to the United States a recordable instrument, in form satisfactory to the Attorney General, releasing to the United States all of their interests in such one-acre parcel and also releasing any right of reentry into the balance of said triangular tract which might accrue by reason of the termination of the use by the United States of said one acre thereof. The execution and delivery of said instrument shall be subject to such additional terms and conditions as the Administrator shall deem appropriate to protect the interests of the United States."

Approved October 21, 1968.

Public Law 90-614

AN ACT

October 21, 1968
[H. R. 7417]

To prescribe administrative procedures for the District of Columbia government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

District of Columbia Administrative Procedure Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "District of Columbia Administrative Procedure Act".

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OTHER AUTHORITY

SEC. 2. This Act shall supplement all other provisions of law establishing procedures to be observed by the Commissioner, the Council, and agencies of the District government in the application of laws administered by them, except that this Act shall supersede any such law and procedure to the extent of any conflict therewith.

DEFINITION

SEC. 3. As used in this Act—

(1) (a) the term "Commissioner" means the Commissioner of the District of Columbia, or his designated agent;

(b) the term "Council" means the District of Columbia Council;

(2) the term "District" means the District of Columbia;

(3) the term "agency" includes both subordinate agency and independent agency;

(4) the term "subordinate agency" means any officer, employee, office, department, division, board, commission, or other agency of the government of the District, other than an independent agency or the Commissioner or the Council, required by law or by the Commissioner or the Council to administer any law or any rule adopted under the authority of a law;

(5) the term "independent agency" means any agency of the government of the District with respect to which the Commissioner and the Council are not authorized by law, other than this Act, to establish administrative procedures, but does not include the several courts of the District and the District of Columbia Tax Court;

(6) the term "rule" means the whole or any part of any Commissioner's, Council's, or agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of the Commissioner, Council, or of any agency;

(7) the term "rulemaking" means Commissioner's, Council's, or agency process for the formulation, amendment, or repeal of a rule;

(8) the term "contested case" means a proceeding before the Commissoner, the Council, or any agency in which the legal rights, duties, or privileges of specific parties are required by any law (other than this Act), or by constitutional right, to be determined after a hearing before the Commissioner or the Council or before an agency, but shall not include (A) any matter subject to a subsequent trial of the law and the facts de novo in any court; (B) the selection or tenure of an officer or employee of the District; (C) proceedings in which decisions rest solely on inspections, tests, or elections; and (D) cases in which the Commissioner, Council, or an agency act as an agent for a court of the District;

(9) the term "person" includes individuals, partnerships, cor-

porations, associations, and public or private organizations of any character other than the Commissioner, the Council, or an agency;

(10) the term "party" includes the Commissioner, the Council, and any person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any proceeding before the Commissioner, the Council, or an agency, but nothing herein shall be construed to prevent the Commissioner, the Council, or an agency from admitting the Commissioner, the Council, or any person or agency as a party for limited purposes;

(11) the term "order" means the whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) of the Commissioner or Council or of any agency in any matter other than rulemaking, but including licensing;

(12) the term "license" includes the whole or part of any permit, certificate, approval, registration, charter, membership, statutory exemption, or other form of permission granted by the Commissioner, the Council, or any agency;

(13) the term "licensing" includes process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license by the Commissioner or the Council or an agency;

(14) the term "relief" includes the whole or part of any Commissioner's or Council's or agency (A) grant of money, assistance, license, authority, exemption, exception, privilege, or remedy; (B) recognition of any claim, right, immunity, privilege, exemption, or exception; and (C) taking of any other action upon the application or petition of, and beneficial to, any person;

(15) the term "proceeding" means any process of the Commissioner or Council or an agency as defined in paragraphs (6), (11), and (12) of this section; and

(16) the term "sanction" includes the whole or part of any Commissioner's or Council's or agency (A) prohibition, requirement, limitation, or other condition affecting the freedom of any person; (B) withholding of relief; (C) imposition of any form of penalty or fine; (D) destruction, taking, seizure, or withholding of property; (E) assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees; (F) requirement, revocation, or suspension of a license; and (G) taking of other compulsory or restrictive action.

ESTABLISHMENT OF GENERAL PROCEDURES

SEC. 4. (a) The Commissioner and the Council shall, for themselves and for each subordinate agency, establish or require each subordinate agency to establish procedures in accordance with this Act.

(b) Each independent agency shall establish procedures in accordance with this Act.

(c) The procedures required to be established by subsections (a) and (b) of this section shall include requirements of practice before the Commissioner and the Council and each agency.

OFFICIAL PUBLICATION

"District of Columbia Register."

SEC. 5. (a) The Commissioner shall publish at regular intervals not less frequently than once every two weeks a bulletin to be known as the "District of Columbia Register," in which shall be set forth the full text of all rules filed in the office of the Commissioner during the period covered by each issue of such bulletin, except that the Commissioner may in his discretion omit from the District of Columbia Register rules the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if, in lieu of such publication, there is included in the Register a notice stating the general subject matter of any rule so omitted and stating the manner in which a copy of such rule may be obtained.

(b) All courts within the District shall take judicial notice of rules published or of which notice is given in the District of Columbia Register pursuant to this section.

(c) Publication in the District of Columbia Register of rules adopted, amended, or repealed by the Commissioner or Council or by any agency shall not be considered as a substitute for publication in one or more newspapers of general circulation when such publication is required by statute.

(d) The Commissioner is authorized to publish in the District of Columbia Register, in addition to rules published under authority contained in subsection (a) of this section, (1) cumulative indexes to regulations which have been adopted, amended, or repealed; (2) information on changes in the organization of the District government; (3) notices of public hearings; (4) codifications of rules; and (5) such other matters as the Commissioner may from time to time determine to be of general public interest.

PUBLIC NOTICE AND PARTICIPATION IN RULEMAKING

SEC. 6. (a) The Commissioner and Council and each independent agency shall, prior to the adoption of any rule or the amendment or repeal thereof, publish in the District of Columbia Register (unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law) notice of the intended action so as to afford interested persons opportunity to submit data and views either orally or in writing, as may be specified in such notice. The publication or service required by this subsection of any notice shall be made not less than thirty days prior to the effective date of the proposed adoption, amendment, or repeal, as the case may be, except as otherwise provided by the Commissioner or Council or the agency upon good cause found and published with the notice.

Petitions.

(b) Any interested person may petition the Commissioner or Council or an independent agency, requesting the promulgation, amendment, or repeal of any rule. The Commissioner and Council and each independent agency shall prescribe by rule the form for such petitions, and the procedure for their submission, consideration, and disposition. Nothing in this Act shall make it mandatory that the Commissioner or Council or any agency promulgate, amend, or repeal any rule pursuant to a petition therefor submitted in accordance with this section.

(c) Notwithstanding any other provision of this section, if, in an emergency, as determined by the Commissioner or Council or an independent agency, the adoption of a rule is necessary for the immediate preservation of the public peace, health, safety, welfare, or morals, the Commissioner or Council or such independent agency may adopt

such rules as may be necessary in the circumstances, and such rule may become effective immediately. Any such emergency rule shall forthwith be published and filed in the manner prescribed in section 7 of this Act. No such rule shall remain in effect longer than one hundred and twenty days after the date of its adoption.

FILING AND PUBLISHING OF RULES

SEC. 7. (a) Each agency, within thirty days after the effective date of this Act, shall file with the Commissioner a certified copy of all of its rules in force on such effective date.

(b) The Commissioner shall keep a permanent register open to public inspection of all rules.

(c) Except in the case of emergency rules, each rule adopted after the effective date of this Act by the Commissioner or Council or by any agency, shall be filed in the office of the Commissioner. No such rule shall become effective until after its publication in the District of Columbia Register, nor shall such rule become effective if it is required by law, other than this Act, to be otherwise published, until such rule is also published as required in such law.

Publication in D.C. Register.

COMPILATION OF RULES

SEC. 8. (a) As soon as practicable after the effective date of this Act, the Commissioner shall have compiled, indexed, and published in the District of Columbia Register all rules adopted by the Commissioner and Council and each agency and in effect at the time of such compilation. Such compilations shall be promptly supplemented or revised as may be necessary to reflect new rules and changes in rules.

Publication in D.C. Register.

(b) Compilations shall be made available to the public at a price fixed by the Commissioner.

(c) The Commissioner must publish the first compilation required by subsection (a) of this section within one year after the effective date of this Act and no rule adopted by the Commissioner or by the Council or by any agency before the date of such first publication which has not been filed and published in accordance with this Act and which is not set forth in such compilation shall be in effect after one year after the effective date of this Act.

DECLARATORY ORDERS

SEC. 9. On petition of any interested person, the Commissioner or Council or an agency, within their discretion, may issue a declaratory order with respect to the applicability of any rule or statute enforceable by them or by it, to terminate a controversy (other than a contested case) or to remove uncertainty. A declaratory order, as provided in this section, shall be binding between the Commissioner or Council or the agency, as the case may be, and the petitioner on the state of facts alleged and established, unless such order is altered or set aside by a court. A declaratory order is subject to review in the manner provided in this Act for the review of orders and decisions in contested cases, except that the refusal of the Commissioner or Council or of an agency to issue a declaratory order shall not be subject to review. The Commissioner and the Council and each agency shall prescribe by rule the form for such petitions and the procedure for their submission, consideration, and disposition.

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CONTESTED CASES

Notification of hearing.

SEC. 10. (a) In any contested case, all parties thereto shall be given reasonable notice of the afforded hearing by the Commissioner or Council or the agency, as the case may be. The notice shall state the time, place, and issues involved, but if, by reason of the nature of the proceeding, the Commissioner or Council or the agency determine that the issues cannot be fully stated in advance of the hearing, or if subsequent amendment of the issues is necessary, they shall be fully stated as soon as practicable, and opportunity shall be afforded all parties to present evidence and argument with respect thereto. Unless otherwise required by law, other than this Act, any contested case may be disposed of by stipulation, agreed settlement, consent order, or default.

(b) In contested cases, except as may otherwise be provided by law, other than this Act, the proponent of a rule or order shall have the burden of proof. Any oral and any documentary evidence may be received, but the Commissioner and Council and every agency shall exclude irrelevant, immaterial, and unduly repetitious evidence. Every party shall have the right to present in person or by counsel his case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Where any decision of the Commissioner or Council or any agency in a contested case rests on official notice of a material fact not appearing in the evidence in the record, any party to such case shall on timely request be afforded an opportunity to show the contrary.

Recordkeeping.

(c) The Commissioner or Council or the agency shall maintain an official record in each contested case, to include testimony and exhibits, but it shall not be necessary to make any transcription unless a copy of such record is timely requested by any party to such case, or transcription is required by law, other than this Act. The testimony and exhibits, together with all papers and requests filed in the proceeding, and all material facts not appearing in the evidence but with respect to which official notice is taken, shall constitute the exclusive record for order or decision. No sanction shall be imposed or rule or order or decision be issued except upon consideration of such exclusive record, or such lesser portions thereof as may be agreed upon by all the parties to such case. The cost incidental to the preparation of a copy or copies of a record or portion thereof shall be borne equally by all parties requesting the copy or copies.

Proposed decision.

(d) Whenever in a contested case a majority of those who are to render the final order or decision did not personally hear the evidence, no order or decision adverse to a party to the case (other than the Commissioner or an agency) shall be made until a proposed order or decision, including findings of fact and conclusions of law, has been served upon the parties and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to a majority of those who are to render the order or decision, who, in such case, shall personally consider such portions of the exclusive record, as provided in subsection (c) of this section, as may be designated by any party.

Written decisions.

(e) Every decision and order adverse to a party to the case, rendered by the Commissioner or Council or an agency in a contested case, shall be in writing and shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the conclusions upon each contested issue of fact. Findings of fact and conclusions of law shall be supported by and in accordance with the reliable, probative, and substantial evidence. A

copy of the decision and order and accompanying findings and conclusions shall be given by the Commissioner or Council or the agency, as the case may be, to each party or to his attorney of record.

JUDICIAL REVIEW

SEC. 11. Any person suffering a legal wrong, or adversely affected or aggrieved, by an order or decision of the Commissioner or Council or an agency in a contested case, is entitled to a judicial review thereof in accordance with this Act upon filing in the District of Columbia Court of Appeals a written petition for review, except that orders and decisions of the Board of Zoning Adjustment, Commission of Mental Health, Public Service Commission, Redevelopment Land Agency, and the Zoning Commission shall be subject to judicial review in those courts which review the orders and decisions of those agencies on the day before the date of enactment of this Act and such judicial review shall be in accordance with the law in effect on the date immediately preceding the effective date of this Act establishing requirements and standards for review of orders and decisions of those agencies or, if no such requirements or standards are in effect on such date, then such review shall be in accordance with this Act. If the jurisdiction of the Commissioner or Council or an agency is challenged at any time in any proceeding and the Commissioner or Council or the agency, as the case may be, takes jurisdiction, the person challenging jurisdiction shall be entitled to an immediate judicial review of that action, unless the court shall otherwise hold. The reviewing court may by rule prescribe the forms and contents of the petition and, subject to this Act, regulate generally all matters relating to proceedings on such appeals. A petition for review shall be filed in such court within such time as such court may by rule prescribe and a copy of such petition shall forthwith be served by mail by the clerk of the court upon the Commissioner or Council or upon the agency, as the case may be. Within such time as may be fixed by rule of the court the Commissioner or Council or such agency shall certify and file in the court the exclusive record for decision and any supplementary proceedings, and the clerk of the court shall immediately notify the petitioner of the filing thereof. Upon the filing of a petition for review, the court shall have jurisdiction of the proceeding, and shall have power to affirm, modify, or set aside the order or decision complained of, in whole or in part, and, if need be, to remand the case for further proceedings, as justice may require. Filing of a petition for review shall not in itself stay enforcement of the order or decision of the Commissioner or Council or the agency, as the case may be. The Commissioner or Council or the agency may grant, or the reviewing court may order, a stay upon appropriate terms. The court shall hear and determine all appeals upon the exclusive record for decision before the Commissioner or Council or the agency. The review of all administrative orders and decisions by the court shall be limited to such issues of law or fact as are subject to review on appeal under applicable statutory law, other than this Act. In all other cases the review by the court of administrative orders and decisions shall be in accordance with the rules of law which define the scope and limitations of review of administrative proceedings. Such rules shall include, but not be limited to, the power of the court—

Scope and limitations.

(1) so far as necessary to decision and where presented, to decide all relevant questions of law, to interpret constitutional and statutory provisions, and to determine the meaning or applicability of the terms of any action;

(2) to compel agency action unlawfully withheld or unreasonably delayed; and

(3) to hold unlawful and set aside any action or findings and conclusions found to be (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege, or immunity; (C) in excess of statutory jurisdiction, authority, or limitations or short of statutory jurisdiction, authority, or limitations or short of statutory rights; (D) without observance of procedure required by law, including any applicable procedure provided by this Act; or (E) unsupported by substantial evidence in the record of the proceedings before the court.

In reviewing administrative orders and decisions, the court shall review such portions of the exclusive record as may be designated by any party. The court may invoke the rule of prejudicial error. Any party aggrieved by any judgment of the District of Columbia Court of Appeals under this Act may seek a review thereof by the United States Court of Appeals for the District of Columbia Circuit in accordance with sections 11–321, 17–101, 17–102, 17–103, and 17–104 of the District of Columbia Code.

77 Stat. 479, 612.

Effective date.

SEC. 12. This Act shall become effective one year after the date of its enactment.

Approved October 21, 1968.

Public Law 90-615

October 21, 1968
[H. R. 7735]

AN ACT

To continue for three years the existing suspension of duties on certain alumina and bauxite, and for other purposes.

Alumina and bauxite.
Duty suspension, extension.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That (a) items 907.15 (relating to aluminum oxide (alumina) when imported for use in producing aluminum), 909.30 (relating to bauxite, calcined), and 911.05 (relating to bauxite ore) of the Tariff Schedules of the United States (19 U.S.C. 1202) are each amended by striking out "7/15/68" and inserting in lieu thereof "7/15/71".

80 Stat. 192.

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after July 15, 1968. Upon request therefor filed with the customs officer concerned on or before the 120th day after the date of the enactment of this Act, entries and withdrawals of articles described in items 907.15, 909.30, and 911.05 of the Tariff Schedules of the United States (as amended by subsection (a)) which were made after July 15, 1968, and before the date of the enactment of this Act shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entries or withdrawals had been made on the date of the enactment of this Act.

46 Stat. 734.
19 USC 1514.

72 Stat. 1346.
26 USC 5134.

SEC. 2. (a) Section 5134(b) of the Internal Revenue Code of 1954 (relating to claims for drawback of distilled spirits taxes on account of certain nonbeverage uses) is amended by striking out in the last sentence thereof "3 months" and inserting in lieu thereof "6 months".

(b) The amendment made by subsection (a) shall apply with respect to claims filed on or after the date of the enactment of this Act.