

SALES REPRESENTATIVE

Harte & Co.

SALES TECHNICAL SERVICE MAN

Plastics Division

SENIOR TECHNICAL SALES REPRESENTATIVE

Plastics Division

TECHNICAL SALES REPRESENTATIVE

Nopco Division—Plastics Division

TECHNICAL SPECIALIST

Concord

VICE PRESIDENT, MARKETING

Harte & Co.

APPENDIX 3

Personnel whose primary duties are directly to purchase on behalf of Respondent Diamond:

ASSISTANT PURCHASING AGENT

Nopco Division

BUYER

Purchasing Department—Deek Park Works

JUNIOR BUYER

Purchasing Department

MANAGER ADMINISTRATION

Chemicals Division

MANAGER PRODUCT DEVELOPMENT AND COORDINATION

Fine Chemicals Division

MANAGER/PURCHASING AND STORES

Purchasing Department

MATERIALS MANAGER

Purchasing Department

NATIONAL ACCOUNTS/FLEET ADMINISTRATION

Purchasing Department

PLANT PURCHASING AGENT

Purchasing Department

PROJECT COORDINATOR

Purchasing Department

PURCHASING AGENT

Purchasing Department

PURCHASING FIELD ADMINISTRATOR

Purchasing Department

PURCHASING MANAGER

Purchasing Department

PURCHASING STORE MANAGER

Deer Park Works

SENIOR BUYER

Purchasing Department—Deer Park Works

SUPERVISOR OF CONSTRUCTION

Purchasing Department

WORKS PURCHASING AGENT

Deer Park Works

[FR Doc. 74-8777 Filed 4-16-74; 8:45 am]

[Docket No. C-2494]

PART 13—PROHIBITED TRADE PRACTICES

Tri-State Aluminum, et al.

Subpart—Advertising falsely or misleadingly; § 13.10 *Advertising falsely or misleadingly*; § 13.15 *Business status*,

advantages, or connections; 13.15-70 *Financing activities*; § 13.125 *Limited offers or supply*; § 13.155 *Prices*; 13.155-100 *Usual as reduced, special, etc.*; § 13.160 *Promotional sales plans*; § 13.260 *Terms and conditions*. Subpart—Failing to maintain records: § 13.1051 *Failing to maintain records*; 13.1051-20 *Adequate*. Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1417 *Financing activities*;—Goods; § 13.1647 *Guarantees*; § 13.1747 *Special or limited offers*;—Prices; § 13.1825 *Usual as reduced or to be increased*. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.2013 *Offers deceptively made and evaded*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

In the Matter of Tri-State Aluminum, et al. a Corporation, and A. E. Whitworth and William M. Townsend, Individually and as Officers of Said Corporation.

Consent order requiring a Wildwood, Ga., seller and distributor of residential siding and other products, among other things to cease misrepresenting the amount, type and extent of the credit terms arranged for purchasers; that products, installations or services are guaranteed; prices or savings, and offers as limited or restricted as to time; failing to maintain adequate records; using schemes or devices to obtain leads or prospects for the sale of products or services; and discouraging the purchase of or disparaging its advertised products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

Order. It is ordered, That respondents Tri-State Aluminum, a corporation, and A. E. Whitworth and William M. Townsend, individually and as officers of said corporation, and respondents' agents, representatives and employees, and their successors and assigns, directly or through any corporate or other device or under any other name or names, in connection with the advertising, offering for sale, sale and distribution of home improvement materials in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication that purchasers of respondents' products, installations or services are granted easy or assured credit terms by financial institutions with which respondents deal; or misrepresenting in any manner the amount, type, extent or any other facet of the credit terms respondents arrange or may arrange for their purchasers;

2. Representing, directly or by implication, that any of respondents' products, installations or services are warranted or guaranteed, unless the nature and extent of the warranty or guarantee, the identity of the warrantor or guarantor and the manner in which the warrantor or

guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith; and unless respondents promptly and fully perform all of their obligations and requirements, directly or impliedly represented, under the terms of each such warranty or guarantee;

3. Representing, directly or by implication, that any price for respondents' products, installations or services is a special or reduced price, unless such price constitutes a significant reduction from an established selling price at which such products, installations or services have been sold in substantial quantities by respondents in the recent regular course of their business; or misrepresenting, in any manner, their prices or the savings available to their purchasers;

4. Representing, directly or by implication, that any of respondents' offers to sell products, installations or services are limited as to time or restricted or limited in any other manner, unless such represented limitations or restrictions are actually in force and in good faith adhered to;

5. Failing to maintain adequate records, (a) which disclose the facts upon which any savings claim, including former pricing claims and comparative value claims of the type discussed in paragraphs Three and Four of this order are based; and (b) from which the validity of any savings claim, including former pricing claims and similar representations of the type described in Paragraphs Three and Four of this order can be determined;

6. Using, in any manner, a sales plan, scheme or device wherein false, misleading or deceptive statements or representations are made in order to obtain leads or prospects for the sale of other products, installations or services;

7. Making representations purporting to offer products, installations or services for sale when the purpose of such representations are not to sell the offered products, installations or services but to obtain leads or prospects for the sale of other products, installations or services at higher prices;

8. Discouraging the purchase of or disparaging any product, installation or service which is advertised or offered for sale by respondents.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the cor-

poration which may affect compliance obligations arising out of the order.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: March 19, 1974.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.74-8776 Filed 4-16-74;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

**Ozone Generators and Other Devices
Generating Ozone**

A notice was published in the *FEDERAL REGISTER* of June 27, 1972 (37 FR 12644), setting forth a proposal by the Commissioner of Food and Drugs that Part 3 of Title 21 of the Code of Federal Regulations be amended by promulgation of a regulation concerning devices which generate and emit ozone. Interested persons were invited to file written comments on the proposal within 60 days of the date of its publication in the *FEDERAL REGISTER*.

Comments were received from eleven manufacturers/distributors, seven individuals, two industry associations, one materials research and environmental testing laboratory, and one utility company.

1. A review of the comments indicated some confusion as to precisely what equipment is considered to come within the meaning of "ozone generators and other devices" generating and "emitting ozone".

The proposed regulation was intended to apply only to "devices" as that term is defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act as amended. The act defines "device" to mean "instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals". This would include ozone generating devices such as air purifiers, deodorizers, germicidal devices, etc., and other devices which generate ozone, when health claims are made for them. The fear-voiced by some comments that items such as electrostatic copiers, movie projectors, electronic home entertainment equipment, etc., will be covered by the regulation is unfounded, and this statement is not intended to apply to those types of products unless health claims are made for them. The Commissioner has expressed his concern over the generation and emission of

harmful amounts of ozone from such products to the Consumer Product Safety Commission, which has jurisdiction over such products.

2. Three comments objected to the statement that ozone has no known useful, medical application in specific, adjunctive, or preventive therapy. In two cases the comments were accompanied by either references to scientific literature or by copies of papers which purportedly proved the value of ozone as a bactericide, moldicide, deodorizer, etc., at concentrations below 0.05 part per million (ppm). One comment stated that ozone has been used as an adjunct in surgical procedures to kill bacteria and promote healing of wounds and also for treatment of dermatological disorders.

The Commissioner finds that ozone, to be effective as a bactericide or deodorizer, must be present in concentrations far greater than that which can be safely tolerated by man and other animals. Conversely, if ozone is used at levels where it will have no adverse effects on man or other animals it will have no effectiveness as a bactericide or deodorizer. Background data and information supporting this finding have been filed with the Hearing Clerk.

3. Three comments asserted that a portion of the adverse effects on biological systems attributed in the literature to ozone might be due to the concomitant generation and emission of the oxides of nitrogen. Two of these alleged that sulfur dioxide might be implicated. One comment spoke in terms of "other contaminants". No definitive data accompanied these comments.

The Commissioner knows of no scientific evidence which would establish the validity of these contentions. Accordingly, they are rejected as unsupported.

4. Two comments took exception to the statement that ozone is a "toxic gas".

The "Handbook of Physics and Chemistry," 47th ed., The Chemical Rubber Co., Cleveland, OH, in a table on the toxicity of gases and the "Handbook of Laboratory Safety," 2d ed., The Chemical Rubber Co., Cleveland, OH, in a table of chemical hazard information list ozone with a toxicity comparable to phosgene and chlorine, both readily recognized as toxic gases. A copy of each table has been filed with the Hearing Clerk.

5. Several comments objected to the use of the word "emits" in the proposed regulation. The basis for this objection was that in measuring the amount of ozone emitted from a particular device, no allowance would be made for ambient (background) levels of ozone from other sources which might be present in the air being drawn into the device. Thus, in measuring the ozone in the air coming from the device there would be a certain amount of background ozone added to any generated ozone. Some comments suggested that the word "emits" be changed to "generates".

Since the Commissioner's concern is with the amount of ozone generated by a particular device, he agrees that this suggestion has merit. Therefore, the word "emits" has been changed to "generates".

6. Several comments criticized the proposal to set a limit of "0.05" ppm of ozone by volume of air as an acceptable limit of ozone accumulation "in the atmosphere of enclosed living space or space intended to be occupied by people for long periods of time". The comments argue that it is beyond their ability to control the manner in which a device is used or misused. For example, they have no control, other than in the labeling, over the size or contents of the rooms in which their products may be used. They state that room size, contents, and other factors will affect the amount of ozone that will accumulate in a given space, and that the manufacturer should not be held responsible if the user disregards instructions or warnings in the labeling and uses their product in a room of a different size than recommended by the manufacturer.

The Commissioner has concluded that manufacturers can prepare labeling to make allowance for proper use of a device. Such labeling should specify minimum room sizes in which the devices should be used, taking into consideration such factors as duty cycles (for devices which operate cyclically or periodically), possible malfunctions, etc.

7. Two comments suggested that since ozone is unstable and decomposes rapidly or reacts with oxidizable objects in the immediate environment, the regulation should permit a generation and emission limit greater than 0.05 ppm while retaining the accumulation limit of not more than 0.05 ppm of ozone in the atmosphere of enclosed living space.

The Commissioner finds that, taking into consideration all the variables associated with ozone production and ozone breakdown, there is no way to guarantee the rapid breakdown of ozone which would prevent the accumulation of ozone in amounts exceeding 0.05 ppm. Accordingly, the limit of 0.05 ppm by volume of air will stand as originally proposed.

8. Five comments suggested that FDA provide specifications for and/or reference to apparatus and methods of measurement of ozone which will enable the affected industry to comply with this regulation.

While not considering it necessary to make the use of a specific test method for measuring ozone concentration mandatory, the Commissioner does recognize the need to offer guidance. The method and apparatus specified in 40 CFR Part 50, the regulation concerning "National Primary and Secondary Ambient Air Quality Standards" issued by the Environmental Protection Agency and published in the *FEDERAL REGISTER* on November 25, 1971 (36 FR 22384), or any other equally sensitive and accurate method may be employed.

The following supportive data and background information have been assembled and are on display in the office of the Hearing Clerk, Food and Drug Administration, Room 6-86, 5600 Fishers Lane, Rockville, MD 20852:

1. Title 40—Protection of Environment, Chapter I—Environmental Protection Agency, Subchapter C—Air Programs, Part 50—National Primary

and Secondary Ambient Air Quality Standards, FEDERAL REGISTER, 36 FR 22369, 22384-22398, Nov. 25, 1971.

2. "Toxicology of Ozone," *Aerospace Medicine*, Air Force Pamphlet No. 161-2-4 TB MED 256, Departments of The Air Force and The Army, Washington, Jan. 20, 1966.

3. "Toxicity of Some Gases and Vapors," *Handbook of Chemistry and Physics*, 47th ed., p. F-56, The Chemical Rubber Co., Cleveland, OH.

4. "Tables of Chemical Hazard Information," *Handbook of Laboratory Safety*, 2d ed., pp. 668-687, 714-719, 740-741, 798, 799, 802-803, The Chemical Rubber Co., Cleveland, OH.

5. "Threshold Limit Values," *Industrial Toxicology*, pp. 364-366, Reprinted from the A.M.A. Archives of Industrial Hygiene, 11:521-524, June 1955.

6. Jaffee, Louis S., "The Biological Effects of Ozone on Man and Animals," *American Industrial Hygiene Association Journal*, pp. 267-277, May-June 1967.

7. Heuter, Gordon F., Ph.D. and Martin Fritzhand, M.D., "Oxidants and Lung Biochemistry A Brief Review," Research Triangle Park, NC, *Archives of Internal Medicine* 128:48-53, July 1971.

8. Huber, Gary L., M.D., et al., "Alterations in the Lung Following the Administration of Ozone," *Archives of Internal Medicine* 128:81-86, July 1971.

9. Stokinger, H. E. Ph.D., "Ozone Toxicology," *Archives of Environmental Health*, 10:719-731, May 1965.

10. "Community Air Quality Guide for Ozone," *American Industrial Hygiene Association Journal*, 29(3):299-303, May-June 1968.

11. "Statement on Biologic Effects of Ozone," Occupational Health Research and Training Facility, Division of Occupational Health, U.S. Public Health Service, 1014 Broadway, Cincinnati, OH, Aug. 1964.

12. "Table IV—Ozone Concentration" and "Bibliography," ARI Sub-Committee on Ozone Measurement, Sept. 1971.

13. Alpert, Stephen M., et al., "Effects of Exposure to Ozone on Defensive Mechanisms of the Lung," Environmental Protection Agency, Air Pollution Control Office, Cincinnati, OH 45237, *Journal of Applied Physiology*, 31(2):247-252, Aug. 1971.

14. Goldstein, W., et al., "Adverse Influence of Ozone on Pulmonary Bactericidal Activity of Murine Lung," *Nature*, Vol. 29, Jan. 22, 1971.

15. Hutchinson, F. W., "Health Effects of Irons and of Ozone in Comfort Air Conditioning," *Heating and Ventilating*, pp. 76-78, March 1944.

16. Siedlacki, Jerome T., MS, "Electronic Air Cleaners and Ozone," AMA Department of Occupational Health, Chicago, *Journal of the American Medical Association*, 213(6):1044, Aug. 10, 1970.

After consideration of the comments and all available data, the Commissioner has decided to adopt the following regulation which he believes will provide allowance for an adequate margin of

safety regarding the generation and emission of ozone by devices.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 501(c), 502(j), 701(a), 52 Stat. 1050, 1051, 1055; 21 U.S.C. 351(c), 352 (j), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 3 is amended by adding thereto the following new section:

§ 3.96 Maximum acceptable level of ozone.

(a) Ozone is a toxic gas with no known useful medical application in specific, adjunctive, or preventive therapy. In order for ozone to be effective as a germicide, it must be present in a concentration far greater than that which can be safely tolerated by man and animals.

(b) Although undesirable physiological effects on the central nervous system, heart, and vision have been reported, the predominant physiological effect of ozone is primary irritation of the mucous membranes. Inhalation of ozone can cause sufficient irritation to the lungs to result in pulmonary edema. The onset of pulmonary edema is usually delayed for some hours after exposure; thus, symptomatic response is not a reliable warning of exposure to toxic concentrations of ozone. Since olfactory fatigue develops readily, the odor of ozone is not a reliable index of atmospheric ozone concentration.

(c) A number of devices currently on the market generate ozone by design or as a byproduct. Since exposure to ozone above a certain concentration can be injurious to health, any such device will be considered adulterated and/or misbranded within the meaning of sections 501 and 502 of the act if it is used or intended for use under the following conditions:

(1) In such a manner that it generates ozone at a level in excess of 0.05 part per million by volume of air circulating through the device or causes an accumulation of ozone in excess of 0.05 part per million by volume of air (when measured under standard conditions at 25° C (77° F) and 76 millimeters of mercury) in the atmosphere of enclosed space intended to be occupied by people for extended periods of time (e.g., houses, apartments, hospitals, and offices). This applies to any such device, whether portable or permanent or part of any system, which generates ozone by design or as an inadvertent or incidental product.

(2) To generate ozone and release it into the atmosphere in hospitals or other establishments occupied by the ill or infirm.

(3) To generate ozone and release it into the atmosphere and does not indicate in its labeling the maximum acceptable concentration of ozone which may be generated (not to exceed 0.05 part per million by volume of air circulating through the device) as established herein and the smallest area in which such device can be used so as not to produce an ozone accumulation in excess of 0.05 part per million.

(4) In any medical condition for

which there is no proof of safety and effectiveness.

(5) To generate ozone at a level less than 0.05 part per million by volume of air circulating through the device and it is labeled for use as a germicide or deodorizer.

(d) This section does not affect the present threshold limit value of 0.10 part per million (0.2 milligram per cubic meter) of ozone exposure for an 8-hour-day exposure of industrial workers as recommended by the American Conference of Governmental Industrial Hygienists.

(e) The method and apparatus specified in 40 CFR Part 50, or any other equally sensitive and accurate method, may be employed in measuring ozone pursuant to this section.

Effective date. This order shall become effective on or before June 17, 1974.

(Secs. 501(c), 502(j), 701(a), 52 Stat. 1050, 1051, 1055; 21 U.S.C. 351(c), 352(j), 371(a))

Dated: April 9, 1974.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 74-8754 Filed 4-16-74; 8:45 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

DEFOAMING AGENT

In the FEDERAL REGISTER of October 4, 1972 (37 FR 20878), notice was given that a petition (FAP 3B2841) had been filed by Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105, proposing that § 121.2519 (21 CFR 121.2519) be amended to provide for safe use of mixed alkyl methacrylate esters-butyl methacrylate, N-vinyl pyrrolidone-modified copolymers as components of defoaming agents used in the manufacture of paper and paperboard intended to contact food.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that the food additive regulations should be amended to provide for safe use of the petitioned additive under the preferred chemical nomenclature set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2519(d)(3) is amended by alphabetically inserting a new item as follows:

§ 121.2519 Defoaming agents used in the manufacture of paper and paperboard.

* * * * *

(d) * * *

(3) * * *

Polymer derived from N-vinyl pyrrolidone combined during its polymerization with

copolymers derived from the mixed alkyl (C_{12} , C_{14} , C_{16} , C_{18} , C_{20} , and C_{22}) methacrylate esters and butyl methacrylate; the combined polymer contains no more than 5 weight percent of polymer units derived from N-vinyl pyrrolidone and is present at a level not to exceed 7 parts per million by weight of the finished dry paper and paperboard fibers.

Any person who will be adversely affected by the foregoing order may at any time on or before May 17, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on April 17, 1974.

(Sec. 409(c) (1), 72 Stat. 1786; 21 U.S.C. 348 (c) (1))

Dated: April 10, 1974.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.74-8755 Filed 4-16-74;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 73-72R]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Shaws Cove, Connecticut

This amendment changes the regulations for the Penn Central Railroad drawbridge across Shaws Cove, New London Harbor, Connecticut, to permit additional closed periods. This amendment was circulated as a public notice dated April 18, 1973 by the Commander, Third Coast Guard District, and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGD 73-72P) on April 18, 1973 (38 FR 9592). Seventy replies, including a petition with 56 signatures, were received. One had no objection to the proposal. Two requested no change in the present regulations; however, these regulations should be changed to reflect current navigational needs. One requested no reduction in the current opening periods and recommended that these periods be increased. This is being partially accomplished through the issuance of the revised regu-

lations. One had no objection to the proposal but stated that the eight hour notice requirement at night during the winter months could be cumbersome. The Coast Guard feels that this requirement will not be cumbersome; however, if this does prove to be the case, these regulations may be revised. One recommended that the open on signal periods for April 1 through November 30 be extended to at least 9 p.m. and one recommended that the open on signal periods be from 5 a.m. to 8 p.m. Sixty-three replies (including the petition) recommended open on signal periods from April 1 through November 30 from 5 a.m. to 10 p.m. The Coast Guard feels that these recommendations are valid and these periods are therefore adopted.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.105 to read as follows:

§ 117.105 Shaws Cove, Conn.; Penn Central railroad bridge.

(a) From December 1 through March 31:

(1) Monday through Friday from 8 a.m. to 5 p.m. the draw shall open on signal.

(2) Monday through Friday from 5 p.m. to 8 a.m. and on Saturdays and Sundays, the draw shall open on signal if at least eight hours notice is given.

(b) From April 1 through November 30:

(1) From 5 a.m. to 10 p.m. the draw shall open on signal.

(2) From 10 p.m. to 5 a.m. the draw shall open on signal if at least one hours notice is given.

(c) The draw need not open on signal if a train is approaching so closely that it may not be safely stopped; however, a vessel shall not be delayed more than 10 minutes.

(d) When an emergency arises that may endanger life or property during the closed periods outlined in paragraphs (a) (2) and (b) (2) of this section, the draw shall open with the least possible delay after notification to take such action has been given to the bridge owner or his authorized representative.

(e) Signals: (1) The opening signal from the vessel is one long blast followed by one short blast.

(2) The acknowledging signal from the drawtender is one long blast followed by one short blast when the draw will be opened immediately or four short blasts when the draw cannot be opened immediately. A red flag or ball by day, and a red light at night shall be also conspicuously displayed when the draw cannot be opened.

(f) The owner of or agency controlling the bridge shall conspicuously post notices containing the substance of these regulations, both upstream and downstream, on the bridge or elsewhere in such a manner that they can easily be read at any time from an approaching vessel. This notice shall state who to contact to have the draw opened during periods when advance notice is required.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655 (g) (2)); 49 CFR 1.46(c) (5), 33 CFR 1.05-1(c) (4))

Effective date. This revision shall become effective on May 20, 1974.

Dated: April 9, 1974.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Marine Environment and Systems.

[FR Doc.74-8804 Filed 4-16-74;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 14—LEGAL SERVICES, GENERAL COUNSEL

Sanctions Against an Attorney or Agent in Certain Cases; Revocation

Section 14.648 is revoked. This section provides sanction with respect to any attorney or agent who directly or indirectly (1) requests aid and assistance in the prosecution of a claim from any Member of Congress, any government official or representative (other than one administering Veterans Administration programs), or any organization recognized by the Veterans Administration; or (2) requests or advises a claimant to seek such aid in the prosecution of a claim, by making such actions subject to inquiry as to the agent or attorney's competence to represent claimants and by forfeiting his right to fees in such case. This section is obsolete. The sanction it reflects has not been imposed for many years.

In addition § 14.639 is amended to delete reference to an obsolete form letter and minor editorial changes have been made to §§ 14.641 and 14.644 designed to reflect agency policy to avoid any appearance of seeming to preclude benefits for female veterans, dependents, or beneficiaries. No substantive change affecting benefits is involved.

Compliance with the provisions of § 1.12 of this chapter, as to notice of proposed regulatory development and delayed effective date, is unnecessary in this instance since the section being revoked is obsolete and contrary to current general agency policy.

1. Section 14.639 is revised to read as follows:

§ 14.639 Rules of recognition.

No person other than an accredited representative of a recognized organization shall be recognized in the preparation, presentation, or prosecution of any claim under statutes administered by the Veterans Administration, unless he has been recognized as an attorney or agent pursuant to the regulations in this part, except (a) that any person (who is a citizen of the United States, or a resident of the United States or of one of its possessions) may be recognized for the purpose of a particular claim upon filing with the office where such claim folder is located a proper power of attorney and a statement signed by such person and

the claimant that no fee or compensation of whatsoever nature shall be charged or paid for the services rendered, and, except (b) in claims for insurance benefits under a contract in which the Government admits liability on the contract, there is no issue or contest as to the designated beneficiary, and it is reasonably apparent that the attorney or agent will not charge a fee. In the first class of cases the attorney should be advised by letter regarding the requirements of being recognized in a particular claim or generally. In the latter class of cases, a paragraph substantially as follows should be incorporated in the letter acknowledging receipt of the claim:

The evidence submitted by you in connection with the claim for insurance benefits in the instant case has been received, and an adjudication of the claim for benefits will be made as expeditiously as possible. It is understood, of course, that you are not entitled to any fee for services performed by you in connection with the preparation and presentation of this claim, inasmuch as you have not been regularly recognized to present claims before the Veterans Administration by the Administrator of Veterans Affairs.

2. Section 14.641 is revised to read as follows:

§ 14.641 Formalities of power of attorney.

A power of attorney, in order to be recognized as good and valid, must be signed by the claimant or his or her guardian and be acknowledged before an officer authorized to administer oaths for general purposes or before an employee of the Veterans Administration to whom authority to administer oaths has been delegated.

3. Section 14.644 is revised to read as follows:

§ 14.644 Revocation of power of attorney and discharge of attorney or agent.

The claimant shall have the privilege of exercising the right at any stage of the claim to revoke a power of attorney or discharge his or her attorney or agent but such revocation or discharge shall not be effective as to the Veterans Administration until notice of such action shall be received by the Veterans Administration.

§ 14.648 [Revoked]

4. Section 14.648, *Requesting aid or assistance through Members of Congress et al., regarding claims*, is revoked.

Effective date. The revocation of § 14.648 is effective April 10, 1974.

Approved: April 10, 1974.

By direction of the Administrator.

[SEAL] R. L. ROUDEBUSH,
Deputy Administrator.

[FR Doc. 74-8815 Filed 4-16-74; 8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Additions and Miscellaneous Amendments

Correction

In FR Doc. 74-4784 appearing at page 9307 as the Part II of the issue of Friday, March 8, 1974, make the following changes:

1. After the last line of § 60.111(e), insert "carbon and hydrogen".

2. In the second column on page 9317, what is now designated as "§ 61.112 Standard for hydrocarbons", should read "§ 60.112 Standard for hydrocarbons".

3. In the second line of § 60.121(c), the word "allows" should read "alloys".

4. In § 60.154:

a. In the last line of the formula in paragraph (c)(3)(i), "ft" should read "ft³".

b. In the first line of the formula in paragraph (c)(3)(ii), "S_D=(50)" should read "S_D=(60)".

c. The formula in paragraph (d) should read as follows:

$$C_{ds} = (10^{-3}) \frac{C_{aw}}{S_D} \quad (\text{Metric Units})$$

or

$$C_{ds} = (2000) \frac{C_{aw}}{S_D} \quad (\text{English Units})$$

where:

C_{ds}=particulate emission discharge, g/kg dry sludge (English units: lb/ton dry sludge).

10⁻³=Metric conversion factor, g/mg.

2000=English conversion factor, lb/ton.

5. On page 9320, under paragraph 9. *Calculation—Concentration of carbon monoxide*, in the second equation under "where" "CO_{NDIR}" should read "CO_{NDIR}".

6. In the third column on page 9321, in the ninth line from the bottom of paragraph two under "3.3.1 Sodium thiosulfate solution, standard 0.1 N", "thiosulfate" should read "thiosulfate".

7. In the third column on page 9322, paragraph "4.3.2" should be transferred to appear below paragraph "4.3.1".

8. In paragraph 5.2 on page 9322, the last word "sulation" should read "solution".

9. In the formula on page 9323, put a closed parenthesis after "m".

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

BHC and Lindane

In response to petitions (PPs 4E1442 and 4E1443) submitted by Dr. C. C.

Compton, Coordinator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Arkansas, Louisiana, and Mississippi; the Texas Pecan Growers Association; Agricultural Research Service, the U.S. Department of Agriculture; and the Mississippi Department of Agriculture, a notice was published by the Environmental Protection Agency in the FEDERAL REGISTER of February 22, 1974 (39 FR 6736), proposing establishment of tolerances for negligible residues of the insecticides BHC (benzene hexachloride) and lindane (gamma isomer of benzene hexachloride) in or on the raw agricultural commodity pecans at 0.01 part per million. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), Part 180 is amended as follows:

1. In § 180.133, by adding the following new paragraph to the end of the section:

§ 180.133 Lindane; tolerances for residues.

0.01 part per million (negligible residue) in or on pecans.

2. By revising § 180.140 to read as follows:

§ 180.140 BHC; tolerances for residues.

Tolerances are established for residues of the insecticide BHC (benzene hexachloride) in or on raw agricultural commodities as follows:

1 part per million in or on apples, apricots, asparagus, avocados, broccoli, brussels sprouts, cabbage, cauliflower, celery, cherries, collards, cucumbers, eggplants, grapes, kale, kohlrabi, lettuce, melons, mustard greens, nectarines, okra, onions (dry bulb only), peaches, pears, peppers, plums (fresh prunes), pumpkins, spinach, squash (summer and winter), strawberries, Swiss chard, and tomatoes.

0.01 part per million (negligible residue) in or on pecans.

Any person who will be adversely affected by the foregoing order may on or before May 17, 1974, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is re-

quested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on April 17, 1974.

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e))

Dated: April 11, 1974.

HENRY J. KOPF,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc.74-8818 Filed 4-16-74; 8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER I—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 127]

PART 1-1—GENERAL

Suspension of Bidders

This amendment of the Federal Procurement Regulations changes the policies and procedures in Subpart 1-1.6, Debarred, Suspended, and Ineligible Bidders. The changes are designed to provide due process to suspended individuals or concerns consistent with the position taken by the Circuit Court of Appeals for the District of Columbia in *Horne Brothers, Inc. v. Laird, et. al.*, 463 F. 2d. 1268 (1972). Due process is accorded a suspended individual or concern by permitting hearings within 20 calendar days after a request for a hearing is received.

The table of contents for Part 1-1 is amended to prescribe new and revised entries as follows:

- Sec.
1-1.605-3 Notice of suspension.
1-1.605-4 Hearings.
1-1.605-5 Restrictions during period of suspension.

Subpart 1-1.6—Debarred, Suspended, and Ineligible Bidders

1. Section 1-1.605-1 is amended to revise paragraph (a) (2) to read as follows:

§ 1-1.605-1 Causes and conditions under which executive agencies may suspend contractors.

(a) * * *

(2) For other cause of such serious and compelling nature, affecting responsibility as a Government contractor, as may be determined by the agency to warrant suspension. However, suspensions related to matters involving the EEO clause shall be handled in accordance with regulations which may be prescribed by the Secretary of Labor.

2. Section 1-1.605-3 is revised to read as follows:

§ 1-1.605-3 Notice of suspension.

A firm or individual that has been suspended shall be furnished immediately with a notice of the suspension, by registered mail, by the head of the agency or his designee. The notice of suspension shall state that:

(a) The suspension is based on (1) an outstanding indictment, or (2) adequate evidence that the firm or individual has committed irregularities of a serious nature in business dealings with the Government, or (3) adequate evidence of irregularities which seriously reflect on the propriety of further dealings of the firm or individual with the Government. (The notice shall identify the indictment or describe the nature of the irregularities, in general terms, without disclosing the Government's evidence);

(b) The suspension is for a temporary period pending the completion of an investigation and such legal proceedings as may ensue;

(c) Bids and proposals will not be solicited from the firm or individual and, if received, will not be considered, and awards of contracts may not be made unless it is determined by the head of the agency or his authorized representative to be in the best interest of the Government;

(d) The firm or individual will not be eligible for the award of a subcontract and whenever the firm or individual is proposed as a subcontractor, the contracting officer will decline to approve subcontracting with that firm or individual in any instance in which consent is required of the Government before the subcontract is made, unless it is determined by the agency to be in the best interest of the Government to grant approval;

(e) The suspension is effective throughout the agency; and

(f) A request for hearing will be considered unless the suspension is based upon an outstanding indictment or upon advice from either the Department of Justice or the Department of Labor that such a hearing would prejudice the substantial interests of the Government, and the hearing will be held within 20 calendar days if the request is granted.

3. Section 1-1.605-4 is revised to read as follows:

§ 1-1.605-4 Hearings.

(a) *Request for hearing.* A hearing may be requested upon receipt of the notice of suspension unless the basis for suspension is an outstanding indictment against the firm or individual.

(b) *Coordination with Department of Justice.* The formal advice of the Department of Justice concerning the impact of release of evidentiary material on possible civil or criminal action against a firm or individual shall be requested upon receipt of a request for a hearing, except when the basis for suspension is already known to involve possible civil or criminal prosecution against the firm or individual. If such advice is orally given, the Department of Justice shall be requested to promptly confirm the advice in writing. The agency head or his designee shall grant the request and hold a hearing or deny the request, as provided in paragraphs (d) and (e) of this § 1-1.605-4.

(c) *Coordination with the Department of Labor.* The formal advice of the Associate Solicitor (for General Legal Services) of the Department of Labor shall be sought concerning the possible impact of the release of evidentiary material on Department of Labor proceedings against a firm or individual when a suspension is based upon a contractor's violations of labor standards subject to legal proceedings before administrative law judges of the Department of Labor. The agency head or his designee shall grant the request and hold a hearing or shall deny the request, as provided in paragraphs (d) and (e) of this § 1-1.605-4.

(d) *Hearing granted.* If a decision is made to grant a hearing, the firm or individual shall be immediately informed and the hearing shall be held not later than 20 calendar days after receipt of the request. The head of the agency or his authorized representative shall promptly decide after the hearing whether to continue or terminate the suspension and shall promptly notify the firm or individual of this decision by registered mail.

(e) *Hearing denied.* If it is determined, based upon the advice received from the Department of Justice or the Department of Labor, that to hold a hearing would adversely affect possible civil or criminal prosecution or possible Labor proceedings against the firm or individual, this determination will be reduced to writing and made a part of the formal record. Notice shall then be furnished to the firm or individual within 20 calendar days after receipt of the request for a hearing that substantial interests of the Government would be prejudiced if a hearing were held but that any information or argument in opposition to the suspension may be presented in person, in writing, or through representation. Any information or argument submitted will be promptly considered by the head of the agency or his authorized representative and, if such action is deemed warranted, the suspension shall be terminated. The firm or individual shall promptly be notified by registered mail whether the suspension is to be continued or terminated.

4. Section 1-1.605-5 is revised to read as follows:

§ 1-1.605-5 Restrictions during period of suspension.

During a period of suspension of a firm or individual, the following policies and procedures shall be applicable:

(a) Bids and proposals shall not be solicited from suspended contractors. If received, bids and proposals shall not be considered and awards for contracts shall not be made to suspended contractors unless it is determined by the agency to be in the best interest of the Government.

(b) Suspended contractors will be subject to the provisions of § 1-1.603(e) regarding restrictions on subcontractors. (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective May 15, 1974, but may be observed earlier.

Dated: April 5, 1974.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.74-8821 Filed 4-16-74; 8:45 am]

CHAPTER 14—DEPARTMENT OF THE INTERIOR

PART 14-2—PROCUREMENT BY FORMAL ADVERTISING

Irregularities in Bids; Protests Against Award

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, Part 14-2 of Chapter 14 of Title 41 of the Code of Federal Regulations is hereby amended.

It is the general policy of the Department of the Interior to allow time for interested parties to participate in the rulemaking process. However, the principal amendments pertain to bid protest procedures and they are based on the procedures and standards issued by the General Accounting Office as contained in 4 CFR Part 1-20 and published in the FEDERAL REGISTER of December 23, 1971 (36 FR 24791-24792). Other changes are editorial in nature. Therefore the public rulemaking process is waived in this instance and these changes will become effective on April 20, 1974.

RICHARD R. HITE,
Deputy Assistant Secretary
of the Interior.

APRIL 10, 1974.

1. Subpart 14-2.4 of the Interior Procurement Regulations is amended by changing the names of offices and titles of officers and by making editorial changes. In §§ 14-2.405-50, 14-2.406-3 and 14-2.406-4, the names "Office of Assistant Secretary for Administration" and "Office of Assistant Secretary—Management and Budget" are changed to read "Office of Assistant Secretary—Management." The titles "Director of Survey and Review" and "Director, Office of Survey and Review" are changed to read "Director of Management Services." As revised the sections read as follows:

Subpart 14-2.4—Opening of Bids and Award of Contract

§ 14-2.405 Minor informalities or irregularities in bids.

§ 14-2.405-50 Other irregularities in bids.

All communications with the Comptroller General will be conducted by the Director of Management Services, Office of Assistant Secretary—Management; provided however, that contracting officers may submit bid irregularities and other questions pertaining to contract awards directly to the Comptroller General when demanded by exigency or pressure of circumstances. When time will permit, consultation

with members of the Office of the Solicitor, either at its headquarters or regional or field offices, shall be accomplished prior to such communication. A copy of the letter, with attachments, if any, to the Comptroller General shall be forwarded simultaneously to the Director of Management Services and to the Office of the Solicitor.

§ 14-2.406 Mistakes in bids.

§ 14-2.406-3 Other mistakes disclosed before award.

(a) The Director of Management Services, Office of the Assistant Secretary—Management, is delegated authority to make the administrative determinations under §§ 1-2.406-3(a) (1), (2), and (3), and 1-2.406-3(b) of this title.

(b) Each proposed determination shall be approved by the Solicitor, or by an Associate or Assistant Solicitor, or comparable legal officer of the Department.

(c) In addition to the requirements of § 1-2.406-3(d) (2) of this title, the bidder shall furnish in support of his alleged mistake his original worksheets accompanied by certification of genuineness in the form of a statement of identification by the bidder, preferably signed before a notary public. Otherwise, the evidence of mistake may lack the conviction essential to relief.

§ 14-2.406-4 Disclosure of mistakes after award.

(a) The Director of Management Services, Office of the Assistant Secretary—Management, is delegated authority to make the determinations under § 1-2.406-4 (a), (b), and (c) of this title.

(b) Each proposed determination shall be approved by the Solicitor, or by an Associate or Assistant Solicitor, or comparable legal officer of the Department.

(c) The evidence furnished by the bidder in support of the alleged mistake shall include the original worksheets and shall be accompanied by a certification of genuineness in the form of a statement of identification by the bidder, preferably signed before a notary public. Otherwise, the evidence of mistake may lack the conviction essential to relief.

§ 14-2.406-50 Dissemination of determinations respecting mistakes in bids.

Immediately after the receipt by the procuring activity concerned of the formal determination respecting a mistake in a bid, whether or not the mistake was asserted before or after an award, the procuring activity shall transmit the determination to the contracting officer concerned with a direction that a copy of the determination be transmitted promptly and without delay to the bidder affected by the determination.

2. Subpart 14-2.4 of the Interior Procurement Regulations is amended by changing the text of § 14-2.407-8 to read as follows:

§ 14-2.407-8 Protests against award.

(a) *Resolution by procuring activities.* Protestors are urged to seek resolution of

their complaints initially with the procuring activity. Contracting officers may act on any formal protest initially filed with the procuring activity (see § 1-2.407-8(a) of this title) unless it is known that a protest has been filed concurrently with the General Accounting Office (GAO).

(b) *Responsibility.* The Division of Procurement, Office of Management Services, shall be responsible for handling matters relative to protests against award of contracts within the Department of the Interior and for liaison between the Department and the GAO. All communications relative to protest cases written or otherwise directed to the GAO shall be coordinated with the Division of Procurement, Office of Management Services. All written communications to the GAO shall be prepared by the office concerned for the signature of the Director of Management Services.

(c) *Time for filing.* (1) Protests based on alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing date for the receipt of proposals shall be filed prior to bid opening or the closing date for receipt of proposals. In other cases, bid protests shall be filed to be received in the GAO not later than 5 working days after the basis for protest is known or should have been known, whichever is earlier. If a protest has been filed initially with the procuring activity, any subsequent protest to the GAO must be delivered to the GAO within 5 working days after notification of adverse action by the procuring activity. The protest will be considered by the GAO provided the initial protest to the procuring activity was timely made.

(2) Any additional statement by the protestor in support of the initial protest to the GAO shall be mailed or otherwise furnished to the GAO, and two copies sent to the procuring activity, no later than 5 working days after the initial protest is filed.

(3) "Working days" as used in this § 14-2.407-8 means the working days of the agencies of the Federal Government. The term excludes Saturdays, Sundays, and Federal holidays.

(d) *Notice of protest.* Upon being advised by the GAO of the receipt of a notice of protest, the Division of Procurement, Office of Management Services, will so inform the procuring activity concerned, which will immediately notify the contracting officer. The contracting officer shall promptly notify the contractor or all bidders or offerors who, in the opinion of the contracting officer, appear to have a reasonable prospect of receiving an award if the protest is denied. Upon receipt from the GAO of a copy of the actual protest and a written request for a formal report, the Division of Procurement, Office of Management Services, will deliver copies to the procuring activity concerned, which shall promptly transmit copies to the contracting officer and request a written report. Except to the extent that withholding of information is permitted or required by law or regulations, the con-

tracting officer shall furnish copies of the protest and any supplemental information later filed by the protestor, to the parties previously notified of the protest. These parties shall be advised to communicate with the GAO if they desire to comment on the protest.

(e) *Determination to make award.* (1) If a protest before award has been submitted to the procuring activity only, the procedures of § 1-2.407-8(b) of this title shall be followed. If considered desirable, the head of a procuring activity may request the Director of Management Services to seek the views of the GAO before making an award.

(2) If a protest before award has been submitted to the GAO, and the contracting officer determines in writing that it is necessary to make an award under § 1-2.407-8(b) (3) and (4) of this title, such determination must be supported by a strong justification and must be approved by the head of the procuring activity involved and by the Director of Management Services before award is made. The Director of Management Services will obtain advice from the GAO concerning the current status of the protest before approving any such award. If he determines that the justification warrants making award before receipt of a decision on the protest by the GAO, he shall so notify the GAO. Thereafter, and prior to authorizing the award, he shall transmit to the GAO, the protestor, and others who were notified of the protest, a copy of the determination and justification supporting an award prior to receipt of a decision by the GAO.

(f) *Submission of report.* (1) Within 20 working days after receipt by the Department of the complete statement of protest, a report on the protest or a written statement setting forth the reasons for any delay and the expected date of submission shall be submitted to the GAO as prescribed in this § 14-2.407-8.

(2) The report shall be appropriately titled; shall cite the GAO file (B-) number assigned to the protest; shall include the documents and statements required by § 1-2.407-8(a) (2) of this title; and will be signed by the contracting officer. Other relevant supporting documents may also be appended. The report must be covered by a letter of transmittal prepared as set forth in § 14-2.407-8(f) (4) of this chapter.

(3) If appropriate, the report shall contain a statement regarding any urgency for the procurement and the extent to which a delay in award may result in significant performance difficulties or additional expense to the Government. If award is not urgent, a statement shall be included giving an estimate of the length of time an award may be delayed without significant expense or difficulty in performance.

(4) The transmittal letter covering the report to the GAO shall be prepared within the procuring activity concerned, for signature by the Director of Management Services. The letter will be addressed to the individual in the GAO who

signed the request for the initial or supplementary report on the protest. It shall state that copies thereof have been sent to the protestor and other named parties who had been given notice of the protest. The letter and the complete report shall be routed through the Associate Solicitor for General Law to the Division of Procurement, Office of Management Services. Copies of the letter and the complete report shall be included for the cognizant Assistant Secretary, the Director of Management Services, the Associate Solicitor for General Law, the protestor, and other interested parties. The external distribution should be shown on the original of the letter to GAO. In addition, there shall be prepared letters to the protestor and other interested parties, enclosing a copy of the complete report. The letters shall advise recipients that any comments they desire to make shall be filed with the Office of the General Counsel, General Accounting Office, within 10 working days after receipt, with copies to the procuring activity and to the Director of Management Services. The letters shall be prepared for signature of the Director of Management Services and shall accompany the report package. After signature, all letters will be concurrently dispatched by the Office of Management Services.

(5) If the GAO requests additional information, a supplementary report shall be transmitted to the GAO within 10 working days after the Department receives the request and shall follow the procedures set forth in § 14-2.407-8(f) (4) of this chapter.

(g) *Conference on protest.* The protestor, other interested parties, or agency officials may request a conference with the GAO regarding the merits of the protest. All interested parties will be given an opportunity to attend such conference. Any such request within the Department shall be submitted through the Director of Management Services.

(h) *Protests after award.* Protests initially received after contract award are subject to the procedures in this § 14-2.407-8 and § 1-2.407-8(c) of this title.

(i) *Report of corrective action.* When a GAO decision contains a recommendation for corrective action and directs the agency's attention to section 236 of the Legislative Reorganization Act of 1970 (Pub. L. 91-510; 31 U.S.C. 1176), the GAO will transmit a copy of the decision to the Congressional committees named in section 232 of the Act (31 U.S.C. 1172). The Department is required by section 236 of the Act to submit to the House and Senate Committees on Appropriations and Government Operations a written statement of the corrective action taken. The required statement shall be submitted by the head of the procuring activity involved, to the Director of Management Services, within 50 calendar days after the date of the GAO decision. After review and approval, the statement will be transmitted to the appropriate committees.

[FR Doc.74-8778 Filed 4-16-74; 8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 54—GRANTS FOR SPECIALIZED SERVICE FACILITIES

Programs for Drug Abuse Treatment and Rehabilitation Services

In the FEDERAL REGISTER of July 6, 1973 (38 FR 18042-44), it was proposed to amend Subpart D, Part 54, Title 42 CFR, entitled, "Grants for Initial Cost of Professional and Technical Personnel of Community Mental Health Centers", by adding a new § 54.305a in order to implement subsection (c) of section 221 of the Community Mental Health Centers Act (42 U.S.C. 2688a) which was added by section 401 of Pub. L. 92-255, the Drug Abuse Office and Treatment Act of 1972 (86 Stat. 76). Public comment was invited.

The only public response which was received suggested that § 54.305a(b) (2) should include the State plan prepared pursuant to section 409 of Pub. L. 92-255 (21 U.S.C. 1176) as one of the factors to be considered by the Secretary in making a determination with respect to the need for drug abuse treatment and rehabilitation services. Pursuant to the Secretary's determination that this suggestion should be implemented, § 54.305a(b) (2) has been changed to include a specific reference to the State plan developed pursuant to section 409 of the Drug Abuse Office and Treatment Act of 1972.

The commentator also suggested an amendment of § 54.305a(c) (3) which would require applicants to execute an assurance imposing an obligation to enter into agreements under which community mental health centers could be used in drug abuse treatment and rehabilitation programs provided by State and local governments. Since the statute provides only for agreements with departments or agencies of the Federal Government, this suggested change was determined to be inappropriate.

In addition to the substantive change discussed above, minor changes have been made either to correct typographical errors or to effect solely technical matters.

Therefore, having evaluated the comments received and all other relevant material, Subpart D of Part 54 is amended by adding after § 54.305 thereof a new § 54.305a as set forth below.

Effective date. This regulation shall be effective on April 17, 1974.

Dated: March 14, 1974.

(Catalog of Federal Domestic Assistance Program No. 13.240, "Mental Health—Community Mental Health Centers" (staffing grants))

CHARLES C. EDWARDS,
Assistant Secretary for Health.

Approved: April 9, 1974.

CASPAR W. WEINBERGER,
Secretary.

§ 54.305a Content of application—programs for the provision of drug abuse treatment and rehabilitation services.

(a) *Information.* Each application for a grant under section 220(a) of the Act (including applications for continuation support) for any fiscal year beginning after June 30, 1972, shall contain:

(1) Information sufficient to enable the Secretary to determine whether the need for a program of treatment and rehabilitation services for drug addicts and other persons with drug abuse and other drug dependence problems residing in the catchment area served by the applicant is of such magnitude, in the fiscal year for which grant support is requested, as to warrant the provision of such a program of services by the applicant for such fiscal year. Such information shall include:

(i) An estimate of the total population of the catchment area served by the applicant and an estimate of the number of drug addicts and drug abusers (classified by type of drug abused) in such catchment area, which shall be supported by relevant information obtained from local hospitals, medical personnel, law enforcement agencies, educational institutions, and citizen groups concerned with drug abuse problems;

(ii) Identification of existing Federal, State and local programs for the provisions of drug abuse treatment and rehabilitation services to residents of the catchment area served by the applicant and an estimate of whether such programs are sufficient to meet the need for such services within the catchment area; and

(iii) Such information as may be available to the applicant with respect to planned Federal, State, and local programs for the provision of drug abuse treatment and rehabilitation services to residents of the catchment area, including a statement with respect to the developmental stage of any such plans, and a brief description of the nature and scope of each such program.

(2) Information sufficient to enable the Secretary to determine whether it is feasible, in the fiscal year for which grant support is requested, for the applicant to establish a program for the provision of drug abuse treatment and rehabilitation services to drug addicts and other persons with drug abuse and other drug dependence problems residing in the catchment area served by the applicant and whether it is feasible for the applicant to assist departments and agencies of the Federal Government in conducting treatment and rehabilitation programs for drug addicts and other persons with drug abuse and other drug dependence problems who are in the catchment area served by the applicant. Such information shall include:

(i) A description of the applicant's existing staff, equipment, facilities, and other resources and a plan for utilizing such existing resources for the provision of drug abuse treatment and rehabilitation services which shall take into ac-

count the continuing commitment of the applicant to provide comprehensive mental health services to all residents of the catchment area, the available resources of other agencies with which it has established, or could establish, agreements of affiliation, and the availability of other State and local resources;

(ii) An estimate of additional resources needed to bridge the gap, if any, between available existing resources and the need for drug abuse treatment and rehabilitation services in the catchment area and, if existing resources are inadequate, a plan for obtaining additional resources including proposed or pending applications for Federal support, efforts to obtain additional State and local funding, efforts to secure third party reimbursement for services, and specific staff recruiting efforts; and

(iii) A description of any local conditions or other factors such as State and local laws or lack of resources which would affect the applicant's ability to establish or operate new programs, or expand existing programs, for the provision of drug abuse treatment and rehabilitation services.

(b) *Direct provision of services—(1) Conditional grant awards.* A grant award under section 220(a) of the Act (including awards of continuation grant support) for any fiscal year beginning after June 30, 1972, shall be subject to the condition that upon a determination by the Secretary, with respect to the fiscal year for which grant support is requested, (i) that the need for a treatment and rehabilitation program for drug addicts and other persons with drug abuse and other drug dependence problems residing in the catchment area served by the applicant is of such magnitude as to warrant the provision of such a program by the applicant and (ii) that it is feasible for the applicant to provide such a program, the applicant shall submit an assurance satisfactory to the Secretary that the applicant will provide such a program for the provision of drug abuse treatment and rehabilitation services during such fiscal year.

(2) *Determination of need.* The Secretary may determine that the need for a program of drug abuse treatment and rehabilitation services in the catchment area served by the applicant is of such magnitude as to warrant the provision of such a program by the applicant if he finds, on the basis of the information submitted pursuant to paragraph (a) (1) of this section, the State plan, if any, developed pursuant to section 409 of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1176), and such other pertinent information, as may be available, that:

(i) The number of drug abusers in the catchment area served by the applicant is sufficiently large as to warrant the provision of a drug abuse treatment and rehabilitation program in such area;

(ii) Existing Federal, State, and local drug abuse treatment and rehabilitation programs do not adequately serve the

population of drug abusers in the catchment area served by the applicant; and

(iii) There are no immediate prospects, within the fiscal year for which staffing grant support is sought, for the implementation of new drug abuse treatment and rehabilitation programs through resources other than those available to the applicant.

(3) *Determination of feasibility.* The Secretary may determine that it is feasible for the applicant to provide a treatment and rehabilitation program for drug addicts and other persons with drug abuse and other drug dependence problems residing in the catchment area served by the applicant if he finds, on the basis of the information submitted pursuant to paragraph (a) (2) of this section and such other pertinent information as may be available, that:

(i) Existing facilities, qualified staff, and other resources available to the applicant during the fiscal year in question, either directly or through affiliation agreements and contractual arrangements, are adequate and appropriate for the provision of drug abuse treatment and rehabilitation services, or that the applicant has reasonable prospects for obtaining, during the fiscal year in question, such additional resources as may be necessary for the provision of such services.

(ii) The applicant's plan for a program for the provision of drug abuse treatment and rehabilitation services, submitted pursuant to paragraph (a) (2) of this section, does not jeopardize the applicant's continuing commitment to provide other mental health services to all residents of the catchment area; and

(iii) There are no local conditions which would have a significant adverse effect on implementation of the applicant's plan to provide drug abuse treatment and rehabilitation services.

(4) *Assurance.* Upon a determination of need and feasibility in accordance with paragraph (b) (2) and (3) of this section, the Secretary will provide a written notification to the applicant which will briefly state the bases for the Secretary's determinations of need and feasibility. The notification will be accompanied by a form for providing the required assurance. The applicant shall promptly execute the assurance and return it to the Secretary. An applicant shall be deemed to be in compliance with its assurance if it provides, in the fiscal year to which the assurance is applicable, those drug abuse treatment and rehabilitation services which the Secretary has determined to be feasible for such fiscal year.

(5) *Continuation of obligation.* A determination of need and feasibility by the Secretary with respect to the provision of drug abuse treatment and rehabilitation services for any fiscal year shall be presumed to continue to apply to an applicant's requests for support in subsequent fiscal years unless, on the basis of the information submitted by the applicant in its continuation grant application, the Secretary finds that:

(i) It is no longer necessary or feasible for the center to provide the program of drug abuse treatment and rehabilitation services which the Secretary determined to be needed and feasible in the preceding fiscal year; or

(ii) An expanded program of drug abuse treatment and rehabilitation services is needed in the catchment area served by the applicant and it is feasible for the applicant to expand its existing program.

(c) *Assistance to Federal programs—*
(1) *Conditional grant awards.* A grant award under section 220(a) of the Act (including awards of continuation grant support) for any fiscal year beginning after June 30, 1972, shall be subject to the condition that upon a determination by the Secretary that it is feasible for the applicant to assist the Federal Government in drug abuse treatment and rehabilitation programs for drug addicts and other persons with drug abuse and other drug dependence problems who are in the catchment area served by the applicant, the applicant shall submit an assurance satisfactory to the Secretary that the applicant will, if requested, enter into agreements with departments or agencies of the Federal Government pursuant to which the applicant's facilities may be used, to the maximum extent practicable, in drug abuse treatment and rehabilitation programs, if any, provided by such departments or agencies.

(2) *Determination of feasibility.* The Secretary may determine that it is feasible for the applicant to assist the Federal Government in treatment and rehabilitation programs for drug addicts and other persons with drug abuse and other drug dependence problems who are in the catchment area served by the applicant if he finds, on the basis of the information submitted pursuant to paragraph (a) (2) of this section and such other pertinent information as may be available, that:

(i) Existing facilities, qualified staff, and other resources available to the applicant during the fiscal year in question, either directly or through affiliation agreements and contractual arrangements, are adequate and appropriate for assisting the Federal Government in such drug abuse treatment and rehabilitation programs as may be available for persons who are in the catchment area, or that the applicant has reasonable prospects for obtaining, during the fiscal year in question, such additional resources as may be necessary for the provision of such assistance; and

(ii) Utilization of the applicant's existing or anticipated resources for assisting the Federal Government in such drug abuse treatment and rehabilitation programs as may be available for residents of the area would not necessitate curtailment of drug abuse treatment and rehabilitation services provided or to be provided directly by the applicant or curtailment of other mental health services provided or to be provided by the applicant.

(3) *Assurance.* Upon a determination that it is feasible for the applicant to assist the Federal Government in treatment and rehabilitation programs for drug addicts and other persons with drug abuse and other drug dependence problems in accordance with paragraph (c) (2) of this section the Secretary will provide a written notification to the applicant which will briefly state the bases for the Secretary's determination. The notification will be accompanied by a form for providing the required assurance. The applicant shall promptly execute the assurance and return it to the Secretary. The assurance imposes a continuing obligation upon the applicant not to refuse a request from an agency or department of the Federal Government to enter into an agreement under which the applicant's facilities may be used, to the maximum extent practicable, in drug abuse treatment and rehabilitation programs provided by such departments or agencies for persons who are in the catchment area served by the applicant: *Provided, however,* That the Secretary may, upon a written request from the applicant which shall be supported by pertinent information, determine that it is not feasible for the applicant to comply with its assurance in a particular fiscal year or that it is not practicable for the applicant to enter into a specific agreement which has been proposed by a department or agency of the Federal Government.

[FR Doc.74-8712 Filed 4-16-74; 8:45 am]

Title 47—Telecommunication CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Miscellaneous Amendments

Correction

In FR Doc. 74-3981, appearing at page 7130 in the issue of Monday, February 25, 1974, make the following changes.

In the table of International Radio Agreements on pages 7132 and 7134 place the following "TIAS" cites directly below the dotted line to indicate that citations are to be added.

On page 7132:

1. For 1971, entries "TIAS 7532" and "TIAS 7636".

2. For 1972, entries "TIAS 7508" and "TIAS 7697".

On page 7134:

1. For 1973, entry "TIAS 7730".

[Docket No. 19693; FCC 74-228]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Permission for Use of Frequencies

Correction

In FR Doc. 74-6147 appearing at page 10140 in the issue of Monday, March 18, 1974, on page 10144, § 83.401(c), change

"218 kHz" to read "2182 kHz" and "836 kHz" to read "8364 kHz".

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1, Amdt. 1-92]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation to Federal Highway and Urban Mass Transportation Administrators

The purpose of this amendment is to delegate jointly to the Federal Highway and Urban Mass Transportation Administrators authority vested in the Secretary by 23 U.S.C. 101(a) to approve the boundaries of urban and urbanized areas as defined therein.

Since this amendment relates to Departmental management, procedures, and practices notice and public comment thereon are unnecessary and it may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

1. In § 1.48, paragraph (b) (1) is revised to read as follows:

§ 1.48 Delegations to Federal Highway Administrator.

(b) Administer the following sections of title 23, United States Code:

(1) (i) 101(a) (as it involves approval of boundaries of urban and urbanized areas) with the concurrence of the Urban Mass Transportation Administrator; and

(ii) 101(b), (c), (d), and (e), except as they involve mass transportation projects authorized by sections 103(e) (4), 142(a) (2), or 142(c);

2. In § 1.50, paragraph (f) (2) is revised to read as follows:

§ 1.50 Delegations to Urban Mass Transportation Administrator.

(f) The following sections of title 23, United States Code:

(2) 101(a) (as it involves approval of boundaries of urban and urbanized areas), 104(f) (4), 105(d), 106(b) (as it involves the Federal-aid urban system), 117(c), 134(a), and 150 with the concurrence of the Federal Highway Administrator.

Effective date. This amendment is effective April 17, 1974.

(Sec. 9(e), Department of Transportation Act, 49 CFR 1657(e))

Issued in Washington, D.C., on April 11, 1974.

JOHN W. BARNUM,
Acting Secretary of Transportation.

[FR Doc.74-8852 Filed 4-16-74; 8:45 am]