identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective January 9, 1981.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: December 31, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-893 Filed 1-8-81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF STATE

22 CFR Part 51

[Docket No. SD-165]

Person Who May Be Included in One Passport

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department amends its regulations to eliminate the current practice under which the name and photograph of an American citizen child under the age of 13 years may be included in the United States passport issued to the child's parent or sibling. As amended, the regulations require that any citizen needing passport documentation to depart from or enter the United States must be in possession of a valid passport issued in his or her own name. The amendment will not affect the validity of passports issued prior to the effective date of this amendment. The amendment is made as a result of the declining use of family-type passports and the Department's new Travel Document Issuing System which was designed on the concept of one person—one passport.

EFFECTIVE DATE: The rule will become effective on January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Elliott B. Light, Department of State, Office of Citizenship Appeals and Legal Assistance (PPT/C), 2201 C Street, N.W., Washington, D.C. 20520, telephone (202) 632-0896.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking to revise Part 51 was published in the **Federal Register** on November 25, 1980 (45 FR 78163). Interested persons were invited to submit comments concerning the revision by December 26, 1980. No unfavorable comments were received; therefore, the proposed revision is adopted without change, as set forth below.

Part 51 of Title 22 Code of Federal Regulations is amended as follows:

1. Revise § 51.2 to read as follows:

§ 51.2 Passport issued to nationals only.

(a) A United States passport shall be issued only to a national of the United States (22 U.S.C. 212).

(b) Unless authorized by the Department no person shall bear more than one valid or potentially valid U.S. passport at any one time.

§ 51.5 [Deleted]

2. Delete § 51.5.

§ 51.21 [Amended]

3. Delete the current § 51.21(c)(2) including the semi-colon and the word "and", add the word "and" after the semi-colon in § 51.21(c)(1), and renumber the current § 51.21(c)(3) as § 51.21(c)(2).

4. Delete the current § 51.21(d)(2) including the semi-colon and the word "and", add the word "and" after the semi-colon in § 51.21(d)(1), and renumber the current § 51.21(d)(3) as § 51.21(d)(2).

5. Delete the current § 51.21(e) and renumber the current § 51.21(f) as § 51.21(e).

§ 51.22 [Deleted]

6. Delete § 51.22.

7. Revise § 51.23 to be entitled, "Name of applicant to be used in passport" and to read as follows:

§ 51.23 Name of applicant to be used in passport.

The passport application shall contain the full name of the applicant. The applicant shall explain any material discrepancies between the name to be placed in the passport and the name recited in the evidence of citizenship and identity submitted. The passport issuing office may require documentary evidence or affidavits of persons having knowledge of the facts to support the explanation of the discrepancies.

§ 51.25 [Amended]

8. Delete the final sentence of § 51.25(a).

9. Delete the current § 51.25(b) and renumber the current § 51.25(c) as § 51.25(b). Renumber the current § 51.25(d) as § 51.25(c).

§ 51.28 [Amended]

10. Delete the words "or any person to be included" from § 51.28(a).

11. Revise § 51.32 to read as follows:

§ 51.32 Amendment of passports.

Applicants for amendment of a passport shall be made on forms prescribed by the Department.

(Sec. 1, 44 Stat. 887; Sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966–70 Comp. p. 507)

Dated: December 29, 1980.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 81-734 Filed 1-8-81; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-80-888]

Project Selection Criteria

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This rule updates 24 CFR Part 200, Subpart N, relating to HUD's evaluation of applications for various assisted housing programs. As of October 1, 1980, the applicable requirements for all programs under the United States Housing Act of 1937 are set forth in the applicable program regulations. Accordingly, 24 CFR Part 200, subpart N, is being amended to delete all references to the United States Housing Act of 1937 and its programs.

EFFECTIVE DATE: January 9, 1981, retroactive to October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Raymond W. Hamilton, Director, Public Housing Development Division, Office of Public Housing, Office of the Deputy Assistant Secretary for Public Housing and Indian Programs, Department of Housing and Urban Development, Washington, D.C. 20410 (202–755–5846). This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Part 200, Subpart N, Project Selection Criteria, was published for effect January 7, 1972. This rule amends 24 CFR 200, Subpart N, relating to HUD's evaluation of applications for various assisted housing programs, by deleting all references to the United States Housing Act of 1937 and its programs.

The Public Housing Development regulation 24 CFR 841, published last year for public comment, was revised effective October 1, 1980, and incorporates the requirements for project site selection which are similar to those under the Section 8 Housing Assistance Payments Programs. The

Indian Housing Program was specifically excluded from 24 CFR 200, Subpart N, and the Section 8 programs, which were developed later, were never made subject to it. Therefore, as of October 1, 1980, each program regulation implementing the United States Housing Act of 1937 states the appropriate program site selection requirements. Accordingly, the conforming amendment is being made retroactively effective October 1, 1980 to coincide with the effective date of the Part 841 rule. In addition, because of this retroactivity, the Secretary has requested and obtained waiver of the thirty-day deferral of effective date required by Section 7(o)(3) of the Department of HUD Act.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 was made in accordance with HUD procedures for the revised 24 CFR 841, Public Housing Development regulation. No further finding is necessary since this final rule is merely a conforming amendment.

The rule is not listed in the Department's semi-annual agenda of significant rules; published pursuant to Executive Orders 12044 and 12221.

(Sec. 7(d) Department of HUD Act, 42 U.S.C. 3535(d); U.S. Housing Act of 1937, 42 U.S.C. 1437 et seq.)

Accordingly, 24 CFR 200, Subpart N, is amended to remove all reference to the United States Housing Act of 1937 and its programs as follows:

1. In the listing of "authorities"at the head of Subpart N, the phrase, ", and the U.S. Housing Act of 1937 (42 U.S.C. 1401 et seq.)" is removed.

§ 200.700 [Amended]

2. In Section 200.700, the phrase "; and (d) applications for low-rent housing assistance under the U.S. Housing Act of 1937" is removed.

§ 200.705 [Amended]

3. In § 200.705, in the first sentence, the phrase "; and the U.S. Housing Act of 1937 (42 U.S.C. 1401 et seq.)" is removed.

§ 200.710 [Amended]

4. In § 200.710, in the title, the phrase "and evaulation of applications for low-rent public housing" is removed. In the first sentence of that Section, the phrase "and applications for low-rent public housing" is removed.

5. In § 200.710, in the first sentence of the Evaulation of Requests, the phrase, "*or* evaluation of application for low-rent public housing" is deleted; and the three check points, "[ ] low-rent public housing", "[ ] Public" (under Sponsorship), and "[ ] App. public housing" are removed.

6. Also in § 200.710 in the first paragraph of "General Instructions", the parenthetical phrase in the first sentence, "(25 or more in the case of public housing acquisition or leasing)" is removed. In the next succeeding paragraph, in the second sentence, the following phrases are deleted: "Indian Reservation Housing," and "public housing acquisition or leasing of existing housing of fewer than 25 units not requiring rehabilitation,".

7. Also in § 200.710, under Criterion 6. "Ability to perform", in the last sentence of paragraph (B), the phrase, "or an LHA with no units under management" is removed.

8. Also in § 200.710, under Criterion 8. "Provision for sound housing management":

(a) Subparagraph (A)(2) is removed and subparagraph (A)(1) is revised by removing the "(1)" at the beginning, and by removing the "; or," at the end of the subparagraph.

(b) Subparagraphs (B)(2) and (B)(3) are removed and subparagraph (B)(1) is revised by removing the "(1)" at the beginning, and by removing the "; or," at the end of the subparagraph.

9. In the "Summary of Ratings", the phrase "or low-rent public housing" is removed from the heading of the second column.

Issued at Washington, D.C., November 6, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 81-879 Filed 1-8-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Chapter I

Voluntary Agreements Under Section 708 of the Defense Production Act of 1950, as Amended

Cross Reference: For a document that promulgates standards and procedures for these voluntary agreements, see FR Doc. 81-332, appearing under Title 44 in the Rules and Regulations section of this **Federal Register**. This document has been issued by the Federal Emergency Management Agency and concurred in by the Departments of Defense, Interior, Agriculture, Commerce, and Transportation. Refer to the listing for the Federal Emergency Management Agency in the table of contents at the front of this issue to determine the appropriate page number.

BILLING CODE 4210-23-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122 and 260

[SWH-FRL 1721-5]

Hazardous Waste Management System; General and EPA Administered Permit Programs; the Hazardous Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Interim final amendment to rule and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is today making a number of changes to its May 19, 1980, hazardous waste regulations. First, it is amending the definition of "existing hazardous waste management facility" in §§ 122.3 and 260.10(20) to make it conform to the recently enacted Solid Waste Disposal Act Amendments of 1980 and to clarify the term "construction". Second, EPA is adding a definition of the term "Federal, State or local . . . approvals or permits" to §§ 122.3 and 260.10(20). The absence of such a definition has apparently caused considerable confusion. Finally, it is amending the requirement for a permit prior to construction found in § 122.22(b) to allow new hazardous waste management facilities (other than land disposal facilities and surface impoundments) to commence construction before receiving a permit.

DATES: Effective Date: January 9, 1981. Comment Date: This amendment is promulgated as an interim final rule. The Agency will accept comments on it until March 10, 1981.

ADDRESS: Comments on the amendment should be sent to Docket Clerk [Docket No. 3005], Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: For general information contact John H. Skinner, Director, State Programs and Resource Recovery Division, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-9107. For further information on implementation contact:

Region I, Dennis Hueber, Chief, Radiation, Waste Management Branch, John F. Kennedy Building,

Boston, Massachusetts 02203 (617) 223-5777
Region II, Dr. Ernest Regna, Chief, Solid Waste Branch, 26 Federal Plaza, New York, N.Y. 10007 (212) 264-0504/5
Region III, Robert L. Allen, Chief, Hazardous Materials Branch, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106 (215) 597-0980
Region IV, James Scarbrough, Chief, Residuals Management Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365 (404) 881-3016
Region V, Karl J. Klepitsch, Jr., Chief, Waste Management Branch, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6148
Region VI, R. Stan Jorgensen, Acting Chief, Solid Waste Branch, 1201 Elm Street, First International Building, Dallas Texas 75270 (214) 787-2645
Region VII, Robert L. Morby, Chief, Hazardous Materials Branch, 324 E. 11th Street, Kansas City, Missouri 64106 (816) 347-3307
Region VIII, Lawrence P. Gazda, Chief, Waste Management Branch, 1860 Lincoln Street, Denver, Colorado 80203 (303) 837-2221
Region IX, Arnold R. Den, Chief, Hazardous Materials Branch, 215 Fremont Street, San Francisco, California 94105 (415) 556-4606
Region X, Kenneth D. Feigner, Chief, Waste Management Branch, 1200 Sixth Avenue, Seattle, Washington 98101 (206) 442-1260.

SUPPLEMENTARY INFORMATION:

I. Authority

These amendments are issued under the authority of Sections 1006, 2002(a) and 3005 of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. §§ 6906, 6912(a) and 6925.

II. Amendments to and Clarification of Definition of "Existing Hazardous Waste Management Facility"

A. Date by Which a Facility Must Have Been in Operation or Commenced Construction

Section 3005(e) of RCRA provides that a hazardous waste management facility will be treated as having been issued a permit (commonly referred to as "interim status") until final action is taken on its permit application if, among other things, it was "in existence" on a date set forth in the statute. In its May 19, 1980, hazardous waste regulations, EPA used the term "existing hazardous waste management facility" to identify those facilities which met this requirement and defined the term to include a facility which was in operation, or for which construction had commenced, "on or before October 21, 1976", the then-controlling statutory date. *See* §§ 122.3 and 260.10, 45 FR 33074 and 33421.

On October 21, 1980, RCRA was amended to extend interim status to facilities in existence "on November 19, 1980." See Section 10 of the Solid Waste Disposal Act Amendments of 1980 (Pub. L. 96-482). See also 45 FR 67756 (October 14, 1980). EPA is today amending its regulatory definition of "existing hazardous waste management facility" to conform to this amendment.

B. Clarification of the Definition of "Commenced Construction"

As noted above, EPA's May 19, 1980, definition of "existing hazardous waste management facility" included facilities for which "construction had commenced" by October 21, 1976 (now November 19, 1980). The definition further provided that EPA would consider construction of a facility to have commenced if:

(a) The owner or operator had obtained all necessary Federal, State and local preconstruction approvals or permits; and

(b)(1) A continuous physical, on-site construction program had begun, or

(2) The owner or operator had entered into contractual obligations—which cannot be cancelled or modified without substantial loss—for construction of the facility to be completed within a reasonable time.

The term "physical construction" was in turn defined as "excavation, movement of earth, erection of forms or structures or similar activity to prepare a [hazardous waste management] facility to accept hazardous waste". *See* § 122.3.

Since their promulgation, EPA has been asked three major questions about these two requirements:

(1) Does the term "contractual obligations . . . for construction" in paragraph (b)(2) refer to contractual obligations for physical construction or something less than physical construction (e.g., design and engineering studies)?

(2) In determining whether he will incur a "substantial loss" within the meaning of paragraph (b)(2), does the owner or operator of a facility measure his potential loss against the total cost of physical construction of the facility or against all costs associated with building the facility (e.g., physical construction costs, engineering and design studies, permit application and processing fees)?

(3) Does the term "necessary Federal, State and local preconstruction approvals or permits" in paragraph (a) include building, zoning and similar permits and approvals required under laws and ordinances other than hazardous waste laws or statutes? The answers to these and two related questions are presented below.

1. *"Contractual Obligations . . . for Construction".* The word "construction" in the phrase "contractual obligations . . . for construction" in paragraph (b)(2) has apparently confused some readers because of the absence of the qualifying adjective "physical" (as in paragraph (c)(1)). We think it is clear from the preamble to EPA's May 19 regulations that this term was intended to cover only *physical* construction. First, the preamble noted that the definition of "commenced construction" was derived largely from EPA's Prevention of Significant Deterioration (PSD) regulations issued under the Clean Air Act. Those regulations define the term "construction" in the counterpart to paragraph (b) as "fabrication, erection, installation or modification of a source". 40 CFR 52.21(b)(7). Second, the May 19 preamble expressly stated that options to purchase or contracts for feasibility, engineering or design studies would not constitute contractual obligations within the meaning of paragraph (b)(2). 45 FR 33324.

To avoid any future confusion on this point and to clarify in the regulatory language the intent explained in the preamble, the definition of "hazardous waste management facility" is being amended so that the term "physical construction" is used throughout.

2. *"Substantial loss".* In the preamble to its May 19 regulation, EPA stated that, in general, if the amount an owner or operator must pay to cancel construction agreements exceeded 10% of the "total project cost", the loss would be deemed "substantial" within the meaning of paragraph (b)(2). 45 FR 33324. By "total project cost", EPA meant the total cost incurred for physical construction of the project, not all costs that might be associated with the project. The consistent use of the term "physical construction" in the definition of "commenced construction" should make this clear.

3. *"All Necessary Federal, State and Local Preconstruction Approvals or Permits".* In its May 19, 1980, regulations, EPA did not define the term "all necessary Federal, State or local preconstruction approvals or permits" in paragraph (a) of the definition of "commenced construction." The absence of such a definition has apparently caused considerable confusion. Some readers of the May 19 regulations, focusing on the adjective "all", have construed the term as

encompassing all Federal, State or local permits necessary to break ground at a hazardous waste management facility, including building and zoning permits. Other readers, relying on the statement in the May 19 preamble that the definition of "commenced construction" was derived from EPA's PSD regulations, have construed the term as applying only to permits and approvals required under Federal, State or local hazardous waste statutes and regulations (just as the PSD regulations apply only to Federal or State air quality control laws and regulations). This confusion has been further compounded by the fact that EPA has given conflicting advice on exactly what permits and approvals are required.

EPA is today adding a definition of "Federal, State or local . . . approvals or permits" to make it clear that, similar to EPA's PSD regulations, the permits and approvals required under paragraph (a) of the definition of "commenced construction" are those required under Federal, State or local "hazardous waste control laws or regulations." This latter phrase is intended to cover permits required under any Federal, State, or local law which is intended to control the management of hazardous waste as defined under RCRA, including not only State and local hazardous waste legislation and ordinances but also other environmental statutes, if those laws are designed to regulate the treatment, storage or disposal of hazardous wastes,[1] or the siting of hazardous waste management facilities.

Even though a facility may not be required to obtain State or local building or zoning permits prior to November 19, 1980, in order to be deemed to have "commenced construction" under EPA's regulations, this in no way relieves the facility from having to obtain whatever approvals or permits are necessary under Federal, State or local laws to actually commence construction. In some situations, failing to obtain these permits may prevent a facility from meeting the requirements of paragraph (b) of the definition of "commenced construction"—e.g., the facility may be unable to begin a continuous on-site physical construction program prior to November 19, 1980. If this is the case, the facility cannot qualify for interim status.

Some facilities which obtained necessary State or local hazardous waste or solid waste preconstruction permits but not local zoning or building permits, before November 19, 1980, may not have notified under Section 3010 (if applicable) or filed Part A of their permit application, believing that they were not eligible for interim status. Consistent with EPA's November 19, 1980, policy statement concerning "late" interim status (see 45 FR 76633), such facilities may qualify for interim status if (1) they meet the requirements of paragraph (b) in the definition of "commenced construction" and (2) they file a complete Part A permit application by July 9, 1981 or before they commence operations, whichever first occurs.

4. *Other Issues.*—a. A number of persons have asked whether a facility which obtained all necessary Federal, State and local preconstruction permits and *completed* construction (but did not commence operations) prior to November 19, 1980, has "commenced construction". Although the May 19, 1980, regulations do not expressly address this issue, we think that any reasonable reading of the definition of "commenced construction" would compel this result. In order to have completed construction by November 19, 1980, a facility clearly must have "begun a continuous program of physical on-site construction" before that date.

This interpretation of the definition of "existing hazardous waste management facility" will no doubt allow a number of product storage and non-hazardous waste management facilities which, prior to November 19, 1980, were being converted into hazardous waste management facilities, to qualify for interim status. We see no reason not to permit these converted facilities to continue to operate if they have obtained any necessary preconstruction permits required for modification of the facility and have otherwise demonstrated an intent to handle hazardous waste prior to November 19, 1980. See 45 FR 78633–76634 (November 19, 1980).

b. Many manufacturing and production plants have facilities for treating, storing or disposing of hazardous waste on the plant's premises. Because the definition of hazardous waste management facility includes not only treatment, storage and disposal operational units, but also "all contiguous land structures, other appurtenances and improvements on the land used for treating, storing or disposing of waste" (se § 122.3), a number of persons have questioned whether the requirements of paragraphs (a) and (b) in the definition of "existing hazardous waste management facility" apply to the manufacturing or production plant as well as the hazardous waste operational unit.

The answer is no. Paragraphs (a) and (b) apply only to those parts of a manufacturing plant directly used for "treating, storing or disposing of hazardous waste." They do not apply to production facilities, product storage areas, non-hazardous waste treatment, storage or disposal units or other parts of the plant not used for managing hazardous waste.[2]

III. Amendment to Requirement for a Permit Prior to Construction

Section 122.22(b) of the May 19, 1980, regulations prohibited any person from beginning physical construction of a new hazardous waste management facility without having received a final RCRA permit. The rationale for this prohibition was that a permit writer would be in a better position to incorporate location, design and construction requirements (see Section 3004(4)) in a new facility permit if permit decisions were made before the owner or operator made a substantial and irrevocable commitment to the location, design and construction of a facility. See 45 FR 33322 (May 19, 1980). As Congress has recently noted, there may be "practical and technical limitations in modifying or retrofitting" a facility once construction has commenced. See H.R. Rep. No. 96–1444, 96th Cong., 2d Sess. 33–34 (1980).

At the time EPA published § 122.22(b), the Agency intended to promulgate its Part 264 facility-specific technical permitting regulations ("Phase II standards") on or before November 19, 1980, the effective date of its May 19, 1980, regulations. Thus, the § 122.22(b) ban on the construction for new facilities would last for at most six months.

It is now clear, however, that some of the Phase II standards will not be promulgated even by the end of 1980. Regulations for hazardous waste incinerators are not scheduled to be issued until mid-January 1981; the standards for land disposal facilities are not scheduled to be published until January, and they also may be reproposed in whole or in part. The effect of these delays is to prevent any new hazardous waste management facility from commencing construction

[1] For example, some States regulate waste pesticides under agricultural statutes, wastewater treatment sludges under water pollution control statutes and hazardous waste incinerators under air pollution control laws.

[2] Readers should note that areas at the site of generation used for the short-term storage of hazardous waste are not required to obtain permits and therefore are not subject to the requirements of paragraphs (a) and (b). See § 262.34, as amended by 45 FR 76624 (November 19, 1980).

until mid-July 1981 at the earliest.[3] Depending on the speed with which EPA and the States can issue permits, some facilities may not be able to begin construction until much later.

This situation may have adverse environmental consequences. New hazardous waste management facilities that are constructed in anticipation of RCRA requirements will probably provide better safeguards for human health and the environment than many existing facilities. In fact, EPA expects that a number of existing facilities will not be able to meet the Phase II standards and eventually will be denied a permit and forced to terminate operation. New facilities will be needed to replace the capacity shortfall caused by the closure of such existing facilities. In the absence of replacement capacity, generators will have difficulty finding a place to treat, store or dispose of hazardous wastes.

For these reasons, while EPA believes that the prohibition on construction in § 122.22(b) serves an important environmental objective, it recognizes that this requirement needs to be adjusted during the period that EPA cannot issue permits because its Phase II regulations have not become effective. Therefore, EPA is today amending § 122.22(b) so that, after November 19, 1980, and until the effective date of the Phase II standards applicable to his operations, a person may begin physical construction of a hazardous waste management facility (other than a land disposal facility or surface impoundment) *at his own risk* before being issued an RCRA permit, provided that he obtains any other Federal, State or local permits or approvals necessary to begin physical construction and submits Part A of his permit application prior to beginning physical construction. Section 122.22(b) is being further modified to allow construction to continue after the effective date of the Phase II regulations if the facility has submitted Part B of the permit application on or before such effective date (or on a later date specified by the Administrator).

These amendments to § 122.22(b) apply only to persons who make a commitment to completion of physical construction of a facility within a reasonable time. The purpose here is to limit this provision to those persons who begin "legitimate" physical construction in the period from November 19, 1980, until the effective date of Phase II. Such a commitment could be demonstrated through a continuous on-site, physical construction program or through the establishment of contractual obligations for completion of physical construction. Thus persons who simply make a "token" effort towards physical construction (such as ground breaking with no firm commitment to completion within a reasonable time period) would not be exempted from the requirement to obtain an RCRA permit prior to completing physical construction of the facility. By imposing these restrictions, EPA intends to avoid delaying legitimate construction activities without providing a major loophole to the important requirement of obtaining a permit before initiating physical construction.

Readers should note that the terms and words used in this amendment are identical to the terms and words used in the amended definition of "existing hazardous waste management facility" and should be interpreted in a similar manner.

The new provisions apply to all new hazardous waste management facilities except landfills, surface impoundments, injection wells, or land treatment facilities. These facilities will still be required to obtain a RCRA permit before beginning physical construction. The adverse health and environmental impacts of facilities that treat, store or dispose of hazardous waste in or on the land are strongly dependent on the hydrogeology of the site and the proximity to surface waters and ground waters. Certain locations may be totally unacceptable for such facilities no matter how well designed, constructed or operated. Therefore EPA believes that commitment to particular locations, or to particular designs in particular locations must not be made until there is a thorough evaluation of the design and location through the permitting process.

At some hazardous waste management disposal facilities, wastes are stored or treated (through chemical or physical fixation or stabilization or through other processes) prior to disposal. Under this amendment, physical construction of such storage or treatment process could begin before issuance of a permit. Only those parts of the facility that directly involve the placement of hazardous waste in or on the land would require an effective permit before beginning physical construction.

It should be noted that for those facilities for which physical construction may begin prior to the effective date of Phase II, actual operation must not begin until a permit is issued and becomes effective. Furthermore, owners and operators of such facilities are starting physical construction *at their own risk*. EPA (or the State) may ultimately determine that a partially constructed facility (even one constructed using the Phase II standards as guidance) must be modified or relocated to meet those standards. If the facility is unable or unwilling to make these changes, the Agency (or State) will deny its permit. EPA does not intend to allow financial commitments made during this period to deter RCRA's objective of assuring protection of human health and the environment.

[3] Although EPA is prepared to begin processing permit applications as soon as its Phase II regulations are published, those permits cannot become effective until the regulations on which they are based become effective.

IV. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after the promulgation date. The purpose of Section 3010(b) is to allow persons handling hazardous wastes sufficient lead time to prepare to comply with major new regulatory requirements.

The amendments to the definition of "existing hazardous waste management facility" in §§ 260.10(20) and 122.3 are designed to bring EPA's regulations into conformance with new legislation or with the intent expressed in the preamble to the Agency's May 19, 1980, regulations. They impose no new regulatory requirements. For these reasons, EPA thinks a delayed effective date for these regulations is unnecessary and is making them effective immediately.

For the amendments to § 122.22(b), the Agency believes that an effective date six months after promulgation would frustrate the objective of the amendment, which is to allow certain types of hazardous waste management facilities to commence construction immediately and thereby reduce the potential for a capacity shortfall caused by the closure of existing facilities and a construction moratorium on new ones. In addition, these amendments impose no new regulatory requirements on new facilities; indeed, they relax existing ones.

V. Interim Final Promulgation

Although EPA would prefer to go through formal rulemaking before publishing the amendments to § 122.22(b), the Agency believes there is good cause for not providing notice and opportunity for comment on them prior to promulgation. (See Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B)). As noted above, a significant delay in promulgating these amendments is likely to have adverse consequences for human health and the environment.

VI. Regulatory Impacts

EPA believes that the effect of the amendments to § 122.22(b) will be to reduce the overall cost and economic impact of EPA's hazardous waste management regulations. This is achieved by allowing many facilities to proceed with construction now and thus avoid potentially higher construction costs in the future. The Agency is unable to estimate the cost and impact reduction because it does not have an estimate of the number of facilities that will be affected by these amendments; nor does it know if any of these savings will be offset by the higher costs of retrofitting these facilities in the event that they are not properly designed or constructed.

Dated: December 31, 1980.

Douglas M. Costle,

Administrator.

Title 40 of the Code of Federal Regulations is amended to read as follows:

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDOUS WASTE PERMIT PROGRAM; AND THE UNDERGROUND CONTROL PROGRAM

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. The definitions of "Existing hazardous waste management facility" in § 260.10 and "Existing HWM facility" in § 122.3 are revised to read as follows:

§§ 260.10 and 122.3 [Amended]

"Existing hazardous waste management (HWM) facility" or "existing facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980. A facility has commenced construction if:

(a) The owner or operator has obtained the Federal, State and local approvals or permits necessary to begin physical construction; and either

(b)(1) A continuous on-site, physical construction program has begun; or

(2) The owner or operator has entered into contractual obligations—which cannot be cancelled or modified without substantial loss—for physical construction of the facility to be completed within a reasonable time.

2. The following definition is added to §§ 260.10 and 122.3: "Federal, State and local approvals or permits necessary to begin physical construction" means permits and approvals required under Federal, State or local hazardous waste control statutes, regulations or ordinances.

3. section 122.22(b) is revised to read as follows:

§ 122.22 [Amended]

* * * * *

(b) *New HWM facilities* (1) Except as provided in paragraph (b)(3) of this section, no person shall begin physical construction of a new HWM facility without having submitted Part A and Part B of the permit application and received a finally effective RCRA permit.

(2) An application for a permit for a new HWM facility (including both Part A and Part B) may be filed any time after promulgation of those standards in Part 264, Subpart I et seq. applicable to such facility. The application shall be filed with the Regional Administrator if at the time of application the State in which the new HWM facility is proposed to be located has not recieved Phase II interim authorization for permitting such facility or final authorization; otherwise it shall be filed with the State Director. Except as provided in paragraph (b)(3) of this section, all applications must be submitted at least 180 days before physical construction is expected to commence.

(3) After November 19, 1980, but prior to the effective date those of those standards in Part 264, Subpart I et seq., which are applicable to his facility, a person may begin physical construction of a new HWM facility, except for landfills, injection wells, land treatment facilities or surface impoundments (as defined in 40 CFR 260.10), without having received a finally effective RCRA permit, if prior to beginning physical construction, such person has:

(i) Obtained the Federal, State and local approvals or permits necessary to begin physical construction,

(ii) Submitted Part A of the permit application, and

(iii) Made a commitment to complete physical construction of the facility within a reasonable time.

Such person may continue physical construction of the new HWM facility after the effective date of the permitting standards in Part 264, Subpart I et seq. applicable to his facility if he submits Part B of the permit application on or before the effective date of such standards (or on some later date specified by the Administrator). Such person must not operate the new HWM facility without having received a finally effective RCRA permit.

[FR Doc. 81-831 Filed 1-8-81; 8:45 am]

BILLING CODE 6560-30-M

DEPARTMENT OF THE INTERIOR

43 CFR Subtitle A

Voluntary Agreements Under Section 708 of the Defense Production Act of 1950, as Amended

Cross Reference: For a document that promulgates standards and procedures for these voluntary agreements, see FR Doc. 81-332, appearing under Title 44 in the Rules and Regulations section of this **Federal Register.** This document has been issued by the Federal Emergency Management Agency and concurred in by the Departments of Defense, Interior, Agriculture, Commerce, and Transportation. Refer to the listing for the Federal Emergency Management Agency in the table of contents at the front of this issue to determine the appropriate page number.

BILLING CODE 4210-23-M

Bureau of Land Management

43 CFR Public Land Order No. 5806

[NM-18881]

New Mexico; Revocation of Public Land Order 4863

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes Public Land Order No. 4863 in its entirety which withdrew land for the Navajo Indian Irrigation Project.

EFFECTIVE DATE: February 5, 1981.

FOR FURTHER INFORMATION CONTACT: Stella Gonzales, New Mexico State Office, 505-988-6211.

By virtue of the authority contained in Section 204(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 4863 of July 6, 1970, which withdrew the following described public land for the Navajo Indian Irrigation Project is hereby revoked in its entirety:

New Mexico Principal Meridian

T. 29 N., R. 9 W.,
Sec. 36, SE¼SE¼.

The area described contains 40 acres in San Juan County.

2. At 10 a.m., on February 5, 1981, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to

10 a.m., on February 5, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m., on February 5, 1981, the land will be open to location under the U.S. mining laws, and to applications and offers under the mineral leasing laws for all minerals except oil and gas and other hydrocarbon substances, helium and carbon dioxide.

Oil and gas and other hydrocarbon substances, helium and carbon dioxide with the right to prospect for, mine and remove same were retained by the State of New Mexico when the land was reconveyed to the United States.

Inquiries concerning the land should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Guy R. Martin,

Assistant Secretary of the Interior.

December 31, 1980.

[FR Doc. 81-810 Filed 1-8-81; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 332

[Docket No. FEMA PP-44-332]

Voluntary Agreements: Standards and Procedures

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency with the concurrence of the United States Department of Agriculture, Department of Defense, Department of the Interior, Department of Commerce and Department of Transportation is issuing standards and procedures relating to the voluntary agreements under section 708 of the Defense Production Act of 1950, as amended. The Attorney General, after consultation with the Chairman of the Federal Trade Commission, has granted his approval. The regulation sets out standards and procedures for developing these agreements, carrying them out, including the conduct of meetings, terminating or modifying the agreements and public access to records and meetings. Antitrust immunity may be given to representatives of industry or other interests who, under prescribed conditions and with appropriate governmental approval, enter into these voluntary agreements to help provide for the defense of the United States.

EFFECTIVE DATE: January 9, 1981.

ADDRESS: Resources Preparedness Office, Office of Plans and Preparedness, Federal Emergency Management Agency, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Messrs. M. Arnold Marvin or Clair Blong, Resources Management Division, FEMA (202-566-1324).

SUPPLEMENTARY INFORMATION: Proposed regulations were published in the **Federal Register** on December 12, 1979, and comments were due by February 11, 1980. The regulation was proposed to be codified at 32A CFR Part 166. However, as of July 1, all FEMA regulations in Title 32A of CFR were transferred to Title 44 CFR. This regulation therefore has been redesignated as 44 CFR Part 332.

No comments were received from the public. The Assistant Attorney General, Antitrust Division, required clarifying amendments to § 332.2(e)(1) and (3) which have been made.

Subsection 708(c)(1) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2158), hereinafter referred to as DPA, provides that:

> * * * Upon finding that conditions exist which may pose a direct threat to the national defense or its preparedness programs, the President may consult with representatives of industry, business, financing, agriculture, labor, and other interests in order to provide for the making by such persons, with the approval of the President, of voluntary agreements to help provide for the defense of the United States through the development of preparedness programs and expansion of productive capacity and supply beyond levels needed to meet essential civilian demand in the United States.

The authority of the President delegated to the Administrator of General Services by Section 501 of Executive Order 10480, as amended by Executive Order 11956, and pursuant to Section 1 of Executive Order 12148, has been transferred to the Director of the Federal Emergency Management Agency. This authority, subject to the direction and control of the Director of FEMA, has also been delegated to the Secretaries of Defense, the Interior, Agriculture, Commerce, and Transportation, except that for the purpose of carrying out the objectives of Title I of the DPA concerning priority performance of contracts and orders and allocations of materials and facilities, the authority may be exercised only by the Director of the Federal Emergency Management Agency.

Under subsection 708(e) of the DPA, the director of FEMA has authority to promulgate rules by which these voluntary agreements may be developed and carried out. The following rules, establishing the basic framework for the development and carrying out of voluntary agreements, have been concurred in by the action agencies for voluntary agreements. These are the United States Department of Agriculture, Department of Defense, Department of the Interior, Department of Commerce, and the Department of Transportation. The Attorney General, pursuant to Section 708(e)(1), has approved the regulation. These rules are arranged in a chronological manner from initiation of events to development of a voluntary agreement to the carrying out of an approved voluntary agreement. It should be noted that these rules apply only to the development and carrying out of voluntary agreements to effectuate the purposes of the DPA and do not apply to the development or carrying out of voluntary agreements under the Energy Policy and Conservation Act.

In addition to the requirements of these rules, once adopted, certain other requirements may pertain to the development or carrying out of voluntary agreements to effectuate the purposes of the DPA. Section 708(i) of the DPA directs the Attorney General and the Chairman of the Federal Trade Commission to promulgate such rules as each deems necessary or appropriate to carry out his responsibility under Section 708 of the DPA.

It is necessary to continue in effect certain existing voluntary agreements which expire in the near future. Hence, for good cause, this rule is made effective immediately upon publication.

A finding of Inapplicability of Section 102(2)(c) of the National Environmental Policy Act of 1969 has been made in accordance with 44 CFR Part 10. Interested parties may obtain and inspect copies of this Finding of Inapplicability at the Office of the Rules Docket Clerk of the Federal Emergency Management Agency in Washington, D.C. 20472.

The regulation is in consonance with the provision of the Executive Order 12044 dated March 23, 1978, and does not impose an unnecessary burden on the small business sector of the economy.

This regulation essentially is administrative in nature. It does not impact, adversely, on the central cities, suburban communities, nor non-metropolitan communities. As provided in Executive Order 12044, March 23, 1978, this regulation does not have any significant economic consequence on the general economy, individual industries, geographic regions or levels of government.

Accordingly, subchapter E of Chapter 1, Title 44 Code of Federal Regulations is amended by adding a new Part 332 as follows:

PART 332—VOLUNTARY AGREEMENTS UNDER SECTION 708 OF THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

Sec.

332.1 General provisions.
332.2 Developing voluntary agreements.
332.3 Carrying out voluntary agreements.
332.4 Termination or modifying voluntary agreements.
332.5 Public access to records and meetings.

Authority: Sec. 708, Defense Production Act of 1950, as amended (50 U.S.C. App. 2158); E.O. 10480, 3 CFR 1949–1953 Comp. p. 961, as amended; E.O. 12148, 44 FR 43239.

§ 332.1 General provisions.

(a) Pursuant to Section 708 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2158), the President may consult with representatives of industry, business, financing, agriculture, labor, or other interests, and may approve the making of voluntary agreements to help provide for the defense of the United States by developing preparedness programs and expanding productive capacity and supply beyond levels needed to meet essential civilian demand.

(b) *Sponsor.* (1) As used in this Part, "sponsor" of a voluntary agreement is an officer of the Government who, pursuant to a delegation or redelegation of the functions given to the President by Section 708 of the Defense Production Act (DPA) of 1950, as amended, proposes or otherwise provides for the development or carrying out of a voluntary agreement.

(2) The use of voluntary agreements, as authorized by Section 708 of the DPA to help provide for the defense of the United States through the development of preparedness programs, is an activity coordinated by the Director of the Federal Emergency Management Agency, as provided by Sections 101 and 501(a) of Executive Order 10480, as amended.

(3) The sponsor of a voluntary agreement shall carry out sponsorship functions subject to the direction and control of the Director of the Federal Emergency Management Agency.

(c) This Part applies to the development and carrying out under Section 708 of the DPA, as amended, of all voluntary agreements, and the carrying out of any voluntary agreement which was entered into under former Section 708 of the DPA and in effect immediately prior to April 14, 1976, and which is in a period of extension as authorized by subsection 708(f)(2) of the DPA.

(d) The rules in the Part void any provision of a voluntary agreement to which they apply, if that provision is contrary to or inconsistent with them. Each voluntary agreement shall be construed as containing every substantive provision that these rules require, whether or not a particular provision is included in the agreement.

(e) Pursuant to subsection 708(d) of the DPA, the sponsor may establish such advisory committees as he deems to be necessary for developing or carrying out voluntary agreements. Such advisory committees shall comply with this Part as well as with the requirements and procedures of the Federal Advisory Committee Act (Pub. L. 92–463, as amended).

§ 332.2 Developing voluntary agreements.

(a) *Purpose and scope.* This section establishes the standards and procedures by which voluntary agreements may be developed through consultation, pursuant to subsection 708(c) of the DPA.

(b) *Proposal to develop an agreement.* (1) A sponsor who wishes to develop a voluntary agreement shall submit to the Attorney General and the Director of the Federal Emergency Management Agency a document proposing the agreement. The proposal will include statements as to: the purpose of the agreement; the factual basis for making the finding required in subsection 708(c)(1) of the DPA; the proposed participants in the agreement; and any coordination with other Federal agencies accomplished in connection with the proposal.

(2) If the Attorney General, after consultation with the Chairman of the Federal Trade Commission, approves this proposal, the sponsor shall then initiate one or more meetings of interested persons to develop the agreement.

(c) *Conduct of meetings held to develop the agreement.* (1) The sponsor shall give to the Attorney General, the Chairman of the Federal Trade Commission, and the Director of the Federal Emergency Management Agency adequate written notice of each meeting to develop a voluntary agreement. The sponsor shall also publish in the **Federal Register** notice of the time, place, and nature of each meeting at least seven days prior to the meeting.

(2) The sponsor shall chair each meeting held to develop a voluntary agreement. Both the Attorney General and the Chairman of the Federal Trade Commission, or their delegates, shall attend each of these meetings.

(3) Any interested person may attend a meeting held to develop a voluntary agreement, unless the sponsor of the agreement limits attendance pursuant to Section 5 of this Part.

(4) Any interested person may, as set out in the **Federal Register** meeting notice, submit written data and views concerning the proposed voluntary agreement, and at the discretion of the Chairman of the meeting, may be given the opportunity for oral presentation.

(d) *Maintenance of records.* (1) The sponsor is responsible for the making of a full and verbatim transcript of each meeting. The Chairman shall send this transcript, and any voluntary agreement resulting from the meeting, to the Attorney General, the Chairman of the Federal Trade Commission, the Director of the Federal Emergency Management Agency, and any other party or repository required by law.

(2) The sponsor of a voluntary agreement shall maintain each meeting transcript and voluntary agreement, and make them available for public inspection and copying the extent required by Section 5 of this Part.

(e) *Effectiveness of agreements.* The following steps must occur before a new voluntary agreement or an extension of an existing agreement may become effective:

(1) The sponsor must approve the agreement and certify in writing that it is necessary to carry out the purposes of subsection 708(c)(1) of the DPA;

(2) The Director of the Federal Emergency Management Agency must approve this certification, and submit it to the Attorney General with a request for a written finding; and

(3) The Attorney General, after consulting with the Chairman of the Federal Trade Commission, must issue a written finding that the purposes of subsection 708(c)(1) can not reasonably be achieved through a voluntary agreement having less anti-competitive effects or without any voluntary agreement.

§ 332.3 Carrying out voluntary agreements.

(a) *Purpose and scope.* This section establishes the standards and procedures by which the participants in each approved voluntary agreement shall carry out the agreement.

(b) *Participants.* The participants in each voluntary agreement shall be reasonably representative of the appropriate industry or segment of that industry.

(c) *Conduct of meetings held to carry out an agreement.* (1) The sponsor of a

voluntary agreement shall initiate, or approve in advance, each meeting of the participants in the agreement held to discuss problems, determine policies, recommend actions, and make decisions necessary to carry out the agreement.

(2) The sponsor shall provide to the Attorney General, the Chairman of the Federal Trade Commission, and the Director of the Federal Emergency Management Agency adequate prior notice of the time, place, and nature of each meeting, and a proposed agenda of each meeting. The sponsor shall also publish in the **Federal Register**, reasonably in advance of each meeting, a notice of time, place, and nature of the meeting. If the sponsor has determined, pursuant to Section 5 of this Part, to limit attendance at the meeting, the sponsor shall publish this **Federal Register** notice within ten days of the meeting.

(3) Any interested person may attend a meeting held to carry out a voluntary agreement unless the sponsor has restricted attendance pursuant to Section 5 of this Part. A person attending a meeting under this section may present oral or written data, views, and arguments to any limitations on the manner of presentation that the sponsor may impose.

(4) No meeting shall be held to carry out any voluntary agreement unless a Federal employee, other than an individual employed pursuant to 5 U.S.C. 3109, is in attendance. Any meeting to carry out a voluntary agreement may be attended by the sponsor of the agreement, the Attorney General, the Chairman of the Federal Trade Commission, the Director of the Federal Emergency Management Agency, or their delegates.

(5) Notwithstanding any other provision of this section, a meeting between a single participant and the sponsor solely to deliver or exchange information is not subject to the requirements and procedures of this section, provided that a copy of the information is promptly delivered to the Attorney General, the Chairman of the Federal Trade Commission, and the Director of the Federal Emergency Management Agency.

(d) *Maintenance of records.* (1) The participants in any voluntary agreement shall maintain for five years all minutes of meetings, transcripts, records, documents, and other data, including any communications among themselves or with any other member of their industry, related to the carrying out of the voluntary agreement. The participants shall agree, in writing, to make available to the sponsor, the Attorney General, the Chairman of the Federal Trade Commission and the Director of the Federal Emergency Management Agency for inspection and copying at reasonable times and upon reasonable notice any item that this section requires them to maintain.

(2) Any person required by this paragraph to maintain records shall indicate specific portions, if any, that such person believes should not be disclosed to the public pursuant to Section 5 of this Part, and the reasons therefor. Any item made available to a Government official named in this paragraph shall be available from that official for public inspection and copying to the extent set forth in Section 166.5 of this Part.

§ 332.4 Termination or modifying voluntary agreements.

The Attorney General may terminate or modify a voluntary agreement, in writing, after consultation with the Chairman of the Federal Trade Commission and the sponsor of the agreement. The sponsor of the agreement, with the concurrence of or at the direction of the Director of the Federal Emergency Management Agency, may terminate or modify a voluntary agreement, in writing, after consultation with the Attorney General and the Chairman of the Federal Trade Commission. Any person who is a party to a voluntary agreement may terminate his participation in the agreement upon written notice to the sponsor. Any antitrust immunity conferred upon the participants in that agreement by subsection 708(j) of the DPA shall not apply to any act or omission occurring after the termination of the voluntary agreement. Immediately upon modification of a voluntary agreement, no antitrust immunity shall apply to any subsequent act or omission that is beyond the scope of the modified agreement.

§ 332.5 Public access to records and meetings.

(a) Interested persons may, pursuant to 5 U.S.C. 552, inspect or copy any voluntary agreement, minutes of meetings, transcripts, records, or other data maintained pursuant to these rules.

(b) Except as provided by paragraph (c) of this section, interested persons may attend any part of a meeting held to develop or carry out a voluntary agreement pursuant to these rules.

(c) The sponsor of a voluntary agreement may withhold material described in this section from disclosure and restrict attendance at meetings only on the grounds specified in:

(1) Section 552(b)(1) of 5 U.S.C., which applies to matter specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy. This section shall be interpreted to included matter protected under Executive Order 12065, dated June 28, 1978 (3 CFR 1979–1975 Comp. p. 678), establishing categories and criteria for classification; and

(2) Section 552(b)(3) of 5 U.S.C., which applies to matter specifically exempted from disclosure by statute; and

(3) Section 552(b)(4) of 5 U.S.C., which applies to trade secrets and commercial or financial information obtained from a person as privileged and confidential.

Dated: October 20, 1980.

John W. Macy, Jr.,

Director.

Department of Transportation, Office of the Secretary

For the United States Department of Transportation, I concur in the attached regulations of the Federal Emergency Management Agency (FEMA) implementing section 708 of the Defense Production Act of 1950, as amended, entitled "Voluntary Agreements: Standards and Procedures" (Docket No. FEMA PP–44–332) to be codified as 44 CFR Part 332.

Issued in Washington, D.C. on November 21, 1980.

Neil Goldschmidt,

Secretary of Transportation.

Department of the Interior

The Department of Interior has concurred in the regulations on Voluntary Agreements in 44 CFR Part 332.

Dated: December 22, 1980.

Joseph W. Gorrell,

Acting Assistant Secretary, Energy and Minerals.

Department of Defense

The Department of Defense has concurred in the regulations on Voluntary Agreements in 44 CFR Part 332.

Dated: November 18, 1980.

Walter La Berge

Under Secretary of Defense for Research and Engineering.

Department of Commerce

The Department of Commerce has concurred in the regulations on Voluntary Agreements in 44 CFR Part 332.

Dated: November 14, 1980.

Phillip W. Klutznick.

Department of Agriculture

The Department of Agriculture has concurred in the regulations on

Voluntary Agreements in 44 CFR Part 332.

Dated: December 5, 1980.

Jim Williams,

Acting Secretary.

[FR Doc. 81-332 Filed 1-8-81; 8:45 am]

BILLING CODE 4210-23-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[Gen. Docket 79-263; FCC 80-670]

Amendment of Freedom of Information Rules To Modify Fees for Record Searches

Correction

In FR Doc. 80-40278 appearing at page 85027 in the issue for Wednesday, December 24, 1980, make the following corrections:

(1) In the "For Further Information Contact" paragraph, Norman B. Blumenthal's telephone number should have read "(202) 632-6990".

(2) On page 85027, in the third column, the last eight lines of the column should have appeared at the bottom of the middle column immediately above footnote 1.

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Subtitle A

Voluntary Agreements Under Section 708 of the Defense Production Act of 1950, as Amended

Cross Reference: For a document that promulgates standards and procedures for these voluntay agreements, see FR Doc. 81-332, appearing under Title 44 in the Rules and Regulations section of this **Federal Register**. This document has been issued by the Federal Emergency Management Agency and concurred in by the Departments of Defense, Interior, Agriculture, Commerce, and Transportation. Refer to the listing for the Federal Emergency Management Agency in the table of contents at the front of this issue to determine the appropriate page number.

BILLING CODE 4210-23-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 33

Sport Fishing; National Wildlife Refuges in Florida, Georgia, and South Carolina

AGENCY: Fish and Wildlife Service.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges in Florida and Georgia is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the condition under which sport fishing will be permitted on these areas during the 1981 fishing season.

DATES: Effective on date of publication through calendar year 1981.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below:

Donald J. Hankla, Area Manager, U.S. Fish and Wildlife Service, 15 N. Laura Street, Jacksonville, Florida 32202. Telephone: 904-701-2267.

John P. Davis, Refuge Manager, Savannah (and Blackbeard Island) National Wildlife Refuge, P.O. Box 8487, Savannah, Georgia 31412. Telephone: 912-944-4415.

Del Pierce, Refuge Manager, J. N. "Ding" Darling National Wildlife Refuge, P.O. Drawer B, Sanibel, Florida 33957. Telephone: 813-472-1100.

Bruce Blihovde, Refuge Manager, Lake Woodruff National Wildlife Refuge, P.O. Box 488, DeLeon Springs, Florida 32028. Telephone: 904-985-4673.

Refuge Manager, Loxahatchee National Wildlife Refuge, Route 1, Box 278 Boynton Beach, Florida 33437. Telephone: 305-732-3684.

Stephen Vehrs, Refuge Manager, Merritt Island National Wildlife Refuge, P.O. Box 6504, Titusville, Florida 32780. Telephone: 305-867-4820.

John R. Eadie, Refuge Manager, Okefenokee National Wildlife Refuge, P.O. Box 117, Waycross, Georgia 31501. Telephone: 912-283-2580.

Ronnie L. Shell, Refuge Manager, Piedmont National Wildlife Refuge, Round Oak, Georgia 31080. Telephone: 912-988-5441.

Joe D. White, Refuge Manager, St. Marks National Wildlife Refuge, P.O. Box 68, St. Marks, Florida 32355. Telephone: 904-925-8121.

Martin Perry, Refuge Manager, St. Vincent National Wildlife Refuge, P.O. Box 447, Apalachicola, Florida 32320. Telephone: 904-653-8806.

SUPPLEMENTARY INFORMATION: John C. Oberheu is the primary author of these special regulations.

General Conditions

1. Fishing is permitted on national wildlife refuges indicated below in accordance with 50 CFR Part 33, all applicable State regulations, the general conditions, and the following special regulations:

The Refuge Recreation Act of 1962 (16 U.S.C. 460K) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: (a) That any recreational use permitted will not interfere with the primary purpose for which the area was established, and (b) that funds are available for the development operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. The determination is based upon consideration of among other things, the Service's Final Environmental Statement in the Operation of the National Wildlife Refuge System published in November, 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

2. A list of conditions applying to the individual refuge and a map of the sport fishing area(s) are available at refuge headquarters. Portions of refuges which are closed to fishing are designated by signs and/or delineated on maps.

3. Access points on certain refuges are limited to designated roads or other specific areas. Vehicle use on all refuge areas is restricted to designated roads and lanes.

4. Sport fishing on portions of the following refuges shall be in accordance with all applicable State and Federal regulations and conditions as indicated.

§ 33.5 Special regulations; sport fishing for individual wildlife refuge areas.

Florida

J. N. "Ding" Darling National Wildlife Refuge

Sport and commercial fishing is permitted in 1,050 acres of tidal waters

of the J. N. "Ding" Darling National Wildlife Refuge, Sanibel, Florida. Sport fishing only is permitted in 800 acres of freshwater impoundments on the Darling Tract and from the fishing pier located on Lighthouse Point. A valid Florida state fishing license is required for catching freshwater species from the Darling Tract impoundments. Boats are prohibited in the Darling Tract impoundments. The taking of live shellfish other than clams and oysters is prohibited in refuge waters. The following special regulations apply to the public fishing pier: Cast nets are limited to bait nets with a stretched mesh of ¾ inch or less; boats will not be allowed to tie up at the pier except during emergency situations; and fishermen will be limited to no more than two fishing poles, rods or lines.

Lake Woodruff National Wildlife Refuge

Sport fishing on the Lake Woodruff National Wildlife Refuge, DeLeon Springs, Florida is permitted on approximately 650 acres. The sport fishing season is open year-round on delineated refuge waters west of Norris Dead River, Lake Woodruff, Spring Garden Creek, Highland Park Canal, and the Canal bordering the east side of Norris Dead River. Refuge waters east of Norris Dead River Canal, Lake Woodruff and Spring Garden Creek will be open to fishing and access March 15 to October 15, 1981. Fishing and access on refuge waters are permitted during daylight hours only. Air thrust boats are prohibited.

Loxahatchee National Wildlife Refuge

Sport fishing is permitted in all waters (61,352 acres) of the Loxahatchee National Wildlife Refuge, Boynton Beach, Florida except the headquarters management area and those areas marked by signs as being closed. All public entry onto the refuge for any purpose is limited to the following points: (a) S–5A (Twenty-Mile Bend) boat ramp; (b) Headquarters area; (c) Loxahatchee Recreation Area. Sport fishing is permitted year-round. Fishing is restricted to 1½ hours before sunrise until 1 hour after sunset. Boats must enter or leave the refuge through the three public ramps: (a) S–5A (Twenty-Mile Bend) boat ramp; (b) Headquarters boat ramp; (c) S–39 (Loxahatchee Recreation Area) boat ramps. Method of fishing allowed is with attended rod and reel and/or pole and line. Air thrust boat use is authorized only by special permit issued by the refuge manager. Speed boats and racing craft are prohibited.

Merritt Island National Wildlife Refuge

Sport fishing is permitted in the open waters of the Indian River, Banana River, Mosquito Lagoon, Mosquito control impoundments and interior lakes except for the Kennedy Space Center security areas. No more than 20 total fish daily per person may be taken from the K.A.R.S. marina in the Banana River or Eddy Creek "trout hole" in Mosquito Lagoon during the period November 15–March 31 annually, by any individual sport fisherman. Sport fishing is permitted during daylight hours only. Night sport fishing from boats in the open waters on the Indian River, Banana River, and Mosquito Lagoon is permitted by fishermen with a refuge special use permit. The permit is free and can be obtained from the refuge headquarters. Fishing in close proximity to manatees is prohibited. Fishing lines must be attended at all times and discarding of tangled line into the waters of the refuge is prohibited.

St. Marks National Wildlife Refuge

Sport fishing is permitted in all waters of the St. Marks National Wildlife Refuge (approximately 2,205 acres), St. Marks, Florida except those marked by signs as being closed. The sport fishing season on the refuge extends from March 15 through October 15, 1981, with the exception of Otter Lake which is open year-round. Travel is restricted to established, designated roads only. Fishing is permitted ½ hour before sunrise until ½ hour after sunset during the open season. Boats with electric motors and gasoline engines up to and including 4 horsepower are permitted. Trotlines shall be taken up daily prior to closing hours of fishing. The taking of saltwater species in Apalachee Bay and tidal creeks is subject to State regulations. Year-round launching of saltwater fishing boats from the Lighthouse launch ramp is regulated. The launching of commercial boats and sport net boats is prohibited.

St. Vincent National Wildlife Refuge

Sport fishing on the St. Vincent National Wildlife Refuge, Franklin County, Apalachicola, Florida is permitted on 245 acres from March 15 through October 15, 1981. Fishermen are permitted on the refuge from ½ hour before sunrise to ½ hour after sunset. Boats with electric motors permitted; all other motors prohibited. Private boats may not be left on the refuge overnight. Use of live minnows as bait is prohibited.

Georgia

Blackbeard Island National Wildlife Refuge

Fresh water sport fishing on the Blackbeard Island National Wildlife Refuge, McIntosh County, Townsend, Georgia is permitted on only two areas totaling 350 acres. The sport fishing season extends from March 15 through October 25, 1981. No one will be allowed on the refuge before sunrise and all persons must be off the refuge no later than ½ hour after sunset. Boats with electric motors permitted. Gasoline powered motors prohibited. Use of live minnows as bait prohibited. Private boats may not be left on the refuge overnight.

Okefenokee National Wildlife Refuge

Sport fishing is permitted on the Okefenokee National Wildlife Refuge, Waycross, Georgia in the designated open water areas connected by established boat runs. Fishing permitted during posted hours only. Boats with motors not larger than 10 horsepower, canoes, and row boats permitted. Use of live minnows as bait prohibited. Trotlines, limblines, nets and other set tackle prohibited. Persons entering refuge from main access points must register with the respective concessioner. Persons using the Sill access ramp on the Pocket and Kingfisher Landing access ramp are required to sign the respective registers when they enter the swamp and again when they leave. The Banks Lake Unit of Okefenokee is opened to sport fishing in Banks Lake and other designated refuge water areas. Persons fishing at night must possess a refuge special use permit or register with the refuge concessioner. Trotlines, limblines, nets, traps, and other set tackle are prohibited. Boat speed in Banks Lake will not exceed that of a 14 ft. aluminum boat powered by a (10) horsepower outboard engine.

Piedmont National Wildlife Refuge

Sport fishing on the Piedmont National Wildlife Refuge, Round Oak, Georgia, is permitted on approximately 115 acres during daylight hours. Fishing is allowed on the following areas in accordance with all applicable State regulations subject to the following restrictions: Refuge creeks open daily May 11 through September 12, 1981. Ponds 2A, 6A, 7A, 9A, 11A, 11B open daily May 11 through June 13, 1981. Pond

21A open daily May 11 through September 12, 1981, for youths 12 years of age or younger only. Pond 22A and Allison Lake open daily May 11 through September 12, 1981. Boats allowed on pond 2A and Allison Lake only. Electric motors permitted; all other motors prohibited. Boats may not be left on refuge overnight. No minnows allowed for bait. Fishing shall be with rod and reel and/or pole and line only. Bass creel limit is 5.

Georgia and South Carolina

Savannah National Wildlife Refuge

Sport fishing on the Savannah National Wildlife Refuge, portion of Jasper County, South Carolina, and Chatham and Effingham Counties, Georgia is permitted only on designated impounded waters, tidal creeks, ditches and canals in an area comprising 26,000 acres. The sport fishing season extends from March 15 through October 25, 1981, for all impounded waters. No one will be allowed on the refuge before sunrise and all persons must be off the refuge no later than ½ hour after sunset. Only electric motors are permitted on impounded waters. Tidal creeks may be fished from boats only from February 1 through October 25. Rod and reel, pole and line, artificial and live baits are permitted. All areas posted with "closed area" sign are closed to all activities including fishing. Private boats may not be left on the refuge overnight.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The provisions of these special regulations supplement the regulations which generally govern fishing on wildlife refuge areas and which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at anytime.

Dated: December 22, 1980.

Larry E. Goldman,

Acting Area Manager.

[FR Doc. 81-526 Filed 1-8-81; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 46, No. 6
Friday, January 9, 1981

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No.762 3131]

Standard Brands, Inc., and Ted Bates &, Company, Inc.; Consent Agreements With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, these consent orders, accepted subject to final Commission approval, would require, among other things, a New York City manufacturer of various products, including "Fleischmann's Margarine" products, and a New York City advertising agency to cease referring to any test or survey when making representations regarding the performance, benefit, choice or superiority of a product, unless the referenced test or survey has been scientifically designed, executed and analyzed by "experts," and provides substantiation for the representations. The firms would be further barred from representing, by reference to a test or survey, that survey respondents recommend or use a particular brand of product more often than a competitive brand, unless they disclose the fact that an equal or greater percentage of such respondents have no brand preference. The order would additionally require that the firms maintain, for a period of three years, records substantiating advertising claims.

DATE: Comments must be received on or before March 9, 1981.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

FTC/P, Albert H. Kramer, Washington, D.C. 20580. (202) 523–3727.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with§ 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

In the Matter of Standard Brands, Inc., a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Standard Brands, Inc., a corporation, sometimes hereinafter referred to as respondent, and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated:

It is hereby agreed by and between Standard Brands, Inc., by its duly authorized officer and its attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Standard Brands, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its executive office and principal place of business located at 625 Madison Avenue, New York, New York 10022.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated or that any of the facts are true as alleged in the draft of the complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty as

provided by law for each violation of the order after it becomes final.

Part I

It is ordered that respondent Standard Brands, Inc., a corporation (hereinafter referred to as respondent), and its successors, assigns, officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any product (hereinafter "Product") in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Making representations, directly or by implication, by reference to a survey or test, or the results thereof, concerning the performance or any characteristic, benefit, recommendation, usage or choice of or other preference for such Product, unless:

(a) Such survey or test is designed, executed and analyzed in a competent and reliable scientific manner; and

(b) Such survey or test substantiates the claim(s) represented by providing a reasonable basis therefor; and

(c) In regard to any claims of superiority based thereon, such survey or test establishes that such Product is superior to each compared product in respect to which the specific representation is made to a degree that will be discernible to or of benefit to consumers or potential consumers to whom the representation is directed.

2. Representing, directly or by implication, that survey respondents:

(a) Recommend such Product more often than any competing product when, in fact, an equal or greater percentage of such respondents do not recommend a specific brand of the product, without disclosing such fact(s); or

(b) Use such Product more often than any competing product when, in fact, an equal or greater percentage of such respondents do not use a specific brand of the product, without disclosing such fact(s); or

(c) Use such Product more often than any competing product when, in fact, an equal or greater percentage of such respondents are not aware of the specific brand of the product which they do use, without disclosing such fact(s).

3. Representing, directly or by implication, by reference to a survey or test of experts, that experts recommend, use, choose, or otherwise prefer such Product in any respect unless:

(a) Such experts in fact possess the expertise to evaluate such Product with respect to such representations; and

(b) Such experts actually exercised their expertise by evaluating or testing such Product, and based their stated preferences, findings, or opinions on such exercise of their expertise; and

(c) Such representation, to the extent it expresses or implies a product comparison, is supported by an actual comparative evaluation or test by such experts; and

(d) Such representation, to the extent it expresses or implies that such Product is superior to competing products, is supported by an actual comparative evaluation or test by such experts and by a conclusion therefrom that such Product is superior in fact to the competing products with respect to the feature(s) so represented as compared.

4. Representing, directly or by implication, that such product is recommended, used, chosen, or otherwise preferred in any respect more often than any or all competing products unless and only to the extent that respondent possessed and relied upon a reasonable basis for such representation at the time of its initial and each subsequent dissemination. A reasonable basis shall consist of competent and reliable evidence which substantiates a statement or representation.

5. Failing to maintain records:

(a) Which provided the basis upon which respondent relied at the time of the initial and each subsequent dissemination of the claim; and

(b) Which shall be maintained by respondent for a period of three years from the date such advertising or sales promotional material was last disseminated by respondent or any division or subsidiary of respondent.

Part II

For purposes of this Order, each of the terms listed below is defined as follows:

1. The term "experts" shall be deemed to be an individual(s), group(s) or institution(s), possessing, as a result of experience, study or training, knowledge of a particular subject, which knowledge is superior to that generally acquired by ordinary individuals.

2. An advertising claim which is a personal endorsement of a product reflecting solely the subjective opinion of the endorser shall not be deemed to be a test.

Part III

It is further ordered that respondent shall, within 60 days after service upon it of this Order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

It is further ordered that respondent shall forthwith distribute a copy of this Order to each of its officers, agents, representatives or employees engaged in the preparation or placement of advertisements.

It is further ordered that respondent notify the Commission at least 30 days prior to any proposed change in the 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 corporation which may affect compliance obligations arising out of this Order.

In the matter of Ted Bates & Company, Inc., a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Ted Bates & Company, Inc., a corporation, sometimes hereinafter referred to as respondent, and it now appearing that proposed respondent is willing to enter into an agreement containing; an order to cease and desist from the use of the acts and practices being investigated;

It is hereby agreed by and between Ted Bates & Company, Inc., by its duly authorized officer and its attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Ted Bates & Company, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its executive office and principal place of business located at 1515 Broadway, New York, New York 10036. Ted Bates/New York Division is the sole operating division of Ted Bates & Company, Inc.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated or that any of the facts are true as alleged in the draft of the complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty as provided by law for each violation of the order after it becomes final.

Part I

It is ordered that respondent Ted Bates & Company, Inc., a corporation (hereinafter referred to as respondent) and its successors, assigns, officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, of any product whose advertising account is: (1) currently or in the future assigned to Ted Bates/New York Division; or (2) currently or in the future assigned to Ted Bates/New York Division and is transferred from Ted Bates/New York Division of any subsidiary of Ted Bates & Company, Inc., do forthwith cease and desist from:

1. Making representations, directly or by implication, by reference to a survey or test of "experts" or "consumers" (as hereinafter defined in Part II of this Order), or the results thereof, concerning the performance or any characteristic, benefit, recommendation, usage or choice of or other preference for such Product, unless:

(a) Such survey or test of experts or consumers is designed, executed and analyzed in a competent and reliable scientific manner; and

(b) Such survey or test of experts or consumers substantiates the claim(s) represented by providing a reasonable basis therefor; and

(c) In regard to any claims of superiority based thereon, such survey or test of experts or consumers establishes that such Product is superior to each compared product in respect to which the specific representation is made to a degree that will be discernable to or of benefit to consumers or potential consumers to whom the representation is directed.

2. Representing, directly or by implication, by reference to a survey or test that experts or consumers surveyed or tested:

(a) Recommend such Product more often than any competing product when, in fact, an equal or greater percentage of such respondents do not recommend a specific brand of the product, without disclosing such fact(s); or

(b) Use such Product more often than any competing product when, in fact, an equal or greater percentage of such respondents do not use a specific brand of the product, without disclosing such fact(s); or

(c) Use such Product more often than any competing product when, in fact, an equal or greater percentage of such respondents are not aware of the specific brand of the product which they do use, without disclosing such fact(s).

3. Representing, directly or by implication, by reference to a survey or test of experts, that experts recommend, use, choose, or otherwise prefer such Product in any respect unless:

(a) Such experts in fact possess the expertise to evaluate such Product with respect to such representation; and

(b) Such experts actually exercised their expertise by evaluating or testing such Product, and based their stated preferences, findings, or opinions on such exercise of their expertise; and

(c) Such representation, to the extent it expresses or implies a product comparison, is supported by an actual comparative evaluation or test by such experts; and

(d) Such representation, to the extent it expresses or implies that such Product is superior to competing products, is supported by an actual comnparative evaluation or test by such experts and by a conclusion therefrom that such Product is superior in fact to the competing products with respect to the feature(s) so represented as compared.

4. Representing, directly or by implication, by reference to a survey or test of consumers that consumers recommend, use, choose, or otherwise prefer such Product in any respect unless and only to the extent that respondent has a reasonable basis for such representation. A reasonable basis shall consist of any competent and reliable evidence which substantiates a statement or representation.

5. Failing to maintain records

(a) Which provided the basis upon which respondent relied at the time of the initial and each subsequent dissemination of the claim; and

(b) Which shall be maintained by respondent for a period of three years from the date such advertising or sales promotional material was last disseminated by respondent or any division or subsidiary of respondent.

Part II

For purposes of this Order, each of the terms listed below is defined as follows:

1. The term "experts" shall be deemed to be an individual(s), group(s) or institution(s), possessing, as a result of experience, study or training, knowledge of a particular subject, which knowledge is superior to that generally acquired by ordinary individuals.

2. The term "consumers" shall be deemed to be any person(s) who is a user or potential user of the product.

3. An advertising claim which is a personal endorsement of a product reflecting solely the subjective opinion of the endorser shall not be deemed to be a test.

Part III

It shall be an affirmative defense to any compliance action brought pursuant to this Order alleging that an advertisement was, in whole or in part, unsubstantiated, or not supported by a reasonable basis, for respondent to show that, prior to disseminating an advertisement containing a statement or representation challenged in such compliance action, respondent submitted to its client in writing all the claims which it reasonably believed were contained in the advertising prepared by it and exercised due care to assure itself that the advertiser possessed

and relied upon a reasonable basis for those claims.

It shall be an affirmative defense to any compliance action brought pursuant to this Order alleging that an advertisement was, in whole or in part, false, misleading or deceptive, for respondent to show that, prior to disseminating an advertisement containing a statement or representation challenged in such compliance action, respondent submitted to its client in writing all the claims which it reasonably believed were contained in the advertising prepared by it and exercised due care to assure itself that those claims were neither false, misleading nor deceptive when placed respondent.

Provided, however, that nothing in this Order shall be deemed to deny or limit respondent with respect to any other right, defense, or other affirmative defense to which respondent may otherwise be entitled by law in such compliance action or any other action; nor shall any inference adverse to respondent be drawn in any case from its failure to invoke this paragraph or to rely on the procedures provided herein.

It is further ordered that respondent shall, within 60 days after service upon it of this Order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the Order.

It is further ordered that respondent shall forthwith distribute a copy of this Order to the senior executive officer of each account assigned to respondent's Ted Bates/New York Division and the executive in charge of research for such Division.

It is further ordered that respondent notify the Commission at least 30 days prior to any proposed change in the 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 corporation which may affect compliance obligations arising out of this Order.

Standard Brands, Inc., Ted Bates & Company, Inc., File No. 762 3131, Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has provisionally accepted agreements to proposed consent orders from Standard Brands, Inc. and Ted Bates & Company, Inc.

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

This matter concerns print advertisements for Fleischmann's margarine. The complaint challenges claims regarding doctors' preference and usage of Fleischmann's margarine. For example, the challenged ads represented, "When a doctor chooses margarine, chances are it's Fleischmann's," "Fleischmann's is the margarine most recommended by doctors," and "Twice as many doctors personally use Fleischmann's." The ads claimed that these statements were based on a national survey of doctors.

The complaint charges that the survey does not support the representations made because only 15.5% of the doctors surveyed recommended Fleischmann's. Most doctors (84.5%) did not state that they recommend Fleischmann's. In fact, at least 67.5% of the surveyed doctors did not recommend a specific name brand of margarine, according to the complaint. In addition, the complaint charges that the ads imply that the doctors surveyed possessed and applied medical expertise in choosing Fleischmann's margarine and that the companies had no reasonable basis for such claims.

The provisionally accepted consent orders contain the following provisions designed to remedy the advertising violations charged as well as to prevent respondents from engaging in similar alleged illegal acts and practices.

Both consent orders extend to all products. The Ted Bates order covers all product accounts currently or in the future assigned to the Ted Bates/New York Division or those accounts which originated there and were transferred to any subsidiary.

These orders require (Part I, Paragraph 1) that representations which refer to surveys or tests (surveys or tests of experts or consumers in the case of Ted Bates), be designed, executed and analyzed in a competent and reliable scientific manner. Also, claims made must be substantiated by the featured research. Further, the survey or test referred to must establish any superiority claims made.

In regard to brand recommendations (Part I, Paragraph 2), the orders require the disclosure of material facts which explain, in the ad representations, any limitations about the surveys or tests. In particular, material percentages of survey respondents not mentioned in usage or recommendation claims must be disclosed in certain situations.

Further, the orders establish (Part I, Paragraph 3) certain requirements for advertising surveys based on expert preferences. Such requirements are drawn from the Commission's guides concerning Use of Endorsements and Testimonials in Advertising. (16 CFR Part 225).

Finally, both orders contain provisions requiring a reasonable basis for future claims. (Part I, Paragraph 4). The Ted Bates order requires a reasonable basis for future claims that consumers recommend, use, choose or prefer any product when such claim refers to a survey or test. The Standard Brands order requires a reasonable basis for any recommendation or usage claim for any product. To monitor compliance with the orders, three-year recordkeeping provisions are contained therein. (Part I, Paragraph 5).

The Ted Bates order contains an affirmative defense which requires the ad agency, should it elect to assert the defense in a compliance action, to submit in writing to its client prior to the dissemination of advertisements, all the claims which it reasonably believes are contained in proposed advertising and then exercise due care to assure itself that the claims are substantiated or not false, misleading or deceptive.

This is only the second time that the Commission has accepted an order containing such an affirmative defense provision. See also *J. Walter Thompson Company*, 94 F.T.C. 331 (1979). The conduct that an ad agency must undertake in order to exercise the affirmative defense has the potential to improve the quality and frequency of communications between ad agencies and their client-advertisers concerning the existence, meaning, and substantiation of advertising claims. It is hoped that better communication will, in turn, reduce the risk of deceptive claims.

However, due to lack of experience with the affirmative defense, its benefits are still speculative. The two orders containing the defense offer an opportunity to better understand how the claims listing provision operates and whether it has any unintended, undesirable effects. In accepting the provision, the Commission emphasizes that it is not standard policy to include this defense in ad agency orders and that its staff should continue to explore a variety of other means to encourage greater focus on implied claims.

The purpose of this analysis is to facilitate public comment on the proposed orders and is not intended to constitute an official interpretation of

the agreements and proposed orders or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 81-688 Filed 1-8-81; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[File No. 9131]

Teledyne, Inc., et al.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, would require, among other things, a Los Angeles, Calif. manufacturer of oral irrigating devices and other consumer products, to cease misrepresenting the content, results or conclusions of any survey or opinion research; failing to base preventive or therapeutic claims about devices upon other than competent and reliable scientific tests or other evidence; and claiming that the American Dental Association recommends the Water Pik unless such claim is in fact authorized by the ADA. Further, the order requires that claims regarding the ability of a device to prevent, mitigate or treat periodontal disease be based upon clinical tests which are well-controlled using acceptable testing procedures and that the firm maintain records substantiating its claims for three years after disseminating advertisements affected by this order.

DATE: Comments must be received on or before March 9, 1981.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/P, Albert H. Kramer, Washington, D.C. 20580. (202) 523-3727.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

In the Matter of Teledyne, Inc., a corporation, and Teledyne Industries, Inc., a corporation.

Agreement Containing Consent Order To Cease and Desist

The Agreement herein, by and between Teledyne, Inc., a corporation, and Teledyne Industries, Inc., a corporation, respondents in the above proceeding initiated by the Federal Trade Commission, is entered into by their duly authorized officers and their attorneys, and counsel for the Federal Trade Commission, in accordance with the Commission's Rule governing consent order procedure. In accordance herewith, the parties hereby agree that:

1. Respondent Teledyne, Inc. is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Delaware with its executive office and principal place of business located at 1901 Avenue of the Stars, Los Angeles, California 90067.

Respondent Teledyne Industries, Inc. is a corporation, organized, existing and doing business under and by virtue of the laws of the State of California with its executive office and principal place of business located at 1901 Avenue of the Stars, Los Angeles, California 90067.

2. Respondents have been served with the Commission's Complaint charging it with a violation of Sections 5 and 12 of the Federal Trade Commission Act, together with a form of order the Commission believes warranted in the circumstances.

3. Respondents admit all jurisdictional facts set forth in the said copy of the Complaint.

4. Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this Agreement.

5. This Agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission, it, together with the Complaint, will be placed on the public record for a periods of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may withdraw its acceptance of this Agreement and so notify respondents, in which event it will take such action as it may consider appropriate.

6. No agreement, understanding or representation not contained in the Order or the aforementioned Agreement may be used to vary or to contradict the terms of the Order. However, the Complaint in Docket No. 9131 may be used in construing the terms of the Order.

7. This Agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the said Complaint of the Commission issued in this proceeding.

8. This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondents (1) issue its decision containing the following Order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and shall become final and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service, except that, up to and including October 15, 1980 or the effective date of this Order, whichever is later, respondents may use oral irrigating device packaging and instruction booklets which may not conform to the terms of this Order to the extent that, by that date, such packaging and instruction booklets have become part of final packaging already containing oral irrigating devices. Mailing of the Complaint and decision containing the agreed-to Order to respondents' address as stated in this Agreement shall constitute service. Respondents waive any other right they may have to any other form of service.

9. Respondents have read the Complaint and Order contemplated hereby, and understand that once the Order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the Order and that they may be liable for a civil penalty in the amount provided by law for each violation of the Order after it becomes final.

10. Nothing in this Order shall be deemed to deny or limit respondents with respect to any right, defense, or affirmative defense to which

respondents may otherwise be entitled by law in a compliance action or any other action.

11. If the Federal Trade Commission hereafter promulgates any trade regulation rule or guide governing the advertising or offering for sale of any Product subject to this Order, and such rule or guide concerns practices covered by this Order, and said rule or guide is less restrictive than the corresponding provision(s) of this Order, and respondents file a motion with the Commission to modify this Order to correspond to such less restrictive rule or guide, the Commission shall rule upon said motion within one hundred twenty (120) days after said motion is filed, or if respondents' motion to modify is filed at least sixty (60) days prior to the effective date of such rule or guide, then the Federal Trade Commission shall rule upon respondents' motion to modify within such time periods, then such rule or guide shall automatically be deemed to modify and replace the corresponding provision(s) of this Order.

Part I

It is ordered that respondents, their successors and assigns, and their officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other entity, in connection with the consumer advertising, offering for sale, sale or distribution of any consumer product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Misrepresenting in any manner, directly or by implication, the content, results or conclusions of any survey or opinion research.

B. Employing, in any advertisement for any product, the word "survey" (or any comparable term), or basing any claim upon one or more surveys in whole or in part which states, either expressly or by implication, the beliefs, opinions, practices, recommendations, or endorsements of any group, unless:

(1) A representative, unbiased and fair sampling from the population referred to in the advertisement is questioned;

(2) A projectable sample was used and the sample size of and the response rate to the survey were sufficiently large so as to allow meaningful projections to the population referred to in the advertisement with a reasonable degree of confidence, unless there is a clear and conspicuous disclosure in the advertisement that the survey may not be representative of the population referred to in the advertisement;

(3) The survey was completed within three (3) years prior to the date of the representation, unless there is other appropriate data which establish a reasonable basis for concluding that the beliefs, opinion, practices, recommendations or endorsements of the members of the group referred to in the advertisement have not materially changed since the completion of the survey; and

(4) The survey was designed, executed and analyzed in a competent and reliable manner.

(C) Representing, directly or by implication, that the beliefs, opinions, practices, recommendations or endorsements of members of any group have been surveyed or sampled unless the survey or sample directly solicits the beliefs, opinions, practices, recommendations, or endorsements of the members of that group.

D. Representing, directly or by implication, that a professional body or any portion thereof has some belief, opinion, recommendation, endorsement or follows some typical course of conduct unless and only to the extent such representation is true.

Part II

It is further ordered that respondents, their successors and assigns, and their officers, representatives, and agents and employees, directly or through any corporation, subsidiary, division or other method in connection with the consumer advertising or, offering for sale, sale or distribution to a consumer of a "device," as "device" is "defined in the Federal Trade Commission Act, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. (1) Making any statements or representations, directly or by implication, concerning the preventative or therapeutic abilities of such devices unless at the time the statements or representations are made, respondents possess and rely on a reasonable basis for such statements or representations, which shall consist of competent and reliable scientific tests as defined in Paragraph A(2) hereafter, or other competent and reliable evidence that substantiates such representation.

(2) For the purposes of this Order, a scientific test is one in which a person with skill and expertise in the field, conducts the test and evaluates its results in a disinterested manner using these testing procedures generally accepted in the profession which best ensure accurate and reliable results.

B. (1) Making any statements or representations, directly or by implication, concerning the ability of such devices to prevent, mitigate, or treat periodontal disease unless, at the time the statements or representations are made, respondents possess and rely on a reasonable basis for such statements or representations, which shall include a competent and reliable clinical test and may also include other competent and reliable evidence including competent and reliable opinions of experts who are qualified by professional training, education, and experience to render competent and reliable judgments in such matters.

(2) For purposes of this Order, a "clinical test" is one in which a person with skill and expertise in the field conducts a well-controlled test on human subjects, using those testing procedures generally accepted in the profession which ensure accurate and reliable results, and evaluates its results in a disinterested manner. The results of the test must be clinically significant, which requires that the test be, among other things, of sufficient duration to ensure that the results are not materially distorted by any unusual short term practices or temporary physical conditions of the test subjects (as such practices or conditions related to the test conditions).

Part III

It is further ordered that respondents, their successors and assigns, and their officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other entity in connection with the advertising, offering for sale, distribution or sale of the Water Pik oral irrigating device in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or by implication that the Water Pik oral irrigation device is accepted, approved or endorsed by the American Dental Association unless (1) such claim is expressly authorized in writing, and unless (2) there is good reason to believe that at the time of such claims the American Dental Association subscribes to the facts or opinion therein contained.

Part IV

It is further ordered that respondents, for the period of three years after respondents last disseminated the advertisements of the products covered by this Order, shall retain all test results, data, and other documents or information on which it relied for their advertisements or any documentation which contradicts, qualifies or calls into serious question any claim included in such advertisements which were in their possession during either their creation

or dissemination. Such records may be inspected by the staff of the commission upon reasonable notice.

It is further ordered that respondents notify the Commission at least thirty (30) days prior to the effective date of any proposed change in the corporate respondents 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 corporation which may affect compliance obligations arising out of the Order.

It is further ordered that the respondents shall forthwith distribute a copy of this Order to each of their operating divisions, and to each of their officers, agents, representatives or employees who are engaged in the preparation and placement of advertisements.

It is further ordered that the respondents shall, within sixty (60) days after this Order becomes final and annually thereafter for three (3) years, file with the Commission a report, in writing, signed by a responsible officer for respondents, setting forth in detail the manner and form in which they have complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Teledyne Inc. and Teledyne Industries, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint charged the respondents with disseminating advertisements containing several false, misleading, or unsubstantiated representations regarding the "Water Pik" oral irrigating device. The complaint alleged that the Water Pik advertisements claimed without a reasonable basis that (1) four out of five dentists recommend Water Pik to their patients; (2) four out of five dentists recommend the Water Pik because, in their medical judgment, the Water Pik plays a significant role in the prevention of gum disease; (3) the Water Pik when used with other methods of dental care plays a significant incremental role in the prevention of gum disease; and (4) the use of the Water Pik will significantly diminish the chances of getting gum disease.

Additionally, the complaint alleged that the Water Pik advertisements falsely represented that an appropriately designed survey proves that the Water Pik is recommended by four out of five dentists and that the American Dental Association recommends the Water Pik.

The consent order contains various provisions designed to remedy the alleged advertising violations.

Part I of the order prohibits the misrepresentation of the contents, results or conclusions of any survey. In addition this Part requires that any survey used in respondents' advertising must be designed, executed and analyzed in a competent and reliable manner. The survey sampling must be representative and unbiased. The survey must be projectable unless respondents clearly and conspicuously disclose that the survey may not be representative of the population referred to in the advertisement. Finally, the survey may not be more than three years old unless there is other data which establishes that the survey results are still valid.

Part I also prohibits respondents from making claims regarding the opinions or recommendations of any group unless that group is actually asked about their opinions or recommendations.

Part II(A) of the order requires that any preventative or therapeutic claims about a device must be based upon competent and reliable scientific tests or other reliable evidence.

Part II(B) of the order requires that any claim regarding the ability of a device to prevent, mitigate or treat periodontal disease must be based upon clinical tests. The clinical test must be well-controlled using accepted testing procedures. The results of the test must be clinically significant. The clinical test must be of sufficient duration to ensure that the test results are not distorted by any unusual conditions.

Part III of the order prohibits respondents from claiming that the American Dental Association recommends the Water Pik unless such a claim is authorized by the American Dental Association.

Part IV of the order requires respondents to maintain records of its substantiation for its claims for a period of three (3) years after the dissemination of any advertisement subject to this order. The order also requests respondents to retain any documents which contradict or call into question any of their advertising claims. Such records may be inspected by the Commission's staff. The order requires that respondents distribute a copy of the order to each of their operating corporate divisions and to notify the Commission of any change in their corporate structure which might affect compliance obligations. Respondents must within sixty (60) days of the effective date of this order, and annually thereafter for three (3) years, file a report with the Commission regarding their compliance with this order.

The purpose of this analysis is to facilitate public comment on the proposed order and this is not intended to constitute an official interpretation of the complaint, agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 81-688 Filed 1-8-81; 8:45 am]

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16 CFR Part 13

[File No. 9131]

J. Walter Thompson Company; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, would require, among other things, a New York City advertising agency to cease making survey claims unless the surveys are designed, executed and analyzed in a competent and reliabe manner. Further, the firm is prohibited from making claims regarding the opinions or recommendations of any professional group unless that professional group is actually asked about their opinions or recommendations.

DATE: Comments must be received on or before March 9, 1981.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/P, Albert H. Kramer, Washington, D.C. 20580. (202) 523-3727.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an