

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement Section 102(2)(c) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular hours in the Office of the Rules Docket Clerk at the address set forth above.

The following number identifies the program as listed in the Catalog of Federal Domestic Assistance, affected by this regulation change.

Section 234(c) = 14.133 Mortgage Insurance - Purchase of Units in Condominiums (F)

Pursuant to Section 605(b) of the Regulatory Flexibility Act, the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Accordingly, Chapter II of 24 CFR is amended as follows:

1. Section 234.26 is revised to read as follows:

§ 234.26

Project requirements.

No mortgage shall be eligible for insurance unless the following requirements are met:

(a) *Location of family unit.* The family unit shall be located in a project which the Commissioner determines to be acceptable, and which:

- (1) Is or has been covered by a project mortgage insured under an FHA multi-family housing program; or
 - (2) Contains less than 12 units; or
 - (3) Contains 12 or more units and construction of the project was completed more than one year prior to the application for mortgage insurance.
- For purposes of this paragraph, the date on which construction was completed shall be the latest of the dates on which:

- (i) All units have been substantially completed as evidenced by certificates of occupancy from a governmental entity or recorded certificates of completion executed by a registered or licensed architect or engineer; or
- (ii) The declarant has completed all common elements and improvements which the declarant is obligated to complete by virtue of state condominium law or the condominium documents; or

(4) Has been approved by the Veterans Administration for its guaranty, insurance or direct loan programs.

(b) *Plan of condominium ownership.* The project shall have been committed

to a plan of condominium ownership by a deed, or other recorded instrument, which is acceptable to the Commissioner.

(c) *Releases.* The family unit shall have been released from any mortgage covering the project or any part of the project.

(d) *Certificate by mortgagee.* The mortgagee shall certify that:

(1) The deed of the family unit and the deed or other recorded instrument committing the project to a plan of condominium ownership comply with all legal requirements of the jurisdiction.

(2) The mortgagor has good marketable title to the family unit subject only to the mortgage which is a valid first lien on the same.

(3) The family unit is assessed and subject to assessment for taxes pertaining only to that unit.

(e) *Conditions and provisions.* The Commissioner may require such conditions and provisions as he/she deems necessary for the protection of the consumer and public interest including, but not limited to, the execution of an agreement between the owners and the Commissioner which shall be made applicable to the Association and to any owner of a family unit.

(f) *Projects covered by an insured or Secretary-held mortgage.* Projects which are covered by an insured project mortgage, or mortgage held by the Secretary, must be in compliance with a conversion plan approved by the Commissioner. The conversion plan shall provide for:

(1) The termination by payment in full of the mortgage or by voluntary termination of the insurance contract covering any HUD/FHA-insured or Secretary-held mortgage on the project, unless the Commissioner determines that his/her interests and those of the individuals purchasing the family units are best served by not requiring the termination of the insurance or payment in full of the mortgage.

(2) On release of a family unit from the project mortgage, payment shall be made on the outstanding balance of the project mortgage in an amount equal to the share of the balance determined by HUD to be attributable to the family unit.

(3) The conveyance of family units, equal in value to at least 70 percent (or such lesser percentage as the Secretary may prescribe) of the total value of all units to owners approved by the FHA.

(4) The project mortgagee shall certify notwithstanding any provisions of the mortgage covering prepayment, that no charge is contemplated or has been

collected for prepayment in full of the project mortgage.

(g) *Projects not covered by an insured or Secretary-held mortgage.* Projects which are not covered by an insured project or Secretary-held mortgage and which have not been approved by the Veterans Administration for its guaranty, insurance or direct loan programs shall meet the following additional requirements:

(1) Except with the approval of the Commissioner for the purpose of constructing or converting the project in phases or stages, any special right of the declarant (as declarant and not as a unit owner) to do any and all of the following has expired or has been waived in a recorded instrument:

(i) Add land or units to the condominium;

(ii) Convert common elements into additional units or limited common elements;

(iii) Withdraw land from the condominium;

(iv) Use easements through the common elements for the purpose of making improvements within the condominium or within any adjacent land; or

(v) Convert a unit into two or more units, common elements, or into two or more units and common elements.

(2) At least 70 percent (or such lesser percentage as the Commissioner may prescribe) of the family units shall be occupied by the owners or shall have been sold to owners who intend to occupy the units.

(Sec. 211 of the National Housing Act (12 U.S.C. 1709, 1715))

Issued at Washington, D.C., September 4, 1981.

Philip D. Winn,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 81-27179 Filed 9-17-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-91; Ref: Notice No. 353]

Fennville Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in southwestern Michigan to be known as "Fennville."

This viticultural area is located in Allegan and Van Buren Counties. The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of Fennville as a viticultural area and its subsequent use as an appellation of origin on wine labels and in wine advertisements will help consumers better identify the wines from this distinctive grape-growing area.

EFFECTIVE DATE: October 19, 1981.

FOR FURTHER INFORMATION CONTACT:

Norman P. Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202-566-7826).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37671, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin in wine labeling and advertising.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR for the listing of approved viticultural areas.

Section 9.11, Title 27 CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features. Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

The Fenn Valley Winery of Fennville, Michigan, petitioned ATF to establish a viticultural area to be named "Fennville."

In response to this petition, ATF published a Notice of Proposed Rulemaking, No. 353, in the Federal Register on October 27, 1980 (45 FR 70910), proposing the establishment of the "Fennville" viticultural area.

Five comments were submitted in response to the notice. The comments were received from a State Senator, two State Representatives, a chairman of a county board of commissioners, and a representative of the State wine institute. All of the commenters supported the petition for the proposed viticultural designation.

Executive Order 12291

It has been determined that this final regulation is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of \$100 million or more; it will not result in

a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

This final rule relates to a notice of proposed rulemaking published prior to January 1, 1981 and, therefore, is not subject to the authority of the Regulatory Flexibility Act.

Public Hearing

A public hearing was held on this issue on February 3, 1981, in Douglas, Michigan, to gather evidence concerning the proposed area. The hearing included six scheduled speakers with an additional five persons giving testimony. The testimony given by these eleven persons and the information furnished with the petition is the criteria on which ATF bases this Treasury decision.

Historical and Current Evidence of the Name

The name of this area, Fennville, was well documented at the hearing as a fruit growing region within the State of Michigan. One of the witnesses testified that the area was initially named after his great-grandmother whose name was Fenn. This same individual stated that his great-grandfather operated a woodmill under the name "Fennmill." Another witness gave testimony that the current name "Fennville" came about as a mistake in printing of the schedule by a railroad company who refused to correct the mistake.

Witnesses also presented testimony that the area has a history dating back over 100 years for growing various fruits, including grapes for the production of wine. One witness stated that 100 years ago, his family grew grapes and sold them to wine merchants in Chicago. Another person verified that he personally knew of 27 different farms in the area that commercially grew grapes for either juice, jelly or wine. Currently, there are seven of these original 27 farms growing grapes commercially. Proprietors of two wineries, one located in the proposed area and one located 50 miles south, gave testimony as to the differences in character and taste of the same type of grapes grown in the two areas.

After evaluating the testimony presented and the written comments, ATF believes the historical and current

evidence supports the name of the viticultural area as being a distinct grape-growing region.

Geographic Evidence

Testimony was given by representatives from the U.S. Department of Agriculture, Soil Conservation Service and Michigan State University's Cooperative Extension Service as to the geographical uniqueness of the proposed area. This testimony brought out the differences between the proposed area and the surrounding areas in regards to temperature, growing conditions, rainfall and soil. In addition, evidence was presented regarding the moderating effect of Lake Michigan on this area versus areas within a 30 mile radius. The Fennville area has average winter temperatures that are two degrees warmer and average summer temperatures two degrees cooler. Further, the proposed area averages only four days per year of above 90° Fahrenheit, while an area 30 miles northeast averages 15 such days. The lake effect of Lake Michigan has a moisture robbing effect which accounts for a decrease in rainfall from areas further inland. One witness testified that, individually, the geographical features which make the Fennville area unique can be found throughout Michigan or the country. However, it is the combination of these features (soil, soil drainage, moderating temperature, and growing season) which distinguishes Fennville from surrounding areas.

Based on this testimony and other general comparisons as to temperature and growing conditions of the Fennville area, ATF has determined that this area is distinguishable from the surrounding area.

Boundaries

The boundaries, as proposed, were established by the use of natural features on three sides and a longitudinal meridian on the fourth side.

Testimony was given which supported and verified that the proposed boundaries depict an area which is viticulturally distinctive from the surrounding area. The western boundary is the eastern shore of Lake Michigan. The north and south boundaries are the Kalamazoo River and the Middle Fork of the Black River, respectively. Testimony established the north and south boundaries as being boundaries of a glacial moraine and outwash plain which depicts the desirable soil characteristic for grape growing in this area. This glacial moraine and outwash

plain meet at the intersection of the northern and eastern boundaries. The eastern boundary is the 86° 5' west longitude meridian which separates the viticultural area from a 42,000 acre State game area. The proposed area comprises approximately 75,000 acres.

Based on this testimony and evidence submitted with the petition, ATF has determined that the proposed boundaries sufficiently delineate the viticultural area from the surrounding areas and, therefore, the boundaries are being adopted as proposed. Furthermore, while ATF believes that viticultural area boundaries based on man-made features are inappropriate, where man-made features, such as the eastern boundary, closely approximate natural features, or where they provide a demarcation line from grape-growing areas as opposed to areas unsuitable for grape-growing, it is acceptable to use man-made features in describing the boundaries.

Executive Order 12291

It has been determined that this final regulation is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Miscellaneous

ATF is approving this area as being viticulturally distinct from surrounding areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage gained can only be substantiated by consumer acceptance of Fennville wines.

ATF believes that substantial viticultural knowledge exists indicating that differences in climate, soil, and other physical characteristics do affect growing conditions found within a particular region. Although distinction and growing conditions may be mitigated by viticultural practices, these distinctions may also create differences in the grape growing.

Disclosure

A copy of the hearing proceeding is available for inspection during business

hours at the following two locations: ATF Reading Room 4405, Office of Public Affairs and Disclosure, 12th and Pennsylvania Avenue, NW, Washington, DC; and at the ATF Area Supervisors Office, Federal Building, 231 West Lafayette Street, Detroit, Michigan.

Drafting Information

The principal author is Norman P. Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel in other offices of the Bureau participated in the preparation of this document, both in matters of substance and style.

Authority and Issuance

Accordingly, under the authority contained in section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.33. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

9.33 Fennville.

Par. 2. Subpart C is amended by adding § 9.33. As amended, Subpart C reads as follows:

Subpart C—Approved American Viticultural Areas

§ 9.33 Fennville.

(a) *Name.* The name of the viticultural area described in this section is "Fennville."

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Fennville Viticultural Area are three U.S.G.S. maps. They are entitled:

- (1) "Fennville Quadrangle, Michigan-Allegan County," 15 minute series;
- (2) "Bangor Quadrangle, Michigan," 15 minute series; and
- (3) "South Haven Quadrangle, Michigan," 15 minute series.

(c) *Boundaries.* The Fennville viticultural area is primarily located in the southwestern portion of Allegan County, Michigan, with a small finger extending into the northwest corner of Van Buren County, Michigan.

(1) The western boundary is the eastern shore of Lake Michigan, extending from the Black River, at the City of South Haven, north to the Kalamazoo River.

(2) The northern boundary is the Kalamazoo River, extending easterly from Lake Michigan to 86°5' west longitude.

(3) The eastern boundary is the 86°5' west longitude meridian, extending from the Kalamazoo River to the intersection of the Middle Fork of the Black River.

(4) The southern boundary is the Middle Fork of the Black River extending westerly from 86°5' west longitude until it joins the Black River, continuing west along the Black River to the eastern shore of Lake Michigan.

Signed: August 3, 1981.

G. R. Dickerson,

Director.

Approved: August 31, 1981.

John P. Simpson,

Acting Assistant Secretary (Enforcement and Operations).

[FR Doc. 81-27137 Filed 9-17-81; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Certification of Completion of Developmental Steps for Arizona State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: Arizona on or before November 1, 1977, submitted documentation attesting to the completion of all structural, developmental aspects of its approved State occupational safety and health plan. After extensive review and opportunity for State correction, all developmental plan supplements have now been approved. This notice certifies this completion and the beginning of the 18(e) evaluation phase of State plan development. This certification attests only to the fact that Arizona now has in place those structural components necessary for an effective program. It does not render judgment, either positively or negatively, on the adequacy of the State's actual performance. In addition, although State plan commitments on staffing and resources have been met, these initial commitments may not be interpreted as meeting the ultimate requirements of the Occupational Safety and Health Act of 1970 for "sufficient staff" as redefined by the U.S. Court of Appeals decision in

"AFL-CIO v. Marshall", 570 F. 2d 1030 (1978).

EFFECTIVE DATE: September 18, 1981.

FOR FURTHER INFORMATION CONTACT: Marjorie N. Sauber, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Room N-3613, Washington, D.C. 20210 (202) 523-6021.

SUPPLEMENTARY INFORMATION:

Background

Section 18 of the Occupational and Health Act of 1970 (the "Act") (29 U.S.C. 667) provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards shall submit for Federal approval a State plan for such development and enforcement. Part 1902 of Title 29, Code of Federal Regulations, sets forth procedures under which the Assistant Secretary of Labor for Occupational Safety and Health ("Assistant Secretary") shall approve such plans. Under the Act and regulations, plan approval is essentially a two-step procedure. A State must first submit its plan for an initial determination under section 18(b) of the Act. If the Assistant Secretary, after reviewing the State's submission, determines that the plan satisfies or will satisfy the criteria set forth in section 18(c) of the Act, a decision of "initial approval" is issued and the State may begin enforcement of its safety and health standards in accordance with the plan and with concurrent enforcement by the Occupational Safety and Health Administration (OSHA).

A State plan may receive initial approval even though at the time of submission not all essential components of the plan are in place. As provided at 29 CFR 1902.2(b), the Assistant Secretary may initially approve the submission as a "developmental plan," and a schedule within which the State must complete specified "developmental steps" is issued as part of the initial approval decision.

When the Assistant Secretary finds that the State has completed all developmental steps specified in the initial approval decision, a notice of such completion is published in the *Federal Register* (see 29 CFR 1902.34 and .35). Certification of completion of developmental steps initiates a thorough evaluation of the State plan by the Assistant Secretary to determine, on the basis of actual operations, whether the plan adequately protects safety and health of the State's workers. Certification does not render judgment

as to the adequacy of State performance.

Final approval of the plan under section 18(e) of the Act and 29 CFR Part 1902 may not be granted until at least three years after initial approval and until at least one year after completion of developmental steps. Thereafter, when the Assistant Secretary determines on the basis of actual performance under the plan that the Act's criteria are being applied, a decision of final approval may be granted.

On November 5, 1974, a notice was published in the *Federal Register* (39 FR 39037) of initial approval of the developmental Arizona plan and the adoption of subpart CC of Part 1952 containing the decision, a description of the plan and the developmental schedule. During the three-year period ending November 1, 1977, following commencement of State operations (3 years from the date of the State's first 23(g) grant award), Donald Wiseman, former Director of the Arizona Division of Occupational Safety and Health, Industrial Commission of Arizona, submitted documentation attesting to the completion of each State developmental commitment for review and approval, as provided in 29 CFR Part 1953. Following Departmental review, opportunity for public comment, and subsequent modification of the State's submissions, as deemed appropriate, the Assistant Secretary has approved the completion of all individual Arizona developmental steps.

Completion of Developmental Steps

1. All developmental steps specified in the November 5, 1974 notice of initial approval have been completed as follows:

(a) Legislative amendments required to bring the Arizona occupational safety and health law (Arizona Revised Statutes, Chapter 23) into conformity with Federal requirements were enacted effective August 27, 1977 and were approved by the Assistant Secretary on April 3, 1981 (46 FR 20163).

(b) Occupational safety and health standards have been promulgated and subsequently amended to reflect changes in the Federal standards and were found to be at least as effective as the corresponding Federal standards and were approved by the Regional Administrator for Occupational Safety and Health on May 7, 1976 (41 FR 32917, August 6, 1976) and March 27, 1978 (43 FR 17066, April 21, 1978). The adoption of initial standards was approved as a completed developmental step on December 17, 1976 (41 FR 56315, December 28, 1976). In addition, State

standards comparable to Federal standards through March 1981 have been adopted.

(c) Regulations concerning inspections, citations, and proposed penalties and Review Board Rules of Procedure were submitted on May 14, 1975, and were approved by the Assistant Secretary on July 22, 1976 (41 FR 31812, July 30, 1976).

(d) Regulations concerning recording and reporting of occupational injuries and illnesses were submitted on May 14, 1975 and were approved by the Assistant Secretary on July 22, 1976 (41 FR 31812, July 30, 1976).

(e) Regulations concerning variances were submitted on October 31, 1977, and were approved by the Assistant Secretary on November 13, 1980 (45 FR 77000, November 21, 1980).

(f) Regulations concerning complaints of discrimination against employees for exercising their rights under the law were submitted on October 31, 1977, and were approved by the Assistant Secretary on November 13, 1980 (45 FR 77000, November 21, 1980).

(g) The State's original Field Operations Manual was approved with the State plan. On March 1, 1978, the State submitted revisions to the manual to reflect changes in the Federal Manual and in the Arizona program. These revisions were approved by the Assistant Secretary on November 13, 1980 (45 FR 77000, November 21, 1980).

(h) The State poster notifying public and private employers and employees of their protections and obligations under the Arizona plan was submitted on May 14, 1975 and approved by the Assistant Secretary on July 22, 1976 (41 FR 31812, July 30, 1976).

(i) The universe file for the State's inspection scheduling system was completed and implemented on March 12, 1976, thus completing the implementation of the State's Management Information System, and was approved by the Assistant Secretary on July 22, 1976 (41 FR 31812, July 30, 1976).

(j) Interagency agreements with the Arizona Department of Health Services and the Corporation Commission of Arizona were entered into on November 7, 1974, March 20, 1975 and May 7, 1976, and were approved by the Assistant Secretary on July 22, 1976 (41 FR 31812, July 30, 1976). An agreement with the Arizona Atomic Energy Commission was entered into on December 18, 1972, and was approved with the State plan on October 29, 1974 (39 FR 39037, November 5, 1974).

2. The personnel operations of the Arizona Industrial Commission have

been found to be in substantial conformity with the Standards for a Merit System of Personnel Administration by the U.S. Office of Personnel Management. The State also has an affirmative action plan which has been found acceptable by the Office of Personnel Management.

3. This certification covers all occupational safety and health issues covered under the Federal program except for the longshoring and maritime standards found in 29 CFR Parts 1915, 1916, 1917 and 1918 (longshoring, ship repairing, shipbuilding and shipbreaking), which are excluded from coverage under the plan. In addition, in accordance with State law, Arizona is precluded from enforcing occupational safety and health standards on Indian reservations and in mining operations. This certification also covers the State's program covering State and local government employees.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the approved supplements along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, Room N-3613, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 11321, Federal Office Building, 450 Golden Gate Avenue, San Francisco, California 94102; and Division of Occupational Safety and Health, Industrial Commission of Arizona, 1601 West Jefferson St., Phoenix, Arizona 85007.

Effect of Certification

The Arizona plan is certified effective September 18, 1981 as having completed all developmental steps on or before November 1, 1977. This certification attests to structural completion, but does not render judgment on adequacy of performance.

The Arizona occupational health and safety program will be monitored and evaluated for a period of not less than one year after publication of this certification to determine whether the State program in operation provides for an effective program of enforcement including the requirement set out in "AFL-CIO v. Marshall" cited above. The Assistant Secretary will then determine whether Federal authority should be withdrawn with respect to issues covered by the plan pursuant to Section 18(e) of the Act.

Level of Federal Enforcement

In accordance with 29 CFR 1902.35, Federal enforcement authority under sections 5(a)(2), 8, 9, 10, 13 and 17 of the Act (29 U.S.C. 654(a)(2), 657, 658, 659, 662 and 666) and Federal standards authority under section 6 of the Act (29 U.S.C. 655) will not be relinquished during this evaluation period. However, exercise of Federal enforcement authority will continue generally to be limited at this time to enforcement in those issues not covered by the State plan, response to 11(c) discrimination complaints as appropriate, enforcement of new Federal standards if necessary and responses to emergency or unusual situations. The level of Federal enforcement may from time to time be reconsidered.

In accordance with this certification, 29 CFR 1952.354 is hereby amended to reflect successful completion of the developmental period by changing the title of the section and by adding a paragraph (i) as follows:

§ 1952.354 Completion of developmental steps and certification.

(i) In accordance with § 1902.34 of this chapter, the Arizona occupational safety and health plan was certified, effective September 18, 1981 as having completed all developmental steps specified in the plan as approved on October 29, 1974, on or before November 1, 1977. This certification attests to structural completion, but does not render judgment on adequacy of performance.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1606 (29 U.S.C. 667))

Signed at Washington, D.C., this 14th day of September 1981.

Thorne G. Auchter,
Assistant Secretary.

[FR Doc. 81-27230 Filed 9-17-81; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Navigation; COLREGS Compliance Exemption; U.S.S. La Jolla

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) has determined that U.S.S. *La Jolla* (SSN 701) is a vessel of the Navy which, due

to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval submarine; and (2) has found that U.S.S. *La Jolla* (SSN 701) is a member of the SSN 688 class of ships, exemptions for which have previously been granted under 72 COLREGS, Rule 38. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 10, 1981.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, Virginia 22332, Telephone Number (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that U.S.S. *La Jolla* (SSN 701) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21 (c) regarding the arc of visibility of the stern light; Rule 23(a)(iv) requiring the stern light to be displayed when the vessel is underway at night; Annex I, section 2(a)(i) regarding the height of the masthead light; Annex I, section 2(k) regarding the height and relative positions of the anchor lights; and Annex I, section 3(b) regarding the location of the side lights. Full compliance with the aforementioned 72 COLREGS provisions would interfere with the special function of the ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that U.S.S. *La Jolla* (SSN 701) is a member of the SSN 688 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3 are equally applicable to U.S.S. *La Jolla* (SSN 701). Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner different