previously used was the total family benefit, the redetermination may cause the average current earnings to exceed the total family benefit and thus become the new applicable limit. If for some other reason (such as a statutory increase or recomputation) the benefit has already been increased to a level which equals or exceeds the benefit resulting from a redetermination under this paragraph, no additional increase is made. A redetermination is designed to bring benefits into line with current wage levels when no other change in payments has done so.

Example: In October 1978, Alice became entitled to disability insurance benefits with a primary insurance amount of $505.10. Her two children were also entitled to monthly benefits of $189.40 each. Alice was also entitled to monthly disability compensation benefits of $667.30 from the State. Eighty percent of Alice's average current earnings is $1340.80, and that amount is the applicable limit. The amount of monthly benefits payable after the reduction is—

Applicable limit	$1,340.60
Alice's State disability compensation benefit	−667.30
Total benefits payable to Alice and both children after reduction	$673.50
Alice's disability insurance benefit	−505.10
Payable to the children	$168.40
$84.20 payable to each child after reduction equals	$168.40
	2

In June 1979 and June 1980, cost-of-living increases in Social Security benefits raise Alice's benefit by $50.10 (to $555.20) and $79.40 (to $634.60) respectively. The children's benefits (before reduction) are each raised by $18.80 (to $208.20) and $29.80 (to $238.00). These increases in Social Security benefits are not subject to the reduction (i.e., offset).

In 1980, Alice's average current earnings are redetermined as required by law. The offset is recalculated, and if the amount payable to the family is higher than the current amount payable to the family, that higher amount becomes payable the following January (i.e., January 1981). The current amount payable to the family after the reduction is recalculated—

Alice's 1978 benefit after reduction	$505.10
Alice's cost-of-living increase in June 1979	+50.10
Alice's cost-of-living increase in June 1980	+79.40
One child's 1978 benefit after reduction	+84.20
That child's cost-of-living increase in June 1979	+18.70
That child's cost-of-living increase in June 1980	+29.70
The other child's 1978 benefit after reduction	+84.20
The other child's cost-of-living increase in June 1979	+18.70
The other child's cost-of-living increase in June 1980	+29.70
Total amount payable to the family after reduction in January 1981	899.80

The amount payable to the family after reduction is then recalculated using the redetermined average current earnings—

Average current earnings before redetermination	$1,676.00
Redetermination ratio effective for January 1981	×1.174
Redetermined average current earnings	$1,967.00
	×80%
80% of the redetermined average current earnings	$1,573.60
Alice's State disability compensation benefit	− 667.30
Total benefits payable to the family after offset	$906.30

We then compare the total amount currently being paid to the family ($899.80) to the total amount payable after the redetermination ($906.30). In this example, the redetermination yields a higher amount and, therefore, becomes payable the following January (i.e., January 1981). Additional computations are required to determine the amount that will be paid to each family member—

Total benefits payable to the family using the redetermined average current earnings	$906.30
Total cost-of-living increases to both children	×96.80
Balance payable	809.50
Alice's current benefit amount before reduction	−634.60
Payable to the children	174.90
Total cost-of-living increases to both children	+96.80
Total payable to children after reduction	271.70
$135.90 rounded from $135.85) payable to each child equals	$271.70
	2

(Sec. 224 of the Social Security Act; 79 Stat. 406, as amended; 42 U.S.C. 424)

[FR Doc. 83-22379 Filed 8-15-83; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 74

[Docket No. 83C-0130]

[Phthalocyaninato(2-)] Copper; Listing as a Color Additive for Coloring Contact Lenses

Correction

In FR Doc. 83-20798, beginning on page 34946 in the issue of Tuesday, August 2, 1983, the "Docket No." in the heading should have appeared as set forth above.

BILLING CODE 1505-01-M

21 CFR Part 109

[Docket No. 75N-0013]

Polychlorinated Biphenyls in Paper Food-Packaging Material; Reduction of Tolerances; Settlement of Hearing

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing a settlement of the formal hearing in this final rule concerning a tolerance for polychlorinated biphenyls (PCB's) in paper food-packaging material. The settlement, as embodied in the final rule set forth below, permits the use of paper packaging material containing more that 10 parts per million (ppm) PCB's, if separated from food by a barrier that would limit PCB migration to the level that would result if no barrier were used and the PCB level in the packaging material were at the permitted level of 10 ppm.

DATES: Effective December 14, 1983; requests for reconsideration on or before September 15, 1983. The Director of the **Federal Register** approves the incorporation by reference of certain publications in 21 CFR 109.30 effective on December 14, 1983.

ADDRESS: Requests for reconsideration to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Allen H. Heim, Office of Science Coordination (HF-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1587.

SUPPLEMENTARY INFORMATION: On March 18, 1972, FDA proposed in the **Federal Register** to establish a tolerance for PCB's in all food-packaging material (37 FR 5705). On the basis of comments received, which in part indicated that of material used for food packaging, PCB contamination occurs only in recycled paper products, FDA on July 6, 1973, published a final rule establishing a 10 ppm tolerance for PCB's in paper food-packaging material (38 FR 18096). The regulation provided that paper food-packaging material would be exempt from the 10 ppm tolerance if separated from food by a barrier impermeable to PCB migration. Under section 406 and 701(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 346 and 371(e)), the final rule was subject to objections and requests for hearing.

Several paper companies and a trade association objected to the tolerance and requested a hearing. Under section 701(e)(2) of the act, the filing of objections operated to stay the effective date of the final rule (August 24, 1973; 38 FR 22794). On March 12, 1975, FDA published a notice of hearing and listed the issues to be considered at the hearing (40 FR 11563).

In November 1978, FDA's Bureau of Foods and the industry parties signed a proposed settlement agreement that, if approved by the Commissioner of Food and Drugs, would obviate a hearing. That proposed settlement agreement, and subsequent correspondence

between the Commissioner and the hearing parties, is part of the record of this final rule, and may be examined at the Dockets Management Branch (address above), from 9 a.m. to 4 p.m., Monday through Friday.

The proposed settlement agreement would have relaxed the final rule's barrier requirement to permit the use of a barrier that, although not impermeable to PCB's, would limit PCB migration to the level that would result if no barrier were used and the PCB level in the packaging material were at the permitted level of 10 ppm. The agreement provides for premarket approval of barrier by the Bureau of Foods using a specified test procedure.

In October 1979, the Commissioner requested that the parties to the proposed settlement agreement provide further explanation of some of its provisions. The parties filed a joint response in August 1980, which did not change the proposed agreement but explained certain of its provisions.

In October 1981, the Commissioner wrote to the parties and suggested certain changes to the test procedure, to include testing with high fat and liquid foods. The purpose of the suggested change was to ensure that a barrier would adequately prevent PCB contamination of all foods likely to be packaged in paperboard, and not just those foods that are so packaged today. The Commissioner was concerned about possible changes in food-packaging practices and new technology.

On May 11, 1983, the parties responded jointly to the Commissioner's suggested changes. The parties agreed that the original proposed settlement agreement was deficient because it did not provide for testing with high fat and liquid foods. They pointed out, however, that the proposed test procedure embodied in the settlement agreement is not appropriate for use with liquid receptor foods. They suggested alternative solid dry test foods and explained why their use would ensure that the PCB barrier is appropriate for use with high fat and liquid foods.

The Commissioner has reviewed the parties' submission, and has concluded that the revised settlement agreement should be accepted. The Commissioner believes that the parties are correct scientifically in stating that use of the test procedure proposed in the settlement agreement with liquid test foods would not be practicable because of the nature of the paperboard and the particular liquids suggested for testing, and that the results of tests with the new solid test receptor foods would also apply to liquid foods. The Commissioner believes that the revised settlement agreement would promote the public health by providing greater protection against PCB contamination of food, while not increasing regulatory burdens.

The Commissioner concludes that it is proper to accept the settlement agreement in lieu of holding a hearing. The Commissioner further concludes that it is appropriate to publish the terms of the settlement agreement as a final rule, rather than as a proposal, because the revised final rule set forth below, original final rule, and proposal have the same goal—ensuring that foods are not contaminated by PCB's in packinging material. The revised final rule is "in character with the original scheme" (*South Terminal Corp.* v. *Environmental Protection Agency*, 504 F.2d 646, 658 (1st Cir. 1974)); the changes made are "logical outgrowths" of the comments received in response to the proposal (*AFL–CIO* v. *Marshall*, 617 F.2d 636, 676 (D.C. Cir. 1979)). Thus, FDA concludes that a revised proposal is not necessary because it has provided the public "a reasonable and meaningful opportuntiy to participate in the rulemaking process" (*McCulloch Gas Processing Corp.* v. *Department of Energy*, 650 F.2d 1216, 1221 (Em. Appl. 1981)).

The Commissioner is providing for the submission of requests for reconsideration pursuant to 21 CFR 10.33. Unless FDA receives a timely request for reconsideration on or before September 15, 1983 and decides to grant that request, the final rule will become effective on December 14, 1983.

FDA's original final rule to establish a tolerance for PCB's in food-packaging material was the subject of a final environmental impact statement issued on December 18, 1972, and a supplement to the final environmental impact statement issued on July 2, 1973. The environmental considerations and conclusions contained in the final and supplemental environmental impact statements are applicable to the evaluation of the environmental effects of the settlement embodied in this revised final rule. The settlement does not appreciably change the environmental effects predicted and considered in agency decisionmaking at the time the original final rule was issued. Therefore, no further environmental review was conducted.

Section 109.30(d) of this final rule contains information collection requirements. The public is not required to comply with the information collection requirements until the Office of Management and Budget (OMB) approves these requirements under section 3507 of the Paperwork Reduction Act of 1980. A notice will be published in the **Federal Register** when approval is obtained.

List of Subjects in 21 CFR Part 109

Contaminants, Incorporation by reference, Polychlorinated biphenyls (PCB's).

PART 109—UNAVOIDABLE CONTAMINANTS IN FOOD FOR HUMAN CONSUMPTION AND FOOD-PACKAGING MATERIAL

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 406, 701(e)), 52 Stat. 1049 as amended, 70 Stat. 919 as amended (21 U.S.C. 346, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), § 109.30 is amended by adding paragraphs (c) and (d) to read as follows:

§ 109.30 Tolerances for polychlorinated biphenyls (PCB's).

* * * * *

(c) A barrier is functional for purposes of paragraph (a)(9) of this section if the barrier limits migration of PCB's from the packaging material to food to a level not exceeding the migration which occurs under the same test conditions from packaging material containing 10 parts per million PCB without the use of a barrier. A class of barrier material is functional for purposes of paragraph (a)(9) of this section if a representative barrier of the class limits migration of PCB's from the packaging material to food to a level not exceeding the migration which occurs under the same test conditions from packaging material containing 10 parts per million PCB without the use of a barrier. Migration levels shall be determined for purpose of this paragraph solely by use of testing conditions described in "Test Procedures for Determination of PCB Permeability of Food Packaging, Inner-Wraps, September 1976, revised May 1983", which is incorporated by reference. Copies are available from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20204. A class of barrier material shall be deemed functional only if the definition of the class and the designation of one or more representative barriers has been approved by the Director, Bureau of Foods, Food and Drug Administration. In the event that the Director, Bureau of Foods, does not approve a proposal made to the Bureau regarding the definition of a class of barrier material or the designation of representative

barriers, the Director shall advise the person making the proposal of the reasons for the Bureau's disapproval within 90 days of receipt of the proposal. All proposals for definition of classes and determinations of the Food and Drug Administration regarding such proposals shall be on file with the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

(d) Any person who asserts that a barrier or class of barriers is functional shall submit the results of tests conducted to determine the functionality of the barrier or class of barriers to Program Manager for Chemical Contaminants (HFF–421, or its successor), Food and Drug Administration, 200 C St. SW., Washington, DC 20204. All barriers or classes of barriers shall be tested with the four solid food receptors specified in "Test Procedures for Determination of PCB Permeability of Food Packaging, Inner-Wraps, September 1976, revised May 1983", which is incorporated by reference. The availability of this reference is given in paragraph (c) of this section. The test results as to each barrier shall be accompanied by (1) a description of the barrier's composition adequate to enable identification; and (2) a specific definition of the barrier by relevant technical characteristics. The Bureau of Foods shall review submitted test results promptly. Within 60 days of the receipt of test results, the Director, Bureau of Foods, shall notify the person submitting the test results whether the tests were conducted in accordance with the "Analytical Methodology for Polychlorinated Biphenyls; June 1979", which is incorporated by reference, or the "Test Procedures for Determination of PCB Permeability of Food Packaging, Inner-Wraps, September 1976, revised May 1983" and whether, therefore, the barrier or class of barriers is deemed functional within the meaning of paragraph (c) of this section. The test results and any response of the Food and Drug Administration shall be placed on file with the Dockets Management Branch, Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

Interested persons may, on or before September 15, 1983, submit to the Dockets Management Branch (address above) written requests for reconsideration. Two copies of any such requests are to be submitted, except individuals may submit one copy. Each copy should identify the docket number found in brackets in the heading of this document. Received requests for reconsideration may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective December 14, 1983.

(Secs. 406, 701(e), 52 Stat. 1049 as amended, 70 Stat. 919 as amended (21 U.S.C. 346, 371(e)))

Dated: August 4, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 83-22168 Filed 8-15-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 610

[Docket No. 83N-0054]

General Biological Products Standards; Constituent Materials

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending a regulation concerning constituent materials used in a biological product to specify that a preservative is not required in a multiple-dose container of an Allergenic Product in 50 percent or more glycerin. The final rule reflects agency policy and will clarify the regulation.

DATES: Effective August 16, 1983; comments by October 17, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael L. Hooton, National Center for Drugs and Biologics (HFN–813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: Section 610.15 (21 CFR 610.15) of FDA's general biological product standards regulations provides general requirements for constituent materials in biological products, including requirements concerning use of preservatives in products in multiple-dose containers. The regulation does not identify the specific preservatives that are approved for use in the manufacture of products. Rather, the manufacturer of the licensed product must identify the preservative used and its concentration in its application for a product license and on the label affixed to each package containing the product (21 CFR 610.61(e)).

For over 20 years the agency has approved the use of glycerin in Allergenic Products to increase the stability of the allergens. Although glycerin is not universally recognized as an antifungal or antimicrobial preservative, the use of 50 percent glycerin in Allergenic Products for many years has shown it to have bacteriostatic activity. In addition, published data relating to this matter has been placed on file with the Dockets Management Branch (address above). Accordingly, the Office of Biologics has approved manufacturers' amendments to license applications that provide for the use of 50 percent glycerin in multiple-dose containers of Allergenic Products without requiring inclusion in the product of a universally recognized preservative (e.g., thimerosal). The final rule will clarify the regulation to reflect this agency policy.

Therefore, FDA is amending § 610.15 *Constituent materials* by adding a new phrase to the third sentence of paragraph (a) to specify that a preservative need not be added to a multiple-dose container of an Allergenic Product in 50 percent or more glycerin and by making certain other clarifying changes in the sentence.

The agency has determined pursuant to 21 CFR 25.24(d)(10) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an envionmental assessment nor an environmental impact statement is required.

The agency has examined the economic impact of this rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). The amendment clarifies the regulation but does not change the agency's policy regarding use of preservatives in Allergenic Products. Therefore, the agency concludes that this final rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that this rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory

Flexibility Act. This rule does not impose any paperwork requirements.

List of Subjects in 21 CFR Part 610

Biologics, Labeling.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 610 is amended in the introductory text of § 610.15(a) by revising the third sentence to read as follows:

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

§ 610.15 Constituent materials.

(a) * * * Products in multiple-dose containers shall contain a preservative, except that a preservative need not be added to Yellow Fever Vaccine; Polio Virus Vaccine, Live, Oral; viral vaccines labeled for use with the jet injector; dried vaccines when the accompanying diluent contains a preservative; or to an Allergenic Product in 50 percent or more glycerin. * * *

* * * * *

Under the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)), the Commissioner finds that notice, public procedure, and delayed effective date are unnecessary for the amendment of § 610.15 because it does not impose an additional duty or burden on any person but rather clarifies a current interpretation of an existing regulation to avoid misinterpretation.

Interested persons may, on or before October 17, 1983, submit to the Dockets Management Branch (address above), written comments regarding this rulemaking. Two copies of any comments are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Such comments will be considered in determining whether the clarification made in this document should be modified. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective August 16, 1983.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Dated: July 28, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-22313 Filed 8-15-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 868

[Docket No. R-83-1105]

Comprehensive Improvement Assistance Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: The rule amends the Comprehensive Improvement Assistance Program regulations by revising the definition of Special Purpose Modernization to eliminate: (1) The one-time limitation on filing an application for Special Purpose Modernization for an individual project and (2) the deadline on Public Housing Agencies (PHAs) for filing such applications. These revisions are intended to allow PHAs to make energy-related improvements which are cost-effective.

DATES: Effective Date: October 11, 1983. Comment due date: October 17, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Comments should refer to the above docket number and title. A copy of each set of comments submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Pris Buckler, Room 4224, Office of Public Housing, Department of Housing Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5595. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Limitations on Special Purpose Modernization Removed

The Comprehensive Improvement Assistance Program (CIAP), which was established by section 14 of the United States Housing Act (USHA of 1937) (42 U.S.C. 1437*l*), provides assistance to Public Housing Agencies (PHAs), including Indian Housing Authorities, to improve the physical condition of existing public housing projects, and to upgrade the management and operation of such projects.

One form of assistance provided under CIAP is special purpose modernization which is a project modernization program that is limited to cost-effective energy conservation work items which will not be adversely affected by any subsequent Comprehensive Modernization.

Under § 868.3 of the current CIAP regulations, special purpose modernization may be approved only on a one-time basis for a particular project. This limitation is unduly restrictive in certain situations, for example, when:

1. In a prior year, the energy audit was funded under special purpose modernization and the PHA is now requesting funds under special purpose modernization to implement the results of the audit at the same project;

2. Energy conservation devices which were not on the market when the special purpose modernization was first approved are now available and the PHA is requesting funds under special purpose modernization for these items;

3. Energy conservation work which was not previously determined to be cost-effective is now determined to be cost-effective because of a large reduction in the cost of an energy conservation device or a large increase in the cost of energy; or

4. Special purpose modernization was approved for certain items with the greatest cost-savings and the PHA is now requesting funds for other items which are cost-effective, but have a slightly longer payback period.

In addition, the current § 868.3 provides that special purpose modernization may now be approved only in the first two years of a PHA's five-year plan. The Department believes that this limitation is inappropriate, since lack of funding may have prevented a PHA from completing all energy conservation work in the first two years of its five-year plan. Therefore, in order to facilitate cost-effective energy conservation improvements, the Department is revising the definition of "special purpose modernization" in § 868.3 to eliminate (1) the one-time limit on filing a request for funding of an individual project and (2) the deadline for filing such requests by a PHA.

Other Matters

This rule also corrects typographical errors in §§ 868.3 and 868.4 of the current rule.

This rule amends the requirements for applying for special purpose modernization in Federal Fiscal Year (FFY) 1984 and thereafter. Since PHAs must be provided sufficient time to prepare their FFY 1984 applications, the Department has determined that notice and prior public comments are impracticable and contrary to the public

interest and that good cause exists for making this rule effective as soon after publication as possible. However, public comments are invited and will be considered in adopting a final rule.

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 is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to 5 U.S.C. 605(b) (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. This rule should have no different economic impact on small PHAs than it does on large PHAs. Any economic impact should be beneficial since the rule provides PHAs greater flexibility in using special purpose modernization.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 25, 1983 (48 FR 18054), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number and title is 14.158—Public Housing—Modernization of Projects.

List of Subjects in 24 CFR Part 868

Loan programs: Housing and community development, Public housing, Reporting and recordkeeping requirements.

Part 868—[AMENDED]

Accordingly, the Department amends 24 CFR Part 868 as follows:

1. In § 868.3, the definition of "special purpose modernization" is revised to read as follows:

§ 868.3 Definitions.

* * * * *

"Special purpose modernization" means a modernization program for a project that is limited to cost-effective energy conservation work items which will not be adversely affected by any subsequent Comprehensive Modernization. For such projects, management improvements are not eligible modernization costs. Special purpose modernization also means the approval of additional contract or budget authority to meet increased interest costs, or to effect the transfer of modernization funds between projects with modernization programs approved before July 1, 1978.

* * * * *

2. In FR Doc. 82–13898, appearing in the **Federal Register** issue of May 21, 1982 at page 22315, § 868.3, the definition "HUD office" is corrected by changing "of" to read "or."

3. In FR Doc. 82–13898, appearing in the **Federal Register** issue of May 21, 1982 at page 22316, § 868.4, the introductory text to paragraph (b)(1) is corrected by changing "of" to read "or."

(United States Housing Act of 1937 (42 U.S.C. 1437), sec. 7(d), Dept. of HUD Act (42 U.S.C. 3535(d))

Dated: July 21, 1983.

W. Calvert Brand,

General Deputy Assistant Secretary of Housing—Federal Housing Commissioner.

[FR Doc. 83–22346 Filed 8–15–83; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of Supplements to the Washington State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This notice approves various supplements to the Washington State Plan including modifications to its administrative rules, policies, and field procedures in accordance with formal assurances provided. These amendments were adopted in response to assurances made by the State at the time of approval of the plan supplements. The amendments have been determined to satisfy those State assurances.

EFFECTIVE DATE: August 12, 1983.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523–8045.

SUPPLEMENTARY INFORMATION:

Background

Part 1953 of Title 29, Code of Federal Regulations, provides procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the **Federal Register** of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision and describing the plan.

On February 9, 1982, notices were published in the **Federal Register** describing and approving several developmental plan supplements (47 FR 5889) and certifying completion of all developmental steps of its plan (47 FR 5889). As a condition of approval of the supplements, the State adopted interim procedures and provided assurances that it would take prompt action to formally remedy several procedural concerns identified by Federal review. By letters of August 27, 1982, October 7, 1982, October 18, 1982, and March 8, 1983, the State provided supplements which fulfilled the assurances.

Description of Plan Supplements

1. Washington Adminstrative Rules (WAC 296 Chapters 350 and 360). The State added provisions requiring posting of notices of redetermination issued when contested citations are modified by administrative review, settlement agreements, notices of appeals, conferences, and hearings of the State appeals board. The notice of redetermination form was modified to reflect the posting requirement and employee appeal rights. The extension of abatement rules had incorrectly included a reference to administrative hearing rules used in workers compensation cases, which has been deleted. An added provision specifies that settlement agreements relating to appeals must, if applicable, include an abatement date and statement of payment of penalty. A requirement that

discrimination complaints be filed in writing was deleted.

2. Washington Poster. The State submitted its revised poster which now specifies that public employees can only file discrimination complaints with the State since Federal jurisdiction under 11(c) of the Act does not apply to State and local public employees.

3. Operations Manual. The State modified its procedures to clarify the difference between temporary and permanent variances.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the State's plan and the supplements may be inspected and copies made during normal business hours at the following locations:

Office of the Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98501.

Public Participation

Under 29 CFR 1953.2 the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that revisions to Washington administrative rules were adopted in accordance with procedural requirements of State law and further public participation would be unnecessary. The other plan supplements are in accordance with previous assurances which relate to approved developmental steps and good cause is therefore found for approval of those supplements without further public comment and notice.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

Decision

After careful consideration, the Washington plan supplements outlined above are approved under Part 1953 of this Chapter.

Accordingly, § 1952.124 of 29 CFR Part 1952 is amended to reflect the approval of the plan supplements by revising paragraphs (b), (c), and (j) as follows:

PART 1952—[AMENDED]

§ 1952.124 Completed developmental steps and certification

* * * * *

(b) In accordance with the requirements of § 1952.10, the Washington State Poster submitted on October 6, 1975, was approved by the Assistant Secretary on December 17, 1975. In accordance with the State's formal assurance, the poster was revised, effective June 1, 1982, to specify that public employees can only file discrimination complaints with the State because Federal jurisdiction under section 11(c) of the Act does not apply to State public employees. This revised poster was approved by the Assistant Secretary on August 3, 1983.

(c) The Washington State Compliance Operations Manual, modeled after the Federal Field Operations Manual, was developed by the State and was approved by the Assistant Secretary on March 19, 1976. The manual was subsequently revised on July 23, October 20, and December 1980, and was approved by the Assistant Secretary on January 26, 1982. A March 1, 1983, revision to the manual which provided clarification of the difference between temporary and permanent variances in accordance with State formal assurances was approved by the Assistant Secretary on August 3, 1983.

* * * * *

(j) In accordance with 29 CFR 1952.123(c), the Washington Department of Labor and Industries adopted administrative regulations providing procedures for conduct and scheduling of inspections, extension of abatement dates, variances, employee complaints of hazards and discrimination, posting of citations and notices, effective May 14, 1975, and revisions effective December 31, 1980, and July 22, 1981. Likewise, the Washington Board of Industrial Insurance Appeals adopted rules effective April 4, 1975, governing practice and procedure for contested cases with revision effective March 26, 1976. These regulations and rules were approved by the Assistant Secretary on January 26, 1982. In accordance with State formal assurances the State added provision to the regulations effective July 11, 1982, to require posting of redetermination notices, settlements, notices related to appeals; deleting an incorrect reference to administrative hearing procedures used in workers compensation cases; requiring settlement agreements to address abatement dates and penalty payments; and deleting a requirement to put discrimination complaints in writing. These changes were approved by the Assistant Secretary on August 3, 1983.

* * * * *

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C., this 3rd day of August, 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-22226 Filed 8-15-83; 8:45 am]

BILLING CODE 4510-26-M

29 CFR Part 1956

Approval of Supplements to the Connecticut Public Employee Only State Plan

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule.

SUMMARY: This notice approves supplements to the approved Connecticut Occupational Safety and Health Public Employee Only State plan consisting of a completely revised State plan document which includes: a revised plan narrative; regulations for inspections, citations, and proposed penalties; regulations for recording and reporting occupational injuries and illnesses; regulations for variances; rules of procedure for the Connecticut Occupational Safety and Health Review Commission; procedures for enforcing employee nondiscrimination provisions; Field Operations and Industrial Hygiene Manuals; documentation on promulgation of basic safety and health standards identical to the Federal standards; a revised occupational safety and health poster; and an amended Uniform Administrative Procedure Act which governs the State's standards promulgation process. These supplements were adopted in accordance with developmental commitments made by the State at the time of plan approval. The supplements have been determined to satisfy those developmental commitments.

EFFECTIVE DATE: August 12, 1983.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION:

Background

Under Part 1902 of Title 29, Code of Federal Regulations, a State plan for the

enforcement of occupational safety and health standards in Connecticut was approved by the Assistant Secretary on December 28, 1973, and published on January 4, 1974 (39 FR 1013; 29 CFR 1952.300 et seq.). This plan covered private workplaces as well as public employees. By an Act of the Connecticut General Assembly, effective July 1, 1978 (P.A. 77–610), the Connecticut Occupational Safety and Health Act was amended to exclude coverage of private sector employees. This change in the scope of State safety and health coverage resulted in withdrawal of the prior 18(b) plan. Connecticut then submitted for the Assistant Secretary's approval, a State plan covering public employees only under Part 1956 of Title 29, Code of Federal Regulations. On November 3, 1978, a notice was published in the **Federal Register** (43 FR 51389) of the approval of the Connecticut developmental plan for Public Employees Only and the adoption of Subpart E of 29 CFR Part 1956 containing the decision and description of the plan. 29 CFR 1956.2(b)(3) provides that where a State plan approved under Part 1902 of this chapter is discontinued, except for its public employee component, the developmental period applicable to the public employee component of the earlier plan will be controlling unless an additional period of time is required to make adjustments from one type of plan to another. The State of Connecticut Public Employee Only plan was approved with a one year developmental period.

Part 1953 of Title 29, Code of Federal Regulations, provides procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1956. On September 27, 1979, the State of Connecticut submitted a revised plan supplement documenting the completion of various developmental steps. Following regional review, the revised plan supplement was forwarded to the Assistant Secretary for Occupational Safety and Health (the Assistant Secretary) for a determination as to whether it should be approved. On October 7, 1980, a notice was published in the **Federal Register** (45 FR 66475) inviting public comment on the revised plan supplement. No public comments were received. In response to Federal review, the State on July 20, 1981, and November 15, 1982, submitted a revised safety and health poster and additional amendments to its Review Commission procedures. In addition, on December 21, 1982, the State submitted a State-initiated program change involving amendments to its Uniform Administrative Procedure Act.

Description of the Supplements

Revised Plan

One of the developmental commitments given by Connecticut at the time of plan approval was that a completely revised plan would be submitted in accprdance with the format of the OSHA public employee plan outline. On September 27, 1979, in accordance with the developmental step set forth in 29 CFR 1956.43(f), the State of Connecticut submitted a completely revised and reformatted occupational safety and health public employee only plan which meets the outline format. The revised State plan included a narrative description and other background information on program operation; enacted legislation; Attorney General's legal opinion; Governor's letter of designation; inspection scheduling system; prodedures for on-site consultation; agreement with the Health Department for laboratory services; recordkeeping instructions; organization chart; job descriptions; State personnel Act; affirmative action plan; budget; and incorporates the following specific procedural documents:

1. *State poster.* On September 27, 1979, July 20, 1981, and on November 15, 1982 in accordance with the developmental step set forth in 29 CFR 1956.43(a), Connecticut submitted a revised poster reflecting coverage of public sector employees only. The Connecticut safety and health poster contains, among other things, provisions notifying employees of their obligations and protections under the Connecticut Occupational Safety and Health Act; their right to request inspections, and their right to remain anonymous as a result of such requests; their right to participate in inspections; their protection against discharge or discrimination under State law; and their right to file complaints about the administration of the State program with OSHA. The poster also contains provision for sanctions and for prompt notice to employers and employees when alleged violations are identified.

2. *Standards promulgation.* In accordance with the developmental step set forth in 29 CFR 1956.43(b), the State was to have adopted occupational safety and health standards identical to the Federal standards by February 1, 1979. On September 27, 1979, the State submitted standards which were identical to 29 CFR Parts 1910, 1926, and 1928 including all additions, revisions, amendments, and corrections thereto. In addition, Connecticut occupational safety and health standards have been subsequently amended to be identical to Federal standards, and were approved by the Regional Administrator on July 20, 1982 (47 FR 30326).

3. *Revised rules and operating procedures.* In accordance with the developmental step set forth in 29 CFR 1956.43(c), Connecticut on September 29, 1979, submitted revised regulations to show coverage of the public sector only and to accurately reflect the current program. Subsequently, on July 20, 1981, and November 15, 1982, the State submitted additional revisions to its Review Commission rules of procedures. The revised rules include: Administrative Regulation Section 31–371–1 through 20—Inspections, Citations, and Proposed Penalties (equivalent to 29 CFR Part 1903); Administrative Regulation Section 31–374–1 through 15—Recording and Reporting Occupational Injuries and Illnesses (equivalent to 29 CFR Part 1904); Administrative Regulation Section 31–372–1 through 51—Rules of Practice for Variances (equivalent to 29 CFR Part 1905) and; Administrative Regulation Section 31–376–1 through 61—Review Commission Procedures (equivalent to 29 CFR Part 2200). In addition, Connecticut adopted revised Field Operations and Industrial Hygiene Manuals. All revised regulations became effective on October 5, 1979. The regulations and compliance manuals are identical to comparable Federal regulations and compliance manuals.

4. *Discrimination provisions.* On September 27, 1979, in accordance with the developmental step set forth in 29 CFR 1956.43(d), Connecticut submitted revised provisions dealing with employee discrimination. The revised discrimination procedures (Administrative Regulation Section 31–379–1 through 22) include provisions for: (1) Filing of a complaint within 30 days; (2) notification to the complainant and employer, within 90 days of complaint receipt, of the commissioner's determination; (3) ability of the State Department of Labor to initiate compensatory actions, including backpay and reinstatement of the employee; (4) employee walkaround pay; and (5) employer retention of exposure records and employee access to the log. The State's discrimination provisions are equivalent to 29 CFR Part 1977.

5. *Comprehensive governmental identification list.* On September 27,

1979, in accordance with the developmental step set forth in 29 CFR 1956.43(e), Connecticut submitted a comprehensive list of governmental entities whose employees are covered by the plan, giving the number of employees for each entity, describing the work performed, and assigning for each entity a standard industrial classification (SIC) code related to the major function performed at the worksite.

6. *Amended uniform administrative procedure act.* On December 21, 1982, the State of Connecticut submitted a state initiated change involving an amendment to its Uniform Administrative Procedure Act which governs the State's standards promulgation process. The amendent extends the timeframe required for the promulgation of State standards and requires the Commissioner of Labor to prepare a Fiscal Impact statement and submit it along with an Attorney General's statement of legal sufficiency to the Office of Fiscal Analyses and the Legislative Regulations Review Committee (LRRC). The LRRC has approval authority.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the State's plan and the supplements are available for inspection and copying during normal business hours at the following locations:

Office of the Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N3700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-7242

Office of the Regional Administrator, Occupational Safety and Health Administration, 16-18 North Street, 1 Dock Square Building, 4th Floor, Boston, Massachusetts 02109 (617) 223-6712

Connecticut Department of Labor, 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109 (203) 566-5123

Public Participation

Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any good cause which may be consistent with applicable law. On October 7, 1980, the Assistant Secretary sought public comment on the following supplements: The State's revised plan narrative, regulations for inspections, citations, and proposed penalties; regulations for recording and reporting occupational injuries and illnesses; regulations for variances; rules of procedure for the Review Commission; provisions for employee discrimination; Field Operations and Industrial Hygiene Manuals; and promulgation of safety and health standards. No public comments were received. In addition to the supplements put out for public comment, the State of Connecticut submitted revisions to previous submissions in response to Federal and State developments and a State-initiated change supplement involving an amendment to its Uniform Administrative Procedure Act which governs its standards promulgation process. The Assistant Secretary finds that these plan supplements are consistent with commitments contained in the approved plan and supplements which were previously made available for public comment. Accordingly, further notice and public comment is not necessary.

List of Subjects in 29 CFR Part 1956

Intergovernmental relations, Law enforcement, Occupational safety and health.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Decision

After careful consideration, the Connecticut revised public employee only plan supplements outlined above are approved under Part 1953 of this Chapter. In addition, Subpart E of 29 CFR Part 1956 is amended to reflect the completion of developmental steps.

PART 1956—[AMENDED]

Accordingly, a new § 1956.44 is added to Subpart E to read as follows:

§ 1956.44 Completed developmental steps.

(a) In accordance with 29 CFR 1956.43(f), Connecticut's reformatted and revised public employee only plan and narrative description (including background information on program operations) were approved by the Assistant Secretary on August 3, 1983.

(b) In accordance with 29 CFR 1956.43(a), Connecticut's safety and health poster for public employees only was approved by the Assistant Secretary on August 3, 1983.

(c) In accordance with 29 CFR 1956.43(b), Connecticut has promulgated standards identical to all basic Federal standards in 29 CFR Parts 1910, 1926, and 1928. The State has continued to adopt Federal standards, amendments and corrections as noted in separate standards approval notices.

(d) In accordance with 29 CFR 1956.43(c), Connecticut promulgated rules for inspections, citations, and proposed penalties (Administrative Regulation Section 31-371-1 through 20) parallel to 29 CFR Part 1903; recording and reporting occupational injuries and illness (Administrative Regulation Section 31-374-1 through 15 parallel to 29 CFR Part 1904; rules of practices for variances (Administrative Regulation Section 31-372-1 through 51) parallel to 29 CFR Part 1905; and review commission procedures (Administrative Regulation Section 31-376-1 through 61) parallel to 29 CFR Part 2200. In addition, Connecticut adopted Field Operations and Industrial Hygiene Manuals identical to the Federal. These supplements were approved by the Assistant Secretary on August 3, 1983.

(e) In accordance with 29 CFR 1956.43(d), Connecticut's employee discrimination provisions (Administrative Regulation Section 31-379-1 through 22) were approved by the Assistant Secretary on August 3, 1983.

(f) In accordance with 29 CFR 1956.43(e), Connecticut's comprehensive list classifying governmental entities covered by the plan was approved by the Assistant Secretary on August 3, 1983.

(Sec. 18, Public Law 91-596, 84 Stat. 1608 (29 U.S.C. 657) Secretary of Labor's Order No. 8-76 (41 FR 25059))

Signed in Washington, D.C., this 3rd day of August 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-22209 Filed 8-15-83; 8:45 am]

BILLING CODE 4510-26-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2610 and 2622

Payment of Premiums and Employer Liability for Single Employer Plan Terminations; Withdrawals From and Terminations of Plans to Which More Than One Employer Contributes Other Than Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment notifies the public of a change in the interest charges that are imposed on late premium payments and unpaid employer liability. The change in the interest charges is provided for and required by the Tax Equity and Fiscal Responsibility Act of 1982.

EFFECTIVE DATE: July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Office of the General Counsel, Code 210, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, (202) 254-6476. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.*, as amended (the "Act"), provides for a comprehensive pension plan insurance program administered by the Pension Benefit Guaranty Corporation ("PBGC"). Under the statutory scheme, covered plans pay annual premiums which are used to help finance the program by funding benefits guaranteed by the PBGC. The premiums—currently $2.60 per participant for single-employer plans and $1.40 per participant for multi-employer plans—are kept in two separate funds.

Upon termination of a single-employer plan, if the assets of the plan plus amounts collectible as employer liability under section 4062 of the Act are insufficient to fund benefits guaranteed under section 4022 and 4022B of the Act, the PBGC uses premiums in the single-employer fund to provide for those benefits. Employer liability is the amount by which the value of the terminated plan's guaranteed benefits exceeds plan assets at the date of plan termination, but not more than 30% of the employer's net worth. Premiums in the multiemployer funds are, similarly, used to provide for the payment of benefits guaranteed under section 4022A and 4022B of the Act, should a multiemployer plan terminate with assets insufficient to fund those guaranteed benefits. The employer liability provisions in section 4062 do not apply to multi-employer plans.

Section 2610.3(a)(4) of 29 CFR provides that premiums for both single-employer plans and multiemployer plans are, in general, due on the last day of the seventh month following the close of the prior plan year. Section 2622.7 of 29 CFR provides that the liability imposed by section 4062 on an employer who terminates a single-employer plan is due on the date of plan termination.

Under section 4007 of the Act and 29 CFR Parts 2610 and 2622, the PBGC charges interest on late premium payments and deliquent employer liability payments at the rate established under sections 6601(a) and 6621 of the Internal Revenue Code ("Code"). Section 6601(a) provides for interest at an annual rate established under section 6621. Section 6621 sets forth the method of computing the interest rate and the time period for which the established rate applies.

The Tax Equity and Fiscal Responsibility Act of 1982, 96 Stat. 324, Pub. L. 97-248 ("TEFRA"), revised the method of calculating the late payment interest charge and the time period for which the new rate applies. Code section 6621, as amended by TEFRA, provides that the interest rate is to be set by the Internal Revenue Service ("IRS") semiannually by October 15 and April 15 of each year and be based on the average prime interest rate for the 6-month period ending on March 31 and September 30, respectively. In compliance with TEFRA, the IRS, on April 15, 1983 (IR-83-65), announced a new annual interest rate of 11% to be effective July 1, 1983. See, also, Revenue Ruling 83-76, Internal Revenue Bulletin No. 1983-18, 37 (May 2, 1983).

Accordingly, this amendment revises Appendix A of 29 CFR Part 2610 to reflect the lower interest rate charge on overdue premiums of 11% that will be effective beginning July 1, 1983. In addition, the term "interest charges" is changed to "interest rates" since charges that may be due by reason of compounding, as set forth in § 2610.7(a), are not reflected in the table; and "to" is changed to "thru" in the table in order to more accurately reflect the effective time periods for the interest rates.

This amendment adds a similar Appendix and table of past and current interest rates to 29 CFR Part 2622. PBGC believes this Appendix will serve the public in its computation of interest on employer liability payments since the specific interest rate established by the IRS pursuant to Code sections 6601 and 6621 is not otherwise readily available to the public.

Normally, the interest rate imposed on late payment of premiums and employer liability payments will be in effect for no less than a six-month period since TEFRA requires the IRS to review the interest rate semiannually. Therefore, the current rate of 11% will be in effect at least through December 31, 1983 and the Appendices reflect that date. Should an interest rate be continued for longer than the expected 6-month period, the Appendices will be revised accordingly.

In addition to the changes discussed above, this rule amends §§ 2610.7(a) and 2622.7(b)-(d) to add appropriate cross-references to Appendix A in each section and to clarify the effective date of the compounding rules established by TEFRA.

Because this amendment simply announces statutorily imposed changes in the interest charges and clarifies previously published rules, general notice of proposed rulemaking is not required. See 5 U.S.C. 553(b). Moreover, the PBGC has determined that it would be impractical and contrary to the public interest to delay the effective date of the regulation because the interest rate charge is effective by law on July 1, 1983. Accordingly, the PBGC finds that good cause exists for issuing this regulation in final form without notice and opportunity for public comment and for making it effective before the 30 day period set forth in 5 U.S.C. 553.

The PBGC has also determined that this rule is not a "major rule" within the meaning of Executive Order 12291, February 17, 1981 (46 FR 13193), because it will not have an annual effect on the economy of $100 million or more; nor will it create a major increase in costs or prices for consumers, individual industries, or geographic regions; nor will it have significant adverse effects on competition, employment, investment, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects

29 CFR Part 2610

Employee benefit plans, Penalties, Pension insurance, Pensions, and Reporting and recordkeeping requirements.

29 CFR Part 2622

Business and industry, Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements, and Small businesses.

PART 2610—[AMENDED]

In consideration of the foregoing, Parts 2610 and 2622 of Chapter XXVI of Title 29, Code of Federal Regulations, are hereby amended as follows:

1. The authority citation for Part 2610 reads as follows:

Authority: Secs. 4002(b)(3), 4006, and 4007, Pub. L. 93-406, 88 Stat. 829, 1004, 1010, and 1013, as amended by Secs. 403(1), 105, 402(a)(3), and 403(b), Pub. L. 96-364, 94 Stat. 1208, 1302, 1264, 1298, and 1300 (29 U.S.C. 1302(b)(3), 1306, and 1307).

2. In § 2610.7, paragraph (a) is revised to read as follows:

§ 2610.7 Late payment interest charges.

(a) If any premium payment due under this part is not paid by the last date prescribed for payment in § 2610.3, an interest charge will accrue on the unpaid

amount at the rate imposed under section 6601(a) of the Internal Revenue Code of 1954, as amended, for the period from the date payment is due to the date payment is made. Late payment interest charges will accrue as simple interest before January 1, 1983 and thereafter will be compounded daily. The interest rates for specified time periods are set forth in Appendix A to this Part.

* * * * *

3. Appendix A to Part 2610 is revised to read as follows:

Appendix A—Late Payment Interest Rates

The following table lists the late payment interest rates under § 2610.7(a) for the specified time periods:

Time period	Interest rate (percent)
Sept. 2, 1974 through June 30, 1975	6
July 1, 1975 through Jan. 31, 1976	9
Feb. 1, 1976 through Jan. 31, 1978	7
Feb. 1, 1978 through Jan. 31, 1980	6
Feb. 1, 1980 through Jan. 31, 1982	12
Feb. 1, 1982 through Dec. 31, 1982	20
Jan. 1, 1983 through June 30, 1983	16
July 1, 1983 through Dec. 31, 1983	11

PART 2622—[AMENDED]

4. The Authority citation for Part 2622 reads as follows:

Authority: Secs. 4002(b)(3), 4062, 4063, 4064, 4067, and 4068, Pub. L. 93-406, 88 Stat. 829, 1004, 1029, 1030, 1031, 1032, as amended by Secs. 403(l), 403(g), 403(h), and 403(i), Pub. L. 96-364, 94 Stat. 1208, 1302, and 1301 (29 U.S.C. 1302(b)(3), 1362, 1363, 1364, 1367, and 1368).

5. Section 2622.7, paragraphs (b)—(d) are revised to read as follows:

§ 2622.7 Interest on employer liability and refunds of overpayments.

* * * * *

(b) *Refunds of employer liability.* If an employer pays the PBGC an amount that exceeds the employer's full liability under this part (including any interest owed pursuant to paragraph (a) of this section), the PBGC shall refund the excess amount of the employer liability, with interest on that amount at the rate set forth in paragraph (c) of this section. Interest on the overpayment will accrue from the later of the date of the overpayment or 10 days prior to the date of plan termination until the date of the refund and will be compounded as provided in paragraph (d) of this section.

(c) *Interest rate.* The interest rate on employer liability and refunds of employer liability is the annual rate prescribed in section 6601(a) of the Internal Revenue Code of 1954 as amended, and will change whenever the interest rate under section 6601(a) of the Code changes. The interest rates for specified time periods are set forth in Appendix A to this Part.

(d) *Compounding of interest.* Beginning January 1, 1983, interest on unpaid employer liability and refunds of employer liability will be compounded daily. Interest on unpaid employer liability and refunds of employer liability due or accruing on or before December 31, 1982, will be compounded annually except as provided in § 2622.8, relating to deferred payment terms for payment of employer liability.

6. Part 2622 is amended by adding an Appendix at the end thereof to read as follows:

Appendix A—Late Payment and Overpayment Interest Rates

The following table lists the late payment and overpayment interest rates under § 2622.7 for the specified time periods:

Time period	Interest rate (percent)
Apr. 1, 1981 through Jan. 31, 1982	12
Feb. 1, 1982 through Dec. 31, 1982	20
Jan. 1, 1983 through June 30, 1983	16
July 1, 1983 through Dec. 31, 1983	11

Effective date: This regulation is effective on July 1, 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-22429 Filed 8-15-83; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

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 USS McCLUSKY (FFG 41) 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 frigate, and (2) has found that USS McCLUSKY (FFG 41) is a member of the FFG 7 class of ships, certain exemptions for which have been previously granted under 72 COLREGS Rule 38. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: August 1, 1983.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, VA 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 USS McCLUSKY (FFG 41) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a) regarding the arc of visibility of its forward masthead light; Annex I, Section 2(a)(i), regarding the height above the hull of its forward masthead light; and Annex I, Section 3(b), regarding the horizontal relationship of its sidelights to its forward masthead light, without interfering with its special function as a Navy frigate. The Secretary of the Navy has also certified that the above-mentioned light is located in closest possible compliance with the applicable 72 COLREGS requirements. Notice is also provided to the effect that USS McCLUSKY (FFG 41) is a member of the FFG 7 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 this ship. 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 from that prescribed herein will adversely affect the ship's ability to perform its military function.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

§706.2 [Amended]

1. Table One of § 706.2 is amended as follows to indicate the certifications issued by the Secretary of the Navy:

Vessel	Number	Distance in meters of forward masthead light below minimum required height, § 2(a)(i) Annex I
* * * * *		
USS McClusky	FFG 41	1.6
* * * * *		

—

2. Table Four of § 706.2 is amended by adding to the existing paragraph 8 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

* * * * *

USS McClusky (FFG 41)

* * * * *

3. Table Four of § 706.2 is amended by adding to the existing paragraph 9 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

Vessel	Number	Distance of sidelights forward of masthead lights in meters
* * * * *		
USS McClusky	FFG 41	2.75
* * * * *		

Authority: Executive Order 11964; 33 U.S.C. 1605.

Dated: August 1, 1983.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 83-22291 Filed 8-15-83; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

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 USS BUFFALO (SSN 715) 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 USS BUFFALO (SSN 715) 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: August 1, 1983.

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

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605 and Executive Order 11964, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS BUFFALO (SSN 715) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c) requiring that the sternlight show an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel; Annex I, Section 2(a)(i) pertaining to the height of the masthead light; 72 COLREGS, Annex I, Section 2(k) pertaining to the height and relative positions of the anchor lights; 72 COLREGS, Annex I, Section 3(b) pertaining to the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements. Notice is also provided to the effect that USS BUFFALO (SSN 715) 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 section 706.3 are equally applicable to USS BUFFALO (SSN 715). 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 from that prescribed herein will adversely affect the ship's ability to perform its military function.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

§706.2 [Amended]

1. Table Three of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by inserting the following entry:

Vessel	Number	Masthead light, arc of visibility; Rule 21(a)	Sidelights, arc of visibility; Rule 21(b)	Stern light, arc of visibility; Rule 21(c)	Sidelights, distance inboard of ship's sides in meters; § 3(b), Annex I	Stern light, distance forward of stern in meters; Rule 21(c)	Forward anchor light, height above hull in meters; § 2(k), Annex I	Anchor lights, relationship of aft light to forward light in meters; § 2(k), Annex I
*	*	*	*	*	*	*	*	
USS Buffalo	SSN 715			209°	4.2	6.1	3.5	1.7 below
*	*	*	*	*	*	*	*	

2. Table One of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by insertion of the following entry:

Vessels	Number	Distance in meters of forward masthead light below minimum required height, §2(a)(i) Annex I
USS Buffalo	SSN 715	3.5
*	* * * * *	

Authority: E.O.11964; 33 U.S.C. 1605

Dated: August 1, 1983.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 83-22292 Filed 8-15-83; 8:45 am]

BILLING CODE 3810-AE-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans Benefits; Implementing Legislation

Correction

In FR Doc. 83-20673, beginning on page 34471 in the issue of Friday, July 29, 1983, the following paragraph should appear between the introductory paragraph and paragraph (b) of § 3.31 in column one of page 34472:

§ 3.31 [Corrected]

* * * * *

(a) *Increased award defined.* For the purposes of this section the term "increased award" means an award which is increased because of an added dependent, increase in disability or disability rating, or reduction in income. The term also includes elections of Improved Pension under section 306 of Pub. L. 95-588 (92 Stat. 2508) and awards pursuant to §§ 4.29 and 4.30 of this chapter.

* * * * *

BILLING CODE 1505-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temp. Reg. 71]

ADP Contracting

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation raises the dollar thresholds for blanket delegations of procurement authority (DPA) for Federal agencies to acquire ADP resources; grants authority to the GSA Assistant Administrator of Information Resources Management to issue letters establishing thresholds and conditions for the acquisition of ADP resources by individual Government agencies; changes the definition of automatic data processing equipment CADPE) to reflect equipment classification changes agreed to by a Joint GSA/DoD Classification Review Group in 1981 and reflected in GSA Bulletin FPMR A-79, dated October 23, 1981; adds conditions under which the award decision for low cost computers can be based on lowest offered purchase price; removes the requirement to submit copies of solicitations and contracts to GSA; and makes other clarifying changes regarding the use of ADP schedule contracts.

The purpose of this regulation is to bring the regulatory definition of ADPE into conformance with recent classification changes agreed to by GSA and DoD; to reflect GSA's change in emphasis from precontract to post contract review; to clarify the procedures for using ADP schedule contracts; and to simplify the procedures for buying low cost computers.

DATES:

Effective date: This regulation is effective September 1, 1983, but may be observed earlier.

Expiration date: This regulation will expire September 30, 1984.

Comments are due: October 1, 1983.

ADDRESS: Comments should be addressed to: General Services Administration (KMPP), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: David R. Mullins or Phillip R. Patton, Policy Branch (KMPP), Office of Information Resources Management, telephone 202 or FTS, 566-0194.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. The General Services Administration's decisions are based on adequate information concerning the need for, and consequences of, this rule. This rule has been written to ensure maximum benefits to Federal agencies. This is a Government-wide procurement regulation that will have little or no effect on society.

In 41 CFR Chapter 1, FPR Temporary Regulation 71 is added to the Appendix at the end of the Chapter.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

July 22, 1983.

Federal Procurement Regulations Temporary Regulation 71

To: Heads of Federal agencies

Subject: Changes to Federal Procurement Regulations Subparts 1-4.11 and 1-4.12

1. *Purpose.* This temporary regulation:

a. Raises the dollar thresholds for blanket delegations of procurement authority (DPA) for Federal agencies to acquire ADP resources;

b. Grants authority to GSA's Assistant Administrator of Information Resources Management to issue letters establishing thresholds and conditions for the acquisition of ADP resources by individual Government agencies;

c. Changes the definition of ADPE to reflect equipment classification changes agreed to by a Joint GSA/DoD Classification Review Group in 1981 and reflected in GSA Bulletin FPMR A-79, dated October 23, 1981;

d. Adds conditions under which the award decision for low cost computers can be based on the lowest offered purchase price;

e. Removes the requirement to submit copies of solicitations and contracts to GSA; and

f. Makes other clarifying changes regarding the use of ADP schedule contracts.

2. *Effective date.* The provisions of this regulation are effective September 1, 1983, but may be observed earlier.

3. *Expiration date.* This regulation expires September 30, 1984.

4. Background.

a. The DPA thresholds are being raised to reduce paperwork, to extend greater autonomy to Federal agencies in meeting their ADP resources needs, and to reflect GSA's shift in emphasis from precontract to postcontract review of agency ADP procurements.

b. In April 1981, a GSA/DoD Joint Classification Review Board agreed that special purpose minicomputer and microcomputer controlled systems designed to process only the office information application would be classified as Federal Supply Classification (FSC) 7435, Office Information Systems Equipment. General purpose ADPE capable of being programmed to process a variety of applications was excluded from FSC 7435 and remained in FSC Group 70. These changes were explained in FPMR Bulletin A-79 and are reflected in the Cataloging Handbook H2-1, dated May 1982. This regulation changes the definition of ADPE in Subpart 1-4.11 to conform to this classification change.

c. A subsequent GSA/DoD Joint Classification Review Board has recommended that the special purpose equipment classified as FSC 7435 be designated as 7435 "A" and that general purpose ADPE capble of being programmed to process a variety of applications, but used primarily as a word processor, be designated as 7435 "B" in nonmandatory ADP schedule contracts negotiated by GSA's Office of Information Resources Management (OIRM). This approach has been adopted as a temporary measue to help ease management, jurisdictional, and funding problems in some agencies and departments regarding these equipment types. The "A" and "B" designations do not affect basic equipment classifications or regulatory definitions. Equipment designated at 7435 "B" remains general purpose ADPE governed by all applicable ADP procurement and management regulations.

d. A common general criticism of the ADP regulations has been that they are oriented toward large, centralized equipment systems and are therefore too cumbersome and complex to be used when acquiring small, low cost end user computers. Specific criticisms center on the requirements to apply life cycle costing to small requirements, to obtain a DPA from GSA for requirements above the blanket regulatory thresholds, and to report low cost items to the ADP Management Information System (ADP/MIS). A number of changes are being made in this temporary regulation to address these perceptions, including:

(1) Adding recognition that the administrative costs of conducting a life cycle cost analysis to determine the lowest overall cost alternative should be commensurate with the cost or price of the item being acquired;

(2) Adding conditions under which ADPE priced at $25,000 or less may be acquired on the basis of lowest offered purchase price;

(3) Excluding special purpose office information system equipment designated in ADP schedule contracts as 7435 "A" equipment, from the definition of ADPE, thereby generally exempting such equipment from the ADP procurement regulations; and

(4) Raising the blanket DPA thresholds.

d. Related changes are being made in an FPMR Temporary Regulation that will exempt ADP equipment systems costing $50,000 or less from the ADP/MIS reporting requirements; and will merge the existing regulations governing word processing into the ADP management regulations.

e. An FPMR Bulletin is also planned that will announce the availability of a recently completed report titled "Managing End User Computing in the Federal Government" and that will include recommended agency policies and procedures regarding information resources management.

5. *Explanation of Changes.*

a. The following changes are made in Subpart 1–4.11.

(1) Section 1–4.1100 is amended to recognize that use of GSA nonmandatory schedule contracts covers certain office automation equipment related to ADP equipment, as follows:

§ 1–4.1100 Scope of subpart.

This subpart sets forth policies and procedures relating to the procurement of all automatic data processing equipment (ADPE), commercially available software, maintenance services, and related supplies by Federal agencies (see also § 1–4.1109–1) and by Government contractors as directed by agencies. Use of GSA nonmandatory ADP schedules for certain office automation equipment not defined as ADP equipment is also included.

(2) Section 1–4.1102–1 is amended to clarify office automation and telecommunications equipment definitions regarding automatic data processing equipment in paragraphs (a) and (b) as follows:

§ 1–4.1102–1 Automatic data processing equipment.

* * * * *

(a) Included are:

(1) Main-frame, mini, and micro digital, analog, or hybrid computers;

(2) Auxiliary or accessorial equipment, such as plotters, tape cleaners, tape testers, data conversion equipment, source data automation recording equipment (optical character recognition devices, computer input/output microfilm and other data acquisition devices), or computer performance evaluation equipment; etc., designed for use with digital, analog, or hybird computer equipment, either cable or modem connected, wire connected, or stand alone, and whether selected or acquired with a computer or separately;

(3) Punched card accounting machines that can be used in conjunction with or independently of digital, analog or hybird computers;

(4) Devices used to control and transfer data and/or instructions to and from a central processing unit (CPU), including data transmission terminals, batch terminals, display terminals, modems, sensors, multiplexors, and concentrators;

(5) Storage devices that are designed to be cable connected for use on line in which data can be inserted, retained, and retrieved for later use;

(6) General purpose mini or micro computers used as control mechanisms where computer technology is essential in controlling, monitoring, measuring, and directing processes, devices, instruments, or other equipment (see also FPR § 1–4.1109–18 and FPMR § 101–35.207–1); and

(7) Equipment used in office automation applications that is designed to be controlled by a general purpose data processing language primarily to be applied through the internal execution of a series of instructions, not limited to specific key stroke functions, and designed to process a variety of applications. (See also FPR § 1–4.1104(c)(3).)

(b) Excluded are:

(1) ADPE systems and components specially designed as (opposed to configured) and produced to perform computational, data manipulation, or control functions, but which have no general purpose applicability;

(2) ADPE that is modified at the time of production to the extent that:

(i) It no longer has a commercial ADP market; or

(ii) It cannot be used to process a variety of applications; or

(iii) It can be used only as an integral part of a non-ADP system.

(3) Section 1–4.1102–10 is revised to reflect that the cost to the agency of determining the lowest overall cost alternative should be commensurate with the cost or price of the item being acquired, as follows:

§ 1–4.1102–10 Lowest overall cost.

"Lowest overall cost" means the least expenditure of funds over the system/item life, price and other factors considered. Lowest overall costs shall include purchase price, lease or rental prices, or service prices of the contract actions involved, other factors, and other identifiable and quantifiable costs that are directly related to the acquisition and use of the system/item; e.g., personnel, maintenance and operation, site preparation, energy consumption, installation, conversion, system start-up, contractor support, and the present value discount factor (see also FPMR § 101–35.210). However, the administrative costs of conducting an analysis to determine the lowest overall cost alternative shall be commensurate with the cost or price of the item being acquired and with the benefits expected to be derived from conducting the analysis. (Also see § 1–4.1103–6

regarding ADPE priced at $25,000 or less.)

(4) Section 1–4.1103–6 is added to allow award based on lowest offered purchase price for ADPE priced at $25,000 or less, as follows:

§ 1–4.1103–6 Award criteria for low cost purchases.

Agencies may acquire ADPE on the basis of lowest offered purchase price when all of the following conditions are met:

(a) The purchase price of each system or item of equipment (including associated software) being acquired does not exceed $25,000;

(b) The total purchase price of all of the equipment and software being acquired under the procurement is $300,000 or less;

(c) The requirements are not fragmented to circumvent the thresholds in § 1–4.1103–6 (a) and (b);

(d) The purchase method is likely to be the lowest overall cost acquisition alternative (see FPMR §§ 101–35.209 and 101–35.210); and

(e) The agency determines, based on the requirements analysis, determination of system/item life, and comparative cost analysis, that award based on lowest offered purchase price is consistent with the lowest overall cost policy objective. (See FPMR §§ 101–35.207, 208 and 209.)

(5) Section 1–4.1104 is revised to provide the following changes: (1) To restate the provisions now in paragraph (a); (2) to broaden the provisions now in paragraph (b) to encompass the entire subpart in new paragraph (c)(2); (3) to delete the requirements now in paragraphs (c) and (d) for agencies to furnish copies of solicitations and contracts to GSA; (4) to change paragraph (a) to add a provision authorizing GSA's Assistant Administrator for Information Resources Management to change the blanket thresholds (up or down) or change other specific conditions regarding the exercise of procurement authority by an agency or component thereof upon written notice; (5) to repeat the changes made as paragraphs (a)(2) and (a)(3) in Temporary Regulation 64 in regard to responsibilities and accountability of agency senior designated officials in new paragraphs (b)(1) and (b)(2); (6) to place the requirement now in paragraph (a) for compliance with FPMR Subchapter F in new paragraph (c)(1); and (7) to delete paragraph (d), as follows:

§ 1–4.1104 Procurement authority.

(a)(1) To allow for the orderly implementation of a program for the economical and efficient acquisition of ADPE, commercially available software, maintenance services, and related supplies, agencies are authorized to acquire by contracting for these items—

(i) In accordance with the provisions of this § 1–4.1104, or

(ii) When a specific delegation of procurement authority has been provided by GSA in accordance with the provisions of §§ 1–4.1105 and 1–4.1106.

(2) Specific changes in thresholds or conditions regarding the exercise of procurement authority by a particular agency or component thereof may be authorized by the GSA Assistant Administrator for Information Resources (K). The changes will be in writing, will cite this paragraph (a)(2) of § 1–4.1104, will state effectivity and scope of applicability, and will be directed to the designated senior official of the applicable agency.

(3) Requirements shall not be fragmented in order to circumvent the established blanket delegation of procurement authority thresholds.

(b)(1) The provisions of Pub. L. 96–511 (the Paperwork Reduction Act of 1980) direct each executive agency head to designate a senior official (officials in DOD) reporting to the agency head to be responsible for implementing the Act. This designated senior official is assigned responsibility for the conduct of and accountability for any acquisitions made under a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) (See 44 U.S.C. 3506 (c)(4)).

(2) The designated senior official in each agency shall advise GSA in writing of the position title and organizational identity of those officials who have been authorized to submit agency procurement requests to GSA (see also § 1–4.1105 and § 1–4.1107). The designated senior official shall keep the listings current. (A change of incumbent in an unchanged position and organizational assignment does not require notification.) Listings shall be submitted to GSA (KMA), Washington, DC 20405.

(c)(1) Agencies shall comply with the applicable provisions of FPMR Subchapter F before initiating procurement action on an approved requirement.

(2) Agencies shall accomplish procurement actions in accordance with the provisions of this Subpart 1–4.11.

(6) Section 1–4.1104–1 is revised to provide the following changes: (1) To remove the phrase "unless procurement authority has been specifically withdrawn" in the opening paragraph (but see new paragraph (a)(2) of § 1–4.1104); (2) to revise upward the blanket thresholds for competitive ADPE procurements made by "normal solicitation procedures" from $500,000 purchase price or $150,000 annual rental charges to $2,500,000 purchase price or $1,000,000 annual rental charges; and (3) to revise upward the blanket threshold for sole source or specific make or model ADPE procurements made by "normal solicitation procedures" from $50,000 purchase price or $18,000 annual rental charges to $250,000 purchase price or $100,000 annual rental charges, as follows:

§ 1–4.1104–1 Automatic data processing equipment.

Except as indicated in § 1–4.1104–5 regarding potential use of the ADP Fund, FPMR Subpart 101–36.2 regarding sharing, and FPMR subpart 101–36.3 regarding the use of excess ADPE, agencies may procure ADPE without prior approval of GSA when either paragraphs (a), (b), or (c) applies.

(a) The procurement is to be made by placing a purchase/delivery order against an applicable GSA requirements-type contract.

(b) The procurement is to be made by placing a purchase/delivery order against a GSA schedule contract provided that the following three conditions are met:

(1) The order is within the maximum order limitation (MOL) of the applicable contract;

(2) The total purchase price (even though the item(s) are to be rented or leased) of the item(s) covered by the order does not exceed $300,000;

(3) The requirements set forth in § 1–4.1109–6 on the use of GSA schedule contracts are met.

(c) The procurement is to be made by solicitation procedures other than use of GSA requirements-type or schedule contracts and the value of the procurement (including evauated optional features) does not exceed:

(1) $2,500,000 purchase price or basic monthly rental charges (including attendant maintenance costs) that do not exceed an annual rate of $1,000,000 for competitive procurements; or

(2) $250,000 purchase price or basic monthly rental charges (including attendant maintenance costs) that do not exceed an annual rate of $100,000 for sole source or specific make and model procurements.

(7) Section 1–4.1104–2 is revised to provide the following changes to clarify that the blanket thresholds apply irrespective of method or time period (e.g., purchase, perpetual license, or

annual services), and to revise upward the blanket thresholds for procurements made by "normal solicitation procedures" from $100,000 competitive and $50,000 sole source to $1,000,000 for competitive procurements and $100,000 for sole source procurements, as follows:

§ 1-4.1104-2 Software.

Except for software available through the Federal Software Exchange Center as covered by FPMR Subpart 101-36.16 and software provided with and not separately priced from the ADPE, agencies may procure commercially available software without prior approval of GSA when either (a), (b), or (c) applies.

(a) The procurement is to be made by placing a purchase/delivery order against an applicable GSA requirements-type contract.

(b) The procurement is to be made by placing a purchase/delivery order under the terms and conditions of an applicable GSA schedule contract [see § 1-4.1109-6].

(c) The procurement (regardless of method or time period) is to be made by solicitation procedures other than use of GSA requirements-type or schedule contracts and the value of the procurement (including evaluated optional features) does not exceed:

(1) $1,000,000 for competitive procurements; or

(2) $100,000 for sole source procurements.

(8) Section 1-4.1104-3 is revised to raise the blanket thresholds for procurements made by "normal solicitation procedures" from $200,000 per year competitive and $50,000 per year sole source, to $1,000,000 per year competitive and $100,000 per year sole source, as follows:

§ 1-4.1104-3 Maintenance services.

Agencies may procure maintenance services without prior approval of GSA when either paragraph (a) or (b) of this § 1-4.1104-3 applies.

(a) The procurement is to be made by placing a purchase/delivery order under the terms and conditions of an applicable GSA schedule contract [see § 1-4.1109-6].

(b) The procurement is to be made by solicitation procedures other than use of GSA requirements-type or schedule contracts and the monthly charges do not exceed:

(1) An annual rate of $1,000,000 for competitive procurements; or

(2) An annual rate of $100,000 for sole source procurements.

(9) Section 1-4.1109-6 is amended to provide the following changes: (1) Paragraph (a)(1) is revised to indicate that § 1-4.1109-6 is to be used in context with the regulations; (2) paragraph (a)(2) is revised to limit the use of "only new" and "all or none" requirements unless justified; (3) paragraph (a)(3) is revised to indicate that administrative costs in relation to the value of the requirement should be considered when determining the number of schedule offerings to be considered; (4) paragraph (a)(3)(ii) is revised to indicate that "third party" suppliers should be considered when determining whether a requirement should be satisfied by a schedule order or by issuing a solicitation document; (5) paragraph (a)(4) is added to place the requirement to synopsize schedule orders in the Commerce Business Daily (CBD) in the opening paragraph; (6) paragraph (a)(5) is added to recognize that the nonmandatory ADP schedules offer special purpose (FSC 7435 "A") equipment as well as general purpose ADPE; (7) paragraphs (b), (c), and (d) are revised to remove the references to the CBD synopsis, which is now more fully explained in paragraphs (a) and (f); (8) subparagraphs (b) (3) and (4) are deleted; (9) paragraph (c) is rewritten to combine paragraphs (c) (1) and (2) with the introductory paragraph; (10) paragraph (d) is rewritten to combine subparagraphs (d) (1) and (2) with the introductory paragraph; (11) paragraph (e) is rewritten to combine paragraphs (e) (1) and (2) with the introductory paragraph; (12) paragraph (f) is revised to redesignate paragraphs (f) (1) and (2) as (f) (2) and (3); to add a new paragraph (f)(1) to extend the CBD synopsis requirement to schedule orders for software and maintenance and to change the CBD synopsis thresholds to $50,000 purchase price instead of $50,000 per schedule order; and to state in new paragraph (f)(2) that the CBD synopsis shall reflect system life, net purchase price if converting from lease, any restrictive requirements, any requirements unique to software or maintenance, and that the notice is not to be considered a formal solicitation document; and (13) paragraph (g) is revised to clarify in (g)(2) that CBD responses are encouraged from both schedule vendors and nonschedule vendors, and to add guidance in (g)(2)(ii) regarding the analysis of CBD responses from schedule vendors offering schedule prices, and in (g)(2)(iii)(B) to clarify that a competitive procurement resulting from responses to a CBD synopsis must be publicized, as follows:

§ 1-4.1109-6 Use of GSA schedule contracts.

(a) *General.* (1) In addition to the requirements of Subpart 1-4.11 and FPMR Subchapter F, orders placed against GSA nonmandatory schedule contracts under § 1-4.1104 are subject to the provisions of this § 1-4.1109-6. When a schedule contract is used pursuant to a § 1-4.1104 blanket delegation of procurement authority, a specific delegation of procurement authority from GSA is not required even though the order is for a noncompetitive (sole source) requirement as defined in § 1-4.1102-8.

(2) The existence of nonmandatory ADP schedule contracts shall not preclude or waive the requirement for maximum practicable competition in obtaining ADP or related equipment, software, or maintenance services. In addition, the availability of those items under an ADP schedule contract shall not preclude or otherwise detract from procuring the items, including peripheral equipment or items for augmenting an existing system, from a number of different sources if this action will be in the best interest of the Government. Accordingly, an "all or none" requirement or a requirement for "only new" equipment shall not be used unless specifically justified.

(3) Suitable equipment must be considered whether or not this equipment is on an ADP schedule contract. Accordingly, when an agency is procuring under the blanket delegation of procurement authority provisions of § 1-4.1104, maximum practicable competition shall be sought. When using ADP schedules, the offerings of a sufficient number of schedule contractors that might satisfy the agency's requirements shall be considered. (See also § 1-1.302-1(b) for policy intent.) Alternatively, the agency may choose to prepare a solicitation package in an effort to secure appropriate products and related services at lower overall costs to the Government. Even though the solicitation process consumes time and resources, it may be in the best interest of the Government when:

(i) The expected cost reduction will exceed the added costs of acquisition; or

(ii) There is a reasonable expectation that better offers will be received from suppliers other than the schedule contractor (e.g., the "third party" suppliers) for suitable items; or

(iii) The agency requirements cannot be satisfied reasonably by any ADP schedule contractor; e.g., the agency's requirement calls for a customized package of equipment, training services, or other features not offered commercially.

(4) Agencies shall comply with the synopsis requirements of paragraphs (f) and (g) of this section before placing

orders, as outlined in paragraphs (b), (c), (d), and (e) of this section, against GSA nonmandatory schedule contracts.

(5) Special purpose equipment is available under GSA nonmandatory ADP schedule contracts. These items are designated as FSC 7435 "A" equipment in the schedule contracts. This Subpart 1–4.11 does not apply to these special purpose items, except that agencies must follow the provisions of this § 1–4.1109–6 before ordering such equipment from a nonmandatory ADP schedule contract. However, in no case is a delegation of procurement authority from GSA required for equipment designated as 7435 "A". (Note that the 7435 "A" and "B" designations will not be used after FY 1984.)

(b) *Initial acquisition of ADPE.* Orders for the initial acquisition of ADPE, whether for purchase or rental, may be placed against the ADP schedule contracts provided that all of the following conditions are met.

(1) The order does not exceed the contract's maximum order limitation (MOL).

(2) When the purchase price of the items covered (even though the items are rented or leased) exceeds $300,000, a specific delegation of procurement authority is obtained. (See §§ 1–4.1104–1(b)(2) and 1–4.1105.)

(c) *Continued rental or lease of installed ADPE and software.* ADP schedule contracts may be used for the continued lease or rental of installed equipment and software under the provisions of the schedule contract. However, when orders are for or include the continued lease of an installed central processing unit (CPU), a specific delegation of procurement authority under § 1–4.1105 shall be obtained before issuing the renewal order if the schedule purchase price exceeds $300,000 and the results of the Commerce Business Daily (CBD) synopsis indicates that the equipment is available from a source other than the schedule contract.

(d) *Conversion from lease to purchase of installed ADPE.* A specific delegation of procurement authority shall be obtained before issuing an order to purchase previously leased ADPE with a net purchase order price of more than $300,000 when identical (specific make and model) or suitable substitute equipment is available from a supplier other than the schedule contractor.

(e) *Acquisition of software and maintenance services.* Orders may be placed against ADP schedule contracts for software and maintenance services provided that the value of the order does not exceed the MOL of the applicable schedule contract.

(f) *Synopsis requirements.*

(1) The intent to place an order for ADPE, software, or maintenance services against a nonmandatory ADP schedule contract shall be synopsized in the CBD at least 15 calendar days before placing the order, when the purchase price of the equipment (whether purchased or leased) exceeds $50,000, or when the software or maintenance charges exceed an annual rate of $50,000. (Note.—This synopsis requirement is applicable to the conversion from lease to purchase of ADPE, but it is not applicable to the continued lease of installed ADPE that does not include a CPU.) This synopsis requirement applies notwithstanding the exemption in § 1–1.1003–2(a)(5) or, if applicable, DAR 1–1003.1(c)(v)).

(2) These synopses should include sufficient information to permit the agency analyses required by § 1–4.1109–6(g). They shall be prepared and forwarded in accordance with Subpart 1–1.10 (or, if applicable, DAR Part 1–10). As a minimum, and as applicable, these synopses shall state:

(i) Quantities, dates required, any restrictive (e.g., bundled) requirements that have been justified, and a point of contact, including phone number, for further information;

(ii) Specific make and model, system/item life, and support requirements (e.g., hours of maintenance coverage, response times) of any equipment to be ordered or maintained;

(iii) The name, functional description, and operating environment of any software packages to be ordered;

(iv) A request for pricing data; and

(v) A statement that no contract award will be made on the basis of any response to the notice, because the synopsis of intent to place an order against a schedule contract shall not be considered a formal solicitaion document.

(3) Publication of contract award information in the CBD is not required when an order is placed against an ADP schedule contract, whether or not it follows a competitive solicitation, since the schedule contract was publicized in accordance with § 1–1.1004.

(g) *Actions after the CBD synopsis.* The schedule order synopsis technique provides agencies with both the GSA negotiated schedule prices (derived from discounting prices in the competitive commercial marketplace) and such additional product and cost information as might be submitted by potential nonschedule suppliers in response to the CBD notification. After consideration of the affirmative responses received in response to the CBD notice, the contracting officer must decide whether ordering from an ADP nonmandatory schedule, or conducting a competitive acquisition, is most advantageous to the Government. Accordingly, the contracting officer shall take one of the following actions:

(1) When no responses are received, the procurement file shall be documented with the results of the CBD synopsis and the order placed in accordance with the terms and conditions of the applicable schedule contract.

(2) When a response to the CBD notice is received from either a nonschedule vendor or a schedule vendor (expressing an interest either on or off schedule) for an item(s) that meets the user's requirement, the contracting officer shall take one of the following actions:

(i) Document the procurement file with an analysis that indicates that the respondent's item(s) would not meet the requirement, or that the synopsized schedule item(s) provides the lowest overall cost alternative, and place the order against the synopsized schedule contract; or

(ii) Document the procurement file with an analysis that indicates that a responding vendor's schedule offering will meet the requirement at the lowest overall cost and place an order against that ADP schedule contract; or

(iii) Document the procurement file with an analysis that indicates that a competitive acquisition would be more advantageous to the Government. When this is the case, the contracting officer normally should issue a formal solicitation. In this event:

(A) The solicitation should contain terms and conditions substantially the same as those contained in the schedule contract in which the order was to be placed. The addresses of the solicitation shall include the schedule vendor for the purpose of ascertaining the vendor's interest in furnishing the item(s) off the schedule. This procedure will permit the schedule vendor to discount the schedule item(s) price since a discount under a separate proposal would not be a "price reduction" as provided in the schedule contracts.

(B) The agency shall publicize the procurement in accordance with the provisions of FPR § 1–1.1003–2 (or, if applicable, DAR 1–1003).

(C) The contracting officer shall evaluate the offers received. It should be noted that some vendors may not agree to the solicitation terms and conditions that schedule vendors have accepted and that have been incorporated in their schedule contracts. The contracting officer shall act in a manner most

advantageous to the Government by either awarding a contract based on the offers received in response to the solicitation or placing an order with a vendor under a schedule contract. The procurement file shall be documented to justify the action taken.

* * * * *

b. The following change is made in Subpart 1–4.12. Section 1–4.1203 is amended to provide the following changes in paragraph (d): (1) Blanket thresholds now in subparagraphs (1) and (2) are revised upward in new subparagraph (1) from $300,000 per year for competitive procurement and $50,000 per year for a sole source procurement to $2,000,000 per year for a competitive procurement and $200,000 per year for a sole source procurement; (2) a new provision is added in paragraph (d)(2) authorizing GSA's Assistant Administrator for Information Resources to change the blanket thresholds (up or down) or change other specific conditions regarding the exercise of procurement authority by an agency or component thereof upon written notice; and (3) some provisions now in paragraphs (d)(1) and (d)(2) are restated in paragraphs (d)(3) and (d)(4), as follows:

§ 1–4.1203 Authorization for commercial ADP services contracting.

* * * * *

(d)(1) Agencies may procure commercial ADP services without prior approval of GSA when the monthly charges (including evaluated optional features) do not exceed:

(i) An annual rate of $2,000,000 for a competitive procurement; or

(ii) An annual rate of $200,000 for a sole source procurement.

(2) Specific changes in thresholds or conditions regarding the exercise of procurement authority by a particular agency or component thereof may be authorized by the GSA Assistant Administrator for Information Resources Management. The changes will be in writing, will cite this paragraph (d)(2) of § 1–4.1203, will state effectivity and scope of applicability, and will be directed to the designated senior official of the applicable agency.

(3) Agencies shall comply with the requirements regarding the sharing or use of existing Federal ADP resources and the use of GSA sources of supply before initiating procurement action under authority of this § 1–4.1203(d).

(4) Requirements shall not be fragmented in order to circumvent the established blanket delegation of procurement authority thresholds.

* * * * *

6. *Effect on other directives.* This temporary regulation supersedes paragraph 5d of FPR Temporary Regulation 64, dated February 3, 1982.

7. *Agency actions.* Pending the issuance of a permanent amendment to the Federal Procurement Regulations, agencies shall follow the policies and procedures in this temporary regulation.

8. *Information and assistance.* Inquiries should be directed to Mr. David R. Mullins or Phillip R. Patton, Policy Branch (KMPP), Office of Information Resources Management, Telephone 202, or FTS, 566–0194.

9. *Submission of comments.* The views of agencies and other interested parties are invited regarding the effect or impact of this regulation and the policy and procedures that should be adopted in the future. All comments received before October 1, 1983, will be considered. Comments should be addressed to GSA (KMPP), Washington, DC 20405.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83–22165 Filed 8–15–83; 8:45 am]

BILLING CODE 6820–25–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 71

Implementation of Coastal Barrier Resources Act

AGENCY: Federal Emergency Management Agency (FEMA)

ACTION: Final rule.

SUMMARY: This rule implements section 11 of the Coastal Barrier Resources Act of 1982 (Pub. L. 97–348) which prohibits new flood insurance coverage on or after October 1, 1983, for new construction or substantial improvements of structures located on coastal barriers within the Coastal Barrier Resources System established by section 4 of the Coastal Barrier Resources Act.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: John Scheibel, Assistant General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Washington, D.C. 20472, Telephone: (202) 287–0380.

SUPPLEMENTARY INFORMATION: Section 11 of the Coastal Barrier Resources Act of 1982 (Pub. L. 97–348) (CBRA) amends section 1321 of the National Flood Insurance Act of 1968 (Pub. L. 90–448) by providing in pertinent part:

> No new flood insurance coverage may be provided under this title on or after October 1, 1983, for any new construction or substantial improvements of structures located on any coastal barrier within the Coastal Barrier Resources System established by section 4 of the Coastal Barrier Resources Act.

It is the intention of this regulations to define the key terms of section 11 of CBRA, and to identify the documentation which will be required to demonstrate that a structure is not covered by the terms of CBRA and is eligible to receive new flood insurance coverage.

Summary of Changes

On May 25, 1983, FEMA published a proposed rule implementing section 11 of CBRA. The Agency received over 240 comments on the proposed rule, almost all of which were critical of FEMA's approach to CBRA. The focal point of the comments was the definition of "new construction." Under the proposed rule, FEMA would provide flood insurance to a structure on an undeveloped coastal barrier provided that the start of construction took place before October 1, 1983 and the structure was completed by April 1, 1984. There was virtual unanimity among the comments that the April 1, 1984 date was not consistent with CBRA.

FEMA has reviewed the proposed rule in light of the comments received. The Agency has determined that it was the intent of Congress that structures, the construction of which began on or after October 18, 1982 (the date CBRA became law), must be completed by October 1, 1983 in order to be eligible for flood insurance. A structure, the construction of which started before October 18, 1982, may be completed at any time in the future to be eligible for flood insurance.

A number of comments raised problems with the documentation required, and in particular the documents required to demonstrate that the start of construction took place prior to a given date. Pursuant to these comments and our own perspective, affidavits will be replaced by written statements signed by the responsible community official.

Under a new sub-section, any policy issued where the terms of this section have not been complied with is void *ab initio* and without effect. That sub-section also makes clear that false statements or false representations may be punishable by fine or imprisonment.

The Proposed Rule

The proposed regulation defined "new construction" as structures other than those fully completed prior to October 1, 1983, which do not meet 3 specified criteria. It was not the intent of CBRA to deny flood insurance to a structure which was fully completed prior to October 1, 1983, unless, subsequent to September 30, 1983, it is substantially improved. Absent substantial improvement, there can be no question but that the structure was existing construction rather than new construction, and section 11 of CBRA would not apply.

Under the proposed rule, if construction had not yet started on October 1, 1983, then the structure was to be considered "new construction." However, if the start of construction (see 44 CFR 59.1 for complete definition) had taken plaee prior to October 1, 1983, but the structure was not fully completed as of that date, an allowance would be made. If the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation, took place prior to October 1, 1983, the structure was to be eligible for the sale of flood insurance provided that: (1) A legally valid building permit or its equivalent was obtained prior to October 1, 1983, for the construction; and (2) the structure constituted an insurable building, having walls and a roof no later than April 1, 1984.

CBRA also prohibits new flood insurance coverage for substantial improvements of structures occurring on or after October 1, 1983. The regulations of the National Flood Insurance Program define "substantial improvement" in pertinent part as any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored before the damage occurred. For the purpose of this definition in the proposed rule, "substantial improvement" was considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences whether or not that alteration affects the external dimensions of the structure (see 44 CFR 59.1 for complete definition).

Under the proposed rule, where a structure is substantially improved either by expansion, or by restoration when it has been damaged, no new flood coverage was to be provided for such structure. Since a new policy and a renewal policy constitute new coverage (and include a new policy year in a 3 year policy), the substantially improved structure would not be eligible for either. If a structure is expanded by 50 percent or more, or is damaged and the repairs equal or exceed 50 percent of its pre-damage value, such structure would not be eligible to receive a new or renewed policy of flood insurance.

To enable FEMA to implement these provisions in a responsible manner, the Agency was to require some basic documentation.

In order to obtain flood insurance coverage on or after October 1, 1983, for a structure the construction of which was commenced prior to October 1, 1983, are completed by April 1, 1984, the owner was to submit the following documentation:

a. A legally valid building permit or its equivalent for the construction of the structure, dated prior to October 1, 1983. If the community did not have a building permit system at the time the structure was built, a sworn and notarized affidavit to this effect by the responsible community official would be accepted in lieu of the building permit. If the community had a building permit system in effect but the permit was lost or destroyed, a sworn and notarized affidavit to this effect by the responsible community official would be sufficient. This latter affidavit was also to include a certification stating that the official had inspected the structure and found no evidence that the structure is not in compliance with the building code at the time the structure was built;

b. A sworn and notarized affidavit signed by the community official responsible for building permits, attesting to the fact that he/she knows of his/her own knowledge or from official community records that:

(1) The start of construction of such structure took place prior to October 1, 1983;

(2) The structure has not been substantially improved since September 30, 1983; and

(3) The structure constituted an insurable building, having walls and a roof permanently in place no latter than April 1, 1984.

c. A community issued final certificate of occupancy or other use permit, or equivalent proof, certifying that the building was completed (walled and roofed) by April 1, 1984. Equivalent proof would include, for example, evidence of final inspection of the building's electrical system; a deed, together with closing or settlement documents establishing that the title was transferred as to the land and improvement by April 1, 1984, etc.

Response to Comments

Over 240 comments were received. All but a handful of these comments opposed what they termed the "6—month extension" of the availability of flood insurance on undeveloped coastal barriers. Many of these comments elaborated that a structure should be fully completed, and insurable by October 1, 1983. Many also explained that it was necessary to hold to this deadline in order to meet the intent of CBRA, to protect the environment of undeveloped coastal barriers and to save tax dollars by limiting flood insurance in these hazardous areas.

Although the Agency did not intend in issuing the proposed rule to provide an extension of the statutory deadline, we do agree with the primary point being made—that flood insurance should only be available to structures on undeveloped cosastal barriers if such structures are insurable buildings by October 1, 1983; in our view, this represents the intent of Congress.

A few comments also identified October 18, 1982, the date CBRA became law, as the cut-off for start of construction. If a structure was begun before that date, it should be entitled to flood insurance at any time in the future. If a structure was started on or after October 18, 1982 but completed before October 1, 1983, it too should be eligible for flood insurance.

We agree with this position and recognize that there is support for it in the legislative history of CBRA and the Omnibus Budget Reconciliation Act (OBRA), in which the flood insurance prohibition was first enacted into law. In a statement which was "cleared with the Chairman and ranking members and represent[s] our joint interpretation of the flood insurance provision," Congressman Thomas Evans, the author of the Coastal barriers bill in the House of Representatives (H.R. 3252), explained that, "The terms of new construction and substantial improvements are standard terms defined by regulations issued by the Federal Insurance Administration (44 CFR Part 59)." Mr. Evans went on to state that structures "erected" prior to October 1, 1983 will still be eligible for flood insurance. Later in this statement, the Congressman explained that structures "erected" after an area has been designated as an undeveloped coastal barrier but before October 1, 1983, will be eligible for flood insurance 127 Cong. Rec. H. 57923 (July 31, 1981).

Among those advocating this position in comments to FEMA were Senators Chafee, Stafford, Randolph, Moynihan, and Mitchell, and Congressman Evans. Senator Chafee was the author and chief sponsor of S. 1018, the Senate version of the bill, and he, along with Senators Stafford, Randolph, and Moynihan were members of the Conference Committee which reported out the coastal barriers bill. In addition to being the author and primary sponsor of H.R. 3252, the House version of the bill, Congressman Evans was also a conferee.

In interpreting the term "new construction" as used in CBRA, we must reconcile the potentially divergent approaches of the Agency's regulatory definitions and the Congressman's repeated use of the term "erected" in his floor statement. The Agency's definition refers to a structure for which the start of construction has not taken place as of a critical date. The use of term "erected" indicates, however, that there must be a completed structure by a certain date. These two concepts can be merged by recognizing Congress' intent to establish two categories of structures which would be excluded from the definition of new constrution and therefore be eligible for flood insurance: those "erected after an area has been designated as an undeveloped coastal barrier but before October 1, 1983," and those started before October 18, 1982. Ibid. Mr. Evans has impliedly identified the critical date by which construction must have been started (in order to be excluded from the category of "new construction") as the date of designation of the undeveloped coastal barrier. That date is October 18, 1982, when CBRA became law. If a structure is started on or after that date, the grace period built into OBRA and CBRA allows until October 1, 1983, for the structure to be erected.

In justifying the more restrictive approach of having a structure be completed by October 1, 1983 in order to be eligible for flood insurance, one commenter points out that ample notice had been provided to developers and other property owners well in advance of the coming prohibitions. OBRA was passed in August 1981, more than two years in advance of the effective date of the insurance prohibition. There was extensive congressional consideration of the measure, both before and after OBRA, in the form of committee hearings, and floor debates. Further, in its proposed fule of May 25, 1983, FEMA acknowledged that it was making an allowance by imposing April 1, 1984 as the final date for completion of structures. FEMA believes that ample notice has been provided to developers and other property owners. Nevertheless, we have been and will continue to notify those who will be most directly affected by this regulation.

Two comments also suggest that flood insurance should only be available up until October 1, 1983 for any structure on which construction had not begun as of October 18, 1982. In our view, denying flood insurance for structures completed but not insured prior to October 1, 1983 was not the intent of Congress.

A few comments, representing pro-development and pro-environment interests agreed that the proposed rule's April 1, 1984 deadline for completing structures started before October 1, 1983 is arbitrary and without foundation in CBRA or its legislative history. Though we believe this to be overstated, we accept the essential concern raised. As described above, the October 1, 1983 date for completion of structures best reflects the intent of Congress. Though we recognize that this is not the course the pro-development interests were suggesting that FEMA take in criticizing the April 1, 1984 deadline, we are concerned with the legislative basis for selecting April 1, 1984.

There were a number of specific concerns raised with the April 1, 1984 cut-off date. Two comments asserted that it was unlikely that property owners would put down foundations with no present intent of building, in order to circumvent CBRA. It was explained that once construction begins, the financial commitments to build have already been made. It was also stated that the April 1, 1984 deadline does not consider circumstances beyond the property owner's control which might delay construction. A few alternatives to the April 1, 1984 deadline were offered; these included its elimination (no cut-off at all), providing a review process for construction to ensure that it is moving along, and allowing one (1) year from October 1, 1983 (as opposed to the 6 months). As is indicated above, FEMA determined that a post-October 1, 1983 cut-off date for completion of structures is inappropriate.

A few comments agreed that an allowance should be made for construction started but not completed by October 1, 1983; they contended that a building permit dated prior to October 1, 1983 should suffice to demonstrate that construction was stated before that date. We have accommodated this concern in part. The relevant date by which construction must have been started has been changed from prior to October 1, 1983 to prior to October 18, 1982. Also, there must be a building permit dated prior to October 18, 1982. A written statement signed by the community official stating that construction started before October 18, 1982, rather than a sworn affidavit to that effect will be required. We have made this change throughout the regulation to be consistent with program practice and to eliminate any undue burdens. It should be explained that if construction had not started prior to October 18, 1982, the structure is still eligible for flood insurance provided that construction is completed by October 1, 1983.

One comment raised concerns regarding the definitions of "substantial improvement" and "elevation" in the regulations of the National Flood Insurance Program. The points made do not concern the proposed regulation. The same commenter suggested that "grandfathering" of insurance eligibility should apply to property and not individuals. We agree and believe that this is in the rule. One comment suggests that FEMA revise its flood insurance manual to reflect this rule. This will be done.

The Final Rule

Under the final rule a structure is not considered "new construction" if a building permit or its equivalent was obtained for its construction prior to October 18, 1982 and the start of construction took place prior to that date. The definition of "start of construction" will be the one in effect at the time CBRA became law, October 18, 1982 (see 44 CFR 59.1, October 1, 1982). A structure is also not considered new construction if the structure constitutes an insurable building by October 1, 1983 and a building permit or its equivalent was obtained prior to that date.

The definition of "substantial improvements" in the proposed rule has not been changed. A structure is considered to be a "substantial improvement" if the substantial improvement (see 44 CFR Part 59) of such structure took place on or after October 1, 1983. The definition of "new flood insurance coverage" also has not been changed, and means a new or renewed policy of flood insurance (including a new policy year in a 3 year policy).

As indicated above, the documentation required by the proposed rule has been modified slightly. For structures the construction of which started before October 18, 1982, the building permit or its equivalent must be dated prior to October 18, 1982. For these structures, a written statement signed by the community official is now

required and it must state the date the start of construction took place, and attest that the structure has not been substantially improved since September 30, 1983. For a structure the construction of which started on or after October 18, 1982, but was completed before October 1, 1983, there must be a building permit or its equivalent, dated before October 1, 1983. There must also be signed statements that the structure has not been substantially improved since September 30, 1983, and the structure constituted an insurable building by October 1, 1983. Finally, there must be a community issued final certificate of occupancy or other use permit or equivalent proof that the building was completed (walled and roofed) by October 1, 1983.

To clarify what should have been understood, if a flood insurance policy is issued where a provision of this regulation has not been complied with or is otherwise inconsistent with the provisions of this section, the policy is void upon issuance; this is so even if the failure to comply is not discovered until the time of loss.

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500–1508), the Federal Emergency Management Agency (FEMA) prepared an environmental assessment of the issuance by FEMA of the Proposed rule. FEMA has prepared a revised environmental assessment to reflect the provisions of the final rule.

The revised assessment concludes that there will be no significant impact on the natural or manmade environment as a result of the definitions in the rule or the documentation to be required.

It is, therefore, found that the action will not have a significant impact on the natural or manmade environment. On this basis, an Environmental Impact Statement will not be prepared.

Copies of the revised environmental assessment are available for inspection at the Federal Emergency Management Agency, Room 840, 500 C Street, S.W., Washington, D.C. 20472, telephone (202) 287–0395.

This regulation will not have a significant impact on a substantial number of small entities, and thus no regulatory flexibility analysis will be prepared. Further, the rule is not a major rule for purposes of Executive Order 12291, and thus no regulatory impact analysis will be prepared.

The documentation requirement in § 71.4 are collections of information, and were submitted to OMB for review and approved under section 3504(h) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 71

Flood insurance, Coastal zone.

Accordingly, Chapter I of Title 44, Code of Federal Regulations is amended by adding a new Part 71 as follows:

PART 71—IMPLEMENTATION OF COASTAL BARRIER RESOURCES ACT

Sec.

Authority: Section 1306, 82 Stat. 575 (42 U.S.C. 4013). Reorganization Plan No. 3 of 1978 (43 FR 41943), E.O. 12127, dated March 31, 1979 (44 FR 19367), sec. 11, Pub. L. 97–348.

§ 71.1 Purpose of Part.

This part implements section 11 of the Coastal Barrier Resources Act (Pub. L. 97–348) as that act amends the National Flood Insurance Act of 1968 (42 U.S.C. 400a *et seq.*).

§ 71.2 Definitions.

(a) Except as otherwise provided in this part, the definitions set forth in Part 59 of this subchapter are applicable to this part.

(b) For the purpose of this part a structure is "new construction" *unless* it means the following criteria:

(1) (i) A legally valid building permit or equivalent documentation was obtained for the construction of such structure prior to October 18, 1982; and

(ii) The start of construction (see part 59) took place prior to October 18, 1982; *or*

(2) (i) A legally valid building permit or equivalent documentation was obtained for the construction of such structure prior to October 1, 1983; and

(ii) The structure constituted an insurable building, having walls and a roof permanently in place no later than October 1, 1983.

(c) For the purpose of this part, a structure is a "substantial improvement" if the substantial improvement (see part 59) of such structure took place on or after October 1, 1983.

(d) For the purpose of this part, "new flood insurance coverage" means a new or renewed policy of flood insurance.

§ 71.3 Denial of Flood Insurance.

No new flood insurance coverage may be provided on or after October 1, 1983, for any new construction or substantial improvement of structure located on any coastal barrier within the Coastal Barrier Resources System established by section 4 of the Coastal Barrier Resources Act.

§ 71.4 Documentation

(a) In order to obtain flood insurance for a structure which is not covered by a policy of flood insurance as of October 1, 1983, the owner of the structure must submit the documentation described in this section in order to show that such structure is eligible to receive flood insurance.

(b) The documentation must be submitted to the Federal Insurance Administration.

(c) Where the start of construction of the structure took place prior to October 18, 1982, the documentation shall consist of:

(1) A legally valid building permit or its equivalent for the construction of the structure dated prior to October 18, 1982;

(i) If the community did not have a building permit system at the time the structure was built, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit;

(ii) If the building permit was lost or destroyed, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permt. This statment must also include a certification that the official has inspected the structure and found no evidence that the structure was not in compliance with the building code at the time it was built; and

(2) A written statement signed by the community official responsible for building permits, attesting to the fact that he or she knows of his/her own knowledge or from official community records, that:

(i) The start of construction took place prior to October 18, 1982; and

(ii) The structure has not been substantially improved since September 30, 1983.

(d) Where the start of construction of the structure took place on or after October 18, 1982, but the structure was completed (walls and roof premanently in place) prior to October 1, 1983, the documentations shall consist of:

(1) A legally valid building permit or its equivalent for the construction of the structure dated prior to October 1, 1983;

(i) If the community did not have a building permit system at the time the structure was built, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit;

(ii) If the building permit was lost or destroyed, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit. This statement must also include a certification that the official has

inspected the structure and found no evidence that the structure was not in compliance with the building code at the time it was built; and

(2) A written statement signed by the community official responsible for building permits, attesting to the fact that he or she knows of his/her own knowledge or from official community records, that:

(i) The structure constituted an insurable building, having walls and a roof permanently in place no later than October 1, 1983; and

(ii) The structure has not been substantially improved since September 30, 1983; and

(3) A community issued final certificate of occupancy or other use permit or equivalent proof certifying the the building was completed (walled and roofed) by October 1, 1983.

(Approved by the Office of Management and Budget under Control No. 3067–0120)

§ 71.5 Violations.

(a) Any flood insurance policy which has been issued where the terms of this section have not been complied with or is otherwise inconsistent with the provisions of this section, is void *ab initio* and without effect.

(b) Any false statements or false representations of any kind made in connection with the requirements of this part may be punishable by fine or imprisonment under 18 U.S. Code section 1001.

Dated: August 12, 1983.

Lois O. Giuffrida,

Director.

[FR Doc. 83–22540 Filed 8–15–83; 9:25 am]

BILLING CODE 6718–02–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 10

Law Enforcement; Updating Areas of Responsibility and Addresses of District Offices

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects errors which appeared in FR Doc. 83–761 in the issue of January 12, 1983 (48 FR 1313), relating to the addresses and telephone numbers of district offices of the Service's Division of Law Enforcement. The address for the district office located in Massachusetts and the telephone number for the district office in Anchorage, Alaska need to be corrected.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: John T. Webb, Division of Law Enforcement, Fish and Wildlife Service, Washington, D.C. 20240, Telephone: (202) 343–9242.

The following corrections should be made:

§ 10.22 [Corrected]

1. In the first column of page 1313, § 10.22, the address for the district office whose area of responsibility is Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia (District 5), should read "P.O. Box 129, New Town Branch, Boston, MA 02258."

2. In the first column of page 1313, § 10.22, the telephone number for the district office in Alaska should read "907–786–3311."

Dated: July 14, 1983.

F. Eugene Hester,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 83–22335 Filed 8–15–83; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 30810–156]

Groundfish of the Gulf of Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; closure.

SUMMARY: NOAA issues this notice to close a portion of the Southeast Outside and Yakutat Districts in the Eastern Regulatory Area of the Gulf of Alaska to fishing for sablefish by vessels of the United States on August 10, 1983. The closure is necessary to limit the harvest of sablefish stocks to the desired harvest level and is intended as a conservation measure to promote the rebuilding of sablefish stocks for the benefit of the sablefish fishery.

DATES: This notice is effective from 12:00 noon Pacific Daylight Time (PDT), August 10, 1983, until 12:00 midnight p.s.t., December 31, 1983. Public comments on this notice of closure are invited until August 25, 1983.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: William L. Robinson (Regional Management Biologist, National Marine Fisheries Service, 907–586–7229.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP), governing the groundfish fishery in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act, provides for inseason adjustments of fishing seasons and areas. Implementing rules at 50 CFR 672.22 specify that these orders will be issued by the Secretary of Commerce under criteria set out in those sections.

The FMP specifies the optimum yield (OY) for sablefish in the Gulf of Alaska to be 13,000 metric tons (mt). The total OY is apportioned among the Western, Central, and Eastern Regulatory Areas on the basis of historical catches. The Eastern Regulatory area is subdivided into the Yakutat, Southeast Outside, and Southeast Inside Districts for the purpose of better managing local sablefish stocks. The optimum yields for the Yakutat, Southeast, and Southeast Inside Districts are established in the FMP at 3,400, 3,000, and 700 mt respectively.

The relative abundance of sablefish in the Southeast Outside District and the eastern portion of the Yakutat District has declined from that anticipated in the FMP. This decline is indicated by results of sablefish index abundance surveys conducted by the NMFS in 1981 and 1982. The 1981 survey showed a 50 percent decline in abundance; the 1982 survey indicated that stock abundance had declined further. The NMFS survey includes sampling sites in both the Southeast Outside District and that portion of the Yakutat District east of 140° W. longitude.

Based on the NMFS surveys, the 1982 domestic sablefish fishery was closed by a rule-related notice in the Southeast Outside District on August 2, 1982; about 1,300 mt had been harvested. The catch in the Yakutat District east of 140° E. longitude was about 580 mt for a combined area catch of approximately 1,880 mt. It was anticipated at the beginning of the 1983 fishing season that the 1983 stock abundance would approximate the 1982 level.

Preliminary data from the 1983 NMFS sablefish index abundance survey indicates an overall modest increase in abundance of sablefish of marketable

size with either no change or a slight increase in abundance from 1982 levels at the two sites nearest the area of highest fishing concentration. The 1983 preliminary survey results combined with steadily improving catch per unit of effort and average weight during the June and July 1983 fishery justify a modest increase in harvest over the 1982 harvest level (1,880 mt). These same data do not, however, justify a harvest level as high as that established by the FMP.

The North Pacific Fishery Management Council (Council) has approved an amendment (Amendment 11) to the FMP which further subdivides the Yakutat District into the West and East Yakutat Districts and establishes new OY's on the basis of the 1981 and 1982 NMFS sablefish index abundance surveys. These OY's are 850–1,135 mt for the East Yakutat, 470–1,435 mt for the Southeast Outside District, exclusive of ADF&G regulatory districts 9 and 14, and 500 mt for the Southeast Inside Districts. Amendment 11 is currently being reviewed by the Director, Alaska Region, NMFS (Regional Director). The Alaska Board of Fisheries has set a guideline harvest range of 275–901 mt of sablefish within the Southeast Inside District, which lies within the territorial sea off Alaska's coast. The ADF&G has announced its intent to manage the Southeast Inside District for a 1983 harvest of 500 mt.

Most of the sablefish harvested in the East Yakutat District are taken close to the FMP's boundary between the Yakutat and Southeast Alaska Districts. Because current ADF&G statistical reporting areas do not provide an adequate separation of catches between the two areas, ADF&G and the Regional Director have found it necessary to manage the Yakutat District, east of 140° W. longitude, and Southeast Outside District, exclusive of ADF&G regulatory districts 9 and 14, as a single unit in 1983. Based on the 1983 NMFS index abundance survey and the 183 fishery performance, the Regional Director has therefore determined that (1) the relative abundance of sablefish in the Southeast Outside District, exclusive of ADF&G regulatory districts 9 and 14, and that portion of the Yakutat District east of 140° W. longitude, is substantially different than was anticipated at the beginning of the year, and (2) that difference justifies a 1983 harvest level for the combined areas coincident with the upper end of the combined OY ranges (2,570 mt) as recommended by the Council in Amendment 11, but lower than the current OY level.

The 1983 sablefish fishery off southeast Alaska opened January 1, 1983. As of July 26, 1983, 2,100 mt have been harvested in the combined East Yakutat and Southeast Outside Districts by 70–80 vessels. At the current catch rate, the Regional Director has determined that a catch of 2,570 mt will be achieved on August 10, 1983.

In accordance with 50 CFR 672.22, the Regional Director closes that portion of the Yakutat District East of 140° W. longitude (East Yakutat) and the Southeast Outside District, except for that portion lying within ADF&G regulatory districts 14 and 9, to all fishing for sablefish from 12:00 noon PST, August 10, 1983, until 12:00 midnight PST, December 31, 1983. That portion of the Southeast Outside District excluded from this closure is managed as part of the Southeast Inside District.

This closure will be effective upon filing of this notice for public inspection with the Office of the Federal Register and after publicizing the closure for 48 hours through ADF&G procedures, under 50 CFR 672.22(a)(2). Under 50 CFR 672.22(b)(4), public comments on this notice of closure may be submitted to the Regional Director at the address stated above for 15 days following the effective date. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m.) at the NMFS Alaska Region Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802. The necessity of this closure will be reconsidered in view of comments received, and a subsequent notice will be published in the **Federal Register**, either confirming this field order's continued effect, modifying it, or rescinding it.

Other Matters

The sablefish stock in the affected districts will be subject to harm unless this order takes effect promptly. The Agency therefore finds for good cause that advance notice and public comment on this order is contrary to the public interest and that there should be no delay in its effective date.

This action is taken under the authority of regulations specified at 50 CFR 672.22, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fish, Fisheries, Reporting requirements.

(16 U.S.C. 1801 et seq.)

Dated: August 10, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

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