a description and anlysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 29, 1983.

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

Dated: August 18, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-23554 Filed 8-26-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 178

[Docket No. 83F-0068]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of di-*tert*-butylphenyl phosphonite condensation product with biphenyl as an antioxidant and/or stabilizer in certain polymers in contact with food. This action responds to a petition filed by the Ciba-Geigy Corp.

DATES: Effective August 29, 1983; objections by September 28, 1983.

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

FOR FURTHER INFORMATION CONTACT: Geraldine E. Harris, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 29, 1983 (48 FR 13095), FDA announced that a petition (FAP 3B3703) had been filed by the Ciba-Geigy Corp., Hawthorne, NY 10532, proposing that § 178.2010(b) (21 CFR 178.2010(b)) be amended to remove certain temperature limitations for the use of di-*tert*-butylphenyl phosphonite condensation product with biphenyl as an antioxidant and/or stabilizer for polymers.

FDA has evaluated data in the petition and other relevant material, and concludes that the proposed food additive use is safe and that § 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9:00 a.m. and 4:00 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Foods (21 CFR 5.61), § 178.2010(b) is amended by revising the limitation currently set for "Di-*tert*-butylphenyl phosphonite condensation product with biphenyl" to read as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

List of substances	Limitations
* * *	* *
Di-*tert*-butylphenyl phosphonite condensation product with biphenyl produced by the condensation of 2,4-di-*tert*-butylphenol with the Friedel-Crafts addition product (phosphorus trichloride and biphenyl) so that the food additive has a minimum phosphorus content of 5.4 percent, an acid value not exceeding 10 mg KOH/gm, and a melting range of 85° C to 110° C (185° F to 230° F).	For use at levels not to exceed 0.1 percent by weight of olefin polymers complying with § 177. 1520(c) of this chapter, item 1.1, 2.1, 2.2, 3.1, or 3.2.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 28, 1983 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 29, 1983.

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

Dated: August 18, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-23555 Filed 8-26-83; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 3H5387/R588; FAP 2H5336/R589; PH-FRL 2415-8]

Tolerances for Pesticides in Animal Feeds and Food Administered by the Environmental Protection Agency; Hexakis (2-Methyl-2-Phenylpropyl) Distannoxane

Correction

In FR Doc. 83–22170 beginning on page 37203 in the issue of Wednesday, August 17, 1983, make the following correction: On page 37204, the third column, in § 193.236, the entry under "Foods" reading "Prunes, dired" should read "Prunes, dried".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 160

[CGD 79-026]

Ports and Waterways Safety; Control of Vessel Operations and Cargo Transfers

Correction

In FR Doc. 83-21261 beginning on page 35402 in the issue of Thursday, August 4, 1983, make the following correction:

On page 35406, first column, § 160.115, fifth and sixth lines, "46 U.S.C." should have read "46 U.S.C. 91".

BILLING CODE 1505-01-M

VETERANS ADMINISTRATION

38 CFR Part 36

Decrease in Maximum Interest Rate on New Guaranteed, Insured and Direct Loans for Homes and Condominiums

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is decreasing the maximum interest rate on fixed payment and graduated payment loans for homes and condominiums. The maximum interest rates are decreased because the mortgage money market has eased in recent weeks. The decrease in the interest rates will allow eligible veterans to obtain a loan at a lower monthly cost.

EFFECTIVE DATE: August 23, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Ave., NW., Washington, D.C. 20420 (202-389-3042).

SUPPLEMENTARY INFORMATION: The Administrator is required by law to establish a maximum interest rate for home and condominium loans guaranteed, insured or made by the Veterans Administration as he finds the loan market demands. Recent market indicators—including the rate of discount charged by lenders on VA and Federal Housing Administration loans and the general availability of mortgage funds—have shown that the mortgage market has eased.

After consultation with the Secretary of Housing and Urban Development as required by law, it has been determined that a decrease in the VA home and condominium interest rate for both graduated payment and fixed payment loans is warranted at this time.

The decrease in the VA maximum home and condominium interest rates should not have an adverse impact on the availability of funds necessary to make VA loans. The decrease in the VA interest rate, however, should allow more veterans to purchase a home because of the lower monthly payment for principal and interest required at the lower interest rate.

The Administrator's statutory authority to establish interest rates has been delegated by 38 CFR 2.6 to the Chief Benefits Director, Deputy Chief Benefits Director, or person authorized to act for them.

Regulatory Flexibility Act/Executive Order 12291

For the reasons discussed in the May 7, 1981, **Federal Register**, (46 FR 25443), it has previously been determined that final regulations of this type which change the maximum interest rates for loans guaranteed, insured, or made pursuant to chapter 37 of title 38, United States Code, are not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601-612.

These regulatory amendments have also been reviewed under the provisions of Executive Order 12291. The VA finds that they are not "major rules" as defined in that Order. The existing process of informal consultation among representatives within the Executive Office of the President, OMB, the VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process permits timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Executive Order while still permitting compliance with statutory responsibilities for timely rate adjustments and a stable flow of mortgage credit at rates consistent with the market.

These final regulations come within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. The publication of notice of a regulatory change in the VA maximum interest rates for VA guaranteed, insured or direct loans would deny veterans the benefit of lower interest rates pending the final rule publication date which would necessarily be more than 30 days after publication in proposed form. Accordingly, it has been determined that publication of proposed regulations prior to publication of final regulations is impracticable, unnecessary, and contrary to the public interest.

(Catalog of Federal Domestic Assistance Program numbers, 64.113 and 64.114)

These regulations are adopted under authority granted to the Administrator by sections 210(c), 1803(c)(1) and 1811(d)(1) of title 38, United States Code and delegated to the undersigned by 38 CFR 2.6(b)(3). The regulations are clearly within that statutory authority and are consistent with Congressional intent.

These decreases are accomplished by amending sections 36.4311, and 36.4503, title 38, Code of Federal Regulations.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Loan programs—housing and community development, Loan programs—business, Manufactured homes, Veterans.

Approved: August 22, 1983.

By direction of the Administrator.

John W. Hagan, Jr.,

Deputy Chief Benefits Director.

PART 36—LOAN GUARANTY

The Veterans Administration is amending 38 CFR Part 36 as follows:

1. In § 36.4311, paragraphs (a) and (b) are revised as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 13 per centum per annum, effective August 23, 1983, the interest rate on any home or condominium loan, other than a graduated payment mortgage loan, guaranteed or insured wholly or in part on or after such date may not exceed 13 per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

(b) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 13¼ per centum per annum, effective August 23, 1983, the interest rate on any graduated payment mortgage loan guaranteed or insured wholly or in part on or after such date may not exceed 13¼ per centum per annum. (38 U.S.C. 1803(c)(1))

* * * * *

2. In § 36.4503, paragraph (a) is revised as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1,

1980, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $27,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by the Veterans Administration shall bear interest at the rate of 13 percent per annum. Loans solely for the purpose of energy conservation improvements or other alteratons, improvements, or repairs shall bear interest at the rate of 14 percent per annum (38 U.S.C. 1811(d)(1) and (2)(A))

* * * * *

[FR Doc. 83-23607 Filed 8-26-83; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 401

Federal Claims Collection Act; Claims Collection and Compromise

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: These regulations implement the Federal Claims Collection Act, which provides authority to Federal agencies for collecting or compromising claims, or suspending or terminating collection action, as appropriate. This authority can be exercised only through agency regulations that conform to the regulations on claims collection (4 CFR Parts 101–105) issued jointly by the Comptroller General and the Attorney General. We intend these regulations to enable HCF to exercise full claims collection authority for all HCF programs, as delegated by the Secretary of HHS.

DATES: This rule is effective September 28, 1983. It is being isued as a final rule for reasons explained in Waiver of Proposed Rulemaking in the Supplementary Information section below. However, we will consider any comments mailed by October 28, 1983 and revise the regulations, if necessary.

ADDRESS: Address comments in writing to: Health Care Financing Administration, U.S. Department of Health and Human Services, Attention: OMB–1–FC, P.O. Box 26676, Baltimore, Maryland 21207.

In commenting, please refer to file code OMB–1–FC. If you prefer, you may deliver your comments to Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Comments will be available for public inspection, as they are received, beginning approximately three weeks from today, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (Phone 202–245–7890).

FOR FURTHER INFORMATION CONTACT: Tom Czerwinski, (301) 594–3068.

SUPPLEMENTARY INFORMATION:

I. Debt Management

A. Background

HCFA provides operational direction and policy guidance for the nationwide administration of the Medicare and Medicaid health care financing programs (titles XVIII and XIX of the Social Security Act (the Act), respectively); the Professional Standards Review Organizations (PSRO) and Peer Review Organizations programs (title XI of the Act), and related quality assurance programs designed to promote quality, safety, and appropriateness of health care services provided under Medicare and Medicaid; quality control programs designed to assure the financial integrity of Medicare and Medicaid funds; and various policy planning, research and demonstration activities.

In administering these programs, HCFA makes payments of various kinds to an assortment of individuals, agencies and organizations. For example, under Medicare, HCFA makes program benefit payments to beneficiaries, providers of health care services (hospitals, skilled nursing facilities, home health agencies), and suppliers. Under the Medicaid program, Medicaid State agencies receive Federal payments from HCFA to help finance medical assistance to certain categories of persons with low income. Each State agency in turn reimburses providers of services that furnish the assistance.

Beyond payments specifically tied to Medicare and Medicaid program benefits, HCFA pays for administrative program costs as well. Medicare payments to beneficiaries and providers are processed by fiscal intermediaries and carriers under contract to HCFA for that purpose. Medicaid State agencies receive Federal funding under Medicaid (in some cases equal to 100 percent of the State cost) for administrative responsibilities such as the operation of State Medicaid fraud control units.

Under title XI of the Act, HCFA has funded PSROs directly from Medicare trust funds through both contractual and grant arrangements. (Beginning in fiscal year 1984, HCFA will award contracts to new peer review organizations under Title I, Part III, Subtitle C of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248). Gradually, PSROs will be replaced by the new peer review organizations.) HCFA also makes grants to non-profit, private, or public agencies or organizations that conduct planning or research experiments and demonstrations concerning health care financing program policy or administration. In addition, in the execution of its duties, HCFA incurs normal administrative costs such as employee compensation, travel pay, and vendor payments.

As a result of these wide-ranging financial obligations, we encounter situations in which individuals and organizations become indebted to HCFA. The size of the debts vary from program overpayments of millions of dollars to a State or a provider, to an administrative overrun of a few dollars in travel pay. In addition to program or administrative overpayments, indebtedness to HCFA also occurs as a result of payments due HCFA in the form of premiums from individuals who must pay for coverage under Part A of Medicare (Hospital Insurance), as well as from all persons who enroll for coverage under Medicare Part B (Supplementary Medical Insurance). Whatever the size or source of the debt we attempt to collect the amount due in accordance with the Federal Claims Collection Act (FCCA) of 1966 (31 U.S.C. 3711).

Collection efforts under the authority of the FCCA may be undertaken only pursuant to regulations (31 U.S.C. 3711(e)). We have regulations in place, or under development, to resolve certain specific types of debts. Nevertheless, we lack regulations that would encompass all collection actions relating to HCFA's mission. Therefore, we are issuing this final rule to establish comprehensive standards and procedures for the collection (or suspension or termination of collection action) and compromise of all claims arising out of HCFA's program and administrative activities.

The FCCA and the Joint Regulations

B. The FCCA is the Federal government's basic statutory authority for debt management practices. Congress intended the FCCA to reduce

the amount of litigation previously required to collect claims and to reduce the volume of private relief legislation in the Congress. The FCCA is independent of other provisions of law, being intended by Congress to add to, rather than to supplant, other authorities. For example, section 1903(d) of the Social Security Act provides specific authority to recover the Federal share of Medicaid overpayments. In addition, it is important to note that neither the FCCA nor any regulations issued pursuant to it affect any rights that HCFA may have under common law as a creditor.

The FCCA specifically imposes primary responsibility for collecting a debt owed to the Federal government on the agency whose operations gave rise to the indebtedness. However, claims involving fraud or misrepresentation, or conduct in violation of anti-trust laws were exempted from the FCCA. As a practical matter, those claims are referred to the Department of Justice.

The FCCA authorizes (31 U.S.C. 3711(a)(1)) the head of an agency to collect claims in any amount. This section also provides that the head of an agency may, under certain conditions, compromise a claim, or suspend or terminate collection action on a claim. Uncollectible claims in excess of $20,000, exclusive of interest, must be referred to either the General Accounting Office (GAO) or the Department of Justice for resolution. Claims requiring litigation to effect resolution are referred to the Department of Justice. In addition, in order to implement FCCA authority, the agency involved must have regulations in place in the Code of Federal Regulations (CFR) that conform with the regulations issued jointly by the Comptroller General and the Attorney General (4 CFR Parts 101–105).

The joint regulations generally require agencies to—

- Issue appropriate internal regulations and adopt cost-effective collection practices.
- Take aggressive collection action.
- Collect amounts by offset, where possible, against payments or compensation due from the Federal government.
- Assess interest on delinquent claims.
- Attempt to reach settlement of claims on a compromise basis, when appropriate.
- Suspend or terminate collection action when conditions warrant.
- Refer claims that cannot be collected or compromised, and on which collection action cannot be suspended or terminated, to the GAO or to the Department of Justice for consideration of litigation.

C. HHS regulations

In accordance with the FCCA and the joint regulations, the Department of Health and Human Services (HHS) issued implementing regulations at 45 CFR Part 30. Those regulations adopt the joint regulations for HHS (including HCFA) and delegate to the Department Claims Officer the authority to perform all duties under the FCCA regarding HHS activities "except with regard to erroneous payments under . . . . (title) XVIII of the Social Security Act" (45 CFR 30.3).

The HHS regulations also state that various components of the Department are authorized to "take all administrative action required under the [FCCA] and (the) Joint Regulations, except that, with respect to claims of $800 or more, no compromise of a claim shall be effected, nor collection action suspended or terminated without the prior approval of the Department Claims Officer . . ." (45 CFR 30.3(c)).

D. HCFA regulations

The Secretary of HHS has concurrently delegated authority under the FCCA to the Department Claims Officer generally, and to the Administrator of HCFA for necessary claims collection actions under HCFA's programs (see 42 FR 57351, November 2, 1977). The authority delegated to the Administrator covers all of HCFA's activities including the Medicare program (title XVIII) and pertains to claims up to $20,000. However, even though HCFA has the authority (as a result of the delegation from the Secretary) to resolve claims arising from all of its activities, it lacks the comprehensive regulations necessary to do so that are required by the FCCA. This is because of the limitations that are contained in the HHS regulations at 45 CFR Part 30. In other words, the HHS regulations, which apply to HCFA, may not serve as a basis for collection or compromise actions on Medicare claims, or as a basis for compromise, or suspension or termination of collection action on other HCFA claims in excess of $800, except as approved by the Department Claims Officer.

Regulations dealing with specific Medicare aspects of debt management have been issued as follows:

- Compromise of, or suspension or termination of collection activities on, claims for overpayments against providers of services, physicians, or other suppliers of services (42 CFR 405.374).
- Interest on Medicare underpayments or overpayments to providers, physicians, or other suppliers of services (42 CFR 405.376, 47 FR 54811, December 6, 1982).
- Collection of unpaid Medicare premiums (42 CFR 405.962).
- Collection and compromise of claims for overpayments to beneficiaries (20 CFR 404.515) and adjustments to Railroad Retirement or Social Security benefits to recover Medicare overpayments (42 CFR 405.350–405.356).

We have also issued or are developing proposed regulations to deal with specific claims collection situations under the Medicaid program as follows:

- Interest on disputed Medicaid claims (see 47 FR 29275, July 6, 1982).
- Medicaid overpayment reporting requirements. (Regulations governing installment repayments by the States of Medicaid overpayments are located at 45 CFR 201.66.)

Lastly, we have issued a proposed rule (47 FR 6304, February 10, 1983) affecting both Medicare and Medicaid that, generally, would authorize the withholding of Medicare payments to Medicaid providers that have failed to repay a Medicaid overpayment, and the withholding of the Federal share of Medicaid payments to a provider if the provider has failed to repay a Medicare overpayment. This rule would implement sections 1885 and 1914 of the Social Security Act.

To summarize, under the HCFA regulations in titles 20 and 42 of the CFR described above, we are authorized to collect specified Medicare claims in any amount, or to compromise, or to suspend or terminate collection action on those types of Medicare claims up to $20,000, exclusive of interest. Based on the HHS regulations in title 45 of the CFR, HCFA may collect any amount arising out of non-Medicare claims, but in order to compromise, or to suspend or terminate collection action on non-Medicare claims exceeding $800, HCFA must obtain the approval of the Department Claims Officer. Therefore, in order to streamline the claims collection process, we are issuing this final rule.

II. Major Provisions

Generally, we intend these regulations to:

- Satisfy the statutory requirement (in the FCCA) for implementing regulations.
- Adapt to HCFA's operating needs the claims collection standards and procedures issued jointly by the Comptroller General and the Attorney General (4 CFR Parts 101–105).

• Describe rules under which HCFA may exercise fully the authority delegated by the Secetary with repect to collecting and resolving claims that arise in carrying out its mission. Regulations already issued to address specific claims collection problems, or which are otherwise applicable to HCFA claims collection processes, serve to supplement this new subpart.

A. Claims collection (§ 401.607)

Generally, the policy of HCFA is to collect all claims in lump sums. Where appropriate, interest is collected. When amounts owed to HCFA are not paid, when payment is late, or when arrangements other than lump sum collections are necessary, HCFA is deprived of the current use of the amounts involved. Moreover, administrative costs necessarily increase in these situations.

If we are unable to collect a debt in a lump sum and if other circumstances permit, we will offset the amount of a claim against the amount of pay, compensation, benefits or other monies to which a debtor is entitled from the Federal government. Factors that would affect the use of this procedure include the length of time during which the debtor is to receive amounts from the government that may be offset and the impact of the offset on the debtor's financial livelihood.

If lump sum collection or collection by offset is not possible, we may agree to collection through an installment agreement. For example, if enough resources are not available to repay the debt in a lump sum, or if lump sum payment would cause insolvency, the debtor can request an extended repayment agreement. In this case, the debtor is responsible for supplying any information required by HCFA to make a decision regarding the request. Failure by the debtor to supply necessary supporting documentation may result in denial of the request. In determining the amount and frequency of each installment payment, we will consider the information submitted by the debtor, the total amount of the claim, the extent of the debtor's resources, as it affects the debtor's ability to pay, and HCFA's costs of administering the agreement. Collection of interest is also provided for, where appropriate. (Special provisions (45 CFR 201.66) apply to installment repayment by the States of Medicaid funds.)

B. Compromise of claims (§ 401.613)

This section provides that, before a compromise is agreed to, HCFA requires that the amount of the compromise must reasonably approach the amount potentially collectible through enforced collection procedures. In this context, enforced collection includes resorting to collection measures outside of HCFA administrative procedures or to legal processes to compel payment. In making a decision concerning a compromise, we consider the age and health of debtors who are individuals, and a debtor's present and potential income. A favorable decision to compromise a claim will be unlikely if the debtor has concealed assets or has improperly transferred them in an attempt to avoid paying the claim.

This section further provides bases for entering a compromise agreement that include the following:

• A debtor, or the estate of a deceased debtor, does not have the present or prospective ability to pay the debt in full.

• It would be difficult for HCFA to prevail before a court of law because of the complexity or uncertainty of the legal issues involved, or because of the inability of all of the parties to stipulate to the facts. In these cases, to decide the amount of a compromise, we will take into account our assessment concerning the likelihood that we would have prevailed in court and whether a full or partial recovery was possible.

• The cost of collecting the claim does not justify the enforced collection of the full amount.

• HCFA determines that acceptance of a compromise amount (in lieu of imposition of a statutory penalty, a forfeiture of property, or establishment of a debt as an aid to collection enforcement procedures) adequately serves enforcement of HCFA's debt collection policies in terms of deterrence and securing compliance.

C. Suspension of collection action (§ 401.617)

Occasionally, we find it necessary to suspend collection action on a claim. Cases of this kind involve missing debtors or debtors who are currently unable to pay the claim or effect a compromise because of financial problems but who nevertheless have future prospects that will justify periodic review of the claim by HCFA. If we determine that there would not be a bar to recovery caused by a statute of limitations and that the debtor has future prospects that would justify the administrative action necessary to reinstitute collection action at a later date, we may temporarily suspend collection action. Furthermore, if we determine in conformity with 4 CFR 104.2 that future collection of the claim is possible by means of offset despite the applicability of a statute of limitations, we may suspend collection action.

D. Termination of collection action (§ 401.621)

In certain situations, we may decide that it would be advantageous to terminate collection action on a claim after efforts to obtain payment are unsuccessful. A decision to terminate collection action may be based on any one of the following determinations:

• HCFA is unable to collect, or to enforce collection of a substantial amount of the debt. This determination would include a consideration of the judicial remedies available to HCFA, the debtor's future financial prospects, and any exemptions from collection action available to the debtor under State or Federal law such as declarations of bankruptcy.

• In cases of missing debtors, HCFA may terminate collection action if no security remains to be liquidated; an applicable statute of limitations has run; or the prospects of collection by offset in the future are considered by HCFA to be unlikely, whether or not an applicable statute of limitations has run.

• The cost of further collection action is not cost effective.

• Factors come to light that show the claim to be legally without merit.

• Evidence or witnesses necessary to prove HCFA's claim are not available.

In making a decision to terminate collection action, we consider factors similar to those that bear on a decision to compromise a claim, such as the age and health of debtors who are individuals, the present and potential income of debtors, and whether assets have been improperly concealed or transferred.

E. Joint and several liability (§ 401.623)

Joint and several liability for debts means that a creditor may hold one or more parties to a debt separately liable for the entire amount of the debt, or all parties liable for their share of the debt. We are providing that HCFA will not allocate, amongst debtors who are jointly and severally liable, the burden of claims payment. In addition, the fact that some jointly and severally liable debtors are delinquent in their debt payment obligations will not prevent HCFA from proceeding with collection action against the other jointly and severally liable debtors. A compromise with one jointly and severally liable debtor will not release remaining debtors, nor will the amount of the compromise be a binding precedent

regarding possible compromises with the remaining debtors.

III. Provisions Not Included

There are several debt collection procedures authorized by the government-wide regulations (4 CFR Parts 101–105) that we have not addressed in these regulations. Although the provisions of the government-wide regulations are already applicable to HCFA by virtue of the HHS regulations at 45 CFR Part 30, we have not yet decided whether specific HCFA regulations relating to these procedures should be proposed and what their content should be. We are also considering the effect of the Debt Collection Act of 1982 (Pub. L. 97–365), which amended the FCCA to include within the statute provisions similar to these procedures, but which provided that the new authorities were not applicable to claims arising under the Social Security Act (see 31 U.S.C. 3701(d)). The procedures are as follows:

- Reporting delinquent debts to credit bureaus (4 CFR 102.4). This provision permits referrals of delinquent debtors to commercial credit bureaus as a means of encouraging the debtor to resolve the obligation.
- The use of collection agencies (4 CFR 102.5). Under this provision, Federal agencies are permitted to contract with private companies for collection of debts.
- Collection of interest (4 CFR 102.12). This provision authorizes Federal agencies to collect interest on delinquent debts as an inducement for prompt payment of the debt and to compensate the Federal government for the loss of the use of its funds. As indicated above, we have already issued or are in the process of developing regulations concerning the assessment of interest in certain situations involving debts under the Medicare and Medicaid programs.
- The use of pre-offset notice and hearings (4 CFR 102.3). This provision concerns the use of notice and hearing procedures applicable to debt situations involving Federal employees when evidentiary matters are at issue.

IV. Impact Analyses

A. Executive Order 12291

We have determined that these regulations do not meet the specific criteria for a major rule as defined in section 1(b) of the Executive Order 12291. That is, these regulations will not have an annual effect on the economy of $100 million or more; or cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or cause significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Our intent in issuing this rule is to provide comprehensive regulations for all of HCFA's claims collection activities under the FCCA. We expect that these regulations will result in some administrative savings. By establishing comprehensive debt collection procedures for HCFA, we anticipate a reduction in paperwork, recordkeeping, and documentation currently required to compromise claims valued between $800–$20,000. We also anticipate more timely removal of bad debts from our records, which in turn will save reporting and documentation activities. However, as this anticipated economic effect is significantly below the $100 million threshold, an impact analysis is not required.

B. Regulatory Flexibility Act.

The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these regulations will not have a significant economic impact on a substantial number of small business, nonprofit entities or small local governments. As stated above, these regulations set forth policies for the collection and compromise of claims owed to HCFA. While we do not believe that the regulations will have significant effects on small business entities, the size of a claim will determine the significance of the impact of the collection action on the affected small entity. In any case, we are required by the FCCA to pursue outstanding debts and these regulations give us the uniform means to do so. Any impact on small entities will result from the requirements of the FCCA and not these regulations. Therefore, a regulatory flexibility analysis is not required.

V. Waiver of Proposed Rulemaking

These regulations adopt for all HCFA programs the general rules (4 CFR Part 101–105) that have government-wide application with respect to collecting and resolving claims, and fulfill the FCCA requirement for regulations that will enable HCFA to use fully the FCCA authority delegated to it by the Secretary. Those longstanding rules have been applied generally by the Federal government and by HCFA in the past. The regulations do not establish new standards and procedures, but rather codify existing HHS standards, already applicable to HCFA, located in 45 CFR Part 30 so that the authority delegated to HCFA may be perfected. For these reasons, we believe that publication of a proposed rule is unnecessary and contrary to the public interest. Therefore, we find good cause to waive the requirement.

Although we are publishing these regulations in final form, we are providing a period for public comment. Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, if we determine that changes in the regulations are necessary as a result of public comments, we will publish the changes in the **Federal Register** and respond to the comments in the preamble of that rule.

List of Subjects in 42 CFR Part 401

Civil rights, Freedom of information, Health care, Health facilities, Health maintenance organizations (HMO), Medicaid, Medicare, Privacy, Claims, Collection, Compromise of claims, Debtor, Fraud, Overpayments, Premiums, Suspension of collection, Termination of collection.

42 CFR Part 401 is amended as set forth below:

PART 401—GENERAL ADMINISTRATIVE REQUIREMENTS

A. Subparts C—E are reserved and a new Subpart F is added in the table of contents as follows:

Subparts C–E—[Reserved]

Subpart F—Claims Collection and Compromise

Sec.

Authority: Sections 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) and 31 U.S.C. 3711.

B. Subparts C through E are reserved, and a new Subpart F is added as follows:

Subparts C-E—[Reserved]

Subpart F—Claims Collection and Compromise

§ 401.601 Basis and scope.

(a) *Basis.* This subpart implements for HCFA the Federal Claims Collection Act (FCCA) of 1966 (31 U.S.C. 3711), and conforms to the regulations (4 CFR Parts 101–105) issued jointly by the General Accounting Office and the Department of Justice that generally prescribe claims collection standards and procedures under the FCCA for the Federal government.

(b) *Scope.* Except as provided in paragraphs (c)-(f) of this section, the regulations in this subpart describe HCFA's procedures and standards for the collection of claims in any amount, and the compromise of, or the suspension or termination of collection action on , all claims for money or property that do not exceed $20,000 exclusive of interest, arising under any functions delegated to HCFA by the Secretary.

(c) *Amount of claim.* HCFA refers all claims that exceed $20,000, exclusive of interest, to the Department of Justice or the General Accounting Office for the compromise of claims, or the suspension or termination of collection action.

(d) *Related regulations*—(1) *Department regulations* DHHS regulations applicable to HCFA that generally implement the FCCA for the Department are located at 45 CFR Part 30.

(2) *HCFA regulations.* The following regulations govern specific debt management situations encountered by HCFA and supplement this subpart:

(i) Claims against Medicare beneficiaries for the recovery of overpayments are covered in 20 CFR 404.515.

(ii) Adjustments in Railroad Retirement or Social Security benefits to recover Medicare overpayments to individuals are covered in §§ 405.350–405.356 of this chapter.

(iii) Claims against providers, physicians, or other suppliers of services for overpayments under Medicare and for assessment of interest are covered in §§ 405.374 and 405.376 of this chapter, respectively.

(iv) Claims against beneficiaries for unpaid hospital insurance or supplementary medical insurance premiums under Medicare are covered in § 405.962 of this chapter.

(v) State repayment of Medicaid funds by installments is covered in 45 CFR 201.66.

(e) *Collection and compromise under other statutes and at common law.* The regulations in this subpart do not:

(1) Preclude disposition by HCFA of claims under statutes, other than the FCCA, that provide for the collection or compromise of a claim, or suspension or termination of collection action.

(2) Affect any rights that HCFA may have under common law as a creditor.

(f) *Fraud.* The regulations in this subpart do not apply to claims in which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of a debtor or any other party having an interest in the claim. HCFA forwards these claims to the Department of Justice for disposition under 4 CFR 105.1.

(g) *Enforced collection.* HCFA refers claims to the Department of Justice for enforced collection through litigation in those cases which cannot be compromised or on which collection action cannot be suspended or terminated in accordance with this subpart or the regulations issued jointly by the Attorney General and the Comptroller General.

§ 401.603 Definitions.

For purposes of this subpart:

Claim means any debt owed to HCFA.

Debtor means any individual, partnership, corporation, estate, trust or other legal entity against which HCFA has a claim.

§ 401.605 Omissions not a defense.

The failure of HCFA to comply with the regulations in this subpart, or with the related regulations listed in § 401.601(d), is not available as a defense to a debtor against whom HCFA has a claim for money or property.

§ 401.607 Claims Collection.

(a) *General policy.* HCFA recovers amounts of claims due from debtors, including interest where appropriate, by:

(1) Direct collections in lump sums or in installments; or

(2) Offsets against monies owed to the debtor by the Federal government where possible.

(b) *Collection in lump sums.* Whenever possible, HCFA attempts to collect claims in full in one lump sum. However, if HCFA determines that a debtor is unable to pay the claim in one lump sum, HCFA may instead enter into an agreement to accept regular installment payments.

(c) *Collection in installments.* Generally, HCFA requires that all claims to be satisfied by installment payments must be liquidated in three years or less. If unusual circumstances exist, such as the possibility of debtor insolvency, an installment agreement that extends beyond three years may be approved.

(1) *Debtor request.* If a debtor desires to repay a claim in installments, the debtor must submit:

(i) A request to HCFA; and

(ii) Any information required by HCFA to make a decision regarding the request.

(2) *HCEA decision.* HCFA will determine the number, amount and frequency of installment payments based on the information submitted by the debtor and on other factors such as:

(i) Total amount of the claim;

(ii) Debtor's ability to pay; and

(iii) Cost to HCFA of administering an installment agreement.

(d) *Collection by offset.* (1) In conformity with 4 CFR 102.3, HCFA may offset, where possible, the amount of a claim against the amount of pay, compensation, benefits or other monies that a debtor is receiving or is due from the Federal government.

(2) Under regulations at §§ 405.350–405.356 of this chapter, HCFA may initiate adjustments in program payments to which an individual is entitled under title II of the Act (Federal Old Age, Survivors, and Disability Insurance Benefits) or under the Railroad Retirement Act of 1974 (45 U.S.C. 231) to recover Medicare overpayments.

§ 401.613 Compromise of claims.

(a) *Amount of compromise.* HFCA requires that the amount to be recovered through a compromise of a claim must:

(1) Bear a reasonable relation to the amount of the claim; and

(2) Be recoverable through enforced collection procedures.

(b) *General factors.* After considering the bases for a decision to compromise a claim under paragraph (c) of this section, HCFA may further consider factors such as:

(1) The age and health of the debtor if the debtor is an individual;

(2) Present and potential income of the debtor; and

(3) Whether assets have been concealed or improperly transferred by the debtor.

(c) *Basis for compromise.* Bases on which HCFA may compromise a claim include the following:

(1) *Inability to pay.* HCFA may compromise a claim if it determines that the debtor, or the estate of a deceased debtor, does not have the present or prospective ability to pay the full amount of the claim within a reasonable time.

(2) *Litigative probabilities.* HCFA may compromise a claim if it determines that it would be difficult to prevail in a case before a court of law as a result of the legal issues involved or inability of the parties to agree to the facts of the case. The amount that HCFA accepts in compromise under this provision will reflect:

(i) The likelihood that HCFA would have prevailed on the legal question(s) involved;

(ii) Whether and to what extent HCFA would have obtained a full or partial recovery of a judgment, depending on the availability of witnesses, or other evidentiary support for HCFA's claim; and

(iii) The amount of court costs that would be assessed to HCFA.

(3) *Cost of collecting the claim.* HCFA may compromise a claim if it determines that the cost of collecting the claim does not justify the enforced collection of the full amount. In this case, HCFA may adjust the amount it accepts as a compromise to allow an appropriate discount for the costs of collection it would have incurred but for the compromise.

(d) *Enforcement policy.* HCFA may compromise statutory penalities, forfeitures, or debts established as an aid to enforcement or to compel compliance, if it determines that its enforcement policy, in terms of deterrence and securing compliance both present and future, is adequately served by acceptance of the compromise amount.

§ 401.615 Payment of compromise amount.

(a) *Time and manner of compromise.* Payment by the debtor of the amount that HCFA has agreed to accept as a compromise in full settlement of a claim must be made within the time and in the manner prescribed by HCFA. Accordingly, HCFA will not settle a claim until the full payment of the compromise amount has been made.

(b) *Effect of failure to pay compromise amount.* Failure of the debtor to make payment, as provided by the compromise agreement, reinstates the full amount of the claim, less any amounts paid prior to the default.

(c) *Prohibition against grace periods.* HCFA will not agree to inclusion of a provision in an installment agreement that would permit grace periods for payments that are late under the terms of the agreement.

§ 401.617 Suspension of collection action.

(a) *General conditions.* HCFA may temporarily suspend collection action on a claim if the following general conditions are met:

(1) *Amount of future recovery.* HCFA determines that future collection action may result in a recovery of an amount sufficient to justify periodic review and action on the claim by HCFA during the period of suspension.

(2) *Statute of limitations.* HCFA determines that:

(i) The applicable statute of limitations has been tolled, waived or has started running anew; or

(ii) Future collections may be made by HCFA through offset despite an applicable statute of limitations.

(b) *Basis for suspension.* Bases on which HCFA may suspend collection action on a particular claim include the following:

(1) A debtor cannot be located; or

(2) A debtor:

(i) Owns no substantial equity in property;

(ii) Is unable to make payment on HCFA's claim or is unable to effect a compromise; and

(iii) Has future prospects that justify retention of the claim.

(c) *Locating debtors.* HCFA will make every reasonable effort to locate missing debtors sufficiently in advance of the bar of an applicable statute of limitations to permit timely filing of a lawsuit to recover the amount of the claim.

(d) *Effect of suspension on liquidation of security.* HCFA will liquidate security, obtained in partial recovery of a claim, despite a decision under this section to suspend collection action against the debtor for the remainder of the claim.

§ 401.621 Termination of collection action.

(a) *General factors.* After considering the bases for a decision to terminate collection action under paragraph (b) of this section, HCFA may further consider factors such as:

(1) The age and health of the debtor if the debtor is an individual;

(2) Present and potential income of the debtor; and

(3) Whether assets have been concealed or improperly transferred by the debtor.

(b) *Basis for termination of collection action.* Bases on which HCFA may terminate collection action on a claim include the following:

(1) *Inability to collect a substantial amount of the claim.* HCFA may terminate collection action if it determines that it is unable to collect, or to enforce collection, of a significant amount of the claim. In making this determination, HCFA will consider factors such as:

(i) Judicial remedies available;

(ii) The debtor's future financial prospects; and

(iii) Exemptions available to the debtor under State or Federal law.

(2) *Inability to locate debtor.* In cases involving missing debtors, HCFA may terminate collection action if:

(i) There is no security remaining to be liquidated;

(ii) The applicable statute of limitations has run; or

(iii) The prospects of collecting by offset, whether or not an applicable statute of limitations has run, are considered by HCFA to be too remote to justify retention of the claim.

(3) *Cost of collection exceeds recovery.* HCFA may terminate collection action if it determines that the cost of further collection action will exceed the amount recoverable.

(4) *Legal insufficiency.* HCFA may terminate collection action if it determines that the claim is legally without merit.

(5) *Evidence unavailable.* HCFA may terminate collection action if:

(i) Efforts to obtain voluntary payment are unsuccessful; and

(ii) Evidence or witnesses necesary to prove the claim are unavailable.

§ 401.623 Joint and several liability.

(a) *Collection action.* HCFA will liquidate claims as quickly as possible. In cases of joint and several liability among two or more debtors, HCFA will not allocate the burden of claims payment among the debtors. HCFA will proceed with collection action against one debtor even if other liable debtors have not paid their proportionate shares.

(b) *Compromise.* Compromise with one debtor does not release a claim against remaining debtors. Furthermore, HCFA will not consider the amount of a compromise with one debtor to be a binding precedent concerning the amounts due from other debtors who are jointly and severally liable on the claim.

§ 401.625 Effect of HCFA claims collection decisions on appeals.

Any action taken under this subpart regarding the compromise of a claim, or suspension or termination of collection action on a claim, is not an initial determination for purposes of HCFA appeal procedures.

(Catalog of Federal Domestic Assistance Program No. 13.766, Health Financing Research, Demonstrations and Experiments; No. 13.714, Medical Assistance Program; No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: January 28, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: June 6, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-23585 Filed 8-26-83; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6456

[AA-50218]

Alaska; Modification of Public Land Order No. 6329

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUBJECT: This order modifies Public Land Order No. 6329 of August 30, 1982, to open 10,250 acres of lands in the Slana area to settlement under the trade and manufacturing site, homesite, and headquarters site laws. The lands have been and remain closed to mining but open to mineral leasing.

EFFECTIVE DATE: September 26, 1983.

FOR FURTHER INFORMATION CONTACT:

Beaumont McClure, Washington, D.C., (202) 343-6511

Terry R. Hassett, Alaska State Office, (907) 271-3267

Wayne A. Boden, Anchorage District Office, (907) 267-1200

By virtue of the authority vested in the Secretary of the Interior by Section 17(d)(1) of the Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1616(d)(1)), it is ordered as follows:

1. In FR Doc. 82-24594, Vol. 47, No. 174, of the issue of September 8, 1982, at page 39499, after the end of the land description and the statement that reads, "The areas described aggregate approximately 2,170,108 acres," a subparagraph 1.d. is added which will read as follows:

d. Subject to valid existing rights, the following described lands are determined to be suitable for and are opened at 8 a.m. on September 26, 1983, to the operation of the settlement laws, specifically trade and manufacturing sites, homesites, and headquarters sites, falling under the authority of Section 10 of the Act of May 14, 1898, as amended (30 Stat. 413; 43 U.S.C. 687a).

Copper River Meridian

T. 11 N., R. 8 E.,
Secs. 24 to 27, inclusive;
Secs. 33 and 34, those portions lying outside the Wrangell-Saint Elias National Park and Preserve;
Secs. 35 and 36.

T. 12 N., R. 9 E.,
Secs. 12, 13;
Secs. 24 to 27, inclusive;
Secs. 34, 35, and 36.

The area described agregates approximately 10,250 acres.

The total area affected by Public Land Order No. 6329 remains at approximately 2,696,659 acres.

2. The lands described in paragraph 1.d. have been and remain closed to location and entry under the United States mining laws, but open to applications and offers under the mineral leasing laws.

3. This order does not serve to otherwise change the provisions or limitations of Public Land Order No. 6329.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands Operations, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

James G. Watt,

Secretary of the Interior.

August 22, 1983.

[FR Doc. 83-23577 Filed 8-26-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 59 and 61

[Docket No. FEMA-FIA]

National Flood Insurance Program, Coverage, Sales and Eligibility Provisions

AGENCY: Federal Insurance Administration (FIA), Federal Emergency Management Agency, (FEMA).

ACTION: Final rule.

SUMMARY: This rule revises the National Flood Insurance Program (NFIP) regulations dealing with flood insurance coverage, the Standard Flood Insurance Policy (SFIP) terms and provisions, and the sale of flood insurance in communities participating in the NFIP. The purpose of the amendment is to revise the Program regulations to reflect changes in the Flood Insurance Manual used by private sector property insurance agents and brokers in producing flood insurance business and coverage changes in the contract of flood insurance, including exceptions from coverage made necessary by reason of statutory changes in the flood insurance eligibility criteria in respect to certain coastal communities participating in the NFIP.

DATE: This rule will be effective October 1, 1983, except for the optional deductibles (set forth at § 61.5(d) and in the Flood Insurance Manual) which will become effective April 1, 1984.

FOR FURTHER INFORMATION CONTACT: Donald L. Collins, Federal Emergency Management Agency, Federal Insurance Administration, Room 429, 500 "C" Street, S.W., Washington, D.C. 20472; Telephone Number (202) 287-0740.

SUPPLEMENTARY INFORMATION: On April 8, 1983, FEMA published for comment in the **Federal Register** (Vol. 48, Page 15278) a proposed rule containing revisions to the National Flood Insurance Program (NFIP) which were intended to support the major FEMA goals of achieving greater administrative and fiscal effectiveness in the operation of the NFIP while at the same time maintaining a business-like approach to the administration of the NFIP by emulating successful property insurance programs in the private sector. Thus, both risk management and cost containment are being achieved through the addition of coverage restrictions aimed at reducing flood losses and loss payments. In keeping with private sector insurance practices, FEMA will offer a range of deductibles geared toward giving the consumer wider deductible options and, at the same time, will initiate a recertification process to assure that the rating of the policy at time of renewal is consistent with the risk exposure.

Although the comments received (twenty-three) were generally supportive of the proposed revisions, comments were divided on some major issues and, in criticism, constructive. Overall, the comments were informative and provided rationale for many of the results reached in this final rule. Most organizations commented favorably on the proposed optional deductibles. Some comments indicated a more moderate raise in deductible levels might be desirable and, as can be seen from the optional deductibles set forth at § 61.5 of this final rule, this suggestion was heeded in that optional amounts will be available in increments of $1,000. A mortgage company expressed concern that the provision for optional deductibles could result in substantial exposure to mortgage lenders in instances where the mortgage loan amount to appraised value ratio was high. One example cited pertained to VA guaranteed loans which are often made for 100 percent of the value. Concern was expressed that where

borrowers have little or no investment in the property, they may elect to walk away from the flood-damaged property rather than bear the cost of a high deductible in effecting repairs. While this is a valid concern, FEMA believes that lenders can adequately protect themselves since bond and mortgage instruments executed by borrowers typically grant the authority to lenders to require adequate hazard insurance. As the lender specifies the amount of flood insurance which must be purchased and maintained for the building, likewise the lender will be able to specify the lowest deductible the borrower may elect for the building consistent with the degree of protection desired by the lending institution.

The proposal for recertification of the information used to rate a policy prior to its renewal did not generate any negative comments. Thus, the final rule will provide for such a recertification program and a policyholder may be asked during the term of the policy to recertify before renewal. Recertification of rating information would not involve any expense to the policyholder, would insure that accurate data is available for properly rating the policy, and is consistent with private sector practices.

The provision for surcharging risks subject to repetitive damage generated the largest number of comments, some of which were highly supportive while others were strongly opposed to the proposal. Concern was expressed that the surcharges would be imposed on those least able to afford them, such as the low income homeowner or the elderly living on fixed incomes. Some individuals questioned the propriety of imposing a surcharge for structures which were built in compliance with FEMA flood plain management regulations and which later suffered a flood loss. Still others expressed the concern that the surcharges would mainly affect structures which had not been subject to flood plain management regulations such as those buildings in existence before base flood elevation data had been provided to the community or buildings constructed in B and C Zone areas. Two organizations suggested an alternative solution such as a dollar "threshold" for applying the surcharge to preclude individuals from being penalized for a few small claims (for example, claim for temporary removal of insured contents). The belief was also expressed that the procedure outlined in the proposed regulation for calculating the surcharge based on the number of losses rather than a dollar amount would decrease the incentive for initiating loss prevention/reduction measures. FEMA believes that these substantive issues are valid and that the proposal should be studied longer and published at a later date after obtaining more input through a subsequent proposed rule. Therefore, FEMA is deferring implementation of the surcharge system at this time, even though it may mean a reduction in expected revenue of $2.7 million a year.

One organization expressed opposition to the exclusion of flood insurance coverage, effective October 1, 1983, for any building, and its contents, newly constructed or substantially improved on and after October 1, 1983, which is located on an undeveloped coastal barrier designated as such by the Congress on maps produced by the Department of the Interior and incorporated into the administration of the NFIP. This provision is statutorily required by the Coastal Barrier Resources Act (Pub. L. 97-348), approved October 18, 1982, and, thus, will be incorporated into the final rule as originally proposed.

Several comments were received concerning the provision for exclusion of coverage for fininshed basements (and contents therein) and enclosures (and contents) beneath the first floor of elevated structures. One insurance agency expressed the belief that the exception language should be amended to also provide coverage for pump equipment and air compressors which are considered as usual and incidental to the occupancy of a residence even though they are not within an enclosed building. On the other hand, one regional advisor supported the exclusion and in fact felt it should be broadened to also exclude coverage for items such as heating, electrical and air conditioning equipment, washers and dryers, etc. Some individuals questioned the propriety of providing coverage for these items in light of flood plain management regulations which require the elevation of such essential equipment. Still other individuals and regional advisors opposed the exclusion (because of their belief that such exclusion would, in effect, encourage violation of flood plain management regulations) and thought FEMA should continue providing coverage for finished basements. Careful consideration was given to these comments. However, FEMA is persuaded that the provision of coverage for certain equipment and other machinery vital to a building's intended use is proper and, in addition, the final rule is being modified to include, as covered items, food freezers and well-water tanks.

Two organizations requested clarification as to how the exclusion provision will effect coverage in communities which have been given exemptions for floodproofed basements. It is believed that the basement exclusion should not create a problem in these communities. If the basements have been floodproofed, then there should be no danger of flooding. On the other hand, if flooding is occurring in the basement as a result of openings above the floodproofed area, then coverage should not be provided for finished areas.

Concern was expressed relating to the application of the exclusions to existing buildings. Recommendations included (1) providing a grandfather clause to retain finished area coverage for existing structures, (2) offering a separate coverage for finished basements as an option, (3) instituting a surcharge for coverage of finished basements, (4) establishing a future implementation date after which the exclusion would apply to both Emergency Program and Regular Program communities, and (5) allowing pre-implementation date basements to be insured but only with a larger deductible. Careful consideration has been given to these divergent issues. However, it is felt that the action being taken in this final rule to exclude basements (and contents therein) and enclosures (and contents) beneath the first floor of elevated structures is consistent with underwriting activities and actions in the private sector where, dependent upon underwriting reviews, policies of insurance coverage are enhanced or, as in this case, decreased depending on underwriting concerns, the financial condition of the Company, and other insurance considerations. Concerning the financial condition of the NFIP, the Program's records show that January 1978 though the end of 1982, for buildings with basements, the NFIP was paying out $5.00 in losses for every $1.00 of premium taken in. FEMA is convinced that the financial exposure does not warrant continuation of coverage for finished basements (and contents therein) and enclosures (and contents) beneath the first floor of elevated structures. Thus, the final rule will, of economic necessity, provide the exclusion as originally proposed except that subsection (10) will be modified to include food freezers and well-water tanks as covered items.

The provisions for waiver of proof of loss in certain cases met with general acceptance and is incorporated in the final rule. In implementing this provision, the Office of the Inspector

General will be consulted to establish a reasonable dollar amount beyond which the proof of loss would not be waived. In setting a dollar amount below which the waiver can be granted, FEMA will reserve the option as to whether the waiver will be given for individual cases where, for example, there may be contrary evidence or questions related to the magnitude of the loss.

Regarding the provision relating to the definition of "start of construction" for insurance purposes, the six comments received were overwhelmingly in support of this change. In addition to supporting the change in definition for insurance purposes, four of the organizations expressed the belief that the definition should also be used for flood plain management purposes and/or for the flood insurance exclusion under the Coastal Barrier Resources Act of 1982. Thus, the definition of "start of construction" for insurance purposes is being incorporated in this final rule as originally proposed.

With respect to the amendment in Appendix A at Article VIII, Paragraph B. Concealment, Fraud, one association expressed the belief that it would be unfair to void flood insurance coverage due to an unintentional misstatement of a fact by an applicant for insurance. FEMA concedes that the standard should be the more commonly understood concept of "misrepresentation" and has changed the final rule, accordingly.

The remaining amendments either clarify policy terms and conditions, conform them to the NFIP Agents' Manual and Rules and Rates, or are editorial in nature and are incorporated into the final rule as originally proposed.

FEMA has determined, based upon an Environmental Assessment, that this rule does not have significant impact upon the quality of the human environment. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 "C" Street, SW., Washington, D.C. 20472.

These regulations do not have a significant economic impact on a substantial number of small entities and have not undergone regulatory flexibility analysis.

This final rule is not a "major rule" as defined in Executive Order 12291 dated February 17, 1981.

List of Subjects in 44 CFR Parts 59 and 61

Flood insurance.

Accordingly, Subchapter B of Chapter I of Title 44 is amended as follows:

PART 59—GENERAL PROVISIONS

1. In § 59.1, the definition, "Start of construction", is amended (1) by removing the word "means" in the first sentence and adding the phrase "means for flood plain management purposes" in its place at the beginning of the definition and (2) by adding the following sentence at the end of the definition, as follows:

§ 59.1 Definitions.

* * * * *

"Start of construction" means for flood plain management purposes * * * "Start of construction," for insurance purposes (for other than new construction or substantial improvements under the Coastal Barrier Resources Act [Pub. L. 97-348]) includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. Also, add after the definition of "Eligible community" the following definition: "Elevated Building" for insurance purposes, means a non-basement building which was initially designed or built to have the bottom of the lowest floor beam (or equivalent floor support) above the ground level by extended wall foundations, shear walls, posts, piers, pilings or columns such that there would be air space between the lowest floor beam and the ground.

* * * * *

PART 61—INSURANCE COVERAGE AND RATES

§ 61.1 [Amended]

2. Section 61.1 is amended by the removal of the title "Administrator" and the substitution therefor of the title "Associate Director, State and Local Programs and Support."

§ 61.3 [Amended]

3. Section 61.3 is amended by the addition of the following language at the end thereof:

* * * Buildings entirely in, on or over water and buildings partially over water into which boats are floated are not eligible for coverage; other buildings partially over water may be covered upon submission of the details of the risk to the NFIP for the assignment of a rate commensurate with the risk and presentment of the correct premium to the NFIP.

§ 61.4 [Amended]

4. Section 61.4(c) is amended by the removing of the phrase "which are volcanic or tectonic in origin" and the placement of the period in the sentence after the word "movements."

§ 61.5 [Amended]

5. Section 61.5(a) is amended by the addition of the following at the end thereof:

(a) * * * No new flood insurance shall be written for any building, and its contents, if the building was newly constructed or substantially improved on or after October 1, 1983, in an area designated as an undeveloped coastal barrier within the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348).

6. Section 61.5(d) is revised, effective April 1, 1984, to read as follows:

* * * * *

(d) Each loss sustained by the insured is subject to a deductible provision under which the insured bears a portion of the loss before payment is made under the policy. The amount of the deductible for each loss occurrence is (1) For structural (i.e., insured building) losses, $500.00; and (2) for contents (i.e., insured personal property) losses, $500.00; and (3) for the reasonable expenses incurred in connection with the temporary removal of an insured mobile home or insured contents (personal property) from the described premises and away from the peril of flood, $50.00.

Optional Deductibles, All Zones, are available as follows:

CATEGORY ONE—1 TO 4 FAMILY BUILDING AND CONTENTS COVERAGE POLICIES

Options	Building/contents
	$500/$500
	$1,000/$1,000
	$2,000/$1,000
	$3,000/$1,000
	$4,000/$2,000
	$5,000/$2,000

CATEGORY TWO—1 TO 4 FAMILY BUILDING COVERAGE ONLY OR CONTENTS COVERAGE ONLY POLICIES

Options	Building	Contents*
	$500	$500
	1,000	1,000
	2,000	2,000
	3,000	3,000
	4,000	4,000
	5,000	5,000

* Also applies to residential unit contents in other residential building or in multi-unit condominium building.

CATEGORY THREE—OTHER RESIDENTIAL AND NONRESIDENTIAL POLICIES

Options	Policy combining building and contents	Single coverage only policy (either building or contents)
	$500/$500	$500
	1,000/1,000	1,000
	2,000/2,000	2,000
	3,000/3,000	3,000
	4,000/4,000	4,000
	5,000/5,000	5,000

Note.—Any other combination may be submitted for rating to the NFIP.

7. Section 61.5(f)(10) is revised to read as follows:

* * * * *

(f) * * *

(10) Enclosures, contents, machinery, building components, equipment and fixtures located at an elevation lower than the lowest elevated floor of an elevated building (except for the required utility connections and the footing, foundation, posts, pilings, piers or other foundation walls and anchorage system as required for the support of the elevated building), including a mobile home; finished basement walls, floors, ceilings and other improvements to a basement having its floor subgrade on all sides, and contents, machinery, building equipment and fixtures in such basement areas; except that coverage is provided in basement areas and in areas below the lowest elevated floor of an elevated building for sump pumps, well-water tanks, oil tanks, furnaces, hot water heaters, clothes washers and dryers, food freezers, air conditioners, heat pumps and electrical junction and circuit breaker boxes; and coverage is also provided in basement areas and in areas below the lowest elevated floor of an elevated building for stairways and staircases attached to the building which are not separated from the building by elevated walkways.

* * * * *

8. Section 61.5(f) is amended by the addition of a new paragraph (11), as follows:

* * * * *

(f) * * *

(11) Any building, and its contents, if the building was newly constructed or substantially improved on or after October 1, 1983, in an area designated as an undeveloped coastal barrier, within the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348).

* * * * *

9. Section 61.5(g)(2) is revised to read as follows:

* * * * *

(g) * * *

(2) Except for the insurability of "animals, birds and fish," at paragraph (f)(5) of this section, all of the kinds of uninsurable property and contents referenced at paragraph (f) (2) through (5) and at paragraphs (f) (7) through (10).

* * * * *

10. Section 61.5(g) is amended by the addition of a new paragraph (4), as follows:

(g) * * *

(4) Any building, and its contents, if the building was newly constructed or substantially improved on or after October 1, 1983, in an area designated as an undeveloped coastal barrier within the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348).

§ 61.9 [Amended]

11. Section 61.9 is amended by the removal of the title "Administrator" and the substitution therefor of the title "Associate Director, State and Local Programs and Support."

§ 61.11 [Amended]

12. Section 61.11 is amended by the removal of paragraph (a)(3).

§ 61.12 [Amended]

13. Section 61.12 is amended by the removal, in paragraph (c), of the language "Engineering Division, Office of Flood Insurance, Federal Insurance Administration" and the substitution therefor of the language, "Engineering Branch, Office of Natural and Technological Hazards, Office of State and Local Programs and Support."

Appendix A(1) [Amended]

14. Appendix A(1) of Part 61, referenced at § 61.13, Standard Flood Insurance Policy, is revised, in the following particulars:

a. In the Dwelling Form—Insuring Agreement and in Article II—Definitions, wherever the phrase "Direct Physical Loss by Flood" appears, it is revised to read "Direct Physical Loss by or from Flood."

b. At Article II—Definitions, (i) add, after the definition of "Application," the following definition: "Basement" means any area of the building having its floor subgrade (below ground level) on all sides; and (ii), in the definition of "Direct Physical Loss by or from Flood," delete the parenthetical phrase at the end thereof, placing the period after the word "loss."

c. At Article IV—Property Covered, in the second sentence of paragraph B, delete the word "insured," which appears before the word "building."

d. At Article V—Property Not Covered, revise paragraph F to read as follows:

F. Enclosures, contents, machinery, building components, equipment and fixtures located at an elevation lower than the lowest elevated floor of an elevated building (except for the required utility connections and the footing, foundation, posts, pilings, piers or other foundation walls and anchorage system as required for the support of the elevated building), including a mobile home; finished basement walls, floors, ceilings and other improvements to a basement having its floor subgrade on all sides, and contents, machinery, building equipment and fixtures in such basement areas; except that, as to this subparagraph (F), coverage is provided in basement areas and in areas below the lowest elevated floor of an elevated building for sump pumps, well-water tanks, oil tanks, furnaces, hot water heaters, clothes washers and dryers, food freezers, air conditioners, heat pumps and electrical junction and circuit breaker boxes; and coverage is also provided in basement areas and in areas below the lowest elevated floor of an elevated building for stairways and staircases attached to the building which are not separated from the building by elevated walkways.

e. At Article V—Property Not Covered, paragraph H, is revised to read as follows:

H. On and after October 1, 1982, a mobile home located or placed within a FEMA designated Special Flood Hazard Area that is not affixed to a permanent site (anchored) to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors or that otherwise does not meet the community's flood plain management requirements, unless it is a mobile home on a foundation continuously insured by the National Flood Insurance Program at the same site at least since September 30, 1982.

f. At Article V—Property Not Covered, add a new paragraph K, as follows:

K. A building, and its contents, newly constructed or substantially improved on or after October 1, 1983, in an area designated as an undeveloped coastal barrier within the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348).

g. Article VI—Deductibles is revised to read as follows:

Article VI—Deductibles

A. Each loss to your insured property is subject to a deductible provision under which your bear a portion of the loss before payment is made under the policy.

B. The loss deductible shall apply separately to each building loss and personal property (contents) loss including, as to each, appurtenant structure, debris removal, and

any reasonable expenses incurred after a flood under Article II or Article III in connection with the preservation and saving of insured property from flood or from the imminent danger of flood.

C. The amount of the deductible for each loss occurrence is determined as follows: We shall be liable only when such loss exceeds $500.00, or the amount of any higher deductible which you selected when you applied for this insurance or when you raised the deductible by endorsement.

D. In the case of reasonable expenses incurred pursuant to Article II in the temporary removal of an insured mobile home or insured personal property from the described premises and away from the peril of flood, the amount of the deductible shall be $50.00.

h. At Article VIII—General Conditions and Provisions, paragraph B, Concealment, Fraud is revised to read:

B. Concealment, Fraud: We will not cover you under this policy, which shall be void, nor can this policy be renewed or any new flood insurance coverage be issued to you if you have sworn falsely, or willfully concealed or misrepresented any material fact, or done any fraudulent act concerning this insurance (See "F," below). In addition we will not cover you under this policy, which shall be void, in the event you have willfully concealed or misrepresented any fact on a "Recertification Questionnaire," which causes us to issue a policy to you based on a premium amount which is less than the premium amount which would have been payable by you were it not for the misstatement of fact (see "G," below).

i. At Article VIII—General Conditions and Provisions, in paragraph G. Policy Renewal, the following is added to the end thereof:

* * * * *

Notwithstanding your responsibility to submit the appropriate renewal premium in sufficient time to permit its receipt by us prior to the expiration of the policy being renewed, we have established a business procedure for mailing renewal notices to assist insureds in meeting their responsibility. Regarding our business procedure, evidence of the placing of any such notices into the U.S. Postal Service, addressed to you at the address appearing on your most recent application or other appropriate form (received by the NFIP prior to to the mailing of the renewal notice by us), does, in all respects, for purposes of the NFIP presumptively establish delivery to you for all purposes irrespective of whether you actually received the notice. However, in the event we determine that, through any circumstances, any renewal notice was not placed into the U.S. Postal Service, or, if placed, was prepared or addressed in a manner which we determine could preclude the likelihood of it being actually and timely received by you prior to the due date for the renewal premium, the following procedures shall be followed:

In the event that you or your agent notifies us not later than one year after the date on which the payment of the renewal was due, of a nonreceipt of a renewal notice prior to the due date for the renewal premium, which we determine was attributable to the above circumstances, we shall mail a second bill providing a revised due date, which shall be thirty days after the date on which the bill is mailed. If the renewal payment is received by such revised due date, the policy shall be renewed as of the date on which the prior policy would have expired. If the renewal payment requested by reason of the second bill is not received by the revised due date, no renewal shall occur and the policy shall remain an expired policy as of the expiration date prescribed on the policy.

j. At Article VIII—General conditions and Provisions, in paragraph I. Requirements in Case of Loss, add the following at the end thereof:

* * * * *

5. We may, at our option, waive the requirement for the completion and filing of a Proof of Loss in certain cases, in which event you will be required to sign and, at our option, swear to an adjuster's report of the loss which includes information about your loss and the damages needed by us in order to adjust your claim;

6. Any false statements made in the course of presentment of a claim under this policy may be punishable by fine or imprisonment under the applicable Federal Laws.

k. At Article VIII—General Conditions and Provisions, paragraph K is revised to read as follows:

* * * * *

K. When Loss Payable: Loss is payable within 60 days after you file your proof of loss (or within 90 days after the insurance adjuster files an adjuster's report signed and sworn to by you in lieu of a proof of loss) and ascertainment of the loss is made either by agreement between us and you expressed in writing or by the filing with us of an award as provided in paragraph "M", below. If we reject your proof of loss in whole or in part, you may accept such denial of your claim, or exercise your rights under this policy, or file an amended proof of loss as long as it is filed within 60 days of the date of the loss or any extension of time allowed by the Administrator.

l. At Article VIII—General Conditions and Provisions, in paragraph "L. Abandonment," add the following to the end thereof:

* * * * *

However, we may permit you to keep damaged, insured preperty ("salvage") after a loss and reduce the amount of the loss proceeds payable to you under the policy by the value of the salvage.

m. At Article VIII—General Conditions and Provisions, in paragraph O. Mortgagee Clause, the first paragraph is revised to read as follows:

* * * * *

O. Mortgagee Clause—(Applicable to building items only and effective only when policy is made payable to a mortgagee (or trustee) named in the application and declarations form attached to this policy or of whom the Insurer has actual notice prior to the payment of loss proceeds under this policy.)

* * * * *

Appendix A(2)

14. Appendix A(2) of Part 61, referenced at § 61.13, Standard Flood Insurance Policy, is revised, in the following particulars:

a. In the General Property Form the phrase "Direct Physical Loss By Flood" is revised to read "Direct Physical Loss By or From Flood."

b. At the Definitions section, (i) add, after the definition of "Application," the following definition: "Basement" means any area of the building having its floor subgrade (below ground level) on all sides; and, (ii), in the definition of "Direct Physical Loss by Flood" wherever that phrase appears, it is revised to read "Direct Physical Loss by or from Flood" and, at the end of the definition, the paranthetical phrase is deleted and the period is placed after the word "loss."

c. At the Property Covered section, in "A. Building," the second paragraph is removed.

d. At the Property Covered section, in "B. Contents" the matter following the phrase "The Insurer shall not be liable for loss in any one occurrence for more than: * * * " is revised to read as follows:

* * * * *

The Insurer shall not be liable for loss in any one occurrence for more than $250 in the aggregate on paintings, etchings, pictures, tapestries, art glass windows and other works of art (such as but not limited to statuary, marbles, bronzes, antique furniture, rare books, antique silver, porcelains, rare glass, and bric-a-brac), jewelry, watches, necklaces, bracelets, gems, precious and semi-precious stones, articles of gold, silver, platinum and furs and any article containing fur which represents its principal value.

* * * * *

e. At the Property Not Covered section, paragraph F is revised to read as follows:

* * * * *

F. Enclosures, contents machinery, building components, equipment and fixtures located at an elevation lower than the lowest elevated floor of an elevated building (except for the required utility connections and the footing, foundation, posts, pilings, piers or other foundation walls and anchorage system as required for the support of the elevated building), including a mobile home; finished basement walls, floor, ceilings and other improvement to a basement having its floor subgrade on all sides, and contents machinery, building equipment and fixtures in such basement areas; except that, as to this subparagraph (F), coverage is provided in basement areas and in areas below the lowest elevated floor of an elevated building for sump pumps, well-water tanks, oil tanks, furnaces, heat pumps and electrical junction and circuit breaker boxes; and coverage is also provided in basement areas and in areas below the lowest elevated floor of an elevated building for stairways and

staircases attached to the building which are not separated from the building by elevated walkways.

f. At the Property Not Covered section, paragraph H is revised to read, as follows:

* * * * *

H. On and after October 1, 1982, a mobile home located or placed within a FEMA designated Special Flood Hazard Area that is not affixed to a permanent site (anchored) to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors or that otherwise does not meet the community's flood plain management requirements, unless it is a mobile home on a foundation continuously insured at the same site by the National Flood Insurance Program, at least since September 30, 1982.

g. In the Property Not Covered section, new paragraph K, is added, as follows:

* * * * *

K. A building, and its contents, newly constructed or substantially improved on or after October 1, 1983, in an area designated as an undeveloped coastal barrier within the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348).

h. The section entitled Deductibles is revised to read as follows:

Deductibles

A. With respect to loss to the building and debris removal covered hereunder, Insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of $500.00.

B. With respect to loss to contents, the reasonable expenses incurred by the Insured pursuant to paragraph "F" of "PERILS EXCLUDED," and debris removal coverage hereunder, the Insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of $500.00.

C. In lieu of the $500.00 deductible, the amount of the deductible in "A" and "B," above, shall be the higher amount selected, as an option, by the Insured when applying for this insurance or when raising the deductible by endorsement.

D. In the case of reasonable expenses incurred in the removal of an insured mobile home or personal property from the insured premises away from the peril of flood, the amount of the deductible shall be $50.00.

i. In the section entitled General Conditions and Provisions, paragraph B. Concealment, Fraud is revised to read:

* * * * *

B. Concealment Fraud: This entire policy shall be void and no renewal nor new flood insurance coverage can be issued to the Insured if, whether before or after the loss, the Insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the Insured therein, or in case of any fraud or false swearing by the Insured relating thereto (see "E," below). In addition, this entire policy shall be void if the Insured has willfully concealed or misrepresented any fact on a "Recertification Questionnaire," which causes the Insurer to issue a policy to the Insured based on a premium amount which is less than the premium amount which would have been payable by the Insured if it were not for the misrepresentation of fact (see "J," below).

j. In the section entitled General Conditions and Provisions, in paragraph J. Policy Renewal, the following new paragraphs are added to the end thereof:

* * * * *

Notwithstanding the above mentioned responsibility of the Insured to submit the appropriate renewal premium in sufficient time to permit its receipt by the NFIP prior to the expiration of the policy being renewed, the Insurer has established a business procedure for mailing renewal notices to assist Insureds in meeting their responsibility. Regarding the Insurer's business procedure, evidence of the placing of any such notices into the U.S. Postal Service, addressed to the Insured at the address appearing on the Insured's most recent application or other appropriate form (received by the NFIP prior to the mailing of the renewal notice by the Insurer), does, in all respects, for purposes of the NFIP presumptively establish delivery to the Insured for all purposes irrespective of whether the Insured actually received the notice. However, in the event that the Insurer determines that, through any circumstances, any renewal notice was not placed into the U.S. Postal Service, or, if placed, was prepared or addressed in a manner which the Insurer determines could preclude the likelihood of it being actually and timely received by the Insured prior to the due date for the renewal premium the following procedures shall be followed:

In the event that the Insured or his agent notifies the Insurer, not later than one year after the date on which the payment of the renewal was due, of a non-receipt of a renewal notice prior to the due date for the renewal premium, which the Insurer determines was attributable to the above circumstances, the Insurer shall mail a second bill providing a revised due date, which shall be thirty days after the date on which the bill is mailed. If the renewal payment is received by such revised due date, the policy shall be renewed as of the date on which the prior policy would have expired. If the renewal payment requested by reason of the second bill is not received by the revised due date, no renewal shall occur and the policy shall remain an expired policy as of the expiration date prescribed on the policy.

k. In the section entitled General Conditions and Provisions, redesignate paragraphs K through U as paragraphs L through V and add a new paragraph K to read as follows:

K. *Cancellation of Policy or Reduction in Amount of Insurance.* This policy may be cancelled at any time at the request of the Insured, in which case the Insurer shall, upon demand and surrender of this policy, refund the excess of paid premiums above the pro-rata premium earned with retention of the expense constant; provided, however, that the premium paid for the then current policy term shall be fully earned if the Insured retains an interest in the property covered at the location described in the application and declarations form.

The amount of insurance under this policy may be reduced at any time at the request of the Insured, in which case the Insurer shall, upon demand, refund the excess of paid premium above the pro-rata premium earned for the amount of the reduction; provided, however, that the premium paid for the then current policy term shall be fully earned to the extent that the Insured retains an interest in the property covered at the location described in the application and declarations form.

l. In the section entitled General Conditions and Provisions, in redesignated paragraph M. Mortgagee Clause, the first paragraph is revised to read as follows:

* * * * *

M. Mortgagee Clause (Applicable to building items only and effective only when policy is made payable to a mortgagee (or trustee) named in the application and declarations form attached to this policy or of whom the Insurer has actual notice prior to the payment of loss proceeds under this policy):

m. In the section entitled General Conditions and Provisions, in redesignated paragraph P. Requirements in Case of Loss, add the following paragraph at the end thereof:

* * * * *

The Insurer may, at its option, waive the requirement for the completion and filing of a Proof of Loss in certain cases, in which event the Insured will be required to sign and, at the Insurer's option, swear to an adjuster's report of the loss which includes information about the loss and the damages needed by the Insurer before the loss can be adjusted.

Any false statements made in the course of presentment of a claim under this policy may be punishable by fine or imprisonment under the applicable Federal laws.

* * * * *

n. In the section entitled General Conditions and Provisions, in redesignated paragraph S. Abandonment, add the following to the end thereof:

* * * * *

However, the Insurer may permit the Insured to keep damaged, insured property ("salvage") after a loss and reduce the amount of the loss proceeds payable to the Insured under the policy by the value of the salvage.

* * * * *

o. In the section entitled General Conditions and Provisions, redesignated

paragraph T. When Loss Payable, is revised to read as follows:

* * * * *

T. When Loss Payable: Loss is payable within 60 days after the Insured files the proof of loss (or within 90 days after the insurance adjuster files an adjuster's report signed and sworn to by the Insured in lieu of a proof of loss) and ascertainment of the loss is made either by agreement between the Insurer and the Insured, expressed in writing, or by the filing with the Insurer of an award as provided in paragraph "Q", above. If the Insurer rejects the Insured's proof of loss in whole or in part, the Insured may accept such denial of the claim, or exercise the Insured's rights under this policy, or file an amended proof of loss as long as it is filed within 60 days of the date of the loss or any extension of time allowed by the Administrator.

* * * * *

§ 61.14 [Amended]

15. Section 61.14(b) is amended by the removal of the following:, 1725 I Street, N.W.,

(National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1958), 42 U.S.C. 4001–4128; Reorganization Plan No. 3 of 1978 (43 FR 4194); E.O. 12127, dated March 31, 1979 (44 FR 19367); Delegation of Authority to Federal Insurance Administrator)

Issued at: Washington, D.C., August 24, 1983.

Jeffrey S. Bragg,

Federal Insurance Administrator

[FR Doc. 83-23604 Filed 8-26-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, and 95

[PR Docket No. 82-184]

General Mobile Radio Service Rules; Announcement of Effective Date and Corrections.

AGENCY: Federal Communications Commission.

ACTION: Final Rule; Announcement of effective date and corrections.

SUMMARY: This document sets September 26, 1983, as the effective date of rules amending Part 1, 2, and 95, Subpart A, to provide for a Temporary Permit for additonal users of authorized mobile relay stations in the General Mobile Radio Service (GMRS) (February 3, 1983; 48 FR 4783). The rule amendments were adopted by the Commission on January 20, 1983, but their effective date has been held in abeyance pending Office of Management and Budget approval of the Temporary Permit form. The amendments are necessary in order to eliminate the delay that occurs while a license application is being processed. With the Temporary Permit, the additional users will be able to begin immediate operation in a multiply-licensed GMRS repeater system. The Temporary Permit form number is 574–T.

EFFECTIVE DATE: September 26, 1983.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554, (202) 632–4964.

SUPPLEMENTARY INFORMATION: The following corrections are made in FR Doc. 83–2931 on page 4783 in the issue of February 3, 1983:

§ 1.922 [Corrected]

1. On page 4785, in § 1.922, under the column heading *FCC Form,* the number of the form, 574–T, should be entered. This entry should fall between 572 and 577 in the list of forms that comprise § 1.922.

§§ 1.925, 95.15 and 95.16 [Corrected]

2. On page 4785, in §§ 1.925(h), 95.15(d) and 95.16 where there is a blank space following the word Form, insert the number 574–T.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-23634 Filed 8-26-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 81

[PR Docket No. 82-780; RM-3847; FCC 83-379]

Amendment of the Commission's Rules Affecting the Use of Marine VHF Public Correspondence Frequencies Between Certain Areas of Washington State and Canada

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends rules governing the channeling arrangements and technical parameters of marine VHF Public Correspondence frequencies in the Puget Sound area. These changes increase spectrum utilization and reduce potential interference on these channels and were undertaken in response to a petition for rule making.

EFFECTIVE DATE: September 21, 1983.

FOR FURTHER INFORMATION CONTACT: Robert P. DeYoung, Private Radio Bureau, (202) 632–7175.

List of Subjects in 47 CFR Part 81

Coast stations, Radio, Telephone.

Report and Order (Proceeding Terminated)

In the matter of amendment of Part 81 of the Commission's rules affecting the use of marine VHF Public Correspondence frequencies between certain areas of Washington State and Canada. PR Docket No. 82–780 RM–3847.

Adopted: August 8, 1983.

Released: August 15, 1983.

By the Commission.

1. This Report and Order amends Subpart S of Part 81 of the rules to increase spectrum utilization and reduce potential interference on marine VHF public correspondence frequencies in the Puget Sound area of Washington State and Canada. A Notice of Proposed Rule Making in this matter was released on November 29, 1982, PR Docket 82–780, FCC 82–509, 47 FR 54836. The comment and reply comment period have passed.

Background

2. Our current rules are based on a channeling arrangement with Canada for west coast VHF maritime mobile public correspondence.[1] The arrangement was established in order to prevent interference between coast stations in the U.S. and those in Canada. This channel assignment plan designates primary, supplementary and local channels for each public correspondence sector of the Puget Sound area. The arrangement also specifies technical standards which each station is required to meet. These technical standards are enumerated in Subpart S.

3. A petition for Rulemaking (RM–3847), requesting amendment of Subpart S, has been filed with the Commission by the North Pacific Marine Radio Council (NPMRC). According to NPMRC, this petition was the result of extensive studies utilizing the criteria of Subpart R of Part 81 of the Commission's rules.[2] The rule changes requested were the product of a coordinated effort of the Public Correspondence Committee of the NPMRC. Representatives of telephone companies serving the United States and Canada, including representatives of the Western Canada Telecommunications Council, participated. The petition requested several changes in Subpart S which NPMRC believes will improve the VHF service.

[1] "Canada/U.S.A. Channeling Arrangement for West Coast VHF Maritime Mobile Public Correspondence."

[2] Subpart R of Part 81 sets forth procedures and standards for computing VHF coverage.

4. Comments in this proceeding were filed by the Pacific Northwest Bell Telephone Company (PNB), the North Pacific Marine Radio Council (NPMRC), and the Whidbey Telephone Company (Whidbey). All three commenters generally favored the proposed rule changes which we are adopting. Whidbey, however, expressed two concerns. The first concern was the possible effect of the proposed changes on two applications which Whidbey has on file with the Commission. The second concern was that the language of § 81.904(e) might be read as precluding the reporting of harmful interference directly to the Commission. The Whidbey applications are being processed by the staff on an *ad hoc* basis and we believe the concerns expressed in its comments have been resolved.[3] It was not our intent to preclude direct reports of harmful interference and § 81.904(e) has been modified accordingly.

5. These rule changes adopt new technical parameters in the area which reduce interference and allow increased channel utilization with no degradation of service to the public. The Effective Radiated Power (ERP) of the primary and supplementary channels is reduced from the currently authorized 125 watts to 60 watts. Antenna height is limited to 500 feet for Inland waters primary and secondary channels, to 50 feet for Inland waters local channels, and to 250 feet for Coastal waters local channels. No antenna restrictions are proposed for Coastal waters primary and secondary channels.

6. Changes in channeling are also adopted. Each public correspondence sector is assigned one primary and one supplementary channel with the exception of the three sectors where a supplementary channel is not available. Any channel among those which are included in the arrangement can be used as a local channel in a particular sector except those channels which are designated as primary and secondary channels in that sector. The current arrangement assigns up to two primary and supplementary channels per sector and assigns channels 24 and 25 as local channels. The new channeling arrangement provides more flexibility to local channels without a degradation of service on other channels.

7. Coast stations may still be established by either country in accordance with the provisions of the arrangement without prior coordination. Preliminary local Canadian/U.S. coordination will be required for all applications in variance with the arrangement. Informal coordination may also take place through a committee comprised of members of the North Pacific Marine Radio Council and appropriate Canadian representatives. Applications in compliance with the plan may also be furnished to the committee for informational purposes.

8. Pursuant to Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) the Commission certifies the rules will not have a significant economic impact on a substantial number of small entities. Only seven U.S. VHF coast stations are located within the boundaries of Canadian coordination on the west coast. Six of these stations are licensed to Pacific Northwest Bell Telephone Company and one to General Telephone Company of the Northwest.

9. Regarding questions on matters covered in this document, contact Robert P. DeYoung at 202-632-7175.

10. The amendments to the Commission's rules as set forth in the attached Appendix are issued under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

11. For the reasons set forth above, It is ordered, that Part 81 of the rule is amended, as set forth in the attached Appendix effective September 21, 1983.

12. It is further ordered, that a copy of this Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

13. It is further ordered, that this proceeding is terminated.

(Secs. 4, 303, 46 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

47 CFR Part 81 is amended by revising §§ 81.901 through 81.904 to read as follows:

§ 81.901 Canada/U.S.A. arrangement.

(a) Pursuant to arrangements between the United States and Canada, assignment of VHF frequencies to public coast stations in certain areas of Washington State, the Great Lakes, and the east coast of the United States shall be made in accordance with the provisions of this subpart.

(b) On the west coast, due to topographic constraints and confined waterways, near sea level transmitter/receiver sites have proved to be superior to high level transmitter/receiver sites in providing reliable and high quality communications. The purpose of this subpart is to:

(1) Provide reliable and widespread service to the marine subscriber.

(2) Simplify licensing and provide preliminary testing procedures for those providing service.

(3) Allow maximum reuse of available channels.

(4) Provide measurable criteria to allow determination of a licensee's compliance.

(5) Provide a means for continued cooperation and coordination with Canada.

§ 81.902 Definitions.

On the west coast, the following terms are defined as follows:

(a) *Inland Waters Public Correspondence Sector.* A distinct geographical area in which one primary and one supplementary channel is allotted. A number of local channels may also be authorized.

(b) *Coastal Waters Public Correspondence Sector.* A distinct geographical area in which one primary and one supplementary channel is allotted. A number of local channels may also be authorized.

(c) *Inland Waters.* Inland waters of western Washington and British Columbia bounded by 47° latitude on the south, the Canada/U.S.A. Coordination Zone Line B on the north, and to the west by 124° 40' longitude at the west entrance to the Strait of Juan de Fuca.

(d) *Coastal Waters.* Waters along the Pacific Coast of Washington State and Vancouver Island within the Canada/U.S.A. Coordination Zone.

(e) *Inland Waters Primary Channel.* A channel intended to cover the greater portion of an Inland Waters Public Correspondence Sector. It may provide some coverage to an adjacent sector but must not provide coverage beyond the adjacent sector. Harmful interference beyond the adjacent sector must not occur. Only one primary channel will be authorized in any sector.

(f) *Inland Waters Supplementary Channel.* A channel intended to improve coverage within a sector or to relieve traffic congestion on the primary channel. It may provide some coverage of an adjacent sector but must not provide coverage beyond the adjacent

[3] Of the two Whidbey applications pending during the comment period of this proceeding, one (Freedland) has been granted and the second has been placed on public notice (Clinton).

sector. Harmful interference beyond the adjacent sector must not occur. Only one supplementary channel will be authorized in any sector.

(g) *Inland Waters Local Channel.* A channel designed to provide local coverage of certain bays, inlets and ports where coverage by primary or supplementary channels is poor or where heavy traffic loading warrants. A local channel must not cause harmful interference to any primary or supplementary channels. Coverage shall be confined to the designated sector.

(h) *Coastal Waters Primary Channel.* Same as (e) except for technical characteristics.

(i) *Coastal Waters Supplementary Channel.* Same as (f) except for technical characteristics.

(j) *Coastal Waters Local Channel.* Same as (g) except for technical characteristics.

§ 81.903 Technical characteristics.

On the west coast, technical characteristics of public correspondence stations shall be as follows:

(a) *Inland Water Primary and Supplementary Channels.* ERP shall not exceed 60 watts. Antenna height shall not exceed 500 feet AMSL with the exceptions noted in § 81.904(e).

(b) *Inland Waters Local Channel.* ERP shall not exceed 8 watts with an antenna height of no more than 50 feet AMSL or the ERP shall not exceed 2 watts with an antenna height of no more than 100 feet AMSL.

(c) *Coastal Waters Primary and Supplementary Channels.* ERP shall not exceed 125 watts with no antenna restrictions.

(d) *Coastal Waters Local Channel.* ERP shall not exceed 10 watts with a maximum antenna height of 250 feet AMSL.

(e) Harmful Interference shall be determined and resolved using the definition and procedures of the ITU International Radio Regulations.

(f) To keep the ERP's and antenna elevations at a minimum and to limit coverage to the desired areas, an informal application may be filed for special temporary authority in accordance with Section 81.26 and 81.41 to conduct a field survey to obtain necessary data for informal application. Such data may accompany the application and be used in lieu of theoretical calculations as required in Subpart R. The Seattle FCC District Office shall be notified in advance of scheduled tests.

§ 81.904 Canada/U.S.A. channeling arrangement for west coast VHF Maritime Mobile Public Correspondence.

(a) The provisions of the Canada/U.S. channeling arrangement apply to waters of the State of Washington and of the Province of British Columbia within the coordination boundaries of "Arrangement A" of the Canada/U.S.A. Frequency Coordination Agreement above 30 MHz. In addition, all inland waters as far south as Olympia are to be included. A map of these waters is contained in Subsection (f), Figure 1 below.

(b) The channeling arrangement applies to the following VHF public correspondence channels: Channels 24, 84, 25, 85, 26, 86, 27, 87, and 28.

(c) Public correspondence stations any be established by either country in accordance with the provisions of the arrangements. There shall, however, be an exchange of information in respect of the establishment of new stations or a change in technical parameters of existing stations. Any channel except that used as primary or supplementary channel in a given sector is available for use as a local channel in that sector. Local channels shall not be protected from interference caused by primary or supplementary channels in adjacent sectors if these stations are in compliance with this subpart.

(d) Preliminary local Canadian/U.S. coordination is required for all applications in variance with this subpart. This coordination will be in accordance with the provisions of Arrangement "A" of the Canada/U.S. Frequency Coordination Agreement over 30 MHz. Such stations shall not be protected from interference or cause interference to existing or future stations which are in accordance with the agreement.

(e) Existing stations shall comply with the provisions of the arrangement within 12 months after it becomes effective with the following exceptions:

(1) Public coast local service (VHF) stations:

KOH627 Tacoma, Washington
KOH630 Seattle, Washington
WXY956 Camano, Washington
VAI2 Mount Parke, British Columbia
VAS5 Watts Point, British Columbia
XLK672 Bowen Island, British Columbia

(2) These stations employing current assigned frequencies, may be maintained with existing antenna heights in excess of 500 feet unless harmful interference to existing stations is identified and reported directly to the Federal Communications Commission or through the Public Correspondence Committee of the North Pacific Marine Radio Council.

(f) The agreed channeling arrangements for the west coast are as follows:

Public correspondence sector	Primary channel	Supplementary channel
British Columbia (Coastal Waters):		
Tofino	24	26
Barkley Sound	27	87
British Columbia (Inland Waters):		
Juan de Fuca West (Canada)	26	24
Juan de Fuca East (Canada)	86	84
Gulf Islands	27	(1)
Strait of Georgia South	26	86
Howe Sound	24	84
Strait of Georgia North	26	87
Campbell River	28	85
Washington (Inland Waters):		
Cape Johnson	26	85
Point Grenville	28	25
Washington (Coastal Waters):		
Juan de Fuca West (U.S.A.)	28	(1)
Juan de Fuca East (U.S.A.)	25	(1)
San Juan Islands	28	85
Puget Sound North	24	87
Puget Sound Hood Canal	26	25
Lower Puget Sound	28	85

[1] Supplementary channel not available.

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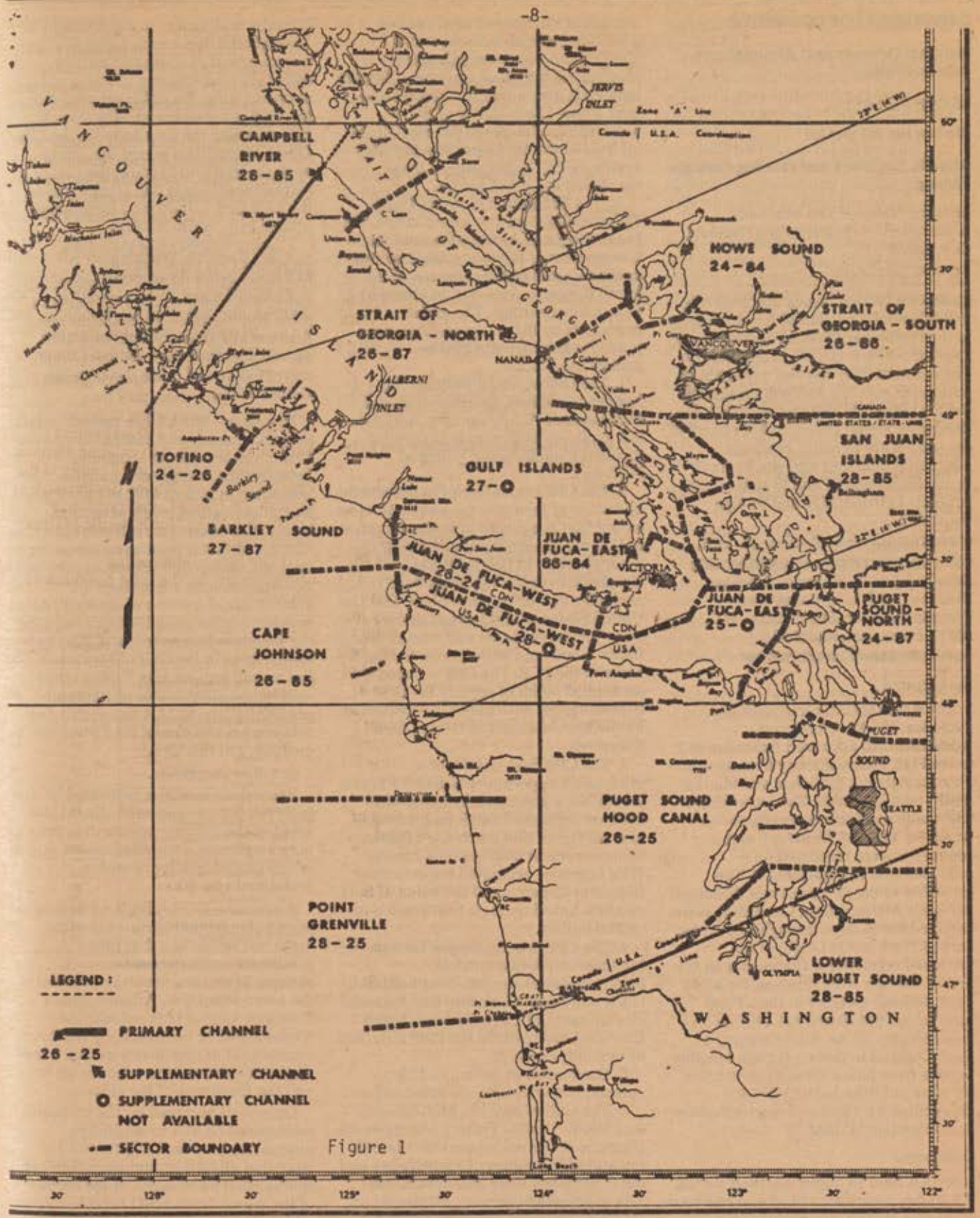

Figure 1

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