

limitations to ensure the attainment and maintenance of the ambient air quality standard, and reflect the emission reduction requirements contained in the consent decree.

Taracorp also agreed to perform the following waste pile controls: beginning on or before May 1, 1984, to spray the slag/waste pile with a stabilizing material capable of attaining 75% control of the emission from the pile. Taracorp will use either a petroleum resin base or an asphalt emulsion surfactant.

Specific details on the control strategies summarized above, construction schedules, and test methods are contained in the March 19, 1984, consent decrees which are available for review at Region V's office. USEPA has determined that the change from strategy 7 to strategy 6 is not significant so as to require a reproposal. Both strategies were described and evaluated in the proposal and associated technical materials in the docket. Moreover, the change occurred prior to the end of the public comment period.

The control strategies for St. Louis Lead Recyclers and Tri-City Trucking, Inc., consist of implementing a fugitive dust control plan for non-process sources. These control strategies have not been changed since the publication of the notice of proposal in the December 29, 1983 (48 FR 57325) *Federal Register*.

The consent decrees incorporating these control strategies are available for review at Region V's office.

USEPA has evaluated the Illinois lead SIP for the Granite City area by comparing it to the requirements for an approvable SIP as set forth in 40 CFR Part 51, Subpart E. USEPA has reviewed the March 19, 1984, consent decrees submitted by the State of Illinois. The signed consent decrees between the State and the affected industries which have been entered and approved by the Court satisfy the one remaining deficiency in the Illinois lead SIP for the Granite City area. The State of Illinois submitted a public comment which supported USEPA's action.

No other public comments were received by the Agency. Therefore, since the State submitted signed consent decrees that satisfy the requirement for an enforceable mechanism in the lead SIP to implement the proposed control strategy, USEPA approves the entire Illinois lead SIP for the Granite City area in today's *Federal Register*.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Note.—Incorporation by reference of the State Implementation Plan for the State of Illinois was approved by the Director of the Federal Register on July 1, 1982.

This notice is issued under authority of Sections 110, 301, and 319 of the Clean Air Act, as amended (42 U.S.C. 7410, 7601, and 7619).

Dated: July 18, 1984.

William D. Ruckelshaus,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart O—Illinois

Title 40 of the Code of Federal Regulations amended as follows:

1. Section 52.720(c) is amended by adding paragraph (53) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(53) On September 30, 1983, the State submitted a revision to the Illinois State Implementation Plan in the form of a lead plan to assure attainment and maintenance of the NAAQS in the Granite City area. The Illinois plan includes a discussion of air quality data measured since 1978, an emission inventory of three source categories capable of emitting lead, atmospheric modeling analyses and proposed necessary control strategies. On March 19, 1984, the State submitted five consent decrees entered by the State of Illinois with the Circuit Court for the Third Judicial Circuit of Madison County and filed March 16, 1984, for incorporation in the lead plan. These include *People of the State of Illinois vs. Taracorp, Inc.*; *People of the State of Illinois vs. St. Louis Lead Recyclers*; *People of the State of Illinois vs. First Granite City National Bank*; *People of the State of Illinois, vs. Stackor Inc.*;

and *People of the State of Illinois vs. B.V. and G.V. Transport Company*.

[FR Doc. 84-19482 Filed 7-23-84; 8:45 am]

BILLING CODE 6580-50-M

40 CFR Part 421

[OW-FRL-2637-2]

Water Pollution; Nonferrous Metals Manufacturing Point Source Category, Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA is correcting several errors in the effluent limitations guidelines, pretreatment standards and new source performance standards for the nonferrous metals manufacturing point source category which appeared in the *Federal Register* on March 8, 1984 (49 FR 8742). This document corrects errors in both the preamble and 40 CFR Part 421.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Berlow at (202) 382-7126.

SUPPLEMENTARY INFORMATION: On March 8, 1984, EPA published final effluent limitations guidelines and standards for the nonferrous metals manufacturing point source category (40 CFR Part 421; 49 FR 8742). Both the preamble and the regulation contained several errors. These errors are discussed briefly below and are corrected by this notice.

Section IX of the preamble, Public Participation and Response to Major Comments, provides in the response to the first comment an example of the methodology a permit writer may use to develop mass limitations for unregulated waste streams. (See 49 FR at 8778/2-3.) The first sentence of the final paragraph of the response to comment number one is ambiguous. The sentence was intended to describe what a permit writer should do to develop a mass discharge limitation for a site-specific waste stream if the permit writer makes a threshold determination that the waste stream is sufficiently contaminated to require a discharge allowance and further determines that combined treatment with other process wastewater is appropriate. (The same response in fact indicates that many site-specific waste streams will not be sufficiently contaminated to warrant treatment. *Id.* at paragraphs 1 and 3 of the response.) It is not the Agency's intention that a permit writer must

provide a mass discharge allowance for each individual waste stream present at a particular facility, or that combined treatment is always appropriate. The permit writer must use his best professional judgment to decide which nonregulated waste streams are sufficiently contaminated to require treatment, and which require combined treatment with other process wastewaters. This correction removes any (unintended) implication that the permit writer lacks discretion to make these threshold findings.

In Section IX of the preamble, Public Participation and Response to Major Comments (see 49 FR at 8779/2-3), major comment number three discusses the pH range proposed and promulgated for this regulation. The response provided for the comments received on pH is in error. It is not clearly stated in this response which subcategories are affected by broadening the pH range from two and a half units to three (7.0 to 10.0). The pH range of 7.0 to 10.0 is only applicable to the primary and secondary aluminum subcategories. (The whole context of the discussion in the preamble, however, was the primary and secondary aluminum subcategories.) The pH range for all other subparts consequently is 7.5 to 10.0.

Several errors occur in Appendices C through H listing the toxic pollutants excluded from limitation under Paragraph 8(a) of the Settlement Agreement. These are corrected in this notice.

The regulatory flow used to calculate the mass limitations for delacquering wet air pollution control in §§ 421.33(e), 421.34(e), 421.35(e), and 421.36(e) was in error. A regulatory flow of 80 l/kg of aluminum delacquered was used in the calculation. The flow should have been 333 l/kg (80 gal/ton) of aluminum delacquered.

The conditions for which §§ 421.33 (g) and (h) and 421.34 (g) and (h) are applicable in the secondary aluminum subcategory were misstated. These sections state that the ingot conveyor casting contact cooling allowance is only applicable to those plants not operating chloride demagging. This is incorrect; the applicability of these sections is dependent on the presence of chlorine demagging, wet air pollution control rather than chloride demagging as stated. Sections 421.35 and 421.36 state this condition correctly (see 49 FR at 8759/1).

The mass limitations for the maximum for monthly average promulgated for the pollutant arsenic in Subparts E and I are in error. An incorrect treatment effectiveness concentration was used in

the calculation of the mass limitations. The correct treatment effectiveness concentration is 0.62 mg/l for the maximum for monthly average.

Dated: July 17, 1984.

Henry L. Longest, II,
Acting Assistant Administrator for Water.

The following corrections are made in FR Doc. 84-2289, the Nonferrous Metals Manufacturing Point Source Category; Effluent Limitations Guidelines; Pretreatment Standards and New Source Performance Standards published in the Federal Register on March 8, 1984 (49 FR 8742).

1. On page 8747, column three, "(7) Materials handling wet air pollution control" is corrected to read "(7) Sinter plant materials handling wet air pollution control".

2. On page 8753, column three, in the third paragraph, the first sentence, "activated carbon absorption" is corrected to read "activated carbon adsorption".

3. On page 8755, column two, in the second paragraph, the second sentence, "solvent extraction raffinate wet air pollution control" is corrected to read "solvent extraction wet air pollution control".

4. On page 8760, column one, in the first line, "catastrophics form" is corrected to read "catastrophic storm".

5. On page 8763, column three, in the last paragraph, in the fourth sentence "materials handling" is corrected to read "sinter plant materials handling".

6. On page 8764, column one, in the third line, "materials handling" is corrected to read "sinter plant materials handling".

7. On page 8764, column two, in the second complete paragraph, the fourth sentence, "Secondary Lead Association" is corrected to read "Secondary Lead Smelters Association".

8. On page 8778, column three, last paragraph, first sentence, "To account for site-specific wastewater sources, the permit writer must quantify the discharge rate of the waste stream." is corrected to read "To account for site-specific wastewater sources, for which the permit writer in his best professional judgment determines that cotreatment with process wastewater is appropriate, the permit writer must quantify the discharge rate of the waste stream".

9. On page 8779, column two, paragraph three, "To facilitate meeting the aluminum limits at BPT and BAT, we have broadened the pH range from 7.5 to 10 to 7.0 to 10." is corrected to read "To facilitate meeting the aluminum limits in the primary and secondary aluminum subcategories, we have broadened the

pH range in these subcategories from 7.5 to 10.0 to 7.0 to 10.0".

10. On page 8779, column three, second paragraph, "The Agency thus agrees with the commenters that the proposed 2.5 pH range is too narrow and has promulgated a pH range of 7 to 10." is corrected to read "The Agency thus agrees with the primary and secondary aluminum commenters that the proposed 2.5 pH range is too narrow and has promulgated a pH range of 7.0 to 10.0 for the primary and secondary aluminum subcategories."

11. Several typographical errors occur for toxic pollutant number 5, benzidine, in Appendix C starting on page 8784. This pollutant, stated as "5. benzidine", is corrected to read "5. benzidine". This term appears in Appendix C for the following subcategories.

Page	Subcategory
8784	Primary Aluminum.
8784	Secondary Aluminum.
8784	Primary Copper Electrolytic Refining.
8785	Primary Lead.
8785	Primary Zinc.
8786	Metallurgical Acid Plants.
8786	Primary Tungsten.
8786	Primary Columbium-Tantalum.
8787	Secondary Silver.
8787	Secondary Lead.

12. Several Typographical errors occur for toxic pollutant number 11, 1,1,1-trichloroethane, in Appendices C, D, and F starting on page 8784. This pollutant, stated as "11. 1,1,1-trichloroethane" is corrected to read "11. 1,1,1-trichloroethane". This term appears in the following appendices and subcategories.

Appendix	Page	Subcategory
C	8784	Primary Aluminum.
C	8784	Secondary Aluminum.
C	8785	Primary Lead.
D	8783	Primary Copper Electrolytic Refining.
F	8789	Secondary Silver.

13. Several typographical errors occur for toxic pollutant number 12, hexachloroethane, in Appendix C starting on page 8784. This pollutant, stated as "12. hexachloroethane", is corrected to read "12. hexachloroethane". This term appears in the following appendices and subcategories.

Appendix	Page	Subcategory
C	8784	Primary Aluminum.
C	8784	Secondary Aluminum.
C	8784	Primary Copper Electrolytic Refining.
C	8785	Primary Lead.
C	8785	Primary Zinc.
C	8786	Primary Tungsten.
C	8787	Secondary Silver.

Appendix	Page	Subcategory
C	8787	Secondary Lead.

14. Several errors occur in the listing of toxic pollutants excluded under paragraph 8 (a) of the Settlement Agreement. These errors occur in Appendix C—Toxic Pollutants not Detected, Appendix D—Toxic Pollutants Detected Below the Analytical Quantification Limit, Appendix E—Toxic Pollutants Detected in Amounts Too Small To Be Effectively Reduced by Technologies Considered in Preparing This Guideline, Appendix F—Toxic Pollutants Detected in the Effluent From Only a Small Number of Sources, Appendix G—Toxic Pollutants Effectively Controlled by Technologies Upon Which Are Based Other Effluent Limitations and Guidelines, and Appendix H—Toxic Pollutants Detected But Only in Trace Amounts and Are Neither Causing Nor Likely To Cause Toxic Effects. The appendices are corrected by the following table.

Subpart-subcategory pollutant	Incorrect appendix listing	Corrected appendix listing
Subpart B—Primary Aluminum Smelting Subcategory:		
4. benzene	E	F
23. chloroform	E	F
44. methylene chloride	E	F
55. naphthalene	F	G
77. acenaphthylene	G	F
Subpart C—Secondary Aluminum Subcategory:		
29. 1,1-dichloroethylene	E	F
30. 1,2-trans-dichloroethylene	E	F
48. dichlorobromomethane	E	F
65. phenol	C	G
Subpart H—Primary Zinc Subcategory:		
4. benzene	E	F
22. parachlorometa-cresol	E	F
86. toluene	E	F
Subpart I—Metallurgical Acid Plants Subcategory:		
22. parachlorometa-cresol	E	F
23. chloroform	E	F
38. ethylbenzene	E	F
48. dichlorobromomethane	E	F
85. tetrachloroethylene	E	F
117. beryllium	D	E
Subpart J—Primary Tungsten Subcategory:		
1. acenaphthene	H	F
23. chloroform	E	F
29. 1,1-dichloroethylene	E	F
38. ethylbenzene	E	F
51. chlorodibromomethane	E	F
54. isophorone	D	E
70. diethyl phthalate	D	E
71. dimethyl phthalate	D	E
77. acenaphthylene	H	F
80. fluorene	H	F
85. tetrachloro-ethylene	E	H
86. toluene	E	H
114. antimony	D	E
125. selenium	D	C
Subpart K—Primary Columbium-Tantalum Subcategory:		
4. benzene	E	H
6. carbon tetrachloride	F	H
10. 1,2-dichloroethane	F	H
11. 1,1,1-trichloroethane	*	C
48. dichlorobromomethane	E	F
54. isophorone	E	F
70. diethyl phthalate	E	C

Subpart-subcategory pollutant	Incorrect appendix listing	Corrected appendix listing
85. tetrachloro-ethylene	F	H
Subpart L—Secondary Silver Subcategory:		
11. 1,1,1-trichloroethane	F	H
30. 1,2-trans-dichloro ethylene	E	H
38. ethylbenzene	E	H
84. pyrene	F	H
85. tetrachloro-ethylene	F	H
86. toluene	F	H
Subpart M—Secondary Lead Subcategory:		
7. chlorobenzene	D	C
23. chloroform	E	F
29. 1,1-dichloroethylene	D	C
56. nitrobenzene	D	F
65. Phenol	D	E
71. dimethyl phthalate	E	F
126. silver	*	G
127. thallium	*	G

*Pollutant was not listed in Appendices.

PART 421—[CORRECTED]

§ 421.22 [Corrected]

15. In 40 CFR 421.22, page 8792, column two, "Metric units—mg/kg of product" and "English units—pounds per million pounds of product" are corrected to read "Metric units—kg/kkg of product" and "English units—lbs/ thousand lbs of product", respectively.

§ 421.33 [Corrected]

16. In 40 CFR 421.33(g), on page 8797, column three, "(g) Subpart C—Ingot Conveyor Casting Contact Cooling (When Chlorine Demagging is Not Practiced On Site)" is corrected to read "(g) Subpart C—Ingot Conveyor Casting Contact Cooling (When Chlorine Demagging Wet Air Pollution Control is Not Practiced On Site)".

17. In 40 CFR 421.33(h), on page 8797, column three, "(h) Subpart C—Ingot Conveyor Casting Contact Cooling (When Chlorine Demagging is Not Practiced On Site)" is corrected to read "(h) Subpart C—Ingot Conveyor Casting Contact Cooling (When Chlorine Demagging Wet Air Pollution Control is Practiced On Site)".

§ 421.34 [Corrected]

18. In 40 CFR 421.34 (d), on page 8798, column two, "BAT Effluent Limitations" is corrected to read "NSPS".

19. In 40 CFR 421.34 (g), on page 8798, column two, "(g) Subpart C—Ingot Conveyor Casting Contact Cooling (When Chlorine Demagging is Not Practiced On Site)" is corrected to read "(g) Subpart C—Ingot Conveyor Casting Contact Cooling (When Chlorine Demagging Wet Air Pollution Control is Not Practiced On Site)".

20. In 40 CFR 421.34(h), on page 8798, column three, "(h) Subpart C—Ingot Conveyor Casting Contact Cooling (When Chlorine Demagging is Practiced On Site)" is corrected to read "(h)

Subpart C—Ingot Conveyor Casting Contact Cooling (When Chlorine Demagging Wet Air Pollution Control is Practiced On Site)".

§§ 421.33, 421.34, 421.35, and 421.36 [Corrected]

21. In 40 CFR 421, §§ 421.33 (e), 421.34 (e), 421.35 (e), and 421.36 (e), the Maximum For Any 1 Day For Lead, "0.022" is corrected to read "0.093".

22. In 40 CFR 421, §§ 421.33 (e), 421.34 (e), 421.35 (e), and 421.36 (e), the Maximum for Monthly Average for Lead "0.010" is corrected to read "0.043".

23. In 40 CFR 421, §§ 421.33 (e), 421.34 (e), 421.35 (e), and 421.36 (e), the Maximum for Any 1 Day for Zinc, "0.082" is corrected to read "0.340".

24. In 40 CFR 421, §§ 421.33 (e), 421.34 (e), 421.35 (e) and 421.36 (e), the Maximum for Monthly Average for Zinc, "0.034" is corrected to read "0.140".

§§ 421.33 and 421.34 [Corrected]

25. In 40 CFR 421, §§ 421.33 (e) and 421.34 (e), the Maximum for Any 1 Day for Aluminum, "0.489" is corrected to read "2.035".

26. In 40 CFR 421, §§ 421.33 (e) and 421.34 (e), the Maximum for Monthly Average for Aluminum, "0.217" is corrected to read "0.903".

§§ 421.33, 421.34, 421.35, and 421.36 [Corrected]

27. In 40 CFR 421, §§ 421.33 (e), 421.34 (e), 421.35 (e), and 421.36 (e), the Maximum for Any 1 Day for Ammonia (as N), "10.670" is corrected to read "44.389".

28. In 40 CFR 421, §§ 421.33 (e), 421.34 (e), 421.35 (e), and 421.36 (e), the Maximum for Monthly Average for Ammonia (as N), "4.688" is corrected to read "19.514".

29. In 40 CFR 421, §§ 421.33 (e), 421.34 (e), 421.35 (e), and 421.36 (e), the Maximum for Any 1 Day for Total Phenols (4-AAP method), "0.001" is corrected to read "0.004".

§ 421.34 [Corrected]

30. In 40 CFR 421.34 (e), the Maximum for Any 1 Day for Total Suspended Solids, "1.200" is corrected to read "4.995".

31. In 40 CFR 421.34 (e), the Maximum for Monthly Average for Total Suspended Solids, "0.960" is corrected to read "3.996".

32. In 40 CFR 421.34 (e), the Maximum for Any 1 Day for Oil and Grease, "0.800" is corrected to read "3.330".

33. In 40 CFR 421.34 (e), the Maximum for Monthly Average for Oil and Grease, "0.800" is corrected to read "3.330".

34. Several errors in the pH range occur in 40 CFR 421 Subparts E, G, H, I,

J, K, L, and M. The footnote for pH "within the range of 7.0 to 10.0 at all times." is corrected to read "within the range of 7.5 to 10.0 at all times." wherever it appears in the following sections:

Subpart	Subcategory	Section	Page
E	Primary Electrolytic Copper Refining	421.54	8802
G	Primary Lead	421.72	8804
H	Primary Zinc	421.74	8805
I	Metallurgical Acid Plants	421.84	8809
J	Primary Tungsten	421.94	8811
K	Primary Columbian-Tantalum	421.102	8812
L	Secondary Silver	421.104	8814
M	Secondary Lead	421.112	8817
		421.114	8819
		421.122	8821
		421.124	8823
		421.132	8826
		421.134	8828

§§ 421.53, 421.54 and 421.56 [Corrected]

35. In 40 CFR 421, §§ 421.53(a), 421.54(a), and 421.56(a), the Maximum for Monthly Average for Arsenic, "0.284" is corrected to read "0.309".

36. In 40 CFR 421, §§ 421.53(c), 421.54(c), and 421.56(c), the Maximum for Monthly Average for Arsenic, "0.028" is corrected to read "0.031".

§§ 421.93, 421.94 and 421.96 [Corrected]

37. In 40 CFR 421, §§ 421.93, 421.94, and 421.96, the Maximum for Monthly Average for Arsenic, "1.456" is corrected to read "1.584".

§ 421.103 [Corrected]

38. In 40 CFR 421.103(k), on page 8814, column one, "t+1" should be removed.

[FR Doc. 84-19480 Filed 7-23-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 433

[BPO-046-N]

Medicaid Program; OMB Approval of Forms for Reporting Quarterly Expenditures for Medical Assistance

AGENCY: Health Care Financing Administration (HCFA) HHS.

ACTION: Final rule—notice concerning collection of information requirements.

SUMMARY: This notice announces the approval by the Office of Management and Budget (OMB) of the form HCFA-64, "Quarterly Medicaid Statement of Expenditures for Medical Assistance Program," an accounting statement that State Medicaid agencies must submit to

HCFA each quarter to receive payments under Medicaid. We will use parts of the form to collect data to determine if a State has met certain stipulated conditions that would result in a lowering of amounts of statutorily required reductions in Medicaid payments.

EFFECTIVE DATE: December 21, 1983.

FOR FURTHER INFORMATION CONTACT: David McNally, 301-597-1398.

SUPPLEMENTARY INFORMATION: On September 30, 1982, we published in the Federal Register final regulations relating to reductions in Federal matching payments to States for Medicaid services for fiscal years 1982 through 1984 (47 FR 43340). These Medicaid regulations implemented statutory requirements (sections 1903(s) and 1903(t) of the Social Security Act) that Federal payments to which a State is entitled under Medicaid are to be reduced by a stated percentage of each quarter's payment in fiscal years 1982, 1983, and 1984. The regulations included provisions under which a State may lower the amount of the reduction by meeting stipulated conditions.

The vehicle for collecting data to determine if a State has met the stipulated conditions and thus is entitled to a lowered reduction is the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (Form HCFA-64). The HCFA-64 (which has been in use since 1978) is the accounting statement that State agencies must submit each quarter to receive payments under Medicaid. The statement is required under title XIX of the Social Security Act. It shows the disposition of Medicaid grant funds for the quarter being reported on and previous quarters, the recoupments made or refunds received by the State Medicaid agency, and income earned on grant funds. The statement serves as the vehicle for making adjustments for any identified overpayments or underpayments to the State.

Generally, under section 3507 of the Paperwork Reduction Act of 1980, the Office of Management and Budget (OMB) must approve certain information collection requirements that are imposed on the public by Federal agencies. As of the date of publication of the September 1982 final regulations, however, OMB had not approved the current version of the HCFA-64. Therefore, the preamble to those regulations specified that the public was not required to comply with the information collection requirements until OMB approved them. The preamble further stated that we would

issue a notice in the Federal Register when this approval is obtained. Also, as a result of the statements in the final rule, the Office of the Federal Register incorporated in the yearly Code of Federal Regulations similar language as editorial notes at the end of the following sections of the regulations: § 433.209, § 433.213, and § 433.215.

This notice is to inform the agencies participating in the Medicaid program and the general public that OMB has approved the HCFA-64 and instructions for monitoring State expenditures of medical assistance funds. OMB issued this approval on December 21, 1983 under OMB No. 0938-0067. This approval expires on January 31, 1985. The OMB-approved HCFA-64 and instructions were issued to State agencies in February 1984 as Part 2, Section 2500 of the State Medicaid Manual.

(Sec. 1102 of the Social Security Act, 42 U.S.C. 1302) (Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Programs)

Dated: May 18, 1984.

Carolyn K. Davis,
Administrator, Health Care Financing Administration.

Approved: June 29, 1984.

Margaret M. Heckler,
Secretary.

[FR Doc. 84-18714 Filed 7-23-84; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2710

[Circular No. 2546]

Sales-Federal Land Policy and Management Act; Amendment to the Sales Regulations

Correction

In FR Doc. 84-18877 beginning on page 29012 in the issue of Tuesday, July 17, 1984, make the following corrections:

§ 2710.0-6 [Corrected]

1. On page 29014, third column, § 2710.0-6 (c)(1), second line, "lands" should appear before "may".

§ 2711.3-1 [Corrected]

2. On page 29015, third column, ninth line, "to submit" should appear before "oral".

§ 2711.3-3 [Corrected]

3. On page 29016, first column, § 2711.3-3 (a)(1), fourth line, "(a)" should read "(1)".

BILLING CODE 1505-01-M

43 CFR Public Land Order 6556

[AR 031029 and 13401]

Arizona; Transfer of Jurisdiction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order transfers administrative jurisdiction of 4.92 acres from the Bureau of Reclamation to Fish and Wildlife Service for the purpose of constructing an administrative site. The land has been and will remain closed to surface entry and mining, but not mineral leasing.

EFFECTIVE DATE: July 24, 1984.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, 602-261-4774.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described land which was reserved by Departmental Order of March 14, 1929, for use of the Bureau of Reclamation is hereby transferred to the Fish and Wildlife Service and reserved for use by that agency.

Gila and Salt River Meridian, Arizona

T. 1 S., R. 23 W.,

Sec. 6, that portion of the W½SE¼ lying west of Cibola Road and south of a field road and specifically described as follows:

Beginning at the east one-sixteenth corner between section six (6) and seven (7), being a set U.S. Fish and Wildlife Service monument; thence along the east one-sixteenth line of said section six (6) and the east boundary line of United States Tract(1a), N. 00°07'15" W., 1,203.87 feet to a point in the center line of said field road; thence leaving said one-sixteenth line and along the center line of said field road, S. 61°28'50" E., 395.24 feet to the point of intersection with the center line of said Cibola Road; thence along the center line of said Cibola Road, the following two courses: S. 19°30'23" W., 758.38 feet, and S. 03°52'12" W., 301.08 feet, to the point of intersection with the south line of said section six (6); thence leaving said Cibola Road center line and along said south line of said section six (6), N. 89°56'18" W., 71.70 feet to the place of beginning, containing 4.92 acres, more or less; and

Bounded on the north by lands of the U.S. Bureau of Reclamation, on the east and south

by lands of the U.S. Bureau of Land Management and on the west by lands of the U.S. Fish and Wildlife Service Tract(1a).

The area described contains 4.92 acres in Yuma County.

2. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date, pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

3. The land will be utilized for the proposed Cibola National Wildlife Refuge headquarters and visitor center.

4. The land has been and will remain open to the filing of applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

July 17, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-19450 Filed 7-23-84; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 40441-4076]

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to amend the existing regulations by incorporating certain enforcement measures including gear marking requirements, tightening the reporting requirement for medium and giant Atlantic bluefin tuna not transferred to a dealer and requiring medium and giant Atlantic bluefin tuna caught by purse seine in the Western Atlantic to be weighed and measured before they leave the area of offloading. This rule also changes the manner in which the inseason catch rate may be adjusted and allows an amount of giant Atlantic bluefin tuna not to exceed 50 short tons (st) to be set aside for fishermen who may be deprived of a reasonable opportunity to fish for giant Atlantic bluefin tuna. These latter changes are intended to stabilize the catch rate and provide a mechanism to address

unforeseen stock or harvest circumstances.

EFFECTIVE DATE: These rules are effective on July 19, 1984, except for adding the new section to the table of contents, adding the new sentence to § 285.21(c), adding the new §§ 285.31 (cc) and § 285.33, redesignating § 285.31, and revising § 285.32. These exceptions are effective August 23, 1984.

ADDRESS: The environmental assessment and final regulatory flexibility analysis referred to in this rule, as well as other previously published reports, are available from the NMFS Northeast Region Service Division, P.O. Box 1109, Gloucester, MA 01931-1109.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr. 617-281-3600, extension 325; or David S. Crestin, extension 253.

SUPPLEMENTARY INFORMATION:

Background

The United States is a signatory nation to the International Convention for the Conservation of Atlantic Tunas (the Convention, 20 UST 2887, TIAS 6767). The Convention's provisions entered into force for the United States on March 21, 1969. The United States' obligations under the Convention are prescribed by the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971-971h) (the Act). The Act directs the Secretary of Commerce (Secretary) to promulgate rules necessary to implement recommendations adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and to carry out the purposes and objectives of the Convention. The Secretary's authority under the Act has been delegated to the Assistant Administrator of Fisheries (Assistant Administrator).

Rules presently governing the U.S. fishery for Atlantic bluefin tuna are at 50 CFR Part 285, Subpart B and at 49 FR 1043, January 6, 1984. These rules implement the following recommendations of ICCAT: (1) To reduce catch levels of Atlantic bluefin tuna in the western Atlantic Ocean to an amount which would provide a broad range of biological information while keeping catch levels conservative; (2) to limit the catch of Atlantic bluefin tuna smaller than 120 centimeters (cm) (47 inches) fork length to no more than 15 percent by weight of the total catch in the western Atlantic Ocean; and (3) to prohibit directed fisheries for Atlantic bluefin tuna in spawning areas, such as the Gulf of Mexico.

ICCAT held its Eighth Regular Meeting in Madrid, Spain, November 9-15, 1983. This meeting was preceded by a meeting of the Standing Committee on Research and Statistics (SCRS), November 3-8. Current restrictions on fishing for Atlantic bluefin tuna in the western Atlantic Ocean were reviewed in light of the SCRS findings which offered no new information regarding the status of the stocks nor any new management advice. The SCRS had held two additional meetings on Atlantic bluefin tuna in 1983, but reported to the Commission that any analysis carried out before 1984 would not add significantly to the stock assessments. The Commission, therefore, recommended an extension of the existing management regime for one year.

As in 1983, the total allowable catch in the western Atlantic Ocean for 1984 will be 2,660 metric tons (mt) (2,932 short tons [st]), with allocations of 1,387.2 mt (1,529 st), 573.3 mt (632 st) and 699.4 mt (771 st) for the United States, Canada, and Japan, respectively. The percentage share of the total allowable catch for the western Atlantic Ocean remains the same for each nation in 1984 as in 1982 and 1983: United States, 52.15 percent; Canada, 21.55 percent; and Japan, 26.30 percent.

Rulemaking Process

NOAA published proposed rules on May 1, 1984 (49 FR 18574), which provided for a more efficient management system without changing the substance or intent of the previous rules. These modifications establish a more appropriate mechanism for adjusting the catch rate limit and allocation of giant Atlantic bluefin tuna within the General category. Public comment on the proposed rules was invited for a 30-day period which ended on May 25, 1984. Additionally, NOAA informed the public of the comment period by mailing, on May 1, 1984, copies of the proposed rules to key industry and media representatives and to those individuals who have requested to be placed on this mailing list and by mailing, on May 2, 1984, general news releases to all Atlantic bluefin tuna permit holders.

Discussion of Public Comments

During the public comment period, NOAA received 23 letters of comment.

Comment 1. One commenter recommended the elimination of foreign fishing.

Response. Prohibiting foreign fishing for Atlantic bluefin tuna in the United States Fishery Conservation Zone is not within the authority conferred by the

Atlantic Tunas Convention Act, which is legal authority for this rulemaking.

Comment 2. One commenter recommended limiting the length of longlines to one-half mile; however, the commenter failed to provide any information or rationale to support this recommendation.

Response. NOAA knows of no data to show that such a gear restriction is necessary for conservation purposes or practical from a fishery management standpoint. Since domestic vessels fish pelagic longline gear which is significantly longer than one-half mile, the recommendation would impact severely on existing fishing practices and could reduce efficiency while increasing vessel operating expenses. Further, reducing the length of longlines would not necessarily reduce gear conflicts. NOAA rejects the recommendation.

Comment 3. One commenter objected to certain provisions of § 285.4 regarding procedures which fishermen must follow during fishery enforcement operations by the United States Coast Guard.

Response. NOAA and the United States Coast Guard have been working cooperatively to enhance safety and communications between vessels for all fisheries for which NOAA has promulgated rules. NOAA believes the specific provisions in § 285.4 are both necessary and reasonable. The comment, therefore, is rejected and no changes to the rules have been made.

Comment 4. One commenter recommended that the area from Montauk, Long Island, northward be closed 15 to 20 days "earlier than at present" to ensure a longer Atlantic bluefin tuna fishing season for the New Jersey area.

Response. The existing Atlantic bluefin tuna rules do not identify a specific closing date for the General category fishery. Final closures result from quotas being achieved. NOAA, however, believes that the commenter's concern that fishermen from the New Jersey area may be deprived of a reasonable opportunity to fish for giant Atlantic bluefin tuna will be accommodated by the provision allowing a special allocation of 50 st to be made to such an area under § 285.22(a). NOAA, therefore, rejects the recommendation as unnecessary.

Comment 5. Several comments were received including one from a representative of a party-charter boat association objecting to the allocation for purse seine vessels under § 285.22 (c) and (d).

Response. These comments are not relevant to this rulemaking and will not be responded to here. This issue was

addressed in the preamble to the rules published on June 11, 1982 (47 FR 25350), and June 17, 1983 (48 FR 27755), in response to comments received both at public hearings and in writing during the comment periods in the spring of 1982 and 1983.

Comment 6. Several commenters recommended limiting the giant Atlantic bluefin tuna fishery to rod and reel only.

Response. Similar comments were received during the 1983 rulemaking. NOAA believes the harvest of the handgear quota should not be limited to a single gear type such as rod and reel. The 1984 handgear and angling quotas will provide reasonable opportunity for rod and reel fishermen to fish for all size classes of Atlantic bluefin tuna. NOAA, therefore, rejects this recommendation as inappropriate.

Comment 7. Several commenters, including a representative of a party-charter boat association, recommended dates of both September 15 and October 1 for the review of giant Atlantic bluefin tuna landing data to determine whether a change in the daily catch rate for the General category should be made.

Response. These commenters were concerned that a review held on or about September 1 as specified in § 285.24(a) would be premature and, perhaps, result in an early closure of the fishery in the New York Bight area. NOAA believes the availability of the 50 st quota for an area in which fishermen would be deprived of a reasonable opportunity to fish will accommodate these concerns. NOAA, therefore, rejects these recommendations as unnecessary.

Comment 8. Two commenters recommended increased allocations in the giant Atlantic bluefin tuna General category for the New York Bight area ranging from an unspecified amount to a minimum of 100 st.

Response. Landings data for this area since 1979 show that the maximum landings for any year since 1979 have amounted to approximately 25 st in 1980. Admittedly, fishermen did not have the opportunity to fish for giant Atlantic bluefin tuna in 1982 and harvested 23 st prior to a closure which cut off the fishery in mid-October 1983. NOAA, however, believes that the 50 st quota described above will be sufficient to accommodate, if necessary, the late fishery for giant Atlantic bluefin tuna in the New York Bight. NOAA, therefore, rejects these recommendations.

Comment 9. One commenter recommended limiting any increase in the catch rate of giant Atlantic bluefin tuna in the General category to a maximum of two fish per day per vessel following

the September landing data review, rather than a maximum of three fish per vessel per day as provided for in § 285.24(a).

Response. The recommendation is unclear whether the reference to the daily catch rate is for the entire regulatory area or for any allocation made to the New York Bight. NOAA believes that the catch rate provisions in § 285.24 provide the flexibility necessary to implement management measures to provide for the longest continuous fishing season possible and, at the same time, to achieve the quota for the General category. NOAA, therefore, rejects this recommendation as too inflexible.

Comment 10. One commenter recommended including telephone numbers of NMFS's law enforcement offices in the Southeast Region to allow fishermen better to comply with reporting requirements of § 285.30(c)(2).

Response. NOAA agrees that this recommendation is appropriate and has revised this section accordingly.

Changes Made in the Rules

Section 285.30. The last sentence in paragraph (c)(2) is revised by adding appropriate telephone numbers for contacting NMFS law enforcement offices in the states of Florida, Louisiana, and Texas.

Classification

The Administrator of NOAA has determined that these rules are not major under Executive Order 12291. Additional, it was determined that this action is not significant under the Regulatory Flexibility Act and, because this rule does not change the intent of previously adopted rules, it is categorically excluded and no environmental assessment or environmental impact statement was prepared.

Because the constituency fully anticipates the benefits to be derived from certain provisions of this rule and has already planned accordingly for the current season, the 30-day delayed effective date provision of the Administrative Procedure Act would impose an unnecessary and substantial burden. Current requirements impose catch rate changes in accordance with an established schedule that adversely impacts the constituency. This rule eliminates the mandatory catch rate changes and will ensure an opportunity for all participants to fish throughout the season without threat of an early closure. For these reasons, certain portions of this rule relieve a restriction and therefore are effective immediately. The remaining provisions, which are

effective immediately are either technical amendments or clarifications of existing rules.

The information collection requirements for this Act, previously approved by the Office of Management and Budget (OMB) under OMB control number 0648-0097, -0031, and -0013, will not be affected by any of these changes.

This final rulemaking provides a more efficient system for establishing the catch rate limit and the allocation of giant Atlantic bluefin tuna within the General category. There are no expected impacts associated with these rules which were not discussed in the EA or the final regulatory flexibility analysis/regulatory impact review prepared in 1983.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements.

Dated: July 19, 1984.

Joseph W. Angelovic,
Deputy Assistant Administrator for Science
and Technology, National Marine Fisheries
Service.

For the reasons set forth in the preamble, 50 CFR Part 285 is amended as follows:

PART 285—ATLANTIC TUNA FISHERIES

1. The authority citation for Part 285 is as follows:

Authority: 16 U.S.C. 971 *et seq.*

2. Subpart B of the Table of Contents is amended by adding a new § 285.33 Gear identification, to read as follows:

* * * * *

Subpart B—* * *

Sec.

* * * * *
285.33 Gear identification.
* * * * *

3. Section 285.4 is amended by adding new paragraphs (c), (d), (e), and (f) to read as follows:

§ 285.4 Enforcement.

* * * * *

(c) The operator of, or any other person aboard, any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing the Act and this part.

(d) **Communications.** (1) Upon being approached by a U.S. Coast Guard

vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of the vessel and the wind, sea, and visibility conditions allow, loudhailer is the preferred method for communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF-FM or high frequency radiotelephone will be employed. Hand signals, placards, or voice may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes *prima facie* evidence of the offense of refusal to permit an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(e) **Boarding.** The operator of a vessel directed to stop must—

(1) Guard Channel 16, VHF-FM if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a manrope or safety line, and illumination for the ladder; and

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(f) **Signals.** The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the

necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (-/-)-¹ is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (-/-)- / (-/-)- means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (-/-)- / (-/-)- means "you should stop or heave to; I am going to board you."

(4) "L" (-/-) means "you should stop your vessel instantly."

4. Section 285.21 is amended by adding a new sentence to the end of paragraph (c) to read as follows:

§ 285.21 Vessel permits.

(c) *Application procedure.* * * * After May 15, the vessel's permit category may not be changed for the remainder of the calendar year regardless of any change in the vessel's ownership.

(5) Section 285.22 is amended by removing the words "Regional Director" and replacing them with "Assistant Administrator" each time they appear in paragraph (g) and revising paragraph (a) to read as follows:

§ 285.22 Quotas.

(a) *General.* The total amount of giant Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the General category under § 285.21(b) is 650 st (590 mt). If the Assistant Administrator determines (based on dealer reports, availability of giant Atlantic bluefin tuna on the fishing grounds, and any other relevant information), that variations in seasonal distribution, abundance, or migration patterns of Atlantic bluefin tuna, and the catch rate, may prevent fishermen in an identified area from harvesting their share of the quota, the Assistant Administrator may set aside an allocation for such area. The amount of any allocation will not exceed the greater of 50 st or the maximum reported landings in the identified area in any of the preceeding three years. The daily catch rate limit

for the identified area will be set at one giant Atlantic bluefin tuna per day per vessel. The Assistant Administrator will publish a notice of any allocation and its basis in the Federal Register.

6. Section 285.24 is amended by revising paragraph (a) to read as follows:

§ 285.24 Catch rate limits.

(a) From June 1, vessels permitted in the General category under § 285.21(b), may catch only one giant Atlantic bluefin tuna per day per vessel. The Assistant Administrator, on or about September 1, may adjust the daily catch rate limit to a maximum of three giant Atlantic bluefin tuna per day per vessel based on a review of dealer reports, daily landing trends, availability of the species on the fishing grounds, and any other relevant factors to provide for maximum utilization of the quota. The Assistant Administrator will publish a notice in the Federal Register of any adjustment in the allowable daily catch rate limit made under this paragraph. Operators of vessels permitted in the General category may possess giant Atlantic bluefin tuna in an amount not to exceed a single day's catch as allowed by the daily catch rate limit in effect at the that time.

7. Section 285.25 is amended by revising paragraph (c) to read as follows:

§ 285.25 Purse seine vessel requirements.

(c) *Inspection.* Any owner or operator of a purse seine vessel with a permit issued under § 285.21(b) must request an inspection of the vessel and fishing gear by an enforcement agent of the NMFS before commencing any fishing trip and before offloading any Atlantic bluefin tuna. The vessel owner or operator must request such inspection at least 24 hours before commencement of a fishing trip or offloading by calling 617-281-3600 extension 252; or 617-563-5721. Purse seine vessel owners or operators must have each medium and giant Atlantic bluefin tuna in their catch weighed (round weight), measured, and the information recorded on the appropriate forms at the time of offloading and prior to transport from the area of offloading.

8. The introductory text of § 285.26 is revised to read as follows:

§ 285.26 Size classes.

For any Atlantic bluefin tuna which is landed with the head removed, it is a rebuttable presumption for purposes of this subpart that the tuna, when caught,

fell into a size class in accordance with the following table. For this purpose, all measurements must be taken in a straight line along the middle of the lateral surface from the forwardmost part of the beheaded fish to the fork of the tail. The fork length measurement will be the sole criterion for determining the size class of an individual Atlantic bluefin tuna. Approximate round weights in the table are given for illustrative purposes only.

9. Section 285.28 is amended by revising paragraph (l) to read as follows:

§ 285.28 Dealer permits.

(l) *Buy-boats.* Each buy-boat must have a dealer permit issued under this section. The Regional Director will not issue a dealer permit under this section for a buy-boat operation to any vessel which has a valid fishing vessel permit issued under § 285.21. The Regional Director will not issue a dealer permit to a buy-boat unless the owner or operator of the buy-boat agrees in writing to allow an individual authorized by the Regional Director to accompany the buy-boat on any trip to observe operations. The Regional Director will provide reasonable notice to the owner or operator of any buy-boat that an individual will be placed on board. The Regional Director will reimburse the owner of any buy-boat for any expenses which the Regional Director determines to be reasonable and which are related directly to the placement of an individual on that buy-boat.

10. Section 285.30 is amended by revising paragraph (c)(2) to read as follows:

§ 285.30 Metal tags.

(c) * * *

(2) Any person who catches a medium or giant Atlantic bluefin tuna and does not transfer it to a permitted dealer must contact the nearest NMFS enforcement office at the time of landing such Atlantic bluefin tuna and make the tuna available for inspection and attachment of a metal tag. The offices to contact are: Portland, Maine (207-780-3241); Otis Air Force Base, Massachusetts (617-563-5721); Upton, New York (516-282-3267); Miami, Florida (305-350-4132); St. Petersburg, Florida (813-893-3841); New Orleans, Louisiana (504-589-4538); or Corpus Christi, Texas (512-888-3360).

11. Section 285.31 is amended by removing the final "or" from paragraph (bb), by redesignating paragraph (cc) as

¹Period (.) means a short flash of light.

²Period (-) means a long flash of light.

(dd), and by adding a new paragraph (cc) to read as follows:

§ 285.31 Prohibitions.

* * * * *

(cc) To use or possess handline or harpoon flotation gear which is not marked in accordance with § 385.33, or is marked with the Atlantic bluefin tuna permit number of another vessel; or

* * * * *

12. Section 285.32 is amended by revising paragraphs (a) and (c) to read as follows:

§ 285.32 Civil penalties.

(a) Any person who violates paragraphs (a) through (u) inclusive, or paragraphs (x) through (cc), inclusive, of § 285.31 will be assessed a civil penalty of not more than \$25,000 for a first violation and a civil penalty of not more than \$50,000 for a subsequent violation.

* * * * *

(c) Any person who violates paragraphs (dd) of § 285.31 will be assessed a civil penalty in accordance with the criteria set forth in 16 U.S.C. 971e.

13. A new § 285.33 is added to read as follows:

§ 285.33 Gear identification.

Any flotation device attached to handline or harpoon gear must be marked with the Atlantic bluefin tuna permit number of the vessel from which it is used. The required markings must be permanently affixed and at least one inch in height in block Arabic numerals of a color that contrasts with the background color of the flotation device.

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