§§ 1304.37–1304.41 [Redesignated as §§ 1304.34–1304.38]

§ 1304.36 [Amended]

12. Sections 1304.37, 1304.38, 1304.39, 1304.40, and 1304.41 are redesignated as §§ 1304.34, 1304.35, 1304.36, 1304.37, 1304.38 and 1304.36(c) is redesignated as section 1304.34(c).

§ 1304.34 [Amended]

13. New section (as redesignated in 12 above) 1304.34 is amended by replacing the phrase "§§ 1304.38–1304.41" with the phrase §§ 1304.35–1304.38."

§ 1304.03 [Amended]

14. 21 CFR 1304.03(d) is amended by removing the citation "21 U.S.C. 335(i)" and replacing it with the citation "21 U.S.C. 355(i)".

§ 1304.04 [Amended]

15. Section 1304.04(f) is amended by adding the word "exporter" between the words "importer" and "narcotic treatment program."

16. Section 1304.04(g) is amended by removing the phrase "paragraph (b) of this section" and replacing it with the phrase "paragraph (f) of this section."

§ 1304.31 and § 1304.32 [Amended]

17. New sections 21 CFR 1304.31(a) and 1304.32(a) are amended by removing the words "Distribution Audit Branch" and replacing them with the words "Drug Control Section."

§ 1305.03 [Amended]

18. The internal reference in 21 CFR 1305.03(c) currently reading "1316.04(d)" is deleted and replaced by "1301.26(b)."

§ 1306.15 and § 1306.25 [Amended]

19. The internal reference in 21 CFR 1306.15 and 1306.25 currently given as "1304.04(d)" is deleted and replaced by "1304.04(h)."

§ 1306.23 [Amended]

20. 21 CFR 1306.23 is amended by removing the phrase "Schedule III, IV or V" and inserting in its place the phrase "Schedule III or IV."

§ 1306.31 [Amended]

21. 21 CFR 1306.31(a) is amended by removing the internal references to "1306.23" and "1306.24" and replacing them with "1306.24" and "1306.25", respectively.

§ 1308.04 [Amended]

22. 21 CFR 1308.04(a) is amended by removing the phrase "Regulatory Support Division" and replacing it with the phrase "Regulatory Support Section."

§ 1308.11 [Amended]

23. 21 CFR 1308.11(b)(16) is amended by removing the number "9618" and replacing it with the number "9168."

§ 1308.13 [Amended]

24. 21 CFR 1308.13(e)(3) and 1308.13(e)(4) are amended by adding the word "(hydrocodone)" after the word dihydrocodeinone.

§ 1311.32 [Amended]

25. 21 CFR 1311.32(b) and 1311.32(c) are amended by removing the number "227" and inserting in its place the number "225a."

§ 1311.64 [Removed]

26. 21 CFR 1311.64 is deleted.

§ 1312.02 [Amended]

27. 21 CFR 1312.02(b) is amended by removing the number "1002" and inserting in its place the number "102."

§ 1312.12 [Amended]

28. 21 CFR 1312.12(a) is amended by removing the phrase "(or BND) Form 85" and inserting in its place the phrase "Form 357."

It has been determined that this is an internal management matter not requiring consultation with the Office of Management and Budget (OMB). The Administrator of DEA hereby certifies that these matters will have no significant negative impact upon small businesses within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

Dated: February 7, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86–2903 Filed 2–12–86; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8075]

Income Taxes; Treatment of Certain Hospital Services

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the treatment of certain hospital services furnished by one tax-exempt hospital to other such hospitals. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations affect those tax-exempt hospitals that furnish the services, and would provide the furnishing hospitals with the guidance needed to determine their unrelated business taxable income.

DATES: The regulations apply to taxable years beginning after December 31, 1953, and are effective after December 31, 1953.

FOR FURTHER INFORMATION CONTACT: Calder L. Robertson, Jr., of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, (Attention: CC:LR:T:EE–46–78) (202–566–3544) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 13, 1982, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 513(e) of the Internal Revenue Code of 1954 (47 FR 55696). These proposed amendments conform the regulations to section 1311 of the Tax Reform Act of 1976 (90 Stat. 3526). The regulations are issued under the authority contained in section 513(e) and in section 7805(b) of the Internal Revenue Code of 1954 (90 Stat. 3526, 68A Stat. 917; 26 U.S.C. 513(e), 7805). There was only one request for a public hearing. No public hearing was held because the request was withdrawn. After consideration of all written comments received, the regulations are adopted with minor clarification by this Treasury decision.

Effective Date

The regulations are effective for all taxable years beginning after December 31, 1953.

Non-Applicability of Executive Order 12291

The Commissioner has determined that this Treasury decision is not subject to review under Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required.

Regulatory Flexibility Act

Although a notice of proposed rulemaking that solicited public comment was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal author of this regulation is Charles K. Kerby, III, of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations, both on matters of substance and style.

Public Comments

The public comments pertained to issues that were considered by the Internal Revenue Service prior to the publication of the notice of proposed rulemaking.

The majority of public comments concerned the 100 inpatient limitation of section 513(e). It was suggested that the limitation was arbitrary, and should be increased or eliminated. The final regulations do not adopt this suggestion because the statute explicitly requires the limitation.

Many commentators sought to temper the rules under section 513(e) which treat a particular service as an unrelated trade or business if the service is provided at a fee above actual cost to even one hospital, or is provided to one hospital with facilities to serve more than 100 inpatients. The approaches suggested involved treating only the excess of fees over actual cost, or the fees from the services provided to hospitals with more than 100 inpatient facilities, as derived from an unrelated trade or business. The final regulations do not adopt these approaches. Treatment of only the services provided to more than 100 inpatient hospitals as an unrelated trade or business was deemed to contradict the wording of the statute under section 513(e)(1) which requires that services be provided "solely" to hospitals that have facilities to serve no more than 100 inpatients. Similarly, treatment of the excess of fees above actual costs as unrelated trade or business income was rejected because section 513(e)(3) specifically requires that services be provided at a fee not in excess of actual costs to escape treatment as an unrelated trade or business under section 513(e). We note that section 513 deals with the characterization of a service as an unrelated or related trade or business. The statute does not directly deal with the characterization income, and does not address the fragmentation of income suggested. Therefore, if a service fails to meet the requirements of section 513(e)(3), the service is characterized under section 513(e) and the resulting treatment of income derived is governed by section 512.

Many commentators suggested that the regulations' reference to the reasonable cost and rate of return formulations prescribed by 42 U.S.C. 1395x(v)(1)(A) and (B) and the underlying regulations (permitting reimbursement to health care providers for reasonable costs including a reasonable return on equity capital in the Medicare program) was unwarranted. Some commenters felt that a "reasonable cost" fee standard, however determined, should not be adopted. Moreover, several commentators were concerned that many indirect costs of providing services would not be allowed in the Medicare determination of reasonable costs. These commentators generally felt the regulations should be silent on standards for determining fee levels.

After consideration of these comments, it was decided to retain the regulations' reference to the Medicare formulations as a safe harbor for use in complying with section 513(e). The wording of the statute in section 513(e)(3) requires that the services be provided at a fee or cost that *does not exceed* the actual cost of services, not provided *at* actual costs. The statute does not require actual cost fees. The nature of the fees subject to the actual cost limit is left unclear by the statute. The brief legislative history suggests strongly that Congress intended that section 513(e) operate to encourage cost savings to hospitals and their patients which implies a reasonable cost fee standard. S. Rep. No. 94–938, Part 2, 94th Cong., 2d Sess. 95 (1976). Further, the subsequent language of section 513(e)(3) which incorporates into actual costs reasonable allocations for depreciation (determined by the straight-line method) and a return on capital goods used (a reasonable rate of return) reinforces the reasonable cost fee standard adopted in the final regulations.

In addition, it was felt that a uniform standard for determining the fees or costs of services to be charged was necessary in the final regulations. Moreover, after examination of the Medicare regulations and consultation with Social Security Administration officials, it was determined that most direct and indirect costs are included in the determination of reasonable cost of services under the Medicare regulations. Further, it was determined that the cost records kept under the reimbursement method of repayment for Medicare providers would still be necessary under the new prospective payment method for Medicare providers. Thus, no additional recordkeeping would be required to demonstrate compliance with section 513(e).

Although the proposed regulations referred to the rate of return for equity capital in the Medicare regulations, it was not clear that the rate for section 513(e) purposes should change with any corresponding change in rate prescribed in the Medicare regulations. Therefore, the regulations are clarified to indicate that the safe harbor rate of return on equity capital is the rate prescribed in the regulations under 42 U.S.C. 1395x(v)(1)(A) and (B). The rate of return was lowered for periods after April 20, 1983, by a change to the Medicare regulations in October 1984. Concern was expressed over the fairness of applying the lower rate of return for periods before the publication of the final regulations. Therefore, the regulations are also clarified to make the lower rate applicable only for taxable years beginning 90 days after publication of the final regulations.

Several commentators suggested that the final regulations clarify that the failure of a hospital service under section 513(e) to qualify for the exception from treatment as an unrelated trade or business does not preclude a showing based on all the facts and circumstances that the service provided to one or more hospitals is substantially related to the providing hospital's exempt purpose. Treas. Reg. § 1.513–1(d). Nothing in the final regulations precludes a hospital from making the requisite showing under § 1.513–1(d) based on all the facts and circumstances. However, the Service has generally taken the position that the provision of commercially available services by an exempt hospital to other unrelated exempt hospitals is an unrelated trade or business. *See* Rev. Rul. 69–633, 1969–2 C.B. 121. Thus, absent a showing of special facts that indicate the provision of such a service to other unrelated hospitals is substantially related to the providing hospital's exempt purpose (other than through the production of needed income), the provision of such services to other unrelated hospitals will generally be deemed an unrelated trade or business. For these reasons, it was decided to reject any revision of the final regulations that implied as a general and practical matter a contrary result. As noted before, nothing in the final regulations precludes a special showing under § 1.513–1(d).

List of Subjects in 26 CFR 1.501(a)–1—1.528–10

Income taxes, Exempt organizations, Unrelated trade or business.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR Part 1 are hereby adopted as clarified by this Treasury decision.

Amendments to the Regulations

1. The authority citation for Part 1 continues to read:

Authority: 26 U.S.C. 7805 * * *.

2. 26 CFR Part 1 is amended by adding the following new § 513.6 in the appropriate place:

PART 1—[AMENDED]

§ 1.513 Certain hospital services not unrelated trade or business.

(a) *In general.* Under section 513(e), the furnishing of a service listed in section 501(e)(1)(A) by a hospital to one or more other hospitals will not constitute unrelated trade or business if—

(1) The service is provided solely to hospitals that have facilities to serve not more than 100 inpatients,

(2) The service would, if performed by the recipient hospital, constitute an activity consistent with that hospital's exempt purposes, and

(3) The service is provided at a fee not in excess of actual cost, including straight line depreciation and a reasonable rate of return on the capital goods used to provide the service. For purposes of this section, a rate of return on capital goods will be considered "reasonable" provided that it does not exceed, on an annual basis, the percentage described below which is based on the average of the rates of interest on special issues of public debt obligations issued to the Federal Hospital Insurance Trust Fund for each of the months included in the taxable year of the hospital during which the captial goods are used in providing the service. Determinations as to the cost of services and the applicable rate of return should be made as prescribed by 42 U.S.C. 1395x(v)(1) (A) and (B) and the regulations thereunder (permitting a health care facility to be reimbursed under the Medicare program for the "reasonable cost of (its) services," including, in the case of certain proprietary facilities, a "reasonable return on equity capital"). For taxable years beginning on or before May 14, 1986, the rate of return shall be one and one-half times the average of the rates of interest on public debt obligations described above which were in effect on or before April 20, 1983.

(b) *Hospital defined.* As used in this section the word "hospital" means a hospital described in section 170(b)(1)(A)(iii).

(c) *Example.* The provisions of this section are illustrated by the following example:

Example. A large metropolitan hospital provides various services to other hospitals. The hospital furnishes a purchasing service to hosptials N and O, a data processing service to hospitals R and S, and a food service to hospitals X and Y. All the hospitals are described in section 170(b)(1)(A)(iii). All the hospitals have facilities to serve not more than 100 inpatients except hospitals N. The services are furnished at cost to all hospitals except that hospital R is charged a fee in excess of cost for its use of the data processing service. The purchasing service constitutes unrelated trade or business because it is not provided solely to hospitals having facilities to serve not more than 100 inpatients.

The data processing service constitutes unrelated trade or business because it is provided at a fee in excess of cost. The food service satisfies all three requirements of paragraph (a) of this section and does not constitute unrelated trade or business.

(d) *Effective date.* Section (513(e) and this section apply to taxable years beginning after December 31, 1953.

This Treasury Decision is issued under the authority contained in sections 513(e) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1729, 68A Stat. 917; 26 U.S.C. 513(e), 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: January 21, 1986.

J. Roger Mentz,

Acting Assistant Secretary of the Treasury.

[FR Doc. 86–3107 Filed 2–12–86; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Parts 1, 20, 25 and 602

[T.D. 8069]

Income Taxes; Qualified Conservation Contributions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction.

SUMMARY: This document contains corrections to Treasury Decision 8069, which was published in the **Federal Register** on January 14, 1986 (51 FR 1496). T.D. 8069 issued final regulations relating to contributions not in trust of partial interests in property for conservation purposes.

EFFECTIVE DATE: The regulations that are the subject of these corrections are effective on December 18, 1980. These corrections are also effective on December 18, 1980.

FOR FURTHER INFORMATION CONTACT: Ada S. Rousso of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224. Telephone 202–566–3287 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 14, 1986, the **Federal Register** published final regulations relating to contributions not in trust of partial interests in property for conservation purposes. The provisions set forth in those regulations reflected changes made by the Tax Reform Act of 1984 and the Temporary Tax Provisions, Extension.

Need for Correction

As published, Treasury Decision 8069 contains an incorrect internal citation in § 1.170A–14(b)(2); omits the word "of" in § 1.170A–14(f), *Example (5)*; contains an incorrect location reference in the amendatory language of subparagraph b of Par. 6; and uses the words "bequest" and "decedent's" instead of "gift" and "donor's", respectively, in the revised language for paragraph (c)(2)(i) of § 25.2522(c)–3.

Correction of Publication

Accordingly, the publication of Treasury Decision 8069, which was the subject of FR Doc. 86–727 (51 FR 1496), is corrected as follows:

§ 1.170A–14 [Corrected]

Paragraph 1. On page 1499, second column, in § 1.170A–14, paragraph (b)(2), line 17, the language "this paragraph (b)(3)" is removed and the language "this paragraph (b)(2)" is added in its place.

Par. 2. On page 1503, third column, in § 1.170A–14, paragraph (f), *Example (5)*, the conclusion of the fifth sentence, which now reads "worthy protection.", is revised to read "worthy of protection.".

Par. 3. On page 1507, second column, in the amendatory paragraph that is designated Par. 6, subparagraph b, line 1, thereof, the language "The eight sentence" is removed and the language "The seventh sentence" is added in its place.

Par. 4. On page 1507, third column, the amendatory paragraph that is designated Par. 8, subparagraph b thereof, in the revised language, the words "bequest" and "decedents's" are removed and the words "gift" and "donor's" are added in their respective places.

Paul A. Francis,

Acting Director, Legislation and Regulations Division.

[FR Doc. 86-3106 Filed 2-12-86; 8:45 am]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T. D. ATF-223; Re: Notice No. 567]

Lodi Viticultural Area

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

ACTION: Treasury decision, final rule.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is establishing an American viticultural area located in Sacramento and San Joaquin counties, California, to be known as "Lodi." This final rule is the result of a petition submitted by a representative of the Lodi District Vintners Association. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify wines they purchase.

EFFECTIVE DATE: This final rule is effective March 17, 1986.

FOR FURTHER INFORMATION CONTACT: Lori Weins, Technical Aide, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in Subpart C of Part 9.

Section 4.25a(e)(2), outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

In August 1982 ATF received the petition for the establishment of the "Lodi" viticultural area. The Lodi viticultural area is bounded on the east by the Sacramento and San Joaquin County lines, on the south by the Calaveras River and Eightmile Road, and on the west by Interstate Highway 5, Hood-Franklin Road, and Franklin Boulevard. The northern boundary includes the section line running due east from Franklin Boulevard and connecting to the western end of Sheldon Road, the Central California Traction Co. Railroad, Grant Line Road, California State Highway 16, and Deer Creek. The area of close to 458,000 acres includes approximately 39,000 acres of vineyards and 15 bonded wine cellars.

Public Comments

ATF received no comments in response to Notice No. 567. Therefore, after analyzing and evaluating all of the related evidence the viticultural area is adopted as proposed.

Viticultural Area Name

The name "Lodi" was well established in the petition. The petitioner submitted many newspaper articles dating from 1956 which show that this area has been known as Lodi for many years. Wine writers such as Leon D. Adams, in his book, *The Wines of America*, (McGraw-Hill Book Company, New York, NY, 1978, Second Edition) describe the wines and climate of the Lodi region. Hugh Johnson's, *The World Atlas of Wine*, (Simon and Schuster, New York, 1971), refers to Lodi as the heart of the northern Central Valley vineyards benefiting from the cooling effects of air from San Francisco Bay. Alexis Lichine, in his *New Encyclopedia of Wines and Spirits* (Alfred A. Knopf, New York, NY, 1978), described the Sacramento Valley as a region somewhat affected by the moderating influence of San Francisco Bay air, with the Lodi-Sacramento district as the dominant wine-growing area. All these authors, plus many more in various other books, wine-related magazines, and news columns have long recognized the Lodi wine district.

Geographical/Viticultural Features

The Lodi viticultural area is an inland area that is comprised mainly of alluvial fan, flood plain lands, and lower and higher terrace lands.

Although the land both north and south of the area has some similar soil structures, it is the combination of these soils with the climatically moderating effect of air from San Francisco Bay that makes this area distinctive. Any northern boundary for the Lodi viticultural area located significantly closer to Sacramento, and any other southern boundary located significantly closer to Stockton, would include land which experiences annual degree days more comparable to Sacramento and Stockton than to Lodi. To quote the United States Department of Agriculture (USDA) 1937 Soil Survey of the Lodi Area, "Owing to its location opposite the wind gap leading inland from the Golden Gate, the range in temperature is narrower than in more northerly and southerly parts of the great valley. Summer fogs are more common." Temperature data covering the period 1973 through 1982 compiled by the University of California Agricultural Extension Station at Sacramento, and the United States Department of Interior, Stockton, show a mean of 3570 degree days for Lodi, 4185 for Sacramento, and 4386 for Stockton.

The primary difference on the eastern boundary is the change into the Sierra-Nevada foothills and the more upland soils. Also, an increase of rainfall is associated with an increase in elevation. To quote the same USDA 1937 Soil Survey, "Lodi, representative of valley

plain, has 18.26 inches (of annual rainfall); and Valley Springs, about eight miles east of the area, and more or less representative of the foothill country, has 24.03 inches."

The area west of Interstate Highway 5 and Franklin Boulevard is flood-prone, poorly drained, delta land consisting of Ryde soils and peat. The segment of Highway 5 that is part of the western boundary is primarily located on the first firm soil east of the Sacramento River system.

Soils in the Lodi viticultural area are primarily Hanford, Delhi, or Dinuba in the alluvial fan soils; or San Joaquin, Madera, Romona, or Redding in the lower and upper terrace soils as shown in, "Soils of San Joaquin County, California" and "Soils of Sacramento County, California," University of California, Berkely, California, 1952 and 1954.

Boundaries

The eastern terminus of the southern boundary is its point of intersection with the eastern boundary of San Joaquin County. A small segment of southwestern Calaveras County has been omitted from the proposed viticultural area in consideration of the total absence of current viticultural activity, and in the belief any future viticulturalists in the segment would not desire to be identified with Lodi.

The western boundary has used part of Interstate Highway 5, which is roughly parallel to Thornton Road, and runs from one-quarter to, at most, two miles west of Thornton Road. ATF believes that this is a well defined border. At the intersection of Interstate Highway 5 and Hood-Franklin Road the boundary jogs to the east approximately one-half mile to the intersection with Franklin Boulevard which it follows northeast to the meeting point with the section line running east which extends to Sheldon Road.

The northern boundary starts from the point where Franklin Boulevard meets the section line extending due east to the western end of Sheldon Road, then continuing east along Sheldon Road to its intersection with the Central California Traction Co. Railroad then southeast along the Central California Traction Co. Railroad to its intersection with Grant Line Road, and then extending northeast along Grant Line Road parallel to the Cosumnes River. At the point where Grant Line Road intersects California State Highway 16 the boundary follows Highway 16 southeast to Deer Creek, where it proceeds east along Deer Creek until it intersects the eastern boundary of Sacramento County.

The eastern boundary excludes a small area of southwest Calaveras County including the principal community, Valley Springs. The boundary follows the eastern boundaries for Sacramento and San Joaquin Counties from Deer Creek in the north to the Calaveras River in the south.

Miscellaneous

ATF does not wish to give the impression by approving Lodi as a viticultural area that it is endorsing the quality of the wine from this area. ATF is approving this area as being distinct and not better than other areas. By approving this area, Lodi wine producers would be allowed to claim a distinction on labels and in advertisements as to the origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Lodi wines.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this final rule is not a "major rule" since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or

(c) Significant adverse affect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is proposed.

Drafting Information

The principal author of this document is Lori D. Weins, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural area, Wine.

Authority and Issuance

27 CFR Part 9—American Viticultural Areas is amended as follows:

PART 9—[AMENDED]

Par. 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.107 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.107 Lodi.

Par. 3. Subpart C is amended to add § 9.107 as follows:

§ 9.107 Lodi.

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

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Lodi viticultural area are 20 U.S.G.S. 7.5 minute series maps, and are titled as follows:

(1) "Valley Springs SW, Calif." (1962, photoinspected 1973);

(2) "Linden, Calif." (1968);

(3) "Waterloo, Calif." (1968, photoinspected 1978);

(4) "Lodi South, Calif." (1968, photorevised 1976);

(5) "Terminous, Calif." (1978);

(6) "Thornton, Calif." (1978);

(7) "Bruceville, Calif." (1968, photorevised 1980);

(8) "Florin, Calif." (1968, photorevised 1980);

(9) "Elk Grove, Calif." (1968, photorevised 1979);

(10) "Sloughouse, Calif." (1968, photorevised 1980);

(11) "Buffalo Creek, Calif." (1967, photorevised 1980);

(12) "Folsom SE, Calif." (1954, photorevised 1980);
(13) "Carbondale, Calif." (1968, photorevised 1980);
(14) "Goose Creek, Calif." (1968, photorevised 1980);
(15) "Clements, Calif." (1968);
(16) "Wallace, Calif." (1962);
(17) "Lodi North, Calif." (1968);
(18) "Galt, Calif." (1968, photoinspected 1978);
(19) "Clay, Calif." (1968); and
(20) "Lockeford, Calif." (1968, photoinspected 1973);

(c) *Boundaries.* The Lodi viticultural area is located in California in the counties of Sacramento and San Joaquin. The beginning point is located in the southeast corner of the viticultural area where the Calaveras River intersects the eastern boundary of San Joaquin County ("Valley Springs, SW" U.S.G.S. map).

(1) The boundary proceeds west along the Calaveras River to the point of intersection with Eightmile Road (Beginning in the "Valley Springs, SW" map, passing through the "Linden" map and ending in the "Waterloo" map);

(2) Thence west along Eightmile Road to the point of intersection with Interstate Highway 5 (beginning in the "Waterloo map and ending in the "Lodi South" map);

(3) Thence north and then northwest along Interstate Highway 5 to its intersection with an unnamed road (known locally as Hood-Franklin Road) (beginning on the "Lodi South" map passing through the "Terminous," and "Thornton," maps and ending in the "Bruceville" map);

(4) Thence east along Hood-Franklin Road to its intersection with Franklin Boulevard (beginning in the "Bruceville" map and ending to the "Florin" map);

(5) Thence northeast along Franklin Boulevard to its meeting point with the section line running due east and connecting to the western end of Sheldon Road ("Florin" map);

(6) Thence due east along the section line connecting to the western end of Sheldon Road ("Florin" map);

(7) Thence east along Sheldon Road to its intersection with the Central California Traction Co. Railroad (beginning in the "Florin" map and ending in the "Elk Grove" map);

(8) Thence southeast along the Central California Traction Co. Railroad to its point of intersection with Grant Line Road ("Elk Grove" map);

(9) Thence northeast along Grant Line Road to the point of intersection with California State Highway 16 (beginning in the "Elk Grove" map, passing through the "Sloughhouse" map and ending in the "Buffalo Creek" map);

(10) Thence southeast along California State Highway 16 to the point of intersection with Deer Creek (beginning in the "Buffalo Creek" map and ending in the "Folsom, SE" map);

(11) Thence northeast along Deer Creek to the point of intersection with the eastern boundary of Sacramento County ("Folsom, SE" map);

(12) Thence southeast along the eastern boundary of Sacramento County and then along the eastern boundary of San Joaquin County to the point of intersection with the Calaveras River, the point of beginning (beginning in the "Folsom, SE" map, passing through the "Carbondale," "Goose Creek," "Clements," and "Wallace" maps and ending in the "Valley Springs, SW map).

Signed: January 14, 1986.

Stephen E. Higgins,

Director.

Approved: January 29, 1986.

Edward T. Stevenson,

Deputy Assistant Secretary (Operations).

[FR Doc. 86-3082 Filed 2-12-86; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7 86-01]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule revocation.

SUMMARY: This amendment revokes the regulations for the Rickenbacker Causeway Bridge, mile 1091.6 at Miami because the bridge has been replaced by a fixed bridge.

EFFECTIVE DATE: This revocation is effective on February 13, 1986.

FOR FURTHER INFORMATION CONTRACT: Mr. Walt Paskowsky, (305) 536-4103.

SUPPLEMENTARY INFORMATION: This rule was not preceded by a notice of proposed rulemaking because it deletes a provision that is of no force. Therefore notice and public procedure thereon are unnecessary.

Drafting Information

The drafters of these regulations are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander Ken Gray, project attorney.

Economic Assessment and Certification

This rule is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this rule is expected to be so minimal that further evaluation in unnecessary. We conclude this because the rule merely deletes an inoperative provision from the regulations. Accordingly, the Coast Guard certifies that this action will not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05-1(g).

§ 117.261 [Amended]

2. Section 117.261 is amended by removing paragraph (qq).

Dated: January 17, 1986.

G.S. Duca,

Captain, U.S. Coast guard; Acting Commander, Seventh Coast Guard District.

[FR Doc. 86-2087 Filed 2-12-86; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP San Diego Reg. 86-03]

Security Zone Regulations; San Diego Bay, CA, Pacific Ocean

AGENCY: Coast Guard, DOT.

ACTION: Emergency Rule.

SUMMARY: The Coast Guard is establishing a security zone in San Diego Bay, California, consisting of the water area within the area 200 yards (183 meters) immediately southeast of the previously-established security zone at Naval Air Station North Island Cruiser (J-K) and Carrier (L-P) Piers (SDC 85-17). This security zone is a temporary extension of that zone and is established only during the time three aircraft carriers are moored at Naval Air Station North Island. This security zone is established at the request of the United States Navy and is needed to safeguard U.S. Naval vessels and

property from sabotage or other subversive acts, accidents, criminal actions or other causes of a similar nature. Entry into this zone is prohibited unless authorized by the Captain of the Port.

DATES: This regulation is effective on February 4, 1986. It terminates on May 30, 1986.

FOR FURTHER INFORMATION CONTACT: LCDR Steven P. Mojonnier, USCG, C/O U.S. Coast Guard, Captain of the Port, 2710 N. Harbor Drive, San Diego, CA 92101-1064, telephone (619) 293-5860.

SUPPLEMENTARY INFORMATION: .

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to secure the interests of the United States.

Drafting Information

The drafters of this regulation are LCDR Steven P. Mojonnier, project officer for the Captain of the Port, and LT Joseph R. McFaul, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

The event requiring this regulation will occur from 4 February 1986 to 30 May 1986. During this period of time, three aircraft carriers will be moored at Naval Air Station North Island Carrier (L-P) Piers. These aircraft carriers extend beyond the quay wall which forms these piers, and out of the existing security zone. This temporary extension of the zone is intended to provide the same level of protection to these vessels when three carriers are moored at this location. The security zone is needed to protect persons and property from sabotage or other subversive acts, accidents criminal actions, or other causes of a similar nature, and secure the interests of the United States.

This regulation is issued pursuant to 50 U.S.C. 191 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water); Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Subpart D of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 33 CFR 160.5.

2. In Part 165, a new S165.T1113 is added to read as follows:

§ 165.T1113 Security Zone: San Diego Bay, California.

(a) *Location:* This security zone consists of the water area described as follows:

Commencing at a point on the shoreline of Naval Air Station North Island, Coronado, California at latitude 32°42'13.O" N., longitude 117°10'48.O" W. (Point A), for a place of beginning; thence northerly (approximately 020°T) to latitude 32°42'21.3" N., longitude 117°10'44.2" W. (Point B); thence easterly (approximately 110°T) to latitude 32°42'19.2" N., longitude 117°10'37.5" W. (Point C); thence southerly (approximately 200°T) to latitude 32°42'11.0" N., longitude 117°10'41.3" W. (Point D); thence westerly (approximately 290°T) to the place of beginning (Point A) on the shoreline of the Naval Air Station.

(b) *Effective Dates:* This security zone is effective on February 4, 1986. It terminates on May 30, 1986.

(c) *Regulations:* In accordance with the general regulations in § 165.33 of this part, entry into the area of this zone is prohibited unless authorized by the Captain of the Port. Section 165.33 also contains other general requirements.

Dated: February 4, 1986.

E.A. Harmes,

Commander, U.S. Coast Guard, Captain of the Port, San Diego, California.

[FR Doc. 86-3213 Filed 2-12-86; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 265

Organization and Administration; Modification of Fees for Record Retrieval by Computer

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule modifies the fees charged for furnishing Postal Service records retrieved by computer to members of the public. The modified fees inplement existing policy to recover the actual cost incurred by the Postal Service for the retrieval and represent no change in policy concepts.

EFFECTIVE DATE: March 17, 1986.

FOR FURTHER INFORMATION CONTACT: Betty Sheriff, (202) 268-5158.

SUPPLEMENTARY INFORMATION: On November 14, 1985 the Postal Service published in the **Federal Register** for comment (50 FR 47068) proposed modifications of 39 CFR Part 265 that would revise the fees for retrieving data by computer to reflect current labor and administrative costs. Existing fees were established in 1984 and do not reflect current direct costs.

No comments on the proposed modifications were received. Accordingly, part 265 of title 39 CFR is amended as follows:

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

List of Subjects in 39 CFR Part 265

Release of information, Postal Service.

PART 265—RELEASE OF INFORMATION

1. The authority citation for Part 265 is revised to read as follows:

Authority: 39 U.S.C. 401; 5 U.S.C. 552.

§ 265.8 [Amended]

2. In § 265.8, paragraph (b)(3) is amended by striking out "1984" and inserting "1986" in lieu thereof.

3. Appendix A to Part 265 is revised to read as follows:

Appendix A—Information Services Price List in Effect January 1, 1986

Whenever an individual requests information which must be retrieved by computer, standard charges will be incurred based upon resources required to furnish this information. Estimates are provided to the requester in advance and are based on the following standard price list.

Description of services	Price	Unit
A. System utilization services:		
Central processor unit (CPU).		Hour.
3033N (RA)	$888.00	
3033U (RA)	1,134.00	
Amdahl 5860 (NA NB)	2,608.00	
3081K (RA)	2,722.00	
Amdahl 5870 (MB MC SA SB).	4,158.00	
3084QX (SL ST)	5,198.00	
3090-200	5,708.00	
3090-400	10,849.00	
Disk usage (selector) channel.	366.25	Hour.
Multiplexor (Byte) channel	17.50	Hour.
Tape usage (block MPX) channel.	6.50	Hour.
Volume mounts	.50	Mount.
Minimum job charges, flushed.	1.00	Job.
Executed	2.00	Job.
3800 printing	1.10	1,000 lines.
Dedicated use of 370/135	13,023.00	Per A/P.
B. System occupancy chargers:		
Tape occupancy	34.00	Hour.