

# Rules and Regulations

Federal Register

Vol. 51, No. 139

Monday, July 21, 1986

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1240

[Docket No. HRCIA-1]

#### Honey Research, Promotion, and Consumer Information Order; Decision Establishing Final Order Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

**SUMMARY:** This final decision establishes a Honey Research, Promotion, and Consumer Information Order as authorized by the Honey Research, Promotion, and Consumer Information Act of 1984. The order was favored by more than the required two-thirds of the producers and importers voting in a referendum conducted by the Department on May 19-31, 1986. The order authorizes establishment of projects relating to research, consumer information, advertising, sales promotion, producer information, and market development to assist, improve, or promote the marketing, distribution, and utilization of honey and honey products. This order also defines the powers and duties of the National Honey Board, provides for collection of the one-cent per pound assessment, specifies the objective of Board activities, and provides a mechanism for terminating the program if it is not favored in any producer and importer referendum.

**EFFECTIVE DATE:** July 21, 1986.

**FOR FURTHER INFORMATION CONTACT:** Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Washington, DC 20250, telephone: (202) 447-5697.

#### SUPPLEMENTARY INFORMATION:

##### Prior Documents in This Proceeding

Pre-notice press release issued May 29, 1985; Notice of Hearing—Issued June 25, 1985, and published June 28, 1985 (50 FR 26942); Correction of Docket Number—published July 12, 1985 (50 FR 28404); Recommended Decision—Issued January 23, 1986, and published January 29, 1986 (51 FR 3605); and Secretary's Decision—Issued May 2, 1986, and published May 6, 1986 (51 FR 16702).

##### Preliminary Statement

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is not subject to the requirements of Executive Order 12291.

This order is issued pursuant to the applicable rules of practice and procedure governing proceedings to formulate and amend an order (7 CFR Part 1200). This order is effective pursuant to the provisions of the Honey Research, Promotion, and Consumer Information Act, hereafter referred to as the "Act" (7 U.S.C. 4801-4812).

The order was formulated on the record of a public hearing with sessions in Washington, DC, on July 16, 1985, and Denver, Colorado, on July 30, 1985. Notice of the sessions was published in the June 28, 1985, issue of the Federal Register (50 FR 26942). That notice contained a proposed order submitted by the American Beekeeping Federation, Inc. (ABF).

The Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. The Honey Research, Promotion, and Consumer Information Order and rules issued thereunder are unique in that they are brought about through group action of essentially small entities for their own benefit. The great majority of handlers and importers of honey or honey products may be classified as small entities. While this action may impose some costs on affected handlers and importers and the number of such firms may be substantial, the added burden on small entities, if present at all, is not significant. Furthermore, an

exemption from regulation is provided for small producers, producer-packers, and importers who produce or import less than 6,000 pounds of honey or honey products annually. This exemption was included in the Act to reduce the burden on small business. Finally, any producer or importer may obtain a refund of the assessment collected from the producer or importer if demand is made within the time and in the manner prescribed by the Honey Board and approved by the Secretary; except that, during any year, the amount of refunds made to importers, as a percentage of total assessments collected from importers, shall not exceed the amount of refunds made to domestic producers, as a percentage of total assessments collected from such producers. Such refund shall be made by the Honey Board in June and December of each year.

#### Findings and Conclusions

The material issues, findings and conclusions, rulings, general findings, and regulatory provisions contained in the recommended decision and the Secretary's decision published in the Federal Register on January 29, 1986 (51 FR 3605), and May 6, 1986 (51 FR 16702) respectively, are incorporated by reference in this document and are hereby ratified and affirmed.

#### General Findings

Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The said order regulates the marketing of honey and honey products in the "States" in the same manner as, and is applicable only to persons in the respective classes of commercial or industrial activity specified in, a proposed order upon which a hearing has been held;

(3) The said order is limited in its application to the only marketing area which is practicable consistent with carrying out the declared purposes of the Act; and

(4) The marketing of honey and honey products in the "States," as defined in said order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.



**Additional Findings**

It is necessary and in the public interest to make this order effective upon publication in the Federal Register so that the Honey Board, the administrative agency provided for in the order, may be nominated, selected, and may start to function as soon as possible. The honey industry has requested that the program become operational as soon as possible so that the promotional and other activities can be in place for the balance of the 1986 marketing year. Before the program can begin, however, it will be necessary for the Board to recommend a budget of anticipated expenses to the Department for review, appropriate revisions, and publication in the Federal Register. Also, it will be necessary for the Board to hire a staff to carry out the necessary administrative functions. Therefore, it appears that no useful purpose would be served by postponing the effective date of this order for 30 days beyond the date of its publication in the Federal Register.

**Conclusions**

It is hereby determined that: (1) The issuance of this order is favored or approved by producers and importers who participated in a referendum on the question of its approval and who, during the period January 1, 1984, through December 31, 1984 (which has been deemed to be a representative period), were engaged in the production or importation of 6,000 pounds or more of honey within the United States, including the Commonwealth of Puerto Rico; and (2) the issuance of this order is the appropriate means for carrying out the declared policy of the Act.

**Order Relative to Production and Importation of Honey and Honey Products**

It is therefore ordered, That on and after the effective date hereof, the handling and importation of honey and honey products shall be in conformity to and in compliance with the following terms and conditions:

**List of Subjects in 7 CFR Part 1240**

Honey, Agricultural research, Reporting and recordkeeping requirements, Market development, and Consumer information.

**Final Order**

The following order shall be the detailed means by which the foregoing conclusions may be carried out:

Chapter XI of Title 7 is hereby amended by adding Part 1240 to read as follows:

**PART 1240—HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER****Definitions**

Sec.	
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1240.2	Act.
1240.3	Person.
1240.4	Honey.
1240.5	Honey products.
1240.6	Producer.
1240.7	Handle.
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1240.13	Consumer education.
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1240.17	Honey Board.
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1240.19	Fiscal period and marketing year.
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**Honey Board**

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1240.32	Nominations.
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**Research, Promotion, and Consumer Education**

1240.39	Research, promotion, and consumer education.
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1240.65	Personal liability.
1240.66	Separability.
1240.67	Patents, copyrights, inventions, and publications.

Authority: Honey Research, Promotion, and Consumer Information Act 7 U.S.C. 4601-4612.

**Definitions****§ 1240.1 Secretary.**

"Secretary" means the Secretary of Agriculture of the United States, or any

other officer or employee of the Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his/her stead.

**§ 1240.2 Act.**

"Act" means the Honey Research, Promotion, and Consumer Information Act (Pub. L. 98-590) and any amendments thereto.

**§ 1240.3 Person.**

"Person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

**§ 1240.4 Honey**

"Honey" means the nectar and saccharine exudations of plants which are gathered, modified, and stored in the comb by honey bees.

**§ 1240.5 Honey products.**

"Honey products" means products wherein honey is a principal ingredient.

**§ 1240.6 Producer.**

"Producer" means any person who produces honey in any State for sale in commerce.

**§ 1240.7 Handle.**

"Handle" means to process, package, sell, transport, purchase or in any other way place honey or honey products, or cause them to be placed, in the current of commerce. Such term shall include selling unprocessed honey that will be consumed without further processing or packaging. Such term shall not include the transportation of unprocessed honey by the producer to a handler or transportation by a commercial carrier of honey, whether processed or unprocessed for the account of the handler or producer.

**§ 1240.8 Handler.**

"Handler" means any person who handles honey or honey products.

**§ 1240.9 Producer-packer.**

"Producer-packer" means any person who is both a producer and handler of honey or honey products.

**§ 1240.10 Importer.**

"Importer" means any person who imports honey or honey products into the United States as principal or as an agent, broker, or consignee for any person who produces honey outside of the United States for sale in the United States.

**§ 1240.11 Promotion.**

"Promotion" means any action, including paid advertising and public



relations, to present a favorable image for honey or honey products to the public with the express intent of improving the competitive position and stimulating sales of honey or honey products.

#### § 1240.12 Research.

"Research" means any type of systematic study or investigation, and/or the evaluation of any study or investigation designed to advance the image, desirability, usage, marketability, production, or quality of honey or honey products.

#### § 1240.13 Consumer education.

"Consumer education" means the act of providing information to the public on the usage and care of honey and honey products.

#### § 1240.14 Marketing.

"Marketing" means the sale or other disposition in commerce of honey or honey products.

#### § 1240.15 Committee.

"Committee" means or the "National Honey Nominations Committee" means the Committee established pursuant to § 1240.32.

#### § 1240.16 State association.

"State association or 'association'" means that organization of beekeepers in a State which is generally recognized as representing the beekeepers of that State.

#### § 1240.17 Honey Board.

"Honey Board" or the "Board" means the administrative body established pursuant to § 1240.30.

#### § 1240.18 State.

"State" means any of the fifty States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

#### § 1240.19 Fiscal period and marketing year.

"Fiscal period" and "marketing year" means the 12-month period ending on December 31 or such other consecutive 12-month period as shall be recommended by the Board and approved by the Secretary.

#### § 1240.20 Plans and projects.

"Plans" and "projects" means those research, promotion, and consumer education plans, studies, or projects established pursuant to §§ 1240.38 and 1240.39.

#### § 1240.21 Part and subpart.

"Part" means the Honey Research, Promotion, and Consumer Information Order and all rules, regulations, and

supplemental orders issued thereunder, and the order shall be a "subpart" of such part.

### Honey Board

#### § 1240.30 Establishment and membership.

A Honey Board (hereinafter called the "Board") is hereby established to administer the terms and provisions of this part. The Board shall consist of thirteen (13) members, each of whom shall have an alternate. Seven members and seven alternates shall be honey producers, two members and two alternates shall be honey handlers, two members and two alternates shall be honey importers, one member and one alternate shall be an officer or employee of a honey marketing cooperative, and one member and one alternate shall be selected to represent the general public. The Board shall be appointed by the Secretary from nominations submitted by the National Honey Nominations Committee pursuant to § 1240.32.

#### § 1240.31 Term of office.

The members of the Board and their alternates shall serve for terms of three years, except the members of the initial Board shall be designated for, and shall serve terms as follows: Four members and alternates shall serve for one-year terms; four shall serve for two-year terms; and five shall serve for three-year terms. No member or alternate shall serve more than two consecutive terms: *Provided*, That those members and alternates serving the initial term of one year may serve two additional consecutive three-year terms. The term of office for the initial Board shall begin immediately on appointment by the Secretary. In subsequent years, the term of office shall begin on April 1. Each member and alternate member shall continue to serve until his/her successor is selected and has accepted.

#### § 1240.32 Nominations.

All nominations to the Board authorized under § 1240.30 herein shall be made in the following manner.

(a) *Establishment of National Honey Nominations Committee.* (1) There is hereby established a National Honey Nominations Committee, hereinafter called the "Committee", which shall consist of not more than one member from each State, appointed by the Secretary from nominations submitted by each State Association. Wherever there is more than one eligible association within a State, the Secretary shall designate the association most representative of the honey producers, handlers, and importers not exempt under § 1240.42(a) to make nominations for that State.

(2) If a State Association does not submit a nomination for the Committee, the Secretary may select a member of the honey industry from that State to represent that State on the Committee. However, if a State which is not one of the top twenty honey producing States (as determined by the Secretary) does not submit a nomination, such State shall not be represented on the Committee.

(3) Members of the Committee shall serve for three-year terms, except members of the initial Committee shall serve for terms as follows: One-third of such members shall serve one-year terms; one-third shall serve two-year terms; and one-third shall serve three-year terms. No member shall serve more than two consecutive three-year terms: *Provided*, That those members serving the initial term of one year may serve two additional consecutive three-year terms. The term of office for the initial Committee shall begin immediately on appointment by the Secretary. In subsequent years, the term of office shall begin on January 1.

(4) The Committee shall select its Chairperson by a majority vote.

(5) The members of the Committee shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in performing their duties as members of the Committee and approved by the Board. Such expenses shall be paid from funds collected by the Board pursuant to § 1240.41.

(b) *Nominations to the Board.* (1) Except for the member and alternate who represent the general public, the Committee shall nominate the members and alternate members of the Honey Board and submit such nominations promptly to the Secretary for approval. The Committee shall also submit a list of candidates to the Secretary for the public member and alternate public member position. The Secretary may choose from that list of names or, at his/her discretion, choose other candidates to fill the public member and alternate position.

(2) After the first meeting, the Committee shall meet annually to make such nominations, or at the determination of the Chairperson, the Committee may conduct its business by mail ballot in lieu of an annual meeting.

(3) A majority of the Committee shall constitute a quorum for voting at an annual meeting. In the event of a mail ballot, votes must be received from a majority of the Committee to constitute a quorum.

(4) At least 50 percent of the members from the twenty leading honey-



producing states must vote in any nomination of members to the Board.

(5) For the purpose of nominating producer members to the Board, the Secretary shall establish seven regions on the basis of the production of honey. For the purpose of facilitating initial nominations to the Honey Board, the following regions shall be the initial regions: Region 1: Washington, Oregon, Idaho, California, Nevada, Utah, Alaska, and Hawaii. Region 2: Montana, Wyoming, Nebraska, Kansas, Colorado, Arizona, and New Mexico. Region 3: North Dakota and South Dakota. Region 4: Minnesota, Iowa, Wisconsin, and Michigan. Region 5: Texas, Oklahoma, Missouri, Arkansas, Tennessee, Louisiana, Mississippi, and Alabama. Region 6: Florida, Georgia, and Puerto Rico. Region 7: Illinois, Indiana, Ohio, Kentucky, Virginia, North Carolina, South Carolina, West Virginia, Maryland, District of Columbia, Delaware, New Jersey, New York, Pennsylvania, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, and Maine.

(6) Every five years, the Board shall review the regions to determine whether new regions should be established. In making such review, it shall give consideration to: (i) The average quantity of honey produced during the most recent three years; (ii) Shifts and trends in quantities of honey produced; (iii) The equitable relationship of Board membership and districts; and (iv) Other relevant factors. As a result of this review, the Board may recommend for the Secretary's approval the reestablishment of such regions. Any such reestablishment of regions shall be made at least six months prior to the date on which terms of office of the Board begin each year and shall become effective at least 30 days prior to such date.

(7) The initial Committee shall within 90 days of the announcement of issuance of this order, or such other period as prescribed by the Secretary, submit in a manner prescribed by the Secretary the following nominations:

(i) One producer member and one alternate producer member from each of the seven regions established by the Secretary;

(ii) Two handler members and two alternate handler members from recommendations made by industry organizations representing handler interests;

(iii) Two importer members and two alternate importer members from recommendations made by industry organizations representing importer interests; and

(iv) One member and one alternate who are officers or employee of honey marketing cooperatives.

(v) For subsequent years, the Committee shall submit its nominations to the Secretary one month before the new Board terms begin.

#### § 1240.34 Vacancies.

(a) In the event any member of the Board ceases to be a member of the category of members from which the member was appointed to the Board, such position shall automatically become vacant.

(b) If a member of the Board consistently refuses to perform the duties of a member of the Board, or if a member of the Board engages in acts of dishonesty or willful misconduct, the Board may recommend to the Secretary that he/she be removed from office. If the Secretary finds the recommendation of the Board shows adequate cause, he/she shall remove such member from office.

(c) Should any member position become vacant, the alternate of that member shall automatically assume the position of said member. At its next meeting, the Honey Nominations Committee shall nominate a replacement for said alternate. Should the positions of both a member and such member's alternate become vacant, successors for the unexpired terms of such member and alternate shall be nominated and appointed in the manner specified in §§ 1240.30 and 1240.32, except that said nomination and replacement shall not be required if said unexpired terms are less than six months.

#### § 1240.35 Procedure.

(a) Seven members, including alternates acting in place of members of the Board, shall constitute a quorum; *Provided*, That such alternates shall serve only whenever the member is absent from a meeting or is disqualified. Any action of the Board shall require the concurring votes of a majority of those present and voting. At assembled meetings, all votes shall be cast in person.

(b) In matters of an emergency nature when there is not enough time to call an assembled meeting of the Board, the Board may act upon the concurring votes of a majority of its members by mail, telephone, telegraph, or by other means of communication: *Provided*, That each proposition is explained accurately, fully, and substantially identically to each member. All telephone votes shall be promptly confirmed in writing and recorded in the Board minutes.

#### § 1240.36 Attendance.

Members of the Board and the members of any special panels shall be reimbursed for reasonable out-of-pocket expenses incurred when performing Board business. The Board shall have the authority to request the attendance of alternates of any or all meetings, notwithstanding the expected or actual presence of the respective members.

#### § 1240.37 Powers.

The Board shall have the following powers subject to § 1240.61:

(a) To administer this subpart in accordance with its terms and provisions of the Act;

(b) To make rules and regulations to effectuate the terms and conditions of this subpart;

(c) To require its employees to receive, investigate, and report to the Secretary complaints of violations of this part; and

(d) To recommend to the Secretary amendments to this part.

#### § 1240.38 Duties.

The Board shall have, among other things, the following duties:

(a) To meet and organize and to select from among its members a chairperson and such other officers as may be necessary; to select committees and subcommittees from its membership and consultants; to adopt such rules, regulations, and by-laws for the conduct of its business as it may deem advisable.

(b) To employ such persons as it may deem necessary and to determine the compensation and define the duties of each; and to protect the handling of Board funds through fidelity bonds;

(c) To prepare and submit to the Secretary for his/her approval, a budget on a fiscal period basis of its anticipated expenses in the administration of this part including the probable costs of all programs or projects and to recommend a rate of assessment with respect thereto;

(d) To investigate violations of the order and report the results of such investigations to the Secretary for appropriate action to enforce the provisions of the order.

(e) To develop programs and projects and to enter into contracts or agreements with the approval of the Secretary for the development and carrying out of programs or projects of research, development, advertising, promotion, or education, and the payment of the costs thereof with funds collected pursuant to this part;

(f) To maintain minutes, books, and records and prepare and submit to the



Secretary such reports from time to time as may be required for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it;

(g) To periodically prepare and make public and to make available to producers and importers, reports of its activities carried out, and at least once each fiscal period to make public an accounting of funds received and expended;

(h) To cause its books to be audited by a certified public accountant at the end of each fiscal period and to submit a copy of each audit to the Secretary;

(i) To give to the Secretary the same notice of meetings of the Board and subcommittees as is given to members in order that representatives of the Secretary may attend such meetings;

(j) To submit to the Secretary such information pertaining to this subpart as he/she may request;

(k) To notify honey producers, producer-packers, handlers, and importers of all Board meetings through press releases or other means;

(l) To appoint and convene, from time to time, working committees drawn from producers, honey handlers, importers, exporters, members of the wholesale or retail outlets for honey, or other members of the public to assist in the development of research, promotion, and consumer education programs for honey; and

(m) To develop and recommend such rules and regulations to the Secretary for approval as may be necessary for the development and execution of projects or activities to effectuate the declared purpose of the Act.

#### Research, Promotion, and Consumer Education

##### § 1240.39 Research, promotion, and consumer education.

The Board shall develop and submit to the Secretary for approval any plans or projects authorized in this section. Such plans or projects shall provide for:

(a) The establishment, issuance, effectuation and administration of appropriate plans or projects for consumer education, advertising, and promotion of honey and honey products designed to strengthen the position of the honey industry in the marketplace and to maintain, develop, and expand markets for honey and honey products;

(b) The establishment and conduct of marketing research and development projects to the end that the acquisition of knowledge pertaining to honey and honey products or their consumption and use may be encouraged or expanded, or to the end that the

marketing and utilization of honey and honey products may be encouraged, expanded, improved or made more efficient: *Provided*, That quality control, grade standards, supply management programs, or other programs that would otherwise limit the right of the individual honey producer to produce honey shall not be conducted under, or as a part of this subpart;

(c) The development and expansion of honey and honey product sales in foreign markets;

(d) A prohibition on advertising or other promotion programs that make any false or unwarranted claims on behalf of honey or its products or false or unwarranted statements with respect to the attributes or use of any competing product;

(e) Periodic evaluation by the Board of each plan or project authorized under this part to insure that each plan or project contributes to an effective and coordinated program of research, education, and promotion and submit such evaluation to the Secretary. If the Board or the Secretary finds that a plan or project does not further the purposes of the Act, then the Board shall terminate such plan or project; and

(f) The Board to enter into contracts or make agreements for the development and carrying out of research, promotion, and consumer education, and pay for the costs of such contracts or agreements with funds collected pursuant to § 1240.41.

#### Expenses and Assessments

##### § 1240.40 Budget and expenses.

(a) At the beginning of each fiscal period, or as may be necessary thereafter, the Board shall prepare and recommend a budget on a fiscal period basis of its anticipated expenses and disbursements in the administration of the Order, including expenses of the Committee and probable costs of research, promotion, and consumer education.

(b) The Board is authorized to incur expenses for research, promotion, and consumer education, such other expenses for the administration, maintenance, and functioning of the Board and the Committee as may be authorized by the Secretary, any operating reserve established pursuant to § 1240.44, and those administrative costs incurred by the Department specified in paragraph (c) of this section. The funds to cover such expenses shall be paid from assessments collected pursuant to § 1240.41, donations from any person not subject to assessments under this order and other funds available to the Board including those

collected pursuant to § 1240.67 and subject to the limitations contained therein.

(c) The Board shall reimburse the Department from assessments for administrative costs incurred by the Department with respect to this order after its promulgation. The Department shall also be reimbursed for administrative expenses incurred by it for the conduct of referenda.

##### § 1240.41 Assessments.

(a) Each producer and importer shall pay to the Board, upon demand, his/her pro rata share of such expenses as may be approved by the Secretary pursuant to § 1240.40. Such pro rata share shall be the amount established by the Secretary pursuant to paragraph (c) of this section.

(b) Except as provided in § 1240.42 and in paragraphs (e), (f), and (g) of this section, the first handler shall be responsible for the collection of such assessment from the producer and payment thereof to the Board. The first handler shall maintain separate records for each producer's honey handled, including honey produced by said handler.

(c) The assessment on honey shall be levied at a rate fixed by the Secretary which shall be \$0.01 per pound of honey or honey used in honey products during the first fiscal period (or portion thereof) after this order is approved in referendum. After that first year, the Board may request the Secretary to increase the assessment rate not more than \$0.005 per pound of honey per year: *Provided*, That the assessment never exceeds \$0.04 per pound of honey per year. After the first year, the Board may request the Secretary to decrease the assessment rate by any amount it sees fit.

(d) Should a deficit occur during any fiscal period, funds to cover the deficit may be obtained by increasing the rate of assessment subject to the limitations in paragraph (c) of this section. The increased rate of assessment shall be applied to all honey and the honey used in products wherein honey is the primary ingredient sold in the States during that particular fiscal period so that the total payments by each person during each fiscal period will be proportional to the total value of the honey and honey products sold during that period.

(e) The importer of imported honey and honey products shall pay the assessment to the Board at the time of entry of such honey and honey products into any State.



(f) Producer-packers shall pay to the Board the assessment on the honey for which they act as first handler.

(g) Whenever a loan is made on honey under the Honey Loan-Price Support Program, the Secretary shall provide that the assessment be deducted from the proceeds of the loan, and that the amount of such assessment shall be forwarded to the Board, except that the assessment shall not be deducted by the Secretary in the case of a honey marketing cooperative that has already deducted the assessment. When such loan is redeemed, the Secretary shall provide the producer with proof of payment of the assessment.

(h) Assessments shall be paid to the Board at such time and in such manner as the Board, with the Secretary's approval, directs pursuant to regulations issued hereunder. Such regulations may provide for different handler, importer, or producer-packer payment schedules so as to recognize differences in marketing or purchasing practices and procedures.

(i) There shall be a late payment charge imposed on any handler, importer, or producer-packer who fails to remit to the Board the total amount for which any such handler, importer, or producer-packer is liable on or before the payment due date established by the Board under paragraph (h) of this section. The amount of the late payment charge shall be set by the Board subject to approval by the Secretary.

(j) There shall also be imposed on any handler, importer, or producer-packer subject to a late payment charge, an additional charge in the form of interest on the outstanding portion of any amount for which the handler, importer, or producer-packer is liable. The rate of such interest shall be prescribed by the Board subject to approval by the Secretary, but shall not exceed the maximum legal rate of interest, if any, as established by Congress.

(k) The Board is hereby authorized to accept advance payment of assessments by handlers, importers, or producer-packers that shall be credited toward any amount for which the handlers, importers or producer-packers may become liable. The Board is not obligated to pay interest on any advance payment.

(l) The Board is hereby authorized to borrow money for the payment of expenses subject to the same fiscal, budget, and audit controls as other funds of the Board.

#### § 1240.42 Exemption from assessment.

(a) A producer who produces less than 6,000 pounds of honey per year, or a producer-packer who produces and

handles less than 6,000 pounds of honey per year or an importer who imports less than 6,000 pounds of honey per year shall be exempt from the assessment.

(b) To claim such exemption, a producer, producer-packer, or importer shall submit an application to the Board stating that his/her production, handling or importation of honey shall not exceed 6,000 pounds for the year for which the exemption is claimed.

(c) The Board may recommend to the Secretary that honey exported from the States be exempted from the provisions of this order, and include procedures for the refund of assessments on such honey and such safeguards as may be necessary to prevent improper use of this exemption.

(d) The Board shall determine those States that are operating a program with objectives comparable to the objectives of the Act and recommend to the Secretary that they be exempted from a portion of the assessments collected by the Federal program. The amount of such assessments subject to exemption shall not exceed the amount authorized by the State plan on January 1, 1985, unless a State provides evidence that it was in the process of promulgating a different assessment level on January 1, 1985, then the new assessment level promulgated will be exempt upon approval of the honey producers in that State. Producers having an exemption from a portion of the assessments under this order, due to payment of assessments to a State plan, shall be required to furnish evidence to the Board that the assessments to the State plan have been paid.

#### § 1240.43 Producer, importer, and State assessment plan refund.

(a) Any producer or importer who pays an assessment under the authority of this part shall have the right to demand and receive from the Board a refund of such assessment upon submission of proof to the staff of the Board that the producer or importer paid the assessment for which refund is sought, except that producers who have honey pledged as collateral for a loan under the Honey Loan-Price Support Program and therefore have paid the assessment, shall not be eligible for a refund until the loan has been repaid, or the honey has been turned over to the Commodity Credit Corporation. The amount of refunds during any year made to importers, as a percentage of total assessments collected from all importers, shall not exceed the amount of refunds made to domestic producers, as a percentage of total assessments collected from such producers. Any demand for refund shall be made by the

producer or importer within the time and in the manner prescribed by the Board and approved by the Secretary. Refunds made in accordance with this section shall be paid by the Board in June and December of each year.

(b) Any State authority operating pursuant to a State assessment plan satisfying the conditions of paragraph (b)(1) of this section may obtain a refund of assessments collected by the Board on honey and/or honey products produced in that State except as provided in paragraph (b)(2) of this section.

(1) Refunds shall be paid only if the Secretary certifies that the State assessment plan:

(i) Is comparable to the program established under the Act and this part; and

(ii) Was in existence and in operation on January 1, 1985.

(2) Refunds shall be made directly to States, except that any refunds due directly to producers under this part shall take precedence over State programs and in no event exceed the amount collected by the Board on honey produced in the requesting State, and the amount of any refund shall be limited in accordance with the provisions of this subpart.

(3) Refunds made to a State authority pursuant to this paragraph shall not be included in the formula pertaining to importer refunds as set forth in paragraph (a) of this section.

#### § 1240.44 Operating reserve.

The Board may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in any reserve so established: *Provided*, That the funds in the reserve shall not exceed one fiscal period's budget. Subject to approval by the Secretary, such reserve funds may be used to defray any expenses authorized under this part.

#### Reports, Books, and Records

##### § 1240.50 Reports.

Each handler, importer, and producer-packer who is subject to this part shall be required to report to the employees of the Board, at such times and in such manner as it may prescribe, such information as may be necessary for the Board to perform its duties. Such reports shall include, but shall not be limited to the following:

(a) For handlers and producer-packers; total quantity of honey acquired during the reporting period; total quantity handled during period; amount of honey acquired from each producer, giving name and address of



each producer, including those producers who claim exemption from assessment; copy of statement claiming exemption from assessment from those who claim such exemption; assessments collected or collectible during the reporting period; quantity of honey processed for sale from producer-packer's own production; and record of each transaction for honey on which assessment had already been paid, including statement from seller that assessment had been paid.

(b) For importers; total quantity of honey imported during the reporting period and a record of each importation of honey during such period, giving quantity, date, and port of entry.

#### § 1240.51 Books and records.

Each handler, importer, and producer-packer shall maintain and during normal business hours make available for inspection by employees of the Board or the Secretary, such books and records as are necessary to carry out the provisions of this subpart and the regulations issued thereunder, including such records as are necessary to verify any required reports. Such records shall be maintained for two years beyond the fiscal period of their applicability.

#### § 1240.52 Confidential treatment.

All information obtained from the books, records, or reports required to be maintained under §§ 1240.50 and 1240.51 shall be kept confidential and shall not be disclosed to the public by any person. Only such information as the Secretary deems relevant shall be disclosed to the public and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart: Except that nothing in this subpart shall be deemed to prohibit:

(a) The issuance of general statements based upon the reports of a number of handlers or importers subject to any order, if such statements do not identify the information furnished by any person;

(b) The publication by direction of the Secretary, of the name of any person convicted of violating this subpart, together with a statement of the particular provisions of the Order violated by such person.

(c) Any disclosure of any confidential information by any employee of the Board shall be considered willful misconduct.

### Miscellaneous

#### § 1240.60 Influencing governmental action.

No funds collected by the Board under this order shall in any manner be used for the purpose of influencing governmental policy or action, except for making recommendations to the Secretary as provided for in this subpart.

#### § 1240.61 Right of the Secretary.

All fiscal matters, programs or projects, rules or regulations, reports, or other substantive actions proposed and prepared by the Board shall be submitted to the Secretary for approval.

#### § 1240.62 Suspension or termination.

(a) The Secretary shall, whenever he/she finds that this subpart or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act, terminate or suspend the operation of this subpart or such provisions thereof.

(b) Five years from the date the Secretary issues an order authorizing the collection of assessments on honey under provisions of this subpart, and every five years thereafter, the Secretary shall conduct a referendum to determine if honey producers and importers favor the continuation, termination, or suspension of this subpart.

(c) The Secretary shall hold a referendum on the request of the Board, or when petitioned by 10 percent or more of the honey producers and importers to determine if the honey producers and importers favor termination or suspension of this subpart.

#### § 1240.63 Proceedings after termination.

(a) Upon the termination of this subpart, the Board shall recommend to the Secretary not more than five of its members to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees of all funds and property then in possession or under control of the Board, including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contracts or agreements entered into by it pursuant to § 1240.38;

(3) From time to time account for all receipts and disbursements and deliver

all property on hand, together with all books and records of the Board and of the trustees, to such person as the Secretary may direct; and

(4) Upon the direction of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Board or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this subpart shall be subject to the same obligations as imposed upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be returned to the persons who contributed such funds, or paid assessments, or if not practicable, shall be turned over to the Department to be utilized, to the extent practicable, in the interest of continuing one or more of the honey research or education programs hitherto authorized.

#### § 1240.64 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or any regulation issued thereunder, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or of any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the United States, or of any person, with respect to any such violation.

#### § 1240.65 Personal liability.

No member, alternate member, or employee of the Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate member, or employee, except for acts of dishonesty or willful misconduct.

#### § 1240.66 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this subpart, or the applicability thereof to other persons or



circumstances shall not be affected thereby.

#### § 1240.67 Patents, copyrights, inventions, and publications.

Except for a reasonable royalty paid to the inventor of a patented invention, any patents, copyrights, inventions, product formulations, or publications developed through the use of funds collected under the provisions of this subpart shall be the property of the United States government as represented by the Board. Funds generated by such patents, copyrights, inventions, product formulations, or publications shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board.

Signed this day at Washington, DC, July 15, 1986.

Alan T. Tracy,

*Acting Assistant Secretary, Marketing and Inspection Services.*

[FR Doc. 86-16292 Filed 7-18-86; 8:45 am]

BILLING CODE 3410-02-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### 15 CFR Part 371

[Docket No. 60609-6109]

#### Exporting Under General License Baggage

##### Correction

In FR Doc. 86-16042 beginning on page 25683 in the issue of Wednesday, July 16, 1986, make the following corrections:

1. On page 25683, in the second column, in the **DATES** caption, second line, "1987" should read "1986".

#### § 371.6 [Corrected]

2. On page 25684, in the second column, in § 371.6(a), eighth line, "on" should read "or".

BILLING CODE 1505-01-M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### 21 CFR Part 1304

#### Records and Reports of Registrants Changes in Records Requirements for Individual Practitioners

##### Correction

In FR Doc. 85-23354 beginning on page 40522 in the issue of Friday, October 4, 1985, make the following correction:

#### § 1304.03 [Corrected]

On page 40523 in the first column, in § 1304.03(b), third line, the reference to "§ 1308.04" should read "§ 1304.04".

BILLING CODE 1505-01-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 100

[CGD3 86-20]

#### Regatta; River Spectacular on the Delaware, Delaware River, Philadelphia, PA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** Special Local Regulations are being adopted for the River Spectacular on the Delaware sponsored by River Spectacular, Inc. of Philadelphia, Pennsylvania. This event will include high speed boat races using unlimited hydroplane vessels and Jersey Skiffs on about 3.4 miles of the Delaware River in the vicinity of Philadelphia, PA. The purpose of this regulation is to provide for the safety of participants and spectators on navigable waters during this event.

**EFFECTIVE DATES:** This regulation becomes effective from 10:00 a.m. through 5:00 p.m. each day on August 22, 23, and 24, 1986. In case of postponement of the races due to weather, those regulations in effect on Sunday, August 24, 1986 are in effect the following day.

**FOR FURTHER INFORMATION CONTACT:** Mr. Lucas A. Dlhopsky, (212) 668-7974.

**SUPPLEMENTARY INFORMATION:** On June 9, 1986 the Coast Guard published a notice of proposed rulemaking in the *Federal Register* for this regulation (51 FR 20844-20845). Interested persons were invited to submit comments. No comments were received.

#### Drafting Information:

The drafters of this notice are Mr. Lucas A. Dlhopsky, Project Officer, Third Coast Guard District Boating Safety Office, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

#### Discussion of Regulations

The River Spectacular on the Delaware, sponsored by River Spectacular, Inc. is a series of marine events to be held on the Delaware River on August 22, 23 and 24, 1986. The events will consist of unlimited hydroplane races (known as

"Hydrocade '86") sanctioned by the Unlimited Racing Commission and limited class ("Jersey Skiff") races. In addition, there will be water ski exhibitions and celebrity races at various times on Saturday and Sunday. The powerboats participating in the races will be 30 foot unlimited hydroplanes and 16 foot Jersey Skiffs. The oval race course will be located on the Delaware River between the Walt Whitman bridge (river mile 96.8) and the Benjamin Franklin bridge (river mile 100.2) and will involve the full width of the river.

Time trials will be run on Friday, August 22 and Saturday, August 23, 1986 from 10:00 a.m. to 12:00 noon and again from 2:00 p.m. to 5:00 p.m. each day. In addition, on Sunday, August 24, 1986 there will be a hydroplane testing period between 10:00 a.m. and 12:00 noon. During these times waterborne commerce will be allowed to transit the regulated area after providing at least two hours advance notice to the Coast Guard Patrol Commander. All such transits will be at the patrol commander's discretion and in accordance with his instructions. Transiting vessel's speed will be such that wake is minimized while steerageway is maintained. Recreational craft wishing to transit the regulated area will also be permitted to pass at the discretion of the Coast Guard Patrol Commander.

The hydroplane and Jersey Skiff races will be held on Sunday, August 24, 1986 from 12:00 noon to 5:00 p.m. During these hours no vessel traffic other than race participants and patrol craft will be permitted in the regulated area. In the event of inclement weather on 24 August, the races will be postponed to the following day, Monday, August 25, 1986 during the same times. If this occurs, these special local regulations will be effective on Monday instead of Sunday.

Spectator areas will be established up and downstream of the race course in the vicinity of the two bridges. Spectator vessels will remain clear of the existing navigable channel and heed the instructions of the Coast Guard Patrol Commander and patrol personnel particularly in regard to the turning zones at the up and downstream ends of the race course. The sponsor plans to place temporary buoys on the river to mark these turning points.

The sponsor has met with local commercial marine interests represented by the Ports of Philadelphia Maritime Exchange. As a result of these meetings agreement was reached concerning transit of waterborne commerce during



the effective period of these regulations. The U.S. Coast Guard will assist the sponsor and local authorities in providing a safety patrol during this event. In order to provide for the safety of life and property, the Coast Guard will restrict vessel movement and establish spectator areas prior to and during this event.

#### Discussion of Comments

No comments were received.

#### Economic Assessment and Certification

This regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large number of spectator craft into the area for the duration of the races. This should have a favorable impact on commercial facilities providing services to the spectators. Coordination with local commercial marine interests which has already been accomplished should minimize any adverse impact on waterborne commerce during the effective period of these regulations.

Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

#### Final Regulation

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended by adding a temporary § 100.35-326 to read as follows:

#### § 100.35-326 River Spectacular on the Delaware, Philadelphia, PA.

(a) *Regulated Area*: That portion of the Delaware River between the Walt Whitman bridge (river mile 96.8) and the Benjamin Franklin bridge (river mile 100.2) for the full width of the river.

(b) *Effective Period*: This regulation is effective from 10:00 a.m. through 5:00 p.m. each day on August 22, 23 and 24, 1986. In case of postponement of the races due to weather, those regulations in effect on Sunday, August 24, 1986 are in effect the following day.

#### (c) *Special Local Regulations*:

(1) All persons or vessels not registered with the sponsor as participants or not part of the regatta patrol are considered spectators.

(2) No person or vessel shall enter or remain in the regulated area unless participating in the event, or authorized to be there by the sponsor or Coast Guard patrol personnel.

(3) At least 30 minutes prior to the start of the races and other events, spectator vessels must be at anchor within a designated spectator area or moored to a waterfront facility within the regulated area in such a way that they shall not interfere with the progress of the events.

(4) On Friday and Saturday, August 22 and 23, 1986 between 10:00 a.m. and 5:00 p.m. each day on August 25, 1986 between 10:00 a.m. and 12:00 noon, commercial vessels may transit the regulated area after providing two hours advance notice to, and at the discretion of, the Coast Guard Patrol Commander. During these times, recreational vessels may transit the regulated area at the discretion, and in accordance with the directions, of the Coast Guard Patrol Commander.

(5) On Sunday, August 25, 1986 between 12:00 noon and 5:00 p.m., during the unlimited hydroplane and Jersey Skiff races, no vessel shall enter or transit the regulated area unless so directed by the Coast Guard Patrol Commander.

(4) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(5) For any violation of these regulations, the following maximum penalties are authorized by law:

(i) \$500 for any person in charge of the navigation of a vessel.

(ii) \$500 for the owner of a vessel actually on board.

(iii) \$250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: July 14, 1986.

D.C. Thompson,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 85-16318 Filed 7-18-85; 8:45 am]

BILLING CODE 4910-14-M

#### 33 CFR Parts 100 and 165

[CGD 86-044]

#### List of Temporary Safety and Security Zones

AGENCY: Coast Guard, DOT.

ACTION: Notice of Temporary Rules Issued.

**SUMMARY:** This document gives notice of temporary safety zones, security zones, and special local regulations. Periodically the Coast Guard must issue safety zones, security zones, and special local regulations for limited periods of time in limited areas. Safety Zones are established around areas where there has been a marine casualty or when a vessel carrying a particularly hazardous cargo is transiting a restricted or congested area. Security zones are temporarily established in response to a risk to national security present in a particular area. Special local regulations are issued to assure the safety of participants and spectators of regattas and other marine events.

**DATES:** The following list includes safety zones, security zones, and special local regulations that were established between April 1, 1986 and June 30, 1986 and have since been terminated. Also included are several zones established earlier but inadvertently omitted from the last published list.

**ADDRESS:** The complete text of any temporary regulations may be examined at, and is available on request from, Executive Secretary, Marine Safety Council (G-CMC), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bruce Novak, Deputy Executive Secretary, Marine Safety Council at (202) 267-1477.

**SUPPLEMENTARY INFORMATION:** The local Captain of the Port must be immediately responsive to the safety needs of the waters within his jurisdiction; therefore, he has been delegated the authority to issue these regulations. Since marine events and emergencies usually take place without advance notice or warning, timely publication of notice in the Federal Register is often precluded. However, the affected public is informed through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is frequently provided by Coast Guard patrol vessels enforcing the restrictions imposed in the zone to keep the public informed of the regulatory activity. Because mariners are notified by Coast Guard officials on scene prior to enforcement action,



Federal Register notice is not required to place the special local regulations, security zone, or safety zone in effect. However, the Coast Guard, by law, must publish in the Federal Register notice of substantive rules adopted. To discharge this legal obligation without imposing undue expense on the public, the Coast Guard publishes a periodic list of these temporary special local regulations,

security zones, and safety zones. Permanent safety zones are not included in this list. Permanent zones are published in their entirety in the Federal Register just as any other rulemaking. Temporary zones are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

Nonmajor safety zones, special local regulations, and security zones have been exempted from review under E.O. 12291 because of their emergency nature and temporary effectiveness.

The following regulations were placed in effect temporarily during the period April 1, 1986 through June 30, 1986 unless otherwise indicated:

Docket No.	Location	Type	Effective date
COTP Providence, RI:			
1-86-05	Quonset Point, RI	Safety zone	May 17, 1986.
1-86-02	Narragansett Bay	do	Apr. 4, 1986.
COTP Boston, MA:			
1-86-06	Boston inner harbor	do	June 6, 1986.
1-86-02	Newport to Bermuda race	Special local regulations	(?).
COTP Pittsburgh, PA:			
86-06	Monongahela River, Mile 60.0	Safety zone	Nov. 22, 1986.
86-05	Monongahela River, Mile 11.1	do	Nov. 23, 1986.
86-01	Ohio River, Mile 106.0	do	May 16, 1986.
COTP Paducah, KY:			
86-01	Mississippi River, Mile 7.0	do	Jan. 12, 1986.
COTP Memphis, TN:			
86-03	Arkansas River, Mile 314.0	do	Mar. 26, 1986.
86-08	Mississippi River, Mile 734.7	do	June 7, 1986.
86-07	do	do	May 31, 1986.
86-05	do	do	May 3, 1986.
86-06	Arkansas River, Mile 118.8	do	May 24, 1986.
COTP St. Louis, MO:			
86-02	Mississippi River, Mile 200.8	do	Apr. 25, 1986.
2-86-11	Illinois River, Mile 162.3	Special local regulation	June 13, 1986.
2-86-12	Tennessee River, Mile 463.5	do	June 21, 1986.
2-86-03	Mississippi River, Mile 738.5	do	May 10, 1986.
2-86-04	Ohio River, Mile 604.0	do	Apr. 30, 1986.
2-86-06	Ohio River, Mile 327.0	do	June 28, 1986.
2-86-09	Tennessee River, Mile 470.5	do	June 7, 1986.
86-01	Mississippi River, Mile 179.3	Security zone	Apr. 30, 1986.
3-86-12	Riverhead, LI, NY	Safety zone	Apr. 3, 1986.
3-86-11	Delaware River, Como Barry Bridge	do	Mar. 21, 1986.
3-86-10	Delaware River, Mile 117.8	do	Mar. 17, 1986.
3-86-17	New York Bay, Staten Island	do	May 5, 1986.
3-86-22	Hempstead Harbor, LI	do	May 23, 1986.
3-86-25	Upper New York Bay	do	May 31, 1986.
3-86-24	Upper New York Bay	do	May 30, 1986.
3-86-31	Passaic River, Mile 4.6	do	June 17, 1986.
3-86-26	Upper New York Bay	do	June 14, 1986.
3-86-29	Great South Bay	do	June 30, 1986.
3-86-28	Upper New York Bay	do	June 29, 1986.
3-86-35	Riverhead, LI, NY	do	June 25, 1986.
3-86-32	Lower East River	do	Do.
3-86-15	East River, Flushing Bay	Security zone	Apr. 17, 1986.
3-86-16	Upper New York Bay	do	Apr. 18, 1986.
3-86-19	Cape May, NJ	Special local regulation	June 21, 1986.
5-86-09	Wicomico River	do	May 3, 1986.
5-86-10	Severn River	do	May 18, 1986.
5-86-12	Elizabeth River	do	May 25, 1986.
5-86-13	do	do	June 8, 1986.
5-86-14	New Bern, NC	do	June 21, 1986.
5-86-15	Baltimore Inner Harbor	do	June 14, 1986.
5-86-16	do	do	Do.
COTP Hampton Roads, VA:			
86-02	South Branch, Elizabeth River	Safety zone	Apr. 6, 1986.
86-04	Elizabeth River	do	Apr. 19, 1986.
86-06	South Branch, Elizabeth River	do	May 28, 1986.
COTP Huntington, WV:			
86-03	Kanawha River, Mile 52.8	do	Apr. 7, 1986.
COTP Hampton Roads, VA:			
86-05	South Branch, Elizabeth River	do	May 15, 1986.
7-86-15	Marathon offshore challenge	Special local regulation	May 3, 1986.
COTP Charleston, SC:			
86-165 to 721	Charleston, SC	Safety zone	May 19, 1986.
86-165 to 722	Charleston, SC	do	June 8, 1986.
COTP Savannah, GA:			
86-24	Parris Island	Security zone	June 4, 1986.
86-27	Savannah, GA	do	June 27, 1986.
COTP Houston, TX:			
86-01	Morgans Point	Safety zone	Feb. 2, 1986.
86-02	Newpark shipyard	do	Mar. 20, 1986.
86-03	Beltway 8 bridge	do	Mar. 6, 1986.
86-04	Houston ship channel, Light 71	do	Mar. 27, 1986.
86-05	Houston ship channel, Marker 129	do	Apr. 18, 1986.
COTP Mobile, AL:			
86-06	Mobile Bay	do	Mar. 22, 1986.
86-07	Upper Mobile Bay	do	Apr. 5, 1986.
86-08	Mobile River, Mile 2.9	do	Apr. 5, 1986.
86-09	do	do	Apr. 7, 1986.
86-10	Pascagoula, MS	do	Apr. 19, 1986.
86-12	Theodore ship channel	do	Apr. 25, 1986.



Docket No.	Location	Type	Effective date
86-13	Panama City, FL	Security zone	June 1, 1986.
COTP Galveston, TX:			
86-01	Galveston, TX	do	Apr. 19, 1986.
8-86-01	Lake Pontchartrain, LA	Special local regulation	June 7, 1986.
9-86-02	Maumee River	do	May 5, 1986.
9-86-03	do	do	May 24, 1986.
9-86-06	Detroit River	do	June 24, 1986.
COTP San Diego, CA:			
86-05	Camp Pendleton, CA	Safety zone	Apr. 18, 1986.
86-06	San Diego, CA	do	May 25, 1986.
86-07	do	do	May 28, 1986.
86-08	do	do	June 6, 1986.
COTP LA/LB, CA:			
86-15	Long Beach, CA	do	May 27, 1986.
86-17	do	do	Do.
86-18	do	do	June 3, 1986.
11-86-08	Mission Bay, CA	Special local regulation	Apr. 4, 1986.
11-86-09	Bullhead City, CA	do	May 10, 1986.
11-86-11	Laughlin, NV	do	June 14, 1986.
COTP San Francisco, CA:			
86-04	San Francisco Bay, CA	Security zone	June 28, 1986.
13-86-05	Seattle, WA	Special local regulation	May 2, 1986.
13-86-06	do	do	May 3, 1986.
13-86-07	do	do	May 17, 1986.
13-86-11	North Bend, OR	do	June 26, 1986.

<sup>1</sup> Effective date not available.

Dated: June 16, 1986.

B.P. Novak,

Acting Executive Secretary, Marine Safety Council.

[FR Doc. 86-16317 Filed 7-18-86; 8:45 am]

BILLING CODE 4910-14-M

## VETERANS ADMINISTRATION

### 38 CFR Part 13

#### Commissions for Federally Appointed Fiduciaries

**AGENCY:** Veterans Administration.

**ACTION:** Final rule.

**SUMMARY:** The new regulation will place into effect section 207 of Pub. L. 98-223, Veterans Compensation and Improvement Amendments of 1984, which relates to commissions for Federally appointed fiduciaries. The regulation will give the Veterans Services Officer the authority to determine, within the regulatory guidelines, which Federally appointed fiduciary will be allowed to take a commission and the amount of the commission not to exceed 4 percent of VA benefits paid in any one year on behalf of an incompetent beneficiary.

**EFFECTIVE DATE:** This regulation is effective August 20, 1986.

**FOR FURTHER INFORMATION CONTACT:** William B. Saliski, Program Analyst, Fiduciary and Field Examination Staff, Veterans Assistance Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 389-3644.

**SUPPLEMENTARY INFORMATION:** On pages 4774-4775 of the Federal Register of February 7, 1986, the VA published a

proposed new rule, 38 CFR 13.64. Interested persons were given until March 24, 1986, to submit comments, suggestions or objections to the proposed new rule. No comments, suggestions or objections were received. Accordingly, the proposed new rule is adopted.

This regulation simply interprets and implements Pub. L. 98-223. The Administrator certifies that this new regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the RFA (Regulatory Flexibility Act), 5 U.S.C. 601-612. The reason for this certification is that, consistent with the clear intent of Pub. L. 98-223, only a relatively small number of VA cases are expected to fall under the provisions of the regulation. Thereafter, pursuant to 5 U.S.C. 605(b), this new regulation is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the VA has determined that this proposed new regulation is nonmajor for the following reasons: (1) It will not have an effect on the economy of \$100 million or more; (2) It will not cause a major increase in costs or prices; (3) It will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

#### List of Subjects in 38 CFR Part 13

Administrative practice and procedure, estates, fraud, handicapped, infants and children, investigations,

investments, surety bonds, trusts and trustees, veterans.

There is no affected Catalog of Federal Domestic Assistance Program number.

This regulation contains no information collection requirements.

Approved: June 2, 1986.

Thomas K. Turnage,

Administrator.

### PART 13—[AMENDED]

38 CFR Part 13, Department of Veterans Benefits Fiduciary Activities, is amended to read as follows:

1. Section 13.64 is added to read as follows:

#### § 13.64 Fiduciary commissions.

Generally, a VA appointed fiduciary is to be encouraged to serve without fee.

(a) *Authority.* The Veterans Services Officer is authorized to determine when a commission is necessary in order to obtain the services of a fiduciary, except that the Veterans Services Officer may not authorize a commission to a fiduciary who receives any other form of remuneration or payment in connection with rendering fiduciary services on behalf of the beneficiary. Necessity is established only if the beneficiary's best interest would be served by the appointment of a qualified professional, or, if a qualified professional is not available, the proposed fiduciary is the only qualified person available and is not willing to serve without a fee.

(b) *Amount; notice to beneficiary.* The Veterans Services Officer shall authorize a fiduciary to whom a commission is payable under paragraph (a) of this section to deduct from the beneficiary's estate a reasonable commission for fiduciary services