

§ 122.58-2 Pollution Control Facility.

A "pollution control facility" means such property (both real and personal) which is likely to help prevent, reduce, abate, or control noise, air or water pollution or contamination by removing, altering, disposing or storing pollutants, contaminants, wastes or heat, and such property (both real and personal) which will be used for the collection, storage, treatment, utilization, processing, or final disposal of solid or liquid waste, including any related resource recovery property when such recovery property is stated to be useful for pollution abatement by a local, State or Federal environmental regulatory authority.

§ 122.58-3 Eligibility.

In order to be eligible for a guarantee for a pollution control facility, the small concern must:

- (a) Be independently owned and operated and not dominant in its field;
- (b) Be eligible under SBA loan policy as set forth in part 120 of this title; and
- (c) Together with its affiliates (as defined in § 122.3-2(a)) qualify as a small business as defined for section 7(a) borrowers generally in part 121 of this chapter. The provisions of § 121.4(f) of this chapter expressly do not apply to loans guaranteed in this section.

§ 122.58-4 Amount.

The guaranty by SBA shall not exceed \$1,000,000 for financing a pollution control facility. The aggregate amount of \$1,000,000 available from the business loan and investment fund under this section shall be reduced by any other financing from SBA pursuant to section 7(a) of the Small Business Act.

Dated: August 21, 1989.

Susan Engeleiter,
Administrator.

[FR Doc. 89-22790 Filed 9-26-89; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY**Customs Service****19 CFR Part 134**

[T.D. 89-88]

RIN 1515-AA66

**Customs Regulations Amendment
Relating to Country of Origin Marking
of Native American-Style Jewelry**

AGENCY: U.S. Customs Service.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations concerning the country of origin marking requirements

for certain categories of merchandise. Specifically, this change adds to those categories imported jewelry in Native American styles, and requires for this jewelry more permanent methods of marking. The purpose of these requirements is to prevent the misrepresentation of imported Native American-style jewelry as genuine Native American Jewelry. The changes require that Native American-style jewelry be indelibly marked with the country of origin by cutting, die-sinking, engraving, stamping, or some other equally permanent method, or with a similarly marked plastic or metal tag. Adhesive labels or string tags will be permitted only when indelible marking is technically or commercially infeasible.

EFFECTIVE DATE: This amendment is effective with respect to merchandise entered or withdrawn from warehouse for consumption on or after October 27, 1989.

FOR FURTHER INFORMATION CONTACT: Lorrie Rodbart, Value, Special Programs & Admissibility Branch, U.S. Customs Service (202) 566-5765.

SUPPLEMENTARY INFORMATION:**Background**

Section 304 of the Tariff Act, as amended (19 U.S.C. 1304), generally requires that every article of foreign origin imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article will permit in a manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article. Part 134, Customs Regulations (19 CFR part 134), implements the country of origin marking requirements and exceptions of 19 U.S.C. 1304.

The Customs Service normally permits any reasonable method of marking that will remain on the article during handling until it reaches the ultimate purchaser (19 CFR 134.41 and 134.44). This includes the use of paper sticker labels and string tags. However, where it is shown that a particular method of marking is not sufficiently permanent to inform the ultimate purchaser of the country of origin of the article, the Customs Service may require another type of marking which will insure that in all foreseeable circumstances, the article will reach the ultimate purchaser with its country of origin marking intact.

An initial notice of proposed rulemaking requiring more strict methods of marking for Native American-style jewelry was published

by the Customs Service in the *Federal Register* on July 15, 1986 (51 FR 25574). This was in response to allegations by representatives of the Native American handicraft industry that some jewelry and craft dealers and wholesalers remove country of origin labels from imported goods and sell them as authentic Native American products. While comments resulting from that notice were still being evaluated, the same problem was addressed in the Omnibus Trade and Competitiveness Act of 1988 enacted on August 23, 1988 (Pub. L. 100-418). Section 1907(c) of that act requires the Secretary of the Treasury to prescribe and implement within 1 year of enactment regulations which require indelible and permanent country of origin marking to the greatest extent possible on all imported Native American-style jewelry and arts and crafts.

A second notice of proposed rulemaking more specifically addressed to the statutory mandate was published in the *Federal Register* on February 10, 1989 (54 FR 6418). That notice contained a discussion of the comments received in response to our earlier notice, many of which favored extending the proposal to include either all jewelry or all silver jewelry, and noted that the requirements with respect to Native American-style arts and crafts would be dealt with in a separate rulemaking procedure. Also, refer to that notice and the following information for more details concerning the nature of our changed marking requirements for Native American-style jewelry.

Analysis of Comments

Customs requested comments on three alternative approaches to implementation of the statutory requirement that all Native American-style jewelry be permanently and indelibly marked with the country of origin: (1) Require indelible marking on Native American-style jewelry only (this is the proposal on which comments were previously received and would include imported jewelry that incorporates traditional Native American design motifs, materials, and/or construction); (2) require indelible marking on all silver and silver alloy jewelry and other jewelry that looks like Native American; and (3) require indelible marking on all jewelry without any reference to its relationship to Native American-style.

Although Customs proposed the third option, we indicated that the final decision would be based on the weight of the evidence. Comments were also requested concerning the additional costs that may be imposed on

consumers, importers, and others affected directly by the proposed marking requirements and ways in which the proportion of jewelry items subject to marking could be reduced while accomplishing the statutory objective of ensuring the permanent marking of imported Native American-style jewelry.

In response to the notice, 73 written comments were received. The largest group of commenters (46) favored the permanent marking of only Native American-style jewelry, 26 commenters favored the permanent marking of all foreign-made jewelry, and two commenters favored indelible marking of silver and silver alloy jewelry.

Commenters Favoring Indelible Marking of All Jewelry

Some of the commenters who favor indelible marking of all jewelry state that they do so because of the difficulty in separating Native American-style jewelry from other jewelry styles. The Department of the Interior, Indian Arts and Crafts Board, indicates that any definition of Native American-style jewelry that is based on design characteristics, materials, or on a specific list of products is doomed to failure because contemporary craftsmen necessarily develop new approaches to their art. Other commenters expressed similar concerns. The option to require indelible marking on all jewelry purportedly avoids the definition problem and also covers all jewelry that might be misrepresented as Native American. The Indian Arts and Crafts Board is also of the opinion that requiring indelible marking of all silver or silver alloy jewelry, does not go far enough since Native American craftsmen are increasingly making use of gold, brass, and other materials and that, therefore, this approach does not satisfy the statutory mandate that indelible marking of Native American-style jewelry be required "to the greatest extent possible."

Although most commenters who favored indelible marking of all jewelry do so because of their concerns about imported Native American-style jewelry, a few commenters indicate that this approach is necessary to address problems associated with the marking of all styles of jewelry, including items that are not Native American-style. One trade association of domestic jewelry manufacturers and their suppliers cites a study undertaken by the Customs Service in 1986 which showed a 21 percent marking violation rate for imported jewelry. Because the study was based on cargo examination at ports of entry, the association contends

that it did not reveal the equally significant problems following entry of the jewelry when impermanent labels are removed. It claims that the indelible marking of all jewelry would eliminate the opportunity for deception, benefit the domestic industry and fully inform the consumer. One commenter supporting the proposal to require indelible marking on all jewelry states that tags will be removed before sale and notes that there are available technologies to mark all jewelry indelibly. Some commenters indicated that this option should be adopted just because the public needs to know the country of origin.

Commenters Favoring Indelible Marking of All Silver and Silver Alloy Jewelry

Two commenters favor this option because it would be a first step in protection of Native American artists.

Commenters Favoring Indelible Marking of Only Native American-Style Jewelry

1. *This approach is in accordance with congressional intent.* Most of the commenters favoring this approach are importers and retailers of both fine and costume jewelry. Some comments were also received from foreign governments and United States government agencies. The major reason cited by the commenters for limiting the regulation to Native American-style jewelry, as opposed to all jewelry or all silver and silver alloy jewelry, is that this is in accordance with congressional intent, as expressed in section 1907(c) of the Omnibus Trade and Competitiveness Act of 1988. According to the commenters, the statutory language is clear and unambiguous with regard to the fact that the only type of imported jewelry that must be indelibly marked to indicate its country of origin is Native American-style jewelry, and that any application of this provision to all imported jewelry is inconsistent with the statutory language.

These commenters also indicate that requiring indelible marking on all jewelry would not further legislative intent because the bulk of imported jewelry cannot be mistaken for Native American jewelry. Several commenters indicated that only a minute segment of the imported jewelry could possibly be mistaken for Native American jewelry.

2. *Indelible marking is more costly than presently used permissible methods.* Most of the commenters opposed to indelible marking of all jewelry indicated that indelible marking of jewelry would be far more costly than the methods permitted now (*i.e.*, adhesive labels and hang tags), ultimately resulting in higher resale

prices. According to the commenters, the higher costs are due primarily to the costs to obtain needed dies and in applying them and the costs of permanently attaching metal or plastic tags to pieces which will not accommodate indelible marking themselves. One commenter indicated that fine jewelry generally cannot be marked by standard tooling and must be done by hand resulting in greater labor costs. One retailer estimates that additional piece marking would increase the cost between \$.15 and \$.50 per piece for fine gold jewelry requiring a link or tag. According to some costume jewelry importers, the costs to indelibly mark these items would be prohibitive, noting that in some cases, the marking could cost more than the article itself. One commenter indicates that a single company could require as many as 100 new molds.

According to a cost-benefit analysis submitted by the Federal Trade Commission, indelible marking of all jewelry would result in increased costs to manufacturers and importers and little corresponding increased benefits for consumers. The FTC indicates that since the volume of jewelry imported into the United States is very large, the aggregate costs (of marking all jewelry) to the manufacturers, and ultimately to consumers, will be substantial even if the costs per piece are modest. It is also noted that in some instances the act of stamping the items (if the alternative of affixing a metal or plastic tag permanently is not feasible) may damage the item, in which case its value would be reduced and the effective cost of stamping would be increased. Finally, the FTC states that they have learned that at least some foreign manufacturers probably do not have the equipment that would be needed to mark items permanently.

3. *Present methods of marking are adequate.* Another argument of those commenters opposed to indelible marking of all jewelry is that the present methods of marking are adequate to inform the ultimate purchaser of the country of origin. They contend that the proposal to require indelible marking of all jewelry is overbroad and unnecessarily targets a general class of merchandise for special marking requirements without a requisite showing that the existing methods are inadequate. The commenters point out that for many years jewelry has been marked by means of stickers and tags without complaints. In fact, they note that Customs has recognized in rulings that a hang tag affixed to an article of jewelry may be a more conspicuous and

legible method of marking than small lettering on the article itself. Therefore, it is argued that the proposed regulations may actually be less effective in informing the ultimate purchaser than the present method of marking the country of origin.

Many of these commenters also point out that there are sufficient safeguards and remedies under existing laws regarding misrepresentation or the intentional removal of the country of origin marking. They indicate that any misrepresentation of the place of origin is an unfair trade practice in violation of 15 U.S.C. 41 *et seq.* and that the intentional removal of the requisite country of origin marking is a criminal offense under 19 U.S.C. 1304(h).

4. Practical problems of broad option. Another criticism raised by many commenters is that indelible marking would have an adverse effect on the aesthetic appearance of quality imported jewelry. It is feared that conspicuous marking might be seen when the piece of jewelry is worn, especially when the marking is affixed by means of a metal tag. Due to the aesthetic nature of jewelry articles, it is argued that marking by means of a removable hang tag, label or sticker is more practical than indelible marking.

Many commenters also indicated that most pieces cannot accommodate indelible marking. One large importer and retailer of costume jewelry indicates that the majority of pieces have no surfaces large enough to permit country of origin marking and that much jewelry cannot accommodate indelible marking for other reasons, e.g., it is hollow or the piece is too delicate. Importers and retailers of fine jewelry inform us that the stamping of delicate and hollow items would damage the jewelry, and that the items are already marked with a trademark and quality markings so there is little room, if any, to mark the country of origin on a clasp or bezel. In addition, we are told by importers of costume jewelry that many of the materials used, such as bone, onyx and glass, do not lend themselves to permanent marking, regardless of the surface size.

Several commenters indicate that permanent tags will interfere with the aesthetic display and prevent customers from trying jewelry on before purchase. The tags will allegedly detract from the appearance of the jewelry and put it at competitive disadvantage to jewelry that is not so marked.

Another practical problem associated with the use of metal tags concerns weighing of jewelry. Several commenters indicated that a piece could

not be properly weighed with a tag attached.

5. Requiring indelible marking on all imported jewelry would increase trade friction. Finally, several commenters, including the U.S. Trade Representative, the Delegation of the Commission of the European Communities, and some foreign governments indicate that requiring indelible marking on all jewelry would be inconsistent with international trade obligations and could be considered an unjustified trade barrier under the General Agreement of Tariffs and Trade. The FTC comments that a requirement to indelibly mark all jewelry could increase trade frictions because foreign countries could interpret increased marking required by Customs as an effort to exclude or increase the cost of imported jewelry under the guise of a consumer protection policy.

Customs Position

After considering all the comments, we have determined that Customs regulatory efforts should focus on the problem that has been identified relating to Native American-style jewelry.

First, it is unnecessary to require indelible marking on all imported jewelry in order to satisfy section 1907(c) of the Omnibus Trade and Competitiveness Act of 1988. This provision only pertains to the marking of Native American-style jewelry, not all jewelry. In addition, section 1907(c) requires that the regulations provide for the indelible marking of such jewelry to the greatest extent possible. Congress recognized by these words that there may be some practical limitations to be considered.

We believe that many of the concerns raised about indelible marking of all jewelry are legitimate. This type of marking will undoubtedly raise costs to both manufacturers and consumers, detract from the aesthetic appearance of the jewelry, and will, in some cases, result in marking which is more difficult to see than the present methods of marking. Considering the fact that the amount of imported jewelry which looks like Native American-style jewelry is small, the cost of requiring indelible marking on all jewelry is unwarranted.

Second, Customs agrees with those commenters who state that the present enforcement tools are generally sufficient to ensure that imported jewelry complies with the marking laws (e.g., the issuance of marking notices, the assessment of marking duties, assessment of liquidated damages where improperly marked merchandise is not redelivered to Customs, and criminal penalties for the intentional

removal of the required marking). Although Customs reported a high violation rate regarding country of origin marking of jewelry in 1986, since then, because of increased marking enforcement by Customs, we believe that this problem has been greatly reduced.

It should also be noted that our proposal to extend the indelible marking requirements to *all* jewelry was not based on evidence that the present method of marking all types of jewelry was not adequate, but rather, on a preliminary determination that the term "Native American-style" jewelry was not readily definable. For the reasons explained in the next section on identifying Native American-style jewelry, we are limiting this term to jewelry which incorporates "traditional" Native American design motifs, materials and/or construction. This approach greatly reduces the definition problem and is consistent with the legislative mandate to require indelible country of origin marking on Native American-style jewelry to the greatest extent possible.

Finally, we are of the opinion that absent a compelling reason for requiring indelible marking, tags or stickers are the preferable method of marking jewelry because they can be more readily seen by the consumer. In addition, they eliminate most of the practical problems associated with indelible marking of jewelry noted above. Of course, under present regulations, if Customs determines that in a given case the paper label or tag is not sufficiently permanent to reach the ultimate purchaser based on normal handling of the item, a more permanent method would be required.

In view of allegations by some commenters that the country of origin marking on imported jewelry is not reaching ultimate purchasers, Customs will continue to closely monitor the way jewelry is marked. Continued enforcement by Customs, accompanied by an increased public awareness of the country of origin marking requirements of jewelry resulting from the Federal Register notices, should also lead to a higher rate of compliance. While we are unaware of any specific instances of removal of country of origin marking, any information of this nature should be reported to Customs and the Federal Trade Commission for appropriate action.

In light of the numerous concerns raised about indelible marking of all jewelry, the fact that Congress determined that special marking requirements were warranted with

respect to Native American-style jewelry only, and the fact that imported Native American-style jewelry which looks like jewelry made by Native Americans constitutes a small segment of imported jewelry, the requirement of indelible and permanent marking for jewelry is limited to Native American-style jewelry.

Identifying Native American-Style Jewelry

Section 1907(c) requiring the implementation of regulations concerning country of origin marking of Native American-style jewelry resulted from a Senate floor amendment to the trade bill. In the discussion preceding the adoption of that amendment, Senator Domenici, the amendment's sponsor, inserted into the *Congressional Record* the following statement which he said was designed to provide guidance to Customs in defining Native American handicrafts.

The most appropriate definition of what is genuine Native American handicraft product (arts, crafts, and jewelry) is found in 25 CFR 308.3a (emphasis added). It reads as follows:

Objects produced by Indian craftsmen with the help of only such devices as allow the manual skill of the maker to condition the shape and design of each individual product.

The regulations proposed by the U.S. Customs Service in 1986 contain appropriate descriptive information regarding Native American arts, crafts and jewelry.

While it is clear that a detailed description of what these items look like is helpful to a Customs agent, such descriptions cannot be all encompassing. The thrust of the amendment is to ensure that consumers may distinguish between authentic Native American products and the look-alike from around the world.

The U.S. Customs Service is encouraged to coordinate with the Department of the Interior, Bureau of Indian Affairs to ensure that the intent of this provision is carried out. 133 Cong. Rec. S9443-4 (daily ed. July 8, 1987).

The definition of a genuine Native American handicraft found in 25 CFR 308.3(a), is a combination of the producer of the product (Indian craftsmen) and the method of production (with the help of only such devices as allow the manual skill of the maker to condition the shape and design of each individual product). We do not find this definition to be instructive in defining "Native American-style jewelry" as that term is used in section 1907(c).

First, the thrust of § 1907(c) is to require indelible marking on imported goods which look like jewelry made by

Native Americans but in fact were *not* produced by Native Americans. Second, unlike genuine Native American handicrafts which are by definition produced with the help of only such devices as allow the manual skill of the maker to condition the shape and design of each individual product, as the legislative history makes clear, imported articles which look like Native American jewelry may have been mass produced rather than handcrafted. Thus, neither portion of the definition regarding the producer of the product nor the method of production is helpful in identifying imported Native American-style jewelry.

Considering the purpose of section 1907(c), which is to ensure that consumers can distinguish between genuine Native American products and imported look-alikes, the final regulation will define Native American-style jewelry as: Jewelry which incorporates traditional Native American design motifs, materials and/or construction and therefore, looks like, and could possibly be mistaken for, jewelry made by Native Americans. While we recognize that not all genuine Native American jewelry incorporates "traditional" design motifs, materials and/or construction, we are of the opinion that it will be the more traditional styles that sellers will try to pass off as authentic goods, the styles that consumers generally associate with Native American jewelry.

Numerous comments were received concerning the identification of traditional Native American-style jewelry. They indicate that most of this jewelry is plain silver or silver set with blue or green opaque material. Other commenters indicated that the pieces could also contain coral, onyx, lapis and the like. Regarding construction, a few commenters indicated that Native American-style jewelry gives the appearance of being crudely finished and is hand soldered and hand polished. Based on these comments, we anticipate that most of the imported jewelry that will be subject to these requirements will be silver-colored jewelry which is either plain or set with opaque blue or green stones, and which gives the appearance of being hand made.

The regulation, however, will not specify the characteristics of "traditional Native American-style" jewelry since those characteristics are likely to change over a period of time. While consumers presently are most likely to mistake silver jewelry with blue or green opaque stones as genuine Native American, this may not always be the case. Customs will issue guidelines to be used by importers and

field officers in identifying imported Native American-style jewelry. As the need arises, the guidelines will be amended.

Additional Changes to the Proposed Regulation Exception to Indelible Marking Requirement

The proposed regulation states that a string tag or adhesive label would be permitted as the only means of marking in the case of those few articles which are too small to be indelibly marked and do not permit the permanent attachment of a metal or plastic tag. Several commenters suggested that the structural characteristics as well as size of the jewelry should be considered in any indelible marking exceptions. For example, we are told that some jewelry is hollow and cannot be indelibly marked. Some suggest that allowance should be made for situations where permanent marking would be impractical, unreadable or ruin the value of the article. We believe these suggestions have merit and the final regulation permits marking by paper label or string tag where it would be technically or commercially infeasible to mark by the methods generally required for Native American-style jewelry.

The proposed regulation requires that where the indelible country of origin marking is necessarily so small that it can only be read with a magnifying glass, an additional country of origin adhesive label or hang tag be attached. Several commenters question why the indelible marking should be required at all when it is necessarily so small that it can only be read with a magnifying glass. It is argued that in such circumstances, the adhesive sticker or hang tag alone is sufficient.

The reason for requiring both methods of marking was to assure that the ultimate purchaser would be able to determine (albeit with difficulty) the country of origin even if the paper marking was removed. Upon reconsideration, we believe that this added precaution is not necessary since the use of paper labels is permitted in only those few cases where it is not possible to either legibly mark the item itself or to permanently attach a metal or plastic tag to the item. The final regulation is changed accordingly.

Finished Jewelry vs. Components

Several commenters asked if the regulation will apply to imported jewelry components in addition to finished jewelry. As explained below, imported components that will be substantially transformed in the United States prior to retail sale will not be

subject to the regulation. Section 305 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), the statute requiring country of origin marking, also specifies various exceptions from marking. For example, section 304(a)(3)(D) provides for an exception from marking an imported article if the marking of its container will reasonably indicate the country of origin to the ultimate purchaser. It is well established that imported articles which are to be substantially transformed in the United States prior to retail sale are excepted from individual marking under this provision. In such circumstances, the United States manufacturer that substantially transforms the article is considered the ultimate purchaser and the marking of the container instead of the article itself is permitted pursuant to section 304(a)(3)(D).

The country of origin marking regulations, including the regulation on Native American-style jewelry, cannot override the statutory exceptions. Therefore, this regulation is subject to the statutory exceptions, including section 304(a)(3)(D). We are clarifying the final regulation on this point.

Miscellaneous Comments

Several commenters suggested that all genuine Native American jewelry be marked with its own certifying mark to assure its authenticity and that the industry adopt a public relations program encouraging consumers to look for this mark. Another commenter suggested that all American jewelry be marked "Made in USA". These comments go beyond both the scope of the notice and Customs authority. We note however that a certifying mark on both the traditional and more contemporary styles of Native American jewelry would provide an alternative means for the consumer to identify genuine Native American jewelry and would alleviate some of the concerns that have been expressed regarding our decision to limit the requirements of § 134.43(c) to "traditional" Native American-style jewelry.

Finally, several commenters suggested that there should be a way for an importer to determine in advance whether jewelry to be imported is considered Native American-style jewelry and subject to the special marking requirements. In accordance with the provisions of part 177, Customs Regulations (19 CFR part 177), an importer or other interested party may request a ruling from Customs on this question with respect to any prospective transaction.

For the foregoing reasons, the proposed changes are adopted as modified.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the regulation amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was James C. Hill, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 134

Customs duties and inspection, Labeling, and Packaging and containers.

Amendment to the Regulations

PART 134—COUNTRY OF ORIGIN MARKING

1. The authority citation for part 134 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 8 Harmonized Tariff Schedule of the United States), 1304, 1624.

2. Section 134.43 is amended by adding a new paragraph (c) to read as follows:

§ 134.43 Methods of marking specific articles.

• * * * *
(c) *Native American-style jewelry*—
(1) *Definition.* For the purpose of this provision, Native American-style jewelry is jewelry which incorporates traditional Native American design motifs, materials and/or construction and therefore looks like, and could possibly be mistaken for, jewelry made by Native Americans.

(2) *Method of Marking.* Except as provided in 19 U.S.C. 1304(a)(3) and in paragraph (c)(3) of this section, Native American-style jewelry must be indelibly marked with the country of origin by cutting, die-sinking, engraving, stamping, or some other permanent method. The indelible marking must appear legibly on the clasp or in some other conspicuous location, or alternatively, on a metal or plastic tag indelibly marked with the country of

origin and permanently attached to the article.

(3) *Exception.* If it is technically or commercially infeasible to mark in the manner specified in paragraph (c)(2) of this section, the article may be marked by means of a string tag or adhesive label securely affixed, or some other similar method.

Michael H. Lane,

Acting Commissioner of Customs.

Approved September 21, 1989.

Salvatore R. Martoche,

Assistant Secretary of the Treasury.

[FR Doc. 89-22809 Filed 9-26-89; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. R-89-1456; FR-2646]

24 CFR Parts 50, 51, 200, 203, 220, 221, 222, 226, 234, 300, 390, 590, and 2700

Miscellaneous Nomenclature Changes to the Department's Regulations

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule makes nomenclature changes throughout Title 24 of the Code of Federal Regulations to reflect the new agency name for the "Department of Veterans Affairs" instead of the "Veterans' Administration" and the new title for the "Secretary of Veterans Affairs" instead of the "Administrator of Veterans Affairs". These changes will conform HUD regulations to current terminology as required by recent legislation.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: David E. Pinsky, Assistant General Counsel, Home Mortgage Division, Department of Housing and Urban Development, Room 9258, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-5303. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This final rule will make changes to HUD's regulations as required by section 10 of the Department of Veterans Affairs Act, Public Law 100-527 (October 25, 1988). The amendments changed references in the Act, and changed the agency name for the Veterans' Administration from the "Veterans' Administration" to the Department of Veterans Affairs". It also changed any reference to the Administrator of Veterans Affairs from

the "Administrator of Veterans Affairs" to the "Secretary of Veterans Affairs".

Tables following the Preamble to this rule show in list format the nomenclature changes being made by this rule to the various sections to Title 24 of the Department's regulations.

The Department has determined that this document need not be published as a proposed rule, as generally required by the Administrative Procedure Act (APA), since this rulemaking merely conforms HUD regulations to reflect legislative changes in terminology. As a rule relating to agency practice, it is exempt from the proposed rulemaking

requirements of the APA (see 5 U.S.C. 553(b)(A)).

A Finding of No Significant Impact with respect to the environment required by the National Environmental Policy Act (42 U.S.C. 4321-4347) is unnecessary, since this nomenclature change is categorically excluded under HUD regulations at 24 CFR 50.20(k).

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 24, 1989 (54 FR 16708).

Accordingly, the Department hereby amends Title 24 of the Code of Federal Regulations as follows:

**PARTS—50, 51, 200, 203, 220, 221, 222, 226, 234, 300, 390, 590, AND 2700—
[AMENDED]**

1. The authority citations for Parts 50, 51, 200, 203, 220, 221, 222, 226, 234, 300, 390, 590, and 2700 continue to read as follows:

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In the list below, for each entry indicated in the left column, remove the references indicated in the middle column from wherever it appears in the section and add the reference indicated in the right column:

Section	Remove	Add
50.36.....	Veterans Administration.....	Department of Veterans Affairs.
51.102(e).....	Veterans Administration.....	Department of Veterans Affairs.
200.163(b)(3).....	Veterans Administration.....	Department of Veterans Affairs.
200.163(b)(5)(i).....	Veterans Administration.....	Department of Veterans Affairs.
200.926(a)(2)(iii).....	Veterans Administration.....	Department of Veterans Affairs.
203.12(f).....	Veterans Administration.....	Department of Veterans Affairs.
203.18(b)(2).....	Veterans Administration.....	Department of Veterans Affairs.
203.18(b)(3).....	Veterans Administration.....	Department of Veterans Affairs.
203.18(b)(3)(i)(B)(2).....	Veterans Administration.....	Department of Veterans Affairs.
220.30(b)(2).....	Veterans Administration.....	Department of Veterans Affairs.
220.30(b)(3).....	Veterans Administration.....	Department of Veterans Affairs.
220.30(b)(3)(i)(B)(2).....	Veterans Administration.....	Department of Veterans Affairs.
226.5(b)(2).....	Veterans Administration.....	Department of Veterans Affairs.
226.5(b)(3).....	Veterans Administration.....	Department of Veterans Affairs.
226.5(b)(3)(i)(B)(2).....	Veterans Administration.....	Department of Veterans Affairs.
234.26(h).....	Veterans Administration.....	Department of Veterans Affairs.
300.3.....	Veterans Administration.....	Department of Veterans Affairs.
390.1.....	Veterans Administration.....	Department of Veterans Affairs.
390.21(a).....	Veterans Administration.....	Department of Veterans Affairs.
590.5, in definition for "VA".....	Veterans Administration.....	Department of Veterans Affairs.
2700.10(a).....	Veterans Administration.....	Department of Veterans Affairs.

3. In the list below, for each entry indicated in the left column, remove the

reference indicated in the middle column from wherever it appears in the

section and add the reference indicated in the right column:

Section	Remove	Add
200.507(b).....	Administrator of Veterans Affairs.....	Secretary of Veterans Affairs.
203.17(d)(2).....	Administrator of Veterans Affairs.....	Secretary of Veterans Affairs.
203.18(a)(2)(ii).....	Administrator of Veterans Affairs.....	Secretary of Veterans Affairs.
203.18(d)(2)(iii).....	Administrator of Veterans Affairs.....	Secretary of Veterans Affairs.
221.20(a)(2)(ii).....	Administrator of Veterans Affairs.....	Secretary of Veterans Affairs.
221.30(b).....	Administrator of Veterans Affairs.....	Secretary of Veterans Affairs.
222.4(a)(2).....	Administrator of Veterans Affairs.....	Secretary of Veterans Affairs.
226.5(a)(1)(ii).....	Administrator of Veterans Affairs.....	Secretary of Veterans Affairs.
234.27(a)(2)(ii).....	Administrator of Veterans Affairs.....	Secretary of Veterans Affairs.
590.5, in definition for "Federally owned property".....	Administrator of Veterans Affairs.....	Secretary of Veterans Affairs.

Date: September 21, 1989.

Jack Kemp,

Secretary.

[FR Doc. 89-22852 Filed 9-26-89; 8:45 am]

BILLING CODE 4210-32-M

**Office of the Assistant Secretary for
Public and Indian Housing**

24 CFR Parts 811, 883 and 941

[Docket No. N-89-1999; FR-2586]

**Tax-Exempt Construction Financing
for Turnkey Public Housing
Development Projects**

AGENCY: Office of Assistant Secretary

for Public and Indian Housing, HUD.

ACTION: Statement of HUD policy.

SUMMARY: HUD is giving notice that is policy concerning tax-exempt construction financing for development of turnkey public housing projects is being rescinded. The original intent of the policy was to take advantage of the relatively lower tax-exempt rates (as compared to extreme high private